SENATE

Wednesday, December 19, 2012

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Larry Howai who is out of the country. I also have excused Dr.Bernard from attending the Senate today as he has asked for leave of absence due to illness.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards.

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards

President

TO: ARCHBISHOP BARBARA BURKE

WHEREAS Senator Larry Howai is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44 of

the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ARCHBISHOP BARBARA BURKE, to be temporarily member of the Senate, with effect from 19th December, 2012 and continuing during the absence from Trinidad and Tobago of the said Senator Larry Howai.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 19th day of December, 2012."

OATH OF ALLEGIANCE

Senator Archbishop Barbara Burke took and subscribed the Oath of Allegiance as required by law.

COMMITTEE OF PRIVILEGES
(MEMBER FOR CHAGUANAS WEST)

Mr. President: Hon. Senators, at the sitting of the Senate held on November27, 2012, I granted leave to Sen. Fitzgerald Hinds to raise a Matter of Privilege in accordance with Standing Order 26(2).

Motion: In his Motion presented on the same day, Sen. Hinds alleged that on November 20, 2012, the Minister of National Security, the Hon. Jack Warner, hereinafter called the Minister, deliberately misled the Senate while responding to supplemental oral questions posed by Sen. Faris Al-Rawi and himself in stating, and I quote:

"…emphatically that the payments made to Dr. Gibbs and Mr. Ewatski were recommended by the Police Service Commission, and the Government acted on the basis of recommendations received from the Police Service Commission, and made ex gratia payments in the sums the Minister quoted."

Sen. Hinds states that on November 22, 2012, the Police Service Commission issued a press release advising that, and I quote:

> "…it had not made any such recommendation in relation to the cessation of contracts of the former Commissioner of Police, Dr.Dwayne Gibbs, and the former Deputy Commissioner of Police, Mr. Jack Ewatski, or in relation to payments that were made to them."

Sen. Hinds in his Motion submitted that the Minister of National Security committed contempt of the Senate on the following grounds:

1. He knowingly and wilfully misled the Senate.
2. He was reckless in accounting to the Senate which has the tendency of bringing the Senate and the work of the Senate into disrepute.

In the circumstances, Sen. Hinds asked that the Minister be referred to the Privileges Committee.

Procedural issues: After the Motion was read by Sen. Hinds, I indicated that I would rule on a subsequent occasion whether there appeared to be a prima facie case which would warrant further investigation by the Committee of Privileges. The intervening period would also give the Minister adequate time to make any representation to me on the matter and through the Clerk of the Senate, he was so advised.

This reflects the practice which I believe should be followed to satisfy procedural fairness and natural justice as stated by me in the second meeting of the Committee of Privileges held on June 22, 2012 (see verbatim report at pages 9 to 10) and is substantially in keeping with submission made on this subject by Sen. Faris Al-Rawi.

The Minister availed himself of this opportunity and by letter to the Clerk of the Senate dated December 14, 2012 stated that and I quote:

> At no time did I deliberately mislead the Senate. I am committed to uphold the very highest standards of conduct in my parliamentary practice and will never deliberately mislead the honourable Senate.

The role of the presiding officer: The role of the presiding officer at this juncture is simply to make a decision as to whether a prima facie case is being made out and if so, to refer the matter to the Committee of Privileges of the Senate.

In their book, *House of Commons Procedure and Practice* (Ottawa), Robert Marleau and Camille Montpetit set out the role of the Speaker at pages 663 and 664 in these terms.

> "The Speaker is there to sort"— out—"the wheat from the chaff, and to consider, on the evidence presented, whether the facts alleged could, if true, amount to a breach of privilege or contempt of the House or whether they do otherwise raise a matter seriously affecting the privileges of the House."

Again it quotes:

> "The Speaker is a judge of law. The Speaker does not inquire into the validity of evidence presented, and does not hold a full inquiry into the matter that is raised. These are the functions of the committee appointed to consider questions of privilege—the Privileges Committee. The Speaker does appraise any evidence that is submitted with a complaint to determine whether it points to a reasonable, not a remote, possibility that a breach of privilege or contempt has occurred."

As Presiding Officer, I am not called upon to rule on whether or not the Minister is telling the truth. That is a matter for the Committee of Privileges, but rather, my role is to appraise the evidence submitted to determine whether it points to a reasonable possibility that the Minister has intentionally and deliberately misled the Senate.

What constitutes the act of deliberate misleading? The Third Edition of his book *Parliamentary Practice in New Zealand*, David McGee QC states at pages 653/654 and I quote as follows:

> "It is a contempt deliberately to attempt to mislead the House or a committee, whether by way of a statement, in evidence or in a petition. This example of contempt, while always potential, was given explicit recognition in 1963 when, following a political *cause célèbre* (the Profumo affair), the House of Commons resolved that a former member who had made a personal statement to the House which he subsequently acknowledged to be untrue had committed a contempt of the House."
>
> Further,—"It has been submitted that there is an established constitutional convention that Ministers should always tell the truth to Parliament as far as this is possible without harming national security. Whether this type of contempt embodies a convention or not, regarding lying to the House as a serious transgression of parliamentary etiquette (quite apart from any moral considerations) has been said to be the only way for Parliament to keep a check on the executive."
>
> Relying on the rationale presented in the Profuma case, Mcgee concludes:
>
> "There are three elements to be established when it is alleged that a member is in contempt by reason of a statement that the Member has made: the statement must, in fact, be misleading; it must be established that the member making the statement knew at the time the statement was made that it was incorrect; and, in making it, the member must have intended to mislead the House."

He goes on to say

> "The standard proof demanded is the civil standard of proof on a balance of

probabilities but, given the serious nature of the allegations, proof of a very high order. Recklessness in the use of words in debate, though reprehensible in itself, falls short of the standard required to hold a member responsible for deliberately misleading the House."

Again—"For a misleading of the House to be deliberate, there must be something in the nature of the incorrect statement that indicates an intention to mislead. Remarks made off the cuff in debate can rarely fall into this category, nor can matters about which the member can be aware of only in an official capacity. But where the member can be assumed to have personal knowledge of the stated facts and made the statement in a situation of some formality (for example, by way of personal explanation), a presumption of intention to mislead the House will more readily arise."

On the basis of this learning, I conclude that a Member can be found to have intentionally and deliberately misled the Senate in answers to questions posed where there is clear evidence made in response to a direct question by which one can arrive at such a conclusion.

1.45 p.m.

In the "*Sixth Edition of Practice and Procedure of Parliament*", with particular reference to the Lok Sabha, the learned author stated at page 305:

In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading, but it was made deliberately to mislead the House. A breach of privilege can only arise when the Member or the Minister makes a false statement or an incorrect statement willfully, deliberately and knowingly.

Treating with questions. I turn now to the rules and learning applicable to the asking of questions. The issues relating to the contents of questions in the

manner of asking and answering questions are respectively set out in Standing Orders 17 and 18 of the Senate, and I quote the relevant parts of these Orders.

"Standing Order 17(1):

The right to ask a question shall be subject to the following general rules, as to the interpretation of which the President shall be the sole judge:

(c) If a question contains a statement of fact, the Senator asking it shall be responsible for the accuracy of the statement, and no question shall be based upon a newspaper report or upon an unofficial publication.

(d) No Senator shall address the Senate upon any question, and a question shall not be made the pretext for a debate.

(e) Not more than one subject shall be referred to in any one question, and a question shall not be of excessive length.

(f) A question shall not contain arguments, inferences, opinions, imputations, epithets, ironical expressions or hypothetical cases.

Standing Order 18(2):

After the answer to a question has been given, supplementary questions may, at the discretion of the President, be put for the purpose of elucidating the answer given orally, but the President may refuse any such question which, in the opinion of the President, introduces matters not relative to the original question, or which infringes any of the provisions of Standing Order No. 17 (Contents of Questions), and may in that case direct that such question be not reported in the Official Report."

In "*Twenty-third Edition of May's Parliamentary Practice*" in the UK at page 354, the learned author states:

"An answer should be confined to the points contained in the questions... A

supplementary question may refer only to the answer out of which it immediately arises..."

At pages 430 and 431 of their book, "*House of Commons Procedure and Practice*", Ottawa, Robert Marleau and Carmille Montpetit set out the procedures governing supplementary questions as follows:

"1. They are to be constructed as a follow-up device flowing from the response and ought to be a precise question put directly and immediately to the Minister, without any further statement.

2. Speaker Jones stated in 1975 that there should be no preamble to supplementary questions and that they should flow from the Minister's response to be put in precise and direct terms without any prior statement or argument."

These remarks being reiterated in the 1984 ruling by Speaker Francis.

"It follows that it is not appropriate for assumptions, innuendos, preambles or communications to be embodied within questions."

In relations to answers to questions at page 433 of "*House of Commons Procedures and Practice*" from Ottawa, the authors make the following observation:

According to practice, replies are to be as brief as possible to deal with a subject matter raised and to be phrased in language that does not provoke disorder in the House.

In 1975, Speaker Jerome ruled that "several types of answers may be appropriate, including answer the question and say nothing." Again, "Members may not insist on an answer nor may a Member insist that a specific Minister respond to his or her question." Again, "the Speaker, however, is not responsible for the quality or content of replies to questions."

In most instances, when a point of order or question of privilege has been raised in regard to a response to an oral question, the Speaker has ruled that the matter is a disagreement among members over the facts surrounding the issue. As such, these matters or more a question of debate and do not constitute a breach of the rules or privilege.

Appraising the evidence. I turn now to the question on the Order Paper out of which this matter has arisen. The question was posed by Sen. Fitzgerald Hinds relative to the cessation of the contracts of the former Commissioner of Police and Deputy Commissioner of Police.

> In part (f) of the question on the Order Paper, Sen. Hinds asked: "whether at time of the cessation of the contracts the Government was in receipt of any evaluation on the performance of these officers from the Police Service Commission to aid improperly assessing their positions and request?"

Save for this, the question on the Order Paper does not inquire into any other aspect of the role of the Police Service Commission in relation to the cessation of the contracts.

There followed a number of supplementary questions posed by Sen. Hinds and Sen. Faris Al-Rawi. In the first supplementary, Sen. Hinds as reported in the unrevised *Hansard* report asks and I quote:

> "Would the hon. Minister tell this Senate in light of the fact that the question of cessation came from Dr. Gibbs and Mr. Jack Ewatski, they were effectively coming out, opting out—breaching if you like—the continuance of the agreement?
>
> Would the Minister, in those circumstances, tell us whether the Government, through the—or the Police Service Commission, would have found it necessary to make ex gratia payments to these individuals seeing that they

were coming out of the contracts with 14 months to go?"

To which the Minister replies:

"I can only be guided by the advice of the Police Service Commission; nothing more, nothing less."

It is axiomatic that such advice could take a variety of forms which would lead the Government to conclude that it should make ex-gratia payments on the cessation of the contracts. However, based on the answer to this first supplementary question, Senators Hinds and Al-Rawi incorporate into their further questions, assumptions that the Police Service Commission recommended that the Government make the ex gratia payments to Dr. Gibbs and Mr. Ewatski specified by the Minister in answer to the question on the Order Paper. In colloquial terms, they sought to put words into the Minister's mouth. The Minister, however, never stated that this was the tenor of the advice given by the Police Service Commission and no Senator asks him: What was the nature of the advice given by the Police Service Commission?

The Minister played by the book and ignoring the assumptions made by Sen. Hinds and Sen. Al-Rawi in the further supplementary questions, as it is his prerogative, answers the specific questions posed. In none of his answers does he state that the PSC recommended that the ex gratia payments, to which he referred in his answer to the question in the Order Paper, should be paid to Dr. Gibbs and Mr. Jack Ewatski. Yet, no Senator asks the specific question: Did the Police Service Commission advise the Government to make the ex gratia payments to Dr. Gibbs and Mr. Jack Ewatski.

On November 22, 2012, the Police Service Commission issued a media release headed: "Setting the record straight". The release states and I quote:

"The Police Service Commission wishes to refer to statements allegedly

made and published to the effect that the PSC recommended million dollar payments to former Commissioner of Police Dwayne Gibbs and former Deputy Commissioner of Police Jack Ewatski. The Commission wishes to state that it never made any such recommendation. Neither does the issue of payments fall under the constitutional mandate of the Commission.

There are certain issues which should be noted about this media release.

1. The PSC does not attribute these statements made to any specific party, far less the Minister of National Security;
2. The PSC does not refer to the statements as having been made in the Senate;
3. The PSC does not deny that it rendered advice, but simply that it did not recommend the making of million dollar payments to Dr. Gibbs and Jack Ewatski; and
4. There is no reference in the media release to any issue touching on a, and I quote:

   'recommendation in relation to the cessation of contracts as stated by Sen. Hinds in his Motion'."

My ruling. I have reviewed the unrevised *Hansard* report of the questions and answered made on this subject, and I can find no instance when the Minister states in relation to a direct question on the issue that the PSC recommended that the Government make million dollar ex gratia payments to Dr. Gibbs and Mr. Ewatski. It is clear that this Motion relies on the omission of the Minister to rebut the presumptions incorporated into the questions posed by Senators Hinds and Al-Rawi and not any emphatic statement by the Minister that the payments made to Dr. Gibbs and Mr. Ewatski were recommended by the Police Service Commission, as alleged in the Motion by Sen. Hinds.

In this context, it is worth recalling the statement at page 654 of the third edition of David MCGee's book, "*Parliamentary Practice in New Zealand*" as follows and I quote:

> "For a misleading of the House to be deliberate, there must be something in the nature of the incorrect statement that indicates an intention to mislead. Remarks made off the cuff in debate can rarely fall into this category..."

A fortiori, where parties are obviously talking at cross purposes as part of the cut and thrust of interrogation and answer within supplementary questions, nothing less than an answer to a direct question on the subject could render this matter one which will be referred to the privileges committee for investigation as constituting a deliberate misleading of the Senate. Given the serious nature of the allegations, proof of a very high order is required in order to constitute a finding that the Minister intended to mislead the House or that he did so deliberately.

It is arguable that the Senate was misled, but I am not sure whether the proximate cause for this falls on the Minister ignoring the assumptions within the questions as is his prerogative or Senators failing to ask direct questions as they are required to do under the Standing Orders. It is for this reason I have set out in fairly extensive terms the learning on these issues so that for future reference Senators may be aware of the parameters of question time.

In light of the above learning and findings made by me, I rule that a prima facie case of contempt of Senate has not been made out, and therefore, there is nothing to be referred to the privileges committee, since the Minister cannot be said to have deliberately misled the Senate, which is an essential element required to constitute such a contempt as stated at paragraph 4.1.3 of this ruling and I so rule. [*Desk thumping*]

SECURITIES BILL, 2012

Bill to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk, to repeal and replace the Securities Industry Act Chap. 83:02 and for other related matters brought from the House of Representatives [*The Minister of Trade, Industry and Investment and the Minister in the Ministry of Finance and the Economy*]; read the first time.

Motion made: That the next stage be taken at a later stage of the proceedings. [*Sen. The Hon. V. Bharath*]

Question put and agreed to.

2.00 p.m.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the statement of Recovery Expenses of the Ministry of Energy and Energy Affairs for the year ended December 31, 2011. [*The Minister of Trade, Industry and Investment and Minister in the Ministry of Finance and the Economy* (*Sen. The Hon. Vasant Bharath*)]
2. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2009. [*Sen. The Hon. V. Bharath*]
3. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 2011. [*Sen. The Hon. V. Bharath*]
4. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 2010. [*Sen. The Hon. V. Bharath*]

5. Annual Audited Financial Statements of the Rural Development Company of Trinidad and Tobago Limited for the year ended September 30, 2011. [*Sen. The Hon. V. Bharath*]

6. Annual Audited Financial Statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2009. [*Sen. The Hon. V. Bharath*]

7. Annual Audited Financial Statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2010. [*Sen. The Hon. V. Bharath*]

8. Annual Audited Financial Statements of the Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2011. [*Sen. The Hon. V. Bharath*]

9. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Diego Martin Regional Corporation for the year ended September 30, 2002. [*Sen. The Hon. V. Bharath*]

10. Annual Audited Financial Statements of Export Centres Company Limited for the financial year ended September 30, 2009. [*Sen. The Hon. V. Bharath*]

11. Annual Administrative Report of the Ministry of Public Utilities for the period 2010-2011. [*The Minister of the Environment and Water Resources* (*Sen. The Hon. Ganga Singh*)]

12. Annual Administrative Report of the Tobago House of Assembly for the year 2011. [*Sen. The Hon. G. Singh*]

13. Annual report of the Teaching Service Commission for the year 2011. [*The Vice-President of the Senate (Mrs. Lyndira Oudit)*]

JOINT SELECT COMMITTEE REPORTS

(Presentations)

Securities Bill, 2012

The Minister of Trade, Industry and Investment and Minister in the Ministry of Finance and the Economy (Sen. The Hon. Vasant Bharath): Mr. President, I have the honour to present the following report as listed on the Order Paper in my name:

Report of the Joint Select Committee on the Securities Bill, 2012.

Municipal Corporations and Service Commissions

(with the exception of the Judicial and Legal Service Commission)

1. **Sen. Subhas Ramkhelawan:** Mr. President, I have the honour to present the following reports as listed on the Order Paper in my name:The Second report of the Joint Select Committee appointed to inquire into and report to Parliament on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission) on an evaluation of the efficiency and effectiveness of the Arima Borough Corporation.
2. The Third report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission) on the re-evaluation of the efficiency and effectiveness of the Teaching Service Commission.
3. The Fourth report of the Joint Select Committee appointed to inquire into and report to Parliament on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission) on the re-evaluation of the efficiency and effectiveness of the

Police Service Commission, with specific focus on the performance of the Commissioner of Police and Deputy Commissioners of Police.

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we are in a position to answer the following questions: questions nos. 21, 25, 27, 28, 30, 31 and 34. We ask for a deferral to outstanding questions for another two weeks.

Sen. Beckles: Mr. President, can I make an enquiry? Anything on the written questions?

Sen. The Hon. G. Singh: We ask for a deferral for that for two weeks also.

Sen. Beckles: Okay.

Sen. Al-Rawi: Mr. President, through you to the hon. Minister, I am sorry, it went a little quickly, would you mind repeating the questions that you are in a position to answer.

Sen. The Hon. G. Singh: Yes, I do not want you to make any assumptions. It is questions 21, 25, 27, 28, 30, 31 and 34.

Sen. Al-Rawi: Much obliged.

Mr. President: You said 31 and 34. Was it?

Sen. The Hon. G. Singh: 31 and 34.

Mr. President: And you take them in that order?

Sen. The Hon. G. Singh: In that order.

The following questions stood on the Order Paper:

Preparation for Olympics 2012

(Moneys allocated)

9. Could the hon. Minister of Sport indicate:

(i) The amount of moneys allocated to various organizations and

individuals for preparations for Olympics 2012 and the date of disbursement of the funds to the individuals and organizations; and

(ii) The amount of money spent generally by the Ministry of Sport for Trinidad and Tobago's preparation for Olympics 2012? [*Sen. P. Beckles*]

Personnel attending Olympics 2012

(Moneys allocated)

10. Could the hon. Minister of Sport indicate:

(i) Could the Minister provide the names of all personnel approved by Cabinet to attend the Olympics 2012 from Trinidad and Tobago; and

(ii) Moneys allocated to all the above mentioned persons? [*Sen. P. Beckles*]

Marketing Initiatives

(Details of)

11. Could the hon. Minister of Tourism indicate:

(i) The moneys allocated by the Ministry of Tourism and its agencies in relation to the various initiatives for marketing of Trinidad and Tobago for the period June 2010 to August 2012;

(ii) The nature and benefits derived from these marketing initiatives; and

(iii) The companies and or organizations that were contracted to market Trinidad and Tobago and the moneys paid to them? [*Sen. P. Beckles*]

Clico Investment Trust Fund (NEL 2)

(Details of)

23. Could the hon. Minister of Finance and the Economy inform the Senate:

(i) Whether the Government has set up the Clico Investment Trust Fund

(NEL 2) as promised in the 2011/2012 Budget;

(ii) If the answer is yes, please indicate the date of the particulars of establishment of the said fund;

(iii) If the answer is no, please indicate the reason for the failure to set up same? [*Sen. P. Beckles*]

Stamp Duty Machine

(Tobago)

29. A. Could the hon. Minister of Finance and the Economy please indicate whether there is a functioning stamp duty machine in Tobago?

B. If the response to (A) is in the negative, could the Minister please state when it is expected that there will be a functioning stamp duty machine operating in Tobago?

C. Could the Minister state what provisions are currently in place to have stamp duty paid on deeds of Conveyances from Tobago? [*Sen. Dr. V. Wheeler*]

Tobago Regional Health Authority

(Appointment of Board)

32. With regard to the Board of Directors of the Tobago Regional Health Authority, could the hon. Minister of Tobago Development please state:

(a) The date that the Board of Directors first received their instruments of appointment;

(b) Whether there have been any changes to the Members of the Board of Directors of the Tobago Regional Health Authority since that date; and

(c) The names of the current members of the Board of Directors? [*Sen. Dr. V. Wheeler*]

"**Colour Me Orange**" **Programme**

(Details of)

33. With respect to the "Colour Me Orange" Programme, would the Minister of Housing, Land and Marine Affairs please indicate:

(a) whether the programme has to come to an end;

(b) whether there is any plan or intention to extend the programme;

(c) precisely how much was expended on this programme;

(d) the number of jobs created by the programme;

(e) what was the Government's rationale for its activation; and

(f) did the programme achieve its objective? [*Sen. F. Hinds*]

Questions, by leave, deferred.

Vidwatie Newton

(Employment of)

21. Sen. Fitzgerald Hinds asked the hon. Prime Minister:

A. Would the Prime Minister indicate whether her sister Vidwatie Newton is now employed as her "Travel Assistant"?

B. If the answer to (A) is in the affirmative, would the Prime Minister indicate the last time/date that the said Vidwatie Newton travelled with her in that capacity and was paid out of state funds?

C. If the answer to (A) is in the negative, would the Prime Minister indicate whether the said Vidwatie Newton has been re-employed or re-deployed in any other position, which renders her able to earn or be in receipt of public money or funds?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, with respect to Question 21(A), Ms. Vidwatie Newton is

not employed as the Prime Minister's "Travel Assistant".

With respect to part (B), as the response in the part (A) is in a negative, part (B) of the question is not applicable.

With respect to part (C), Ms. Vidwatie Newton is not an employee of the State and as such, she does not earn any public money or funds.

50th Independence Anniversary Celebrations

(Moneys spent)

27. Sen. Pennelope Beckles asked the hon. Minister of Planning and Sustainable Development:

> Could the Minister indicate the amount of monies spent by the Government of Trinidad and Tobago for the 50th Independence Anniversary Celebrations of Trinidad and Tobago?

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very much, Mr. President. The sum of TT $50 million was allocated under Public Sector Investment Programme, Item AO21 for the fiscal year 2011/2012 to meet expenditure for Cabinet approved projects to commemorate and celebrate the 50th Anniversary of Independence of Trinidad and Tobago.

The sum of the TT $41,836,417.64 was incurred as expenditure as at September 30, 2012. Additional and committed expenditure up to December 11, 2012 is $1,027,100. The total therefore committed out of the $50 million is $42,863,517.64.

Sen. Hinds: Thank you very much, Mr. President. Hon. Minister, does the figure you quoted include expenditure by the State Enterprises?

Sen. The Hon. Dr. B. Tewarie: No, because the matter for which I was

responsible was based on allocations made in the PSIP specifically for this project.

Sen. Hinds: Does the Minister consider that money expended by the State—[*Interruption*]

Mr. President: No, that calls for an opinion on behalf of the Minister; it is not acceptable.

Sen. Al-Rawi: Why do you not state whether?

Sen. Hinds: It is all right. Thank you very much. [*Interruption*]

Mr. President: Proceed, Sen. Hinds, if you have a supplemental.

Sen. Hinds: Yes. Hon. Minister, would you indicate to this House whether the money now unaccounted for by the State sector is part of Government's expenditure for the celebrations?

Sen. Singh: No, no. That is an opinion.

Sen. Al-Rawi: How is that an opinion?

Sen. Hinds: How is that an opinion? Just answer the question.

Sen. The Hon. Dr. B. Tewarie: Mr. President—[*Interruption*]

Hon. Senator: Do not answer.

Sen. George: A new question.

Sen. The Hon. Dr. B. Tewarie: Mr. President, I will simply point out through you, Sir, to the hon. Senator, that State Enterprises are governed by their boards and although they are part of the expenditure of the State as a whole, boards are responsible for expenditure within their companies.

Sen. Al-Rawi: Supplemental question, Mr. President. Hon. Minister, in answering this question as to Government spending, would you be able to indicate whether the reporting by the State Enterprises to the Government of Trinidad and Tobago will form part of the accounts for which this item will speak to in the next budgetary statement?

Sen. The Hon. Dr. B. Tewarie: I am not, Sir, able to answer that question.

Sen. Al-Rawi: Further supplemental, Mr. President. Would the hon. Minister be able to indicate whether the expenditure by Government from various Ministries, not through the PSIP spending, are included in the answer provided today?

Sen. The Hon. Dr. B. Tewarie: The account that I gave is for the $50 million allocated in the PSIP.

Sen. Al-Rawi: Further supplemental, Mr. President. The PSIP, for clarification, includes specifically what aspects of the State therefore? [*Crosstalk*] "How is that a new question, madam?"

Sen. The Hon. Dr. B. Tewarie: It involves the Cabinet approved projects that were multi-ministry in nature but coordinated by the Ministry of Planning and Sustainable Development.

Sen. Al-Rawi: So for clarity, further supplemental, Mr. President, insofar as I wish to be specific, would the hon. Minister be able to say what is excluded in the ambit of Government spending from the PSIP spending package?

Sen. Singh: That is a new question.

Sen. Al-Rawi: How?

Sen. Singh: New question.

Sen. The Hon. Dr. B. Tewarie: I am not able to respond, Mr. President.

Sen. Hinds: Mr. President, supplemental. What element of the $41.8 million that has yet been incurred was directed towards the recognition of Dr. Williams as the Government had promised it would?

Sen. Singh: The same amount the PNM spent in their time in Government.

Sen. Hinds: Is the Minister able to say?—[*Interruption*]

Hon. Senator: "You all building energy today!" [*Continuous Crosstalk*]

Sen. Hinds: Mr. President.

Mr. President: I think it is somewhat outside of the ambit to what the Minister could be asked. There was nothing within the original question that related to identify specific elements of the expenditure. The question related to the total amount of money spent. We will proceed to the next question.

Brian Lara Cancer Treatment Centre (BLCTC)

(Allegations of)

27. Sen. Prof. Harold Ramkissoon asked the hon. Minister of Health:

With respect to the allegations of over-radiation of patients at the Brian Lara Cancer Treatment Centre (BLCTC), and your assurance reported in Newsday May 8, 2012 that proper investigation will be done, could the Minister indicate:

(a) Whether an investigation has been or is being carried out;

(b) If the answer is in the negative, why not;

(c) If the answer is in the positive, who were/are the members of the investigating committee and when can we expect a report;

(d) Whether your Ministry held any meeting with officials of the BLCTC, and if so, how many and what was the outcome;

(e) Whether your Ministry met with the surviving patients;

(f) Whether the surviving patients have received follow up care, and if so, who paid for it?

The Minister of Health (Hon. Dr. Fuad Khan): Thank you, Mr. President. In keeping with your previous ruling that you have just read where you said that questions should be as brief as possible, replies should be as brief as possible and questions should be not of an inordinate length, and I wanted to suggest that to the question writers.

The answer to question 27, part (A), the answer is yes.

The second part (B) does not arise.

The third part (C), the answer was positive and the members of the investigating team were the Pan American Health Organization consultants and the IAE consultants.

Part (D), the Ministry of Health held meetings with officials of the Brian Lara on May 07, 2012. The Ministry met with the surviving patients, a percentage of the IAE members that came, it was approximately 30 members and the surviving patients—eight out of the 30—are receiving further care and it is being paid for by both the Brian Lara and the Ministry of Health. The public sector doing the investigative work up, and also out of the eight, about three or four of them may need to go abroad for specific treatment and we are accessing that.

Mr. President: Supplemental, Senator?

Sen. Prof. Ramkissoon: Certainly, exceedingly brief; could not be any briefer. Mr. President, a supplemental. Could the Minister state how far have the investigations gone with respect to PAHO?

Hon. Dr. F. Khan: The investigations by the consultants of Pan American Health Organization were: they did the calibration access to the machine itself and they have made a recommendation which has since been fixed and the IAE members gave recommendations in the patient care.

We have now become full-fledged IAE members so we can now ask for access to looking at the actual machinery part of it—the physical structure. What they did is that they indicated that they came to see the patients and what they could do for the patients themselves. That has been completed by that team and we are now going according to the recommendations.

2.15p.m.

The only recommendations that have not been fully fulfilled, was the radiation

guidelines which has been accepted by Cabinet, and sent to the Attorney General for drafting with the Occupation, Health and Safety Bill, that is in process with the LRC.

Sen. Prof. Ramkissoon: Mr. President, supplemental. Is there any other aspect of the investigations that is being carried out?

Hon. Dr. F. Khan: Could the Senator be a little more specific?

Sen. Prof. Ramkissoon: Could you tell me, for example, if anyone would be held responsible for the many deaths that have been caused by the over radiation at the Brian Lara Cancer Treatment Centre?

Hon. Dr. F. Khan: Hon. Senator, we are not aware of any deaths caused by it at this point in time.

Sen. Dr. Armstrong: Supplemental. Minister, could you kindly clarify? Did you say that there are eight patients receiving treatment right now and that three might go abroad? And if so, how was that determined?

Hon. Dr. F. Khan: Okay. The IAE members who came here accessed approximately 10 per cent of the patient load by choosing their medical histories. Out of those 22 patients, eight of them seemed to have some complications. Out of the eight having complications, all have been followed up, but they are being followed up more stringently. Out of the eight of them, three of them may need further treatment abroad; may need. We are still in the process of assessing treatment if necessary.

Sen. Dr. Armstrong: Further supplemental, Mr. President. Were all the people who were treated at the institution advised that they should perhaps come in and have further consultations?

Hon. Dr. F. Khan: When the Ministry of Health met with the Brian Lara team, we asked them to call every single patient who was so affected around that period

of time, and who had complications and who did not. Of those who had complications, approximately 10 per cent had complications, which the IAE members looked at and assessed.

Sen. Drayton: Supplemental, Mr.President. Mr. Minister, could you say whether a full and comprehensive report will be made public on this matter? And whether the reports of the various institutions will be made public?

Hon. Dr. F. Khan: We have a report from the IAE and we have a report from the PAHO consultants based on the calibration machine. The report is with the Ministry of Health and is being dealt with. As soon as everything is over, it will be made public.

Mr. President: Hon. Senators, the question time has now expired. I know there are a number of questions available for answer. I do not know if it is the wish of this Senate that we defer the answers to these questions, or whether we wish to deal with them now. Leader of Government Business, you want to express a view?

Sen. The Hon. Singh: Mr. President, we are in a position to deal with them subject to the will of the Senate.

Question put and agreed to.

Mr. President: We will continue. The next question, Sen. Prof. Harold Ramkissoon.

Private Hospitals

(Details of)

28. Sen. Prof. Harold Ramkissoon asked the Honourable Minister of Health:

Could the Minister indicate to the Senate:

(a) how many private hospitals/nursing homes/health care facilities (including those performing investigative tests such as CT scans, MRI scans and laboratory tests) are there in T&T;

(b) for the period 2009-2010 and 2011-2012, what was the cost to taxpayers for outsourcing services to these private hospitals/nursing homes/health care facilities as of December 31st 2011;

(c) to which private hospitals/nursing homes/health care facilities were sums paid at as December 31, 2012 and the breakdown for each;

(d) what amounts are still outstanding, if any, to these private hospitals/nursing homes/health care facilities mentioned at (c) as at December 31, 2012; and

(e) what measures are in place to ensure we get quality service for taxpayers' money from these private hospitals/nursing homes/ health care facilities?

Hon. Dr. F. Khan: Question 28(a), the answer to the first part is approximately 153 private hospitals, nursing homes and health care facilities, which are Government oriented, including those that performed the investigative test which are CT/MRI scans, lab test, et cetera, in Trinidad and Tobago. For the period 2009 to 2010: we had approximately $164 million being outsourced by—breaking it down into South West Regional Health Authority, $7 million plus; Eastern Region, $4.8 million; North West Regional Health Authority, $4.5 million; North Central Health Authority, $62 million and the Ministry of Health, $84 million.

We go to 2010 to 2011: South West Regional Health Authority, $4.8 million, outsourced; Eastern Region $10.5million; North West Regional Health Authority, $2.5 million; North Central Regional Health Authority, $58.4 million and the Ministry of Health, $103 million.

Amounts outstanding to date: South West Regional Health Authority, $15million; Eastern Region, $18.6million; North West Regional Health Authority, $11.6 million; North Central Regional Health, $129million and the Ministry of

Health, $260 million.

The amount outstanding—what I just read was the total amount outsource, sorry, for the period. The amount outstanding: South West, $11.5million; Eastern Region, $1.6 million; North West Regional Health Authority, $49,000; North Central Regional Health Authority has about $66million and the Ministry of Health, none outstanding at this point in time.

To which private hospitals/nursing homes were sums paid? It is quite a lot. So, what I will do, I will just give the large figures. For the South West Regional Health Authority for that period you have asked. Approximately to Community Hospital of Seventh-Day Adventists, $34 million was paid up to the period you asked. Southern Medical, $4.7million; Surgi-Med Clinic, this is from South West, $2.6 million; Cross Crossing, $2.5 million; Eastern Regional Health Authority, the Advanced Cardiovascular Institute (ACI), the amount paid was $2 million; Caribbean Heart Care, $6.4million; Medcorp, $2.3 million; Medical Associates, $8.4 million and West Shore Medical, $7.9 million. If you look at the North West Regional Health Authority, quite a low figure; so it is under a million. It is about $9 million to ACI; John Hayes, $2.7 million and Medcorp, $2.1 million.

Coming with the hospital once again: $1.1 million; from North Central Regional Health Authority. ACI up to the period that you asked, ACI's Cath Lab which is advanced cardiovascular, $23 million, amount paid up to that date; Caribbean Heart Care, $73million; Community Hospital, $23 million and Medical Associates, $31 million. These are smaller figures but the Ministry of Health/private medical outsourcing, $6.9 million; and Brian Lara, $2.3 million. The other figures we have, these are smaller figures that we have like $22,000, et cetera. I would not waste the Parliament's time with that. But those are the large figures basically. Most of that is for things like neurosurgery, cardiovascular

surgery, intensive care treatment, and other items. Built into it would be the radio therapy, et cetera. Those are being outsourced, but I must say that the outsourcing has basically gone right down in this period from January to December which is the figures we have to get.

Measures put in place? The measures that are put in place that we do patient feedback and quality assessment by our quality department. That is how we assess the quality given to patients.

Sen. Al-Rawi: Supplementary Question, Mr. President. Hon. Minister, thank you very much for the answers that you have provided. Just a few clarification issues. Some startling figures were put there, for instance, $78million and I know that the period stated for instance in 28(b) is for two tranches, 2009 to 2010 and 2011 to 2012. Would the hon. Minister firstly be in a position in terms of providing clarity, to reduce the answer to this question into writing for circulation amongst Senators? That is the first part. And then secondly, would the hon. Minister be able to say whether this expenditure is from the Ministry of Health or from the regional corporations involved?

Hon. Dr. F. Khan: One, if it is the wish of the Senate, I could make it available as a written answer. Do we to ask the President now to—[*Interruption*]

Sen. Hinds: [*Inaudible*]

Hon. Dr. F. Khan: You are supposed to ask the question. The President is supposed to put the question and then we are supposed to answer.

Sen. Hinds: [*Inaudible*]

Sen. The Hon. Singh: And the second part of it.

Hon. Dr. F. Khan: The second part of it?

Sen. Al-Rawi: Regional Health or Ministry?

Hon. Dr. F. Khan: I read Regional Health and Ministry Health, both.

Sen. Al-Rawi: Much obliged. Through you, Mr. President, further supplemental, perhaps by way of a request hon. Minister. Insofar as there is an aggregation for both divisions, I would ask if it is the wish of this Senate that the answer be put into writing, that the Minister could specify the disaggregation through the Ministry of Health and the regional authorities, please?

Hon. Dr. F. Khan: Hon. Senator, I have absolutely no problem doing that, but since it is a supplemental question—[*Interruption*]

Sen. Al-Rawi: Sure.

Hon. Dr. F. Khan: All right. I cannot give a guarantee. However, it should be if the Minister, yourself or the Professor would like to write a question and ask for that breakdown, I will definitely give it in writing. Ask for it in writing.

Sen. Al-Rawi: Further supplemental, Mr. President. Perhaps by way of clarification insofar as questions must be clear.

Mr. President: Specific and precise.

Sen. Al-Rawi: Specific, precise and brief. [*Laughter and crosstalk*] Thank you hon. Minister. [*Crosstalk*] I am not asking for anything more than what was provided so far. So if it is within your ability in the terms of question as answered, it is in that context. And thank you for the invitation with respect to supplemental written questions. Much obliged, Mr. President.

Hon. Dr. F. Khan: I will have absolutely no problem to do it, once it is put in—it is here but it will need to be fanned out.

Sen. Al-Rawi: Further supplemental, lest I be guilty of being non-specific. If the hon. Minister has that information in hand which time does not permit us to go into in detail. If that information could at the outset be provided, I think that would suffice for now, hon. Minister. Much obliged.

Mr. President: Hon. Senators, quite clearly in seems to me that the question was

perhaps one better dealt with in writing to begin with, given the volume of information that was required in terms of whether it should be in writing. I will leave that to the Minister of Health to decide whether he would like to circulate the answers to these questions in writing including any information that was raised in supplementary questions.

Sen. Al-Rawi: Mr. President, insofar as your invitation is for the Minister to make that determination.

Sen. The Hon. Singh: Because you asked for an oral answer. "You geh ah oral answer. Yuh want ah written answer."

Sen. Al-Rawi: Sorry, Mr. President.

Mr. President: I was taking some advice.

Sen. Al-Rawi: Of course, Mr. President, and I appreciate the advice givers and the advice as well. I was asking in terms of clarification insofar as you have invited the hon. Minister to determine whether he would give it in writing, is it possible the hon. Minister could indicate now so we would know what follow up action would be required on our part?

Mr. President: I do not intend to ask the Minister to make a commitment now. He has indicated that it was his intention, but it happens on occasion when you go back to put it into writing it takes longer that you anticipated. I am sure when the Minister goes back to his office he would be able to make an assessment and give it in the earliest possible time frame. That I think is as much as you could expect from the Minister at this point.

Sen. Dr. Victor Wheeler.

Sen. Dr. Victor Wheeler: Just for clarity, Mr. President, is it question 29 or 30?

Hon. Members: No. 30.

Scarborough General Hospital

(Details of)

30. Senator Dr. Victor Wheeler asked the Honourable Minister of Health:

With respect to the completion of the new Scarborough General Hospital being constructed at Signal Hill in Tobago, could the Minister state:

(i) what is the expected date of completion of the hospital building;

(ii) if the building has been handed over by NIPDEC to the Tobago House of Assembly; and

(iii) if the building has not yet been handed over, when will it be handed over to the Tobago House of Assembly?

Hon. Dr. F. Khan: Hon. Senator, this question No. 30 relates to the Scarborough Hospital. Could I answer in one bulk rather than going through? The expected date of completion? It has been completed and NIPDEC has passed it across to the Ministry of Health and always the Tobago Regional Health Authority. The Ministry of Health has to do its legislative requirements to vest it in the Tobago House of Assembly, that is in process at this time. That is it.

Sen. Dr. V. Wheeler: Just one supplemental. Seeing that the—actually, I commend you on a job well done.

Hon. Dr. F. Khan: Thank you very much.

Sen. Dr. V. Wheeler: But supplemental. Seeing that it is not properly vested with the THA and the TRHA, are there any medico-legal concerns that may arise during the interim before it becomes fully vested?

Hon. Dr. F. Khan: We took that into consideration and the Minister can by order vest it in the TRHA which I have done legally by order, that has been done. So that takes care of any litigation or any problems occurring there. At same time could I just answered question 31, if it is the will of the Senate? It is same thing

along the same line, Mr. President?

2.30 p.m.

Scarborough General Hospital

(Commissioning Team for Transfer of Clinical Services)

31. Sen. Dr. Victor Wheeler asked the hon. Minister of Health:

With respect to the commissioning or startup of clinical services at the new Scarborough General Hospital, could the Minister state:

(i) if there is a commissioning team in place to oversee the startup and transfer of the clinical services from the old hospital to the new hospital in Signal Hill;

(ii) if the answer to (i) is in the affirmative, who are the members of the commissioning team; and

(ii) when will the wards of the new hospital be receiving and treating the first set of inpatients?

The Minister of Health (Hon. Dr. Fuad Khan): Thank you very much. There was a commissioning team for the start-up of the movement from the old Scarborough Hospital to the new Scarborough Hospital. That has been successfully done, I think, by Miss Paula Justa Cumberbatch, who is the CEO, as well as the Tobago Regional Health Authority, together with the people from the Tobago House of Assembly. The commissioning has taken place and I think we have had approximately 47 patients transferred in-house to the new Scarborough General Hospital.

The members for the commissioning team—well I just said that—and the wards are receiving and they have already treated their first set of patients.

Sen. Dr. Wheeler: Just one supplemental: would the Ministry of Health, seeing that the building is complete, continue to offer its assistance in the provision of

services to the Tobago Regional Health Authority?

Hon. Dr. F. Khan: The Ministry of Health is desirous of doing that. Even if it will be vested in the Tobago House of Assembly, there are certain parts of that hospital that I need to deal with. One, I want to put in the cardiac surgery and cardiac services; neurosurgical services; proper orthopaedic services as well as the MRI machine, which has been budgeted for this year. I also will have discussions with the THA to make the Scarborough Hospital a teaching hospital and hope to attract a medical school to Tobago.

Sen. Dr. Wheeler: Just a supplemental: do you have a timeline for the introduction of the cardiac surgery services and making the Tobago hospital a teaching hospital?

Hon. Dr. F. Khan: Tobago hospital, as it is, can be a teaching hospital as far as these specialized services are concerned. I am in the process of trying to work with a public/private movement to deal with it, but I have to get the blessings of the Tobago House of Assembly.

Sen. Cudjoe: A supplemental question, Mr. President: could the Minister tell us what is going on with regard to the computerization of patients' records?

Hon. Dr. F. Khan: The electronic medical records—Tobago has been blessed by the Ministry of Health; yes, they have been—because Tobago is one of the few places, like the Siparia District Health Facility, to have a full electronic medical record system. I have sent the IT manager and others to Tobago and they are now using that system; but as with everything else, there is a learning curve and we are at the lower end of the learning curve. Hopefully, that will kick-off very soon. The electronic medical record system for Tobago will be looked on as a pilot study for all of Trinidad and Tobago.

Sen. Cudjoe: Further supplemental, Mr. President, for the Minister. I want to

know if there is a timeline for the vesting of the hospital to the Tobago House of Assembly? And so that I do not have to stand again, I wanted to know what are the plans for the second incinerator that we have been in conversation about.

Hon. Dr. F. Khan: First thing, the second incinerator is being looked at because of what happened in the old hospital with the workers having problems with being close to the incinerator. We are looking at that and we have asked NIPDEC, although they have handed over the hospital, to look at it. That is one.

The second part of it, the vesting part of it will depend on the legislative part of it. I have no control over that, but my legal officer is working very closely with the legal officers at the Attorney General's office and the Solicitor General's office to bring that vesting movement very fast.

Sen. Cudjoe: Further, final supplemental: you did not give a timeline as to the incinerator because we have been looking at this for quite some time.

Hon. Dr. F. Khan: One says the world is going to end on December 21, I hope after that we are still here. [*Desk thumping*]

Sen. Dr. Wheeler: Supplemental: are you saying that the Ministry of Health is now responsible for solving the problem with the incinerator and not the Tobago Regional Health Authority?

Hon. Dr. F. Khan: That is in discussion right now.

United Nations International Year

for People of African Descent

(Initiatives Implemented)

34. Sen. Fitzgerald Hinds asked the hon. Prime Minister:

(A) Would the Prime Minister indicate what specific projects, initiatives and activities were implemented in 2011 by her Government in

commemoration of the United Nations International Year for People of African Descent;

(B) Did the central government or any state agency fund or otherwise support these initiatives; and

(C) If the answer to (B) is in the affirmative, how much money was expended on these initiatives?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I am pleased to inform hon. Senators that this Government implemented numerous activities in 2011 in commemoration of the United Nations International Year for People of African Descent, at a total cost of $12,013,943.51.

The Ministries and State Agencies which undertook projects are as follows:

MINISTRY	PROJECT	AMOUNT EXPENDED/TO BE EXPENDED	REMARKS
Office of the Prime Minister	Internal Staff Project	$21,263.00	
	Funding to the Emancipation Support Committee	$850,000.00	
Ministry of Community Development	Exhibition of African wear and accessories; cultural performances; and lecture sessions	$24,955.00	

Community Development and Legal Affairs	Merekin Project, Moruga Road (Heritage Site)	$100,000.00	
Ministry of Community Development: Imam E Zamana Mission	The Ujimaa Project	$597,135.00	
Ministry of Justice	Publication of a book entitled "Drapeau de la Liberte Haiti, from Independence to the Present—Historical Perspectives on Leadership"	$250,000.00	
Ministry of Education	African History Quiz Competition Anansi Production funded by UNESCO Gelede Festival 2011 funded by UNESCO	$207,700.00 $160,750.00 $102,880.00	
Arts and Multiculturalism	An Exhibition entitled "A Story of Triumph: Recalling the road to Freedom" An Exhibition booth was set up to celebrate Emancipation at the Lidj Yasu Omawale Village, Queen's Park Savannah	$747,600.00	

	An exhibition in collaboration with the Youth Division, Ministry of Gender, Youth and Child Development A panel discussion was held on African Retention in Dance Readings from Artful Stories Panel discussion and exhibition on African retention of dance in Trinidad and Tobago Exhibition featured the food, language, and cultures in Trinidad and Tobago that have been retained from the African Continent Dr. Joy De Gruy, renowned author and psychologist, shared her research on post traumatic slave syndrome in September 2011 Lectures were held entitled: "The Impact of Enslavement on African People in the Diaspora: What can be done about this?"			

	An African Pageant for staff Launch of Calypso Lyrics Database Celebrity Tale-A-Thon		
	The mounting of displays and exhibitions at libraries in the NALIS network The dedication of all NALIS' major programmes to the International Year of People of African Descent The hosting of a Heritage Film Festival		
	The hosting of major staff activity Exhibitions and Displays Storytelling activities during National		

	Library week Film Series Launch of two exhibitions		
Ministry of Public Utilities	Cultural Display at the Head Office Brochures and Posters were created and distributed	$44,300.00 No cost	
T&TEC — Trinidad and Tobago Electricity Commission	Internal celebrations Panel Discussion at UWI Donation to NALIS Donation to the Tobago Cultural Committee	$416,827.24	
Water and Sewerage Authority (WASA)	Emancipation Celebration 2011 The facilitation of a cultural exchange during the 2011 Emancipation celebrations, involving a delegation from Uganda	$117,360.00	

	Supported the publication of the Jan-Mar 2012 issue of 'The Afrikan Voice' news magazine with the placement of an advertisement		
Telecommuncations Services of Trinidad and Tobago (TSTT)	Funding for the Emancipation Support Committee	$425,000.00	
Ministry of Tourism	Hosting of Travel Professionals of Colour (TPOC) Conference in Trinidad and Tobago to be held tentatively in April 2013	$684,800.00	
	Development of a museum and heritage tour	$80,000.00	
	Ile Eko Sango/Osun Mil'Osa Conference	$12,500.00	
	Sponsorship of two members of ESC to attend Travel Professionals of Colour Conference (TPOC)	$17,080.00	

	Spiritual/Shouter Baptist Liberation Day Celebrations	$30,000.00	
	International Year of People of African Descent celebrations	$49,124.00	
	Emancipation Celebrations	$150,000.00	
	Emancipation Committee Activities	$120,000.00	
	African Rhythm Festival	$45,000.00	
	Heritage Tours Training	$58,000.00	
	Sponsorship of two members of ESC to attend Travel Professionals of Colour Conference (TPOC)	$16,830.00	
	Ile Eko Sango/Osun Mil'Osa Conference	$15,000.00	
Ministry of Tourism	Launch and International Consultation on an African Sanctuary in Trinidad and Tobago	$200,000.00	
Science, Technology and Tertiary Education	Distinguished Lecture Series "Richard Bridgens: Trinidad's Artist of Slavery"	No cost	

(University of Trinidad and Tobago)	Research Fellows' Series "Discovering an Unpolished Eric Williams Manuscript" Research in Film Series "Shouters and the Control Freak Empire—"	No cost No cost	
	Publications	$225,250.00 $51,178.00 Awaiting publication — No Cost Awaiting publication — No cost	Kim Johnson: The Illustrated Story of Pan Julian S. Kenny: Of Dragons and Dovers: Essays of Our Times Selwyn Ryan: Entrepreneurship in Trinidad and Tobago: The Black Experience 1838-1938 George Tang and Ray Funk: We kind ah People — the

			Trinidad Carnival Masquerade Bands of Stephen Lee Heung
	Music	No cost	Students are exposed to the study and practice of the Steelpan and Calypso Collaborative concert with the American Embassy for Black History Month Music vocal classes expose students to the musical genres of Gospel and Negro Spirituals
	Dance	$4,000.00	World Dance Forms class remounted Joyce Kirton and Terry David's SARACA

	Design	No cost	Stagecraft and Lighting Design classes expose students to the art and practice of lighting people of colour
	Acting	$11,021.82	Acting: Production of Mustapha Mathura's Three Sisters, after Chekov.
	Publication on Heritage Sites	$160,000.00	To recognize the historical significance of heritage sites in Trinidad and Tobago To facilitate the research leading to publications on four (4) heritage sites: The Rada Compound, Belmont; Lopinot Estate, Arouca; La Resource Estate,

			Rambert Village; and Les Coteaux Estate, Tobago
Foreign Affairs and Communications	Screening of the Documentary *Slave Routes* Commemoration of African Liberation Day Lecture and Cocktail Reception in celebration of United Nations International Year for People of African Descent (UN IYPAD) Posting of a Banner in Piarco and ANR Robinson International Airports Launch of TUCO Calypso History Month Tobago Emancipation Rally and Run Presentation at the Sangre Grande Secondary School	No cost No cost $171,857.52 $3,772.00 $49,209.00 No cost No cost	

	Essay Competition on UN IYPAD Art Competition on UN IYPAD Publication of Calypsos National Fine Art Exhibition Corporate Communications Plans	$237,265.33 $297,689.60 $195,640.00 $389,045.00 $375,475.00	
Trinidad and Tobago Film Company; Success Laventille Networking Committee	Yoruba Village — The Film	$180,000.00	

2:45p.m.

MINISTRY	**PROJECT**	**AMOUNT EXPENDED/TO BE EXPENDED**	**REMARKS**
Ministry of Gender, Youth and Child Development	Studio 66 Art Murals	$1,122,936.00 Four locations: Port of Spain, Chaguanas San Fernando	

		Tobago First Phase: Port of Spain, TT$425,000.00 Second Phase: Port of Spain: TT$697,936.00	
The Ministry of Gender, Youth and Child Development	African Traditional Community Parades	$445,000.00	
The Ministry of Gender, Youth and Child Development; National Women's Action Committee	The Family Workshop	$100,500.00	
The Ministry of Labour, Small and Micro Enterprise	Youth Agri-Business Entrepreneurship Development	$2,450,000.00	

Development; Trinidad and Tobago Organization for People of African Descent	Initiative 2011		
TOTAL		$12,013,943.51	

Mr. President, I thank you.

Mr. President: Sen. Hinds.

Sen. Hinds: Thank you very much. Is the Minister saying that all of those were directly related to the celebration of the year 2011 as the year of people of African descent? All of those matters are directly related to that?

Sen. The Hon. G. Singh: All of those matters were directly related.

Sen. Hinds: For example, the launch of Emancipation, that is an annual event; is the Minister saying that that is directly related to the celebration of that year?

Sen. The Hon. G. Singh: The launch of Emancipation in the year of the people of African descent must have a direct relationship.

Sen. George: "I eh understand de question."

Sen. Hinds: Further supplemental. [*Laughter*] The Minister pointed out—that is all right—[*Interruption*]

Mr. President: Sen. Hinds, we know what the Minister pointed out, would you ask him a direct and precise question?

Sen. Hinds: Yes. I want to know, is the Minister able to say who published that book out of the Ministry of Justice?

Sen. The Hon. G. Singh: No, I am not in a position to say that.

Sen. Hinds: Thank you very much. And is the Minister saying that UNESCO funds, which went towards events that you identified are government expenditure—government funds?

Sen. The Hon. G. Singh: I am not saying that UNESCO funds are government funds, what I am saying is that in any situation of that nature it is what has been the amount that was expended on this issue.

Sen. Hinds: Thank you very much.

Mr. President: Senators, I just want to remind you that whereas in this case as in the Ministry of Health, where the questions are likely to have voluminous information in answers, it would be preferable if they were asked for in written form.

SECURITIES BILL, 2012

Bill accordingly read a second time.

The Minister of Trade, Industry and Investment (Sen. The Hon. Vasant Bharath): Thank you, Mr. President. Mr. President, I beg to move:

> That a Bill entitled an act to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk, to repeal and replace the Securities Industry Act, Chap. 83:02 and for other related matters.

Mr. President, I thank you for affording me the opportunity this afternoon to contribute to the Securities Bill, 2012. I think we all know that this is a most important piece of legislation and it, primarily, provides for a regime to govern our securities industry in line with international best practice, whilst ensuring that Trinidad and Tobago becomes a full signatory to the International Organization of Securities Commission (IOSCO) and its

multilateral Memorandum of Understanding, on or before January 01, 2013. Mr. President, the Securities Bill, 2012 contains 172 provisions in 12 parts, as compared to the 150 provisions in the original legislation. And the amended version essentially seeks to create and promote such conditions in the securities industry as may be necessary, advisable or appropriate to ensure the orderly growth and development of the securities industry. These 12 parts identify the expanded powers of the Securities and Exchange Commission and all relevant provisions governing the functions of the Commission. In addition, there are provisions to the functioning of the stock exchange and other self-regulatory organizations, the registration of registrants, disclosure obligations of reporting issuers, distributions relating to the purchase and sale of securities, provisions to govern market conduct and regulation, simplified clearing facilities, reporting by persons connected to issuers, civil liability and general provisions and enforcement. A final part of the Bill addresses repeal and transitional provisions.

Mr. President, this Bill has gone through, as we all know, several iterations and several stages, and it is not my intention this afternoon to go through the Bill clause by clause, but rather to attempt to articulate the general intent of the provisions. The Bill was first read in the House of Representatives on November 07, 2012 and was returned, one week later, on November 16, 2012, for its second reading. That very same day, on November 16, 2012, the Bill was referred to a Joint Select Committee of the House which met, as we know, on several occasions over a very short and compressed time frame.

Mr. President, allow me at this juncture to congratulate my colleague, Sen. The Hon. Larry Howai, Minister of Finance and the Economy, for the

very professional and efficient matter in which he conducted the proceedings of the committee, as well as, at the same time, congratulate all those other members who were part of the committee and whose contributions were invaluable. It was indeed heartening for me and very gratifying to see lawmakers sit around a table over a three-week period on, I believe, five separate occasions, on each time extending to well over four hours with a genuine commitment to formulating law for the benefit of the people of Trinidad and Tobago.

Let me also take this opportunity to thank and to pay special tribute to the technical teams from the Parliament, from the Chief Parliamentary Counsel's office, from the Ministry of Finance and the Economy, Trinidad and Tobago Securities Commission and Trinidad and Tobago Stock Exchange.

The committee was also privileged to have had contributions and inputs from Sen. Subhas Ramkhelawan, Mr. Gervase Warner, of the Neal and Massy Group and also Mrs. Catherine Kumar, CEO of Trinidad and Tobago Chamber of Industry and Commerce. And just to alert the Senate of the—I think it is noteworthy to understand that in the drafting of this Bill several consultations—public consultations—were held on June 12. There was a public consultation at the Yara Auditorium at the Arthur Lok Jack Graduate School of Business on June 13, another public consultation at Mt. Irvine Bay hotel, and there was also consultation on June 21 with the regulators—on the 21st, also, another stakeholders consultation, including the Institute of Chartered Accountants, the Bankers Association of Trinidad and Tobago, the share Dealers Association of Trinidad and Tobago on June 22, legal consultation with the Law Association members, and on November

20, consultations with the Independent Senators, here in this Senate today.

I think that highlights this Government's consultative process and the fact that we believe that consultation is essentially fundamental and an essential plank to its commitment to good governance. Mr. President, the Bill with all its amendments were approved in the other place on Monday December 17, 2012, and it is necessary at this stage just to briefly highlight that the following clauses of the Bill were amended: clause 61, registration of reporting issuers; clause 62, registration of securities; clause 73(1) Propectus Required; clause 81(1), Resale Restrictions; clause 136(1), Reports by certain connected persons; clause 139, Liability for misrepresentation in prospectus and damages and clause 150, Investigations by the Commission. The original clause 152 was also retained.

Mr. President, this Bill comes as part of a wide-ranging and comprehensive framework of measures, which have as their end goal, the upgrading and modernizing of the legislation in order to regulate our local securities industry in the market for such financial instruments. With the advent of the international financial crisis several years ago, regulators, central banks and governments have all been forced to re-examine their approach to the regulation in future development of various industries within the broader financial markets.

The Trinidad and Tobago Securities and Exchange Commission is no different, and as the regulator of the local securities market, in the wake of the financial crisis, they started to pay particular attention to the ongoing changes occurring in the global financial landscape. The regulatory responses to the various crises and the measures need to avoid a repetition of those crises and to obviously to safeguard any contagion effects.

Each of the factors by themselves that were partly responsible for the crises on its own, may not, or could not have had a significant and devastating impact as did the confluence of them all. As a result, regulators like the TTSEC embraced the opportunity to identify and examine the gaps that existed in the regulatory framework.

The actions of the securities commissions, such as the TTSEC, in response to the global crisis have, however, not been independent of other regulators. In fact, Mr. President, the Trinidad and Tobago Securities and Exchange Commission has been a member of IOSCO since 2002, and in the past 10 years there has been a coordinated effort on the part of IOSCO to identify and address weaknesses in the regulatory system, and the regulatory framework of global securities markets. This has been in spite of the size of markets or the strength of economies.

The financial crisis of four years ago only heightened the issues, and IOSCO has since sought to step up its efforts to strengthen the regulatory frameworks of its members. Mr. President, IOSCO's current membership comprises regulatory bodies spanning some 100 jurisdictions that have day do day responsibilities for securities regulation and the administration of securities laws, and not being a signatory can have deleterious effects leading to reputational risk, including a perception of a lack of transparency.

Indeed, Mr. President, missing the deadline of January 01, 2013, to become an IOSCO MMoU signatory and be on the single A-list may signal that the country is not committed to ensuring sound securities regulation that will deter unscrupulous market actors and players. Not being an A-list signatory—and from January 01, 2013, Mr. President, there is actually only one list—could lead to an international isolation as other signatories may be

unwilling or reluctant to cooperate with those who are non-signatories.

Mr. President, securities markets are vital to the growth development and the strength of market economies. They support corporate initiatives, finance the exploitation of new ideas and facilitate the management of financial risk. Further, since many retail investors are now placing an increased proportion of their savings in mutual funds and other collective instruments and investments, securities markets have become central to individual wealth and to retirement planning.

Sound and effective regulation then, in turn, leads to confidence in markets regarding integrity, growth and development of these security markets, as well as the economy. In this light, the Bill includes conceptual and structural changes to the current securities legislation. The proposed changes include the evolution of the basis of regulation from focusing on regulating insurers to protecting investors. And although the concept of international best practice may somewhat be a subjective one, the Bill is informed by a number of standards set out in the policy papers of IOSCO and those of leading jurisdictions.

The Bill is therefore being drafted, primarily, with IOSCO's three main objectives in mind; the protection of investors, ensuring that markets are fair, efficient and transparent and the reduction of systemic risk. The proposed shift from an issuer-based jurisdiction to an investor and activity-based jurisdiction, and the adoption of international best practices has led to increased powers of the regulator, and the investor being granted specific legal recourse against persons who have caused him or her loss or injury. Coupled with the broader enforcement powers of the commission and the greater transparency through increased disclosure requirements and

obligations, the investor can now be more confident that his investment is being better protected.

The changes to the SIA, as contained in the Bill, will make our capital market stronger and significantly more attractive to investors both local and foreign, who, hopefully, will be encouraged to invest in Trinidad and Tobago.

In other words, a capital market which conforms to international standards and which protects investors will encourage and, therefore, increase investment in this jurisdiction.

Mr. President, Trinidad and Tobago is widely recognized as the regions financial capital. It is a market that is used and has been used for many years by both corporates in the region, as well as governments. Indeed, in 2011, the capital markets in Trinidad and Tobago employed some 50,000 people, directly, and several thousand others, indirectly.

3.00 p.m.

The financial services sector accounted for some $13.4 billion worth of revenue, and also accounted for 30 per cent of all services provided in Trinidad and Tobago. So, quite naturally, the Government has identified this particular sector as crucial to the country's future diversification thrust.

The credibility of TrinidadandTobago as a regional financial centre is predicated on the fact that there has been application of best practice through existing legislation, in particular the Financial Institutions Act of 1995, as amended, and the Financial Intelligence Act, 2009, as amended. It will be further strengthened with the advance of this Bill through this House, and the enactment of new insurance and credit union legislation to be laid in 2013.

Mr. President, a good example of how this Government has approached development of the financial services sector in a systematic and organized manner is the strengthening of this sector through the creation of the Financial Support Services Industry, FNSSI. This is essentially an organization set up to encourage business process outsourcing—EPO, as we would call it—to encourage financial institutions to place their middle and back office functions in TrinidadandTobago for services such as accounting, human resources, IT, marketing, claims processing, et cetera.

Although for many of these companies cost is still the driving factor, there are many advantages that we have in TrinidadandTobago relating to our employees, relating to near-shoring—the fact that we are on the same time zone as many of these organizations coming out of North America—and of course our geographical location.

In order however to attract these organizations to come to TrinidadandTobago, we have had in the recent past to look at a lot of the legislation that relates to them positioning themselves here. In fact, in the Finance Bill of 2013 that will come to this Senate in 2013, we will be making changes with regard to the Income Tax Act, the Value Added Tax Act, the Corporation Tax and the Free Zones Act, Mr. President.

We have had some success already, in a very short space of time. We have seen Scotia Bank put down a shared services decision in TrinidadandTobago, employing some 200people—some 200 new jobs in fact—spending over $100million. That was about two and a half months ago; they signed an MOU with the Government of TrinidadandTobago. About a month ago, RBC did the same thing, and only last week the Pan-American Life Insurance Company, PALIC, signed an agreement with the

TTIFC to locate its back office functions here in TrinidadandTobago, creating new investment opportunities, economic activity, as well as creating jobs. So we are laying the foundation through very strategic initiatives to ensure that we put the proper regulations in place, as well as ensure that our legislation and controls are able to cope with this increased economic activity.

With regard to the specific Bill before us, the significant changes which have been made are reflected under the headings as I will highlight now: the first, Broader Enforcement Powers of the Commission and Increased Sanctions. The Bill widens the net of securities which are to be regulated. The expanded definition of securities is intended to capture any instrument that may evolve from the market over a period of time.

I know when Sen. Ramkhelawan made his contribution to the Joint Select Committee, one of the issues he raised was the incorporation of futures. Futures are now incorporated in the definition of securities. It also clarifies its application to certain securities such as collective investment schemes. The revised definition of securities has the effect of more clearly defining the jurisdiction of the commission.

The functions and powers of the commission are also more fully enunciated in the Bill, and as a result are more consistent with IOSCO first principle that the responsibilities of the regulator should be clearly and objectively stated. Regulatory oversight powers over market actors and reporting issuers have also now been strengthened.

At present, Mr. President, the commission consists of not more than seven commissioners; however, a greater number of commissioners is required if the commission is to take an active adjudicative function. In this

regard, the Bill provides for the appointment of additional commissioners.

Secondly: Information Sharing. Local and international regulatory cooperation is recognized as an aid to effective securities regulation. To that end, the Bill provides a clearer statement on regulatory cooperation and expands on the commission's power to cooperate with regulatory authorities, both local and international, not only with regard to investigations but also in connection with prosecution.

Thirdly: Increased Sanctions. The Bill solidifies the enforcement powers of the commission by the creation of new offences and by increasing penalties for existing offences. For example, new offences have been introduced to deter non-compliance with disclosure standards. Increased penalties include raising the penalties payable, increasing the imprisonment terms and the introduction of the policy of disgorgement of profits.

Fourthly: Market Manipulation and Transparency. Insider trading constitutes the most well-known form of market manipulation, which, if not effectively deterred through legislation and enforcement, will reduce the efficiency of capital markets. Insider trading, for the uninitiated, is trading with the knowledge of undisclosed price-sensitive information. It is prohibited on all major financial markets. For capital markets to operate successfully, investors must have the confidence that they are playing on a level playing field. The commission must have the power to ensure that insiders are not benefiting, to the detriment of other investors, threw having access to insider information.

This Bill makes significant changes to the ISA of 1995 by bringing Trinidad and Tobago's entire regime in line with international best practice. It identifies a conceptual approach to insider dealing, in that, persons

commonly known as insiders, who have access to price-sensitive information, must refrain from trading. Further, the insider must not disclose the price-sensitive information to any other person, commonly known as a "tippee", until such information is disclosed publicly; in other words, published and disseminated to the market by the reporting issuer.

Mr. President, although the SIA 1995 addressed dealings by persons connected with issuers and the Companies Act 1995, under Division 4, Part IV, also contained provisions dealing with insider training, this Bill provides a complete regime for market manipulation offences which includes insider trading. The changes affected by the Bill in this context are aimed at clarifying the prohibitions on insider dealing, permitting fair and effective enforcement of violations, fostering investor confidence in the market place and increasing transparency, by enhancing the quality and timeliness of information on securities dealings by directors and substantial shareholders.

The Bill also seeks to create an insider reporting regime that is universally acceptable and applicable to all reporting insiders. The requirement to disclose all trading and the publication of information on the trading, together with the imposition of adequate penalties, make it less likely that an insider would trade on price-sensitive information.

Fifthly: Availability of Information. The Bill includes provisions for making material information available to the market place. The provisions clarify for market actors and reporting issuers how they are expected to file materials with the commission. Documents may be filed either by email or, additionally, by paper. The proposed sections deal with the public availability of filed documents. Under the Bill the commission will be required to make all documents public that have been filed. This is intended

to raise the level of information available in the securities market thereby increasing the transparency, efficiency and fairness. The only exception to this would be where disclosure would not be in the public interest.

Sixth: Greater Disclosure. One of the main aims of securities regulation is to maintain surveillance over the capital markets and ensure orderly, fair and equitable dealings in securities. The Bill enhances the continuous disclosure regime applicable to all reporting issuers to an internationally acceptable level. Reporting issuers must make timely disclosure to the market place of financial information, annual reports and management discussion and analysis of financial statements. Financial statements must be prepared in accordance with international financial reporting standards, thereby increasing quality and comparability of financial results. A quarterly financial reporting requirement is also introduced.

The seventh area is: Increased Bye-law and Order-making Powers of the Commission. The Bill enhances and elaborates on the bye-law-making power of the Minister, who acts on the recommendations of the commission and clarifies the order-making powers of the commission. The importance of bye-laws and bye-law-making powers cannot be over-emphasized. In modern securities markets the use of subordinate legislation, whether they are bye-laws, rules or regulation, is an increasingly vital component of an effective and efficient securities regulatory regime. Bye-laws provide the means for securities regulators to respond quickly and flexibly to changes in the market place.

The eighth area is: Confidentiality. Section 14 now applies to all persons, inclusive of past employees and any other person who obtains

confidential information as a result of their relationship with the commission.

The ninth area, section 19, is: Information Sharing. It gives the commission broad authority to cooperate with and share information with other entities. Any information shared is considered confidential and, as such, is subject to the same provisions as those in section 14. The goal is that enforcement would be achieved via a global approach to regulation through information sharing and MOUs at national, regional and international levels. Local and international regulatory cooperation is recognized as an aid to effective securities regulation, and the Bill therefore gives a clearer statement on both local and international regulatory cooperation and expands the TrinidadandTobago Securities and Exchange Commission's ability so to do.

At the Joint Select Committee there were three main areas that engaged the attention of the committee members. They are stated on pages 6 and 7 of the report. They were: the operations of the tribunal and limiting its role so that, essentially, it was an appellate court; the appeals process for persons against whom the commission may have made an adverse decision and, thirdly, the rationalization of fines and penalties for offences throughout the Bill.

3.15 p.m.

Very briefly, Mr. President—because we addressed all of these at the committee stage and they are no longer issues—the first is the Securities Industries tribunal under clause 158 was found by the committee to be an unnecessary layer of administration, and that any appeal against the commission should and could be made directly to the High Court.

Secondly, the matter of due process and ensuring that there was an appeals process for persons adversely affected by decisions or orders of the commission was addressed with amendments to several clauses; most notably are the insertions in clauses 157(1) and 161. The provision for persons likely to be affected by an order or an adverse decision to have the right to make representation and be heard is perfectly in sync, Mr. President, with the International Organization of Securities Commissions, IOSCO's principle that promotes accountability in the exercise of functions and powers by market oversight institutions.

Thirdly, Mr. President, fines and penalties have now been rationalized throughout the Bill. These recommendations were arrived at through an analysis of what currently obtains in other pieces of legislation inclusive of the Anti-Terrorism, the Central Bank, the Financial Institutions, the Financial Intelligence Unit, the Integrity in Public Life, and the Proceeds of Crimes Act.

To this end, Mr. President, the committee proposed increases in the custodial sentences as follows; from six months to two years for offences such as disclosure of confidential information. In clause 60 for a person who fraudulently engages in market activities, including purporting to be a registered broker dealer, investment advisor or underwriter, an increase from two years to five years. As well, for market manipulation offences an increase from two years to five years, and for insider trading from five years to seven years.

In addition, Mr. President, the committee sought to address the concerns raised by the private sector via the Chamber of Commerce and the Neal and Massy Group of Companies. The principal changes related to the

exemptions created for private issuers including senior officers and partners and the revised definition of relatives.

Mr. President, securities regulations are based on the philosophy of disclosure, openness and transparency. The objective of this Bill is to ensure a fair market through improved disclosure, and to create and maintain a strong market that protects and attracts both domestic and international investors through better implementation and enforcement of the Act. Given the fact that the current legislation is over a decade old, and there has been significant growth in the Trinidad and Tobago market, it was necessary to consider the adequacy of the penalties.

This Bill solidifies the enforcement powers of the Trinidad and Tobago Securities and Exchange Commission by the creation of new offences and by increasing penalties for existing offences. For example, new offences have been introduced to deter noncompliance with disclosure standards.

These include making a reporting issuer liable for a misrepresentation in financial statements, even though the misrepresentation, Mr. President, may not have been relied upon in making the decision; making liable those directors and senior officers who are responsible for a reporting officer's failure to comply with disclosure obligations, and making also auditors liable for misleading audit reports. Increased penalties include raising the penalties payable, and increasing the imprisonment terms.

Mr. President, effective securities legislation requires appropriate penalties to deter inappropriate behaviour and conduct that can harm investors, compromise the integrity of the market, and ultimately prohibit its growth.

The Securities Bill before us, Mr. President, has gone through significant scrutiny in several places. It is a proactive piece of legislation that seeks to satisfy the objectives of IOSCO which in turn would foster the level of confidence that is vitally important for the growth, integrity and development of the capital markets in Trinidad and Tobago.

Mr.President, effective regulation of the financial sector, inclusive of the securities market, is at the very foundation of improving investor confidence and investment in the financial sector of Trinidad and Tobago for 2013 and beyond, and it is in that respect, Mr. President, that I commend this Bill to the Senate, and I beg to move. [*Desk thumping*]

Question proposed.

Sen. Dr. Lester Henry: Thank you, Mr. President, for allowing me this opportunity to contribute on this very important piece of legislation that we spent quite a bit of time over a very short period in the Joint Select Committee deliberating on. I propose, like my colleague on other side, to be relatively brief since I was intimately involved in the process, and we have already gave our approval in the other place to this Bill. [*Interruption*]

Hon. Senator: Unconditional approval.

Sen. Dr. L. Henry: Unlike my colleague on the other side who moved the Bill here I do not have a prepared speech, but I have a few concerns that I think should be noted and put into the record.

Now, the work of the committee, as pointed out by my colleague in the Lower House, was quite intense and did involve a good spirit of camaraderie at the time in terms of cooperation between the Opposition, the Government and the Independent Senator on the committee. But there was still some significant amount of discord in terms of what we thought should

have gone into the Bill before it could become something that we could come anywhere near to support.

The work, in particular, of the hon. Member for Diego Martin North/East in the Lower House was quite outstanding in this regard [*Desk thumping*] and all of the players involved in the securities industry at large. Also the Government should have a great amount of appreciation for the input of Mr. Imbert in this process, and I think the Bill as we have it today is much, much improved, particularly because of his efforts.

I also wish to mention the valuable work of the hon. Senator, Elton Prescott SC, [*Desk thumping*] on the committee in making the Bill technically sound in many, many challenging areas that required expertize in law and without such contributions I think the Government would have been struggling to get out of their own half on some of these matters. So I think we did make a valiant effort and, of course, we also wish to be gracious and acknowledge the wisdom of the Minister of Finance and the Economy during this committee to accept the learned and very valuable contributions in a very cordial and positive manner. So I think that was quite useful. [*Desk thumping*]

So, in terms of the support for this Bill that was granted in the Lower House I think it should put to rest, I hope, once and for all, this notion that this Opposition opposes for the sake of opposing. When we oppose, we oppose because of sound principles and logic. [*Desk thumping*] We are a very serious and disciplined Opposition led expertly by a very serious and disciplined political leader, Dr. Keith Rowley. So it reflects our commitment to the people of Trinidad and Tobago—[*Interruption*]

Sen. Singh: You were going good until—

Dr. L. Henry:—and we understand our role and our responsibility to the people of this country. [*Desk thumping*] Okay. [*Crosstalk*]

Now, in terms of some concerns that I have about the Bill and about the whole process, I would mention my main concern about what happened, how we got into this whole mess later on, of having to rush through this Bill in a very short period of time for the Joint Select Committee in a two-week period, when we should have had six months to a year to really grind out all the details.

Now, I still have a few concerns, as I said, I would like to put into the record for certain aspects of the Bill to become—maybe in the years ahead if the Bill could be improved or issues that could be raised, maybe even some Independent Senators may raise some of the issues afterwards.

One of the things that struck me about the Bill, especially during the committee stage, was that when you look at the Bill compared to the securities Bill or the Securities Act of Barbados, the overall gist of the Bill that we are debating here today compared to Barbados, is that the Barbados Bill appears to be somewhat friendly; ours appears to be a little more draconian. [*Crosstalk*]

Yes, and it would have been more so—in fact, the original Bill that was brought to the committee by the Government was extremely draconian in many parts, and thanks to the interventions, as I mentioned before, of the Opposition and the Independents [*Desk thumping*] we were able to bring it down to something more palatable. The original Bill—[*Crosstalk*] yes—was seriously flawed in many ways in terms of overextending the power of the SEC, even though in spirit we must agree that the powers of the SEC have to be expanded in comparison to what they were over the years. So

that is not the issue.

In certain parts the Bill went too far in terms of promoting, allowing the SEC to take certain actions without, for example, informing someone that they are being under investigation, and sending a file to the DPP. That was just intolerable. That is one example of what I mean when I say that the Bill as originally brought to the Joint Select Committee was a bit far reaching.

So, in some admission, maybe we have a different society and we have an admission that we need to be more rigid and we have more crooks, scamps, and schemers also than Barbados maybe, and may be that was the thinking behind it, and we have to be a bit rougher in terms of how we deal with these things; but it was quite glaring, the difference in approach in terms of the Barbados legislation and what we have.

Now, let me move on to my other concerns. I know in the—one thing we unanimously agreed upon in the committee was the whole idea of the abolition of a CEO/general manager distinction. Now in the Bill present we have just a CEO, and that CEO must not be one of the commissioners. So in other words we are not going to allow for an executive CEO, and I think that was approved by all sides—the Government, the Opposition the Independents. So I think that is a significant change in terms of it formalizes that you must hire a CEO and the credentials and so on having spelt out.

3.30 p.m.

One of the things that I still feel slightly uncomfortable about is the whole issue of the suitcase traders who come and sell products from abroad and some of them are annuities, share bond issues and so on. We are assured—if I could use that word—by the SEC people that this was

adequately dealt with, but I am still a bit uneasy about it because I still think there might be loopholes for this thing to continue, and they have been causing quite a bit of problems, not only in Trinidad and Tobago but throughout the region. The people who show up in our local hotels for a week or two and engage in trading without being registered, and they sell instruments to our citizens and our citizens do not have any protection against loss and so on. But many of our citizens believe because they come from developed country markets they must be legit and they buy into it, and maybe it works, but it is a very dangerous practice and it is something that I hope the legislation, as we were assured, addresses in a serious way, because it is something that I have had some interest in for a while.

Another area that I find to be a bit interesting in a way but of a concern to me is the fines and penalties which the hon. Minister talked about that we increased significantly from the previous version of the Bill. While I agree with this—I personally would have liked to see more of a commitment to seizure of the gains from the wrongful or illegitimate dealings. You see, the hon. MP Colm Imbert was the one who pushed for the increasing of the fines significantly on the grounds that, of course, someone might be quite willing to take a $200,000 fine if they could defraud the public for $5 million and spend six months in jail, and many people might be willing to take that plan "b", or they might take that as plan "a" in fact. [*Laughter*] So, we tried to do that. But I think we should perhaps consider going further and saying that all gains from the proceedings should be seized, because anytime you profit significantly from a deal that turns out to be illegal or you make gains by misrepresentation you should be able to—

Now, another point, because of the short period I did not have time to

really deal with these issues comprehensively, but I would also like to alert the Government on the potential impact of this new Bill on our free trade or free trade and development agreement such as the EPA and the proposed agreement with Canada which includes a financial services agreement. So, I think that is something that we need to pay attention to because there is a far-reaching involvement in the financial services sector in the Canada/Caricom FTA, and there might be implications for some of what we are deliberating here today.

Now, the Minister also mentioned that there was an agreement for information sharing built into this Bill, and in terms of being able to successfully fight illegal activities in the securities market, but one of the things that we were also alerted to in the committee is that the Central Bank Act may have to be—I am almost certain—amended on the other side. Because, what happens, whereas it is built into the Securities Act here in this Bill, it applies to the Central Bank in a fairly voluntary manner. There is nothing in the Central Bank Act that forces it to give information to the Securities and Exchange Commission.

So, even though we were assured that the Central Bank will provide the information, if necessary, because that was the practice and so on, it is still a potential loophole in the Bill. We know you cannot regulate for the Central Bank in a Securities Bill, so we acknowledge that, but the onus is on the Government to bring some kind of amendment that could help make it more airtight in terms of pursuing illegal activity. So we will have the Securities and Exchange Commission more or less being obligated to share information with the Central Bank, but it is not reciprocal in that the Central Bank could say no if they choose to. It is not a requirement in their Act.

Now, we hope that this dramatic action in terms of trying to get such a complex Bill properly sorted out in a couple of weeks does not happen again, and I know that the Government has shown this tendency to come in an emergency fashion and try to get us to pass Bills to avoid being thrown to the wolves by the international agencies, as the Minister himself pointed out. Now, we are hearing that the Insurance Bill is going to come up sometime soon and we do not want to wait till there is some kind of emergency with that Bill to have to come and try to fix that, because I think that is even more complicated than the Securities Bill.

I know the Insurance Bill was laid in Parliament, I think, sometime last year or so, as a conditionality of the IDB to drawdown on one tranche of a loan, and I do not want the Government to come now when they are ready to drawdown the second tranche two weeks before and say, "look, we gonna have to debate and fix this massive Bill because we want to borrow, we want to get some more funding from the IDB", and that would be the emergency then. So, we are hoping that such is not repeated and, of course, as a responsible Opposition, we must keep the Government on its toes in terms of how it proceeds in these critical matters.

With those few words, I thank you, Mr. President. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Thank you, Mr. President. I welcome the opportunity to make a contribution on this, the Securities Bill, and I will take my cue from the comments made and the contribution made by the hon. Minister of Trade and Industry. I do not know that I have much cue to take from Sen. Dr. Henry because of his short stint at the crease.

Hon. Senator: He did some good batting, man.

Sen. S. Ramkhelawan: I want to start my contribution by saying how

highly appreciative I was to be invited to the Joint Select Committee looking into this Bill and to be allowed to make a contribution in respect of some of the areas, the core areas, which I have certain concerns with.

Let me say that I have had the opportunity in just under 30 years of working in this particular area and industry, and it has given me certain insights into this industry that I think are unique: first, in 2002, as a Member of the Cabinet-appointed committee to review and make recommendation for the overall development of the financial services sector, including the securities market; then, from 1996, as managing director of a securities company which has engaged in stock broking, as a member of the Trinidad and Tobago Stock Exchange, which, in this Bill is defined as a self-regulatory organization—the stock exchange that is—a company which has sponsored five mutual funds, which also falls under the ambit of the SEC and as a provider of repurchase agreements which falls also under the ambit of the SEC as an investment advisor and as an underwriter.

Thirdly, as Deputy Chairman of the Trinidad and Tobago Stock Exchange, a self-regulated organization and, in fact, the only integrated self-regulatory organization in Trinidad and Tobago, together with the central depository and, as an Independent Senator in the Parliament of Trinidad and Tobago.

It can be said, therefore, Mr. President, that I have had the opportunity to feel the elephant from all sides with only one exception and that is with regard to sitting in any position at the SEC. Therefore, that is why I suggest that I have been fortunate to be in the unique position to see this development from all sides. Certainly since the Securities Industries Act 1995, I have also been witness to the formation and the establishment of the

Trinidad and Tobago Securities and Exchange Commission in 1997. So, it is in this context that I declare my interest accordingly with regard to my participation in various areas and move now to discuss certain critical areas from a policy construct and then drive down into the minutia of the Bill itself.

Mr. President, financial regulation on the whole is like the building of a fortress, and it is important in the building of a fortress that all the walls must be equally fortified, because the marauders at the gate will always look for the weakest point to infiltrate. Whether it is that the wall is not sufficiently wide or high, or whether it is that the foundations of the wall are weaker on one part of the fortress as opposed to the other. In other words, a chain is as strong as its weakest link. And that must be the basis on which we must establish policy and regulation in order to ensure that the fortress is sufficiently strong that it will not be breached by marauders, who, initially, may not be marauders, may have the best intent in the world, but subsequently for whatever reason metamorphosize into other things.

We have seen it. We have already seen it. We have seen the breaching of our regulations; we have seen the breaching of our fortress of financial regulation at great cost to all elements of our society. Indeed, the last breach and at last count would have cost us, to date, some $20 billion or one-seventh of the GDP of this country. It is therefore very important as we establish the regulatory framework as we set up the walls of this fortress that we are sure that the grounding and the foundation is strong, and the walls are, if not unbreachable, they will create very great difficulties for those marauders at the gate to pierce or to breach. And so, within this context, I think it is very important that we speak about a few significant tenets in

establishing the infrastructure for financial regulation and drive down into securities regulation, in particular.

Mr. President, there are four or five areas which really constitute the regulatory framework for the financial system, which contribute to the framework established to ward off that great disease which we all fear in the financial system, the disease of systemic risk and financial meltdown. And ever since 2002, with the establishment of the Green Paper and the subsequent establishment in 2004, the institution of the White Paper on financial services, a movement has been taking place, and that movement has been taking place to ensure that we build the fortress properly.

3.45p.m.

So in 2008 we had the Financial Institutions Act being passed and since then there are plans for a revised Insurance Bill, which we expect will come soon to this honourable Senate; legislation for the credit union movement or the cooperative society movement, but in particular the financial aspects of credit unions which are expected now to fall under the ambit of the Central Bank. And now we have securities legislation falling under the ambit of a regulator, the Securities and Exchange Commission, and to come is legislation with regard to pensions which, as you would know, Mr. President, previously, legislation in respect of insurance and pensions came under one piece of legislation which was the Insurance Act; I believe it was 1980 or 1981.

So when we look at the framework, at the structure for financial regulation and securities regulation, all of these pieces, taken together, create the infrastructure for the avoidance, or the minimization of systemic risk. Because the credit union movement has been breached already, and in that

breach, some $500 million to $600 million had to be shelled out by taxpayers to create security for those investors—and for the time being we will call them innocent investors—who would have lost their money by investing in an insurance conglomerate, on the one hand, and a credit union conglomerate, on the other hand.

My deepest concerns lie with policy and the framework in which this policy is being structured, and I will put forward four areas which I believe need to be more deeply considered and strengthened in the establishment of this fortress for financial regulation.

The first is the issue of capital and capital adequacy. Mr. President, I believe it is well known by all our citizens that in the particular case of that insurance conglomerate, it was first thought that the issue was liquidity, that is, that there were insufficient funds available at a certain point in time, because of maturities and other factors, available to make payment to those persons who needed to be paid at that point in time, and it was discovered, in short order, that the problem was not liquidity—it was one of the problems. The main problem was capital adequacy. The main problem was that this institution had blown up and grown beyond proportion to a level where the capital in the institution was insufficient to support the size of the business. And so, in other pieces of legislation, such as the Central Bank regulator of the Financial Institutions Act, you would see, very clear and precise, a framework of capital adequacy within the main body of the legislation, supported thereafter by regulations.

But that is not the case in this piece of legislation. This piece of legislation, the Securities Bill, 2012, really is about the establishment, or the provision for the establishment of a whole range of by-laws. I believe the

count is 44 provisions for by-laws, one of which, in its minutest form, is to address the question of capital adequacy.

That is where I am deeply concerned. I am deeply concerned because when I look at the history and record of the SEC, since 1997 the SEC only passed two by-laws—in 2005 and 2006. So if we do have a problem, how long will it take before we get these by-laws, which are pieces of subsidiary legislation to the main body of legislation, which is the Securities Bill? They are subsidiary to, and they take a very long, inordinate amount of time.

While the marauders are at the gate—you know the SEC sometimes—no offence meant to my colleagues—remind me of Nero, that famous, or infamous, or notorious emperor. I do not know why that connection comes to me. There is a slowness; there is a tardiness; there might be deliberate deliberation, but the point is, so much time elapses. The capital markets do not wait. You either go forward or deals fall away.

But we are talking about capital. We are not talking about deals as yet; we are talking about capital, and I want to bring it to the attention of the Government and to make an appeal to amend this legislation so that capital is in the main body of the legislation and not in some subsidiary legislation where the dish runs away with the spoon and Nero fiddles. It is extremely important, and we sometimes miss the point that we make laws that appear on paper to be wonderful and we are frozen like a "manicou" in the flashlight—frozen—unable to do anything, while the dish runs away with the spoon. Let me try and get back my analogies right.

The point is, I am not in a position to strongly support a Bill that does not address this question of capital in the main body of the legislation. Why? By-law 2005—the security industries takeover by-laws, 2005—eight

years after the institution of the SEC. In 2006, the Securities (Amendment) By-laws—nine years after the establishment of the SEC.

Why am I not a believer? I am not a believer because the facts are stubborn things, and that is why it is difficult to support a piece of legislation where an undertaking is not given to us to make adjustments to the legislation within the shortest possible time.

My friend and colleague, the hon. Minister of Trade and Industry, has brought it to our attention as, indeed, it was brought in the other place, that if we do not pass this piece of legislation by January we are going to become non-complaint; whatever that means. I do not think that anybody has said that there are specific and known implications for being non-compliant. It is not like the FIU, where you are blacklisted or grey-listed because you do not comply with some of the requirements of FATF and so on.

So I am not quaking in my boots because this is a new initiative and we do have time to achieve that. But even if we do not, even if we need to comply and put a piece of legislation, I am respectfully asking the Government of the day to give a commitment that we address these shortcomings because I am aware that in the establishment of a joint select committee which had nine days or 12 days, as the case may be—probably the shortest JSC in history; certainly the shortest JSC in my memory; that within nine days or 10—and this is not a JSC for a five-page, three clause Bill, you know. We really pick them. We pick probably one of the most complex and longest Bills—how many pages?—some 178 clauses. We could really pick them. And you say, "Let us rush this through because we have to pass this Bill. We have to pass it."

Let me say, Mr. President, on every occasion when Trinidad and

Tobago could have been subjected to blacklisting, whatever the issues, I have raised my hand in support. The records will show. Because there is no way that I am going to allow our beloved country to be embarrassed out there. But I do not want to be frightened into supporting a particular Bill when we do not know what the implications of non-compliance are.

So let me summarize by speaking to this first point; that we need to ensure that we put capital adequacy rules into the main body of this legislation and not leave it for by-laws. How do by-laws work? Most of us in this Senate have a fair idea of how by-laws work, but maybe some of our ordinary citizens do not know. The SEC is going to have to come up with certain by-laws for capital rules, and when they come up with that by-law, they then have to consult with the Minister because it is the Minister who brings the by-law forward. And the Minister will have to evaluate, and when he evaluates, he may or may not decide that he is going to go forward with the by-law. And there is a long lag period, as far as that is concerned. In the meantime, so many other things could happen.

If we are serious, collectively, we should put that into the main body of the legislation because that is the first area of failure. It is the first and most important area of failure. It is not a collateral issue; it is one of the main issues. It is the core issue in what we are setting out to do in seeking—when we build this fortress of regulation, it is the core issue; it is at the heart of it. It is not a peripheral issue. So I make this appeal and I feel deeply concerned that to support this Bill as it is, really creates a lacuna in what we are setting out to do.

The second area—we have talked about capital enough; it has cost us $20billion. Let us hope we do not repeat the mistakes that we collectively

have made. The second area: We are building a regulatory fortress to ensure against, as we have said before, systemic failure; the meltdown of the financial system by dint of a breach in any one of the areas, and the areas are: banking, which is the largest sector—$80-odd billion in deposits; then there is insurance—$16 billion/$17 billion in insurance investable assets.

4.00 p.m.

Then there is pension—another $20 odd billion in private pensions. Then there are the credit unions, some $9 billion in funds, and of course, there is the securities sector.

Now, Mr. President, in the good old days, in the first piece of securities legislation that went through this Parliament —it was the Security Industries Act, 1981. That catered really for the role of what we call a market actor or registrant here—a player, if you will. Let us call it a player—the ordinary citizen understands that—who would act as an agent in selling shares or buying shares; in selling bonds or buying bonds. Since then with the Securities Industries Act, 1995 and this piece of legislation the Securities Bill, 2012, more and more, we are seeing where this player is not just an agent, but this player is becoming a principal, where this player is now authorized—the main player in this script—to do something called repurchase agreements which really is an on balance sheet asset and liability.

So this player has now essentially, since the last legislation, been able to act as principal and raise money from those who wish to place money and invest those moneys. Not as agents but as principal! So we are now calling this person a broker dealer. In the old legislation we referred to them as securities companies. Therefore, more attention needs to be placed to establish clearly the rules of engagement for this person who is now starting

to take your money as principal and saying, "I owe you."

There seems to be some blind spot. I started by saying that I have been able to feel the elephant from all sides—and you know where that story comes from, hon. Minister? It comes from the story of the Buddha, where four blind persons or some blind persons were feeling the elephant and they thought, ooh, this was a broom when they felt the tail, and this was something else, and this was a dagger when they felt the trunks. But, let us move beyond that, because, if we do not have these sensory perceptions—in Trinidad we like to say, "who doh hear go feel." So if we cannot address these senses, think about listening as to what we need to do.

I want to come now in this fortress financial system regulation, I want to address the question of consolidated and integrated supervision. When the Green Paper was set out and it was followed by the White Paper—and I should say, that White Paper which was instituted in June 2004, as far as I understand, is still the official policy of the Government because it has not been repudiated to the best of my knowledge.

Let me speak to consolidated and integrated supervision. The idea was to have a whole set of regulators. What we have found is —with due respect to the Commissioner of Co-operative Societies—that commissioner does not have the resources or the capabilities to really do a proper financial assessment and to do proper financial oversight of an industry—the credit union industry that has been growing. The intention is to bring that oversight under the Central Bank.

In the old days—again, Mr. President, I believe you and I are of the same genre—there used to be a supervisor of insurance under the Ministry of Finance. Since the turn of the century that function of oversight of

insurance and pensions, has now gone to the Central Bank via the Inspector of Financial Institutions. The banks, of course, are under the Inspector of Financial Institutions. So let us look at it.

The oversight authority for insurance is with the Central Bank, the oversight authority for pensions is with the Central Bank, the oversight authority for banks and other financial institutions is with the Central Bank and the oversight authority for credit unions is soon to go to the Central Bank. There is only one remaining other institution in terms of supervision and regulation and that institution is the SEC. Now, one of the weaknesses—and I will come back to the SEC as the one remaining institution other than the Central Bank as regulator.

I want to stay with consolidated supervision. It is on record that the Central Bank in many places would have said that they did not have the legislative and regulatory teeth to deal with that insurance conglomerate, when that insurance conglomerate started to play, in my words, "hide and seek"—dodging the bullet, if you will.

What did they do, if I understand it correctly? So if the Central Bank put pressure on the banking side, they will move to the insurance side, and if they put pressure on the insurance side, they will move out of the ambit of that regulator and go to the securities side. So here you had a situation of dodging the bullet, dodging the bullet.

So, if we had integrated and consolidated supervision we could not have had a situation as that which developed and which cost us, hon. Minister, 1/7th of the wealth created in a year.

Now, you tell me, we are instituting new legislation and we are not going to address within the main body of that legislation the key principle of

consolidated supervision and the other principle of integrated supervision—and we want to leave that somewhere for some by-laws, which the last by-laws were passed in 2005 and 2006. That is criminal! That is criminal!

So, while I do have a lot of respect for those persons—and I commend them—who sat on the JSC, I respectfully submit that there was some significant blind sides in the assessment that was going on. Much of the time was spent increasing fines rather than making sure that the walls of the fortress were sufficiently strong. I make no apologies for that.

Let us fix the system. Because who loses? We as citizens lose when the fortress is breached. We as citizens as taxpayers lose when the fortress is breached. Therefore, we need to make sure that the walls are sufficiently thick, and the walls are sufficiently high and there are no shorter walls that the marauders can climb easily or breach easily. That is the concern that I have.

So in terms of consolidated supervision, there are clauses in the Financial Institutions Act, which speak to if there is a financial group and that financial group has a broker dealer, and that financial group has a bank and that financial group has an insurance company, any one of the regulators ought to have the capability to drill right down to any member of the group, whether that member of the group is in Trinidad or outside of Trinidad. Because now, and I commend the drafters, the drafters have put in place the capability to have information sharing with external regulators to ensure that if something is in some other island or some other place, we can find it through a memorandum of understanding between these players.

So, I want to appeal to the Government, you know, it is nice to go through the motion, but it is even better to go through with the mission. The

mission is to ensure that our fortress is not breached. Not because we want to rush into it. I have to retract that, because we really have not been rushing into this. This piece of legislation started sometime in 2003/2004. That is why I am worried about some of the regulators, because who is the prime driver of this piece of legislation? I believe it is the SEC. I am being asked to put my resources into the hands of the SEC, that frightens me. But as legislators, let us put it into the main body of the legislation and not have to wait. That is the point that I am making.

So consolidated supervision will give any regulator the power to drill right down into a financial group and integrated supervision will allow for the information sharing internally in Trinidad and Tobago with other regulators, and externally with external regulators, if that group has subsidiaries outside of Trinidad and Tobago.

I come now to the point of how many regulators we should have. We are a small island economy; our financial system is small yet diverse. Why do we need more than one regulator? I see no reason for us having more than one regulator. Since the Central Bank is already the regulator of the vast proportion, the major proportion of our financial system, there is no need for that.

In fact, in the White Paper, in its recommendations June 2004, and I quote one of the general recommendations:

> Regulatory and supervisory systems: The regulatory and supervisory systems for the various segments of the financial sector should be upgraded to provide for the integrated regulation of the sector.

Their words, not mine! And to continue.

In order to give effect to the integrated regulations and supervision of

the financial sector, a single regulatory authority—I repeat—a single regulatory authority with the necessary powers and authority should be established. As the financial reforms are gradually introduced it may be necessary in the interim to establish a regulatory council as a first step towards the establishment of a single regulatory authority.

It is to me the most efficient form of regulation. It vitiates the need for information sharing amongst internal regulators. There are a number of reasons why I strongly support this single regulator. I ask the Government to consider it seriously and think about implementing it. It is there in the White Paper. Some of the best minds have contributed to this White Paper, both from the private and public sector. It is there. And, with respect, I know that if there are some things that you do not fully understand, you can reach out to these experts.

It might take two months or three months, maybe a few days longer than a JSC about increasing fines and so only, but the point is you will have a proper system.

4.15 p.m.

I fear the day that we will have a repeat of this catastrophe and fiasco that has cost our citizens $20 billion, because the regulator was saying that he could not look here and he could not look there because he was not legally empowered to so do. He did not have the legislation. I fear that day because maybe we could have afforded it the first time. You know it is the last straw that breaks the camel's back, but we say here in Trinidad—maybe you would not have heard it not being from the countryside and me being a boy from the Oropouche Lagoon where my navel string is buried under a mortelle tree, which you know as an immortelle tree—it is the last child that

kill the mother and we do not want to reach that stage. I put this in this form because I do not want us to go away with the impression that everything is hunky-dory. That is the impression that is being given and I am afraid of it.

Everything is all right. Once we pass the legislation everything is all right. We will deal with enforcement later; we will start to pursue the 44 provisions for by-laws. I think it is clause 148 of the Bill. Forty-four provisions of by-laws, where we did not have time in 178 clauses to address the core issues which lead to systemic failure and, which bears the soul of the innocent investor and leaves him unprotected. We have not had time to deal with consolidated supervision; we have not had time to deal with integrated supervision and we have not had time to deal with capital rule. What is this 178 clauses all about then? It must be something that I missed. Most of those things could have been put in peripheral areas such as by-laws, but we have not dealt with the core issues. I wonder why? It is not for me to wonder, but for me to propose to the Government: let us close these loopholes within the main body of the legislation. Those are the issues.

I have spoken to the single regulator, I have spoken to consolidated supervision as a principle and tenet, I have spoken to integrated supervision and I have spoken to capital adequacy and capital rules, all of which are the key contributors, or at least the last three are the key contributions to systemic failure in system internationally and locally.

I want to talk a bit about the question of being the capital of the regional capital markets. If that is not a joke, it is a hoax. Take your pick! We are not and have not made any advancement to being the regional capital market for quite a long time. I want to appraise the Minister, that if we look over the last four years or so, the size, the value of transactions on the

Trinidad and Tobago Stock Exchange is now a quarter of what it was four years ago. That cannot be a boost. That cannot be a dynamic growing capital market. I want to say to the hon. Minister that it might be a myth as well to think that we have 50,000 persons employed in the securities industry. No! We might have 50,000 persons employed in the financial system, but it is not the case.

The securities industry is actually in trouble. I could say to the Minister as well, you look at some of the banks—at least I can think of one—earning income after tax of $1 billion plus. The collective income of all the security players that are not subsidiaries of the banking system, the collective income, would be less than $100 million and probably far less. So, we could fool some people—not for one moment am I saying that the hon. Minister is setting out to do that—but I believe that the greatest hoaxes is when we set out to fool ourselves. Our regional capital market, the size of the industry, what really needs to be measured is the extent of income being generated by the industry. There are a lot of things that need to be done and I am sure that I will meet with the Minister and share of those things in due course, as to what should be the agenda to really become a regional capital market.

Maybe I could digress a bit with your permission, Mr. President, to say to him, he still needs to do three things and I have said it many times before. He needs to put in place trade agreements for goods inclusive of financial services. We have the provision in the EPA, but the switch has not been turned for financial services—let me put it that way. All of our agreements that I can think of in the region do not provide for financial services, probably with the exception of Costa Rica

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

Motion made: That the hon. Member's speaking time be extended by 15 minutes. [*Sen. C. Baptiste-Mc Knight*]

Question put and agreed to.

Sen. S. Ramkhelawan: Thank you, Mr. President. I was just actually starting to warm up. That was really my prelude, so I will have to wind down very quickly.

Sen. Singh: You were not supposed to take so long.

Sen. S. Ramkhelawan: Yes, but old brooms sweep clean and I think we say in Trinidad, "a good working old thing is better than a new thing." He may not know that, but I am sharing it with him.

Sen. George: "But is not true, eh." [*Laughter*]

Sen. S. Ramkhelawan: I would not want to engage Sen. George in this discussion and he wasted my minutes in any event. But I was saying the first step in creating a regional capital market is to have trade agreements in financial services. The second step is to have double taxation agreements, which we do not have. How could we become a regional capital market if we do not have double taxation agreement? We will be swimming in the same pond of Caricom, small as it is. The third step is reciprocal regulatory agreements. Now that third step actually is on our doorstep. That third step is there to be utilized with the memorandum of understanding and agreements with reciprocal regulatory authorities. So he has three steps and he is woefully short on a couple of them, and it is only then that we as a nation can make a claim to be a regional capital market. Other than that, we are fooling ourselves.

So, I wanted to make a few comments and wind-up in making this contribution. Let me say that I have a whole range of suggested amendments arising from these tenets which I intend to place on the table for consideration. [*Desk thumping*] I do not wish to go into them at this point in time. I think they could be better dealt with in committee—to deal with consolidation, to deal with integrated supervision, to deal with capital rules. Not to deal with the single regulator as yet, but I think I was presenting the framework into which all of these amendments will necessarily fall.

Let me make just a few other comments. One is that we have made an assumption, a simplifying assumption, and maybe an erroneous assumption, thinking that the SEC can step out of its remit as regulator to do the work of policymakers. The work of policymakers in the development of a capital market requires some new and fresh thinking, but some of that thinking has already been covered in the White Paper and I encourage the Government, since it has not as yet repudiated that White Paper, to have a look at it. It is a lot of good and hard work that went into that. The SEC cannot be regulator and innovator at the same time.

Mr. President, what we do need is a delicate balance between the needs to protect investors on the one hand and to regulate accordingly, and the need to development the capital markets, not only local, but regional. I did share with the Minister some of the steps to go outside, but here we need to be able to address that balance, because without that balance what you will be doing is continuing to regulate an extremely small and shrinking market. What we need to do is to inject some life into the development of the market, and that is not the job—I say so respectfully—of the SEC.

The SEC has already taken onto itself the mantle of security police,

and a security police cannot be an innovator. Their job as they see it is to catch a thief. Their job as they see it is to apply maximum penalty for those marauders at the gate. They do not see their job as building an industry, as building income from that industry, as building employment from that industry. It would take a brave SEC to even attempt to do that. That is the job of policymakers. So, it is something that we have to focus and pay some attention to. It is only at that point in time when we really focus, that we can take this—shall I say ugly duckling that is the securities industry at this point in time and convert this ugly duckling into the swan of a regional capital market leader. It does not take a lot of doing because it is clear what we need to do. It is very clear what we need to do.

So, Mr. President, since I have given you the undertaking that I will make the more detailed suggestions in the amendment which I intend to circulate, I want to conclude by saying that the legislation is in my view somewhat flawed because it has not address the core issues relating to the securities market—and it is worth repeating that we have not addressed consolidated supervision in the main body of the legislation—we have not addressed integrated supervision in the main body of the legislation, we have not addressed capital and capital adequacy in the main body of the legislation, and these are the three main factors that will contribute to the next debacle if we do not get those factors right.

4.30 p.m.

I have every confidence though that the Minister is listening attentively. I know that there is some tension to get this piece of legislation passed, but at the very least, we must give some undertakings and some commitments to bring this piece of legislation—if it comes to that, because I

am sure the Leader of Government Business, or I am hopeful, that he would consider these amendments, put them in place and take them back to the other place—[*Interruption*]

Sen. Drayton: Quite right!

Sen. S. Ramkhelawan:—so that we could get the legislation right the first time and not have to wait for some other time—we do not have to wait for some other time to get it right. So, I am hopeful that the hon. Leader of Government Business will listen and make the adjustments.

Hon. Senator: Boxing Day.

Sen. S. Ramkhelawan: It does not matter what day it is; it does not really matter to me what day it is. I have heard some people in the other place and so on talk about it is not their job and it is outside of their remit and so on. I really came here to do national service, if you call me out Boxing Day to correct something that is manifestly required to correct, I will be here, you have my assurance of that. So with these few words, Mr. President, I thank you and I conclude. [*Desk thumping*]

Mr. President: Hon. Senators, it is now 4.31 and therefore I intend to take the tea break at this point. Before doing so, I have good tidings of great joy. [*Laughter*]

Sen. P. Beckles: What could that be!

Mr. President: The farmers of the nation have sent Christmas hampers to Senators via the Ministry of Food Production. The hampers consist of contents which are all locally grown and Senators are ask to make arrangements to collect these hampers from the J. Hamilton Maurice room this afternoon. [*Desk thumping*]

We will now take the tea break and resume at 5.00 p.m.

4.32 p.m.: *Sitting suspended*.

5.00 p.m.: *Sitting resumed*.

SECURITIES BILL, 2012

Mr. President: I think we have a quorum now. It seems like the local hampers had a different effect than I anticipated. [*Laughter*]

Sen. Helen Drayton: Thank you, Mr. President. I thank you for the opportunity for speaking on this very important piece of legislation, but let me open by saying that it is unfortunate that once again, we are faced with a very complex piece of legislation, and we would be asked by the Government to make decisions on 178 clauses in this Bill under very inappropriate circumstances.

I heard the hon. Minister Vasant Bharath say that this Bill is brought in the interest of the public. But, the manner in which this Bill has been tabled, it certainly is not in the interest of the public. It is more than tardy. It is very unprofessional and it is not in keeping with the principles of governance that the Government continues to espouse.

Having said that, I am pleased to note that most of the issues I had with this Bill when it was tabled in 2009 have been addressed in this Bill before us. I note the intent of the Bill and also the increase in penalties for insider trading. This is a good time as any to suggest once again that serious consideration be given to the demutualization of the stock exchange which is the institution at the core of securities trading. Here we have proposed legislation which is designed to build confidence in the capital markets, and I would hope to develop the market as a consequence, and in anticipation of policies that the Government has articulated, also towards the whole strategy of a regional capital market's hub.

The board of the stock exchange is made up primarily of whom. They are the very market players described in the Bill. They are the brokers, they are the issuers and they are the underwriters. I know there are three independent members of the board of the stock exchange. This is so because historically, the stock exchange is a self-regulatory body. However, I believe that consistent with the objective of this Bill which is to protect investors which is to build confidence, the stock exchange should be demutualized. These very market players who sit on the board of the stock exchange are also employees of the large issuers—the banks and other financial institutions—which own stockbroking entities and who control the largest share of the pension market. Demutualization typically opens up the stock exchange to public ownership, and the removal of limits on access to the exchange.

Now, this statement is not meant in any way to question the integrity of the excellent professionals who sit on that board. The reality is that this is a very small market with players who account for a substantial part of our GDP. As a very small and incestuous marketplace, the securities industry is vulnerable to many uncomplimentary nuisances and also to manipulation.

Since 1993 or thereabout, stocking exchanges worldwide have been demutualizing in the interest and in furtherance of integrity in the system. This includes the United Kingdom and over 80 per cent of the World Federation of Exchanges have been demutualized. They have done this because of globalization, because of competition, because of market to markets meaning more access to capital, because it unlocks the value of the stock exchanges, because it broadens the shareholding base of the stock exchanges, and certainly because of governance issues and conflict of

interest. That, Mr. President, I think, if I have to repeat a term used by my colleague, Sen. Ramkhelawan, is also part of building the fortress, if I may borrow his phrase.

Now, this is an Act to provide protection to investors from unfair, improper or fraudulent practices. It is to foster fair and efficiency in a securities market and confidence in the securities industry in Trinidad and Tobago, and also to reduce systemic risk. Now, when I look at section 11, it lays out the conditions under which a person should not be appointed a commissioner of the SEC. Let me admit that I am pleased to say that it is a vast improvement over what existed before, however, as it stands, persons who meet certain criteria could in fact be appointed to sit on the board of the securities commission even though they were stewards of an institution that went bankrupt or an institution where in the public domain, there are serious issues of governance. We are not strangers to such a situation. We live in a very small society, and often there is no distinction in aspects of governance between an ethical and illegal behaviour. We have heard it said, and we have heard it said by policymakers, that if a person is not guilty of a crime, there is no reason why they should not hold office. So that is a standard that has been established.

In this particular piece of legislation, if an individual, in his or her own right, is declared bankrupt under the laws of Trinidad and Tobago or laws elsewhere, they cannot sit on the board of the commission.

5.10p.m.

If you were on a board that misappropriatedpublic funds or the board of an institution that went bankrupt, this legislation says it is okay. I have a problem with that given the stated objective of the legislation.

Now, clause 20(1) says:

> The Commission shall within four months at the end of its financial year send an annual report of its activities to the Minister who shall cause it to be laid in Parliament.

My question is by when? And this is yet another instance when itappears that we cannot seem to leave the old past behind. So, the Minister can lay it in Parliament the following year if he so chooses. There is nothing in this Bill requiring the Minister to lay the report in Parliament within a reasonable timeframe, let us say a month after receipt and subsequently, there is no indication when it will become public. As we know,annual reports are mandated in law for many public entities and often it is years later we get those annual reports and, as I have said before, sometimes as much as a generation later. Remember, the purpose of this Bill is to protect investors.

Now, admittedly, the very section provides a time period for the commission to hand it to the Minister, and also it says when the Minister lays it in Parliament, it will be made public. So, consequently, there is no indication as to how soon a public will see an annual report, so that they can have an idea of the performance of the stewards and regulators of a critical arm of the industry.

With respect to clauses 57(1) and this one I have a very serious concern. It says:

> The Commission may where it considers it to be in the publicinterest issue a warning, private reprimand or public censure or may suspend the registration of a registrant under section…

This section refers to brokers, underwriters and investment advisors.

Now, the reported requirement of issuers, that is addressed in part VI

of the Bill where they must produce quarterly accounts. But nowhere in this Bill is it made mandatory that any action taken by the SEC against a registrant or issuer will be published which is the normal practice worldwide. This Bill is short on public transparency, because we are leaving criticalissues that should be in the law,and we are saying it is a discretion of the SEC. I just want to drill this down a bit.

Clause 57 speaks to:

> Such private or public censure at the discretion of the commission and it will occur if such a registrant ceases to carry on the business of a registrant;
>
> (b) such registrant had obtained registration…by the concealment or misrepresentation of any material facts.

I want to ask any Member of this honourable Senate, if your stockbroker, a person you have entrusted your hard-earned funds to invest for you, and that person has misled the SEC, do you have a right, a basic and fundamental right to know that? It should not be at the discretion of the SEC. But this goes on to say:

> Default in the payments of any monies due to a self-regulatory organization or commission.

If my broker is defaulting on payment or statutory requirements, I want to know. It is not legislation that protects investors, Mr. President. There is one single fundamental thing that protects an investor and that is information; Information that allows them to make an informed decision. It goes on to say:

> In the case of a registrantthat is not an individual such registrant fails to maintain prescribed level of capitalization.

Mr. President, if the thousands of investorswho in the last 5/6 years were invested in certain annuities of Clico had a warning that this institution had failed time and time and time again to meet its statutory requirements, would they have sat back and asked a question, should I be investing in this institution? That was the protection that would have saved this country and depositors from a lot of grief and the taxpayer of $20billion. We have learned nothing. We have brought a piece of legislation that gives the SEC discretion as to whether such information should be public.This is a fundamental flaw in this Bill and under pressure or being noncompliant, I will not subscribe to this, not after what has happened in this country. It goes on. It is worse than that:

> If the registrant is charged or convicted of an offence involving fraud or dishonesty…;

I have a right to know:

> If such a registrant is prosecuted for breach of this Act,the Proceeds of Crime Act, terrorism, money laundering.

Where it is a matter such as a mistake; that is one thing.If it is a minor offence, you reprimand, you give a warning, but when it is a serious situation as stated in this Bill, the public ought to know.

Now, I understand fully well the size of the market and the nervousness of investors given what has transpired here and globally. I alsounderstand the volatility of the securities market, and that a company could lose considerable value overnight in its property with sudden or expected shocks in the market. So it is not a trivial matter, I appreciate that. However, we must reflect on the purpose of this legislation which is to protect investors.

So, what we have to do is to balance here confidence in the industry, the overall financial system and the investor's right to have material information necessary to make an informed decision. Overseas it appears in financial newspapers if they have warned a market player; if they have reprimanded; if theyhave censured. It is there and it is done sensitively. In some instances it is done after the matter had been settled. In other words, he had a cash-flow problem, they called him in, they reprimanded him, and he says okay, this is the action that I have taken. He has made a commitment. You have monitored him and now you publish in a quarterly report or whatever so that the investor is aware.

Now, we have just witnessed and we are witnesses to by virtue of a public enquiry what has gone on in two institutions. In one instance, I think I heard that the then Central Bank's Governor said that, well, certainly they did not have the legislation behind them to name and shame. Well, we have an opportunity. Why have we gone through 178 clauses and the one thing, the one thing that protects investors, we leave it to the discretion of the commission?

I believe this Bill should be amended to specifically state that: the SEC registrant can issue sanctionswith respectto matters which could pose a serious threat to their welfare should be publicly disclosed. But it goes beyond that and this must be said, that given the realities of election campaign financing and the incestuous nature of a small market,such a matter should not be at anybody's discretion. It must be in the law and failure to comply with the law there must be serious sanction to the SEC.

I am not dealing with personalities here, but when you consider that this is not really a truly independent institution by virtue of its relationship

with the Minister of Finance, and by virtue of that the executive and by virtue of that the political directorate. It is not a trivial matter. So, it should be noted that quarterly management reports should ensure that such information is declared and all that I have said is a reality, because it has a happened. It is in our faces every day.

In the main law, the criteria or factors which determine exactly what is the public interest, you have an entire law talking about public interest. What is the public interest? The reason a situation like that was overlooked was because nobody took the time to define it.

Now, clause 77 also deals with yes, the suspension warnings and censure. But clause 57(c) is peculiar in that it states:

> The registration of such registrant under this Act or former Act has been made by mistake, however, such mistake arose.

I am a little confused here. I think I know what it means. It specifically states the registration of such a registrant if there was a mistake. Now, who is this referring to? A mistake by the registrant in their documentation, or a mistake by the SEC in its registration of the registrant? It is a bit ambiguous.

Clause 82(1) now, here again it says:

> The Commission shall issue a receipt for a prospectus within a reasonable time after the date of filing.

We have all heard the contribution by Sen. Ramkhelawan. So what is a reasonable time frame? If we are serious about building a capital market and in speaking the language of fortresses around the investor, then we ought to tighten up on these things; they are not minor, they are major administrative matters.

Clause 120 deals with the use of clearing agency as a registered owner of security. Now, under clause 120(2)(3), I would have thought that the requirement to obtain the written authorization of a beneficial owner should happen before and not after the transfer of the security. I certainly would like clarification as to why it should happen after, because the law says before or after transfer to the clearing agency? This seems set up for contention.

Under clause 165(4) with respect to auditors (sic), it creates an offence where an auditor knowingly makes or providesa false or misleading audit report in respect of financial statements which arerequired to be filed under the Act. Such auditor is liable on conviction or indictment to a fine of $500,000 and imprisonment fortwo years.

5.25p.m.

Now requirement 19 of the IOSCO guidelines states that auditors should be subject to adequate levels of oversight, so I think it is commendable that this clause has been put in the Bill.

Now auditors in Trinidad and Tobago must have a practising certificate from ICATT—and that is in ICATT's law—to conduct audits in Trinidad and Tobago; but it should be of interest to the public to know that accountants operating in many companies may not be members of ICATT and the significance of this is that little if any action can be taken against rogue accountants. This appears to be the case with one of the institutions currently under review of the commission of enquiry—and I speak of accountant, not auditor.

There should be legislation to the effect—just as we have dealt with auditors in this Bill—that all practising accountants in Trinidad and

Tobago—and more so once you are dealing with publicly listed companies—must be members of ICATT. This is very similar to the requirements of the medical and legal professions where the law association or the medical association can take action against bad practitioners.

When you consider that in the Companies Act, the law is very weak—for instance, private companies are not required to make public audited annual reports and accountants are not required to belong to this body, which is the local representation of the international body. Sure, they must have sat the recognized accountant exam, be it the ACCA or the CMA, before they can practise here; but if they are not a member of ICATT, they are not obligated under any local or international body to abide by professional rules. Again, it is not a trivial matter because it is in our face at this point in time.

It should be remembered that the boards and management of publicly listed and other institutions rely on the work of accountants or these boards of management may influence the work of accountants. In turn, what does an auditor do? An auditor would request information from management in order to certify accounts and the auditor is relying upon a body of information that is coming from accountants of publicly listed companies and no sanction can be taken against these accountants. So I feel just as how this Bill dealt with auditors, it should have stated that accountants of publicly listed companies or companies whose securities are traded must be members of ICATT.

Mr. President, I have carefully considered this Bill. I hope that the Government will consider the matters which have been raised. I endorse the recommendation of Sen. Ramkhelawan with respect to the regulatory

oversight and that if we are serious—we keep talking and I think we are putting a lot of investment behind what we call making Trinidad and Tobago an international financial centre. It took us 10 to 12 years to bring this Bill and after 10 years, both the Government and SEC have come up short on a progressive and robust piece of legislation that really puts the investor at the heart of the legislation. So I do hope that the Government will take on board the suggestions that have been made. I thank you, Mr. President. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Mr. President. I will just make a few quick comments and reserve the majority of what I have to say for the committee stage where I feel that substantive alterations need to be effected if we are to produce a piece of legislation that is worthy of us as a 50-year-old nation.

I would, therefore, confine my comments to just a few areas, but I would preface them by saying that this is a laudable initiative and one that is, in many respects, entirely worthy of us as a society. As the global financial landscape and, by extension, the local financial landscape become ever more sophisticated, we should be seeking to bring some order and sense to what happens in our financial services industry.

That having been said, this is a very complex piece of legislation and, in the 24 hours that I have had the opportunity to study it as amended in the House of Representatives, in the other place, what I was minded to reflect on was not just the recent shenanigans that continue to be exposed in various commissions of enquiry when we look at, for example, the challenges of the Hindu Credit Union, Clico, CL Financial and CIB; but many years ago, you can go back to and reflect on International Trust, Trade Confirmers. There

are several cases in Trinidad and Tobago of financial institutions hurting investors. While some of that may not be directly relevant to what we are debating here today, it is nevertheless important that we keep in mind that the person who ends up holding the bag, as it were, is always the investor and usually that bag is empty or filled with something unpleasant.

I join with my colleague, Sen. Ramkhelawan, really in all that he has had to say. I think that while this is a laudable initiative, there are several aspects to this legislation that I find incomprehensible and there are certain aspects of it that I find have been marginalized or relegated to the by-laws, which I, for the life of me, cannot understand, simply because some of what is proposed to be addressed in the by-laws appear to me to me to be central to what this Bill ought to be about. So, aspects related to supervision, whether consolidated or integrated and particularly in relation to capital adequacy, I think ought to be very much considered in the main body of the work that we have before us.

Mr. President, this piece of legislation was brought to us in its most recent incarnation with a guillotine, a machete, cutlass, as it were, and the name of that is IOSCO and the threat, of course, is that we have to pass this legislation in order to be IOSCO compliant. That is not any fault of the Government. I have no idea where this would have originated, but I say that because in the time that I have been around this honourable place, I have seen on more than one occasion, in more than one Government, legislation brought at the 11thhour and 59thminute and Senators are asked to roll with it and support it, so that we can avoid being blacklisted. I contacted IOSCO and then I contacted some of the other jurisdictions that are signed up to IOSCO and, as far as I can determine, Mr. President, many of the aspects

that are addressed in this legislation are not really demanded by IOSCO at all.

I was a little confused about that, but I said:"Okay, fine! In any event we ought to make some of these changes that are recommended." However, what I was not able to clearly determine was what the sanction would be for Trinidad and Tobago if we did not get this done by the end of 2012. Put another way, what is the rush? Could we not have done this in a more measured way—try to fix what we have to fix and turn to it perhaps very early in the new year—is something I am waiting for an answer to. I did ask IOSCO that, but I have not received a response as yet on what the consequence of—it is not blacklisted; it is just not listed—of being not on the list would be. If those consequences are not severe—and they appear not to be from everything I have been able to determine—then by all means we have an opportunity to take this and shape it the way we ought to so that we produce a worthy piece of legislation.

My small and simple points, Mr. President, relate first and foremost to the definition on pages 12 and 13 of "material change" and "material fact". The old definition of "material change" is:

> "…a change in the business, operations, assets or ownership of an issuer…"

that would reasonably be expected to have a significant effect on market price.

Now that has been changed, and when I look at the change, what I find instead is something that gives me pause. What it says on page 12 is that "material change" relates, halfway down, to:

> "…the disclosure of which would be considered important to a

reasonable investor…"

Now that notion of a "reasonable investor" raises the question:Well, who is that? Who is a reasonable investor? And there is quite some work to suggest that a reasonable investor is a hypothetical investor and that no two investors are entirely alike. So I looked for examples in the common law of how we would define a "reasonable investor". I found that a "reasonable investor" definition is actually a creature of US law and that it is not properly defined in the common law.

So we are looking to the common law for an interpretation or an explanation, but at best we can find tangential evidence. What I found in the common law is that novices in a particular area are not given any particular assistance, support or additional consideration by virtue of their being a novice. So when we say that a person is supposed to be a reasonable investor, I am not quite sure how we prove who that is.

So if we have difficulty defining what a "reasonable investor" is, how do we then define "material change"? If I look at the United States, they use a reasonable investor test. In Australia, they use it too, but in the case law, there is very little discussion about anything to do with a reasonable investor. In the United Kingdom, they have excluded the idea of a reasonable investor test completely.

5.40 p.m.

In Ireland the Supreme Court has rejected the idea of a reasonable investor. In Canada they use—well, in Ontario, anyway—they use the definition we are now moving away from, or appear to use something similar, and in the EC there is no reasonable investor test. So I think that what the framers of this legislation were trying to contend with is the fact

that the existing definition does provide some significant difficulty, because in a small, illiquid market, you can have material changes that do not affect price. And so the SEC, as a regulatory entity, would have real difficulty in detection, they would have real problems proving knowledge, and they would necessarily have to rely on expert knowledge to prove, among other things, materiality.

There is a clear basis for wanting to move away from that and towards something else, but I do not know that what we are moving towards is any better and in fact, in certain aspects, I am sure will be significantly worse. The definition is unclear, so there is no bright-line rule anymore. There are no "cat eyes" in the legislative path to tell us what material is. Why that is important, is that if the definition is vague and subjective, what it does, is it leaves the regulator with powers of whim, of "vaps", of varying interpretation; a great example of which can be found if you try to fill out the simplest form and take it to the Registrar of Companies.

Apparently, this is not an activity for the faint-hearted or for people from anywhere other than Port of Spain, because you are invariably sent back and when you do what you have been sent back to do, you take it back into the Registrar of Companies and are then advised that it is again wrong. Very often you are advised that you did it correctly the first time. So what you are doing is creating work for the many law graduates that the university is putting out, who then do it. I wonder, with every respect to the attorneys present, whether we are at the better off for having so many lawyers around. [*Desk thumping and laughter*]

Hon. Senator: Thank you, Rolph.

Sen. R. Balgobin: I shall beat a hasty retreat to my car—[*Laughter*]—when

this session is over.

Sen. Deyalsingh: "Before you get beat."

Sen. R. Balgobin: Yes. I was also confused. If I looked at clause 10, I was confused about the constitution of this creature, because we have from 5 to 9, "The President shall appoint all the Commissioners" as well as one member "to be its Chairman." Then somewhere inside of there, in clause 3(a), it gives the Minister the right to appoint a Deputy Chairman, and so it sort of occurred to me that I was not sure whether this was "fish or foul".

Is this an independent regulatory agency, or is it one which is meant to fall under the purview of the Minister of Finance and the Economy? I understand that there can be a relationship; I am not entirely sure why that relationship has to extend to the appointment of a deputy chairman. To my mind, it did not make much sense. This really has nothing to do with politics; this is a regulatory agency that is acting within very defined parameters, and there are many good reasons why you would not want the hand of any particular politician inside of there.

I am making the point, simply, that we are conferring on this particular entity, very wide powers, and, therefore, this entity ought to be seen to be as independent and as objective as possible. I am not sure that clause 3(a), for example, helps us to achieve that.

Then, I was further confused by clause 7, which seems to suggest that aside from the Commissioners that the President appoints, the Minister can ask him to appoint some more. He "may, on the advice of the Minister in consultation with the Commission, appoint not more than three persons…as ad hoc Commissioners." Why? I do not know. If there is a need for ad hoc Commissioners, as identified by the Commissioner, the President can

appoint.

I was not entirely clear on that. I think that it is a very good institution and it ought to be as independent as possible, in as much as independence is possible in a small island. I say that having regard, of course, to the very many people who are very quick to call you an enemy if you say something they do not like.

In clause 16—and if I may go to clause 14 first—I was further confused as to the politicization of this entity, because clause 14(1) says that you cannot disclose confidential information, but clause 14(2)(b)(ii), says, but you can disclose it to "a representative of the Government". Why? Why would we be able to set aside this very important protection for a Member of Government authorized by a Minister, none of which is, of course, transparent to the person or the entity about which this information might pertain? Then it goes further in (iii) to say, "a duly authorized representative of the Central Bank"—well, that is fine—the FIU, also fine, "or a regulatory agency in Trinidad and Tobago". Not fine! Who is that? So can the EMA ask for information? Can the RIC? Can who?

I think that we ought to confine it to people who have something to do with the supervision of what is within this Act. It promises to create a super structure of a commission—well, I mean, a super commission as it were—that can invade almost any aspect of corporate life. Then there is this lovely circular thing at the end of clause 14, which says that it is okay to do it as long as "the Commission is satisfied that the information will be treated as confidential by the person or agency to whom it is disclosed and used strictly for the purpose for which it is disclosed."

Suppose I write the Commissioner and say, "Listen, I intend to really

persecute this person. Can I have this information please?" What happens? What is that circular? It has to be that the information is released for some particular purpose relative to what is governed here, what is covered here.

I do not think that the SEC ought to be in the business of releasing information to any and every other regulatory agency that may have a question to ask. There are ways for them to get their information.

In clause 15(5), "the quorum" shall be a "majority of the Commissioners." I see that as you can have a quorum of three, which for the gravity of matters that they are dealing with is quite a small number. So, perhaps, the minimum size of the Commission ought to be increased from five. In clause 16, I was not clear where they appoint a committee, a committee is appointed by the Commission whether clause 14(1) applied; that is, are committees of the Commission governed by the confidentiality requirements of clause 14. It was not clear to me.

In clause 18, in terms of declarations of interest, I found 18(4) to be exceedingly narrow. Mr. President, 18(4), on page 39 of the amended Bill says, a person shall have an interest if he has an interest. [*Laughter*]

Sen. Baptiste-McKnight: "But isn't that clear?"

Sen. R. Balgobin: It is as clear as mud. I think that there is an opportunity to clarify that a bit. Again, in clause 19(2)(a), it says that "The Commission may co-operate with...other government agencies or regulatory authorities". Okay, fine. I am just flagging, again, this idea of the SEC relating information to other regulatory agencies and why it ought to be so.

I had real objection to the sweeping powers that the Commission could grant itself under clause 21, because clause 21 basically says, the Commission makes rules for everything. Well, okay, that is quite wide.

Then you have a Commission where the Commissioners are appointed by the President, having the Minister appoint the CEO. I did not understand how this whole thing was supposed to hang together, because the CEO—it means that, in practical terms, the CEO and the Deputy Chairman are beholden to the Minister. This affects the independence of the institution as far as I have been able to determine.

In clause 23, I was also not clear whether clause 14 applied to the appointment of experts. I quite enjoyed clause 30, which basically says that all of the money's of the Commission shall be paid into a bank appointed by the Commission, subject to clause 21, which says that they make rules that the Minister must approve. So the Minister, basically, will determine what happens with that money or how it is managed, and how it is disbursed. Is that our intention? I ask the question only.

Clause 88—I do not want to belabour, I just have a few quick points. Clause 88(b), what this says, for the uninitiated, is that the Commission, through any of its officers or agents, can walk into your organization and ask you for anything—for anything, for any filing report or other communications made to any other regulatory agency, whether required under this Act or any other written law, and so on. So, again, sweeping powers.

If I jump forward to clause 148, what I find again, are very wide powers which allow for the creation of by-laws, subject to only the negative resolution of Parliament. What I would say, Mr. President, about this, is that I do not think that I am in support of a super regulator endowed with the kinds of powers that I see here, which has one foot in the independent and one foot in the government camp which has the power to make its own rules,

govern itself, more or less, and I, particularly, have that grave difficultly when I consider that the skills simply are not there.

5.55 p.m.

We heard earlier in this debate that there have been very few bye-law changes made—two in fact: 2005 and 2006. I wonder what is different. I was minded to ask myself: What has changed? What is different now? It occurred to me that we have been flirting in this country with a form of regulation that we have not fully understood. I stopped and I thought about the other examples that we have in our midst of either regulation or control institutions that we are supposed to have, that are supposed to work in a particular way.

I turn my attention to the Integrity Commission which, despite its long existence, has not had a single successful prosecution for corruption—not a single one. But every day for years we talk about corruption, and they write you all these threatening letters all the time, but they have not had a single case. It is a national embarrassment. It is either we are the most honest people on the face of the planet and we have not had a single case of malfeasance in public life for 10 or 15 years—or for however long the Integrity Commission has existed—or we have a problem of competence.

I have no doubt they will call me tomorrow; that is fine. [*Laughter*]

Sen. George: It is not designed to catch anybody.

Sen. Dr. R. Balgobin: And they certainly would not frighten anybody. In my experience, Mr. President, the few actions that were brought were really as much politically driven as anything else.

Sen. George: Indeed!

Sen. Dr. R. Balgobin: It has been used in the past as a form of political

victimization. [*Interruption*] So I then turn my attention elsewhere; I look at the Equal Opportunity Commission. I do not know. Have they had a very good success rate? Because you have people very far afield who are making allegations against us, and to my mind that is not fair for anybody to do. Who is it—the *Jamaica Observer*? They have no place doing that. They have no place doing that.

Even if they did and even if what they said was true, I would be the first to say, "It 'ent start now". If that is true of us really that is something that has been happening in this country for a very long time, and it is something that we ought to be amazed. It is something that we ought to be embarrassed about, but we should address that inside of here. I do not understand what their business is. So to the *Jamaica Observer* I would say, "Turn your attention to Jamaican matters; observe internally."

Sen. George: They have enough to observe.

Sen. Dr. R. Balgobin: They have enough to observe. That is quite right. If they can see through—anyway, let me not say that.

Hon. Senator: "Yuh making de *Observer* tomorrow." [*Laughter*]

Sen. George: "I doubt yuh making de *Observer* tomorrow."

Sen. Dr. R. Balgobin: But they ought not to say uncharitable things about our Prime Minister. Our Prime Minister is the Prime Minister of this country, and they ought not to do that.

Sen. George: That is correct.

Sen. Dr. R. Balgobin: As a national of this country I take very strong objection to that. [*Desk thumping*]

But then I turn my attention to the FIU. With all this regulatory infrastructure that we have, how many people have we caught and convicted

for money laundering? None. You read the annual report of these things, and they are going around to schools and teaching people about what they do—none.

Sen. George: None.

Sen. Dr. R. Balgobin: The Telecommunication Authority of TrinidadandTobago, how strong technically is this authority, from the very outset? I am not talking about now alone. I think that we have a real capacity problem, Mr. President, and if it is one thing I know that we need to make this work is capacity. So I have a number of changes to suggest, I am hopeful that they are received openly. I hope that we are taking amendments. If we are not, I cannot, in good conscience, go with 175 pages and 172 clauses with no amendments; such legislative perfection is not for me to support. It is either we are making changes and we are getting it done right, or I am afraid I cannot help. But I am sure that they do not need my help anyway.

I think though that we ought to pay serious attention to the very significant deficiencies in the legislation as it is put forward, if we are serious about protecting the rights and interests of the poor people of TrinidadandTobago, which we always say we want to do. I am mindful that we are very quick to say these things. It sounds very good. It says:

> "...to provide protection to investors from unfair, improper and fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in TrinidadandTobago; to reduce systemic risks...and for other related matters."

For the life of me I could not figure how this does that. We pass legislation in well-meaning ways all of the time. My difficulty with this is we are

setting aside sections 4 and 5 of the Constitution to meet some IOSCO requirement. We ought to be careful.

If we are covering this under the mask of protection of the small man, the poor man, he would be better served if we proclaim the Dangerous Dog Act, [*Laughter*] because I do not know how many rich people get bitten by dangerous dogs. "I find I see that it is de poor man who ha' to walk in de road, getting bite up, and ah find a wealthy fella or a middle income fella is usually on the other end of the leash. So rich dogs biting poor people." [*Laughter*]

Sen. George: Those dogs are owned by poor people too.

Sen. Dr. R. Balgobin: "Ah" feel very sad about that.

Sen. George: "Yuh sounding like a movie—[*Inaudible*]. [*Crosstalk*]

Sen. George: All right; I am sorry.

If we are doing it right, let us do it right. I fully support the idea of fixing it. If we can fix it in committee stage, I would be very happy and grateful to my colleagues in Government.

I thank you, Mr. President.

Sen. Elton Prescott SC: Mr. President, I thank you very much for this opportunity to contribute to the debate on this Bill. I have had the pleasure of serving on the Joint Select Committee whose work produced what is before us today. I confess I am happy that our democracy works this way, that we have yet another opportunity of looking at it against the background of the very insightful comments and contributions made by the Independent Bench today.

In the circumstances, my initial anxiety to see it pass is now beginning to wane. I expect that the committee stage will be long, arduous and

productive. I wish to reserve my further comments for that stage.

Thank you very much.

Sen. Faris Al-Rawi: Mr. President, I thank you for the opportunity to contribute to this debate. I will be making history today by making my shortest contribution to date. [*Desk thumping and laughter*] I wish to compliment the members of the Joint Select Committee that participated in producing this. If I could make a few very short observations.

The Attorney General and I, and other very well-known, learned people—I cannot make reference to the Chair specifically—including yourself, Mr. President, were abroad on a parliamentary delegation. I know for a fact that we three did not have the opportunity to consider this legislation in its fullest form. I say that because the most senior attorney on the Bench opposite would be in as an invidious position, as I now stand, in contemplating the ramifications of a Bill which is drawn across some 175 pages and which deals with a very necessary revision to the securities industry and the law which relates to it.

Mr. President, I wish to put on record that the Leader of the Opposition, in his direction to this Bench sitting in Opposition in the Senate, was very clear to remind us of our independence from the process in the Lower House and that we should allow democracy to go to work and listen in particular to the contributions made in this Senate.

I too wish to state that our Bench is not as warmed to a rushed imposition of this law, particularly in the circumstances well-articulated by my colleagues on the Independent Bench, and concerns which I am sure Senators opposite also have.

I have found in my revision of the law, in the very short opportunity

permitted to me, being this weekend and in the last couple of days whilst juggling everything else in practice, I found a number of contradictions which I too wish to reserve the right to reflect upon for our Bench, in the committee stage.

There are some things in particular as it relates to the penalties and provisions that just do not make sense, Mr. President, and I think that we ought to take a lot of care and caution in looking at these provisions through the committee stage.

6.10 p.m.

Mr. President, in winding up, as I promised the very shortest contribution today, if I could make a very, very strong plea to the Government of Trinidad and Tobago who is charged with the responsibility of managing the legislative agenda that this country will consider. It has now been three years and we are yet to see a legislative agenda, and dealing with legislation of this type, or any type, in a rushed fashion would only result in extreme difficulties and with blame being pointed to persons in every position.

This Act has in it section 53, this Bill sorry, interim measures for the implementation in the one-year period between the repeal of the old legislation and the introduction of the new legislation if this Bill becomes law. That harkens back to many other incidences of difficulties that we have experienced as a Parliament in my short tenure as a Senator sitting in this Senate.

2013 is going to bring a lot of complications with respect to this Bill once it becomes law, if it becomes law today. It is a special majority Bill and we do require that caveat to be introduced through section 13 of the

Constitution, by way of certification on the number of votes and that the law reasonable. I think the law is reasonable in a society such as ours, but I fear that there are contradictions that need to be addressed.

Mr. President, I would just send out a very veiled message to the Government to pay close attention and to act with transparency in relation to issues which are going to arise in January of 2013—I do not want to be irrelevant in this debate or anticipate anything that may come—but suffice it to say, that we as the Opposition would stand ready and strong to advocate the best interest in respect of the rights of the citizens of this country. I thank you, Mr. President.

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very much, Mr. President. One cannot help but be moved, and to some extent, persuaded by many of the arguments by the Senators of the Independent Bench. There were very, very excellence contributions here today, and we see in the contributions the challenge and the contradictions that have to be reconciled in putting together a Bill for the securities industries of the kind we are seeking to do here.

For instance, when Sen. Dr. Lester Henry spoke he spoke about the fact that this Bill, which first came before the select committee, was rather draconian in nature. He then indicated that it was the intervention of Members of the Joint Select Committee on the Independent side and from the Opposition that helped to make the Bill a little less, in his view, draconian.

When we heard from Sen. Drayton we heard basically that the legislation really required much more teeth and capacity for enforcement

and for investigation and for reprimand and for publication and naming and shaming of people who had violated certain principles. She argued the case from the point of view of the investors seeking to make a legitimate investment.

When we heard from Sen. Balgobin we heard him also speak of the sweeping powers that would be handed through this legislation to the Securities Commission as envisaged in the Bill, so that his concern was, in fact, the authority. You can see how different perspectives affect the way you see the role of the legislation, the significance of the elements in it, and consequently the role of the Securities Commission and therefore, the management of the financial sector, specifically as it relates to securities.

When Sen. Ramkhelawan spoke as someone who is very much entrenched in the financial sector, and basically whose perspective is driven by his knowledge and experience of the financial sector, he made the case for three or four critical things which is to say, sufficient capital in the system for any entity involved in the business, and then he made the case for integrated and basically, regulation that allows for a holistic command of the financial system. Therefore, we begin to see from the contributions of the various people here today, hon. Members of the Senate, we begin to see the complexity of doing something like this.

I think we need to acknowledge that after the crisis of 2008/2009 the world changed, and the only jurisdiction that I know that was largely unaffected by what happened in 2008 and 2009, was the jurisdiction of Canada, where they had spent a lot of time in the decades before strengthening their financial sector, organizing it and, more than that, establishing a very, very strong and able regulatory system. On the basis of

that, while every country had some negative fallout from the financial crisis, Canada remained by and large, largely intact.

Having said that I think we need to acknowledge whether you see Barbados as having more friendly legislation than Trinidad and Tobago, or whether you see other elements of the Caribbean having their situation perhaps better than Trinidad and Tobago or whether you see Trinidad and Tobago striving to make its system better. I think you have to acknowledge that in terms of a financial system and the workings of a financial system and the working of the securities sector that we are pretty much backward in the world, and you need to acknowledge that. I mean, the Caribbean is not a place of the most enlightened practice and the most, what can I say, effective and efficient financial domains in the world. What we are really trying to do all over the Caribbean is to try and get these systems right.

Meanwhile the world order is proceeding apace and they are establishing standards in the wake of a global crisis, and they are establishing terms of compliance. If you want to be part of the enlightened group of countries in the world that can be regarded as having systems that can be trusted and that have integrity in them, and would allow for a certain amount of transparency and therefore, for the efficiency working in the transparent system.

This is what this legislation is about which is, trying to operate in a situation where we are backward, so to speak, in the game; trying to get a more improved system, learning from our own experience all the things that had been mentioned here in the insurance sector, in the securities sector itself, all the failed institutions dealing right back from the 1970s to the present time. It is all of these things that we need to progress from—

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, in accordance with Standing Order 9 (8), I beg

to move that the Senate continue to sit until the completion of the matters at hand.

Question put and agreed to.

SECURITIES BILL, 2012

Sen. Dr. B. Tewarie: Thank you very much, Mr. President. So as I was saying, we are trying to move the system forward taking into account what is happening in the world, taking into account what has happened in our jurisdiction, in the region and here, but also trying to connect with the most enlightened systems and standards in the world, and this is where our attempt to meet the challenges of compliance become important.

I do not want to go into too much detail because we have heard already that Senators are perhaps thinking of presenting amendments, but I wanted to outline that frame to allow ourselves to think again about why we are in this situation and how we are proceeding. I think it would be legitimate for people to argue, well, should we create a lesser than needed law simply to meet the demands of compliance? I think that that is one of the questions that is coming up.

The second thing is that, if we know that we can make a better law and there are amendments that we can make to make a better law, why do we not just do it, and get it right? I think there is a lot of legitimacy to the thinking on both counts. But I want to say this, I mean, you all as Members of this

honourable Senate know very well, some have served in Government before, some of you are in the Opposition now, some of you are on the Independent Benches, you have operated in international institutions all over the world and you have that experience. The demands of Government mean that there are certain agendas that have to be met, and at the same time you cannot be tied to such agendas in such a way that you do not have any flexibility. What I want to do is to offer from the Government's point of view a compromise in this matter.

I would say help us to meet the requirements of compliance by passing this Bill. It has been passed in the House, some amendments were made. It went to the CPC, it came back here. I myself was a Member of the Joint Select Committee like Sen. Prescott, and there was a lot of discussion there. Sen. Ramkhelawan did present there. The SEC was brought in. Members of the management team were brought in to present their points of view. Other consultations had taken place, as the hon. Minister of Trade, Industry and Investment, in fact, indicated. We did this within the time frame, because there was pressure, and I want to acknowledge that, because we were working with limited time. We did this to the best of our ability to be the best law.

Sen. Prescott would tell you—and I am telling no tales out of school—that there are matters raised here that I would have raised in the committee and that I was uncomfortable with; the issue of the independence of the SEC for instance, and its connection to the political directorate. That was a matter I raised, and we had a discussion about it, and eventually these matters were resolved in certain ways because of the very reason I told you before, which is that you have different points of view.

6.25 p.m.

So, if you sit on the board of a company that is listed on the stock exchange, there is a certain perspective that you bring to this legislation and this debate. If you are an independent person who is an investor in the market and understand the financial system, and you have seen what has happened here and what has happened in the world, you then bring a different perspective to that. If you are a practitioner in the financial sector and your interest are directly affected by what happens here, you will see the world in a certain way that is very different.

If you feel that legislation in a democratic society needs to be very, very much restrained, then that will allow you to see things in a certain way. Whereas, if you feel that you cannot allow a financial system to be unprotected, and therefore you need strong legislation and you need strong governance systems in order to protect the system, you will also see it another way. On the basis of various points of you being articulated and trying to reach a compromise, this is the Bill that we came up with following what came from the House of Representatives, and there were Members, of course, from both Houses, in fact, on this committee as a Joint Select Committee is, and at the end we compromised and we came up with this legislation.

So my first request of hon. Senators, through you, Mr. President, is let us pass this Bill today and meet the requirements of meeting the international compliance demand from IOSCO, so that we are in fact on the "a" list on the passage of the legislation. I would, after consultation with the Leader of the House and after consultation with the hon. Minister of Trade, Industry and Investment, who had in fact had a discussion with the Minister

of Finance before he left today. I give a commitment on behalf of the Government that within a period of not more than six months, if that is correct, we come back to the Senate with the legislation that we have passed and the regulations, and we go through the process. In any case we would need the tabled—I mean, for us to sit here and go through every amendment now; it is not likely to be as fruitful as if we have circulated amendments that we could also study. What we do is we give you a commitment within a limited time frame, which we are going to specify here as six months, and we come back to the Senate and we do the amendments together with the regulations that are.

Mr. President, I wish to make that as my contribution today, ending with those two pleas that I have given, and assuring you that what has been said in this Senate today is fully appreciated, and we sensitive to it and give you the assurance as well that you also need to appreciate what the Members of the committee went through to get this to this point and the complexities of the contending ideas—all right—that you had to shift through to get the compromise that everybody would agree on, I think I can tell you, and Members of the committee will know, that even after we had agreed amendments kept coming over the emails, and these things had to be taken. I myself was quite taken aback with the extent to which these things were coming at such a late hour and Sen. Balgobin, in fact, mentioned that he had 24 hours to study the final version of the Bill.

So, all these things taken into account let us have a reasonable Senate compromise. Mr. President, through you, one, let us pass the Bill; two, we circulate all the amendments; and three, we give a commitment that within six months we come back with the legislation as passed together with a

consideration of the amendments after due study, and with the regulations as well, to both Houses of Parliament.

Thank you very much.

Sen. Terrence Deyalsingh: Thank you, Mr. President for allowing me to make a very short contribution. It was not my intention to make a contribution today, but as I was only moved to do so after my good friend Sen. Bhoendradatt Tewarie spoke.

Listening to Sen. Tewarie, one got the impression that the December 31 guideline or deadline was not well-known. The hon. Minister used the words "working with a limited time". I want to alert the population and just to put it on *Hansard*, because we have to be very careful now. I want it put on *Hansard* that this limited time is not as the hon. Senator has made it out to be. And I hang my hat on the fact that I as a member of the public went to a public consultation at the Arthur Lok Jack Business School, on June12, 2012, which is a full six or seven months ago, where the SEC put on a public consultation on this very piece of legislation, and on that day both Mr. Norton Jack and Prof. Patrick Watson spoke.

So, the point is, if I as a member of the public would have known from June 12, a full six or seven months ago, that the December 31 deadline was looming, and I have the transcript of both Mr. Norton Jack speech and Prof. Patrick Watson speech, where they alluded to the December 31 deadline over and over and over. The question is, why is this now coming? Why was a joint select committee only appointed in November when the public knew about this since June 12, 2012? It cannot be. It cannot be that this honourable Senate meets time after time in emergency mode, whether it is the FIU legislation, Indictable Proceedings Act or this Act now. The point I

want to make very briefly is that this time constraint that the hon. Senator has spoken about is not as made out to be. I knew about it since June 12, 2012. The point is, all these amendments that we want to consider, this could have been aired since then, so that the Independents would not have been so flummoxed by it; we could have passed good law instead of coming time and time again to this honourable Chamber to pass rush legislation.

We have to get out of the cycle of passing rushed legislation because of the Government's tardiness in not paying attention to deadlines.

Mr. President, that is all I want to contribute today. I thank you.

Sen. Baptiste-McKnight: He is not looking in my direction at all.

Mr. President: Yes, the Minister of Trade, Industry and Investment.

The Minister of Trade, Industry and Investment (Sen. The Hon. Vasant Bharath): Thank you—

Sen. Baptiste-McKnight: Mr. President!!

Mr. President: Sorry, I did not see you. Senator, would you gave way please I did not see Sen. Corinne Baptiste-McKnight.

Sen. Corinne Baptiste-McKnight: Thank you, Mr. President. I thank the hon. Senator for allowing me a very brief interlude in what is turning out to be a debate. I was getting a little worried that it would be a series of monologues from the Independent Bench.

But, whereas I would like to support what has been said by all of my Independent colleagues who have made many of the points that I would have wanted to, I feel constrained to admit that I am very disappointed and very disconcerted, because, as has just been pointed out, there need not have been a rush on this. And the fact is there are five levels of public in Trinidad and Tobago that are concerned with this legislation: there are the legislators

in both Houses who are supposed to pass—consider and pass legislation in the interest of the citizenry. I wonder what level of interest motivated delay until a fortnight before the deadline? Apart from the symposium mentioned that took place—[*Interruption*]

Sen. Deyalsingh: June 12.

Sen. C. Baptiste-McKnight:—at UWI. I certainly, am not aware of any attempt to educate the public at large about this very important piece of legislation.

The stakeholders, that is the people who are supposed to do the monitoring, and some of those who would be monitored have been intricately involved in the legislative process, but what about the prospective investors? Now, we have got a whole lot of virgin investors coming on to the scene as a result of the Clico shares, and there is a lot in this Bill that affects what they call "beneficial owners".

After going through this, at great torture to my myself, I have come to the conclusion that a prospective investor is going to need, not to hire, but to buy a lawyer—the amount of time that they are going to need for advise on how to proceed in order not to fall afoul of these 172 clauses, with tantamount to buying a lawyer to see them through this mine field. Then there is the ordinary citizen who will be affected. Everybody says that this is going to have an immediate effect on us if we are delisted on the January 01, but nobody has been able to explain exactly what this effect is going to be. Is it that my credit card would no longer be respected by Amazon for a little book or two? What is the need for the problem? I accept that there is a problem, but somebody has got to tell me exactly what the problem is?

Now, I share the concern about the membership of this commission. I

really wondered about the fact that in something that is so important, three people, one of them would have to be the lawyer of 10 years standing and another the representative of the Minister of Finance and one other, can make a decision affecting all of these matters. That does not seem to be good enough, not by half.

Now, the matter of confidentiality, in introducing the Bill, the hon. Minister mentioned that confidentiality was important and it affected everybody, but I do not see this in this legislation. I recall when I joined the Civil Service I had to sign an oath, an official secrets Act that prevents me from writing my Members for 30 years after I demit office in the service. Now, that I understand as a confidentiality oath, because it means that anything that happened in the course of my official life, I cannot divulge for 30 years after I retire. But, I see in this Bill that people are allowed to pass through the commission, they can transfer in and out.

6.40p.m.

I gather that while they are in, they are restricted in what they can divulge and to whom they can divulge it. But I see nothing in this legislation that says when they leave they are under any restrictions, and if so, for how long.

I see that the Minister is a very prominent person in all of this. From time to time the public has more or less confidence in the particular Minister of Finance, but is it expected that the Minister of Finance will have the capacity to decide on who is a fit auditor for this organization? This is his job here. The Minister in this is almost as important as the commissioner, if not more so, because a lot of what the commissioner has to do, has to do "in consultation with".

Members of the commission have to meet certain criteria, but these criteria do not apply to the representative of the Minister of Finance. The Minister of Finance can have a representative who is a contract officer of his choosing and represent him on this commission. Not good enough. Ad hoc commissioners can be selected. They would have to meet the criteria. But if an ad hoc commissioner is required to fill the void of a commissioner who has a specific area of competence, how can you have three ad hoc commissioners who would be able to fit any of six areas of competence? It does not make sense.

Coming back to confidentiality, the Minister can require information from the commission. Is the Minister under a vow of confidentiality too? It does not say so anywhere in here. I do not know. I worry. The number of things that a beneficial owner is required to do under this legislation assumes that the beneficial owner is a highly educated investor. Not good enough.

I am finding nice words to address the plea from the hon. Minister of Planning. Now, I understand his request, but let me try and explain the problem that I have. This Bill would have to be proclaimed before we become eligible for listing. Is that so? Very well. So that we are not buying "cat-in-bag" this time. We know that if we pass this it is going to be proclaimed. But this session is going live on the web. Does anyone get the impression that there is a possibility that the IOSCO people might wonder about the real standing of this legislation when they hear some of what—to me at least—are some serious lacunae that were mentioned by my independent colleagues?

Now, as a total neophyte it would occur to me that if I have to sit in judgment on this and it comes to me as a fait accompli on the basis of a plea

that it will be changed at an early date, I am not going to feel confident about accepting this country, because what they have brought to me they know is flawed.

Now, we know about late sittings, you know. We have left here four o'clock in the morning already. We have amendments that are being passed out, and I can tell you, honestly, my bank account of trust is depleted because there are too many Bills that have become law on account of deadlines that were supposed to come back to us with amendments within three months, within six months, and they have lost the road map; they have not got here yet. My experience tells me that this is likely to happen again. I do not want another Bill to have to lose its way.

So my plea, in return, Mr.President, is warm up the coffee, let us look at the amendments and see if we could make this a Bill that would really and truly protect the investors because my impression is, after listening—I think more attentively than some of my colleagues on that side—to what has been going on here, that this Bill is not offering the protection that it purports to do. It might be quite adequate for IOSCO, but IOSCO not investing anything in this market. I am not convinced that it is adequate to protect my people here, and I am quite prepared to drown my lungs in coffee and work with you to have it offer the protection. That is my promise.

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

The Minister of Trade and Investment (Sen. The Hon. Vasant Bharath): Thank you, Mr. President. Mr. President, after having listened most of the afternoon to all of the contributions on the other side, and primarily from the Independent benches, I will say that some significant points have been raised, but I do want to remind this honourable Senate that this Bill did go

through a joint select committee. Just for the record, let me remind the honourable Senate of the constitution of that joint select committee: Dr. Roodal Moonilal, Mr. Rudranath Indarsingh, Mr. Stephen Cadiz, Miss Marlene McDonald, Mr. Colm Imbert, Mr. Larry Howai; Mr. Vasant Bharath, Dr. Bhoendradath Tewarie, Dr. Lester Henry and Mr. Elton Prescott SC.

The deliberations, Mr. President, as I mentioned when I spoke earlier, were quite significant both in terms of the depth and in terms of the time that was spent going through every single clause of this Bill, meticulously; in some cases laboriously, over and over, until we felt that we had attended to most of the issues that were raised and that could have potentially caused problems.

We felt at the end of it that we were relatively satisfied that the Bill did, in fact, do what we intended it to do, which was to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient securities markets and confidence in the securities industry in Trinidad and Tobago; to reduce systemic risk; to repeal, of course, and replace the Securities Industries Act, Chap. 83:02.

Some of the issues that have been raised today, Mr. President, of course, are more significant than others. Many of them we can deal with, I suppose, at committee stage. But there are a few of some significance that I wanted to raise and I wanted to address this evening. The first relates to the issue of the time frame within which this Bill has been brought to the Parliament. The last speaker whom I think spoke of that was Sen. Deyalsingh, and I want to remind us that as—I think it was Sen. Balgobin who said that governments do not actually prepare and, in short, that the

legislation comes forward but really it is the people behind, and in many instances sometimes we do not understand the workload that there are imposed on many of our public servants and many of these agencies.

Let us look at the time frame a little before we jump to conclusions as to why this was late. This Bill was brought and laid in Parliament just before last election—I think it was in 2010—and subsequently lapsed. During the time that the Bill lapsed, we were alerted to certain deficiencies, or the Securities and Exchange Commission was alerted to certain deficiencies relating to—which they attempted and which they did, in fact, look at very seriously; went out to consultations.

We talked about the several consultations that took place on June12, 13, 21—22 and then November20, then took into account the deficiencies raised by IOSCO. The first for information-sharing, clause 19; the second related to confidentiality, clause 14; the third, access to bank records, clause 151, and then the fourth to record keeping on clause 87.

Now, in the interest to try to have as complete a document as was possible, it was necessary, therefore, for the SEC to go through the consultative process and then bring the Bill back to Parliament. That is really the reason this Bill has come when it has come. Of course, the very fact that we have a deadline that is looming has exacerbated the need for us to have brought it at this juncture. Maybe if we had more time we would have spent more time in ensuring that many of the possible requests or many of the urgent and burning issues could have been dealt with. But we have to do what we can do within the time frame and with the resources that we do have.

I wanted to address a couple of the issues that were brought up this

evening. The first related to the issue of capital adequacy, and let me say that Sen. Ramkhelawan's contribution this afternoon was very informative, very stimulating, very passionate. Of course, he has been in the sector and the industry for many years and probably knows it far better than most and, certainly, better than I do.

6.55 p.m.

He was able to raise some very pertinent issues, the first relating to capital adequacy. Let me say that the issue of capital adequacy is obviously an important one. When one looks at existing legislation, when one looks at the FIA, for example, when one looks at the Insurance Bill that is being proposed—and maybe it is something we need to look at. They all speak of complying with capital adequacy by regulations.

Now, maybe it is something we need to look at. Maybe we need to look at ensuring that they are all in the body of those pieces of legislation. But I think, the reason, the raison d`être that is in the regulations is to allow for flexibility. So if there is a requirement for changes in capital adequacy ratios or percentages it can be changed very quickly without having to amend the significant legislation.

So I think that is really the thought process that maybe requires some more ventilation, for us to determine policy in the future with regard to where capital adequacy sits. I am happy to engage in that discussion, and I am sure Minister Howai would be happy to do so. But, of course, as you would appreciate, I suspect you would realize it is not something that we can do here tonight.

The second issue that Sen. Ramkhelawan raised was the consolidated supervision. Well, I think we all know, and certainly, Sen. Ramkhelawan

would know, that yes, there is consolidated supervision that exists in many countries, but in many more countries it does not exist. Whether in fact we have the depth of the capital market and the breadth to have separate regulatory agencies is another question, again of Government policy. I empathize somewhat with you. I feel that this stage in our development it may be well worth our while looking at that possibility of having a central regulator very much as is the case in the United Kingdom with the Financial Services Authority and other places. But, we also are aware that there are many countries that are re-looking at whether in fact, a central supervisor is working for them. Again, I suspect it is not something that we can agree on this evening. But, I am happy again, to look at it, to have a fuller discussion, and we can come back, if it is, we feel it is in the best interest of the growth and development of our market then we can look at doing that.

I do take a little umbrage, however, with Sen. Ramkhelawan with regard to Trinidad and Tobago not being essentially the regional capital market, because all indicators will show that surely we are by far, in terms of the breadth of our market, in terms of the transactions that take place, not necessarily only on the Stock Exchange but other transactions that take place. In fact, there are many, as you would know, countries that do not have a Stock Exchange but of course, have a capital market.

In fact, some of the numbers I have here that says, the capital market in Trinidad and Tobago as at 2012 now stands at $259 billion as oppose to $6.35 billion only a few years ago—which now is a 175 per cent of GDP as oppose to 16 per cent of GDP when the commission actually was established. Over the 14 year period 1998-2012 the total equity market rose from $846 million to $97.8 billion or 66 per cent of GDP. And, debt

securities outstanding rose to $70.8 billion from an estimated $2 billion. Mutual funds grew from $4 billion to $42.8 billion or 29 per cent of GDP and securities instruments rose from an estimated $636 million to $47.6 billion or 35 per cent of GDP.

Let me also correct something else that the Senator said. I alluded to 50,000 in the financial services sector not in the securities sector, clearly. So those are some of the issues that were brought up by Sen. Ramkhelawan.

One of the burning issues that I think most people, including those on this side, would have considered and many raised on the other side is what happens if come January 01, we are not compliant?

Well, essentially what happens is that previously there were two lists, list (a) and list (b). From January 01, there is only going to be one list. Essentially, a list of countries that are compliant, and of course, the rest would be non-compliant.

I am told by the Securities Exchange Commission that we have already had some unwillingness and some reticence on the part of those countries that are compliant to actually provide information during the course of some of the investigations, during some of the work that we have been doing. In fact, Sen. Balgobin raised the fact that he has requested information via AYSCO and it has not been forthcoming. [*Interruption*] Pardon?

Sen. Deyalsingh: That is not what he said.

Sen. The Hon. V. Bharath: Or I thought he had requested information from AYSCO as to what happens—

Sen. Dr. Tewarie: He said he did not get any response.

Sen. The Hon. V. Bharath:—and it has not yet been forthcoming.

Sen. Deyalsingh: No. His information was nothing much happens.

Sen. The Hon. V. Bharath: No, no, no.

Sen. George: No, he did not say that.

Sen. The Hon. V. Bharath: He said the information has not been forthcoming. I think we have come up against the same sort of reluctance to provide information, and nobody quite knows. The truth is we do not know exactly what is going to happen, except we have been told, that countries that are compliant may look at us in a manner that may create a risk profile for Trinidad and Tobago.

So we are not quite sure what the exact repercussions are, but surely it would be better that we are on that list and we attempt to make whatever amendments we have to make from being on the list as oppose to coming from behind to attempt to do it because we are not quite sure what the repercussion is likely to be. I want to be as honest and as frank as I can with regard to that matter.

Sen. The Hon. V. Bharath: I will tell you however—

Sen. Hinds: You squandered the trust. That is your problem.

Sen. The Hon. V. Bharath: We have had the support with regard to this legislation from the president of the Securities Dealers Association of Trinidad and Tobago and of course the Executive Director of the Unit Trust Corporation amongst other people.

Mr. President, there was some other points that were raised, many of them we can take during the course of the committee stage. I would like to propose however, that we are aware, as I said, this has gone through a joint select committee. This is not something that has come to the Senate for the first time. It was debated in another place. It has been passed. I would like

to recommend to this honourable Senate, Mr. President, that we support this measure, we support this Bill, Mr. President, with the assurance that we will come back to the Senate. We will continue our discussions and our dialogue. We will come back to the Senate within a six-month period after having considered the amendments that have been circulated this evening.

I would propose to the Leader of Government Business—maybe we can have a short break while we collate all of the amendments this evening and we come back together with regulations to accompany these amendments. We can come back within six months to this goodly Senate to be in a position to report—[*Interruption*]

Sen. Al-Rawi: Six months from proclamation or six months from—

Sen. The Hon. V. Bharath: Six months from today.

Sen. Al-Rawi: Okay.

Sen. The Hon. V. Bharath: We will come back to this Senate to ensure—

Members: Proclamation.

Sen. Al-Rawi: Proclamation would give you more time to consider.

Sen. The Hon. V. Bharath: Well, fair enough. We are assuming proclamation would take place relatively short. So, Mr. President, six months from proclamation, we can come back with regulations and the necessary amendments to be able to put in place a Bill that will truly give everyone here the level of comfort—some of which has been raised today, some of the concerns that has been raised today—the level of comfort that we all want to ensure that our investors are protected and we can provide a market that is fair and efficient for Trinidad and Tobago. Mr. President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Mr. President: I therefore intend to a take a break for 15 minutes. Will that satisfy? We will resume at 7.30 p.m.

7.07 p.m.: *Sitting Suspended*.

7.30 p.m.

Senate in Committee.

Clauses 1 to 3.

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

Sen. Al-Rawi: Mr. Chairman, save that clause 3—Mr. Chairman, forgive me. Oh, I am so sorry. I was at clause 4 which is interpretation. Usually clause 3 is interpretation. Beg to withdraw.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

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

Mr. Chairman: I understand that we have an amendment circulated by Sen. Ramkhelawan? Senator, do you want to put forward your amendment?

4. A. Delete the definition of "financial group" and substitute:

"financial group" means a related group of companies whose activities are limited to any one or more of the following:

(a) the business of brokering and dealing in securities;

(b) the business of a financial nature;

(c) insurance business or insurance brokerage;

(d) the business of banking;

(e) subject to the approval of the Commission, the

provision of necessary services in support of the activities of the group, and includes a financial holding company and any other holding company administering its holdings as set out in paragraphs (a) to (e).

Sen. Ramkhelawan: That is the first amendment. Do you want me to read, Mr. Chairman, all of them?

Mr. Chairman: Yes, please.

B. Insert in the appropriate alphabetical order the following definitions:

"financial holding company" means a company required to obtain a permit in accordance with sections 67(4) and 68(2) of the Financial Institutions Act;

"holding company"—the definition of a holding company—means a company that owns more than fifty per cent of the voting shares in another company;

C. In the definition of "limited offering" in subparagraph (a) insert at the beginning the words "in respect of equity securities only".

D. In the definition of "self-regulatory organization" insert after the word "trading" the words "or dealing".

Sen. Ramkhelawan: That is clause 4, Mr. Chair.

Mr. Chairman: Thank you. Minister, would you be responding to that amendment?

Sen. Prescott SC: May I, through you, Mr. Chairman? May I enquire what, through you, to the Leader of Government Business or the Minister,

how is it proposed that we function at this point? What prompts this is, for example, Sen. Ramkhelawan's amendment requires some debate. We are probably going to come across two or three of these. Is it proposed that we shall take our time and go through all of these, hear the justification for what is being proposed and try to arrive at an amended provision?

Mr. Chairman: I will let the Leader of Government Business suggest the process we have in mind.

Sen. Singh: Mr. Chairman, I think in response to the honourable Senator, it is our intention to read the amendment circulated into the record so it becomes part of the record and it will guide the undertaking we will give, subsequently, to this honourable Senate.

Sen. Prescott SC: And let me ask further, where—as I know it is going to happen—a circulated amendment itself requires an amendment, you would hear the amended version?

Sen. Singh: Well, we will hear whatever version emerges, whether it is the first, second or third version.

Sen. Prescott SC: And commentary on an amendment will be permitted?

Sen. Singh: That is entirely in the hands of the Chair, but I am certain it can be.

Sen. Prescott SC: Thank you, Chair.

Mr. Chairman: Are there any Senators wishing to make any further remark?

Sen. Al-Rawi: Mr. Chairman, if I may, perhaps just also to understand some of the parameters that we choose to guide ourselves by this evening. The mover of the amendment is in this instance Sen. Ramkhelawan and he has suggested an amendment which at this stage is devoid of a rationale.

The rationale will certainly help us in guiding even if it is succinct, and we can find ourselves through cooperation to be succinct, to understand why this is being proposed. So if I could just ask for your position on that?

Sen. Singh: I think that Sen. Ramkhelawan, in his contribution, justified these amendments and, therefore, we are taking this as the crystallization of his views arising out of this contribution in the debate. I do not know if there is an—in our discussions with the minority leader that is what was agreed upon.

Sen. Ramkhelawan: Mr. Chair, since we are not going to really debate the rationale for amendment at this point in time, it really does not make that much sense [*Desk thumping*] to do that. Let us read into the record the amendments and then move forward on the basis that we are going to get a commitment from the Leader of Government Business because we are not going to take it to a vote anyhow.

Mr. Chairman: What I propose we do, in terms of moving forward, is that when there are clauses in relation to which amendments are put on the floor, we will have those amendments read into the record. My understanding is that an undertaking will be given that within a six-month period there will be produced to this Senate an amended Securities Bill which will incorporate these amendments insofar as the Government consider that they fall within the parameters of a Government policy, and we will come back to this Senate and have an opportunity to debate it all again.

Sen. Ramkhelawan: Chair, it is that we are talking about six months from today's date or six months from the day of proclamation?

Mr. Chairman: From the proclamation is what I understood.

Sen. Ramkhelawan: Yes! I wanted get that clear.

Sen. Al-Rawi: It was from what?

Mr. Chairman: From the proclamation date.

Sen. Al-Rawi: And, Mr. Chairman, I am only adding one small addendum to that. Insofar as three persons this evening, Senators Prescott SC, Deyalsingh and I reserve the right to raise certain issues in the committee stage, I would just want to know that the Government is open to us sending in those contributions for consideration at the later date, the six months from proclamation. So we are giving you notice and we are just marking the spot that we will be sending those in as they may arise so that we may use time efficiently.

Mr. Chairman: And I would just suggest the earlier you do that the better.

Sen. Al-Rawi: Of course.

Mr. Chairman: So if we could proceed, I would put the—

Sen. Al-Rawi: Mr. Chairman, the last thing that I will ask by way of a request which will allow us to move smoothly so as to facilitate the consideration in the six-month position: if the Leader of Government Business could ensure that we receive a Microsoft Word version of the Bill, it would help us to put marked up comments and interlines, respectively, much faster. So, I personally would work much faster if I had a Microsoft Word version in the time to make the amendments because interlining manner in which we do it is time consuming. So for the next six months if we could just receive a Microsoft Word version of it, it will be sincerely helpful.

Sen. Ramlogan SC: "You go get ah microhard and ah Microsoft." [*Laughter*]

Sen. Singh: That is not an issue. We can provide that.

Sen. Prof. Ramkissoon: Mr. Chair, I was just wondering if you could extend that facility to other Senators.

Mr. Chairman: Oh, absolutely!

Sen. Singh: It will be circulated to all Members of this honourable Senate.

Mr. Chairman: Any Senators wishing to present amendments after today that have not circulated it in writing as yet may do so. We just ask that they do it in good time so that when this Bill is brought back—

Sen. Dr. Balgobin: So we do not have to wait long?

Sen. Ramlogan SC: Chair, I just want to say for the record that the Government remains receptive to all ideas and suggestions and recommendations, and to the extent that Prof. Ramkissoon or any others may which to submit anything in writing now, or subsequently, it will inform our deliberations in terms of the by-laws and coming back and we are not adverse at all to receiving those. So if it is that Senators may have ideas that they feel they want to flesh out and crystalize as Sen. Al-Rawi indicated, to put it in writing and send it to us, we are open and receptive to that and we can move forward with that understanding.

Mr. Chairman: I only ask that they do it in a timely way—

Sen. Ramlogan SC: Indeed! Indeed!

Sen. Dr. Tewarie: Yes! There needs to be a deadline date like January 30th or whatever.

Sen. Ramlogan SC: I think Sen. Al-Rawi has indicated he will do so promptly and by January 1st or December 25th we will probably get his.

Sen. Al-Rawi: [*Inaudible*] [*Laughter*]

Mr. Chairman: Sen. Prescott SC.

Sen. Prescott SC: Chair, may I seek one further assurance that

proclamation means no implementation of any aspect of the Bill? It is probably expected, but—for example, I would not want to see the commissioner in place by the time we get back here in January. Forgive me, but I think it is something we need to put on the table.

Sen. Ramlogan SC: But no, I mean—let me see if I understand you. If we proclaim, we proclaim the Bill in its entirety. If you could clarify what you—

Sen. Prescott SC: Having proclaimed it, you are now empowered to bring into reality, into fruition, any aspect of it that you think may not be challenged when we come back here. For example, the Minister setting up, establishing the commission—the new look commission under the Act. So I am saying, can you tell us that there will be no implementation of any aspect of this Bill—whatever is implementable—so that when we come back in a month, two, three—

Sen. Ramlogan SC: No, you cannot do that. I would not be prepared to give such an undertaking because once you have proclaimed it in law it become part of the corpus and body of laws of Trinidad and Tobago. Once proclaimed it is part of the laws and the Executive would be entitled to act upon it.

7.45 p.m.

Sen. Ramlogan SC: What we are saying is that we are giving a firm undertaking and putting it on the record that the suggestions and the proposed amendments which come today, or in or subsequently in writing, will inform our deliberations in the drafting of the relevant by-laws and regulations as we go forward, and we will come back in six months.

Sen. Prescott SC: One understands what the hon. Attorney General is

saying, but if an amendment much later, ex post facto, addresses one of the aspects of the Bill that you have put in effect, are we not going to be faced with a catch 22?

Sen. Singh: No, no, you cannot be anticipating.

Sen. Ramlogan SC: Well, you see, it is a question of anticipatory breach. I mean, I would much rather address that question if we receive the amendment and also deliberate on it to see that it is something that we agree to, and we come back and we cross that bridge when we come to it. But bear in mind as well that it will take time to implement the provisions.

Sen. Prescott SC: I think so, we have been there.

Sen. Ramlogan SC: Yes, sure.

Sen. Al-Rawi: If I may also add that insofar as by-laws bear quite a bite of this Act, one would not assume that those by-laws could be produced immediately otherwise they would have been here.

Sen. Ramlogan SC: Absolutely.

Sen. Al-Rawi: So I think that that combined with section 53 of the Act should give us a little breathing room and that is the understanding that I have.

Sen. Ramlogan SC: Yes. I mean, we would want as well to take the suggestions in the context of our ongoing discussions with IOSCO to be sure as well that we do not anything that would run afoul of them. We have had the problem in the past, you should recall, during the debate with the FIU amendment that we had to come to reverse things we had put in at this level because it ran afoul of international obligations and the governing body FATF did not like it.

So it is part of a process, but we are inching forward slowly but surely

towards the finish line.

Mr. Chairman: As part of this process, what my Clerk tells me, it would be more efficient when we present your amendments, you present it as comments on the Bill rather than amendment. Otherwise, what is going to happen if you present it as an amendment is that we are going to have to vote against it and that on the record does not look very good.

So, if you present it as a comment, it is a comment that goes on the record but we do not actually put it to the vote. What we will put to the vote is the existing provision that appears in the draft before us—the Bill before us. Is that understood?

Sen. Prescott SC: Mr. Chairman, I regret having to intervene again. But the Bill provides for the Securities Act to be repealed immediately upon the proclamation of this, is it proposed that it will be or are we going to remove that section out so that there would be an interregnum when we have no Securities Act?

Mr. Chairman: Well, this will be the Securities Act as I understand it.

Sen. Prescott SC: And therefore it can be implemented. I am concern; I am quite concerned.

Mr. Chairman: Yes, it will be. We cannot have a lacuna between now and the next six months with no securities legislation. I think that would be unacceptable I imagine.

Sen. Ramlogan SC: If you look at clause 170 as well, there is provision for the transition.

Sen. Bharath: For the commissioners to continue to serve their term—the current commissioners. I think also, Mr. Chairman, it would be necessary for the Act to be proclaimed for us to be considered to be listed.

Sen. Dr. Tewarie: That was a vital part of the argument.

Sen. Ramkhelawan: Mr. Chairman, if I may, since these are comments, rather than wait until we get to the particular section, why do we not read out our entire suggested comments in one place rather than having to go through the process.

Mr. Chairman: That is what I would prefer. It had been suggested to me that we could not do that. But this would be comments on the Bill and each of you who have circulated amendments—you have done clause 4?

Sen. Ramkhelawan: Yes.

Mr. Chairman: Can we have your comments on clause 45.

Sen. Ramkhelawan: May I just complete mine.

Mr. Chairman: Will do.

Sen. Ramkhelawan:

Clauses	Extent of Amendments
45	Insert at the end, the words "An order from the Commission shall be made and communicated to the securities exchange within a reasonable period."
60(1)	Insert after the word "who" the word " knowingly"
69(1)(d)	Insert after the words "security holder" where they first appear the words "whose securities are registered in"
	Delete and substitute:
69(2)	"Subsection (1) is not available to an approved foreign issuer if, as at the end of the last financial year of the approved foreign issuer, the number of voting equity securities of the issuer held beneficially and of record, directly or indirectly, by residents of Trinidad and

	Tobago exceeded twenty per cent of the voting control for outstanding securities of the issuer on such date or such other per cent as may be prescribed.”
70(1)(b)	Insert at the beginning the word “ knowingly”
91(3)(b) & (c)	Delete
95(c)	Insert at the beginning the word “ knowingly”
98(1)(b)	Delete and substitute the following: “(b) he discloses in writing to any such person all conflicts of interest , in respect of the security or the issuer of the security, including any conflict of interest arising from-“
98(2)	Delete
99	Insert after the words “person who” the words “knowingly and recklessly”
107 (1)	Delete and substitute the following: “107. (1) A broker-dealer shall establish and keep one or more client accounts, in a manner that the client funds are not co-mingled with those of the broker-dealer as principal, in a financial institution or unit trust or mutual fund or such other accounts as may be prescribed into which it shall, upon receipt pay—”
107(4)	Insert after the words “broker-dealer that” the words “knowingly and recklessly”
139(6)	Insert before the words “total public” the words “proportionate”

140(2) Delete and substitute the following:

"(2) In an action brought under this section or section 139, the purchaser bringing such action should establish that he was in fact influenced by the misrepresentation or that he relied on the misrepresentation in purchasing the security."

151 Delete and substitute the following:

Power to obtain information and documents, to apply capital requirements and to assure consolidated supervision

"151. (1A) Notwithstanding any other written law, if the Commission considers it necessary or desirable for the purposes of performing or exercising its functions, powers, or duties under this Act or to assist in the administration of securities laws or the regulation and supervision of the securities industry in another jurisdiction it may, by written notice, served on any person, require the person—

(a) to supply to the Commission, within the time and in the manner specified in the notice, any book, record, document, information or class of information specified in the notice; or

(b) to produce to the Commission, or to a person specified in the notice acting on its behalf in accordance with the notice, any book, record, document, information or class of information

specified in the notice (within the time and in the manner specified in the notice); or

(c) if necessary, to reproduce, or assist in reproducing, in usable form, information recorded or stored in any book, record, document or class of documents specified in the notice (within the time and in the manner specified in the notice); or

(d) to appear before the Commission, or a specified person, at a time and place specified in the notice to provide information, either orally or in writing, and produce any book, record, document or class of documents specified in the notice.

(e) to prepare and submit to the Commission Capital adequacy and solvency requirements and capital ratios as shall apply—

(i) to registrants on an individual basis, and on a consolidated basis to include where applicable, all domestic and foreign—

(i) subsidiaries;

(ii) companies in which the registrant is a significant shareholder; and

(ii) on a consolidated basis, to a holding company of the registrant and all of the domestic and foreign members of the

financial group that the holding company controls.

(1B) The Commission shall make or cause to be made such examination and inquiry into the affairs or business of each—

(a) registrant;

(b holding company;

(c) subsidiary of a registrant in Trinidad and Tobago; and

(d) subsidiary and branch of a registrant located outside Trinidad and Tobago,

as is considered necessary or expedient, for the purpose of satisfying the Commission that the provisions of this Act are being observed and that the registrant, holding company or subsidiary is in a sound financial condition.

(1C) The Commission shall make or cause to be made such examination and inquiry into the affairs or business of a member of a financial group if, in the opinion of the Commission, such examination and inquiry is necessary to assess any risk that such member may pose to the registrant.

(1D) For the purpose of determining the condition of a registrant and its compliance with this Act, the Commission may call upon any present or former auditor, director, officer of the registrant or holding company, or of any controlling shareholder, significant shareholder or

affiliate of the registrant or holding company to provide such information that is related to or may affect—

(a) the financial condition of the registrant or other member of a financial group; and

(b) any transaction between the registrant and holding company or controlling shareholder and any member of its financial group,

in order to be satisfied that the registrant is in compliance with the provisions of the Act.

(1E) Every registrant and holding company shall deliver to the Commission within such period as may be specified by the Commission and in such form as the Commission may from time to time approve returns containing statements of—

(a) assets and liabilities;

(b) earnings and expenses; and

(c) any other financial data that the Commission may require.

(1F) The Commission may apply reporting requirements under this section—

(a) to a registrant on an individual basis, and on a consolidated basis to include where applicable, all the domestic and foreign—

(i) subsidiaries of the registrant;

(ii) companies in which the registrant is a significant shareholder; and

(b) on a consolidated basis, to a holding company of the registrant and all of the domestic and foreign members of the financial group that the holding company controls.

(1F) Every registrant and holding company of the registrant shall within three months after the close of its financial year, submit to the Commission financial statements of all its operations both domestic and foreign as the case may be, prepared in accordance with international accounting standards and duly audited by a certified auditor, on an individual basis and on a consolidated basis, as determined by the Commission in accordance with sub section (1E)(ii).”

Mr. Chairman: Thank you, Sen. Ramkhelawan. Sen. Drayton, you have circulated amendments?

Sen. Drayton:

Clauses	Extent of Amendments
11(1)	A. Insert after subparagraph (d) the following new subparagraph:
	“(e) Was a Director, Chief Executive Officer or Financial Controller of a company declared bankrupt in accordance with the Law of Trinidad and Tobago or elsewhere.”
	B. Renumber subsequent subparagraphs accordingly.

20(1) Insert after the word "Parliament" the words:

"within one month of receipt of the report"

57 A. Insert the following subclause after subclause 57(1):

"(2) The Commission shall make public a Report every quarter on warnings, reprimands and censures against market actors."

B. Renumber subsequent subclauses accordingly.

Mr. Chairman: Any other Senator wants to make comment by way of amendments or shall we proceed to the Bill? Sen. Al-Rawi.

Sen. Al-Rawi: Mr. Chairman, I will just give in summary a few of the clauses that I think are in need of review, or at least inspection, at least for this initial purpose, they include clauses 82(a)(ii), 90, 141, 142, 143, 144, 146, 148, 149 and 150. If I may, just by way of example, for instance, show in section 82, provides at subparagraph (2)(a)(i) that:

"The Commission shall refuse to issue a receipt for a prospectus if—

(a) the prospectus or any document filed therewith—

(i) contains a misrepresentation;"

However, if you were to look for instance at clauses 141 and 142 where we have penalties for misrepresentation, there is an inconsistency and perhaps potential liability to the SEC itself for allowing something—once you issue a receipt it is almost an implication that there is no misrepresentation.

8.00p.m.

So, therefore, there is a shared liability protective, and that does not fall within the exception of officers, employees or agents acting in good faith. So, there are potential inconsistencies between clauses 82, 140(1) and 140(2)

by way of example.

Also clause 142, the election by the use of the word "or" with the elections of rights, either damages or rescission with respect to insider trading, even though clause 145 provides the non-derogation clause, it seems to be a bit limiting. So, the question is, why insert clause 145 in that context? If I may also point out at clause 144 by way of example again:

> The commission may apply to a judge of the High Court for leave to bring an action under this part in the name and on behalf of an issuer or security holder, and the judge may grant leave on any terms that he considers proper if the judge is satisfied…

And this is the bit:

> (a) the commission has reasonable grounds for believing that a cause of action exist under this part.

So you are allowing the right to sue somebody, if you think you have a cause of action which is certainly not the law. You must have a cause of action to enter into court and an application can be made that you have no cause of action and to strike out your action. So—I am sorry, I am hearing learned Senior Council opposite me making loud comments.

Sen. George: I am making my comment, yes.

Sen. Al-Rawi: Okay. I am making observations hon. Senator in the limited context of the time frame that we have. I am saying that we want to look at some of these things, they are not proposed amendments, but we just want to look at some of them because they run into some confusion. There is also the aspect of reasonableness in clause 146(3):

> Where contravention of guidelines referred to shall not constitute an offence…

But if you work through the logical process of refusing to comply with a compliance directive by way of guidelines, it does in fact constitute an offence. So, there is a bit of inconsistency potentially there.

Then we want to look at clause 149 in the reasonableness of the time fame of 30 days to make representations. There are also some stay issues where offences are provided that it shall be an offence to do something, for instance, to take a step or to disclose information but there is not the authority to apply for leave per say. What I propose to do is to provide the other comments in the marked-up version and commentary version upon the document that will be circulated to all Senators, so that I could explain the rationale with it. I just wanted to put a few of them on the record insofar as we have adopted a different course from the usual one this afternoon. Thank you.

Mr. Chairman: Thank you. All right. So, Senators will now—sorry, Sen. Prescott?

Sen. Prescott SC: Mr. Chairman, forgive my reticence but could somebody please explain to me patiently what transpires hereafter? I have made observations to some people about some things that I think are pertinent. I have made observations about some of the comments/amendments what have you, that I think although they are worthwhile, need themselves to be refined. I do not think it is worth my while to sit here now to try to set them down on the record only for the purpose of saying that I spoke at the committee stage.

So, I need to know if I remain silent, and I have some observations, are we going to reassemble in committee stage, go to a new joint select committee, come here with an amended Bill which would have all of the

comments? I am unclear as to what we are going to do if all we are doing today is allowing Members of the Senate to read things into the record to say I told you so, we might be wasting our time. I do not know why I feel diffident about this, but it does not seem to me like a proper process for a Parliament to be engaging in.

Sen. Prof. Ramkissoon: Mr. Chair, I want to endorse the sentiments by my colleague here. I am not sure how we are proceeding. How are we going to deal with major issues of governance, too much power in the hands of the Minister? How are we going to deal with these issues? How, when and where?

Sen. Dr. Tewarie: Could I? The procedure as I understand it—we are adopting today—is that we are trying to really give all Members of this Senate who are uneasy with this particular version of the Bill, the opportunity to articulate the kinds of amendments they would like to see, or express their unease about particular clauses as Sen. Al-Rawi just did, so that that becomes part of the record of this session.

Senators have also been given the assurance by the Attorney General that they can send in written documents which indicate either their unease, suggested amendments or concerns that they might want to raise on the Bill. All of this will be taken into account in the redrafting of the Bill with amendments that are in keeping with Government's policy. So, the Government will consider, but I mean it must conform to what is its philosophical position and, therefore, the legislation that derives out of that, for the role of the SEC in this process at that time. Because I understand the Attorney General to say that this amended version will be shared. At that time Members will have, I suspect, an opportunity to comment on what

version is coming to the Senate and the House. Then we bring the Bill to Parliament in the amended version together with the regulation, that is as I understand it. I may not be correct but that is what I understand to be the process from all the discussions that I have heard.

Sen. Prescott SC: Chair, in the event that Sen. Dr. Tewarie is correct. It does suggest to me that there are parts of this legislation that are going to be dealt with privately as though behind the President's Chair. Because I have written a comment, somebody somewhere sits in a room and says I will have nothing to do with it and it disappears. We cannot make legislation in our private chambers like that.

Mr. Chairman: As I understand it, you will have the opportunity when the Bill comes back to this Senate. Anything that was not accepted to represent your position all over again and that opportunity will still be given to you, is my understanding of it. Therefore, you have two bites of the cherry, if you like. You have today, you have three if you like another opportunity sometime within a reasonable time frame to write in. Then this Bill will ultimately come back before this Senate, and we will go through the entire process again. We will have a debate. We will go into committee and will agree with the amendments.

Sen. The Hon. Bharath: Mr. Chairman, essentially it will be a new Bill. It would be Securities (Amdt.) Bill, 2013 that would be debated in its entirety. So, you would have the opportunity to discuss—[*Interruption*]

Sen. Prescott SC: Sen. Bharath you are beginning to make me feel comfortable. We will in 2013 be looking at the Securities Bill Amdt. and I can then produce my amendments. I do not need to send them in this private caucus thing. I can then deal with that as amended and say, here are my

proposals for amendment to that Bill. In the meantime—[*Interruption*]

Mr. Chairman: You can make new amendments all over again, because the clauses that will appear in that Bill may not reflect these amendments.

Sen. Prescott SC: Very well.

Mr. Chairman: So, you certainly will have that opportunity. And an opportunity to vote on it in terms of a committee stage and a whole debate all over again.

Sen. Prescott SC: So that at the end of the process this evening, no doubt, Senators are not going to be invited to vote on each of these clauses?

Mr. Chairman: We will put the clauses en masse as it were from 1 to 170 or whatever. We will do it in two blocks. It is what is proposed.

Sen. Prescott SC: Very well, Sir. I will consider my position. Thank you.

Mr. Chairman: We will now propose to put the clauses before for consideration and vote.

Clauses 1 to 100.

Question proposed: That clauses 1 to 100 stand part of the Bill.

Question put and agreed to.

Clauses 1 to 100 ordered to stand part of the Bill.

Sen. Prescott SC: May I record an abstention in my case.

Mr. Chairman: Sure. We record an abstention by Sen. Prescott.

Clauses 101 to 172.

Question proposed: That clauses 101 to 172 stand part of the Bill.

Sen. Drayton: Abstained!

Sen. Prescott SC: And I would like to record an abstention.

Mr. Chairman: I did not quite hear you Senator?

Sen. Prescott SC: I would wish to record an abstention if it pleases you.

[*Senators raise their hands*]

Mr. Chairman: Sen. Prof. Ramkissoon, Sen. Dr. Armstrong, Sen. Dr. Balgobi,Sen. Drayton and Sen. Baptiste-McKnight have abstained. Is that correct?

Question put and agreed to.

Clauses 101 to 172 ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

Bill reported, without amendments.

The Minister of Trade, Industry and Investment (Sen. The Hon. Vasant Bharath): I now beg to move that the Bill be now read a third time and passed.

Sen. Hinds: For the time being.

Question put and agreed to.

Mr. President: This Bill requires a three-fifths majority. Sen. Ramkhelawan you wanted to—?

Sen. Ramkhelawan: Mr. President, if I may just make a quick comment. We were expecting to get on the record a clarification, and a commitment from the Leader of Government Business before—[*Interruption*]

Mr. President: Absolutely. Is it that you want to have that undertaken before we put the question? So, Leader of Government Business, if you would put an undertaking before us formally?

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I want give this honourable Senate the undertaking, that the comments proposed by Sen. Subhas Ramkhelawan and

Sen. Helen Drayton and read into the record, together with other comments which will be proposed by other Senators, including Sen. Al-Rawi, will be considered by the Government and will return to this honourable Senate within six months with the relevant by-laws and amendments as appropriate from the date of proclamation.

I also want to give a further undertaking that I will provide this honourable Senate with an update on the progress of the aforementioned matters, within three months of proclamation through a statement to this Senate. [*Desk thumping*]

8.15 p.m.

Mr. President: This Bill requires a three-fifths special majority. The Clerk, therefore, will now conduct a division.

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

The Senate divided: Ayes 22

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Moore, Hon. C.

George, Hon. E.

Karim, Hon. F.

Tewarie, Hon. Dr. B.

Bharath, Hon. V.

Mohammed, Hon. J.

Moheni, Hon. E.

Oudit, Mrs. L.

Maharaj, Hon. D.

Ramnarine, Hon. K.

Lambert, J.

Burke, Archbishop B.

Beckles, Miss P.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Wheeler, Dr. V.

The following Senators abstained: S. Ramkhelawan, Mrs. C. Baptiste-McKnight, Mrs. H. Drayton, Dr. R. Balgobin, Prof. H. Ramkissoon, E. Prescott SC, Dr. J. Armstrong.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. President: Hon. Senators, what I have asked my Clerk to do, given that we are likely to take a break until next year and people may not be paying very much attention to this Bill during this interim period, is that we would circulate, as we always do, the comments made as reported in *Hansard* to each of you with a reminder that you are entitled to submit, for consideration by the Government, further amendments.

We will also, in terms of the time period before the undertakings take effect, send out reminders relative to those time periods so that we would keep within the milestone we have set ourselves and, hopefully, when we come here again within six months, we will be better prepared to have a

debate and to pass the eventual legislation. Thank you very much.

ADJOURNMENT

(Christmas Greetings)

The Minister of the Environment and Water Resources (Sen. the Hon. Ganga Singh): Mr. President, I beg to move that this Senate do now adjourn to a date to be fixed—

Hon. Senator: What about Christmas greetings?

Sen. The Hon. G. Singh:—but before I do so, I want to take this opportunity, on behalf of the Government side, to wish the national community and the

hon. Senators in the Opposition and on the Independent bench all the best for the season and may they enjoy the family, spirituality and healthy communal activities during this season.

Before I do so, I would no doubt invite my colleagues on the Opposition and Independent benches, the leaders, to join me in like fashion.

Sen. Shamfa Cudjoe: Thank you, Mr. President. On behalf of the members of the Opposition bench in this House, I, too, would like to join in wishing the national community a Merry Christmas as we prepare to celebrate the birth of the Christ child.

Now Christmas represents different things to many of us, but for the Christian community it symbolizes God sending his son to earth to be with us, to share in our joys and in our sorrows. To me, Christmas is a time of resilience and a time of hope where we can celebrate goodness over evil, truth over lies and light over darkness.

For the national community, I hope that the light of Christmas stays with us throughout the new year. For Christians, while we may celebrate the

holiness and the birth of the Christ child, the other religions also enjoy the Christmas season because it may mean different things to them also.

For some of us, especially in Trinidad, it represents the beginning of the carnival season and you may hear more soca than you hear Christmas carols; but I think we all enjoy the food and the music, the "paranging" and all that kind of things. For me, I enjoy the gift giving and receiving because in the story of Christmas, if you really understand the Christmas story, when the people heard about the birth of the Christ child, they came bringing whatever they had. So this is a time for the haves to give to the have-nots; the fortunate to give to the unfortunate; the powerful to help the weak, and I want to encourage all of us that we use whatever resources we have to bring some sort of light or some kind of happiness to those who do not have.

In the Christmas story, there was the little drummer boy who said, "I have nothing to give, but I will play for you." The three kings brought gifts; the wise men came and they brought counsel and comfort and we, as the wise men, the leaders of this nation, I think that we should do all within our power to bring counsel and comfort to the national community in whatever ways we can, even if it is developing legislation to the best of our ability. That said, I would really like to see, for the new year, that we do what we are supposed to as it relates to bringing the necessary legislation to bring some comfort to the national community.

Recently, I read in the *Express* about the attacks on women at this time. I know they say there is a season. I do not know if this year it is the Christmas season, but I read about a woman from Arima, her name is Karen Lara, she is 22 years old; and last week a woman from Fyzabad, she is 32 years, a mother of four and her name is Danwatee Rampersad. I am

wondering, for those families, what kind of Christmas they are having. We must be reminded to do what is best within our power to bring joy to those families also, even if it means bringing the necessary legislation.

Last year, this Government would have promised us, in Tobago, to have the hospital delivered by Christmas and we did not receive it; but we know that this year we are going to receive our Christmas gift and even though we receive it late, it is going to be worth the wait when we let the PNM into the Assembly. [*Desk thumping*]

With that said, Mr. President, I want to wish everybody a happy and holy Christmas and I hope that we do the best in the new year to bring peace, prosperity and everything that is good and everything that is wonderful to this nation. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Mr. President, I would also like to join my colleagues in wishing the national community a holy and happy Christmas season. I know that today we did experience a rather bizarre session with regard to the legislation that was before us.

Let me share with the national community, on this occasion of the holiday season, that I have experienced camaraderie and respect most times from all my colleagues in this House— **Sen. George:** All the time.

Sen. S. Ramkhelawan: I want to assure the national community that, no matter what they see, there is an absence of malice in this House and that we are working all together to do what is in the best interest of the nation.

To the national community, I want you to make every effort in this time of revelry to be safe—safe on the roads—and to ensure that you not only have a holy and happy Christmas, but that we are all here to celebrate the new year in health, in wealth and in happiness.

Thank you, Mr. President.

Mr. President: Hon. Senators, I would like to join with the Senators who preceded me in wishing each one of you a happy, holy and peaceful Christmas; and, of course, to the national community that they too might experience a happy, holy and peaceful Christmas. It is certainly my hope; not that there will only be an absence of malice, but that there will be peace and goodwill shared among all persons at this time of Christmas.

Therefore, I wish all of you well. I wish you prosperity and success in the new year as well because I expect that I will not see many of you before then.

Sen. The Hon. G. Singh: Mr. President, I also want to take the opportunity to wish the Clerk of the House, staff, [*Desk thumping*] support services, the Marshall, the protective services and their families all the best for the season. They have done yeoman work in support of this institution. [*Desk thumping*]In order for us to enjoy the festivities, I beg to move that this House do now adjourn to a date to be fixed in early January, 2013.

Mr. President: Before I actually put the question, I am told to inform you that there is dinner served when you leave here; and to remind you that the farmers' hampers are still awaiting many of you. We hope that you do not leave it here over the season and that you can arrange to take it with you.

Question put and agreed.

Senate adjourned accordingly.

Adjourned at 8.28 p.m.