

**SENATE***Friday, May 18, 2018*

The Senate met at 1.30 p.m.

**PRAYERS**[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Paula Gopee-Scoon who is out of the country and to Sen. Daniel Dookie who is ill.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MS. ALISHA ROMANO

WHEREAS Senator Paula Gopee-Scoon is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby

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Senators' Appointment

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appoint you, ALISHA ROMANO, to be temporarily a member of the Senate, with effect from 18<sup>th</sup> May, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Paula Gopee-Scoon.

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 17<sup>th</sup> day of May, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weekes

President.

TO: MS. AYANNA LEEBA LEWIS

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

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, AYANNA LEEBA LEWIS, to be temporarily a member of the Senate, with effect from 18<sup>th</sup> May, 2018 and continuing during the absence of Senator Dookie.

Given under my Hand and the Seal of the  
President of the Republic of Trinidad and

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Senators' Appointment

2018.05.18

Tobago at the Office of the President, St.  
Ann's, this 17<sup>th</sup> day of May, 2018.”

### **OATH OF ALLEGIANCE**

*Senators Alisha Romano and Ayanna Leeba Lewis took and subscribed the Oath of Allegiance.*

### **PAPERS LAID**

1. Annual Audited Financial Statements of National Schools Dietary Services Limited for the financial year ended September 30, 2017. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Report of the Auditor General of the of the Republic of Trinidad and Tobago on the Financial Statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2011. [*Sen. The Hon. A. West*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Telecommunications Authority of Trinidad and Tobago for the year ended September 30, 2012. [*Sen. The Hon. A. West*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Children's Life Fund for the year ended September 30, 2013. [*Sen. The Hon. A. West*]
5. Annual Report of First Citizens Bank Limited for the year 2017. [*Sen. The Hon. A. West*]
6. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sugar Industry Labour Welfare Committee for the year ended September 30, 2003. [*Sen. The Hon. A. West*]
7. Ministerial Response of the Ministry of Health to the Tenth Report of the Public Accounts Committee, Third Session (2017/2018), Eleventh

**UNREVISED**

- Parliament on the Examination of the Audited Financial Statements of the Eastern Regional Health Authority for the financial years 2008-2013. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
8. Ministerial Response of the Ministry of National Security to the Seventh Report of the Joint Select Committee on Human Rights, Equality and Diversity, Third Session (2017/2018), Eleventh Parliament on the Status of the Implementation of the Recommendations of the 2015 Report on the Examination of Programmes and Services which provide Support to Victims of Domestic Violence. [*Sen. The Hon. F. Khan*]
  9. Ministerial Response of the Ministry of Social Development and Family Services to the Seventh Report of the Joint Select Committee on Human Rights, Equality and Diversity, Third Session (2017/2018), Eleventh Parliament on the Status of the Implementation of the Recommendations of the 2015 Report on the Examination of Programmes and Services which provide Support to Victims of Domestic Violence. [*Sen. The Hon. F. Khan*]
  10. Ministerial Response of the Ministry of Public Administration and Communications to the Seventh Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA), Third Session (2017/2018) Eleventh Parliament on an Inquiry into the Efficiency and Effectiveness of the Public Service Commission. [*Sen. The Hon. F. Khan*]

## **JOINT SELECT COMMITTEE REPORT**

### **(Presentation)**

### **Social Services and Public Administration**

### **Adverse Health Effects of Fireworks**

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**Sen. Khadijah Ameen:** Thank you, Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Fifth Report of the Joint Select Committee on Social Services and Public Administration, Third Session (2017/2018), Eleventh Parliament on an enquiry into the adverse health effects of fireworks.

### **URGENT QUESTIONS**

#### **Pepper Spray**

#### **(Legalization of)**

**Sen. Wade Mark:** To the hon. Minister of National Security: Does the Government intend to legalize pepper spray in Trinidad and Tobago?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** [*Desk thumping*] Thank you very much, Madam President. Madam President, based on discussions between the Minister of National Security and the Commissioner of Police, the Trinidad and Tobago Police Service is in fact conducting assessment and analysis of the use of non-lethal responses including pepper spray. On completion of those investigations and analysis, recommendation will be submitted and dealt with accordingly.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, in light of the urgency of this situation, particularly affecting our womenfolk, would the Minister want to advise this honourable House, what time frame he anticipates for the submission of that report, Madam President?

**Madam President:** Minister of National Security.

**Hon. Maj. Gen. E. Dillon:** Madam President, the question of non-lethal use of weapons has been always there, and I am sure that we would do it in a shorter time frame than the last administration.

**Madam President:** Next question, Sen. Mark

**Tobago House of Assembly**  
**(Zakiah Lorde's Medical Expenses)**

**Sen. Wade Mark:** Thank you, Madam President. To the hon. Prime Minister: Having regard to the incident in which a falling tree branch struck a five-year-old Tobago student, can the Prime Minister indicate if the child's medical expenses will be met by the Tobago House of Assembly?

**Madam President:** Minister in the Office of the Prime Minister.

**The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy):** [*Desk thumping*] Thank you, Madam President. Madam President, I join the Tobago House of Assembly in expressing deep regret over this incident. Five-year old Zakiah Lorde is presently being cared for in the intensive care unit of the Scarborough General Hospital. The cost of her care forms part of the operating budget of the hospital.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, could the hon. Minister indicate whether any investigation will be conducted into this whole matter and to determine who was liable, who was responsible?

**Madam President:** Sen. Mark, I will not allow that question. Next question, Sen. Mark.

**Corporal Punishment on Students**  
**(Action Taken Against Teacher)**

**Sen. Wade Mark:** To the hon. Minister of Education: Can the Minister indicate if any action has been taken in relation to reports that a teacher in South Trinidad inflicted corporal punishment on his students?

**Madam President:** Leader of Government Business.

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**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** [*Desk thumping*] Thank you very much, Madam President. Madam President, the incident in which it was alleged that a teacher in South Trinidad inflicted corporal punishment on his students was brought to the attention of the Ministry of Education. A school supervisor has been assigned to investigate the matter and to submit a report following which appropriate follow-up action will be taken if necessary.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, can the hon. Minister indicate whether a system is in place to monitor the behaviour of teachers particularly as it relates to the use of corporal punishment in schools in Trinidad and Tobago?

**Madam President:** Minister.

**Sen. The Hon. F. Khan:** Madam President, there is a system of supervision to teachers through the school supervisors, and that system is already in place, and matters are handled on a case-by-case basis.

**Madam President:** Next question. Sen. Haynes.

### **Primary Schools Direct Funding**

#### **(Receipt of)**

**Sen. Anita Haynes:** To the Minister of Education: Based on reports by TTUTA that primary schools have not received direct funding for the current academic year and are unable to purchase basic school supplies and toiletries, can the Minister indicate when this will be rectified?

**Madam President:** Leader of Government Business.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, for fiscal year 2018, the Ministry of Education has remitted funds to the boards of management of denominational schools. Payments

for terms one and two with respect to grants to assisted primary schools for school equipment and upkeep of school premises. Payments for requisite and office stationery supplies remain outstanding due to the non-receipt of releases. Upon the receipt of releases, which I understand is imminent, this matter will be rectified.

For government primary schools with respect to office stationery and supplies including toiletries, the Ministry has processed and remitted funds to principals of approximately 50 per cent of the allocation received for this academic year.

**Madam President:** Sen. Haynes.

**Sen. Haynes:** Given that we are half way, well almost to the end of the academic year, is any consideration being given to reimbursing teachers who would have made purchases for school supplies?

**Madam President:** Leader of Government Business.

**Sen. The Hon. F. Khan:** Not to my knowledge, but I think some appropriate arrangement will be made when the releases are finally made.

**Madam President:** Sen. Haynes.

**Sen. Haynes:** And are there any preventative measures that will be put in place to avoid this occurring in the academic next year?

**Madam President:** Leader of Government Business.

**Sen. The Hon. F. Khan:** Well the preventative measures are already in place. All these supposed hitches in releases obviously have to deal with the Government's cash flow. And for those of you who have been following the mid-year budget review, we do not expect to be experiencing these acute cash-flow problems in the next fiscal year.

**Madam President:** Next question. Sen. Haynes.

### **Prisoners with Contraband**

**(Preventative Steps Taken)**

**Sen. Anita Haynes:** Thank you. To the Minister of National Security: In light of a recent video showing remanded prisoners in a cell with contraband items, can the Minister advise as to how this happened and what is being done to prevent a reoccurrence?

**Madam President: Minister of National Security.**

**The Minister of National Security (Hon. Edmund Dillon):** [*Desk thumping*] Thank you, Madam President. Madam President, the Commissioner of Prisons has launched an investigation in this matter. The investigation is still ongoing, and until such time as the investigation is completed, I will best be able to answer, Senator.

**Madam President:** Sen. Haynes.

**Sen. Haynes:** Thank you for that response, Minister, and I do look forward to the update. But given that this is one of several videos recorded on cell phones in the prisons, what has been done to address the presence of cell phones in the prison system?

**Madam President:** Minister of National Security.

**Hon. Maj. Gen. E. Dillon:** Madam President, there are several measures that have been used and continue to be used with respect to cell phones in the prisons: there are jammers and scanners that have been instituted; the Commissioner of Prisons has instituted serious measures with respect to officers on duty within the prison system; there are various checks that are made of persons entering the prison, including prison officers themselves; and several other measures are being put in place to treat with this matter, and we continue to do so, Madam President.

**Madam President:** Sen. Haynes.

**Sen. Haynes:** Thank you, Minister. And given that these measures have been put

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in place, can the Minister state if there is a report on the effectiveness of the measures?—given the reoccurrence.

**Madam President:** Minister of National Security.

**Hon. Maj. Gen. E. Dillon:** Madam President, we continue to evaluate these measures as we go along and treat with the issues. The Commissioner of Prisons continues to treat with these issues very urgently, and as they occur, he will put different measures in place to treat with them.

### ANSWERS TO QUESTIONS

**Madam President:** Leader of Government business.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, the Government is pleased to announce that it will be answering questions 122, 123 and 124.

**Madam President:** Sen. Mark.

**Sen. Mark:** I can ask all my questions, Madam President?

**Madam President:** 122, 123, and 124 are all your questions.

**Sen. Mark:** Thank you, Ma'am.

### ORAL ANSWERS TO QUESTIONS

#### Sandals Resorts International

#### (Memorandum of Understanding)

*The following question stood on the Order Paper in the name of Sen. Saddam Hosein:*

**111.** In light of statements from the Government that a Memorandum of Understanding was signed between the Government of Trinidad and Tobago and Sandals Resorts International, can the hon. Prime Minister indicate:

- i. the date on which the Memorandum of Understanding was signed;
- and

- ii. the parties who signed the Memorandum of Understanding? [*Sen. S. Hosein*]

*Question, by leave, deferred.*

### **North Grove Development**

#### **(Section 6 – Town and Country Planning Division)**

**122. Sen. Wade Mark** asked the hon. Minister of Housing and Urban Development:

Having regard to the provisions of Section 6 of the Town and Country Planning Act Chap. 35:01 and HDC's proposed North Grove Development in St Augustine, can the Minister inform the Senate whether:

- i. a recent/updated survey of that area has been carried out and when;
- ii. the survey and its corresponding report with proposals for additions to the plan have been submitted to Parliament; and
- iii. the proposed Development has been approved by Parliament?

**The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert):** [*Desk thumping*] Thank you, Madam President. No recent survey was undertaken by the Ministry of Housing and Urban Development at the North Grove Housing Development which is located at the Southern Main Road, St. Augustine, and is an extension of the general development in the Curepe/Valsayn area.

The North Grove Housing Development does not require the approval of Parliament. The National Physical Development Plan of 1984 received the approval of Parliament; this guides the development of all land in Trinidad and Tobago.

The Town and Country Planning Division, through its land use policies and approval process, considers whether a proposal such as the North Grove Housing

Development is in line with the approved National Physical Development Plan and the current land use policy for an area.

Further, under the Town and Country Planning Act, Chap. 35:01, the Minister responsible for Town and Country Planning can amend the land use policy for an area. Outline planning permission was granted to the North Grove Housing Development proposal on October 12, 2017.

**Madam President:** Sen. Mark.

**Sen. Mark:** Yeah. Madam President, having regard to the fact that the National Physical Plan was executed in 1984, can the Minister indicate whether the Government intends to revisit that physical development plan?

**Madam President:** Sen. Mark, that question does not arise. Next supplementary. Okay? Next question, Sen. Mark.

### **North Grove Development**

#### **(Section 7(1) – Town and Country Planning Division)**

**123. Sen. Wade Mark** asked the hon. Minister of Housing and Urban Development:

Having regard to the provisions of Section 7(1) of the Town and Country Planning Act Chap 35:01 and HDC's proposed North Grove Development in St Augustine, can the Minister inform the Senate whether:

- i. he has consulted with the Council of the local authority in whose district the land is situated;
- ii. any other persons were consulted and when did those consultations take place; and
- iii. the Council of any such local authority and any such persons or bodies were given an opportunity to make objections or representations with respect thereto?

**The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert):** [*Desk thumping*] Thank you, Madam President. The San Juan/Laventille Regional Corporation attended a public consultation meeting at the Ministry of Housing and Urban Development on 20<sup>th</sup> of December, 2017.

Other key stakeholders inclusive of representatives from the Agricultural Society of Trinidad and Tobago, various Government Ministries, the Trinidad and Tobago Farmers Union, residents and neighbouring businesses were invited to the public consultations held by the housing and development on the 9<sup>th</sup> and 28<sup>th</sup>, February 2018. At all of these consultations, all present were given an opportunity to make comments and representations. And I might say that the San Juan Regional Corporation is currently controlled by the People's National Movement as is the Tunapuna/Piarco Regional Corporation, so there will be further consultations.

**Madam President:** Sen. Mark.

**Sen. Mark:** Madam President, could the hon. Minister indicate to this House whether in light of these objections, in accordance with the—

**Hon. C. Imbert:** What objections?

**Sen. Mark:**—representation, the consultation—Madam President, there were objections at those consultations. So, I am saying to the hon. Minister, in light of those consultations and objections that were executed at that meeting whether the Minister intends to enforce the relevant section of the legislation by setting up a committee to look into those matters.

**Madam President:** All right. Sen. Mark, let me give you a little help here. The question did not say anything about objections. So, I think you can ask, “whether there were any objections”? And there were several meetings referred to in the

answer, so you have to specify which meeting, because you asked a supplementary about that. So, now you can proceed.

**Sen. Mark:** Well, Madam President, what is happening is that, in light of the consultations that were held, can the Minister indicate to his House whether the Tunapuna Regional Corporation which falls within the boundaries of that corporation has been consulted by the Government?

**Madam President:** Acting Prime Minister.

**Hon. C. Imbert:** Madam President, I am sorry I cannot accept anything said by the honourable Senator with respect to the boundaries of the corporation, I will have to check that, because the information given to me is that the San Juan Regional Corporation attended the consultation. So that I am not certain that the assertion that this development falls within the Tunapuna/Piarco Regional Corporation is correct. But be that as it may, as I indicated, both the San Juan Regional Corporation and the Tunapuna/Piarco Regional Corporation are currently controlled by the People's National Movement, and there will be further consultations.

**Madam President:** Sen. Mark.

**Sen. Mark:** But Madam President, I would like to advise the hon. Minister, since he has been misled and misguided, that the St. Augustine, [*Interruption*] yes. I am indicating to you that the Tunapuna Regional Corporation is responsible for that area. [*Interruption*]. Yeah. So, I am asking, based on your consultations whether you have specifically consulted with the Tunapuna Regional Corporation?—that is the point I am making, Madam President.

**Madam President:** Yes. But, Sen. Mark, the Acting Prime Minister answered that question a while ago. So you can you ask another question?

**Sen. Mark:** He did not answer, you know, Madam President, with respect.

**Madam President:** Just have a seat, please. Acting Prime Minister, we are on to your third supplemental question. Sen. Mark, the Minister did talk about the Tunapuna, he said he was not aware whether, but that further consultations may be held. That is what I understood the answer. Third supplementary question, Sen. Mark.

**Sen. Mark:** Does the hon. Minister intend, through those bodies and the Housing Development Corporation, intend to hold any further consultations consistent with the legislation?

**Madam President:** Acting Prime Minister.

**Hon. C. Imbert:** Madam President, as I have said twice and I will now say thrice, the San Juan Regional Corporation and the Tunapuna/Piarco Regional Corporation are currently both controlled by the People's National Movement which also forms the Government at this time, and there will be further consultations with those two corporations. I can say it a fourth time if you wish.

**Madam President:** Acting Prime Minister, thank you. Sen. Mark, any more?

**Sen. Mark:** No.

**Madam President:** Next question, Sen. Mark.

### **North Grove Development**

#### **(Section 7(2) – Town and Country Planning Division)**

**124. Sen. Wade Mark** asked the hon. Minister of Housing and Urban Development:

Having regard to the provisions of Section 7(2) of the Town and Country Planning Act Chap 35:01 and HDC's proposed North Grove Development in St Augustine, can the Minister inform the Senate whether:

- i. any Notice has been published in the *Gazette* and in at least one daily newspaper; and

- ii. if the answer to (i) is in the affirmative, where can such plans or proposals be inspected by members of the public?

**The Acting Prime Minister, Minister of Finance and Acting Minister of Housing and Urban Development (Hon. Colm Imbert):** Thank you, Madam President. Notices with respect to the Housing Development Corporation, ongoing public consultations on the proposed North Grove Housing Development in Curepe can be found in the daily newspapers, namely the *Express*, the *Trinidad and Tobago Newsday* and the *Trinidad and Tobago Guardian* dated 20<sup>th</sup> of April, 2018.

Additionally, members of the public can access the proposals and plans for the North Grove site on the Housing Development Corporation's website.

**Madam President:** Sen. Mark.

**Sen. Mark:** Can the hon. Minister indicate in accordance with the law, section 7, subsection (2) of the Town and Country Planning Act, Chap. 35:01 whether he has published that in the *Gazette* of the Republic of T&T? And if not, why not?

**Madam President:** Acting Prime Minister.

**Hon. C. Imbert:** Madam President, I do not have that information at this time. The information I have is that the notices were published in the *Express*, *Newsday* and *Guardian*, but I will ascertain the response to that question for the hon. Senator in due course.

**Sen. Mark:** Madam President, in light of the law, can the hon. Minister indicate to this honourable House that he will make available in writing in the shortest possible time the conformity to the law by the HDC? Can he give us that undertaking?—because it is part of the law.

**Madam President:** Acting Prime Minister.

**Hon. C. Imbert:** Madam President, in the way I do not trust the hon. Senator's geography, I do not trust his knowledge and interpretation of the law which I

happen to have in front of me. And the relevant law that the Member, the Senator, has quoted is the Town and Country Planning Act, Chap. 35:01. And if one goes to the interpretation of this Act one would see that this “Minister” referred to in the Act, is the Minister responsible for Town and Country Planning.

And if one then goes to section 7(2) of the Town and Country Planning Act, one will see that the person who is required to ensure that a notice is published in the *Gazette* and at least one daily newspaper is the Minister of Planning and Development, and not the Housing Development Corporation. So there is no breach of the law on the part of the Housing Development Corporation as alleged by the hon. Senator.

**2.00 p.m.**

And further, section 7(2) refers to a special or specific development plan for a particular area of Trinidad and Tobago, and has nothing to do with the matters raised by the hon. Senator. [*Desk thumping*]

**Sen. Mark:** Is the Minister aware that the Minister of Planning and Development, seeing that he is answering this question, has published in the *Gazette* such a notice?

**Madam President:** Sen. Mark, I think that question has already been answered before. Yes, next supplemental question, Sen. Mark. I think you have—

**Sen. Mark:** Madam President, I have no more.

**Madam President:** Yeah. [*Continuous crosstalk*] You all just let me know when you all are ready for me to begin our formal proceedings. Thank you.

The Minister of Finance. [*Desk thumping*]

### **INSURANCE BILL, 2016**

*Order for second reading read.*

**The Acting Prime Minister, Minister of Finance and Acting Minister of**

**Housing and Urban Development (Hon. Colm Imbert):** Thank you, Madam President, and Madam President, let me say at the outset, I have with me the hon. Attorney General, and, of course, the Minister in the Ministry of Finance is a Member of House and it is my intention as the Chairman of the—*[Interruption]* Yes, I know, I know—it is my intention as the Chairman of this committee simply to make my introduction and then take my leave. I do not wish to be in breach of the Standing Orders, so I am just saying that now, and my hon. colleagues will ably represent the Government afterwards. I beg to move:

That a Bill entitled an Act to repeal and replace the Insurance Act, Chap. 84:01; to inform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes, be now read a second time.

As I indicated, Madam President, I have the hon. Attorney General with me, who was a member of Joint Select Committee on the Insurance Bill, 2016. And may I read into the record the other members: So, it was myself, as Chairman; and in addition, Mr. Faris Al-Rawi; Ms. Marlene Mc Donald; Mr. David Lee; Dr. Surujrattan Rambachan; Mr. Clarence Rambharat; Mr. Daniel Dookie; Dr. Lester Henry; Mr. Wayne Sturge; Mr. Stephen Creese, and Ms. Jennifer Raffoul.

So, it appears that the only persons who are present here with us today, who were members of that committee, would have been myself and Mr. Al-Rawi, and fortunately, neither Mr. Creese or Ms. Raffoul are here yet for the session. I do not know if I missed anything, but I hope they will be present in due course because, I want to say, Madam President, we as a Parliament have been at this job for years. I think we had three committees or two committees—

**Hon. Al-Rawi:** Five.

**Hon. C. Imbert:** Five committees?

**Hon. Al-Rawi:** Five Bills, two committees.

**Hon. C. Imbert:** Wow, and I remember my predecessor in the Ministry of Finance convening a committee and we reached pretty far, because it is very large Bill. It is a very, very thick document, and I think there are over 200 clauses, from my memory—

**Hon. Al-Rawi:** 282.

**Hon. C. Imbert:** 282, yes—and schedules and so on, and the previous committees took years, and this committee also took some time, but we benefited tremendously from the participation of all members concerned, including and especially, Members of the Opposition, and Members of the Independent Bench.

So, I would like to thank the Members of the Opposition who participated in the committee's deliberations, and also the Members of the Independent Bench who also participated, as well as Members on our side, of course, especially the Attorney General, Minister Rambharat, Ms. Mc Donald, Mr. Dookie, Dr. Henry, and so on.

The purpose of the Bill is to reform—transform—insurance legislation. And might I also say we had unanimous agreement in the other place on this legislation. It is special majority legislation so I am very heartened that we could all come together as a Parliament, Government, Opposition and Independents, and reach consensus on such a complex Bill with over 200 clauses. The Bill before you represents many years of analysis, research and consultation with various stakeholders, supplemented by long hours of deliberation by the Joint Select Committee which was appointed to consider and report on the Insurance Bill, 2016.

It is very disappointing, Madam President, I think we are all disappointed that, in the aftermath of the CL Financial/Clico crisis of 2009, that our insurance

Insurance Bill, 2016 (cont'd)  
Hon. C. Imbert (cont'd)

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sector is still being governed by woefully deficient legislation which dates back to 1980, almost 40 years, and which cannot adequately address the current emerging risk in today's insurance sector. By contrast, the banking and security sectors are governed by far more modern legislation such as the Financial Institutions Act and the Securities Act, which were enacted in 2008 and 2012 respectively. However, for effective supervision, the industry needs to operate under relevant legislation. The financial sector is only as strong as its weakest link, as we saw again in the CL Financial/Clico crisis of 2009.

Trinidad and Tobago is widely regarded as the financial centre of the Caribbean, and yet—and it bears repeating—our insurance legislation lags way behind our Caribbean counterparts. Jamaica, for example, underwent major institutional and legislative reform following its 1990 financial crisis, which cost that country approximately 30 per cent of its GDP. So, Jamaica is ahead of us in terms of legislation and institutional arrangements for supervision of the insurance industry. We must learn from our own costly problem with Clico. We must enact appropriate legislation for the insurance industry.

In 2009 the Central Bank was successful in fast-tracking certain specific amendments to the Insurance Act of 1980. But that was a crisis approach. That was a reaction to the problem that occurred with CL Financial and Colonial Life. The amendments were extracted from the proposed insurance legislation at the time because the matter had been under discussion for years. So there was draft legislation floating around at all times and enacted in order to treat urgently with burning issues at the time.

The issues were: enhancement of the provisions governing assets to be placed in a statutory fund, by requiring insurance companies carrying on long-term

Insurance Bill, 2016 (cont'd)  
Hon. C. Imbert (cont'd)

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insurance business, or motor vehicle insurance business to have sufficient assets in their statutory fund to meet their policy holder liabilities as established in their quarterly returns. Additionally, strengthening of the provisions to afford the Central Bank access to the premises of an insurance company if the bank was physically prevented from entering. Replacement of the intervention process which was time consuming, and hindered the effectiveness of the regulatory process. The process was replaced with a more flexible regime which allows the Central Bank to issue compliance directions. All of these things came out of the Clico collapse.

Replacement of the costly and time-consuming process of judicial management, with the suspension process which facilitates remedial regulatory action, and permitting the Central Bank to share information with other regulators both within Trinidad and Tobago, as well as other jurisdictions, where insurance companies registered in Trinidad and Tobago also conduct business.

However, after that, efforts continued in the formulation of a completely new Bill, rather than the piecemeal amendments that had taken place. For example, the Insurance Bill, 2011 was laid in Parliament on the 25<sup>th</sup> of November 2011, but unfortunately lapsed on the 26<sup>th</sup> of June, 2012. Parliament then did it again; the Insurance Bill, 2013, was laid in Parliament on the 28<sup>th</sup> of May, 2013, and lapsed on the 10<sup>th</sup> of July, 2013. The Insurance No. 2 Bill, 2013, was laid in Parliament on the 19<sup>th</sup> of November, 2013, and lapsed on the 30<sup>th</sup> of July, 2014. The Insurance Bill, 2015, was laid in Parliament on the 21<sup>st</sup> of April 2015, and lapsed on the 17<sup>th</sup> of June, 2015.

So, when one looks at this, Madam President, in the Parliament before us, there were, one, two, three, four; four attempts to pass insurance legislation, all of

Insurance Bill, 2016 (cont'd)  
Hon. C. Imbert (cont'd)

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which failed. Finally, the Insurance Bill, 2016 was introduced in the House of Representatives on the 1<sup>st</sup> of July, 2016. So that is almost two years ago. So, we have been at this for a very, very long time. It represents the product of the previous Parliament's work, including the work of Joint Select Committees. And I had the privilege to be on previous Joint Select Committees, as did the Attorney General. The Bill now before the House, as I indicated, is the product of the work of a tripartisan committee, and which everyone contributed, and we reached complete consensus on every single issue. This is why the Bill was passed through the other place with a special majority, without amendments.

Madam President, the existence of a strong insurance market will facilitate the financial goals of individuals, as well as the business community by protecting the society's assets. I do not need to underscore that. Insurance and pension industries are long-term investors in projects, businesses, and infrastructure, and thereby facilitate sustainable growth and economic development. As at the 30<sup>th</sup> of September 2017 the assets of the insurance industry in Trinidad and Tobago total almost \$50 billion, \$49.4 billion to be exact. And they account for 33 per cent of the GDP of Trinidad and Tobago at this point in time.

Assets under management for the pension sector total \$51.4 billion, and account for 34 per cent of GDP. The combined assets of the insurance and pension sectors are thus of the order of TT \$100 billion, of which more than one-third is invested in securities of the Government of Trinidad and Tobago. Consequently, the importance of the insurance industry is not only related to its size, but also to its interconnectivity with other financial institutions and sectors of the economy.

I would like now to point out a few major gaps in existing legislation. The existing Insurance Act of 1980 which clearly demonstrates why we need to have

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new legislation. The current legislation does not require insurance companies to maintain adequate capital buffers for the risks on their balance sheet. In fact, insurance companies carrying on long-term insurance business are required to have share capital of a mere \$3 million, and I am sure Members would realize how absurd that is. So, insurance companies are running businesses in the hundreds of millions of dollars—in the billions—because, one, I am familiar with an insurance company where its share value would be somewhere in the region of \$3 billion—a local insurance company. So that currently, insurance companies are only required to have a share capital at \$3 million, which certainly cannot provide companies with the necessary buffers to withstand shocks or adverse circumstances.

General insurance companies are required to have a share capital of only \$1 million, which is ridiculous. This has not changed. That could be one claim alone. This has not changed since 1980, and is unacceptable in today's climate where companies are holding millions, as I indicated, billions of policyholders' funds. Additionally, the existing insurance legislation lacks adequate provisions to ensure the effective governance and risk management of insurance companies. There may exist significant deficiencies among our companies in their practices with respect to corporate governance and risk management systems. It is important that directors and management are required by law to fulfil their fiduciary obligations to protect policyholders' funds. The legislation before you codifies a number of new responsibilities of the board which represent minimum standards, consistent with a higher duty of care expected of financial institutions.

Further, there are inadequate provisions in the law for the supervision of financial groups. Consolidated supervision of conglomerates is commonplace in most developed jurisdictions, but not here, and facilitates the sharing of

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information among supervisors of financial entities in the group, to ensure effective oversight of the group as a whole. Consolidated supervision requirements can be found in the legislation of many countries, including the USA, Canada, Australia, the UK, and here in the Caribbean, Jamaica, and even in the local Financial Institutions Act, which governs the local banking sector that does not intend to extend to insurance companies.

So, as you can see, we clearly need to upgrade the 1980 Act as a matter of urgency. Well before the 2008 global financial crisis the IMF World Bank Financial Sector Assessment Programme Missions, in 2005, forewarned about the risk posed by the rapid structural changes in Trinidad and Tobago's financial system, and the shortcomings in our legislative and regulatory framework. If I can quote from 2005 IMF FSAP report:

Contractual saving sector has replaced banking as its single largest segment, and a few regionally active mixed activities conglomerates have become dominant. Sharp reversals in equity prices may adversely affect the insurance and pension sectors. Rising levels of connected exposure in some conglomerates will increase the risk of contagion.

And that is CL Financial and Clico in a nutshell.

Given a regionally active complex financial system, the segmentation of the core legislative regulatory and supervisory framework suggest the urgency of reform in these areas: Changes are required to facilitate consolidated supervision and regulation of financial institutions, including their cross-border activities. Again, we found ourselves having to deal with problems associated with Clico and CL Financial all over the Caribbean, because they formed companies in virtually every country that they met in the Caribbean.

And two, to transform the supervisory structure, including financial reporting into a more integrated and risk-based framework. Critical gaps remain in the overall legal, regulatory and supervisory structure. There has been 13 years since that IMF report, and one financial crisis later these gaps still remain.

The Insurance Bill, 2016, which I am seeking the support of hon. Senators for, or for which I am seeking the support of hon. Senators, will provide the regulator with the authority required to properly supervise the sector, and protect the interest of policyholders. In particular, there are seven critical aspects of this Bill that I wish to share with you, as follows:

1. The first critical component of the Bill intends to stem excessive risk taking and promote good governance, and sound risk and capital management practices by management, and boards of directors of regulated entities. For example, the CEO and CFO must now sign a statement acknowledging the board of directors and management's responsibility for:
  - (a) preparing financial statements;
  - (b) maintaining adequate internal controls;
  - (c) establishing and maintaining adverse procedures for the settlement of claims; and
  - (d) complying with the prudential criteria regulations and guidelines issued by the Central Bank.

In the Bill, it is also mandatory to have an audit committee. The audit committee will comprise at least three directors, a majority of whom must be independent, and must include one financial expert. The Bill also imposes restrictions on an insurer in respect of the credit exposures that it can directly or indirectly incur to any

person including a borrower group, related group, connected party, or any connected group. It also requires that the board of directors of an insurer must ensure that there are policies and procedures established for transactions with connected parties and employees.

2. The second critical element of the Bill seeks to ensure robust balance sheets and adequate capital buffers, are held to cater for unanticipated losses. Owners or shareholders must have a stake in the outcome, and have skin in the game, so to speak. Currently, there are companies doing billions of dollars in business, and they are only required in the case of an insurance company, as indicated, to have \$3 million in capital, and in the case of a general insurance company \$1 million.

Now, under this Bill, which I am recommending to hon. Senators, insurance companies and financial holding companies will be required to hold adequate capital and adequate and appropriate forms of liquidity. Insurance companies which carry on insurance business through overseas branches will be required to maintain and hold adequate assets to support their liabilities to foreign policyholders.

Because we keep getting letters in Trinidad and Tobago from countries in the Caribbean, from other governments calling upon us, the Government of Trinidad and Tobago, to use taxpayers' funds in Trinidad and Tobago to assist policyholders in other Caribbean countries who suffered from the Clico collapse.

**2.20 p.m.**

So that now, insurance companies which carry on overseas work will be required to maintain adequate assets to support the liabilities to foreign policyholders. So, no longer will this be a burden on the Trinidad and Tobago

Treasury.

3. The third critical aspect of the Bill will impose standards of market conduct on insurers and their sales people, in dealing with the public, and give the regulator the power to revoke an insurer's registration where claims practices are found to be unfair or there are unreasonable delays in settlement.
4. The fourth critical element of the Bill is the objective to expand the range of tools for preventative and prompt corrective action and triggers for intervention by the Central Bank.

The regulator must now take intervention action when an insurer's capital ratio falls to a certain critical level. That critical level is set at 70 per cent. This mandatory intervention action comprises giving the insurer 60 days to remedy the situation, failing which, the Central Bank can suspend the company, or the bank can apply limits on related party transactions, require that mergers and acquisitions be first approved by the bank, there be oversight over overseas subsidiaries, and provide for minimum capital at the level of the holding company in addition to minimum capital at the level of the insurance subsidiary, as well as consolidated financial reporting.

Let me touch briefly now on the regulations, because what we did was complete and comprehensive. We did not just deal with the Act, we also dealt with regulations. The regulations to the Insurance Bill will help to strengthen our ability to ensure the safety and resilience of the insurance sector. Specifically, they introduced significant improvements to ensure that companies maintain adequate levels of assets, capital and buffers to withstand risks. The regulations include regulations governing risk-based capital, by far, the most important regulatory

change in the Bill. It will require many insurers to hold, in addition to the new minimum stated capital of \$15 million, up from \$3 million, additional capital commensurate with their risk profile and will result in hundreds of millions of dollars in additional regulatory capital.

So, you have a situation now where the current legislation requires \$3 million in capital for life insurance and \$1 million for general insurance companies. With this new legislation, the capital required will increase and could increase to hundreds of millions of dollars. Every insurer will be required to maintain a regulatory capital ratio of at least 150 per cent. This risk-based capital regime will be heavily dependent on the integrity of the insurer's actuarial reserves. An understatement of the reserves will compromise the safety and soundness of the institution, which brings me to my next point.

The actuarial valuation methodology. The current legislation does not define a common approach for methodology for valuing a company's obligations, which has resulted in variations across the sector. To address this, the new legislation introduces the Caribbean Policy Premium Methodology, to harmonize the valuation of liabilities for long-term insurers. And the Central Bank has conducted a number of awareness and technical training sessions to fully apprise stakeholders of the requirements, and has run five quantitative impact assessments of the new capital regime.

Additionally, there must be financial condition reports. An important element of governance and risk management is the ability to stress-test its operations using various scenarios. Done properly, the process should highlight a company's vulnerabilities and the potential impact on its capital position, allowing appropriate action to be taken to limit any undue risk exposure. Our financial

crisis has shown that non-traditional business activities and embedded financial guarantees can have a detrimental effect on insurance companies. Those activities will now be stress-tested.

The new legislation will require companies to perform a number of tests that will stress their balance sheets to determine their resilience. The financial condition report generated from these exercises will be required as a part of a company's internal risk management. Armed with information from the financial condition reports, the Central Bank will now have the power to direct an insurer to increase its capital, in line with its risk profile. This reduces the possibility of moral hazard due to the failure of a registrant's capital to absorb losses which as we have seen, are then borne out of the public purse.

Let me turn now to the work of the committee. In February 2017, the House of Representatives and the Senate, passed resolutions establishing a joint select committee to consider and report on a Bill entitled the Insurance Bill, 2016, and to report on or before March 17, 2017.

As I have indicated before, the committee comprised Members of the Government and the Opposition and the Independents from both Houses. Cognizant of the need for transparency and consultation, the committee decided that stakeholders, including members of the public, would be invited to submit comments on the Bill. It was also decided that key stakeholders, such as the Insurance Brokers Association and the Association of Trinidad and Tobago Insurance Companies and the Central Bank, would be engaged directly.

The committee thus caused notices to be published in the daily newspapers, on the Parliament's website and in social media in February 2017, calling on the public to submit comments. We received a number of written responses and we

also received written submissions from Lloyd's of London, ATTIC, IBATT and the Central Bank. Based on the volume of comments, it was necessary to examine the submissions on a clause-by-clause basis.

At the fourth and fifth meetings of the committee, the Association of Insurance Companies and the Association of Insurance Brokers made presentations outlining their comments and concerns regarding the Bill, and provided recommendations to address same. Subsequently at our sixth meeting, the committee met with representatives of the Central Bank who commented on the submissions made by the insurance companies, by the insurance brokers and by Lloyd's of London. We then took a decision as a committee, to share the Central Bank's comments on the submissions from these stakeholders, to allow those associations an opportunity to also comment on the Central Bank's submissions.

As Chairman of the committee, let me take this opportunity to thank all stakeholders and all members of the public for their submissions and their invaluable engagement on the issues surrounding the Bill. I would also like to thank the Chief Parliamentary Counsel and his staff, as well as the officers of the Ministry of the Attorney General—and the Attorney General—and Legal Affairs, who were present and lent their expertise during the committee's consideration of the Bill.

We did a clause-by-clause review of the Bill and the stakeholder submissions at our eighth, ninth and tenth meetings—I omitted to say that we held 10 committee meetings.

Following a comprehensive review of the submissions of stakeholders as well as discussions with the supporting technical team, the committee identified several aspects of the Bill requiring deeper consideration. These areas included:

whether the existing definitions in clause 4 of the Bill should be amended in the interest of clarity and whether new definitions should be introduced. That is in the interpretation part of the Bill.

Also, whether amendments to provisions concerning the fines and penalties as well as, whether offences ought to be classified as summary, hybrid and indictable. We did this for every single offence created by the Bill. We determined whether it should be summary, hybrid or indictable and whether the fines and penalties were appropriate. There was considerable apprehension at the beginning among the insurance companies and the insurance brokers, at the severity of the fines and penalties. And we were able to reach a reasonable compromise without sacrificing the need to have strong legislation.

Additionally, consequential amendments to the Bill arising out of the enactment of the Tax Information Exchange Agreements (United States of America) Act, 2017, also called the FATCA enactment—because, while we were in committee between 2016/2017 and into 2018, the FATCA was passed by this honourable Parliament. And therefore, we had to look at the Bill to see how FATCA would affect our legislation.

We also looked at the ability of brokers to negotiate and procure insurance on behalf of their clients directly from foreign insurance companies, and the appropriate ratio of local and foreign assets in which insurance companies are allowed to invest. We had to be very particular about that, to make sure that there was an appropriate ratio, a mix between local and foreign assets that insurance companies would hold on behalf of their policyholders.

We examined, again, the procedure for allowing foreign adjusters to conduct business in Trinidad and Tobago and whether there should be any strict liability

offences at all, in the Bill. We also dealt with routine matters, such as typographical and cross-referencing errors which are not uncommon in legislation as intricate and complex as this. Let me now deal with some of the amendments made by the committee or recommended by the committee to the other place, and accepted in to and completely without adjustment by the other place.

Firstly, we looked at the definitions and we amended the definition of an annuity contract, to remove all possible ambiguity. We also amended the definition of “control”, to provide consistency with the Financial Institutions Act. Throughout this process we had to ensure that there was harmony, so we had to harmonize many provisions.

Secondly, classification of offences as: summary, hybrid or indictable. When you look through the Bill, you will see that we have used all types: indictable, summary or hybrid. I do not need to tell the lawyers in this place that hybrid offences can be tried either way, that is, either summarily or indictably or for the laymen like myself, in the Magistrates’ Court or the High Court. Indictable offences normally have higher penalties than summary offences. Generally, offences are made indictable because they are of such exceptional gravity or because there are other reasons, such as the complexity of the issues which make them unsuitable for summary trial in a Magistrates’ Court.

The trend has been to reserve indictable-only offences for the most serious circumstances and most new offences in the modern era are triable either way or summarily. However, the decision as to the type of offences which should be created, ultimately falls within the Parliament’s power to make policy when enacting law. We took a long time on this. We looked at each offence and determined its complexity and its severity, its gravity, and determined whether it

should be summary, indictable or hybrid.

The Bill contains offences that run across the spectrum of severity and complexity. In this regard, a tiered approach was adopted in fixing the manner in which offences will be tried. Offences that are lesser in gravity can be tried summarily, while more grievous offences would be tried indictably. Offences in the middle were addressed using the hybrid model I just spoke about. Furthermore, certain offences which were summary in the original form are now triable on indictment or on a hybrid basis. We felt, after reflection and getting various contributions from stakeholders and advice from the Parliamentary Counsel, that we should adjust the offences and make them practical.

In several instances there was no provision in the Bill regarding the manner in which some offences will be tried. This was corrected. We also amended the Bill consequent on the enactment of the FATCA legislation and some of the amendments included: allowing the Central Bank to share information with the Board of Inland Revenue on insurance companies; allowing the Inspector of financial institutions at the Central Bank to issue compliance directions for a breach of guidelines to give effect to the Inter-Governmental Agreement between the Government of Trinidad and Tobago and the Government of the United States; allowing the Central Bank to issue guidelines to give effect to the Tax Information Exchange Agreement and to issue directions to persons who fail to comply with these guidelines. We also looked at the appropriate ratio of local and foreign assets in which insurance companies can invest, as I mentioned before.

Now, the requirement for insurers to match liabilities with a specific percentage of local assets, is historically a policy position of all governments to encourage local investment. So, you always seek to limit the extent of foreign

investment. If so, with the National Insurance Board as well. The maximum permissible share of foreign assets permitted by the current Act of 1980, of 20 per cent, has been the status quo for many years. And, in fact, just coincidentally that is the same ratio with the NIB. They must invest 80 per cent of their assets in Trinidad and Tobago and they can invest 20 per cent overseas and this has been the case with insurance companies.

So, we looked at it and we noticed that within the regulations, the capital adequacy regulations, if insurance companies were seeking to hold assets overseas, they were required to hold additional capital against the foreign exchange mismatch and other risks. As such, we amended the original legislation to allow the percentage of foreign assets in which an insurer can invest, to be increased from 20 per cent to 30 per cent, but of course they are now required to hold additional capital as a buffer against the risk of holding assets in a foreign jurisdiction. Also, the liabilities for a policy, where the liabilities for a policy are payable in a foreign currency, the insurer must now invest in foreign assets in that currency, an amount of at least 70 per cent of the foreign currency liability.

Additionally, we looked at the question of strict liability offences. Formerly, clause 254(2) provided that where a person contravenes any provision of the Bill, or a direction, requirement or measure of the Central Bank, its Board or the Inspector, he or she committed an offence. This clause did not make express provision for a requirement of intent, mens rea, or recklessness concerning the commission of the offence.

The committee therefore amended or recommended amendment to the other place, which accepted it, that clause 254(2) be amended to provide:

That this offence occurs where the person acts knowingly or recklessly.

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Now, Madam President, as I said, this Bill has over 200 clauses. The hon. Sen. Mark told me it has 282. [*Crosstalk*] This has been—I believe him in that case, I believe him in that case. [*Crosstalk*] I trust his arithmetic in that matter. [*Laughter*] I wish to place on record my absolute gratitude to all of the Members of Parliament who served with me on the Joint Select Committee. And if I risk abuse from my own Members, I wish to pay special mention to the Members of the Opposition and the Independents, who served with me on the committee. [*Desk thumping*] They were very supportive, very helpful, very collaborative and very cooperative. The active interest of all Members of Parliament, whether from this place or the other place, their interest, their interrogation, their analysis, their contribution, their attendance in the meetings, have resulted in what I believe to be a refined piece of legislation, which I feel confident and I hope, that this Senate will support as the other place supported unanimously.

In conclusion, I wish to emphasize that this Bill has been influenced by international best practice—

**Sen. Mark:** Can I seek your clarification?

**Hon. C. Imbert:** Sure, sure, sure.

**Sen. Mark:** I do not know if you are aware, you ought to be, that regulations in draft form are now controlled by the Board of Inland Revenue for purposes of registering all pension plans in Trinidad and Tobago. I wanted to ask you, are those regulations going to be transferred into this piece of legislation, seeing that the new agency that is responsible for registering all pension plans in Trinidad and Tobago will now be the Central Bank. So therefore, the accompanying regulations should also find their way here.

So, I am just seeking clarification as to where are those regulations as it

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relates to where it currently exists at the Board of Inland Revenue. Are we transferring them to this piece of legislation? I am just trying to get some clarification from the hon. Minister.

**Hon. C. Imbert:** I can assure you, hon. Senator, before the debate concludes we will deal with that. I will seek clarification from the legal advisors to the back of us there.

As I was saying, this Bill is being influenced by international best practice and we hired international consultants as well, the Parliament engaged international consultants to assist us with this legislation. It is the product of a very exhaustive and very robust consultative process. I believe that our own crisis, our own Clico crisis, as well as other stresses in other insurance companies in our local industry, convinced everyone of the need for modern legislation to cope with a modern financial sector.

I do not think I need to say, that we can no longer work with 40-year-old legislation with capital requirements of \$3 million and \$1 million. Those are hopelessly outdated. So, with this Bill we are seeking to correct all of the errors and deficiencies of the past—

**Madam President:** Minister, you have five more minutes.

**Hon. C. Imbert:** I am nearly finished. And I simply want again, to read into the record the committee members: Mr. Al-Rawi, myself, Ms. Mc Donald, Mr. Lee, Dr. Rambachan, Mr. Rambharat, Mr. Dookie, Dr. Henry, Mr. Sturge, Mr. Creese and Ms. Raffoul.

We also were very ably assisted by Ms. La Roche and Ms. Yallery, and permit me to correct an omission of mine, Mr. Hinds, who, at one point in time in his history, sold insurance, believe it or not, who was also a member of the

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committee.

**Sen. Ameen:** Ramdeen.

**Hon. C. Imbert:** Pardon.

**Sen. Ameen:** Ramdeen replaced Sturge.

**Hon. C. Imbert:** Yes, and later on Sen. Ramdeen replaced Mr. Sturge, I believe. And again, Sen. Ramdeen's contribution was invaluable. So, I would like to thank everyone who participated. This was truly, for me a success, a very heart-warming experience and I commend this Bill to the Senate and I beg to move, Madam President. [*Desk thumping*]

*Question proposed.*

**Sen. Wade Mark:** Thank you, Madam President. Madam President, we too would like to join the Minister in recognizing the work that was done by the Joint Select Committee on this very important piece of legislation. We are way behind, I must admit, as he has identified, the world has gone way ahead of us—1980, that is the last time we amended and brought modern legislation to our Parliament. So, we are talking about, Madam President, close to about, almost 40 years, 38 years, and it took a global financial meltdown or crisis coupled or combined with the Clico debacle, to shake up this society into recognizing the need for modern legislation. But, I am glad that the hon. Acting Prime Minister is still here because I want to put some suggestions, even before I go into the meat of our contribution today. [*Crosstalk*]

Madam President, we cannot be passing legislation and not putting a clause in a piece of legislation, as important as this one, for review. We should have a provision in the law that commands the Parliament to review the legislation within every three to five years. Because as we have all recognized, Madam President,

the world is moving at a rapid and dizzying pace. And even though we are dealing with this legislation today, there are many changes that have occurred since then. And we are none the wiser because the legislation that we have before us, certainly has become dated even as we begin this debate in the Senate to update this piece of legislation.

So, Madam President, as I said, it was the global financial crisis that laid the basis for this country's recognition of the need for legislation. But more importantly, the matter involving CL Financial, Clico and the Clico Investment Bank, really pushed the process forward. There are many issues I would like to address, in this piece of legislation that is before us and the report that is before us.

Madam President, we know that the Bill before us provides for the regulation of the industry, that is, the insurance industry. But, it is part of the financial services sector which as you know, contributes between 15 and 16 per cent of this country's GDP. It deals not only with insurance companies but very curiously, Madam President, with pension plans. I find that, a bit unusual. And this is one of the areas that we have some concern about. Even though the Joint Select Committee might have incorporated both—the question here, why are we confusing pensions with insurance?

And, Madam President, out of 282 clauses, only 13 clauses are devoted to pensions, and pensions as we were told by the Minister, constitute an industry valued at close to \$100 billion. The insurance industry assets could be between 25 to 30 billion. So the pension industry is way above the insurance industry. And why, Madam President, in 2018, are we placing pensions in the same legislative framework as insurance. That pension ought to be a stand-alone piece of legislation, occupational pension plans ought to constitute a separate and distinct

piece of legislation. That is why I have some concerns about that provision in the legislation which I will develop more on, as I proceed.

So, Madam President, we are talking about protecting the consumer, the policyholders that is, who access insurance policies in this country. We know that a lot of citizens have been defrauded by insurance companies in this country. And that is a matter that remains of grave concern to citizens of this country. And we will talk about that a little bit later.

So, the legislation that is before us, manifested in this Joint Select Committee's Report, is looking at the whole issue of compliance, enforcement—and the agency that is now responsible for enforcement and compliance and regulation of this particular insurance industry, and we have now added pensions administration on to this particular agency or institution, which is the Central Bank.

**2.50 p.m.**

So the Central Bank of the Republic of Trinidad and Tobago is now given the responsibility, not only for financial services as it relates to banks, but they are now responsible for insurance companies and they are now responsible for pension plans. And as if that were not enough, shortly to arrive on this compound is legislation for the credit union industry which, we understand, is also going to be administered and controlled by the Central Bank. So that begs the question: Is the Central Bank ready? Does the Central Bank have the resources? Does the Central Bank have the technical capacity, and ability, and wherewithal, and skill sets in order to deal with this particular new responsibility that they are being given?

These are matters that we would like to know, we have to get clarification on because the Central Bank, as you know, has become a bit weak over the years.

And maybe with all this new power being given the Central Bank, it really begs the question whether we should not be bringing legislation to this Parliament to strengthen the Central Bank of the Republic of Trinidad and Tobago and making the Central Bank more independent of the Executive and the Minister of Finance. [*Desk thumping*] That is what we should be asking also, because the Central Bank is given a lot of power and a lot of responsibilities. Not only do they have preventative intervention, but they also can take corrective intervention measures.

And the role of the Inspector in the legislation that is before us in this report shows that the Inspector of Banks is a very powerful agency and office holder within the framework of the Central Bank. And I could understand why. That Central Bank Inspector has power, authority and he is given responsibility and accountability because he has been given power and he has been given authority, and therefore, concomitant with that, must go responsibility and accountability.

The question that has to be asked—and maybe the Minister in the Ministry of Finance or the Attorney General can tell us. Give us an organigram. Give us an appreciation this evening of the composition of the Inspector of Banks' department, or division, as we speak today, having regard to the work and the responsibilities being given to the Inspector of Banks. And we understand it took a long time before the Governor of the Central Bank and the Minister of Finance took a decision to appoint an Inspector of Banks, but we are happy that one has been ultimately appointed.

So what we need to clarify, Madam President, who are the people in this division or unit that make up this Inspector of Banks? Because you need skill sets, you need qualified people in order to monitor these insurance companies and to monitor pension plans in Trinidad and Tobago. So we need to know how many

actuaries they have in that bank, as an example.

So could the Minister in the Ministry of Finance, or the Attorney General, when they are speaking, bring this Parliament up to speed with the wherewithal in terms of the personnel that would make up that Inspectorate within the Central Bank, so we would be aware that when we approve legislation that we will never be able to have a repetition of CL Financial, Clico, Hindu Credit Union, ever in the Republic of Trinidad and Tobago again? [*Desk thumping*] So we need answers. We want answers from the Government as we press forward with this piece of legislation.

Madam President, you and I are aware that within the Central Bank that is governing this Insurance Bill which is going to become an Act before we leave here this evening, that Act when it is translated and it is operationalized, is going to be managed, as I said, and administered by the Central Bank. But the question that has to be asked is this. We are dealing with legislation to strengthen the Insurance Act of 1980 and we have it before us. But I would like to ask the Attorney General, through your good self, Madam President, given the Colman Commission of Enquiry—our Prime Minister came to this House, that is the House of Representatives, made a statement in July of last year saying that he is sending the report to the DPP and the DPP will write us back to determine whether it can be published fully or partially. That is according to the Prime Minister. We are now almost 10 and a half months after that statement was made and we are none the wiser. Has the DPP written to the Government? Has the DPP said this report cannot be made public, partially or fully?

And, Madam President, may I advise and remind you, several sections of that report when the Prime Minister read his statement into the records of

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Parliament, dealt with the insurance industry? So again the Attorney General must advise this House whether we are dealing with legislation today that ought to have been strengthened as a result of the Colman recommendation.

**Hon. Al-Rawi:** Senator—

**Sen. W. Mark:** These are things that I would like to have clarified. I hope you do not take my time, because, you know, my time is very limited. So once you rise, “I in trouble”. So, Madam President, ask him to take notes at this time and he will respond to me at the appropriate time. I cannot afford a minute. I need more time, Madam President, as you know. I need more time, not less. [*Laughter*]

So, Madam President, as you know, I am asking the hon. Attorney General to—these are red flags that I am erecting that I want answers to, and the country would need answers to because we know that there are many things that are hidden in that “Coolman” Report.

**Mr. Al-Rawi:** Colman.

**Sen. W. Mark:** Colman Report. Colman Report. Well the report “gone cold”. [*Laughter*] That report has gone cold, because we have not heard anything about it since then. So, Madam President, I hope that the Attorney General would tell us what is happening with this report and all the criminals who have defrauded this country, that action is being taken against them by the DPP. We hope that, for instance, that is being done as well, and that we are not covering up—anyone is not covering up this report. I am not saying anybody is doing that, I am saying I hope nothing like that is taking place.

Madam President, you and I would be aware of the kind of challenges that consumers face in this country when they take out insurance policies, whether it is motor, life, health. It does not matter what is the nature of the policy that you take

out, there are challenges faced by the population, and many citizens are subjected to all kinds of misbehaviours by these insurance companies in Trinidad and Tobago.

At the Central Bank we have what is called a Financial Ombudsman, and that Ombudsman is supposed to deal not only with banking services in terms of if you are having challenges, but also insurance services. And now we are strengthening the Insurance Act through this report. What is the role of the Ombudsman? Should the Financial Ombudsman remain a creature of the Governor of the Central Bank? Should the Ombudsman remain literally an employee of the Governor of the Central Bank? How can the Financial Ombudsman render independent, objective services to customers, policyholders, who approach that Ombudsman for assistance and help?

Remember, Madam President, the Central Bank is regulating the industry. The Central Bank is administering the legislation, and the Central Bank has a Financial Ombudsman that it employs. So is that not a bit contradictory? Is that not, as I would call it, a conundrum here? Why would we want to have a Financial Ombudsman who is supposed to give services to customers, policyholders, who are aggrieved by activities and action and decisions taken by insurance companies and commercial banks, and that very Ombudsman is under the control of the Governor of the Central Bank?

Therefore, I am proposing for the Government's consideration that that Financial Ombudsman should stand alone. That Financial Ombudsman should become an independent office holder and should not be beholden to the Governor of the Central Bank, because we are not seeing—we will not get—the customers of this country, the consumers of this country, the policyholders of this country, will

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not be able to get the kind of justice if you have somebody reporting—Madam President, it is himself reporting to himself. That cannot be fair. And something has to be wrong with that arrangement. And I cannot support a report blindly. So I am asking the Government to look at some of these measures to strengthen this legislation. Make the Financial Ombudsman independent of the Governor of the Central Bank, so he or she can take action on his own in the interest of the consumers.

Madam President, I am seeing in the legislation where the committee is debarring—and I have no problem with that—banks, insurance companies, from engaging in banking, which is good. You should stay within your zone. But I do not believe that banks are debarred from engaging in insurance matters. So is that not a contradiction? Why are banks allowed to embark and engage in insurance matters and it is legally allowed by the Act and the laws of our country, but on the other hand, the Government is bringing legislation to debar insurance companies from taking part in banking activities?

And I am saying I agree with the Attorney General and the Government. Let these companies stay within their zones. But tell me what gives the banks of this company, who are reaping and creating havoc for many ordinary citizens of this country because of how they treat us, and the returns that we get on our savings with them, and they are having a field day—why must they be allowed to be involved in insurance?

**Hon. Member:** They are not.

**Sen. W. Mark:** Well, I can tell you they are. You may not be aware, but they are. So, Madam President, that is another area we call on the Government to examine very, very seriously.

Now, Madam President, you see this place they call the Parliament? You know, I am very passionate about it. Do not take me, and take us, for granted. We are not rubber stamps. We are passing laws to give to the Central Bank power to regulate the insurance industry and to regulate pension plans. In the legislation they are supposed to submit annual reports to the Minister of Finance. But that is the end of the matter. Those reports must be tabled in the Parliament and those reports must be sent to the relevant Joint Select Committee for enquiry and investigation. But I do not know if I did not see it. Maybe the Attorney General can point out to me, where in the legislation these reports are coming, that the Minister of Finance will be in receipt of, to the Parliament of the Republic? So you are asking me to give you power so that the Central Bank could have all this control, which I have no problem with. But who is going to guard the guard?

You remember the Central Bank, Madam President?—there was a former Governor of the Central bank of this country who is now an advisor to a Minister in this country, and he was one of the first customers at the doors of the Clico Investment Bank when they heard that a run was about to take place, and that was the gentleman who was supposed to be supervising the bank. He went and “take out de money fuss”.

So, Madam President, I am asking the question: Who will guard the guard? Who will guard the guard? The Central Bank, yes, they are independent, but we want them to be more independent of the Government and the Minister. “Sometime yuh cyar” make a distinction between the Governor of the Central Bank and the Minister of Finance. “Yuh want tuh know” who is the real Governor of the Central Bank; the relationship is so incestuous.

So, Madam President, we are advising the Minister and the Attorney

General, and the Minister in the Ministry of Finance to do something about this question. You cannot have a bank self-evaluating itself. Somebody must do that for it. And who is best placed to do so but us in the Parliament? We must supervise that bank. When I say “supervise”, we must be responsible for bringing that bank here, based on its reports that it must submit to this Parliament, because we are the ones who are passing the law and we are giving you power. Therefore you must be accountable to the Parliament.

Madam President, you go to clause 10 on page 245. A major duty of the Inspector of the Central Bank is to approve. It is our view that a major duty of the Inspector of Banks should be to approve all products sold by insurance companies. All products and services provided by insurance companies in the Republic of Trinidad and Tobago must be approved by the Central Bank through the Inspector of Banks. Madam President, you know the experiences we have had as customers in the country, as policyholders. “We buying cat in bag”, and before you know it, they bankrupt you, and all your money go up in smoke in this country.

How are we going to regulate these products, these insurance companies who devise products and provide services? Somebody must approve those things. Who is going to protect us? So this is a matter that we need to pay some attention to. You know there is a product called “derivative”. And I saw no mention of it in the legislation, and that was one of the products that caused the meltdown in many of those countries when we had the financial crisis. And I do not know if it is an oversight—

**Hon. Al-Rawi:** What aspect—

**Sen. W. Mark:** No, I am saying that in the report—in other words, can insurance companies be engaged in that aspect?

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**Hon. Al-Rawi:** Which aspect?

**Sen. W. Mark:** The development of derivatives. Madam President, I am not going to engage—Madam President, remind me. It may have slipped me. Are we going into committee, clause by clause? Or are we just going to adopt the report? Just remind me again.

**Madam President:** No, we have to go into committee.

**Sen. W. Mark:** All right. So we will go in committee, so when I reach there I will advise you, Sir.

Madam President, so that is an area that we would like the Government to pay attention to. And when I talked about the matter of the Ombudsman, that Ombudsman would be responsible for dealing with malpractice in terms of products and services that are issued by these insurance companies.

Madam President, I want to take you to this section that deals with pension. Pension starts from clause 216 of the Bill and it ends, I think, at clause 229. I ask the hon. Acting Prime Minister—and I will ask the hon. Attorney General, so when he is speaking he can guide us on this matter. Are the draft pension regulations of 1969, which are used by the Board of Inland Revenue to register pension plans in the Republic of Trinidad and Tobago—and there are over 182 pension plans in the Republic of Trinidad and Tobago—are those regulations going to be inserted in this Bill? Or will those regulations remain with the Board of Inland Revenue? But since the Board of Inland Revenue will no longer be registering pension plans, then why would the regulations remain with the Board of Inland Revenue? So it has to go to the Central Bank.

But I have looked through this 296 pages of material—no, 400, Madam President. What am I saying? Madam President, 485 pages, and I have not seen

those regulations. So might I ask the Attorney General to tell us where are those regulations? And would you believe, from 1969 to the present time, which is almost 50 years, we are governed by draft? Sen. Roach, draft regulations. It was never signed in 1969 by the Governor General of the country. That is what I understand, and maybe the Attorney General can tell me if those regulations are in draft or are they substantive? Have they been properly passed? Have they been signed and assented to in 1969 by the then Governor General?

But, you know, Madam President, what is sad about it? I raise this question about pensions because as a former trade unionist, I understand the significance and the importance of pensions for workers. It is a savings that workers embark upon when they begin to work and they save their moneys. The employer contributes a portion and we contribute a portion, and it is invested and they have trustees of the plan and the pension fund, or plan, as the case may be.

Madam President, you know, in the draft regulations the Board of Inland Revenue has stipulated anyone who submits a plan to the Board of Inland Revenue to be registered as a pension plan, everyone is told there is a line in the sand that you cannot cross. That line in the sand is marked two-thirds. I do not know where that came from. You have an illegal set of regulations in the first instance, never became law, but the Board of Inland Revenue has taken it upon itself to tell you that you cannot get more than two-thirds of your retirement funds as pension. Why not 90 per cent?

**Madam President:** Sen. Mark, you have five more minutes.

**Sen. W. Mark:** Madam President, thank you. Madam President, you and I, if we want, when we retire, if we want to get 100 per cent of our pension, why can we not take 100 per cent of our pensions? If we want to take 90 per cent, why can we

not take 90 per cent? If we want to take 80 per cent, Madam President, it is our money. It is we who saved it, and the employer pays a certain portion in accordance with law. It is only if you are a public officer you get 100 per cent contribution from the Government. Other than that, you pay and you make a contribution—two-thirds/one-third.

But the Board of Inland Revenue tells you that you can only go with two-thirds. Why is that so? Who give them the power to tell a trade union or a group of workers who are involved in a pension plan, they can only take two-thirds? This is something that the Attorney General needs to address, because you have to give the workers the flexibility. So if they want to go, as Ken Valley—may his soul rest in peace—he was saying that they were going to amend the laws and create an occupational pension plan, and under that pension plan he was proposing 80 to 85 per cent, where the worker can go with 80 to 85 per cent of his pension home and to get a 15 per cent in gratuity. But we are told, two-thirds/one-third. Why is that?

So, Madam President—you see, Ma'am, why I told you I needed a little more time. I have now begun to wax and I have so many other things. But time rushes on, so I have to take my seat in a few seconds, I would imagine. So, Madam President, I also would like to ask the hon. Attorney General that he should consider, in the workers' interest, to repeal all provisions relating to the harmonization of occupational pensions with NIS pensions, since such harmonization results in a reduction of pension income. That is a setback for workers. And I also would like to ask the Minister in the Ministry of Finance, can you tell this Parliament—I looked at the Guyanese Insurance Act which was passed in 2016 and there is not a single mention of pensions in that Insurance Bill,

which is now an Act. You know why? Because Guyana has its own occupational pensions plan in their country.

**3.20 p.m.**

So there is one pension plan in the country. Why it is, Madam President, we cannot get that occupational pension plan going for the workers of the Trinidad and Tobago, and for the people of this country? Can the Attorney General give this Parliament an undertaking that within three years or less—because you will be out and we will be in, so we will have to do it for you. But at least let us give the workers an undertaking that within a short period of time we will have an occupational pension plan stand alone and not being part of an Insurance Bill, now to become an Insurance Act. We need that independent plan for workers in terms of occupational pension plan.

Madam President, I know my time is up. There are some areas I would like to ask the Attorney General to consider, and this is the last one. Attorney General, through the hon. President, please consider an amendment to the law that would place into the legislation a provision, or a clause to review the legislation within a five-year cycle or a three to five-year cycle, so that we do not have a repetition of 1980 coming at us again—1980 and 38 years later, because of a crisis, we are reacting in 2009 and the Clico debacle. Let us think in advance.

Thank you very much, Madam President, for the time you have allowed me to make my contribution. Thank you very much, Madam President. [*Desk thumping*]

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Madam President. I rise to give full support to the Government to this piece of the legislation. [*Desk thumping*] Madam President, there are a lot of commendations which must be

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delivered this afternoon. As a member of the Joint Select Committee in the Tenth Parliament, together with the hon. Attorney General then, and the current Minister of the Finance, we worked assiduously and tirelessly. This Bill has lapsed on a number of occasions and I can assure you, Madam President, that for the first time I am able to say there is a piece of legislation in which I see absolutely no political mischief in any of the clauses. [*Desk thumping*]

This is purely technical. It is meant to ensure that a critical industry operates under rules, and I myself was a bit concerned that this particular Parliament, this Eleventh Parliament will come to a close and we will not pass this law, and I am hoping that I will be able to persuade the Senate well. I am not advocating for the Government, but I am hoping that we will be able by the end of today's sitting that we will pass this law and finally get the Insurance Bill into Act.

**Sen. Khan:** “Mark ain't see no mischief neither, you know.”

**Sen. Dr. D. Mahabir:** Well, yes he—because, Madam President, you see the iterations which have gone through, and the level of detail which was involved, the amount of consultants that we engaged and the inputs of all the stakeholders domestically—the insurance companies, the Central Bank and technical experts—ensured in my mind that we have today what is, perhaps, the best position on the matter as of this time.

There is, of course, no perfect legislation because industries continue to evolve and the law usually is a few steps behind the regulatory law, and I speak as an old regulator myself, as a former Chairman of the Public Utilities Commission and Sen. Mark, of course, is right. We do need to review the legislation periodically. I am just wondering whether it should be via legislation, or whether it should not be the regulator himself, in this case the Central Bank. I will come to

that when I am closer to my conclusion.

I am wondering whether if it is not the duty of the regulator himself to alert the relevant line Minister that there may be a few clauses that we need to change based on developments over the last few years, and we subject the legislation to that type of review. The former Minister of Finance, Mr. Larry Howai, was also a key architect. The former Government was critical, the former Independent Bench played a role, and so I think this is the joint select committee system at its best in the Parliament of Trinidad and Tobago and it shows what we can do to ensure that the public interest is defended.

Madam President, those are the preliminaries. I only have a concern with one clause and I am proposing absolutely no amendments. The time for amendments has gone. I think all of those matters ought have been raised and settled at the joint select committee system. This Bill was available to all of us, and if we had concerns I am sure we could have raised them through our relevant members to ensure that they were sorted out and settled at the committee system before it reached this particular stage.

Madam President, with your leave, I will have, as reluctant as I am, to discuss a few technical matters, and my colleague Sen. Roach has chastised me on a few occasions for getting much too technical on matters of public interest. But the Insurance Bill is in fact very involved and very technical, and we need to ask ourselves a simple question and the question is this: Why is there a need to regulate the insurance business? We have always known of the need to regulate banking. The difference between banking and insurance is simple. Banking deals with really short-term financial arrangements, and insurance with longer-term instruments. There is a critical time dimension. Banks deal also with risk for

different financial sorts; insurance really is supposed to specialize in risk management.

But why regulate insurance? We know that we regulate banks because banks cannot function without proper rules and regulations since there is something known as systemic risk. One bank failure can cause the society to lose confidence in the banking system, and then they can withdraw their deposits causing a run on the bank. The deposits can be placed in your safes at home, and in that way we become our private bankers. When that happens the financial economy is compromised, credit is reduced, and there is chaos in the financial economy. But is there that type of systemic risk with respect to insurance companies?

And so, Madam President, we need to look at how this Bill came to be what it is today. Does it have its genesis in the financial crisis of 2007/2008, or is it a little bit different? And we also need to consider that we are speaking about one insurance company, that is, the Colonial Life Company and its affiliates. But we need to understand that there are many more insurance companies in Trinidad and Tobago which were not really subject to the kinds of difficulties experienced by Colonial Life. So it had to be many insurance companies in the country were actually conducting their affairs prudently, they were doing what they had done traditionally well, and they were regulating themselves. They were operating under their own industry codes. And on that point as an aside, I agree with Sen. Mark.

While the legislation before us is meant to regulate insurance companies in general on how they conduct their affairs so that there is going to be no stress to the Government in the future, and that they are not going to find themselves in the

kinds of crises that we saw with Colonial Life and its affiliates, it is important for us to understand that legislation must result in benefits to the ordinary people.

And I concur completely with Sen. Mark that when the Central Bank comes to regulate insurance in a more meaningful way—I know it has an Inspector of Insurance—we would want the Central Bank to defend the interest of the small individuals in society—small, Madam President, individuals who have small claims, claims that may be less than \$25,000. We know that insurance companies have traditionally in many instances paid their claims, but in some instances we know that they unnecessarily delay the claims owed to the population for smaller sums, hoping maybe that these claims will somehow disappear and they can frustrate the claimants.

My hope is that we in the regulatory arm of the State, the Inspector of Insurance, and the part of the Central Bank that deals with the regulation will, of course, have standards of service so the poorer people in Trinidad and Tobago—not necessarily the poorer people, but someone with small claims— instead of hiring a legal attorney which will consume his claims in any event, can simply call the Inspector of Insurance and indicate, “I am having this problem. Can you assist to sort it out for me?” And Central Banks have this power known as moral suasion, that is, they do not need to take any action except a phone call to indicate, “We understand that you are delaying on this claim for this individual. It is now 90 days old, could you comply within say a 30-day period?”

So that is aside and that is to benefit the poor people, and I am hoping that this particular legislation will allow us to do that. Madam President, I ask myself—and I will come to only one clause and I will not, as I said, seek any amendment—whether this particular piece of legislation by itself will ensure that a

replication of the Clico crisis does not reoccur sometime in the future, and I am not convinced that the legislation as necessary as it is alone will do the job for the people of Trinidad and Tobago. And so, Madam President, I want briefly to speak about two instruments shortly, and then a third concept, and I assure you I will pull them together.

One is a derivative instrument alluded to by Sen. Mark. That is known as the credit default swap. What is a credit default swap and what does it have to do with what we are doing? The credit default swap is a simple instrument. It is something that is lacking in contention. Basically it is as follows: General Electric decides to raise some money, \$100 million, and it floats a bond, 5 per cent for 10 years. Someone buys the bond. So he holds a GE bond for \$100 million, 10 years. He collects \$5 million every year in interest, but he has this fear that maybe GE might default. GE is a Dow component, hardly likely, but he is not sleeping too well at night. So he asks an insurance company called American Insurance Group (AIGFP) Financial Products—real examples, no hypothetical there—and AIG says, “Not to worry pension fund, not to worry investor. I will insure \$100 million bond for you and you just pay me a premium of \$1 million a year, and if GE defaults I will give you back your \$100 million.” AIG had a good business doing this because in S&P 500, you had S&P 500 companies assessed by Standard & Poor’s. The chance of anyone defaulting is so low that anyone who wanted to buy insurance on their bonds, AIG is very happy to sell it and they made a large amount doing that.

This is the seeds of the financial crisis you know, 2007, but you see, Madam President, a credit default swap is different from another instrument called the collateralized debt obligation. They look the same, they smell the same, but they

are as different as different could be. What is this collateralized debt obligation? Where am I going? I am going to link that to what is happening with Clico and with the legislation before us, which is looking at the crisis of 2007. And we want to avert that, but I am seeing something else with the Clico that I would want to raise with the Attorney General for his consideration. I myself have not seen the report of the commission, but I would raise it for the AG for his consideration of course.

What is this collateralized debt obligation? This is it, Madam President. Instead of a \$100 million bond from GE, suppose there are 100 mortgages, each with a million dollars. You add them together and someone buys the mortgage—the whole 100 mortgages—and he now owns \$100 million in mortgages. He packages it into a \$100 million bond. It is a mortgage-backed security, and then he takes this \$100 million bond and the mortgage is at a 5 per cent rate, looks like a GE bond and he goes to AIGFP and he says “AIGFP, I have this security, this mortgage-backed security. It is a collateralized mortgage obligation, could you insure it too?” And what does AIG do? AIG has had the largest bailout in the history of this planet, US \$85 billion from the US Government. What does AIG do? AIG says, “Well I really don’t know what is this CMO collateralized? It looks like the mortgage default. Let me check and see what Standard & Poor’s and Moody’s has to say about it.” And, Madam President, this is where the problem arose.

Standard & Poor’s, and Moody’s can rate certain things, but insurance companies are supposed to assess risk. If the insurance company takes a rating from Moody’s on these 100 mortgages, and Moody’s says they were good, AAA. AIG says, “Fine. I will insure this hundred million mortgage-backed security for

you for the same million dollars a year.” Look at what is happening, Madam President. For a million dollars a year AIG said, “I will insure the mortgages for you and if the mortgage holders do not honour their obligations, I will give you back your \$100 million.” Well, Madam President, look at trouble. All those mortgage holders, a million dollars each, started to default one after the other, like all kind of mortgages inside there. You see a lot of problems occurred there and the problem was micro in nature, and AIG found itself holding all of these non-performing mortgages.

So, Madam President, we see the seeds of the crisis when not only AIG insured the mortgages, but Deutsche Bank and all those—Lehman Brothers started to buy these collateralized mortgage obligations, created—these are the derivative securities alluded to by Sen. Mark—created by Wall Street, packaged and sold across the world, we got international transmissions of the risk, the meltdown. The problem is this, AIG and the Munich Re, and all of those general reinsurance and so on, did not know the risk they were handling, which is surprising because an insurance company is supposed to master risk. How could it just pass on to Standard & Poor’s Risk Assessment; and how could it simply say, for \$1 million I will pay you your \$100 million if it defaults without checking?

The seeds of the crisis led to chaos in the US economy and elsewhere. But, Madam President, was that the cause for Clico getting into trouble? When I looked at the Clico issue—and so we do need to take into account these types of practices which can place insurance companies in serious trouble because we need our insurance sector to be strong. I will come to that. For me, the Clico crisis was not really related to what happened in 2007, because I recall a former Minister in the Ministry of Finance, in the Panday administration, Trevor Sudama, somewhere in

1998 saying that he had serious concerns with the ability of Clico to honour its obligations. I understand he was chastised severely and so on, but that problem arose since 1998, a good 10 years before the crisis of 2007/2008. So we have had here a company, and at the same time we have had insurance companies who had no such issues, save and except sometimes the reluctance to pay a little claim here and there and I know we will get to that.

So the Clico issue is in my mind separate and distinct from the financial crisis of these mortgage-backed securities, these collateralized debt obligations. It was not that which caused them. When we looked at the evidence what we saw was that Clico was operating like a bank with short-term obligations, investing like an insurance company in long-term instruments including things like gas-processing facilities for methanol and so on, and the mismatch, bad investments, were really causing a problem with cash flow and we had then a situation where depositors had to be paid because of the high interest rates on their deposits out of new deposits, giving rise to classic Ponzi scheme arrangement.

It is here, Madam President, that I want to raise for the consideration of the hon. Attorney General, who incidentally worked very hard—we worked very hard in the Tenth Parliament to get the law to a particular point—and that is this notion of fiduciary responsibility. We do not speak about it too much in Trinidad and Tobago, but what is fiduciary responsibility? The fiduciary responsibility really refers to the need for those who are entrusted with people's money, either banks, insurance companies or non-bank financial intermediaries, to behave in a manner so that the trust will be preserved, and if errors are made, the errors are really going to be errors based upon uncertainty. What it says is that once funds are entrusted to you, you are not going to act in a reckless manner. Without due regard, you are

going to ensure that the funds are invested properly, and with normal risks you are not going to simply take these funds because they do not belong to you and invest them in assets that you do not understand. Invest in them without due diligence and the consequences are going to be borne not by you, but the consequences are going to be borne by the population of Trinidad and Tobago.

I think we need, Madam President, to look at fiduciary responsibilities now very carefully. Reason is, we have seen it in the early 1980s with International Trust, we saw it with the Hindu Credit Union and with the Colonial Life fiasco, and it is likely that we will see it over and over again, and it is possible that the DPP may be looking at the report to see whether certain SEC—securities and exchange—provisions have been violated. But I looked at some laws around the world and while the violation of fiduciary responsibility is usually of a civil nature, that we could initiate civil action against those who mismanaged and misused our funds, the problem arises when individuals who have misused your funds have themselves become bankrupt. So they have misused their funds and they have lost the money, and there is nothing for you to claim on.

Well, in the state of Texas, there is the criminalization. I read the law, it is 32.45 (C) and (D) in a classic case of *Holt v the State*. Mr Holt had violated fiduciary responsibility, fiduciary duties, and he was given 23 years in jail based upon the Texas code. When he appealed to the Texas Appeal Court in *Holt v the State*, the Appeal Court ruled that 23 years for taking people's money and really gambling it at roulette machine was not cruel and unusual punishment as Holt alleged, but rather to be expected because Mr. Holt apparently had misused the funds of elderly people, and they looked very much askance in the state of Texas to criminalizing.

So even though you could initiate civil action against the individuals who misused your funds, I think we could look at criminalizing as well. The reason is this, what concerns me, we have spent \$30 million. We approved \$30 million a couple days ago for the Clico report and my fear is unless we criminalize this type of activity we are going—independent of the good legislation before us—we are going to see, time and time again, individuals coming, knowing that there are no criminal sanctions against them, thinking that the State once again, because it is elderly people—you see, this issue of savings, the majority of people who have money, who invested in Clico, are people who are retired or close to retired. The majority of people who invested in the trust companies in the '80s were retirees, and we need to understand now that these are individuals who have reposed their trust on these individuals and there must be some penalty once the trust is violated.

In the banks we have fit and proper guidelines. We will need to do the same, Madam President. I leave this for the hon. Attorney General who in any event is much more learned in insurance than I am, but I think as a society we need to be looking at criminalizing this violation of the fiduciary responsibilities, to send a clear signal that what happened in the past was past, and in the future \$20 billion will not have to be handed over to the people from the Treasury because the Treasury needs every single dollar it can get.

Madam President, let me focus on—and so that is my first recommendation. Let us look at criminalizing the violation of fiduciary. It is happening too often in Trinidad and Tobago. Insurance is all about risk and I think we do need to ensure that we manage risks very well. We need a strong insurance sector in an economy. An economy cannot function efficiently without insurance. Why? Because risks act like sand or contaminants in the oil of an engine. When the engine has

impurities it can cause the car to stall or malfunction. The insurance company acts as the filter. The oil passes through the filter, the grit is removed and the engine can run. And, Madam President, Caribbean societies, as we know them now, had their start because of the influence of Lloyd's of London. Lloyd's insured the human cargo, but it was cargo. Lloyd's insured everything from the Caribbean going up. So that there were people who got into the business knowing that there was an insurer, just in case there is some kind of calamity we will be compensated, and insurance operates on randomness, the law of large numbers, the fact that events are not correlated.

In the mortgage crisis of 2007, the mortgages were all correlated because, Madam President, sub-prime simply means that you do not qualify for the loan. It is just a big name. You do not qualify for the loan because you do not have the financial stability to take a mortgage for the next 20 years, but do not worry we will give you the money, knowing that we could sell this loan to somebody outside there and it is really one of those things that we need to be looking at. But, Madam President, when we look at insurance and we look at risk, we know that they deal with long-term obligations.

Banks, as we say, deal with short-term, and it is in this context I need to focus on clause 85—only clause 85. It says in clause 85 that—I recall raising this as well in the last Parliament.

“(1) An insurer shall invest in assets in Trinidad and Tobago an amount equal to at least seventy per cent of its policy benefit liabilities...”

So when I saw the investments and the restrictions on investments to assets in Trinidad and Tobago on “an amount equal to at least seventy per cent of its policy benefit liabilities”, I agreed with Sen. Mark that we do need to review the

legislation periodically. My only issue was whether it has to be via the law, or whether we leave it up to the Regulator in consultation with the industry stakeholders to determine whether changes should not be made over time.

**3.50 p.m.**

I am a bit reluctant to put anything like that in the law, as of now, because this is what we now need to do. Insurance regulation is relatively new. The United Kingdom has some expertise, our Central Bank will have to develop the expertise. Before this Act is proclaimed, the Central Bank will have to ensure that it has its regulators in place, its team of experts, individuals who are very well-trained with all clauses in this particular piece of legislation, and who will be able to enforce the law. That, I think, will take time. I am hoping it is not going to take an inordinately long period of time. In fact, it is my hope that the Central Bank has been preparing itself so that we can proclaim in relatively short order.

But, Madam President, while insurance deals with risk, there is another aspect of insurance, again alluded to by Sen. Mark, and that is the pensions aspect of insurance. Insurance is peculiar in that it has, Madam President, an interesting flow of funds associated with it. It collects annuity premiums, it collects risk premiums on an on-going basis, and in some cases, it knows that it will begin to pay the annuities maybe 30 years from when a first contribution is received. It collects life insurance premiums from someone who is 30 years old, and in general its actuaries tell the company that well, you can expect to pay out a death benefit to this person, having started at age 30, maybe, 50 years later. It is for this reason insurance companies like you to buy policies when you are young. They also like you to buy life insurance policies when you are not engaged in at-risk activities like smoking, and they subject you to a medical examination to make sure that you

are not coming to the industry with any pre-existing ailments. They will take the risk. Madam President, they segment people. Professionals are given lower premiums because they know professionals tend to engage in less risky-eating behaviour and things like smoking and so on.

But the issue is, and I relate it to clause 85, Madam President, insurance companies must invest. The investment arm of insurance is as critical as the risk assessment arm. The reason is, the insurance receives something known as float. What is “float”? Float is the premium it receives on an annual basis that is not paid out in claims in that year, but will eventually be paid sometime in the future. The insurance company, then, has the luxury of long-term investing. It can and frequently will purchase Government bonds—and I understand the reasoning behind clause 85. It will purchase Government bonds of, maybe, a 10-year duration, 20-year duration and usually, the investor or the investment arm within the insurance company will hold these bonds to term. They are not trading bonds. They have a stock portfolio of bonds that they will hold to term, they will collect the interest and then they know exactly how to time their bonds with particular claims.

It is in this context, Madam President, that I raise the issue of investments. And I agree with Sen Mark. Is it that the 70 per cent may be too restrictive sometime in the future and that if an insurance portfolio manager, the individual who or the agency in the insurance company that is in charge of its investment portfolio, holds the view that there are investments in Brazil, there are investments in India, there are investments in South Africa, that they would like to engage in, having—you see, Madam President, investment is now global. We act locally but we must think globally. The international portfolio of investments is simply huge

and it may very well be that in order to maximize returns that they may find investments in jurisdictions outside of Trinidad and Tobago.

My recommendation is, once the portfolio manager sees that there are opportunities outside of Trinidad and the manager would like to invest a portion which will take him below the 70 per cent, maybe 60 per cent, with justification to the Regulator, that the investment that he considers is an investment that is going to generate a far better return with less risk than an investment within Trinidad and Tobago, I think we should allow the investor—we should not so tie the investor in the insurance company's arm because ultimately, the higher the rate of return on the investment of the insurance companies, the policyholders are going to benefit and the retirees themselves may benefit based upon the kinds of annuities that are going to be paid.

Insurance provides, Madam President, a valuable component of retirement. For this reason, I say we need an insurance sector, strong sector because as we age, we know that the pensions that you obtain from your employer may not be enough to sustain you for the rest of your life. Why, Madam President? It is because of an increase in life expectancy. When you look at the charts in Trinidad and Tobago from 1960 to now, over the last 50 years, we have seen the life expectancy of Trinidadians has increased basically by 10 years, more for women—

**Madam President:** Sen. Mahabir, you have five more minutes.

**Sen. Dr. D. Mahabir:** Thank you very much, Madam President. Let me see, in five minutes—because, you know, I was getting an opportunity to do a little economic analysis. As you understood, Madam President, [*Laughter*] all these collateralized debt obligations and things—it is a long time I have not addressed them. [*Interruption*] And it is all on derivative. And Sen. Khan, I am sure, if he

Insurance Bill, 2016 (cont'd)  
Sen. Dr. Mahabir (cont'd)

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could move a Motion to get me to expand, I am sure he would but I know he cannot. [*Interruption*] I know he would have. [*Laughter*]

But, Madam President, I raise the issue in the few minutes that I have, of a strong insurance sector with respect to our retired population. We know that we have an increase in life expectancy now. Someone who is retiring today may easily live up—at age 60, may live to age 80, he has 20 years in which to finance the retirement, and retirement can be expensive because of paid care. And what insurance companies do then, is that they sell these annuities, that is, you contribute to them from when you are young and it is, in fact, highly recommended, and I am very happy to see that the investments that insurance companies will now engage, it will be such that their annuity payments will not be compromised. We need to protect our retirees.

And Madam President, we however, at the same time, need to ensure that the insurance companies are not in any way too severely restricted given that investment opportunities abound and they are not all toxic. You see, I do not think that we should make one example, the derivatives—and not all derivative contracts are questionable. The first one that—the mortgage default swap is a very good instrument because it just offers insurance on a very good instrument, but when you offer insurance on an instrument that is very risky, that is where the problem arises. So, Madam President, we need a strong insurance sector. I think that the rules we have before us are going to be beneficial for the people of Trinidad and Tobago. We know the Central Bank will have to look at standards of service to ensure that the smaller people are protected for their small claims.

But, Madam President, while we implement this legislation, hopefully—I know I am jumping the gun here, but hopefully we will approve this legislation and

Insurance Bill, 2016 (cont'd)  
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when we do, let us at the same time, Madam President, understand that the origins of this particular Bill really are based upon two prongs. One, 2007, but second, the origins are based upon this violation of fiduciary responsibility, and once we recognize the second component and we undertake measures to make this particular action of violating the trust that people repose on managers of money into a criminal offence, I think Trinidad and Tobago, as a whole, will be well served and basically, I know we will be reviewing this legislation. While, in fact, I do not recommend that we put it in law, I would imagine that every five years or so, this piece of legislation will come back to the Parliament. Whoever is in office will look at clauses which need to be amended, will be amended and finally, we will be able to regulate insurance as well.

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

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, thank you for the opportunity to join in this debate. I was very pleased that my colleagues asked me to serve on this Joint Select Committee on the Insurance Bill. It is landmark legislation and I think as legislators, we should be asking ourselves four questions this afternoon. First, how will this affect our citizens? How will this affect the insurance sector? How would it affect the country? And how would it affect the region?

Madam President, today and every so often when we enter the Parliament, there is a guy sitting outside with a placard—and different people, and that dates, Madam President—because last night when I was thinking about the Bill, I just went through very quickly in my head, in a few minutes, my own experience and some of the words that have been bandied about for a long time, and pension reform has been one of them. Pension reform, harmonization of NIS with old-age

Insurance Bill, 2016 (cont'd)  
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pension and private pensions and so on. There are different groups of people. There is one group from the Port Authority, pensioners who sometimes come outside the Parliament. That gentleman dates back to the TELCO days and there are unresolved issues in the TELCO pension.

When I was in Point Fortin for Borough Day, a man who is in his '80s reminded me of him seeking advice from me many years ago in relation to his retirement benefits from Shell, and I myself had to deal with the confusing matter of seven or eight pension plans in Caroni. Several of them underfunded and having to create harmony and harmonize and put them on a long-term structured basis so that the former employees of Caroni would get a minimum pension. So, this Bill seeks to do two things

And to answer Sen. Mark's question about Guyana, the Bill is very explicit in saying that it creates the regulatory framework for the insurance industry on one hand, but on the other hand, it continues to provide for the regulation of the privately administered pension funds. In other words, Madam President, today, we are dealing with insurance but we are not dealing with pension funds and pension plans and the administration of pension plans. We have preserved the current arrangement and left for another day to deal with pension plans and hopefully, it does not take us another 40 years to get there.

Madam President, I listened to Sen. Mahabir, and he used an expression, "the seeds of the crisis" in reference to, maybe, Clico; the seeds of the crisis. And I want to say that at the heart of what we are doing today is people and the irony of it all is that the slogan of Clico was "People Centred, Future Driven", but I am not sure upon whom the attention was centred and whose future they were taking care of. But as we fix this insurance—and I am just taking about human behaviour. As

Insurance Bill, 2016 (cont'd)  
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we fix insurance today, we have in this country something that has developed that I hope it is not 40 years from today that we gather to fix, and that is this thing called cryptocurrency.

Because, Madam President, the same men in fancy suits who came around selling insurance policies and insurance products, are now going around the country asking people to gather in groups of 10 and “fork out” their money: \$5,800 per person for training and the training involves—you would get eight or 10 coins with a value of \$500 and you would get 8 per cent interest on your \$5,000 investment, and it is men in suits and bright lights and so on. And the Securities and Exchange Commission has had something to say in March 2018, Hayden Gittens, the director, made a presentation at the Telecommunications Authority of Trinidad and Tobago forum on cryptocurrency and he did not come down on one side, he talked about the benefits but he also pointed out the risks.

My concern is that while we deal with the insurance, we are creating a problem and allowing a problem to fester that would one day grow to become a Clico-like situation, and the two are driven by human beings and their desire for greed, their wish to take advantage of the vulnerable and most importantly, at the root of the CL Financial and Clico matters, an abysmal failure of regulators to do what they are supposed to do. And as I always say, this is excellent legislation, it is not perfect legislation but this legislation falls in the hands of people who are not in this Parliament; gatekeepers who are not in this Parliament. A series of gatekeepers who must certify fit and proper directors, who must ensure that administrative requirements that are required under the law are met, who must penalize administrative requirements.

And Sen. Mahabir, if you go Schedule 6, you would see some administrative

offences and the administrative fines and some of them deal with directors in their personal capacity, and the failure of directors, and to me, that is a start. To put it into the Act and put it into the Schedule and to avoid a summary offence and a trial and all of that and create an administrative offence, to me, gives you the ability to enforce certain patterns of behaviour but ultimately, the strength of this legislation relies on the ability of the regulators to do what they are supposed to do.

Madam President, the importance of reform, the Minister of Finance talked about the importance from a financial point of view. The combined assets, he said, of insurance companies and pension plans is in the area of \$100 billion, one-third of which is invested locally. But in a previous contribution, I talked at length, I think, on the issue of money laundering in this country and I pointed to the 2017 report of the FIU, and let me just go back to this issue of money laundering in relation to insurance companies.

You see, Madam President, when the FIU rendered its report in 2015, what I saw in the report was a growing trend for insurance companies to be used for money laundering purposes. So in 2011, there were only nine suspicious transactions relating to insurance companies; in 2012, it was 10; 2013, 3; 2014, 13 and 2015, 28. In fact, in the 2015 report of the FIU, there were reports on suspicious transactions to the value of \$3.6 billion but only a small part of that, \$1 million representing 22 transactions, \$1 million were attributed to insurance companies. So, in 2015, \$3.6 billion of which \$1,032,375 were attributed to insurance companies.

Fast-forward to 2017, two years later, and what the FIU told us in the report of 2017, was that the money laundering, the scale of it in terms of suspicious transactions had moved to \$22 billion, and when you think about the context of it,

Insurance Bill, 2016 (cont'd)  
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\$22 billion when for the previous five years, the total value of suspicious transactions for the five years preceding 2017 was \$4.5 billion. So, you are talking about a five-fold increase in one year. But what the FIU also told us, was that \$7 billion of that was attributed to the insurance companies.

So, the FIU made a few important observations about insurance companies in its last report and those observations were: one, that the insurance companies were increasingly being used for the purposes of money laundering; two, highlighted an increase in fraudulent transactions relating to motor vehicle insurance and the fraud related to fraudulent certificates, fraudulent insurance agents and fraudulent use of fraudulent certificates to found claims on insurers.

So, Madam President, just in the context of money laundering and the FIU reports, we can observe and understand that it is very important that the operations of insurance companies, the management of insurance companies, the people who serve on the boards of insurance companies, the reporting of insurance companies, are vital to this country—apart from its importance in the insurance business, its importance in the anti-crime initiatives of this country and the ability to meet our international obligations in relation to those initiatives.

Madam President, I just want to quickly go through the legislation. It is a significant piece of legislation and I cannot go through all the clauses, but I want to highlight some of the things that I consider to be very important in this legislation. The first is—and I do not want to go back over the Clico and I do not want to go back over the issues relating to Clico, but it is impossible for a business like the insurance business to function without the stipulation of minimal capital, and the Minister of Finance, in his presentation, talked about the capital adequacy requirement. But it is not just the stipulation of minimal capital, there are other

things that go with that.

And if we go back to Clico, the fact is all these insurance companies submit to the Central Bank financial statements, which set out their assets, but if the regulators are not going into the submission and determining the quality of the assets, then the companies are going to continue to play the game. And what we saw with Clico and in a certain part of the Bill, clause 70 addresses the issue of related party transactions, but a major component of the problem within CL Financial is the use of related party transactions to support the balance sheets of the companies within the group.

So, two things are important in this Bill in relation to, not just minimal capital requirement, but structuring of the company and dealing with the intercompany dealings, and the two things I want to point to, is the requirement under clause 65 where you have an insurance company that is owned by or part of a group that has other financial entities, there is a requirement that the group be separated so that the financial entities are under one holding company and the non-financial entities are under another holding company.

So, for example, if you have a group where you have a real estate company and you have an insurance company and you have a company involved in lending, the real estate company and the financial-related companies would be under separate holding companies and that is, Madam President, to ensure that you do not have commingling of assets, you do not have related party transactions where you are moving funds from one company to another company. You are doing that with the use of paper, you are doing that with the use of paper that is not backed by assets and in other words, you are just fixing the books so that a regulator who is asleep and not paying attention, would not know what is happening.

The second thing I want to point out in relation to the legislation is the restriction, clause 30 and very simple, the restriction on an insurer from carrying on business for which it is not registered. Because what we have seen, we have seen insurance companies getting into—and I would call it insurance companies that style life insurance as investment products, and insurance companies that style investment products as life insurance, and a previous speaker, I think it is Sen Mark, dealt with the issue of banks offering life insurance and insurance companies offering banking services.

And clause 30 is very important because it confines insurance companies to the work—the business for which they were registered, and that is supported by clause 32 which prohibits an insurer from altering its articles of incorporation without the approval of the Inspector of insurance. And, that ensures that everybody stays in their section because unfortunately, the consumer does not realize the risks that are attendant when people get into business that they are not registered for, they are not licensed for, they should not be doing and they are not even capable of doing.

Clauses 42 and 43, Madam President, address the issue of commingling of funds and require that the insurers maintain separate accounts to support the various categories of insurance business and again, very important because part of the CL and some of the other issues we had, we kept hearing this issue of liquidity and we kept hearing this issue of an asset and the difficulty in converting an asset into cash. And what the Minister of Finance spoke about earlier, is the requirement that you keep 150 per cent of your operation's expenses available to you, so you could fund the business of the insurer.

And by putting in these rules that allow you to—require you, sorry, not

allow, require you to keep separate accounts and to keep people's premiums in a particular account, to keep the foreign business that you do, to keep the proceeds from your foreign business in a different account—it is meant to avoid commingling of accounts, it is meant to avoid or not create the opportunity for you to interfere with the accounts and to move money among related parties. So that, when you have claims to pay or when there are problems in the entity, the people who have invested in the entity and who have purchased products for which they have a lifetime interest, would be able to have some sort of recourse.

I have already spoken about the capital adequacy requirements. Madam President, perhaps to me, the most important part of this Bill and in a sense, we have come somewhere, but it may be an area that we have to return to. I agree with Sen. Mahabir, it may be an area that we have to return to and that is the board of directors and the appointments of persons to boards and the appointment of the independent auditor.

**4.20 p.m.**

Clause 67, Madam President, deals with the issue of directors, the duties of directors and it also deals with the fit and proper test for directors and the detail of the fit and proper test is in Schedule 6. The individuals are to be fit and proper persons, Schedule 6 deals with it.

In the area dealing with directors, I want to point to a very important provision, as far as I am concerned, and that deals with, and it is not a provision that we see very often in our legislation in Trinidad and Tobago. It is surely not in our Companies Act, but it is a provision that I welcome particularly in this Act and that is under clause 67(7), which reads:

“An insurer shall not award or pay any bonus to its directors and officers

where—

- (a) the assets of the insurer are insufficient to meet the requirements under this Act and Regulations; or
- (b) the bonus would reduce the assets of the insurer below the amount referred to in paragraph (a).”

And “bonus” is defined and “remuneration” is defined, Madam President, because it is not unusual. It is not unusual for financial institutions and it is unusual for insurers that are on the brink, that are not servicing their insureds, that are not paying claims on time, to be paying bonuses or to be paying themselves and to be fattening themselves and leaving their insureds unattended to, and that to me is a very important provision.

I also want to point to the audit committee of the board. And, of course, it says, Madam President, it is not something we see very often in our legislation. We see the audit committee, the requirement that a majority of the directors be independent directors, that is, directors who have no affiliation to the entity, at least one of whom shall be a financial expert and at least one of them not being connected to the insurer. But I say that very cautiously, Madam President, because we have seen, even Clico and the parent company had persons on the board who were supposed to be independent and who were supposed to be qualified and still allowed the company to get into trouble. But it is at least good in law that the legislation provides for that. And when we pass this Bill, as I have said, we leave it to the regulator to ensure that people do what they are supposed to do.

Madam President, throughout the Bill, there are clauses dealing with consumer protection. And from 255 onwards, 255, 258, there are very important provisions dealing with the dealings between someone who is offering, like a

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salesman who is offering the insurance product and the consumer herself, the customer herself, and we understand in our country, this is a very small society. I am watching, as I said, cryptocurrency and a lot of what is happening is happening on account of relationships. I see some churches and so on involved in it and I know a lot of it is driven by relationships and people who place trust in each other.

And the insurance and financial services on the whole are conducted in our small society on the basis of trust, but the legislation for once—because I always wondered at what stage the law will get to those insurance salesmen, those salesmen, the fancy suits who are selling these products knowing the weakness of the product, in terms of the ability of the person holding the risk to be paid. And while we have focused on the high, the top of Clico, we have never drilled down to the people who are actually going to these potential insureds and not disclosing to them the difficulties that Clico was experiencing in its own cash flow, which prejudiced its ability to pay.

And, of course, what was the consumer, when you go around the savannah and you see an entire wing dedicated to the insurance company, and you see all the signs of success and all these people in their fancy suits and the million dollar—I think it was Sen. Small who mentioned it in a previous debate last week, the people going to conventions in Vegas, and so on, and you are not realizing—trillion dollar round table—that it is your premium that is flying to Vegas and staying there.

Clause 255 really represents to me where we should be. It sets out in detail, it creates the offences, it creates the penalty and again, as I say all the time, it is left to the persons whose job it is to enforce these criminal offences to be able to ensure that those who are cheated get their just due.

Madam President, very way down in the back, where nobody is likely to

reach, clause 267, there is very simple provision that I appreciate and I really hope that this works, and that is a provision where—because even after, and insurance is one area, especially motor vehicle insurance, that attracts a lot of litigation. And some of it, from my understanding of a third party insurance and a third party insurance provider, some of it is really a management of cash flow by the insurance companies. They have their lawyers on retainer. They allow the matters to flow slowly through the legal process, while they hold on to their investments and they pay just at the point when somebody is ready to come and blow up the building. They pay out something to keep people happy.

Clause 267 says:

"An insurer shall fully settle all judgment claims within forty business days of the judgment order, unless there is a stay of execution."

The provision is there. The provision is there. The issue is the penalty.

**Sen. Dr. Mahabir:** But, Senator, that is a judgment claim. That is not really a normal claim between an insured and the company. This is where the problem arises for me now. Before it goes to judgment, they delay at that level.

**Sen. The Hon. C. Rambharat:** Senator, that is exactly what I was saying. I was saying it is a situation where it goes to court, and there is no—but there are provisions in this Act; there are provisions. If the regulators are doing their job, there are provisions where a regulator can deal with a matter between an insured and an insurance company. It is just that it does not happen.

And, Madam President, just to go back to what Sen. Mahabir spoke about, when you go to Schedule 6, you would see, for example, Schedule 6, in relation to Section 66 of the Act, clause 66 of the Bill, Schedule 6 sets out that:

The "...director of an insurer of a financial holding company being present

at, or voting at, a meeting of the board of directors or a committee of the board of directors”—of that insurer or financial holding company on a contract —“which would result in a direct or indirect financial benefit”—run the risk of a criminal penalty of \$500,000 or an administrative fine.

So, Madam President these are things we are seeing for the very first time in legislation. This deals with conflict of interest. And we have legislation where directors, very clearly, are not supposed to engage in conflict of interest but the penalty and the enforcement is sometimes very far away from the commission of the offence and this creates the opportunity for a criminal penalty on summary conviction of \$500,000 or an administrative fine of \$125,000. And as I have said before, there are other places in which there are administrative and criminal penalties in relation to the behaviour of directors, the behaviour of the insurer too, but the behaviour of the directors.

Madam President, I do not want to abuse my privilege to have served on the committee and to have said my piece, and I thank you very much. [*Desk thumping*]

**Madam President:** Hon. Senators, at this stage we will suspend the sitting and we will return at 5.00 p.m. So the sitting is suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

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

**Sen. Taharqa Obika:** Thank you, Mr. Vice-President. The Bill before us is a very important Bill, as we all know, the Insurance Bill, 2016. The hon. Acting Prime Minister, the substantive Minister of Finance, in his presentation today, laid out the extent to which the Bill represents a significant portion of our gross

domestic product as an economy, if it were to be juxtaposed against that.

The figure of over \$100 billion is no small figure, and the impact of this on the entire economic system, as we know it, cannot be overstated. So, what I am seeking to do today, really, is to give some strength to some sentiments echoed prior, as well as to point to some areas that the public should look to with interest as we go forward because again, the law is set to assist us in representing the people of Trinidad and Tobago.

So, as the Bill is in its final stages of the process, there are several proposals being advanced to enhance the corporate governance of insurance companies in Trinidad and Tobago. And a key aspect of that is the whole issue of capital adequacy. The Minister went at lengths to explain the \$3 million to \$15 million, as well as a proportion based on the risk-based assessment of the insurance companies, and I would not go into that too much, but really just to point to the graduation, in terms of the transition for insurance companies to achieve the required capital adequacy as prescribed, given that the minimum regulatory capital should be at 150 per cent and they would have, basically, five years with which to do so, with a scale growing in increments of 10 per cent; from 110 to 120, and so on. And it will come with some comfort to the population that, should an insurer choose not to comply, that they would be met with a \$5 million fine. The significance of this is such that it cannot go without some perspective.

In different jurisdictions, where there are much more financial institutions than ours, you would find, from time to time, for example in the commercial banking sector, the Central Bank would step in to increase the minimal capital requirement in the respective commercial banks, so much so, that it would force mergers. Those mergers would be done with the coordination of the Central Bank

to ensure that the final book that is arrived at is one that would be healthy and would redound to a sustainable and long-term ongoing financial institution.

Now, should some insurance companies not be able to meet the requirements as prescribed by the legislation, the insurers should have no fear, in that the Central Bank would then be empowered to ensure that if they cannot—and I think if it is not in, because I mean I did make attempts to read the entire document, but some parts may not be coming to me as I am on my feet. So it would be important to look to ensure that Central Bank's ability to supervise and to control the decision to enter mergers and acquisitions of insurance companies, that they can ensure the best fit happens. In that, if an insurance company is failing, the Central Bank can step in and not necessarily close them down, because you would have a lot of claims, but if it is possible to salvage the company by virtue of a merger or acquisition by another insurance company, or together with, then that is something to be welcomed, and the population should take some comfort where that is concerned.

Another important aspect of the Bill, as we speak to risk-based capital adequacy requirements, is the whole concept of stress testing of the balance sheet of the insurance companies and the Caribbean policy premium methodology. Basically, the stress testing for persons who may not be involved in finance is a common thing done in financial institutions, where you look at the quality of the assets that you have. For an insurance company they may have several investments, some locally, well the majority, as the law prescribes, I think up 70 per cent and 30 per cent up to maximum externally, ensuring that the underlying risks of these assets cannot impact negatively on the sustainability of the entity. That is putting it simply. I can put it more simply than that to simply state that if

things go bad, they should be able to honour their obligations and survive as a going concern.

So from the Bill essentials, there was a lot of reference to CL Financial and the crisis that ensued in January 2009. That was on the backdrop of the global financial crisis which began in 2007, with the credit default swaps and the mortgage-backed securities.

I will be speaking to that later on in my contribution, because in Trinidad and Tobago we do have mortgage-backed securities, at least in Home Mortgage Bank, which they referred to as asset-backed securities, which are in excess of \$600 million at the 2016 financial year end. But that would be dealt with regarding the capital adequacy and the whole issue of systemic risk.

Now, the Bill seeks to reform the law relating to insurance companies and for anyone engaging in business activity, utilizing a vehicle, preparing for posterity, whether it be a life insurance, whole or term life, health concerns, every individual interacts and interfaces with the services of insurance companies. And therefore, as a result of that, it goes without saying that this is a very important reform process and the over a decade long time in joint select committees really makes that a true statement.

Now, it also seeks to regulate insurance businesses. And there are some schools of thought, Mr. Vice-President, regarding the regulation of insurance companies. And one argument advanced by some insurance companies, not necessarily locally, is that regulation is incompatible with competition. And there is a submission from J. Robert Hunter, Director of Insurance, at the Consumer Federation of America, before the Task Force on Long-term Solutions for Florida's Hurricane Insurance Market of November 14, 2015, "Why is Regulation of

Insurance Necessary?” being the full title of the article. It states:

“The insurance industry promotes a myth:”—and I read with your permission—“regulation and competition are incompatible. This is demonstrably untrue. Regulation and competition both seek the same goal: the lowest possible price consistent with a reasonable return for the seller.”

So, the lowest possible price, consistent with a reasonable return for the insurance company. So, if both pursue the same possible goal and that harmony can be found in regulation, then why not regulation? And there are five reasons advanced in the article for regulation, which are: insolvency, unfair and deceptive policies and practices, insurance availability, reverse competition, and consumer information.

Now, the crisis that occurred in the United States with AIG, given the heavy involvement of credit default swaps and the inability to honour claims, resulting in the crash of that conglomerate, is a clear example of where insolvency can bring down systemically an entire sector, unless the Government intervenes.

The issues we had here in Trinidad and Tobago with Clico again brings that to light, albeit under different circumstances. It really had to do with the quality of the assets of the group that CL Financial administered of which Clico was an important player.

The unfair and deceptive policies and practices are clear reasons for a regulator to step in and they make the point here that insurance policies, unlike most other consumer products or services, are contracts that promise to make certain payments under certain conditions at some future time.

So, the challenge with insurance versus other types of businesses requires regulations. Because the insurance really—once you enter into an insurance

contract with an insurance company there is a promise to pay given certain conditions, where the insurance company is truly a sophisticated party and the majority of the users of insurance would be unsophisticated, in that they would not have superior knowledge. There would be asymmetric information as well, and they will not really be empowered to be aware as to whether or not they are being fairly treated regarding price and regarding service.

A plain example could be gleaned from the insurance that many people are familiar with, which is the motor vehicle insurance. And you may place a call to an insurance company and say: "Okay, I am interested in buying a new car", and they will tell you your premium might be \$20,000. And then you say: "Well how? Why? I find that is unfair. Why do you not give me a lower price?" And they might tell you: "Well, that is the policy." And then you call back and say: "Well ah have ah better offer." And then, for some reason, magically, the computer generates a lower figure with the same "level of coverage".

Now, if this is not an example of unfair and deceptive policies and practices that pervade, at least by popular opinion, and not necessarily by any scientific review of the scientific research on my part, if this is popular opinion that insurance companies tend to take advantage of that, then really and truly that should be enough cause for us to bring insurance under regulation.

Another thing is reverse competition. So where insurance companies market their policies to a third party, for example, you go to the car dealer, and the car dealer may tie in an insurance arrangement, a contract, via a company that is also part of their group. So you have conglomerate activity. You have group behaviour, whereby the group may own an insurance company or vice versa, the insurance company may own subsidiaries that are engaged in motor vehicle sales

or health care. By virtue of this, they may increase the premiums to increase their profitability, which really results in a beyond normal higher price for the final consumer. So without regulation, the prices that the consumer pays are higher when there is reverse competition. So once the regulator steps in and there are prescriptions in the Bill that deal with companies acting as a group—so group dynamics as well.

The hon. Acting Prime Minister did make mention of the fact that they would have to present their consolidated financials, as well as the financials of the insurance company separated from that of the group, as well as information for consumers. So information to consumers being the final point in that the consumers, really and truly, are not in the know. There is asymmetric information and only if you are behind the curtain, you can see who the puppet master is and what benefits really should abound to you.

And in this modern time, even though people are saying that regulation should not happen, the industry may be able to be self-regulated, technological advances, as I said, misleading practices and conglomerate behaviour are reasons that are so advanced to promote regulation of insurance companies.

Now, the Bill also seeks to strengthen the prudential requirements, Mr. Vice-President, of the sector, including the introduction of risk-based capital and financial standards. Now, one important institution is the IAIS, the International Association of Insurance Supervisors, which constitute 97 per cent of the world's insurance premiums in over 200 jurisdictions and they have founded the principles that have been cited and referenced throughout this entire Bill. All right?

There is one point I want to make. Globally, there is a trend and because this trend exists globally, it may find itself to our shores, if it has not already. That

is micro insurance. All right? So in some markets in Latin America and other parts of the Caribbean, as well as in Africa, there is a diverse range of intermediaries which has brought insurance products and services via utility-built supermarkets, other less conventional players. For example, mobile companies sell micro insurance where you can pay a weekly rate at a very reduced price.

In certain parts of Eastern Africa, where mobile money is prevalent, micro insurance is something that is a key feature of their insurance landscape, which really is used to bring persons into the insurance sector. In some of those markets, you have market penetration figures of less than 10 and 20 per cent. So micro insurance is one avenue to widen the insurance net. And it is something that we should look at in Trinidad and Tobago, once we frame the legislation, to ensure that if it does find its way here, companies that peddle in micro insurance could be covered in the law. In the law I saw there was mention made of who can sell insurance. But given the trend of micro insurance, which allows basically almost any consumer interface to peddle insurance for an insurance company, we would want to take a look at that.

So, the supervisory system. We can only welcome the Central Bank being involved in the supervisory system for insurance companies. We can only welcome the inspector of financial institutions being involved in that regard. Not being part of the Joint Select Committee, you would depend on the Report. And, as I said, I may not recall all the aspects of the Report of the Joint Select Committee as I am on my feet, but it would be good for maybe the Minister of Finance in his wind-up to give some explanation as to what is the strength of the Central Bank regarding supervision of insurance companies in particular, not where they share staff but the dedicated staff solely to insurance companies. What

is the current number and what is the planned increase, given the level of intimacy they would need to have with insurance companies?

Because the inspector of financial institutions, where an insurance company is concerned, will have wide-reaching powers. And we would not want that, due to a significant increase in the workload of the department under the inspector regarding the insurance companies that they do some shoddy work, not to cast any aspersions on persons in at the Central Bank, because we know, really and truly, those persons work very hard to ensure the financial integrity of our financial system.

Now, credit exposure basically occurs once an insurance company provides a loan and where the lender's ability to repay is compromised, then credit exposure is significant and the risk of default is also significant.

**5.20 p.m.**

So, where credit exposure is concerned, you would want to ensure the capital adequacy requirements of the insurance companies are up to mark. And an inspection into the quality of the assets is a time-consuming matter, and is a matter that requires definite skill, and this brings you back to the whole question of the Inspector of Financial Institutions.

Mr. Vice-President, because a simple example, when we had the short recession, the beginning of the recession in 2016, around there. Many companies in Trinidad and Tobago, dealing with the financial institutions, had to face stress-testing of their balance sheets. But these were companies in every sector, including—well it would not have included insurance companies necessarily. But banks, commercial banks have the ability based on the strength of staff, to stress-test their clients' balance sheets. But those clients exist across different sectors.

The question is: Does the Central Bank have that cadre of professionals in the number required, and in the skill-level required to complete the task?

So there is another point regarding credit exposure, and that is the need for public education. Now—and also an issue of widening the net. For example, if one goes to take a loan, or they go to Courts, so they go to a bank, a major credit union, or they go to Courts Furniture Store to purchase something. They would run your information through TransUnion, which is basically the credit bureau that pervades in Trinidad and Tobago.

Now, if you belong to a small credit union, your transactions there may never come up on TransUnion, all right? If you belong to—if you pay your rent, or do not pay your rent on time, that does not come under TransUnion. So, you may have a situation where there may be companies, for example, that do not pay their rent. This really can impact on the risk assessment and the risk profile that the insurer will place on that particular company. Bearing in mind that insurance of properties is important for businesses as a going concern—if you are a tenant in a building and the landlord is not servicing his insurance obligations, that can be a problem for you.

If you have a business—there is a business which workers depend on for their livelihood, and the business owner is not paying his rental obligations, you would want that to feature somehow into their risk profile. All of this would bring more responsible business activity to bear.

So, the point I am trying to make Mr. Vice-President, is that as we look at this Bill, we would want to consider other measures apart from this Bill, regarding broadening the ability and strengthening the ability of the Central Bank, to assess the creditworthiness of businesses and individuals. And one way they can do that

is by bringing landlords into the net, at least the large landlords with a minimum maybe of 10 apartments, properties or commercial shops for rent, under the credit bureau that we know as TransUnion today.

The other issue—the public education. Because, well, for those who watch cable television, all the advertisements are there: Credit Chex, Credit Chex, Credit Chex. But for persons in Trinidad and Tobago, those advertisements may not be that relevant to our existence. So, you may want to engage in some level of public education, where maintaining a healthy credit rating is concerned, and the impact this can have on your ability to access finance. The premiums you may be required to pay in the future, if it is not at present, with insurance companies, et cetera. And I think if the Government can look at that avenue to empower the Central Bank, or the Government via the Consumer Affairs Division can look at empowering that division to bring those advertisements to the public, or the Financial Ombudsman, whoever it may be, it would help definitely with this, so that it would improve generally, our approach to credit risk and the creditworthiness in Trinidad and Tobago.

Now, Mr. Vice-President, the other issue regarding—the issues that I raised earlier regarding the consolidated supervision and the holding company structure, is present in clause 47, where the Central Bank has the power, where a local insurer is a member of a related group, or two or more financial entities, to direct them to restructure to a financial holding form.

Now, that is very important, and we have—besides Clico, we have many other insurance companies that operate either loosely as part of a group, I guess Tatil may be one of them, ANSA Insurance Company. So, you have many insurance companies that actually operate as part of a group and obviously, it is a

very easy concept because, for example, in other jurisdictions where you have much more financial institutions mushrooming, because you have—you do not have as much market penetration for insurance and financial services, many companies emerge.

You find that it is an easy form of building a conglomerate. You get shares, you have a minimum capital requirement that may be—well in this case we are raising it, but initially, it was very low. So, if you had \$3 million minimum capital requirement for an insurance company, and you can welcome \$100 million via premiums of which in the first year, you take 65 per cent of that, it becomes very easy now, with these premiums, to create counterpart companies, and those counterpart companies are created in such a way to act as “suckers” to usher much more financial services to the insurance company. So, you will open a car sales company, so you will get the car insurance coming to you at a discount, supposedly. You will open an appliance company, you will go into real estate and you will offer the insurance component coupled with the real estate services.

So, it is a very easy way to build a conglomerate, you know? So these companies would have been operating in that old regime. That regime still exists today. So, it would be very important to ensure all companies that operate loosely as groups, given there may not have been a requirement to disclose group activity, the Central Bank would be—that is a very difficult task, to identify the true groups, the true conglomerates in Trinidad and Tobago, because not many companies disclose, or act in such a way that would give you the perception that they are actually part of—they are acting in concert with similar beneficial owners.

Now, ICP17, Insurance Core Principles 17, provides the globally accepted framework for the supervision of the insurance sector. And the material is

presented according to a hierarchy of supervisory material. So, the supervisory regime is done in such a way to promote a financially sound insurance sector and an adequate level of policyholder protection.

So this is what we are talking about today, policyholder protection. Now, before I rose, Mr. Vice-President, the issue of derivatives was discussed and based on a word search for the words or groups of words “derivatives” or “credit default swap”, in the Report of the JSC, not the Bill, so I apologize for that, I did not see any real mention. The only mention I saw of derivatives was on page 233, where it states “counterparty” so an explanation for the word:

“‘counterparty’, for the purpose of measuring a credit exposure, means the borrower, the person guaranteed, the issuer of a security in the case of an investment in a security, or the party with whom the contract is made in the case of a derivative contract...”

Mr. Vice-President, that is the only mention made in the Joint Select Committee Report of 506 or 512 pages, of the term “derivative”.

Now, there was another mention of “derivative”, but it was not with respect to a financial product, right. It was the English use of the word. Now, so locally the Home Mortgage Bank engages in asset-backed securities, which basically are mortgaged-backed securities, where they operate in the secondary market.

So, your financial institution would provide a mortgage for all of us, and they would engage with the Home Mortgage Bank in the secondary market, and the Home Mortgage Bank would float bonds, to other financial institutions, maybe NIB, for example, offering them at this point, I believe it is 1.5 per cent at least as at September 2016, it was raised to 1.5 per cent from 1.35 per cent, and they would live within the margins. So, they would offer that and they will raise maybe about

6 per cent depending on the rates that they can get within the secondary market. So, they would operate in the margin and they will do very well, because they should not have a significant staff complement because they do not have to market to many people.

Now, that model is a very simple model, however, given that Home Mortgage Bank—I believe it should be the main, if not the only company that engages in that type of activity at that level in Trinidad and Tobago, it raises a very significant question. Given that mortgage-backed securities were one of the main reasons—were accused of being one of the main reasons for the financial meltdown in 2007, along with another financial derivative, credit default swaps, are we now looking at this in Trinidad and Tobago? I do not think the legislation really is framed to look at this. But it is something that we should bear in mind, given that this debate has mentioned it, all right? But, this debate only mentioned it by virtue of the credit default swap, which is an insurance product.

So, I believe that we should, Mr. Vice-President, find some time in the future, for the Government to look at mortgage-backed securities. Because in 2016, September 31, the Home Mortgage Bank had under management, \$643.9 million, all right, regarding the Mortgage Participation Fund which is a 30 per cent year-on-year increase. So, it is increasing and if it is increasing and it is significant and they are the main player in the market, you would really need to focus on that to see if there are any attendant risks that could affect the integrity of the financial system.

Now the credit default swaps, I think because the Select Committee did not mention it, I believe the law—the Bill probably would not have addressed it. I believe that the Government must, you know, look at credit default swaps and,

really and truly, make an assertion as to which specific instruments they would allow insurance companies to engage in. So, if Central Bank is the regulator, given that the law has not addressed credit default swaps, which were the main reason for the financial meltdown, and given that the insurance companies will be allowed foreign investments of 20 per cent and 30 per cent, in their mix with local investments, then the Central Bank should really have a tight handle, in terms of control, on the ability of these insurance companies to engage in these types of financial derivatives. Because, if the insurance companies do not have sophisticated—if in America, in AIG, they were not sophisticated enough to foretell the failure of that instrument, I am not sure we want to follow where they have been burnt.

So, the shortcomings of the current Insurance Act should be addressed significantly with the capital adequacy increases. However, the risks associated with the credit default swaps and the other risks regarding mortgage-backed securities, should also be looked at in the context of the industry.

Now, in wrapping up my contribution, Mr. Vice-President, the Caribbean Policy Premium Method that the acting hon. Prime Minister mentioned, really and truly, laid out some clear guidelines as to how the risk assessment of the insurance companies should be engaged in. And, I believe that these things are important going forward. What is more important now is, once the law has been assented to and proclaimed, the Central Bank should be very clear and very deliberate in its communication with the population to avoid what happened, post the Clico crisis.

**Mr. Vice-President:** Senator, you have five more minutes.

**Sen. T. Obika:** Thank you very much. I will not use all of it. I am actually wrapping up. So basically, there was an article on the 7<sup>th</sup> of January, 2018, in the

Insurance Bill, 2016 (cont'd)  
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*Newsday* titled “Insurance Frustration” where basically someone wrote a letter to the editor, a short, one-paragraph stating they lost their son in a vehicular accident in June of the last year and the insurance company has been giving them the run around—the run around in getting what is due to them. And I believe that yes, we have a Financial Ombudsman, but the other question, just as with Central Bank, is the Financial Ombudsman really adequately resourced with technically sophisticated personnel to deal with the matters that will arise from the increased regulation and supervision of insurance companies.

And with that point, I conclude. Thank you. [*Desk thumping*]

**Sen. Taurel Shrikissoon:** [*Desk thumping*] I thank you, Mr. Vice- President, for recognizing me, and allowing me to make a contribution to this Insurance Bill before us here today.

Mr. Vice-President, as I begin, I know that a lot of work has been done and has gone into the preparation of the Bill before us and I think it very—it is noteworthy to commend all those who participated in the Joint Select Committee, and I would also like to recognize the input of the two members of Independent Bench, Sen. Creese and Sen. Jennifer Raffoul, in their contribution. [*Desk thumping*]

I think this Bill has had a lot of history, has spanned a long time and I think its implementation is very critical to the advancement and protection of the financial sector of Trinidad and Tobago.

Mr. Vice-President, as I would begin, the original Insurance Act of 1980, section 4 says:

“The Minister may designate a person employed in his Ministry to be the Supervisor of Insurance”.

Insurance Bill, 2016 (cont'd)  
Sen. Shrikissoon (cont'd)

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Section 5 says:

“The Supervisor shall be charged with the general administration of this Act and in the exercise of his powers and the performance of his duties he shall conform with any general or special directions given to him by the Minister”.

So, we are seeing here in 1980, the role was really given to the Supervisor of Insurance.

The Second Session of the Eighth Parliament of 2004, Act No. 15 of 2004, section 4 of the Act was repealed, that I just read, and it was replaced with:

“With effect from the commencement of the Insurance (Amdt.) Act, 2004, the Central Bank shall be charged with the administration of this Act”.

So Mr. Vice-President, what we saw initially, in 1980 there was a Supervisor of Insurance. But in 2004, the Supervisor essentially became the Central Bank. And why am I making that point? We have heard a lot about the Clico debacle and we have heard the reasons, or what was going on in the financial markets at that time which caused a liquidity strain on that company and then its collapse after.

But the point that I am trying to raise here is that, while that did occur in roughly 2008, it was in my view, the period under which the Clico company came under the purview or the regulation of the Central Bank. It was that important occurrence, in my mind, that started to expose the problems of liquidity and other problems in Clico, that the Central Bank would later discover, and if I am to remember correctly, the Central Bank went through severe pains in trying to acquire the information which the Act had just empowered them to do.

And because the company was a private company, not being a public one, the difficulty in collecting the information was very, very—there was significant

difficulty in collecting the information. So, that role that Central Bank was really playing there and performing their oversight function, in my mind, is what really brought the problem to the fore at that time.

So the role of the regulator, in this case, was absolutely critical in unearthing or detecting the possible damage that could have been caused, or that was caused, but, was unable to prevent it because of the short time that they had and the difficulty in obtaining documents.

And, therefore, it is against that backdrop of the damage to the Trinidad and Tobago financial sector and the burden of that company that it placed on the economy of Trinidad and Tobago—and still to date, 2018, the Trinidad and Tobago Government has not been able to really retrieve the investment that they placed in the company at that time.

And it is against that backdrop of sound financial impact on the Trinidad and Tobago economy, promoting confidence in the Trinidad and Tobago economy, that I would really like to spend a little time on in my contribution. Where the role of the regulator and the way in which these companies are managed, needs to be done in a way that it promotes financial soundness in Trinidad and Tobago's economy, and therefore, it is against that backdrop that I propose in my brief contribution, to really focus on the sections of the Act that pertain to administration and supervision, corporate governance and financial statements and returns.

Mr. Vice-President, clause 7 of the Bill introduces the administrative functions of the Central Bank as the supervisor of registrants in light of the Clico debacle and the impact on Trinidad and Tobago, I strongly support clauses 7(2) and 7(3) which state:

“The primary objective of the Central Bank, in respect of the registrants, is

to maintain confidence in, and promote the soundness and stability of, the financial system in Trinidad and Tobago”.

Clause 7(3):

“The other objectives of the Central Bank, in respect of registrants are to—

- (a) promote the existence of efficient and fair insurance markets;
- (b) maintain an appropriate level of protection for policyholders and beneficiaries...”

Those two clauses, Mr. Vice-President, in my mind, really represent my interest in this Bill as it seeks to guard against these shocks that can be caused by companies that are not well-managed or regulated.

From clause 7(4) it begins to outline the reporting relationship that would occur—7(4) says:

“The Governor shall keep the Minister informed, at least once in every six months or more frequently if the need arises...”

And clause 10 of the Bill introduces the role and function of the Inspector—10(1) says:

“The Inspector shall have the powers and duties conferred on him by this Act”.

So what we are seeing here, is the Inspector analyzes the performance of the insurance company or the registrant, the Inspector reports to the Governor of the Central Bank, the Governor of the Central Bank keeps the Minister informed every six months at least every six months, and the Central Bank shall provide a written report annually to the Minister with respect to the Central Bank meeting its objectives under this Act.

That reporting relationship of registrant, who reports to the inspector, who

informs the Governor of the Central Bank and then who keeps the Minister informed, in my mind, is a key chain or a key reporting chain that, once adhered to, can protect the Trinidad and Tobago economy and therefore, in my mind, the addition or the way in which it is structured in the Bill, brings strength to the financial sector. I really support this.

Clause 10 of the Bill, duties and powers of the Inspector, subclause (3) says: “The Inspector shall make or cause to be made such examination and inquiry into the affairs or business of each—

- (a) registrant;
- (b) financial holding company;...
- (d) subsidiary or branch....

as he considers necessary or expedient, for the purpose of satisfying himself that the provisions of this Act are being observed...”

My one point here or recommendation, at this point, is that given that the function of the Inspector is very important, and the Inspector is viewing or overseeing the registrant, the financial holding company, the time period allocated according to this clause says, “as he considers necessary or expedient” and that can span any time.

And I am saying, in order to lend strength to this area of oversight, I do believe that there should be at least a minimum reporting requirement, in terms of a time frame for the Inspector to be viewing or handling his oversight function of each company. And I want to propose, according to this clause, for it to read “as he considers necessary or expedient, but at least annually”. So that is to say, that the inspector will at least once a year, present or perform an oversight function of each company and not just as he considers necessary. It forces the hand of the

Inspector to take an annual look of each company.

Clauses 10(3), 10(4) and 10(5) of the Bill make specific reference to the Inspector as the Inspector seeks to carry out his role and functions as conferred upon him by the Bill.

10(3) says:

“The Inspector shall make or cause to be made such examination and inquiry into the affairs or business of each...”

10(4) says:

“The Inspector shall make or cause to be made such examination and inquiry into the affairs or business of a member of a financial group...in the opinion of the Inspector, such examination and inquiry are necessary to assess any risk that such member may pose to the registrant”.

And 10(5) says:

“The Inspector shall make or cause to be made such examination...into the affairs”—as it pertains to an—“examination and inquiry...to verify that no business activity is being carried on, other than applicable to a representative...under this Act”.

My point here is this: To whom is the Inspector reporting or to whom is he writing? And who is going to respond to the Inspector? Is he going to send a general letter to the company, is he going to write to the board? Who is it that is liaising with the Inspector? And I would like to say at this point, I propose for the strengthening of this Act that a compliance officer be included in this Bill. So that when an inspector requires information or is monitoring any element of that company, that the inspector has a direct go-to person who is responsible for providing all the information to and fro the inspector. That will allow a proper

reporting line that the inspector can go to, to get any additional information he wants. The level of compliance with this Act, that the inspector requires that one office, the compliance office or compliance officer will be able to address that.

So, I am saying, in terms of a management issue of the information, while the Bill is very detailed, as to the information that the inspector requires, how is the inspector going to collate or collect this information and who is responsible. And I think a specific office, given the voluminous requirements of the Bill, needs to be established for a proper and clear reporting guideline.

Mr. Vice-President, 10(7) goes on to say:

“If an examination of the affairs of a registrant, financial holding company or other member of a financial group reveals that the registrant, financial holding company, or other member of a financial group is conducting its business in an unlawful or unsound manner or is otherwise in an unsound condition, the Inspector may require that the registrant or financial holding company or other member of a financial group forthwith or within such time as may be specified, take all such measures as he may consider necessary to rectify the situation”.

I would like to see here, while I agree with the clause, I do believe that the registrant or the insurance company needs to be notified in writing of its unsound or financial condition, and therefore will be required to execute the suggestions of the Inspector.

So, I do believe in being informed in writing is very critical here at this time. But continuing with that thrust, clause 10(8) of the Bill provides for the consequence of ignoring the advice of the inspector. It says here in 10(8):

“A registrant or financial holding company that fails to take measures

required by the Inspector pursuant to subclause (7)”—which I just read—  
“commits an offence and is liable—

(a) on conviction on indictment to a fine of six hundred thousand dollars”—and I am skipping now or—

(b) “on summary conviction to a fine of three hundred thousand dollars...”

So, here it is an Inspector is examining the affairs of a company and has determined that, “ay, something is wrong here and I do believe that this company is in an unsound manner and therefore corrective action needs to be taken”. The company is notified, the company challenges the inspector and it goes to court, because that is what we are seeing here. Here is the question, given the court system in Trinidad and Tobago, it is going to take a while to get a conviction. What happens to the financial condition of the company during the time the case is being prosecuted?

And therefore, the unsound financial condition of the company may continue to exist until such time that a court delivers a decision and the company is found to be liable. If the company was not found to be liable, it is okay. But, if the company is found to be liable then that duration of being unsound or insolvent, then what happens to the operations, there is a gap and I think it needs to be addressed.

**5.50 p.m.**

I would just like to propose, as a suggestion in this case, that when the company refuses to comply with the directions of the Inspector, then there should be a limit on any new business that is being undertaken by the company, until the matter is resolved by the court.

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Mr. Vice-President, clause 10(9) of the Bill continues to say:

“The Inspector shall take and maintain such steps and proceedings as may be necessary for the winding up of the insurer...”

So 10(7) says, unsound manner or insolvency; clause 10(8) is the penalty; and in clause 10(9), we are seeing the Inspector winding up the company. I would like to say, under what conditions would the Inspector have the authority or what conditions must exist for the Inspector to begin winding up proceedings? We cannot just have a clause that says:

“The Inspector shall take and maintain such steps and proceedings as may be necessary for the winding up of an insurer...”

Something must be going on. Some metrics must be used, and there must be a condition that is being presented. The insurer, the registrant must be unable to meet the requirements, and only then, the winding up should occur. So I am asking for some element of further analysis or further discussions with respect to clause 10(9) to determine the conditions under which, winding would occur.

Clause 10(11) of the Bill also speaks of removal of documents. And I think it is very important for the oversight function to be performed by the Inspector and they having access to information. I agree with that. But clause 11 says:

“The Inspector or any person authorized in writing by the Central Bank or any designated member”—and I am just skipping down, and it now says that they would be required or they are allowed:

“to examine and make copies of, or remove from the premises, all books, records...”

And I am okay with that to a point, where the examination of the records should be made available to the Inspector or his agent. I am agreeing. But in terms of the

removal, I do believe that the removal should be with the cooperation of the registrant. It should not just be removed. And why I am saying that? If the registrant refuses to give the information, clause 10(13) goes on to say that:

“Notwithstanding subsection (11), the Inspector may apply to a Judge of the High Court for an *ex parte* order authorizing him, any person authorized in writing by the Central Bank...to enter into the premises”—and to retrieve.

So do not think that it is wise or it is prudent for us to just be able to empower an officer to go in and remove. Examine, yes fine; analyze, yes, fine; but to remove without the consent, I am a little bit concerned, especially where there is a condition in the law that says if you refuse you can apply to a judge and collect. So it is not to say that the information cannot be made available. So I would like consideration to be given to that. Mr. Vice-President that was the first part of the administration and functions of the Inspector.

The second part of the Bill which I propose to deal with is part F which specifically refers to the Corporate Governance aspect of the Bill. Mr. Vice-President, clauses 65 to 81 address the corporate governance structure being proposed for the operations of insurance companies. Clause 65 deals with the persons debarred from acting as directors. Clause 66 deals with restrictions to voting as officers; clause 67, duties of directors; clause 69, the establishment of an internal audit committee which shall consist of at least three directors. The hon. Minister of Finance, in laying the Bill, spent some time on explaining the internal audit committee. Mr. Vice-President, the section of corporate governance here refers specifically to the board of directors of the company. Clause 69 talks about the audit committee. But Mr. Vice-President, the Bill, in no way in the clause on corporate governance, does not prescribe that an insurance company or the

registrant be managed by a board of directors.

So from where are we pulling these directors for the internal audit committee? It further does not specify how many directors are to be executive or non-executive and it does not specify how many should be independent. And therefore, the board of directors, which we are saying should be the management of the insurance company, its composition, in terms of number, in terms of executive and non-executive and in terms of being independent, that is not constituted in the Bill before us. And this clause, which the hon. Minister of Finance addressed in clause 68, says here—in clause 68 when it speaks to the internal audit function, it says here with respect to the internal audit function, it says:

“The board of directors of an insurer shall appoint from among their number an audit committee, which shall consist of at least three directors”

And it goes on to say:

- “(a) a majority of whom shall be independent...
- (b) at least one...financial expert; and
- (c) at least one of the independent directors shall not be a director of a connected party...”

We specified the constituent or how the audit committee should be comprised, but we never specified how the board of the company is to be constituted and, therefore, I ask for some element of attention to be given to that.

Clause 75 of the Bill pertains to the appointment of an auditor. It says here, and as I just read, clause 75 pertains to the appointment of the auditor. Clause 68 of the Bill, which I just read before, establishes an audit committee. Mr. Vice-President, there is a fundamental difference between the internal audit function that is performed and the external audit function. The internal pertains to the internal

controls of the company, and the external pertains to the financial statements and the reporting of a company by an entity outside of the company.

I am making this fundamental difference to say that in clause 75, which pertains to the auditor, it does not prescribe that the function needs to be performed by an external auditor. Clause 68 talks about internal, clause 75 just talks about auditors, and I am saying for the law to be sound, it should specify the external audit function. So I do recommend that everywhere the word “auditor” is seen in clauses 75 up to 77, that the word “external” be inserted. So, for example, clause 75(1):

“An insurer and a financial holding company shall appoint annually an audit entity satisfactory to the Central Bank to be its auditor.”

I am saying the inclusion of the word “external” is critical for it to state that:

“An insurer and a financial holding company shall appoint annually an audit entity satisfactory to the Central Bank to be its...”

—external auditor, especially in the light of clause 68 which talks about an internal audit function. Just to give an example, again, clause 75(2) says:

“An audit entity is qualified to be the”—external—“auditor of an insurer or financial holding company if”—it meets the following requirements.

And so, I am asking for the consideration of “external” being specific to this audit function.

Mr. Vice-President, with respect to clauses 78 to 81, the actuary that is being sought after here, it is saying here that clauses 78 to 81 deal with the appointment of the actuary, and I would like to read. Clause 78(1) says:

“An insurer carrying on long-term insurance business or a general insurer carrying on the accident and sickness class of insurance business, and every

other insurer that is required by the Inspector to provide actuarial reports, shall appoint an actuary pursuant to subsection (3).”

We are seeing here that the clause is very specific, that an actuary is required by the insurance company in order to report and to provide the correct details. Just on a side note, clause 78(3), and I want to read it exactly as it is in the Bill. It says:

“An insurer shall not appoint a person to be its appointed actuary”—and it continues to say—“required to submit a report or certificate to the Inspector...”

I do believe that something is wrong with the wording of the clause, and it just may need to be corrected because it is clearly a typo, because it does not make sense at all.

Clause 79 deals with the notice to the Inspector in respect of the actuary. Clause 80 deals with the protection for whistle-blowers where the whistle-blowers are auditors, and clause 81 pertains to matters of the professional association for auditors and actuaries. So these are the three clauses that pertain to actuaries.

Mr. Vice-President, this section of the Bill is absent on the following: the role and function of the actuary is entirely missing from the Bill. The independence of the actuary is also missing from the Bill. The qualifications of the actuary, in terms of the person’s qualifications, the years of experience, the membership in the professional institutions, all of that is lacking in the Bill as it pertains to the actuary. The access to information by the actuary; the obligation of the company to provide the information to the actuary is also absent. The reporting relationships—to whom is the actuary reporting? Whether it is the CEO, chairman or board, that too is missing. The responsibilities of the actuary as determined by the Inspector. The requirements of the Inspector have not been addressed. The

term of office of an actuary; how often will the actuary be changed? Because rotation would be important. And, the roles of the actuary with respect to the external auditor, whether or not the external auditor can utilize the function of the actuary or with a more proper process, the external auditor can contract its own actuary in terms of verifying the data, because the internal actuary will compromise on the integrity of the data. With this clause, in terms of the actuary, I find it a little bit missing or not well addressed and we need to strengthen it in order to improve the management area of the Bill.

Mr. Vice-President, also in clause 79(5) of the Bill as it pertains to the actuary, I found it to be a very, very—a “lil bit” overwhelming with it, and it really pertains to what happens when the actuary has to be changed. I am going to read it from the Bill. It is a little bit long, but I would like to just make the point here. It says:

“Where the appointed actuary of an insurer has resigned or the appointment of the actuary has been revoked, no person shall accept an appointment as an appointed actuary of that insurer until...”

So we are saying here, there is a restriction for the new actuary to come to occupy office, but the role of the actuary is very critical to the management of the company and providing information, and it is saying here that no one shall accept that position until the person has requested—the new actuary has requested and received from the appointed actuary who has resigned or who has revoked. So the new actuary has to wait on a finding on a report from the former actuary as to the reasons as to why their contract has been revoked or terminated.

Now, if an actuary wants to not be fair to the company that they were working for, they would just hold this and, therefore, the new actuary cannot really

take office. And so with respect to this clause, I am just asking for no person shall accept an appointment as an appointed actuary of that insurer unless approved by the Inspector, because the Inspector would be aware of the conditions that would have existed for the actuary's position to either be terminated, revoked or upon termination not be renewed.

And given the problems with actuaries and auditors, I believe a clause needs to be inserted here with respect to actuaries where their term of office comes to an end or the revocation of their appointments comes to an end then a clause needs to be inserted that the working papers and all information as it pertains to the insurance companies must not be withheld by the actuary. It should be given up, and if it is withheld, then a fine or an appropriate penalty can be included.

Mr. Vice-President, moving on to the last section of my contribution which pertains to part G of the Bill and it talks about Prudential Requirements, Restrictions and Prohibitions and I believe it begins with clause 82 of that Bill. Essentially, this clause speaks of guidelines by which insurance companies and their affiliates must abide. And I think this clause is very important because many speakers who spoke before me spoke of the capital adequacy that must be maintained and must be held by the companies in order to ensure their ability to meet their obligations.

Clause 82 refers to the capital adequacy and liquidity. Clause 83 refers to the adequate assets. Clause 84, restriction on payments of dividends. Clause 87 deals with acquisition of shares. Clause 89, limits on credit exposure. And I do believe that it is very important in this clause that these requirements be fundamentally adhered to in order to promote financial soundness.

Now, here is the question. Given that all of these pertain to capital

adequacy, liquidity, adequate assets—these are very important benchmarks or statistics. Then who is providing these statistics? Who is monitoring it in the company? Who is ensuring that the Inspector has access to this information? And who is monitoring it on a per transaction basis that each transaction that the company engages in that the company remains in accordance with the law and to ensure that its liability position does not exceed its capital provided? And it brings me to the point that in terms of managing the asset and liability base of the company, that a unit in the company, just like the audit committee, should be there to monitor the performance of assets and liabilities so that that committee becomes the first flag if anything goes wrong, because that committee exists during the operations of the company.

If that company does not exist, the first check and balance of capital adequacy going “out of whack” is with the Inspector, and so the burden of managing the company now lies with the Inspector. That should not be. The company should be held responsible and should have an opportunity to first recognize that something is going wrong.

And therefore, I do recommend the institution of a new committee called the asset liability management company which really manages the same risk here. It is just to say that the company now has a unit that is responsible for monitoring the performance of its assets and liabilities, and has now the obligation to report to the Inspector. If something goes wrong that committee is the first point of reference. And so, I am asking for consideration to be given to that committee. So the asset liability committee. And the next committee that I would like to recommend is one of compliance.

Why am I recommending a compliance committee? If I refer to the Bill

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Essentials, and according to Schedule 6, administrative fines, there are about 80 possible administrative fines for any offences in this Bill. There are at least 12 more to deal with agencies and brokerages. So that there are lots of penalties in here. There are lots of requirements that the auditors must meet—the internal audit committee, how it is to be constituted, the actuary, the obligations and responsibilities and functions, the external auditor. All the requirements they have to meet. Who is monitoring all of this? And while it is in the law, which is excellent, the management of this to ensure that the actual outcome that we desire is achieved is somewhat lacking.

And so, we need some person in the company—whether through a compliance officer or a compliance committee—to continue to regulate the affairs of each company as it pertains to the requirements of the Inspector. It cannot be or it should not be that we know what we are looking for, but we shift the burden to the Inspector and when he looks at it annually, he is doing a check and balance. By then, if something had to go wrong, it would have gone wrong and probably begin to run away, but that internal committee can be held accountable for notifying the board as soon as something goes wrong with respect to that. So, I have really reflected on two additional committees: the asset liquidity management committee, which really deals with the prudential requirements and prohibitions and a risk compliance committee which deals with the company complying to all of the regulations.

And so, Mr. Vice-President, as I come down to my last point as it pertains to financial statements here, and the subclause on financial statements then—and in Part 5 of the Bill, clauses 144 and 145 talk about the preparation and submission of financial documents, statements and returns. I do believe here that—in clause 144

as it pertains to the submission of documents and clause 145 both here—where the statement of liabilities and assets need to be submitted, I do believe that these should not be just statement of assets. It should be audited statements and, therefore, the word “audited” needs to be included because anyone can prepare financial statements, but in submission to the Inspector it should be “audited” statements. So I do ask for the consideration for statements to be audited that are to be submitted. So it should read in clause 145(a): audited statements of its assets and liabilities, audited statements of earnings and expenses, the report of the auditor and any other information. The word “audited” would be critical here.

However, there is a very important document that is missing here and it is the cash flow statement. The cash flow statement is the first statement that will reveal some elements of illiquidity that are cash flow problems that would exist and, therefore, we also need to include here audited cash flow statements. And if we are considering other documents, I do believe as well that the actuary’s report should also be submitted, because that is commenting—or that person or that office is commenting on the portfolio of policies being held by the company—a compliance report and a report from the asset liquidity management committee if those two committees are accepted. So, Mr. Vice-President, those two are very critical with respect to the financial statements and returns to be submitted.

So, Mr. Vice-President, I know I have said a lot and just to recap quickly, I have agreed that the Bill has a lot of strength in it that promotes the financial soundness of the Trinidad and Tobago economy. However, I did ask for, at least, a minimum time, a minimum period, of it being “annually” be included in the clause referred to—I think it is clause 10—where the Inspector will be able to, at least, analyze or look at each person's, each companies account, at least, annually.

I have also recommended a compliance officer to be included in this Bill so that there is a person to whom or with whom the Inspector can directly relate and report.

With respect to clause 10(7), conducting its business in an unlawful or unsound manner, I did ask for the registrant to be informed in writing, and with respect to clause 8, where there is the time gap between not adhering to the functions or the requirements of the Inspector and going to court that some additional measure be taken to protect the business during that period.

Clause 10(11) with respect to the removal of documents, I have asked that it not be removed initially unless there is cooperation with the registrant because 10(13) allows from removal when there is objection to it.

**Mr. Vice-President:** Senator you have five minutes.

**Sen. T. Shrikissoon:** Thank you, Mr. Vice-President. With respect to corporate governance, I do believe, and as I did say, that a clause in terms of the composition of the board—the number of directors, the minimum number, the executive and non-executive, the number, and the number of independent directors is missing—with respect to the composition of the board.

With respect to the auditors, I have proposed that you use the word “external” to differentiate the functions of internal and external, and the law does not allow for external auditors to utilize the services of an independent actuary in providing financial accounts or reports.

Clause 78. That dealt with appointment of an actuary, the law was missing on the role and function of an actuary, independence of an actuary, the role of the external actuary in the context of external auditors, the qualifications, membership and experience of the actuary in performing the function.

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And with respect to part G, I have asked for consideration for the asset liability management committee. I have asked for consideration for the compliance committee and with respect to financial statements and returns, I have asked for the inclusion of the word “audited”, the inclusion of audited cash flow statements and other reports such as that of the actuary and that of the auditor. Mr. Vice-President, I thank you. [*Desk thumping*]

**Dr. Lester Henry:** Thank you, Mr. Vice-President, for allowing me to make a brief intervention here tonight. I think we have covered a lot of territory already, and as the Minister himself at the beginning of the debate pointed out, this Bill has been in gestation for a very, very long time. And as my colleague, Sen. Mahabir said, basically—well, he did not say it this way, but he probably meant we should just get up and say, please support the Bill, and let us vote on it and go home. Because this, as I see it, in our bringing this Bill and so on, is the end of a very long process and we are not—at least, certainly, I am not inclined to come back and send this Bill anywhere else beyond tonight. This is it. Okay? [*Laughter*] So, Sen. Shrikissoon, despite your passion play, I have the feeling that you would not get much traction because we may not want to play around with this for another two to three years, because, it has really been a beaten horse. It has been exhaustive.

The Minister pointed out all of the different experts, all of the consultations that we did with ATTIC, the Insurance Association and numerous stakeholders, and I was involved, not in all of it, but quite a bit of it. And a lot of what was raised, we had in-depth discussions over these issues. You know, it was not a fly-by-night thing. Both the Opposition and the Government made very, very critical inputs into what we have before us today. So it was not just a PNM thing. It was

fully well supported by the UNC Members of the committee as well.

So given that this Bill is an update on something that we did in 1980, we have insurance companies operating under the 1980 legislation. I mean, that is a source of embarrassment. That should be a source of embarrassment for the country that we have not updated our legal infrastructure. And so, what is really the consequence of the Bill that we have before us now in its final phrase?

The first thing I just want to spend a few minutes on is looking at what really is the impact of the Bill. Sen. Rambharat made reference to some of it, but the most important thing is the modernization of our financial legal infrastructure that we aim and we like to claim we are the financial centre of the Caribbean. We are the biggest financial markets. We have the biggest banks and so within Caricom and we have quite a bit of outdated legislation.

We struggled through this with the Securities and Exchange Act, a few years ago, under the UNC administration. It was a similar type of Bill, just as big and unwieldy, but we got it done and it was not perfect, just like this one probably is not perfect as well, but after a few months some issues arose. They came back to Parliament—the UNC that was—and we made the adjustments and the Bill is in full operation now. Okay? So, at worse, we might have a situation like that again. So we may not have gotten it perfectly right, but I think given what was put into this, it is very commendable.

[MADAM PRESIDENT *in the Chair*]

Another issue, in terms of the impact of this Bill, what we are passing here tonight, hopefully, is that we are bringing some discipline to what has been an unruly industry over the past few decades. Insurance companies have been able to do whatever they want in the market, with Clico being the number-one example of

that. And you have a lot of other small insurance companies who were able to basically run riot in the place, and all of the complaints we are all familiar with about insurance companies tend to be associated with small companies that really do not have all of the infrastructure in terms of corporate governance and different corporate compliance committees, and all these things that we are putting into the new Bill.

Now, on that note, what we have, one of the main consequences of the Bill that has not been mentioned yet is that this Bill is most likely going to lead to some consolidation in the insurance market, in the insurance industry, because smaller companies may find it difficult to meet all of the requirements of Bill. The requirements in the Bill are quite onerous for small companies and if they do not get their act—well, they know it was coming now for many, many years, so hopefully if they want to stay in business, they would have gotten their act together by now.

But, very likely, smaller companies, the more fly-by-night operations will fall by the wayside and that may be a good thing for our market, because to some extent certain parts of our market, of our insurance market, were a bit overdone and we had too many of these companies and too many complaints from the public about the kinds of services that they were getting from these companies.

**6.20 p.m.**

One of the key aspects of the Bill is also the information sharing that the Minister mentioned to help us deal with issues such as the Clico, CL Financial/CL Financial debacle which involved cross-border issues where Clico had operations throughout the Caribbean, and, well, other parts of the world. All over the world in fact, and the whole Clico, British American debacle where these countries in the

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Eastern Caribbean suffered a great loss because of the debacle with British American Insurance mainly, not Clico so much. And they have actually come to the Trinidad and Tobago Government seeking a bailout from us for their problems, because Trinidad was the home base of the Clico conglomerate.

One of the things that happened that caused the success of Clico in the islands, as well as the problems that ensued was that those people in the islands bought into Clico and British American products because they thought it was properly regulated in Trinidad and Tobago. They took it for granted that we had our house in order, so they figured this was a big successful Trinidad company coming into Saint Kitts, Antigua, or wherever, and offering products. It was not one of their own small fledgling companies, this was a big fish, a big established company that was bringing into their territory sound products.

It is the same thing like if we saw big established American companies offering products here, which some people have gone for. Like the suitcase traders, as we know them, come down and offer products by well-known companies in the US and people go for it, because they assume that these companies are well regulated; well, it is an American company, it must be well regulated. So they just buy into it, and it is a similar thing what happened with the smaller territories in the Caribbean when they saw this big established company from Trinidad and Tobago offering their products. I have sat in discussions with people from the islands and that is one of the things they pointed out in terms of why Clico and British American became so successful in their territories.

Now, like I said, I am only making a few comments, but just I cannot leave without touching on two topics, that are two of my pet peeves. The Clico issue, which I sat on that side for five years and I was the main spokesman for issues

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relating to Clico; I could talk about that alone for the whole contribution. Clico, at one time, was allowed to become too big to fail, and that is something, hopefully, this legislation, because of its many safeguards, and so on, that we built into this would not allow that to happen again.

At the high point of Clico back in the mid-2000s, one company had 75 per cent of all the long-term insurance premium business, 75 per cent. When you looked at the table and you saw Clico's share of the long-term insurance business and the next company down like 10 per cent, 15 or something, you know, so it was startling that people could see that and not wonder what was wrong. How could one company as opposed to all these other existing companies—because we have quite a bit of insurance companies in this country, but this one company was able to corner 75 per cent of the market; not 50, you know, 75 per cent at the peak.

Someone mentioned the issue of somebody saying something bad about Clico in the '90s, and that in my recollection was the former Attorney General, Ramesh Lawrence Maharaj, who basically came out and said that Clico was insolvent. He was made to humble himself and backtrack, because, as we all know, of the political influence that some members of the Clico leadership had at that time. But what was interesting that many people do not or may not know is that after that event the business of Clico went through the ceiling.

Clico Investment Bank, all the flexible annuities, and all the stuff that created all the mess that the last few Governments had to deal with really took off. So after talk of insolvency of the company the deposits, for example, in Clico Investment Bank went up from about \$1 billion to about \$6 billion. So when people thought—so, you know, sometimes you say bad news it is supposed to mash up their company, it was the opposite, people rushed to put money in

thereafter. It is not unusual in financial markets for that to happen, but it did happen and many people were not aware of it, that despite all the talk of all their problems.

Around the same time when the former Attorney General made that statement, there was an issue of Clico trying to take control of Republic Bank, and Republic Bank fought back and they put out a document outlining why Clico was not fit and proper to control Republic Bank. I still have the document, I was reading it recently. It makes interesting reading, some of the names, because people tend to forget who the players were. Some of them are still around today. It was a very belligerent document put out by Republic Bank against Clico. If you could get it, it makes very interesting reading in retrospect now, well, after you see what came and happened later on. But Republic Bank was warning the country that Clico was not a fit and proper entity to own a bank in this country. We saw what ended up happening, and, like I said, I could talk for a very long time about just this topic alone, but, hopefully, this Bill, like I said, will not allow something like that to happen again, and that is why it is fundamentally important that we do pass it as soon as possible. If it was up to me, we passed this last week, week before or last year, not now, no delay.

One last topic before I close off. Several speakers mentioned the international financial crisis, and some seem to indicate that it may have had something to do with the Clico debacle, and some say, well, maybe not; well, yes it did. Part of the problem, of course, was the way the financial crisis affected us in Trinidad and Tobago was through the fall in commodity prices. It was an indirect effect. Clico was affected by the fall in methanol prices. So that ate away at a lot of their cash flow because they depended on the money they made from methanol

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which was in US dollars, and which they would bring back into Trinidad and exchange. The methanol plant was one of their major sources of foreign exchange for the country. So when it was sold under the last Government, it eroded a major source of foreign exchange for us. We got some foreign exchange in terms of the one-off payment for the shares, but the flow, the Clico methanol plant used to bring in on average about US \$200 million per year when methanol was, of course, doing well, and methanol had rebounded. So it was a significant source of outside of the traditional energy company, like, you know, what we get from BP, and all the others. So we lost one source of foreign exchange flow when we had to sell the company back to the—well, sell the shares to the Germans.

Also, CL financial was effected by the drop in the Florida real estate market, that was another dimension that caused the company problems that many people may not think of, because they had invested a lot of money into Florida real estate, and that went south with the financial crisis in 2007, 2008, and put them in great difficulty. So that was the two major channels in which the crisis hit. I mean, I could go on and on about what happened with all the purchases and the bad management practices, and so on, at the top of the company. But in terms of bailout and the financial crisis several people mentioned AIG had the biggest bailout. I think somebody referred to it as the biggest single bailout.

Now, AIG—just to add a little bit to that—AIG was bailed out in order to pay off Goldman Sachs. It was not to save AIG, it was to save Goldman Sachs. Right? Yes, the money that was paid to AIG was money that they were owing to Goldman Sachs, and go find out who was Treasurer—what you call them—Secretary of the Treasury in the US. Go find out who it was and you would get your answer as to why that happened, you know. So AIG was an insurance

company of, ostensibly, insurance, but just like Clico went into dabbling into all kinds of things that had nothing to do with insurance and they found themselves in trouble.

When we talk about bailout in the US and bailout here, I would like people to understand that it is two separate things. The Americans bail out their corporations, Trinidad and Tobago Government bailed out the people, the depositors. It is two separate things. So when they use the word “bailout” here and they “bailout” there, it is two separate things. The Americans practise a kind of socialism for the rich where they bail out the top echelon of their society. They refuse to implement programmes to bail out all the people who lost their houses, and so on.

With the genesis of the financial crisis the debt/equity swaps and all that came after. The real genesis of the financial crisis was in the housing bubble where people were buying houses with no money down, and so on—ninja. There was what you call, “ninja loans”; “ninja” means no income no assets, and the bank would just tell you, right, go take the house we will give you a mortgage. You did not have to put down anything. Based on that was based on the fact that the price of the house would increase, and later on, six months later you could sell it to someone else, and that cycle would just keep going until, of course, everything comes crashing down.

It is a classical Ponzi scheme, basically, and eventually it crashed and all these derivatives, CDOs, SUVs, and whatever—they had all kind of fancy names to confuse people, but it was basically rubbish. A lot of junk bonds and worthless pieces of paper were traded over and over again, but everybody made money for about six or seven years until the fun stopped. One last point. The funny thing is

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the American government has never really dealt with the fundamental issues of the financial crisis 2007, 2008, so it is just a matter of time before it happens again.

So, with these few words I commend everybody to support this Bill. I think a lot of hard work from a lot of very good people went into it, and I was involved in it when the other side was in Government and I was involved in it under this current Government, and I am happy to say that this Government is passing this Bill. Thank you, Madam President. [*Desk thumping*]

**Madam President:** Sen. Sobers. [*Desk thumping*]

**Sen. Sean Sobers:** Thank you, Madam President, for allowing me to take part in this contribution on this discussion on an Act to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension fund plans, and for other related purposes.

Madam President, permit me from the onset, because I do not think I heard any other speaker do so in their contributions, but I personally would really want to congratulate the Parliament as a whole, please, Madam President, because the product that we have before us today is really the work of successive administrations on both sides of the House coming together to produce something that is extremely palatable that should redound to the benefit of the Republic of Trinidad and Tobago and the people contained therein.

It definitely demonstrates, Madam President, what can be achieved when both sides of the divide really put their minds together; two heads are better than one, and three heads are better than two, and so on and so on. But, equally, Madam President, it demonstrates, at least on the part of the Opposition please, a willingness for us to support good legislation brought on by the Government [*Desk*

*thumping*] that we are often times accused of solely opposing for opposing sake, but I think in terms of the passage, or the hopeful passage of this legislation we can definitely demonstrate that we would lend our support to the Government, once they bring to this honourable House, good legislation.

Madam President, this particular piece of legislation has come about after what can only be described as the worse financial atrocity to strike the Caribbean, and in particular Trinidad and Tobago, its epicentre being found in Trinidad and Tobago. I listened earnestly to the past speakers in terms of their contributions and it was only recently, if I am not mistaken and subject to correction, during the contribution by the hon. Senator, Dr. Lester Henry, that he mentioned the word “Ponzi scheme”. To be honest, Madam President, when one boils this entire situation down and extracts all the fanciful terms and terminologies that may be associated with it, the debacle of the CL Financial Group was at its heart, really and truly, just a Ponzi scheme.

For the benefit of the listening public, please, Madam President, and the viewing public, a Ponzi scheme is a fraudulent investing scam promising high rates of return with little risk to investors. The Ponzi scheme generates returns for older investors by acquiring new investors. This is similar to a pyramid scheme in that both are based on using new investors’ funds to pay the early backers. For both Ponzi schemes and pyramid schemes, eventually there is not enough money to go around and the scheme unravels. Ponzi schemes really originated back in 1919 under a gentleman named Charles Ponzi, and what Mr. Ponzi was involved in, he was involved in the sale of postage stamps, and that particular venture eventually mushroomed and he began to take investments from persons. The initial business model in terms of the exchange of the postage stamps was what was known as an

arbitrage at the point in time, and that in itself was not an illegal practice.

But Mr. Ponzi, just like many others who have come after him and for the few that came before him became very greedy and expanded his efforts, and under the heading of his company, Securities Exchange Company, he promised returns of 50 per cent in 45 days or 100 per cent in 90 days. And due to his success in the postage stamp scheme investors were immediately attracted, and instead of actually investing the money Ponzi just redistributed it and told the investors they made a profit.

The scheme lasted until 1920 when an investigation into the Securities Exchange Company was conducted. I made mention of the fact that such activities, atrocious activities, fraudulent activities actually took place before Charles Ponzi in 1919. Ponzi schemes have actually been demonstrated to go as far back as the 1860s, please, Madam President. If one does some level of research one would recognize that from since the 1860s to now you would have thousands of persons being engaged in Ponzi schemes. The majority of them actually—some of them who are still alive are currently incarcerated, and the majority of them would have been tried and found guilty and convicted accordingly.

But, Madam President, the difficulty is that we must appreciate what the purpose of our activities and our toils to get us this far has come from. The seeds that were sown, please, Madam President, that I think what should be placed upon the record, and I think for the better part of his contribution, or for a significant part of his contribution on the last occasion, Sen. Small made reference to the fact that many a time the persons who face the courts are just simply the blue-collar criminals, and that white-collar criminals often evade the reaches of the courts.

I want the listening public and the viewing public to appreciate that we here

in this Parliament understand that you need not really rob a bank, as they say, with a gun, or commit an offence against some financial institution with some form of weapon. Some of the worse financial crimes, Madam President, are committed by persons who just have cunning and guile, and as we like to say, people who have “sugar tongue”. So that they can talk and swindle you out of your earnings, and that they are the ones who, unfortunately, it is perceived in this country, avoid the hangman’s noose. But this particular piece of legislation, it is hoped, would prevent such situations from happening.

I know that maybe in terms of wrapping up, it may be placed upon the record, and I can so do now that this particular piece of legislation will not be considered, as the hon. Attorney General likes to say, it is not a single magic bullet, it is not a panacea or a fix-it-all situation, but it is a good step in the right direction to so do, to hopefully prevent the reoccurrence of the Clico debacle from happening again in this country, and to dissuade and discourage persons who would want to prey with the use of their “sugar tongue” on the most vulnerable in society who are looking for that extra way to make money, or who are looking for that extra way to save the moneys that they would have made during their time of life.

Madam President, we are not novel in terms of what took place here, as I mentioned that the roots of the Clico debacle really took place in what is commonly known as a Ponzi scheme, but all over the world, please, Madam President, you have persons engaging in these activities. I think the difference that persons may take note of is that fact that some of these individuals in foreign jurisdictions are currently incarcerated, whilst others who would have committed those atrocities upon the people of Trinidad and Tobago, as Sen. Small likes to say,

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they are living large and continue spending in all sorts of exquisite and exclusive places around the world, and it brings to mind, most recently, two persons who were engaged in Ponzi schemes in the US. Most notably, or notoriously noted was that of Bernie Madoff who it was alleged took part in one of the biggest Ponzi schemes in the world, in the history of the world, and he is currently serving 150 years behind bars, and he had to forfeit almost \$18 billion in US currency. Another more common name within the Caribbean region is that of Allen Stanford. He as well is currently serving a term of 110 years in a Florida prison, and he had to forfeit almost \$10 billion.

But I know that persons within the public domain may ask: But what of the perpetrators behind the Clico fiasco and the HCU fiasco, why are they not serving terms in prisons, or were made or forced to pay back to the people of this country billions of dollars that they may have inappropriately availed themselves of? The thing is, Madam President, I listened to the contributions made in the other place when this particular piece of legislation, or the Committee's report was laid there, and I understand, also being a legal practitioner, that matters such as these take a very long time to sort out, that fraudulent and high fraudulent matters such as these require a certain level of expertise, and, hence, I think the reason that the commission of enquiry into the matter was launched, and also the reason why in terms of the budget that the midterm review that just passed in this honourable House, extra funding was required for the DPP's office to finish some of the work started into this investigation into the Clico fiasco.

Madam President, whilst I am not making reference to that particular situation, there will always be vulnerable persons in society. There will always be persons who would dream and wish, and hope and pray for a better and brighter

sun. Up to recently, please, Madam President, there would have been an individual who visited my office, a teacher, an educator, no less, and she unfortunately would have been—you know, she came for some legal assistance because she received several correspondences from one of those African nations informing her that she had a relative, some distant relative that she had never heard of that passed away, and that she was required to send funds across to them for them to probate this dead man's estate that was worth hundreds of millions of US currency. And she came to my office enquiring—at this stage she recognized that this may have been some fraudulent activity that she was the victim of, and she wanted to know whether or not there was anything I could have done for her, and the first thing I had to ask of her, did you have a relative who lived in this African nation that you did not know of? [*Crosstalk*]

**Hon. Senator:** She was not sure.

**Sen. S. Sobers:** And to be honest that was the response, she was not entirely certain. So in an effort to find out whether or not it was true she sent the money across to these people and I—[*Interruption*]*—*Yeah, and it was actually her entire life savings. You know, so that there will always be vulnerable members of our society and as much as we would want to try to protect so many different persons we may not be able to so do, but we will try our very best as a responsible Parliament should and ought to.

Madam President, I also want to put into a bit of context the level of financial atrocity that the CL Financial Group placed this country in, the level of—

**Madam President:** Sen. Sobers, you have now been speaking for quite some time and a lot of what has gone before has dealt with the Clico situation, and you are starting to repeat some of what I have heard from the speakers before. So I need

you to veer away from that sort of repetition and, you know, deal with some other aspects of the matter at hand.

**Sen. S. Sobers:** Yes, please, Madam President. I was just attempting to demonstrate the level of misappropriation and unfounded diligence conducted by persons running the organization that placed this country in that precarious position to bail them out. So that in terms of my introduction into the Bill, please, Madam President, allow me to read from an article in the Trinidad and Tobago *Guardian*, dated the 23<sup>rd</sup> of June, 2016. It is entitled, “Colman report knocks Central Bank in Clico, HCU fiasco: Regulatory control seriously lacking”. And it was from the Colman report that particularly influenced the work that was done by the Joint Select Committee to get this Bill to the stage it is at currently. It starts:

“Deficiency in the Central Bank’s regulatory control of the insurance industry and the respective ‘visions’ of CL Financial chairman Lawrence Duprey and Hindu Credit Union chairman Harry Harnarine have come in for criticism by chairman of the Clico/HCU commission of enquiry, Sir Anthony Colman.

Colman, sole commissioner of the enquiry, delivered the remarks in a statement reflecting on his final report on the five-year task of the enquiry.

In yesterday’s statement, read by Gonzales, Colman referred to the captains of Clico and HCU in seeking to identify the one characteristic which linked the collapse of HCU with that of Clico and its associated companies.

Colman said: ‘It was repeatedly claimed that the one motive that drove both Harry Harnarine and Lawrence Duprey to ever bigger deals was ‘vision.’ Yet, in spite of all the warnings received from the Central Bank and the

auditors they went on, like Icarus, only to be destroyed by the sun of their own vision.’

He said it was not the appropriate time to comment on the report’s findings with regard to responsibility of the CLF Group collapse, or on the mechanism of failure which caused the government to intervene in such large measure. However, he said there were two matters which needed immediate legislative action.”

—which I believe is what we are doing here as a responsible Parliament.

“Firstly, the powers of the regulatory control of the insurance industry by the Central Bank are found to be fundamentally deficient.”

—which I believe this Bill has addressed.

“That deficiency was starkly shown up by the autocratic style of management of Clico and the CLF Group, generally by its business model, which is found to be seriously flawed and by the cavalier manner in which it treated attempts by the Inspector of Financial Institutions to deploy such limited regulatory control tools as were then available and ignored to a large extent...”

**6.50 p.m.**

Madam President, basically Mr. Colman went on to say other things which supported the move of this House to bring about this Bill.

Madam President, the Bill of itself is quite, in my opinion, very broad and very comprehensive. It can be split up, in my opinion, in terms of enhanced corporate governance and prudential requirements. With respect to enhanced corporate governance it can be found in clauses 47 to 48 and clauses 66 to 80 and beyond. Prudential requirements can be found with respect to clause 82 and clause

143, and the protection of policyholders and members of the public at large within clause 82 as well. There are also measures with respect to strict penalties and also whistle-blowing protection, please.

When one looks at the Bill in particular—and I will not spend much time because I appreciate that much has already been said on the Bill—it is quite comprehensive. It has covered, in my opinion, many aspects of protection for the policyholders and members of the public at large. I know that what I wanted to touch on, which was not really raised before is in particular clause 66 dealing with corporate governance. That clause 66 provides for a director of an insurance or of a financial holding company not to be present or vote at a meeting or a committee of the board of directors when a contract, which would result in financial benefit to him, other than a contract of employment, is being considered.

Madam President, that particular clause reminds me of a particular case that went to the Court of Appeal in this country. That case is HCC No. CV2011 of 02140 between Louis Andre Monteil, Stone Street Capital Limited, appellants, and Central Bank of Trinidad and Tobago Colonial Life Insurance Company Limited. Basically what that case dealt with was situations wherein persons who may have been part of particular institutions, using their influence on these institutions to gain some financial benefit. That particular clause prohibits individuals from being able to vote to influence certain decisions wherein some type of financial benefit would redound to them.

I was also very pleased to see, in terms of corporate governance, that there are controls now in place to have auditors being appointed to assist in terms of the runnings of these organizations for larger companies, actuarial scientists also being involved. I was very happy to see that there is a clause for separate accounting, so

that there is no commingling of funds, and that could be found at clause 42, because commingling is a very significant problem that took place in terms of the Clico debacle.

Also, clause 69 deals with a level of collective responsibility, in terms of decisions that are made. I was very happy to see that in the Bill. I was also very happy to see in terms of the information systems for credit exposures at clauses 71 and 72. The level of scientific and empirical data being used to influence and monitor some of the credit systems in these institutions. And I was also extremely happy to see that there was now some level of a litmus test in terms of valuating assets and liabilities for these companies, which could be found in clause 143. Then I was also very happy to see Clause 82, with respect to capital adequacy, which brings most of these financial institutions up-to-date in terms of what their capital adequacy should be; and also very, very happy to see a clause to deal with the protection for whistle-blowers and persons of that nature.

I also had a bit of an issue initially when I was looking at the Bill with respect to some of the sanctions laid out in Schedule 6, but having listened to the contribution made by the hon. Attorney General in the other place, I appreciated what influenced the decision-making process there, with respect to advice being sought from Ed Fitzgerald of Queen's Counsel. I was able to understand the schedule in its entirety.

Madam President, two points I would just want to touch on before I take my seat. The first is, my only concern with the legislation is in terms of its effectiveness now redounding to the citizenry. I hope in terms of the wrap-up from the hon. Minister in the Ministry of Finance we could hear something about what infrastructural mechanisms would have been put in place in anticipation of this Bill

Insurance Bill, 2016 (cont'd)  
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becoming law, with respect to the Central Bank itself. And also I would want to put on the record, in furtherance of my support for this particular piece of legislation, that it really catches all manner of persons, as they like to say in Trinidad adage, “from chief cook to bottle washer”, because there is even a penalty for what can be considered false advertising in Schedule 6, at 258(2), failure of a registrant to correct or withdraw a misleading or objectionable advertisement.

I, for one particularly, am very supportive of this particular piece of legislation. It may have very well been overdue for some time, as the old legislation has been on the books for 40 years. I do agree that we should act with haste with respect to treating with this matter.

I thank you.

**Sen. Ronald Duke:** Madam President, I thank you for the privilege of contributing in this debate on the Bill, an Act to repeal and replace the Insurance Act, chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension plans and for other related purposes.

My interaction with this Bill is recent. I had many questions and tried to form many linkages in the material presented. Fortunately, having sat here from 1.30, I have recognized that this Bill was in formation way back as far as 2011, and that many of the hon. Ministers and Senators have contributed in a lot of ways to the production of this Bill.

Therefore I would have looked at it, and I feel that I must compliment the framers, who are all the hon. Ministers and Senators and the other people in the Joint Select Committee, because when you look at what was done, it is very comprehensive. At this point in time you look at the safeguards that are in place.

From clause 5 talks about connected parties, so that it brings everybody into focus, so we begin to understand how some of the wrongdoings were perpetuated; things like separated accounts, financial condition reports.

My contribution is going to be curtailed because most of it has been said. But I felt that I need to make a contribution so that all that has been done and to give support to what has been said. One thing that I am a little bit still concerned about is the whole question of whistle-blowers—a whistle-blower. I know the Bill says that it can be taken to the Central Bank—that communication to be given to the Central Bank in good faith and in a professional capacity. The question I ask is: What if the whistle-blower does not want to be identified? Do we have the safeguards in place?

The small man, in my view, is who must be protected. When you look at what has happened and what was the genesis of much of this Bill, the small man has been the one who has suffered greatly. What is this? What are we going to do about ensuring that these wrongs do not persist? I would have listened to Sen. Mahabir and some other Senators who would have indicated what needs to be done. I compliment that.

The Bill, to my mind, has treated comprehensively with all that has been said. The ordinary man, Madam President, must be protected. The themes that have been brought out as to non-disclosure, the explanation and definitions allow me to follow what was happening in the main document.

Madam President, as I look to the rest of this Bill, the Bill being debated and passed this afternoon, I feel that justice would have been done to it and I take the opportunity to lend it my support.

Thank you very much.

**Madam President:** Hon. Senators, permit to congratulate Sen. Duke on his maiden contribution. [*Desk thumping*]

**The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):** Thank you, Madam President, for giving me the opportunity to wrap up this debate, which was mercifully shorter than I had previously anticipated, in the best way possible. [*Laughter*]

Madam President, as we all aware, the insurance industry is a peculiar one, especially long-term insurance, in that it is the only business where you purchase an asset now without expecting a benefit from that purchase for years, and even decades to come, but the possibility exists that you may reap the reward tomorrow. So it creates difficulties for the persons selling this product to determine how to price the product, what kind of return to give, and that kind of thing.

They have to sit 20 to 40 years in front of when they have to pay out, to determine what to invest in, what is that right combination of long-term assets and short-term assets, how much risk should they put in those assets, so that they are in a position to both settle their current liabilities and settle their long-term liabilities as and when they arise, as well as provide a return to their investors. So that is not an easy thing to do, and into that space we get the actuary. This mythical creature who is responsible for advising insurance companies on how to price their product, how to invest, what to invest in. And although I am sure we all know actuaries, I do not know that any of us truly understand exactly what they do, and it does not help that this is an inexact science where different actuaries, depending on where they are trained and when they were trained, apply different methods.

So that one aspect of the Bill that I was particularly interested in and happy to see was that element that requires all actuaries providing services to companies operating in Trinidad and Tobago to use the same method of valuation of

liabilities. That allows for certainty. It allows for better review. It allows us to provide and collate statistics that would determine whether the pricing of products is reasonable, whether the returns on products is reasonable. It also facilitates greater mobility of insurance policies, because one of the things that we need to recognize as we move into this new world is that people no longer join an organization with the intention of serving that organization for life. So that whereas in my day you would expect this person that you started working at 20 or 25 to provide you with a pension 40 years later, that is no longer happening. So portability of insurance products is more and more important, and with a common method of computing liability, portability becomes easier.

So, in my view, one of the most critical aspects of this legislation is the requirement to use a uniformed method of computation of the liability. It also in my view allows the regulator a better chance of properly regulating an industry where he knows what the actuary is doing and how the actuary is doing it. So I really commend that section.

Madam President, essentially in an insurance company you are dealing with three stakeholders. You are dealing with management and staff, and in the insurance context you have a huge pool of insurance salespersons who play a key role in keeping that sector going, who are looking for a decent reward for the work they do. You have the customer/policyholder who is looking for certainty of his products. So he wants to know that in 10 years' time, in 40 years' time he will get a return, and a decent return, and you have the shareholder who is putting in his investment and, of course, wants a reasonable return. So the key aspect of insurance legislation is to ensure that each of these entities is protected, and none of the entities, most especially the policyholder, who is the one most at risk, is not

taken advantage of.

The legislation seeks to do this in various ways. It has put in rules regarding proper governance. It has put in rules regarding how insurance companies operating within a group must be structured. It has put in rules regarding how much of your capital you can invest in any one entity. It has put in rules as to how you are allowed to relate with related parties, how you are allowed to transact business with related parties. It has put in limitations on how much credit you can place into any one company. All of these rules did not previously exist in any robust manner or at all in the previous legislation, and should lend a lot of credence to the product that is before you, and should lend a lot of comfort to people seeking to invest in insurance companies now, following the collapse of the last company in 2010, which would have caused a loss of confidence in the industry.

It is essential that people have confidence in our financial institutions in general, and in insurance companies in particular. The reason for that is that our work lifespan only takes us so far. When we get to the end of that work life we continue to live and, as most of you know, our population is ageing which means we are living longer. So we have to live off of the fruits of the labour that we would have earned during that working life.

While some of us are good enough to create businesses that will continue to provide us with that livelihood after retirement, or to save sufficient money to take us there, most of us rely on our interactions with insurance companies or investment in those companies to provide us with the livelihood post retirement. That is why it is important for us, one, to have confidence in those insurance companies, to be able to rely on those insurance companies. It is also important for us to ensure as a society that those insurance companies strive and continue to

survive and do not collapse, because if we do not rely on the insurance companies and we fail to save for retirement what does that do? It puts a strain on the State, because the State then has to take care of us.

Let me give you some statistics regarding the obligation that we have placed on the State. At the moment as of March 2018, there were 94,302 senior citizens in receipt of senior citizens pension. That represents approximately 8 per cent of the entire population, which is frightening in itself, but more frightening is it represents 78 per cent of our over-65 population which is estimated at 120,000 people. So imagine that in a country that has been replete with wealth for the last three decades, four decades, we have 70 per cent of our over-65 people relying on the State for their livelihood. So let me get to what that costs the State.

The monthly cost of providing that support to our ageing population is \$299,993,000 or a staggering annual cost of \$3.5 billion, which is 7 per cent of the current national budget. So when you bear in mind that we have an ageing population and therefore the percentage of our senior citizens is likely to increase, vis-à-vis the percentage of our working population, you would see that this is an unsustainable model. With a small increase in the numbers we could soon reach a situation where 10 per cent of our population is relying on the State for their pension. Without an increase in the amount of pension paid to any individual, it will increase the liability to \$5 billion a year.

So this clearly establishes why it is important for us to get this right so that people regain their confidence and grow in confidence in the insurance sector, and we get the insurance sector operating in a way that will encourage more and more people to get involved in long-term product so that they can themselves fund their retirement, because the State will not be able to do it, not at these kinds of prices.

When we think of senior citizens relying on the State for pension we tend to think of people who during their working life were either unemployed or underemployed. A group of people we tend to forget are people who were self-employed, many of them doing very well during their working life, but not saving for retirement. I know of insurance agents who made millions of dollars during their life, who at the end of it did not have a means to support themselves, and they are not alone. There are lots of people like that. So that we have to get the nation into the mindset that they will, regardless of where they are in terms of their work life, set aside funds in a responsible manner to finance their retirement. And this hopefully will be significantly supported by the terms of this legislation.

So, Madam President, essentially, that is what I wanted to say in a global scale. I will just look now at some specific issues raised during the course of the debate. The first was by Sen. Mark who asked about the draft regulations that are housed in the Board of Inland Revenue. Sen. Mark, there are two authorities engaged in reviewing pension plans, two separate regimes. The Central Bank is responsible for ensuring that the plan complies with the legislation and provides enough protection for the policyholder. The Board of Inland Revenue is responsible for determining whether the provisions of the plan are consistent with the tax legislation, to allow for the tax relief that is available under the legislation. So it is not a case of moving the regulations from one to the other, under the current law.

**7.20 p.m.**

Now, I accept that there is a need to do a review of the pension profile in Trinidad and determine what the limit on benefits is and those kinds of things. I remember just recently, maybe earlier this week, the head of the Amalgamated

Workers Union raised a very important issue as to whether we should do a shift back from defined benefit plans to defined contribution—sorry, the other way around. A shift back from defined contribution plans to defined benefit plans, and that is a debate that should be held on a national level because you have on the one hand, under defined benefit plan, the employee has a guarantee of what his pension will be. But then the employer has no way to control his cost in respect of the insurance, so he bears the risk of an unsuccessful investment strategy for which he is not responsible. On the other hand, with the defined contribution plan, the employee is the one who bears the risk for an unsuccessful investment strategy.

So a discussion needs to be had on a nationwide basis as to what we do with pension plans, but I do not think it is something that needs to hold back where we are. It is a separate issue that we need to deal with, but in my view, what we have included in the legislation with respect to pension plans is adequate, because while pension plans are not peculiar to insurance companies, they do operate and manage a lot, a significant portion of the pension plan activity. So, I think it is important to have the reference to pension plans, but we need to develop and grow that.

**Hon. Al-Rawi:** And it keeps the existing law.

**Sen. The Hon. A. West:** And, yes, it keeps the existing law.

So, you had mentioned that the Central Bank is now being given responsibility for various activities and that may be an overburden. I will just to say to you that the Central Bank is now, at this point in time, under the old law already responsible for all of the areas that you have identified: for pensions, for insurance, for banks, and they have been managing. The legislation is requiring them to do more, and they will have to beef up.

As you know the Ministry of Finance does not get directly involved in

Central Bank activities, so I cannot tell you how they have beefed up their staff, but they have been integrally involved in this process. They know what is expected of them, and we would expect, like the responsible bank that they are, that they would be acting appropriately to get us there.

And there is a proclamation clause, so that if they need further time to get there, then we can provide them with some time, but not too much because as we all agree, this legislation is important and we need to get it in as soon as possible.

You also mentioned, Sen. Mark, that only government employees do not contribute to their pension; that is not accurate. There are several employers in Trinidad and Tobago who have non-contributory pension fund plans and, again, that should be part of the wider discussion as to how we structure pension fund plans going forward.

The issue of derivatives was mentioned by a few people and I will just like to say that, yes, derivatives are something that one needs to be aware of. There are derivatives that have worked well, that are very secure investments that have produced good, solid returns, and there are derivatives that were, in effect, junk bonds.

What this legislation does is that it gives the Central Bank, as the regulator, the authority to value the investments in any fund that an insurance company operates, and if Central Bank is of the view that the derivative or any other investment is unsound, then it can value that at a very low rate and require the insurance company, therefore, to increase the pool of assets in the fund, to ensure that their liabilities are adequately covered.

So, we are stress testing and risk basing. The legislation allows for that, and I think given that power in Central Bank, that we do not need to concern ourselves

too much with the fact that there is no specific reference in the legislation to derivatives. And the review by the Central Bank is required to be done annually rather than every three years. So, I think we have sufficient protection and because of that, I am not concerned about the existence of derivatives.

My recollection during the financial meltdown in the US was that, although we were impacted, as Dr. Henry said, by the fact that there was an impact on commodity prices, there was no significant direct impact of that on our financial sector, and this is because the Central Bank played a very key role in alerting the financial sector to the fact that this thing would not last long, and it was, in fact, a junk bond. So I think we handled that well. And I think we can trust our Central Bank, once they are properly peopled and managed, to manage the insurance sector going forward.

It is also key that the legislation protects service providers to the insurance companies like the actuaries and the accountants from disclosing from any accusations or actions against them for breach of their confidentiality arrangement with their employer, with their client, if they have to provide Central Bank as the regulator with information on any unsavoury action that is conducted. So that gives a layer protection that was not previously there.

Prior, under the current legislation if an actuary or an accountant or an auditor discloses information to the Central Bank, he could successfully be sued by his client for breaching that client/customer confidentiality arrangement. The law now provides that protection. So it gives us an additional level of protection. So overall it seems to me that the individuals involved in drafting and crafting and tidying up this legislation really did a very good job.

Sen. Shrikissoon, I acknowledge that there is room for improvement. We

will certainly take a note of your recommendations. And as we review the legislation over time, we can work on it, but I think it is an excellent starting point. I highly recommend it to you, and I hope that we can pass it this afternoon, and introduce it in the near future so that we can start heightening the level of protection provided to our policyholders and other people who do business with the insurance companies.

With that, Madam President, I thank you and I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

**Madam Chairman:** You all may sit. Hon. Senators, may I remind you that this Bill has 282 clauses in 13 Parts, 12 Schedules and there is also a Preamble. I intend to go through Parts. Okay?

*Question proposed:* That clauses 1 to 3 stand part of the Bill.

**Mr. Al-Rawi:** Madam Chair, sorry to disturb your flow. May I just enquire, just for useful purpose, whether there are specific clauses that Members propose?

**Madam Chairman:** As we go through I will stop and I will take note of it. But let us do it this way, Attorney General, and we will proceed.

*Clause 1 to 3 ordered to stand part of the Bill.*

*Question proposed:* That clauses 4 to 6 stand part of the Bill.

**Madam Chairman:** Sen. Ramkissoon.

**Sen. Ramkissoon:** Thank you, Madam Chair. It is a very simple, simple thing, and I do know that the Law Commission handles spelling errors, but I just wanted

us to just capture it before we miss it because I did see some amendments in some Bills before us where we did amend spelling errors.

**Madam Chairman:** You can just go to it. Yes.

**Sen. Ramkissoon:** So in “actuary” and it says—it needs to be “actuarial accreditation body”, not “acceditation”. I “doh” know what that word is, but it is supposed to be “actuarial accreditation body”.

**Mr. Al-Rawi:** Madam Chair—

**Sen. Ramkissoon:** I see that on page 3.

**Mr. Al-Rawi:** It is in the second line, the misspelling—

**Sen. Ramkissoon:** Yes.

**Mr. Al-Rawi:**—of “accreditation”, and it is the CPC’s proofreading that picks that up. Law Commission catches it on a different end, Law Revision Commission.

**Sen. Ramkissoon:** All right. So can we just catch that, please?

**Mr. Al-Rawi:** Yes, please.

**Sen. Ramkissoon:** Thank you.

**Mr. Al-Rawi:** But there is no technical need to amend it here, but thanks for observing it. The proofreading will take care of that.

*Clauses 4 to 6 ordered to stand part of the Bill.*

*Question proposed:* That clauses 7 to 18 stand part of the Bill.

**Sen. Mark:** Yes. Madam Chair, I wanted to, when you go to clause 8 in Part II, I would like another layer of accountability for the consideration of the Attorney General. Under clause 8 Part II, the report goes to the Minister, but having gone to the Minister, what is the role of the Parliament? The Parliament has no role whatsoever. We must have an oversight role of the operations of the Central Bank. We are giving this bank a lot of power, and they have a lot of responsibilities, and somebody must hold that bank to account.

**Madam Chairman:** Okay.

**Sen. Mark:** And I believe, Madam Chair—

**Madam Chairman:** Yes, Sen. Mark, I think the Attorney General has gotten it. Attorney General?

**Mr. Al-Rawi:** Yes, Madam Chair. I just instinctively contemplated on section 66 of the Constitution, and that reports that the Central Bank itself produces a report to the Parliament. So, I had asked the technocratic team to just have a look at that. But, Madam Chair, this particular report is just as stated that it goes to the Minister. It is, of course, discoverable in a number of ways, but the Central Bank has a broad, general reporting requirement, pursuant to Section 66 of the Constitution.

**Sen. Mark:** All I am saying, Attorney General, through the Chair, is that these are very powerful responsibilities, and for us to avoid any possibility of—any difficulties that may emerge in the future, I feel that if we have an oversight role here—

**Mr. Al-Rawi:** I do catch. Madam Chair, let me be a little bit clearer. The Central Bank Act itself provides that reports of the Central Bank must come to the Parliament. So this feeds into the Central Bank. The Central Bank reports to the Minister, but the Central Bank must lay its report in the Parliament via the Minister of Finance pursuant to the Central Bank Act and the Constitution.

**Madam Chairman:** Sen. Shrikissoon.

**Sen. Shrikissoon:** Thank you, Madam Chair.

**Mr. Al-Rawi:** Sorry. And it is under Section 53 of the Central Bank Act.

**Sen. Shrikissoon:** Right. Madam Chair, in my contribution, I made a recommendation for clause 10(3), and it was just in terms of a minimum time frame to be specified. Now, I understand the complexity of the Bill and what is

going on here. So all I would like is an undertaking, as the Minister in her wrap-up, that the recommendations be considered at an appropriate time, and that once it can be reviewed and probably improved at a later date, I will be okay with that, to all the recommendations that I would have.

**Mr. Al-Rawi:** Madam Chair, I am perfectly capable—I do hear and understand the hon. Senator's recommendation. Exactly as we did in the House of Representatives, we do undertake to have a look at all of the representations. We have spent—I personally have spent seven years drafting this law across several committees and five Bills with many hundreds of hours of technocratic assistance. And what we intend is to certainly have a continuous view of these positions. So we are taking careful note, and we do believe that there ought to be amendments sometime in the future, because as we put in this into operation, we are certainly going to have the need for that. So, we do undertake that.

**Sen. Mark:** Madam Chair, may I ask the Attorney General: Where would you want to advise me as it relates to products and services provided by the insurance companies should undergo the approval of the Central Bank? Do you think that, for instance, because of our past experiences, through you, Madam Chair, in clause 10, there should be some provision—we have not reached clause 10?

**Madam Chairman:** Yes, we have. Go ahead.

**Sen. Mark:** Yeah. I am there. I am asking the Attorney General, through your good self, whether, for instance, we should not have a provision where we want a little more stringent control over the products and services offered? And seeing that the Central Bank would be the agency responsible for administering and regulating this institution, would you not agree with me that there is need for some provision under this section?

**Mr. Al-Rawi:** I do agree that there is need and, in fact, I can point to the fact that

the Bill specifically treats with approval of all products and services, not only from the insurance companies, but from the intermediaries. There is a full section on that.

For instance, if we were look to Part IX of the Pension Fund Plan you can see that in clauses 216 to 229. The General Insurance provisions are covered in Part VIII of the Bill in clauses 211 to 215, and similarly right through provisions relating to insurance industrial life provisions, et cetera.

So, we have taken the approval process for each segment and each actor separately inside of the architecture of the Bill, so there is all of that that feeds in. The power functionality duties and powers of the inspector which is set out at clause 10 of the Bill stands atop the obligations for approval of all products, all services and all persons including intermediaries in the context of the structure of the Bill.

**Sen. Mark:** I am not too convinced about that, I must tell you, but I would not detain the proceedings, Madam Chair. I just want to ask the Attorney General through you, Madam Chair, where are we placing or where can I find the independence of the—I am suggesting that the ombudsman, the financial ombudsman, should have a little more independence in this whole exercise, because seeing that the ombudsman deals with not only banking services, now they are dealing with insurance services and products.

When a customer, a citizen, a policyholder comes before that particular body or officer, because that officer is employed by the Governor of the Central Bank, and the Central Bank is responsible for regulating this industry, I see a conflict of interest between the financial ombudsman who is an employee of the bank and this individual who is supposed to be looking after the interest of the customer, the policyholder and the consumer.

**Madam Chairman:** Sen. Mark, could we deal with that—these clauses 7 to 18 do not deal with the financial ombudsman. So could we flag that for later on in the Bill—

**Sen. Mark:** Okay.

**Madam Chairman:**—wherever it is relevant?

**Sen. Mark:** Well, I do not know if it is located.

**Mr. Al-Rawi:** Well, Madam Chair, I could answer this immediately.

**Madam Chairman:** Yeah.

**Mr. Al-Rawi:** The concept of an ombudsman and the feature of a financial ombudsman has no place in this Bill, because it is not intended to have a place in this Bill. It stands entirely apart from the architecture of this Bill. This Bill, in the 282 clauses, several Schedules, and 11 Regulations, treats with an entirely other end of the spectrum, and therefore, one is removed from any conflict of position roles because they are not conflated together in the architecture of the Bill, and it is for that very reason that they were kept separate.

*Clauses 7 to 18 ordered to stand part of the Bill.*

*Clauses 19 to 109 ordered to stand part of the Bill.*

**Madam Chairman:** Hon. Senators, the Senate will resume so that we can proceed with the Motion. So the committee is now suspended.

*Senate resumed.*

### **PROCEDURAL MOTION**

**Madam President:** Leader of Government Business.

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam President. Madam President, in accordance with Standing Order 14(5), I beg to move that this Senate continue to sit until the completion of business at hand.

*Question put and agreed to.*

*Committee resumed.*

### **INSURANCE BILL, 2016**

*Clauses 110 to 141 ordered to stand part of the Bill.*

*Clauses 142 to 154 ordered to stand part of the Bill.*

*Clauses 155 to 156 ordered to stand part of the Bill.*

*Clauses 157 to 210 ordered to stand part of the Bill.*

*Clauses 211 to 215 ordered to stand part of the Bill.*

*Question proposed:* That clauses 216 to 229 to stand part of the Bill.

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** May I ask through you to the Attorney General and the Minister: Is there any timeline the Government is contemplating to bring a stand-alone occupational pensions plan Bill or legislation to Parliament? This is a purely temporary measure that has been in existence, as you know, for however long. Could you indicate to us, through the Chair, or through the Attorney General, is there any intention on the part of the Government to treat this thing via the Central Bank as it relates to a stand-alone piece of legislation on pensions?

**Mr. Al-Rawi:** Madam Chair, I thank the hon. Senator for the question, and it is indeed a very important issue. There is a considerable amount of consultation that is afoot right now because this obviously affects not only the product, the players, but also the intermediaries including the discussions between the trade unions and the Government, et cetera. There are, of course, the living survey and the ageing population survey factors that contribute. The hon. Minister in the Ministry of Finance alluded to the fact that we have an ageing population with a decreasing birth rate which obviously causes a pension issue. So the dynamics of pensionable aspects and the basic requirements contributory versus fixed or defined term, other

aspects, are still in discussion.

I should say that the next work product that is of most immediate priority concerns almost 7 per cent of the financial services sector and that is the credit union sector. That is the work product that has been in short discussion in our country for close to 30 years right now, but which contributes a huge sum in terms of a percentage of the GDP.

In those circumstances I could not commit to immediate time frame for the stand-alone position. It is something that the population must consider, but I would think that the next and most important work product is, in fact, the credit union sector as a more urgent priority.

**Sen. Mark:** You know, Madam Chair, I would have thought that the AG would have made my argument which I thought he has made. He has said that the ageing population is a crucial factor and 10 per cent of the population could find itself between 60 and above the next period and may be a little above that. That should telegraph to us and to the Government, if the Government is serious, of the need to deal with pensions as a matter of emergency because that is going to—look, for example, Madam Chair, without detaining you, we all know the crisis that the Government would face as you get more and more people retiring from the public service. That pension that we have to service, that is the Government of Trinidad and Tobago and taxpayers, that bill is just going to be expanded and get bigger and bigger.

So, I would have thought, Madam Chair, that the whole thrust of the Government would either be to come with a defined contribution pension arrangement, a contributory where people pay a certain amount, either look at increasing the retirement age, but all these things are captured in a stand-alone pension plan. So to tell me that, for instance—

**Madam Chairman:** Sen. Mark—

**Sen. Mark:**—“is credit union; is de next one”.

**Madam Chairman:** Sen. Mark, I think though that you have asked a question; the Attorney General has answered it. But really and truly that discussion is not about the details of this Bill as it is right now. So could we just move on, please? And the response of the Attorney General is noted.

**Mr. Al-Rawi:** Madam Chair, I need 10 seconds to add something further. Had we inherited a significant body of work from my predecessors, we could have been better assisted. [*Crosstalk*] So, we must unfortunately start in a better position at this point.

**Madam President:** You see, Sen. Mark—

**Mr. Al-Rawi:** So my learned friend should be managed.

**Sen. Mark:** We are wasting time right now.

**Madam Chairman:** Hon. Senators—

**7.50 p.m.**

**Sen. Dr. Mahabir:** Madam Chair, before you put the question—

**Madam Chairman:** Yes.

**Sen. Dr. Mahabir:** Clause 225—

**Madam Chairman:** Yes.

**Sen. Dr. Mahabir:**—we are dotting the i's here, “Every trustee and the secretary of a registered plant...”—commits an offence. It cannot be that “every secretary commit an offence”—grammatical; we refer to 225.

**Mr. Al-Rawi:** It is conjunctive. It is both.

So, it is “Every trustee and the secretary of a registered plant commit an offence...”

**Sen. Dr. Mahabir:** Both of them.

**Mr. Al-Rawi:** Very well, it is properly stated.

**Madam Chairman:** So, hon. Senators, the question is that clauses 216 to 229 now stand part of the Bill.

*Question put and agreed to.*

*Clauses 216 to 229 ordered to stand part of the Bill.*

*Clauses 230 to 265 ordered to stand part of the Bill.*

*Clauses 266 to 282.*

*Question proposed:* That clauses 266 to 282 stand part of the Bill.

**Sen. Mark:** Yes, Madam Chair—

**Madam Chairman:** Sen. Mark.

**Sen. Mark:**—I just wanted to ask my colleague and friend, the hon. Attorney General, [*Laughs*] may I ask the hon. Attorney General, whether he would give any consideration when he is tidying up this in the future, to addressing this whole question about review. I honestly feel, and that is why the Canadian experience is so telling. The Canadians, why they never experienced any challenges during the financial meltdown, what they had stuck in their legislation is a provision to review their legislation every so often, if is every three years or a maximum of five years. So, their legislation is always constantly under review, particularly of a financial nature. So, I was thinking, Madam Chair, whether the Attorney General would not give consideration to that provision. Whether he cannot do it now, but it is something that I really think that we ought to consider if you want—

**Mr. Al-Rawi:** Madam Chair, I thank the—

**Sen. Mark:** No, no, no, you cool off—

**Madam Chairman:** Attorney—Sen. Mark. Attorney General.

**Mr. Al-Rawi:** I thank my learned friend for his very useful submission. In fact, it is something that the Minister of Finance also told me he found quite interesting.

It is something that we would certainly consider. It has not been the best-used provisions. For instance, the Dangerous Drugs Act has a provision that the law is to be reviewed every five years. It has never been reviewed. I have it on the clock. Successive Parliaments have sat and it has not been treated with. The Sixth, Seventh, Eighth, Ninth, Tenth Republican Parliaments have never looked at the law. So, it is very useful, I think that as we get the system of justice moving faster and the case law begins to come faster apace as we are headed in that direction, but it is something we would certainly take under advice

*Question put and agreed to.*

*Clause 266 to 282 ordered to stand part of the Bill.*

*Schedules 1 to 12 ordered to stand part of the Bill.*

*Question proposed:* That the Preamble be approved.

**Mr. Al-Rawi:** Madam Chair, I was just double-checking, there has been a consequential renumbering, so we are at 12; in the previous version there was a 13, which is the amendment to POCA. Just out of caution, may I ask the Clerk, though you, Madam Chair, whether Schedule 12 is the reference to the consequential amendments, Ma'am. Yes?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** Much obliged, Ma'am. In that case I apologize.

*Question put and agreed to.*

*Preamble approved.*

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

*Senate resumed.*

**Madam President:** The Minister in the Ministry of Finance.

**The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):** Madam President, I wish to report that a Bill entitled an Act to repeal and replace

Insurance Bill, 2016 (cont'd)  
 Sen. The Hon. A. West (cont'd)

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the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurances businesses and privately administer pension fund plans, and for other related purposes was considered in the committee of the whole and approved without amendments.

**Mr. Al-Rawi:** After seven years.

**Sen. The Hon. A. West:** After seven years, of the Attorney General's hard work. [Laughter] I now beg to move that the Senate agree with the committee's report.

**Madam President:** Hon. Senators, the question is that this Senate agree with the committee's report on a Bill entitled an Act to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension fund plans, and for other related purposes.

*Question put and agreed to.*

*Bill accordingly read a second time.*

**Sen. The Hon. A. West:** Madam President, I beg to move that a Bill entitled an Act to repeal and replace the Insurance Act, Chap. 84:01, to reform the law relating to insurance companies, to regulate insurance businesses and privately administered pension fund plans, and for other related purposes, be forthwith read a third time and passed.

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

**Madam President:** This Bill, hon Senators, requires a three-fifths special majority, so the clerk will now conduct a division.

*The Senate voted:*           Ayes 27

Khan, Hon. F.

Baptiste-Primus, Hon. J.

Insurance Bill, 2016 (cont'd)  
Sen. The Hon. A. West (cont'd)

Rambharat, Hon. C.

Sinanan, Hon. R.

Le Hunte, Hon. R.

West, Hon. A.

Henry, Dr. L.

Singh, A.

Cummings, F.

De Freitas, N.

Simonette, G.

Romano, Ms. A.

Huggins, R.

Lewis, Ms. A.

Mark, W.

Haynes, Ms. A.

Ameen, Ms. K.

Obika, T.

Zakour, E

Sobers, S.

Mahabir, Dr. D.

Roach, HRI

Small, D.

Shrikissoon, T.

Ramkissoon, Ms. M.

Richards, P.

Duke, R.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

### ADJOURNMENT

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much. Madam President, I beg to move that this Senate do now adjourn to Monday the 21<sup>st</sup> of May 2018 at 1.30 p.m., that would be Private Members' Day, and I am informed by the Opposition that we would be doing Private Motion No. 2, which has to do with the EBC.

**Madam President:** Hon. Senators, before I move the adjournment, there are some matters that have been approved. Sen. Mark, how many are you treating with?

**Sen. Mark:** One, and Sen. Ameen one.

**Madam President:** One, and Sen. Ameen one, so two matters have been approved. Sen. Mark.

**8.05 p.m.**

### Acting Commissioner of Police

### (Accumulated Vacation Leave)

**Sen. Wade Mark:** [*Desk thumping*] Yes, thank you very much, Madam. Madam President, as a citizen of this Republic, and as a parliamentarian, I am deeply concerned about law and order and stability in our society, hence the reason I have raised this matter dealing with the issue of accumulated vacation leave by the current Acting Commissioner of Police.

Madam President, I read with some degree of concern in one of the dailies, dated Monday 16<sup>th</sup> of April, 2018, the news that the current Commissioner of Police, Stephen Williams, is about to—well, in fact, has received his 13<sup>th</sup> extension as Acting Commissioner of Police and that is supposed to end, I believe, sometime

Motion on the Adjournment (cont'd)  
Sen. Mark (cont'd)

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October or before.

Now, Madam President, I also understand that the Acting Police Commissioner of police has some two years or a little above of vacation leave that has accumulated, that once consumed, would lead him to his 60<sup>th</sup> year, and that is supposed to take place, if I am not mistaken, at the end of October of 2018 or before.

So, it is of grave concern as to what will occur after October of 2018, having regard to the fact that I read somewhere, and maybe the Minister of National Security can advise, that the Government's policy is not to buy out vacation leave of public officers. If they have leave inside they must proceed on vacation leave. In this instance, Madam President, as I said, the Commissioner of Police, Stephen Williams, has about two years and above vacation leave inside, and the question therefore has to be posed. You would have read and I would have read where the Government established a Special Select Committee, and that Committee has reported, it is now public knowledge, that the majority of that Committee had a decision—took a decision—on the way forward. And by majority, the Government has rejected the whole question of the selection of candidates for the position of Commissioner of Police, and Deputy Commissioner of Police in accordance with some notifications submitted by this particular Committee.

Now, the question that has to be asked in light of what I have just outlined, Madam President, is that if the Government has rejected this notification arrangement as it relates to both the Commissioner of Police and the Deputy Commissioner of Police, it therefore means that the Government has before it the matter of the current Commissioner of Police who is supposed to go on leave, according to my information, by October or before of this year.

Motion on the Adjournment (cont'd)  
Sen. Mark (cont'd)

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Now, Madam President, if the Government does not buy out the vacation leave of the current Commissioner of Police, how would that impact on police stability and law and order in Trinidad and Tobago? Because the Government has rejected the recommendations of the Police Service Commission. So they have rejected the proposed Commissioner of Police, a fella called Deodath Dulalchan. And they have also rejected the Deputy Commissioner of Police—

**Madam President:** Sen. Mark, please, have a seat. These matters—the matters of the appointments—those matters are under consideration right now. So we should not really be making any reference to it.

**Sen. W. Mark:** So, what I am saying is that, it is against—being guided by you—I am asking the Government, what is the policy forward? You know, as we head towards October, and this matter of the leave and the Commissioner having two years inside, how is the Government going to treat with this particular situation? And I agree with you, Madam President, it is still before another place, so the Government can change its mind and maybe we will have a new Commissioner of Police, shortly. But for the time being, the country would like to know, what is the way forward? Because I believe that you have to plan these things in advance, and I am reading in the papers where this gentleman, the Commissioner of Police, is supposed to proceed on vacation leave after this 13th extension, and the Government, unless I am wrong, has a policy on the non—they are not purchasing, they are not buying out vacation leave of any public officer including the Commissioner of Police.

So, I am saying, Madam President, we are between a rock and a hard place until we get the final results at the level of the House of Representatives as you have advised on this report that is before that House. So it is against this

Motion on the Adjournment (cont'd)  
Sen. Mark (cont'd)

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background I believe that the population would want to get some answers as to the way forward and I hope that the Hon. Minister of National Security can provide this honourable Senate and the nation with the way forward on this matter, because we would not like Trinidad and Tobago to be plunged into a crisis as it relates to policing, law and order and stability in this nation.

So, we would want the hon. Minister through you, Madam President, to decide this, because as you know, the Police Service Commission has no role to play in terms of policy, re: a decision to buy out leave of a Police Commissioner. That is not the role of the Police Service Commission. That is the role of the Government and the Government has to indicate in no uncertain terms—there is no wriggle space or room any longer. The Government has to take a decision as to whether it is going to buy out the leave of the current Commissioner of Police or the Government is not going to buy out the leave of the current Commissioner of Police. Let them tell this country what they are doing. But you see, we on this side like to look at the future because we are not waiting until, Madam President, for October to arrive or September to arrive and we do not have a Commissioner of Police. We need to know that now and that is why we have asked the—we have raised this matter to get some clarification from the Government on this particular matter.

So I am looking forward to getting some answers from the hon. Minister of National Security on this matter. Thank you very much. [*Desk thumping*]

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** [*Desk thumping*] Thank you, Madam President. Madam President, I am reminded of a verse from Desiderata that said:

“Avoid loud and aggressive persons, they are vexations to the spirit.”

Motion on the Adjournment (cont'd)  
 Hon. Maj. Gen. E. Dillon (cont'd)

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*[Laughter and crosstalk]*

Today I will keep my spirit, Madam President.

Madam President—

**Sen. Mark:** “Doh” come here with that, you know.

**Hon. Maj. Gen. E. Dillon:** The Motion seems to speak about the Government urgently addressing the issues relative to the acting Police Commissioner. But let us remind the country that it was in 2012 that the then substantive Commissioner of Police, Dr. Dwayne Gibbs demitted office. From since 2012 the present acting Commissioner of Police has been acting. To date, it has been 13 times since he has been acting, and it was based on 2012, the then UNC Government never took the time to rectify the matter, to move from acting to look towards the future. Now Sen. Mark is talking about the future. 2012, 2013, 2014, they did nothing whatsoever—*[Interruption]*

**Sen. Mark:** “Doh get upset, eh”.

**Hon. Maj. Gen. E. Dillon:**—to treat—no I am keeping my spirit cool. Desiderata: “Avoid loud and aggressive persons, they are vexations to the spirit”. *[Crosstalk]* So, 2012, 2013, Madam President, they did nothing to treat with the issues of the Police Commissioner. All of a sudden there is urgency in Sen. Mark's submission.

It was this Government, when we got into power, took measures to treat with rectifying the whole question of the substantive Police Commissioner. We tried to rectify the matter and what happened? His administration took it to court and again stymied the process. Where is the urgency then? There was no urgency to treat with the matter.

**Hon. Al-Rawi:** Where was the voice?

Motion on the Adjournment (cont'd)  
Hon. Maj. Gen. E. Dillon (cont'd)

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**Hon. Maj. Gen. E. Dillon:** Where was the voice then? As a matter of fact, it was the then Attorney General who said to this country—

**Hon. Senator:** Correct.

**Hon. Maj. Gen. E. Dillon:** —that it is better to have an acting Commissioner of Police than a substant—because he could manipulate the acting Commissioner of Police. Where was the voice then? [*Crosstalk and desk thumping*] Anand Ramlogan, he said that publicly, [*Crosstalk*] publicly, publicly, Madam President. There was no urgency then. As a matter of fact, Madam President, this Commissioner of Police who has accumulated leave—

**Sen. Mark:** He wanted to hijack the police service.

**Hon. Maj. Gen. E. Dillon:** Now he wants the Government to interfere when you yourself questioned government interference. Well this Government does not interfere with the policies, this Government does not interfere with that. Because I will tell you something, Madam President, that the acting Commissioner of Police has accumulated leave and he is about to go on leave from September this year. But the onus is on the Police Service Commission, like any other position, any jurisdiction, if a substantive holder goes on leave there is an acting arrangement that takes place and the Police Service Commission is the only body that can treat with the appointment of Commissioner of Police and Deputy Commissioner of Police, Madam President, not the Government. [*Desk thumping*]

**Sen. Mark:** I think they have somebody acting there now.

**Hon. Maj. Gen. E. Dillon:** So, Madam President, I believe that the Motion that Sen. Mark is bringing is out of context and out of relevance, because the only body right now—and out of time to a large extent—as it stands right now, the positions of Commissioner of Police, Deputy Commissioner of Police resides with the Police

Motion on the Adjournment (cont'd)  
 Hon. Maj. Gen. E. Dillon (cont'd)

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Service Commission and they will so act in time, Madam President. [*Desk thumping*]

### **Children's Life Fund**

#### **(Failure of Government to Appoint Directors)**

**Sen. Khadijah Ameen:** Thank you, Madam President. Madam President, the Children's Life Fund Act, Chap. 29:01: "An Act to establish the Children's Life Fund as a charity" was assented to on the 13th of December, 2010 and it came into operation on the 17th of December, 2010. The mission of the Children's Life Fund is:

"To provide funding for children and support for children with life-threatening medical conditions, while enriching families with hope and strength."

And their vision is:

"For every child, an extraordinary journey into tomorrow; life in its fullness".

The Children's Life Fund is a charitable organization that provides funding to children who need life-saving medical treatment abroad and to date we have had well over 235 cases that were approved and treated with.

My Motion this evening, Madam President, deals with the failure of the Government to appoint directors to the board of management of the Children's Life Fund for the general administration and management of the affairs of the authority according to section 5 of the Children's Life Fund.

Madam President, a person, the qualifications of persons who apply for grants are well established in the public domain. Such as, they have to be under the age of 18, that is, a child. They have to be citizens of Trinidad and Tobago.

Motion on the Adjournment (cont'd)  
Sen. Ameen (cont'd)

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They must be referred by a medical specialist in the particular field of treatment required and the treatment that they are seeking must be unavailable locally to justify them having to go to another country.

**8.20 p.m.**

The procedure must also be life-saving, so their illness should be life-threatening. And in terms of the financial qualifications, the medical expenses should not exceed 25 per cent of the income of their families. Madam President, at the time of the establishment of the Children's Life Fund, it gave an opportunity for any ordinary citizen to contribute to saving the life of a child. In fact, I remember that under the then Government which this was established—in fact, this was a vision of Kamla Persad-Bissessar—all of the Ministers and all of the Parliamentary Secretaries gave 5 per cent of their salaries to the Fund, except the Prime Minister who gave 10 per cent of her salary during her term in office, and the deductions were made from their salaries.

Of course, Members of the Opposition at that time had the opportunity to make such contributions, but they did not. In fact, they refused. But by the beginning of January 2015, the Children's Life Fund had totalled \$44 million, thanks to those persons who contributed. You had the Prime Minister and her MPs donating a substantial amount, but you also had the opportunity for NGOs, corporate groups and individuals, to have, in terms of that sense of pride, where they could contribute towards saving the life of a child.

Recently, we have had in the media a number of reports which are of concern, because when you see one instance, you know, you kind of hope that it is rectified, and then you see it happening over and over again. And I remember earlier—sometime last year—there was a very sensational issue where a

Motion on the Adjournment (cont'd)  
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three-year-old Shannen Luke was denied assistance from the Children's Life Fund, and—

**Hon. Deyalsingh:** Madam President, that matter is sub judice and before the courts. I urge caution.

**Sen. K. Ameen:** Madam President, the financial assistance was denied to the family—

**Hon. Deyalsingh:** Madam President—

**Madam President:** Yes.

**Sen. K. Ameen:** It is a fact.

**Madam President:** Yes. Sen. Ameen, you have made reference to that already. Could you just continue with your contribution?

**Sen. K. Ameen:** Madam President, this Motion is five minutes. I am aware of the legal issue. This Motion is only 10 minutes and I am sure the Minister will have his 10 minutes to reply. And I want to tell the Minister that my Motion is not an attack on you. Please do not take it personal. I really want this issue to be ventilated in the interest of all potential applicants and, in fact, to all of Trinidad and Tobago. [*Desk thumping*]

Madam President, there was also the issue of little Haleema Mohammed, and that situation, when they applied they were told that the illness was not life-threatening. In fact, when you had—the illness was thalassemia, which caused—

**Hon. Deyalsingh:** Madam President, that matter is before the court. The case of Haleema is before the court taken by the UNC. The matter is sub judice, taken by Gerald Ramdeen.

**Madam President:** Minister, please, just a second. Sen. Ameen, you can make reference to the matter without going into the details. Okay? All right? So you

Motion on the Adjournment (cont'd)  
Sen. Ameen (cont'd)

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have a few more minutes. Just continue your contribution.

**Sen. K. Ameen:** Madam President, I know they want me to wrap up this matter quickly to go home, eh. But, Madam President, I also want to make mention of an instance where there was a young child by the name of Navine Harripersad who was waiting for legal advice from the office of the Attorney General on the question of interpreting the law with regard to the Children's Life Fund for his application. But when we see all these things happening in the public domain, the question comes up in terms of what is the condition of the Children's Life Fund.

And in doing some enquiries, Madam President, it has come to my understanding that the board of the Children's Life Fund has not been fully appointed. In fact, there are probably about four members—I think four or five members—who are operating at this time, and the issue comes up because the legislation indicates that the board must comprise of nine members. So you have no medical practitioner, as required by law—I am subject to correction. You have no medical practitioner which is required. You also do not have a public officer nominated by the Tobago House of Assembly, and I know that efforts have been made to get the Tobago House of Assembly to make an intervention. Also, there is a need for a senior public officer nominated by the person with responsibility for Tobago Affairs, whoever that Minister is.

So I am asking for the information of the public. You also have requirements for persons from varying fields of expertise: health, finance, investment, business management, law and social work. So in my view, the board does not even have enough members to form a quorum at this time, so therefore they cannot legally meet. And I want to ask the Minister, please, in your response—there is no need to take my bringing this Motion to you today

Motion on the Adjournment (cont'd)  
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personally. You may yourself face challenges in finding the persons to appoint to this board and I trust that you will use this opportunity to ventilate this issue responsibly. Thank you. [*Desk thumping*]

**Madam President:** Minister of Health. [*Desk thumping*]

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Madam President. Let me deal with many of the issues and let me deal with the substantive issue first. This Minister of Health took a note to Cabinet in December of 2017—this is six months ago—to fill the board. Cabinet, by Minute No. 2262 of 2017, approved the nominees for the board. [*Interruption*] All nine. It then went to the Solicitor General's office where the Solicitor General found objection to one person from the THA. The Solicitor General, in her wisdom, did not approve the members of the board as submitted by the Government until the THA sent another person. I have no control over that.

The THA subsequently—because it is a very specific position. It is a very specific qualification, and because of the publicity that the UNC has brought to the Children's Life Fund, it is now difficult to get people to serve on the board, because they are afraid of public exposure, because you all threatened to sue the people individually and personally, especially Dr. Maritza Fernandes. So you have scared people from serving on this board and the Solicitor General is a public officer whom I cannot override. We subsequently got a nominee from the THA. That nominee will go to the Cabinet next week for approval. Once that is done, there should be a board. But I acted responsibly in going to the Cabinet in December 2017. [*Desk thumping*]

It talks about the funding. May I enquire as to why Government Ministers, when they became Opposition Members, stopped contributing to the Children's

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Life Fund?

**Hon. Senator:** Good question.

**Hon. T. Deyalsingh:** Why? Why?

**Hon. Al-Rawi:** Kamla Persad-Bissessar, zero for 2016, 2015 and 2017.

**Hon. T. Deyalsingh:** When the Ministers were contributing, their contribution to the Life Fund was less than 0.05 per cent of the Fund. Do you know that? It was just a pappy-show.

**Sen. Ameen:** How much did you contribute?

**Hon. T. Deyalsingh:** The vast majority of funding comes from the taxpayer via the Consolidated Fund, and you need to know that. There was hardly any contribution from corporate Trinidad and Tobago, although when Caribbean Airlines was bankrupt, there was a nice cheque—with the hon. Member for Siparia receiving a cheque from Caribbean Airlines for US \$50,000 which never materialized. That was the pappyshow of the Children's Life Fund. Corporate Trinidad and Tobago stopped contributing to that fund very early in the game. It is the taxpayer that contributes to that fund.

As far as approving applications to the fund, because we do not have a full board—we have some members—my legal advice is, the Minister, using the doctrine of necessity, can approve applications sent to it from the Life Fund Unit. And to date for this year, the Minister has approved 12 cases. [*Desk thumping*] The average number of cases for the Children's Life Fund, since inception, is between 25 to 30. So I am well on track to approve all cases that will come to me.

From September 2015 to now, Madam President—because the UNC will go on a Monday night forum and say, “No Children Life Fund”. Let me put it in the public domain [*Crosstalk*] that since September 2015—because, you see, the

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Monday night forum is not a place for truth. [*Crosstalk*]

**Hon. Senator:** It is for rum..

**Sen. Obika:** Madam President, Standing Order 46(4). It is offensive and insulting.

**Hon. Al-Rawi:** To which Member?

**Hon. T. Deyalsingh:** To which Member?

**Madam President:** Minister, continue, please.

**Hon. T. Deyalsingh:** Thank you. [*Desk thumping*] I did not call a Member. I said the Monday night forum is not a place for truth. That is what I said. If that offends you, that is bad for you, young Senator. But the Monday night forum is a place for bacchanal and inebriation. [*Desk thumping*]

**Sen. Ameen:** What that has to do with the question?

**Hon. T. Deyalsingh:** So from September 2015 to now, under the People's National Movement, we have approved 80 cases to the Children's Life Fund—8-0—[*Desk thumping*—to a value of \$25 million. [*Desk thumping*] So let this be said at the Monday night forum where the grey goose flies high. [*Laughter and crosstalk*] From September 2015 to now, we have approved 80 cases via the Children's Life Fund. That is 80 children. And I am glad Sen. Ameen is using the word “life-threatening”, and that is key to understanding the Children's Life Fund. It is for life-threatening conditions—

**Sen. The Hon. Baptiste-Primus:** And we did not lay down those conditions.

**Hon. T. Deyalsingh:** That is right—to a grand total of \$25 million. [*Desk thumping*]

So, Madam President, in closing, because I have—Madam President, I must admit, I am surprised at the quality of the information given to Sen. Ameen by her

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whistle-blower. It was obviously deficient.

**Hon. Al-Rawi:** She “invent that”.

**Hon. T. Deyalsingh:** And I think Sen. Ameen should get a refund from that whistle-blower [*Laughter*] because that whistle-blower does not have the information. The information is, as I recap, the Minister of Health took a note to Cabinet in December 2015 to fill the board. The Solicitor General did not approve any of the recommendations, pending a second nominee from the THA which came just recently, which will be taken to Cabinet next week. And in the interim, under the doctrine of necessity, the Minister of Health for 2018 has approved 12 cases and will continue to approve until a board is in place.

Thank you very much, Madam President. [*Desk thumping and crosstalk*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 8.34 p.m.*