

HOUSE OF REPRESENTATIVES*Friday, February 17, 2012*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Mr. Speaker: Hon. Members, I have received communication on behalf of the Member for Port of Spain North/St. Ann's West who has asked to be excused from the sitting of the House today, Friday, February 17, 2012. I have also received communication from the Member for St. Joseph who has asked to be excused from the sitting of the House today, Friday, February 17, 2012. The leave which these Members seek is hereby granted.

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, by mutual agreement with the Opposition, we have asked that the questions/answers be deferred.

The following questions stood on the Order Paper:

**Prime Minister's Official Visit to India)
(Details of cost Incurred)**

- 33.** Could the Prime Minister identify:
- a) All ministries, agencies and other sectors of Government, including the state enterprise sector, that incurred costs in relation to the Prime Minister's official visit to India from January 2—15, 2012?
 - b) The total cost by each Ministry, Agency and State Enterprise that expended funds towards the official visit to India?
- Prime Minister's Official Visit to India)
(Number of Persons who Travelled)**
- 34.** Could the Prime Minister state:
- a) The total number of persons, government officials, as well as non-government officials who went on the official visit to India?
 - b) The names of all persons who went on the visit and their designations?

- c) If public funds were expended on any such person, the total amount associated with the participation of each such person? [*Ms. D. Cox*]

**Prime Minister's Award of Senior Counsel (Silk)
(Details of)**

35. Could the Prime Minister state:

- (a) With respect to the award of Senior Counsel (silk) status to the Prime Minister, what was the date of the submission of the application by the hon. Prime Minister to the Attorney General for consideration of the award of Senior Counsel?
- (b) Did the Attorney General consult with the Chief Justice with respect to this application as required by the published conditions laid down in the *Trinidad and Tobago Gazette*?
- (c) Did the Attorney General have any further consultations with any other bodies/individuals with respect to the award of silk to the Prime Minister?
- (d) If the answer is in the affirmative, could the Prime Minister as approving officer, give the names of the individuals and/bodies which were consulted in the process? [*Dr. K. Rowley*]

**Award of Senior Counsel (Silk)
(Details of final list of Applicants)**

36. Could the Prime Minister state:

- (a) When was the final list of the Attorney General's recommendations of the applicants for the award of silk submitted to the Prime Minister?
- (b) Were there any name(s) of any practitioner submitted as recommended by the Attorney General to the Prime Minister for which approval was not granted?
- (c) If the answer to (b) is in the affirmative, could the Prime Minister name all such practitioners and give the specific reasons for the non-approval of the award in each case? [*Dr. K. Rowley*]

**Brigadier Peter Joseph
(Details of Dismissal)**

37. Could the Minister of National Security state:

- (a) With respect to the dismissal of Brigadier Peter Joseph as the head of Special Anti-Crime Unit of Trinidad and Tobago (SAUTT), has the

Government of Trinidad and Tobago entered into any sort of settlement as it relates to this matter?

- (b) If the answer is in the affirmative, could the Minister state:
- i) What were the initial circumstances which resulted in the dismissal of Brigadier Peter Joseph as the head of SAUTT?
 - ii) Subsequent to his dismissal, what was the basis of claims made by Brigadier Peter Joseph against the State?
 - iii) The details of the financial and other considerations in the settlement of this matter? [*Dr. K. Rowley*]

Questions, by leave, deferred.

FINANCE BILL, 2012
Senate Amendments

The Minister of Finance (Hon. Winston Dookeran): Mr. Speaker, I beg to move:

That the Senate amendments to the Finance Bill, 2012 listed in the appendix to the Order Paper be now considered.

Question proposed.

Question put and agreed to.

Clause 1.

Senate amendment read as follows:

In subclause (3), insert before the words “Part IV”, the words “Part II (Retiring Allowances),”.

Mr. Speaker: Hon. Members, both Member for Mayaro and Member for Caroni East, you are disturbing the proceedings.

Mr. Dookeran: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Mr. Speaker: Would you like to explain anything?

Mr. Dookeran: This clause was included to establish clarity with respect to the specific incident in which the matter before us is being considered. It is a clause for clarity.

Question proposed.

Question put and agreed to.

Clause 9.

Senate amendment read as follows:

- A. Delete the words “shall continue to be paid such pension” and substitute the words “shall be paid so much of his pension”.
- B. Delete the words “net income” and substitute the words “total income”, wherever they occur.

Mr. Dookeran: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

With respect to clause 9, there was a misuse of the word “net income” when in fact it should have been “total income”, and the Senate suggested that we change it in order to ensure that the right figure was being assigned in the calculation of such benefits. I beg to move.

Question proposed.

Miss Mc Donald: Mr. Speaker, I have question to the Minister. I am looking at the amendment to Part B, deleting the words “net income”, and inserting the words “total income”. I looked at it and thought that the “net income” is what we should be concerned about. I am just telling you my opinion. I thought that the “net income” is what we should be concerned about because I see the “net income” as the purchasing power of the “total income”. The total income is the money income which a person receives, and the “net income”, or disposable, is the purchasing power of that money income or the total income. I thought that the purchasing power or value is what would have been paramount here. So I question this, and if you could provide some explanation as to the switch, please.

Mr. Dookeran: Mr. Speaker, the discussion on this matter suggested that the words “net income” would now have allowed people to arrive at a higher income in order to determine their pension payments. And in order for clarity to ensure that they are not denied what they are receiving at this point in time, the words “total income”, I am advised, was the way it should have been. While I understand your position, because that was a discussion point, it was finally agreed by both the technical people and others, that the words “total income” are the correct words. I beg to move.

Mr. Speaker: Hon. Members, can I have your complete attention. [*Crosstalk*] Please, I am on my legs.

Question put and agreed to.

Clause 13.

Senate amendment read as follows:

In the paragraph (b)(i) insert after the word “volumes”, the word “no”.

Mr. Dookeran: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This word was inadvertently left out in the wording, and was corrected in the Senate, and supported by the technical people. I beg to move.

Question proposed.

Miss Mc Donald: Minister, could you tell me exactly where you are changing; if you could point me to that part.

Mr. Dookeran: (b)(i).

Miss Mc Donald: (b)(i). So you are saying now, for “volumes no greater”. Is that it?

Mr. Dookeran: Yes. That is right.

Miss Mc Donald: All right. Okay, thanks.

Mr. Dookeran: I beg to move.

Question put and agreed to.

Clause 15.

Senate amendment read as follows:

A. In the proposed section 3(2)(b)—

- (i) delete the words “shall be” and substitute the word “is”; and
- (ii) delete the words “not less” and substitute the words “no more”.

B. In the proposed section 3(3)—

- (i) in paragraph (a), delete the words “minimum share capital” and substitute the words “minimum capital base comprising its issued share capital, retained earnings and amounts transferred from such issued share capital or retained earnings to a reserve account,”; and

- (ii) in paragraph (b), delete the words “maximum share capital” and substitute the words “maximum capital base comprising its issued share capital, retained earnings and amounts transferred from such issued share capital or retained earnings to a reserve account.”.

Mr. Dookeran: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

With respect to changing the words “shall be” to “is”, this would give a definite measurement of the action that has to be taken as at the time, rather than “shall be”. With respect to the words “no less” and substitute the words “no more”, this turned out to be an interpretation that was wrong. The idea in the particular clause was that “not less” would not have been the right way of representing this and the word “no more” should be.

With respect to section B, this was done for the sake of removing any ambiguity with respect to the interpretation of the “minimum share capital”. So that the minimum share capital could have been interpreted to mean that the company that has a share capital of more than \$50 million may have been qualified, and the view to remove it and replace it with a very specific clause is to remove any doubt as to the interpretation of the “minimum share capital”. I beg to move.

Question proposed.

Mr. Imbert: Thank you, Mr. Speaker. I had hoped that the Minister would have explained the second part which is much more important, why he is changing the definition of the criteria for qualification as a small and medium enterprise that would enjoy these benefits from “minimum share capital” to “minimum capital base comprising its issued share capital, retained earnings and the reserve account”. Perhaps in the Minister’s winding up on this particular clause you could explain why you are moving from one definition to another.

Mr. Dookeran: Mr. Speaker, there was an issue of ambiguity, and it resulted from the fact that this particular clause would only apply to companies with less than \$50 million of share capital. There was a view as to whether or not that would allow companies that are beyond that to access this new rate, and therefore it was necessary to redefine the words “share capital” to bring in the words “capital base” which would include “share capital, retained earnings and amounts transferred from any such issued share capital or retained earnings to the reserve account”. It was really to prevent—[*Interruption*]

Mr. Imbert: It is a limit?

Mr. Dookeran: Yes. It is limiting. So the tax will only apply, very specifically, now. It was not that it was wrong, it was to remove any doubt as to interpretation in the eyes of the court.

Question put and agreed to.

1.45 p.m.

Clause 16.

Senate amendment read as follows:

In paragraph (j) by deleting the proposed section 58(1) and substituting the following:

“58.(1) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Act, may, notwithstanding anything to the contrary in that law, be taken at any time—

- (a) within three years from the date of the commission of the offence or within twelve months from the date on which evidence sufficient in the opinion of the Board to justify the proceedings come to the knowledge of the Board, whichever period last expires, or
- (b) where the person in question was outside Trinidad and Tobago at the end of the twelve month period referred to in paragraph (a), within twelve months from the date on which the person first arrives in Trinidad and Tobago thereafter.”

Mr. Dookeran: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This is also an amendment that was proposed by the Senate in order to clarify the time frame in which proceedings can take place with respect to prosecution of offences appropriate to that particular clause. It was an attempt here once more to clarify more precisely what was done so it will not leave room for the interpretation of whether it was three years or 12 months.

I beg to move.

Question proposed.

Mr. Imbert: Thank you, Mr. Speaker. You would realize there is noise to my left, behind and in front, even to my right. *[Interruption]* The reason for this is that it is Carnival Friday, and before I came here today—*[Interruption]*—I mentioned to someone that Parliament was sitting on Carnival Friday and immediately the response was, “Those people are not Trinidadians”.

So, since I wish to participate in the Carnival and be a Trinidadian, I would not be very long, but I would ask the Government, whenever you are next coming on Carnival Friday, please, please ensure that it is a matter of great importance. Now, Mr. Speaker—*[Interruption]*—I know he too wants to go to a fete that is why he is getting on. *[Crosstalk]*

Mr. Speaker: Please! Please!

Mr. Imbert: He cannot help it! When one looks at the original clause that was previously amended and is being amended now in the Value Added Tax Act, section 58, it read as follows:

“A complaint for an offence against this Act shall be made within three years from the time when the matter of the complaint arose.”

Now, there was a very good reason for that, it is appropriate to establish a reasonable limitation period for prosecution of offences, complaints, legal action and so on with respect to provisions within law. In the limitation Act, the standard limitation period for civil action is four years. This Government has proved itself to be extremely inconsistent. We debated the Indictable Offences (Amdt.) Bill some time ago, and in that legislation a novel provision was inserted into our law with respect to limitations—which is what this clause is all about—because if you look at the amendment—*[Interruption]*. Mr. Speaker, I know the Members behind me want to go and party, but I intend to educate the Parliament about this clause, could you ask the Members behind me to stop making noise? *[Crosstalk]*

Mr. Speaker: Yes, hon. Members, may I appeal to all Members—all Members—observe Standing Order 40(b) and (c) respectively. When a Member is on his feet silence must be observed. Hon. Member, continue.

Mr. Imbert: I would urge the Minister, do not sit—*[Interruption]*. Would you be quiet! Do not simply accept what your technocrats tell you, because when you do things like this, there are far-reaching implications. What this—*[Interruption]*. Okay, do not accept what people tell you. Okay! Whatever! Whichever place it came from—because this is a rolling, open-ended limitation period.

What you are doing here is that you are saying that at any time in the future, it could be 25 years from now, if the Board of Inland Revenue discovers that someone has committed an offence as trivial as not displaying a VAT certificate in their premises, legal action can be taken against that person. Now, that flies in the face of what this Government has done with the indictable offences (Amdt.) legislation, because in that Bill what the Government did, it limited prosecution for criminal offences, indictable offences, to 10 years after the occurrence of the event. So, we now have a dichotomy; you have a conundrum, where a person can commit serious fraud, a person could embezzle millions of dollars, and if he evades the process of the court for 10 years, he is immune from prosecution, but if somebody fails to display a VAT certificate, as trivial as that, they are in a state of limbo, in perpetuity, because the board can suddenly discover 15 years from now that they did not comply with the law. This is summary jurisdiction. This is not High Court you know, this is Magistrates' Court, so we are talking about minor offences here.

I think it is ridiculous to have a situation where you are saying that 12 months after you discover that somebody has committed a summary offence, as I said, something as trivial as not displaying a VAT certificate, they can be prosecuted. It is simply wrong. It is inconsistent with the policy of your own Government, where you have set a 10-year limitation on serious criminal offences. I am not asking you to deal with this now. I am telling you on the next occasion that somebody suggests something to you, whether it comes from your technocrat, whether it comes from the other place, be careful that you are not being led down the garden path into enacting legislation that makes absolutely no sense, because there is no sense in having an open-ended limitation period for minor offences and a 10-year limitation period for serious criminal offences.

I thank you, Mr. Speaker.

Mr. Dookeran: Thank you, Mr. Speaker. Well, the Member said he was, in fact, querying what is being done, he gave us some advice. I could just point out two things: one is that this provision was, in fact, done after extensive discussions in the Senate itself and, therefore, it was not accepting the technical advice only.

Secondly, you said when we do meet we should meet on—

Hon. Member: Important matters.

Mr. Dookeran: —Friday before Carnival on important matters. May I point out, the reason for us meeting today is because this Bill, having been amended in the Senate, must go into effect as early as possible so that the pension payment

and the NIS could start. That is considered to be extremely important—[*Desk thumping*]
—and I called the meeting on Carnival Friday to make sure that the pensioners are able to be paid their pension. [*Desk thumping*]

Mr. Speaker, I beg to move. [*Crosstalk*]

Mr. Speaker: Members! Members!

Hon. Member: Shame! Shame!

Mr. Speaker: Member for Port of Spain South! Member for Port of Spain South—[*Crosstalk*] Tell me when you all are quiet and ready to proceed.

Question put and agreed to.

Clause 19.

Senate amendment read as follows:

In the proposed subsection (9)—

Delete the word “or” after the word “proceedings” and substitute the word “for”.

Mr. Dookeran: Mr. Speaker, I wish to inform this House that that particular change was interpreted by the Senate to be a typographical change, and the word “or” should have been the proper word, not “for”. I have subsequently been advised that the Senate, in the wee hours of the morning, misinterpreted that to be a typographical error, so, I therefore, propose that we do not agree to clause 19, unfortunately.

Question put and negatived.

Mr. Speaker: Hon. Leader of the House, I think I need you.

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):
Mr. Speaker, I beg to move that this House do now adjourn to a date to be fixed.

Mr. Speaker: Hon. Members—[*Interruption*]—Member for Port of Spain South, I see you are a bit agitated today.

Ms. McDonald: Yes.

Mr. Speaker: May I, before putting the Motion for the adjournment of this House to a date to be fixed, just advise hon. Members that lunch is served at the end of the proceedings of this honourable House, so, I want to advise Members that lunch is available for all of you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 1.58 p.m.