

Leave of Absence

Wednesday, January 20, 2010

HOUSE OF REPRESENTATIVES

Wednesday, January 20, 2010

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the hon. Nizam Baksh, Member of Parliament for Naparima, asking to be excused from today's sitting of the House, likewise the hon. Harry Partap, Member of Parliament for Cumuto/Manzanilla. He too would like to be excused from today's sitting of the House. The leave which both these Members seek is granted.

ANTI-TERRORISM (AMDT.) BILL

Bill to amend the Anti-terrorism Act, 2005 to provide for the criminalization of the financing of terrorism and for related matters, brought from the Senate [*The Minister of National Security*]; read the first time.

Motion made, That the next stage be taken at a later stage of the proceedings. [*Hon. M. Joseph*]

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Environmental Management Authority—Environmental Trust Fund for the year ended September 30, 2008. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]

To be referred to the Public Accounts Committee.

2. Year 2009 report of the Election and Boundaries Commission on the review of constituency boundaries pursuant to section 72 of the Constitution of the Republic of Trinidad and Tobago dated April 30, 2009. [*The Minister of Works and Transport (Hon. Colm Imbert)*]
3. Financial Obligations Regulations, 2010. [*Hon. K. Nunez-Tesheira*]

ANTI-TERRORISM (AMDT.) BILL

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Speaker. I beg to move,

That a Bill to amend the Anti-terrorism Act, 2005 to provide for the criminalization of the financing of terrorism and for related matters be now read a second time.

Mr. Speaker and Members of this honourable House, you would recall that the Proceeds of Crime (Amdt.) Bill, 2009 and the Financial Intelligence Unit Bill, 2009 were debated in this very Parliament and were both assented to on October 09, 2009.

The Financial Obligations Regulations, 2009 were made on October 10, 2009. The Proceeds of Crime (Amdt.) Act, 2009 establishes procedures for the confiscation of proceeds of crime and for the criminalization of money laundering.

The Financial Intelligence Unit of Trinidad and Tobago Act, 2009 established a department within the Ministry of Finance for the collection, analysis, dissemination and exchange of financial intelligence and information among law enforcement authorities, financial institutions and listed businesses in Trinidad and Tobago and internationally.

The Financial Obligations Regulations, 2009 were made by the hon. Minister of Finance, pursuant to section 56 of the Proceeds of Crime Act. The objective of these regulations is to establish minimum requirements, which financial institutions and listed businesses must abide to ensure that they are not used as a vehicle for money laundering. These pieces of legislation were all brought to this Parliament in order to bring our national system into compliance with the FATF 40 recommendations.

The Anti-terrorism (Amdt.) Bill, which is now before this honourable House, is the last of four pieces of legislative counter-measures, designed to bring our national system into compliance with the FATF 40 + 9 recommendations. Mr. Speaker, just for the information of the honourable House, let me indicate what the nine special recommendations on terrorist financing are.

1. Ratification and implementation of UN instruments: Each country should take immediate steps to ratify and to implement fully, the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.
2. Criminalizing the financing of terrorism and associated money laundering: Each country should criminalize the financing of terrorism, terrorist acts and terrorist organizations. Countries should ensure that such offences are designated as money laundering predicate offences.

3. Freezing and confiscating terrorist assets: Each country should implement measures to freeze without delay, funds or other assets of terrorists, those who finance terrorism and terrorist organizations, in accordance with the United Nations Resolutions Relating to the Prevention and Suppression of the Financing of Terrorist Acts.
4. Reporting suspicious transactions related to terrorism: If financial institutions or other businesses or entities subject to anti-money laundering obligations suspect or have reasonable grounds to suspect that funds are linked or related to or are to be used for terrorism, terrorist acts, or by terrorist organizations, they should be required to report promptly their suspicions to the competent authorities.
5. International co-operation: Each country should afford other countries on the basis of a treaty arrangement or other mechanism for mutual legal assistance, or information exchange, the greatest possible measure or assistance in connection with criminal, civil enforcement and administrative investigations, enquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organizations.
6. Alternative remittance: Each country should take measures to ensure that persons or legal entities, including agents that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network should be licenced or registered and subject to all FATF recommendations that apply to banks and non-bank financial institutions.
7. Wire transfers: Countries should take measures to require financial institutions, including money remitters to include accurate and meaningful originator information on funds, transfers and relate messages that are sent and the information should remain with the transfer or related message through the payment chain.
8. Non-profit organizations: Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organizations are particularly vulnerable and countries should ensure that they cannot be misused.
9. Cash couriers: Countries should have measures in place to detect the physical cross border transportation of currency and bearer-negotiable instruments, including a declaration system or other disclosure obligation. Countries should ensure that their competent authorities have

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

the legal authority to stop or restrain currency or bearer-negotiable instruments that are suspected to be related to terrorist financing or money laundering or that are falsely declared or disclosed.

The Financial Action Task Force (FATF) is an inter-governmental body tasked with the development and promotion of national and international policies to combat money laundering and terrorist financing. As Members of the House may recall from our previous debate on the Proceeds of Crime (Amdt.) Bill, Trinidad and Tobago is not a member of FATF. We are, nevertheless, required to implement the 40 + 9 recommendations by virtue of our membership in the Caribbean Financial Action Task Force (CFATF). The FATF 40 + 9 special recommendations have been recognized by the International Monetary Fund and the World Bank, as the international standards for combating money laundering and the financing of terrorism.

Mr. Speaker, permit me to place this piece of legislation in context. On Christmas day 2009, news of an attempted bombing of a northwest airliner bound for Detroit resounded throughout the world. This attempted bombing served as a chilling reminder of that now infamous date of September 11, 2001 where a group of 19 men stepped onto four airplanes intending to terrorize the United States of America. Nearly 3,000 persons died on that horrible day in New York City, Virginia and Pennsylvania.

Trinidad and Tobago mourned with the rest of the world on September 11, 2001, as we too lost cherished nationals in that tragedy. The world wept collectively for the innocent men, women and children who lost their lives on that fateful day and recorded their sacrifice as a harsh and permanent reminder of what must become one of the world's greatest goals; the need to protect our citizens from these horrors and to make terrorism offensive and unacceptable to all nations everywhere and for all time. This, Mr. Speaker, is what it means to share this world in the 21st Century and this is a responsibility that we, the Government of Trinidad and Tobago, take very seriously.

As a consequence of the events of September 11, 2001, the special recommendations of FATF were formulated with a special focus on preventing the financing of terrorism.

Even prior to 2001, the international community had begun its fight against terrorism. Between 1963 and 1999, 12 international conventions which sought to confront the increasing phenomena of terrorism were embraced by nations of the world. Today, Trinidad and Tobago is party to all 12 conventions and has hereby signalled to the international community that we are dedicated and steadfast in our

commitment to making terrorism unsustainable anywhere in the world. Just for the record, Mr. Speaker, let me place the 12 conventions to which we are all signatory.

1. The 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft.
2. The 1970 Convention for the Suppression of Unlawful Seizure of Aircraft.
3. The 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.
4. The 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons.
5. The 1979 International Convention Against the Taking of Hostages.
6. The 1980 Convention on the Physical Protection of Nuclear Material.
7. The 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports.
8. The 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation.
9. The 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.
10. The 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection.
11. The 1997 International Convention for the Suppression of Terrorist Bombings.
12. The 1999 International Convention for the Suppression of the Financing of Terrorism.

Notwithstanding the advances made by the international community prior to 2001, the events of 9/11 brought to the fore, the need for the international community to develop a comprehensive and bold strategy to suppress terrorist acts. Within this hemisphere, the Organization of American States (OAS) has also developed and implemented measures to combat terrorism. From 2005—2006, Trinidad and Tobago was the Chair of the Inter-American Committee Against Terrorism, commonly referred to as CICTE of the OAS.

At the fifth regular session of CICTE, which was held in Port of Spain, this Government joined with other member states of the OAS in reaffirming that terrorism in

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

all its forms and manifestations, wherever its origin or motivation, has no justification whatsoever; constitutes a grave threat to international peace and security; undermines ongoing efforts to foster stability, prosperity and equity in the countries of the region; and violates the democratic values and principles enshrined in the OAS Charter, Inter-American Democratic Charter and other regional and international instruments.

Hon. Members are asked to note that in 2005, the Government of Trinidad and Tobago sought to enhance its capacity in the fight against terrorism through the passage of the Anti-terrorism Act, 26 of 2005, which was assented to on September 13, 2005.

This Act sought among other things to specifically criminalize terrorism and provide heavy sanctions for the support of such activity. However, it did not address the issue of terrorist financing.

Notwithstanding the enactment of the Anti-terrorism Act 2005, this country's mutual evaluation report done by CFATF in 2007, disclosed that the nine special recommendations on terrorist financing were among the key recommendations of the FATF still to be satisfied.

The Anti-terrorism (Amdt.) Bill, now before this honourable Senate requires a three-fifths majority in both Houses of Parliament and will bring our domestic legislative framework into harmony with the nine special recommendations of FATF from which I took pains to read earlier on.

Mr. Speaker, from the outset, I wish to indicate amendments to the Bill now before this House were effected in the other place yesterday and as such, during my discourse today, I would refer to the amendments that have been made. I now proceed to take you and the hon. Members through the Bill. Clause 1 of the Bill sets out the short title and reads:

“This Act may be cited as the Anti-terrorism (Amendment) Bill, 2010.”

Clause 2 of the Bill will provide that the Anti-terrorism Act, 2005 would be referred to as "the Act" throughout the Bill, unless otherwise stated.

At clause 3 of the Anti-terrorism (Amdt.) Bill, the long title of the existing Act is repealed and substituted with a more appropriate long title, given the purpose of the Anti-terrorism (Amdt.) Bill, 2009. The long title will now read:

“An Act to criminalize terrorism and the financing of terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets and of those involved in the financing of terrorism and for related matters.”

As I indicated previously, this Bill requires a three-fifths majority of both Houses of the Parliament and as such, clause 4 of the Bill declares that the Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution. I am pleased to say, Mr. Speaker and hon. Members, in the other place, yesterday, the Bill was in fact passed; 24 for, six abstentions and none against.

Clause 5 of the Bill includes some significant definitions. At clause 5(a), the term "Designated Authority" is deleted. In the existing Anti-terrorism Act "Designated Authority" has the meaning assigned to it under section 2 of the Proceeds of Crime Act (POCA). Hon. Members will recall that the "Designated Authority" was replaced with the Financial Intelligence Unit (FIU) in POCA, thus to ensure consistency with existing legislation, the term "Designated Authority" is being deleted and the term "FIU" is inserted in clause 5(e).

It is now, in my view, an appropriate time to indicate that at clause 14 of the Bill, a corresponding alteration to section 33 of the existing Act is proposed to delete the words "Designated Authority" wherever they occur and substitute them with the term "FIU".

The existing Anti-terrorism Act, 2005 has been criticized for its limited approach in defining the terms "property" and "terrorist act". Government has taken note of these criticisms and has sought to address them in clause 5 of the Bill.

Clause 5(c) of the Bill proposes to delete the existing definition of "property" and replace it with an expanded definition of "property" or "funds".

“‘property’ or ‘funds’ now means assets of any kind, whether tangible or intangible, moveable or immovable, however acquired and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit, whether situated in Trinidad and Tobago or elsewhere, and includes a legal or equitable interest, whether full or partial, in any such property;”

In a similar vein the definition of "terrorist act" has been expanded to include an offence under Part II, Part III or section 22A of the Anti-terrorism Act.

Clause 5(e) inserts a definition of "terrorist". "Terrorist" now includes an individual who—

- “(a) commits a terrorist act by any means directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in the commission of terrorist acts or the financing of terrorism;

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

- (c) organizes or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution--
 - (i) is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism;
 - (ii) with the knowledge of the intention of the group of persons to commit the terrorist act or the financing of terrorism;”

Hon. Members would no doubt recognize that an amendment was effected to this definition. In the definition of "terrorist", the word "means" is now deleted and substituted with the word "includes".

Clause 5(e) proposes the insertion of a definition of "terrorist organization".

“‘terrorist organization’ means a legal entity or group of terrorists that—

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;
- (b) participates as an accomplice in terrorist acts or the financing of terrorism;
- (c) organizes or directs others to commit terrorist acts or the financing of terrorism; or
- (d) contributes to the commission of terrorist acts or the financing of terrorism by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or the financing of terrorism with the knowledge of the intention of the group to commit the terrorist act or the financing of terrorism;”

Clause 5 of the Bill proposes to amend the existing definition of "terrorist property". By virtue of the proposed amendment, "terrorist property" will mean:

- “(a) proceeds from the commission of a terrorist act;
- (b) property which has been, is being, or is likely to be used to commit a terrorist act; or
- (c) property which has been collected for the purpose of funding a terrorist act or a terrorist organization.”

Hon. Members will again recognize that in the Bill, the phrase "or terrorist organization" was inserted in the incorrect place and the opportunity was taken in the other place to correct this drafting error.

Clause 6 of the Bill repeals section 3(1) of the existing Anti-terrorism Act. Members of this honourable House will no doubt recognize that the offence as previously drafted in section 3(1) only targeted persons who commit terrorist acts.

At clause 6, it is now proposed that any person who participates in the commission of a terrorist act commits an offence and is liable on conviction on indictment to imprisonment for 25 years. This amendment is necessary to widen the range of activities that may constitute an offence under this section.

The words "the commission of" were inserted into clause 6 as an amendment to the Bill, in order to provide more clarity in defining the offence.

Hon. Members will note that clauses 7 and 8 of the Bill delete the words "is guilty of" and "be guilty of" wherever they occur in sections 18 and 21 of the Anti-terrorism Act and substitute them with the word "commits". As hon. Senators are aware, findings of guilt are more appropriately determined in another place, after careful consideration of facts evidence and should not be a foregone conclusion in legislation.

Mr. Speaker, a significant criticism levied against the existing Anti-terrorism Act, 2005, is that it fails to criminalize the offence of financing terrorism in accordance with the International Convention for the Suppression of the Financing of Terrorism as required by the FATF recommendations.

Clause 9 of the Anti-terrorism (Amdt.) Bill is being proposed to address this deficiency. Clause 9 proposes the insertion of a new Part IIIA, which will insert new sections 22A to 22E into the existing Act.

Section 22A(1) creates the offence of financing of terrorism. A drafting amendment to effect a grammatical change was made to this section in the Senate and as such, the proposed section 22A(1) now provides that:

“Any person who by any means, directly or indirectly, wilfully provides or collects funds, or attempts to do so, in the knowledge that such funds are to be used in whole or in part—

- (a) in order to carry out a terrorist act;
- (b) by a terrorist act; or
- (c) by a terrorist organization,

commits the offence of financing of terrorism.”

"In the knowledge that such funds" is the new amendment that was done in the other place.

2.00 p.m.

Section 22A(2) of the Anti-terrorism (Amdt.) Bill provides that:

"An offence under subsection (1) is committed irrespective of whether—

- (a) the funds are actually used to commit or attempt to commit a terrorist act;
- (b) the funds are linked to a terrorist act; and
- (c) the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist or terrorist organization is located or the terrorist act occurred or will occur."

Thus, the proposed section 22A now embodies the essential elements of the offence of financing of terrorism as required by the FATF in the following way:

1. The offence of terrorist financing would extend to persons who wilfully provide or collect funds by any means directly or indirectly with the unlawful intention that they should be used or in the knowledge that they are to be used in whole or in part to carry out a terrorist act by a terrorist organization or by an individual terrorist.
2. The offence of terrorist financing would extend to funds whether derived from a legitimate or illegitimate source.
3. The offence would not require that funds were actually used to carry out or to attempt a terrorist act, or be linked to a specific terrorist act.
4. The offence would also include the participating, organizing, or directing others to commit a terrorist act or contributing to commission of a terrorist offence.
5. The offence of terrorist financing would apply regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist acts occurred or would have occurred.

Hon. Members would no doubt recognize that the proposed offence of financing of terrorism is an indictable offence. This is a critical aspect of the offence, the effect of which makes the offence of financing of terrorism a predicate offence for the purposes of money laundering as required by Special Recommendation II.

Financing is the lifeblood of terrorism and terrorist activities. The Report of the National Commission on Terrorist Attacks upon the United States indicates that the 9/11 plot cost approximately US \$400,000—\$500,000 of which approximately US \$300,000 was deposited into US bank accounts of the 19 hijackers.

The 1993 attack on the World Trade Centre is a further example of how important financing is for terrorism. In 1995, a confessed organizer of the operation admitted that the terrorists had intended to build a bigger bomb but were unable to do so due to lack of funds. In recognition of the fact that terrorism and terrorist financing are inextricably linked, this Government is sending a strong signal that the financing of terrorism is a serious criminal offence.

Accordingly, the seriousness of the offence is duly reflected in the proposed section 22A wherein a person who commits the offence of financing of terrorism is liable on conviction on indictment:

1. In the case of an individual to imprisonment for twenty-five (25) years;
2. In the case of a legal entity to a fine of \$2 million; and
3. In the case of a director or person in charge of a legal entity who commits the offence of financing of terrorism to imprisonment for 25 years.

Special Recommendation III provides inter alia, that each country should implement measures to freeze without delay funds or other assets of terrorists and those who finance terrorism and terrorist organizations, in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

UN Resolution 1373 (2001) in particular, obligates countries to freeze without delay the funds, financial assets and economic resources of those who commit or attempt to commit terrorist acts or participate in or facilitate the commission of terrorist acts and of persons and entities acting on behalf of terrorists.

We recognize that stringent measures need to be adopted to starve the terrorists, terrorist organizations and those who finance terrorism of financial support. However, this Government places a high value on the protection and enjoyment of human rights and civil liberties. As such, we are ever mindful of the fundamental rights and privileges afforded by our Constitution, in particular the right not to be deprived of property without due process of law.

In order to strike a balance between these competing interests, a new section 22B is being proposed. In the first instance, the proposed section 22B(1) provides

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

that the Attorney General shall make an ex parte application, supported by an affidavit to a judge for a declaration that an entity included on the list of terrorist entities as designated by the United Nations Security Council, is a listed entity and an order that the funds of the listed entity are to be frozen.

In the second instance, section 22B(1) also provides that where the Attorney General has reasonable grounds to believe that an entity has knowingly committed or participated in the commission of a terrorist act or is knowingly acting on behalf of, or at the direction of, or in association with an entity included on a list of entities designated as terrorist entities by the United Nations Security Council, he may make an ex parte application for an order declaring that an entity is listed and the funds of the listed entity are to be frozen. Upon these applications being made and satisfactory evidence being adduced, the judge shall declare an entity to be listed and order that the funds of the listed entity are to be frozen.

Hon. Members will no doubt recognize that an amendment was made to the proposed new section 22B(5) which mandated that the Attorney General publish a copy of the order made by the judge under section 22B(1). This amendment was effected to address concerns of persons in the other place that the publishing of an order at an inappropriate time may jeopardize the fair trial of a case. It was thus suggested that the Attorney General is granted a discretion in this respect. This is reflected by the deletion of the word "shall" and the insertion of the word "may".

In drafting this section, the Government was cognizant of the fact that persons may be inadvertently affected by a listing on freezing order and, as such, we have sought to develop and implement a procedure which allows recourse to the courts in the shortest possible time frame. This procedure is what is fairly referred to as the "delisting process".

Thus, to balance the interest of parties inadvertently or otherwise affected by a freezing order, the proposed section 22B(6) has been drafted to allow aggrieved parties to apply to a judge to review the order within 60 days of the publication of the order by the Attorney General.

Upon such an application being made, the judge shall, among other things, provide the applicant with a statement summarizing the information available to the judge so as to enable the applicant to be reasonably informed of the reasons for the order and provide the applicant with a reasonable opportunity to be heard.

It is proposed at section 22B(7) that on the basis of the procedure indicated above, the judge will make the final determination as to whether or not such an order should be revoked.

Clause 9 of the Anti-terrorism (Amdt.) Bill proposes a new section 22C which creates an obligation for financial institutions and listed businesses to report to the FIU where they know or have reasonable grounds to suspect that funds within the financial institution or listed business belong to terrorists, terrorist organizations or persons or entities designated by the United Nations Security Council.

It further creates an obligation for a financial institution or listed business which knows or has reasonable grounds to suspect that funds are linked or related to or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, to make a suspicious transactions or a suspicious activity report to the FIU in the form set out in the Third Schedule to the Proceeds of Crime Act.

The proposed new section 22C addresses Special Recommendation IV which requires that where financial institutions or other businesses or entities subject to anti-money laundering obligations suspect or have reasonable grounds to suspect that funds are linked or related to or are to be used for terrorism, terrorist acts or by terrorist organizations, they should be required to report promptly their suspicions to the competent authorities.

In recognition of the precarious position in which financial institutions and listed businesses are placed, in having to balance their statutory duty to disclose suspicious activity in respect of their customer against the common law and statutory duty of confidentiality owed to their customer, a new section 22C(7) was drafted.

Section 22C(7) provides that when a suspicious activity report is made in good faith, the financial institution or listed business and their employees, staff, directors, owners or other representatives as authorized by law, are exempt from any criminal, civil or administrative liability, as the case may be, for complying with the reporting obligation imposed by section 22C(1).

It is reported that the 9/11 hijackers were financed by three primary and unexceptional means:

- (1) wire transfers from overseas to the United States;
- (2) the physical transport of cash or traveller's cheques into the United States; and
- (3) the accessing of funds held in foreign financial institutions by debit or credit cards.

It is also reported that all of the hijackers used the US banking system to store their funds and facilitate their transactions. The hijackers and their financial facilitators used

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

the anonymity provided by the vast international and domestic financial system to move and store their money through a series of unremarkable transactions.

It is for this reason that the proposed section 22C(2) mandates financial institutions and listed businesses to pay special attention to and where appropriate report to the FIU:

- Complex, unusual or large transactions whether completed or not;
- Unusual patterns of transactions;
- Significant but periodic transactions which have no apparent economic or visible lawful purpose; and
- To examine the background and purpose of all transactions which have no economic or visible lawful purpose.

At section 22D it is proposed that where the FIU receives information in furtherance of its statutory obligations and is of the view that an investigation may disclose that funds in the possession of any person are being used, have been used or are intended for use in the financing of terrorism, it shall forward such information to the Commissioner of Police for further investigation.

Drafting amendments to this section, you would recognize, were made in order to correct grammatical errors within this proposed section. So you will see "are" where it was "is" and you will see "have" where it was "has".

Mr. Ramnath: You teaching English now?

Sen. The Hon. M. Joseph: No, no, I cannot do that. I am trying to be as accommodating as possible to make sure that the amendments made in the other place, you all are aware of them. Now, I hear somebody prompting me to say it is not like correcting the voters' list, but I am not going there at all; I am not going there at all. I am a visitor and as a result I will behave as a visitor.

Section 22D meets Recommendation 26 of the FATF which states that the FIU should be authorized to disseminate financial information to domestic authorities for investigation or action where there are grounds to suspect money laundering or the financing of terrorism.

At section 22E it is proposed that:

“The FIU may instruct a financial institution or listed business in writing, to suspend the processing of a transaction for a period not exceeding three working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report.”

In recognition of the need for protection of an aggrieved person, this clause also provides that where those instructions are given to a financial institution to suspend a transaction, an aggrieved person may apply to a judge to discharge the instructions of the FIU and shall serve notice on the FIU, to join the proceedings.

2.15 p.m.

In the proposed new section 22E(3), the FIU may, after it has concluded its evaluation and analysis of a suspicious activity report, submit a report to the Commissioner of Police for investigation to determine whether an offence of financing of terrorism has been committed and whether the funds are located in Trinidad and Tobago or elsewhere.

Hon. Members will recognize that the term "relevant law enforcement authority" was deleted in the other place and replaced, for clarity, with the words "Commissioner of Police". This change was also effected in clause 15 of the Bill.

Hon. Members are also asked to note another amendment to the Bill that was effected in the other place. In specific provisions within the Bill, the term "police officer" was narrowed to refer only to police officers above the rank of sergeant. This was effected to address a concern that the nature and seriousness of the offences under the existing Anti-terrorism Act and the information that investigating officers may access under the proposed provisions of the Bill required the attention of senior police officers, thus at clauses 10, 11, 12, 15 and 19, corresponding amendments are effected.

At clauses 10 and 11, the opportunity is now being taken to bring the Anti-terrorism Act into accord with the new civil proceedings rules, thus the words "Judge in Chambers" are deleted and replaced with the word "judge". Further, references to "Judge in Chambers" are deleted and replaced throughout the existing Act.

This is an appropriate time to indicate that references throughout the Bill to the insertion of the words "or officer of a law enforcement authority" are removed. Government recognizes the increasingly sophisticated methods used by terrorists in carrying out their activities and is committed to suppressing this development with a strong, bold and targeted approach to implement measures that will target terrorism more precisely.

In this vein, Government will bring legislation for a highly-specialized investigative body with responsibility for investigating terrorist offences under this Act. This amendment will be more appropriate when that legislation is brought before the Parliament.

Essential criteria 28.1 of the FATF recommendations state that:

“Competent authorities responsible for conducting investigations of ML or FT “—money laundering or terrorist financing—” and other underlying predicate offences should have the powers to be able to:

- (a) compel production of
- (b) search persons or premises for, and
- (c) seize and obtain

transaction records, identification data obtained through the CDD “—customer due diligence process—” account files...other records, documents or information, held or maintained by financial institutions and other businesses or persons.”

To address these essential criteria, clause 12 of the Bill inserts new section 24A, 24B, and 24C, which enhance the investigative powers of police officers. The new section 24A would empower police officers above the rank of sergeant to apply to judges for search warrants in accordance with the procedure outlined in the section.

Section 24B will enable the Director of Public Prosecutions to apply to a judge for a customer information order for a financial institution or listed business to give information related to a customer where the information is sought in the investigation of an offence.

Section 24C will enable the Director of Public Prosecutions to apply to a judge for a monitoring order to direct a financial institution or a listed business to provide information to an authorized officer in respect of a particular account where there are reasonable grounds to believe that an offence may have been committed or is about to be committed.

Hon. Members are respectfully asked to note that the monitoring order may also extend to non-profit organizations. This measure addresses Special Recommendation IX of FATF which states that non-profit organizations are particularly vulnerable to abuse for the financing of terrorism and countries should ensure that they cannot be misused by terrorist organizations.

Clause 13 of the Bill will amend section 32 of the existing Act to impose a duty on any person or regulatory authority to disclose information relating to the commission of a terrorist act to a police officer above the rank of sergeant or the central authority. By virtue of the proposed amendment, the term "regulatory authority" will be defined as the Central Bank, the Securities and Exchange Commission, the Financial Intelligence Unit, the Trinidad and Tobago Stock Exchange, the Inspector of Financial Institutions and the Commissioner of Cooperatives.

Hon. Members will note the inclusion of the Commissioner of Cooperatives which was omitted in error and corrected at the other place.

Clause 15 of the Bill will amend section 34 of the existing Anti-terrorism Act. This addresses Special Recommendation III of the FATF, which also provides that jurisdiction should adopt measures to enable competent authorities to seize and confiscate terrorist funds. This proposed clause empowers customs officers, immigration officers or police officers above the rank of sergeant to apply to a judge for a restraint order where they reasonably believe that property in the possession of a person is intended to be used for the purpose of a terrorist act or for financing terrorism, terrorist property or property of a person or entities designated by the United Nations Security Council. It also empowers the court to authorize access to funds which are the subject of restraint for living expenses.

Clause 15 inserts a new 34(1)A into the existing Act which empowers the Commissioner of Police to apply for a restraint order in respect of matters referred to it for investigation by the FIU under the proposed section 22D.

Clause 15(c) and (d) of the Bill reflect drafting amendments. In these subclauses, the words "Judge of the High Court" are replaced by the word "judge". The reason for this amendment is that the existing Anti-terrorism Act defines "judge" as a judge of the High Court of Trinidad and Tobago. Thus references throughout the Act to a judge of the High Court are unnecessary. Further references to "Judge of the High Court" are deleted in clauses 17 and 18 of the Bill. Clauses 16, 17 and 18 of the Bill also reflect drafting amendments.

Lastly, clause 19 of the Bill provides for seizure and detention of cash by a customs officer and a police officer above the rank of sergeant where there are reasonable grounds to suspect that the cash is intended for use in the commission of an offence under this Act or is terrorist property. This addresses Special Recommendation IX of FATF, which states, inter alia, that countries should have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering or that are falsely declared or disclosed.

The Government of Trinidad and Tobago remains fully committed to the fight against money laundering and terrorist financing and recognizes that critical to the success of this robust legislative framework is the effective engagement of all key stakeholders.

In this vein, Cabinet established, under the Ministry of National Security, a national committee to develop, monitor and promote a counter-money laundering

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. M. JOSEPH]

Wednesday, January 20, 2010

and counter-terrorist financing framework. This committee has given highest priority to raising public awareness in relation to measures being taken to combat money laundering and terrorist financing.

As recent as last Thursday and Friday, the Ministry of National Security and CFATF, in conjunction with the Commonwealth Secretariat and the Bankers' Association of Trinidad and Tobago hosted the Sixth Annual Conference on Anti-Money Laundering and Combating the Financing of Terrorism at the Hyatt Regency Hotel in Port of Spain to be exact.

One of the objectives of this conference was to sensitize key stakeholders, such as law enforcement intelligence units, institutions of banking and non-banking sectors, the Judiciary and tax authorities, to the important role they must play in the fight against money laundering and terrorist financing.

I now take this opportunity to re-affirm this Government's commitment to raising public awareness and strengthening partnerships with key stakeholders to ensure a strong institutional framework to combat money laundering and terrorist financing.

The methods and practice of terrorism in all its forms and manifestations are aimed at the destruction of human rights, fundamental freedoms, democracy and economic stability of State. The global challenge all nations share in dealing with terrorism and terrorist financing is enormous. However, it has always been said that huge challenges give us huge opportunities.

Through this Anti-terrorism (Amdt.) Bill, the Government of Trinidad and Tobago today takes this opportunity to continue the pursuit of a bold vision. We join with the global community in building a culture of cooperation; in reaffirming the commitment to prevent, combat and eliminate terrorism and terrorism financing in whatever its form or manifestation and pursuing a vision based on the conviction that there must be no safe haven for terrorists who threaten the world.

The object of this Bill is to provide a solid legislative framework to protect our financial market from terrorism and the negative effects of the financing of terrorism. This is imperative to ensure financial stability and market integrity so that by the year 2020 we would have done all that was necessary to guarantee that Trinidad and Tobago is recognized as the pre-eminent financial centre in the Caribbean and Latin America.

Having regard to the following submission, I commend the Anti-terrorism (Amdt.) Bill, 2010 to this honourable House and beg to move.

Question proposed.

Mr. Ramesh Lawrence Maharaj SC (Tabaquite): Mr. Speaker, the Opposition supports any initiative to fight terrorism or terrorist financing, but this Bill brings into focus the Government's policy of saying that it is using legislation to fight crime and to make a dent in the problem of crime in Trinidad and Tobago. The Opposition is on record, when the Government, a few years ago, stated that it needed important pieces of legislation enacted to make Trinidad and Tobago safe. Terrorism is a serious crime; it is part of organized criminal activity and there can be no doubt from all the studies that have been done—and there has been a recent one done by the Small Arms Society, published in Switzerland, which brought into focus terrorism and the financing of terrorist activities in Trinidad and Tobago.

I would first like to deal with the policy of the Government in fighting crime because this is all part and parcel of the policy. I would then like to deal with the provision of the Bill in relation to the Act, which is in force, and put the report, which has been a recent study, 2009, of Trinidad and Tobago into perspective. I would like the hon. Prime Minister or the hon. Attorney General to tell me and the country whether what is happening in Trinidad and Tobago with terrorism and the financing of gangs would fall within the purview of this Act. If that is so, what does the Government intend to do against what has been happening?

2.30 p.m.

Mr. Speaker, we must put on record, that although the Opposition gave support to the Government in respect of many of the laws which needed a special majority, and the Government and the hon. Attorney General is here—he got up in this House and in the other place and said if the Government got those laws it was a time for action, crime would no longer be a problem in Trinidad and Tobago.

The hon. Minister of National Security also said that, and we have gone past six years and we have had—crime is a major problem; it continues; it increases; people are not safe in their homes and we are talking about different plans for the benefit of Trinidad and Tobago. But unless the problem of organized crime is dealt with—and therefore the Government will have to answer in my respectful submission in this debate, how it is that all the laws which have been passed, because we are now being asked to pass another law on the guarantee that some of these problems would be dealt with.

How the laws which have been passed, and there was the promise that these laws would assist the citizens of Trinidad and Tobago, and so far they have not gotten any relief. So what explanation the Government has for these laws not being able to assist the people in the fight against crime and what guarantee would the people have that if this law is passed, the objective of the law would be implemented?

Let us take for example the DNA Act. We have passed it. It is a very good piece of law. The Government said it needed amendment, but up to now it has not been fully implemented. The fact that you do not have a substantial implementation of that law, it means that if you do not have an eyewitness to a crime it is very difficult to detect crime in Trinidad and Tobago. The statistics are showing that less than 10 per cent of murders are detected; less than 20 per cent of serious crimes are detected and there is a small percentage of conviction. So when you have that situation you have anarchy and you would see from the report which I would read from, Port of Spain is likened to Baghdad in relation to the statistics for crimes in Trinidad and Tobago.

So, Mr. Speaker, we see in the Anti-terrorism Act, No. 26 of 2005 which this Bill is to create amendments too, a terrorist act is described as:

“an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—

- (i) loss of human life or serious bodily harm;
- (ii) damage to property; or”—and this is what is important, because I would want to know whether some of the things that are happening in Trinidad and Tobago fall within this Act and the amendment—
- (iii) “prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services,”—but note—“public utilities, transportation or other essential infrastructure.”

So we see under the existing Act, any act committed in or outside of Trinidad and Tobago which causes or is likely to cause prejudice to national security, or which is likely to cause disruption in relation to public utilities, transportation or other essential infrastructure.

Now, we would want to examine with the Government today what has been happening in Trinidad and Tobago, and they should help us and help the national community of instances I would give for them to tell us whether that would fall within the Act. But let us go to what the amendment is saying, because the amendment is quite rightly increasing the ambit, increasing the net of terrorist act to, not only to include financing of terrorism, but also to give a wider definition of terrorist act.

So, if we look to the Bill we will see that in clause 5 under the word "terrorist".

“terrorist means a person who—

- (a) commits a terrorist act by any means directly or indirectly...”

So we are seeing that whether you commit a terrorist act directly or indirectly—and I am explaining this in that way so that when I come to the examples I want the Government to understand what I am saying, "unlawfully and wilfully". It talks about participates as an accomplice in terrorist acts or financing of terrorism.

So, if I stop there for a minute. "Terrorist" includes:

“a person who—

- (a) commits a terrorist act by any means directly or indirectly, unlawfully or wilfully;
- (b) participates in an accomplice in terrorist acts or the financing terrorism;”

So if one directly or indirectly, unlawfully and wilfully finances terrorism that is a terrorist act. It could be directly or indirectly. Then it goes to:

- “(c) contributes to the commission of terrorists acts or the financing of terrorism by a group of persons acting with a common purpose...”

Then let us go to a "terrorist organization", because what we have to look at here is, what is a terrorist act; what is a terrorist organization and what is defined as terrorism?

“‘Terrorist organization’ means a legal entity or group of terrorists that—

- (a) commits a terrorist act by any means, directly or indirectly, unlawfully and wilfully;”

Mr. Speaker, we are seeing the directly or indirectly has been introduced; unlawfully and wilfully.

- “(b) participates as an accomplice in terrorist acts or the financing of terrorism;

- (c) organises or directs others to commit terrorist acts or the financing of terrorism; or

- (c) contributes to the commission of terrorists acts, or the financing of terrorism by a group...”

So, Mr. Speaker, we have in that context to examine some of the findings of this small arms survey and for the record it is a survey done—it is a working paper of the small arms survey entitled "No other life: Gangs, Guns and Governance in

Trinidad and Tobago". It was published in Switzerland by the small arms survey and it was based on a study done in 2009.

Hon. Joseph: By whom?

Mr. R. L. Maharaj SC: It was done by the small arms survey. It is an independent research project group located at the Graduate Institute of International and Development Studies in Geneva, Switzerland and it was established in 1999. It is on the Internet and the author on behalf of the survey is a person called Dorn—D-O-R-N T-O-W-N-S-E-N-D—Townsend and it deals with the executive summary which is on page 15 and it reads:

“In the last decade, gun-related homicides in Trinidad and Tobago (T&T) have risen about 1,000 per cent. While higher rates of crime have permeated much of the island of Trinidad in particular, overwhelmingly violence is concentrated in relatively small, hilly, and dense urban areas on the east side of Port of Spain’s central business district. On a per capita basis, the eastern districts of Port of Spain are among the most dangerous places on the planet and, as a whole, the murder rate for Port of Spain is comparable to that of Baghdad...

One rationale for this escalation of crime and murder is that few consequences accrue to those responsible. In most years, fewer than 20 per cent of violent crimes are ever solved.”

It goes on about even when the police does that what happens, and it says:

“But the violence in T&T has other roots too. Drawing on field research undertaken in 2009, this report finds that T&T’s police-led efforts to curtail gun violence are mitigated by the government's direct financial support to urban gangs via public welfare programmes.”

So we are saying we are seeing here the report is saying that the efforts of the police to curtail gun violence is obstructed in some way by the direct financial support given to urban gangs in the public welfare programme.

It continues:

“In exchange, come election days, these gangs have been frequently called upon to turn out loyal supporters and physically menace would-be opposition voters. These tactics are credited with helping the present regime cling to power in the context of an electorate narrowly divided by race.

Meanwhile, critics and even some senior members of government allege widespread police corruption...”

And it goes on. The next paragraph talks about enhancing the criminal gangs and then it talks about—I better read it for record:

“Finally, security forces may need to change their tactics. Vigorous policing may only go so far regarding the situation in Port of Spain.”

Then they talked about the killing of the soldier. Then, Mr. Speaker, in "Setting the scene" on the next page it talks about:

“In late April 2009, Sean 'Bill' Francis, 41—community activist, government contractor, mediator, 'nefarious gang-leader' and suspected criminal mastermind—was gunned down while drinking beer near his home in the Morvant community east of Port of Spain, the capital city of Trinidad and Tobago (T&T). He was shot 50 times.”

Then on the next page at the second paragraph it says:

“Seven years previously, at the height of his power, Francis was openly consulted by the prime minister and opposition leaders. At that time, 25 or so gangs were operational. In what amounts to a 'drastic upsurge'...this number, according to police, has tripled. Francis, it turns out, was one of the last of the gangster chieftains who conferred with Prime Minister Patrick Manning in 2002. At the time, the prime minister referred to these gangsters as community leaders, a designation that reveals how unclear such characterizations are in the Caribbean. With only a few exceptions, the rest have also fallen victim, one by one, to small arms.”

And then it says:

“The multiplicity of urban gangs has coincided with an increase in the numbers of killings. In 2008 some 550 murders occurred within T&T, a 366 per cent increase from 2000. Against that backdrop of death by small arms, homicides due to blunt, sharp, or other instruments remained comparatively stable.

Gang-related violence is far and away the single most pressing security issue in T&T.”

Mr. Speaker, we cannot get away from the fact that there is a school of thought from the evidence and from surveys and studies done that the financing by the Government directly or indirectly to urban gangs which exist in Trinidad and Tobago have been responsible for the increase in criminal activities in Trinidad and Tobago. [*Desk thumping*] And this activity is obstructing the police in making a dent on the crime problem in Trinidad and Tobago. So I want the Government

to answer, is it aware that since the Minister of National Security stated some years ago in the Parliament that there has been a certain number—66 at that time, it has gone to more than 80-something criminal gangs—of criminal gangs and that the number of criminal gangs in Trinidad and Tobago has increased. The members of the criminal gangs have also increased and the geography in which these gangs operate has also increased.

2.45 p.m.

So the Government must be imputed with knowledge that these criminal gangs are a major problem in fighting crime in Trinidad and Tobago, and therefore, it also knows that these community leaders—dubbed so by the hon. Prime Minister—are some of the persons or most of the persons who are involved in these activities. The Minister of National Security has told the national community that all these gang leaders would have been brought to justice. Now, I do not know what he means by justice, but he could probably tell us what he means by justice. He could probably tell us, according to law, who have been brought to justice. But even if we assume the Government was successful in bringing some of them to justice, how it is that the Government's policy has not curtailed the number of these gangs because as fast as they die or they are killed, the gangs are growing and they are spreading.

Now, this report is in effect saying that the financing of these gangs is being done through the policy of the Government. As I understand the law, this Act and this amendment, the Government and Minister of National Security can in effect be within the net of the offenders. So I want to know that if the Government is aware of this—*[Interruption]*

Dr. Browne: What nonsense!

Mr. R. L. Maharaj SC: Not nonsense. Because you cannot say that you are going against someone who is directly or indirectly financing terrorism, when the policy of the Government is in the same category of directly or indirectly, and wilfully financing terrorism. *[Desk thumping]* So on the basis of these amendments, I regret to say, the Government is involved in financing terrorism. *[Desk thumping]* It is not a pleasure for me to say that. I regret I have to say it. So I want to know—I say it with the greatest regret.

Hon. Jeremie SC: Thank you my colleague, the Member for Tabaquite. I was attempting to follow the argument, and I paid attention to your analysis of the definitions in Act No. 26 of 2005 and in the Act which is before us, but I lost you somewhat when you went into the— Is it a graduate paper that you are reading

from, or what sort of document is it? But I make the point in any event. I lost you somewhat when you asked the question: Is the Government financing terrorism? If you can point me to the specific provisions in the Act as you were doing before and make the question.

Mr. R. L. Maharaj SC: I would always try to help the Attorney General. It is a working paper. It is a document which is published. You can read it. Are you denying that community leaders are criminal gang leaders?

Hon. Jeremie SC: I think I have read the document to which you referred and I would deny the conclusion which is made in it, that Trinidad and Tobago is like Baghdad, and that conclusion which is made in it discredits to my mind the rest of the report.

Mr. R. L. Maharaj SC: Well, I wonder if the Attorney General will answer me since in the relation to the question you have asked: Do you agree that the financing of terrorism by any organization, directly or indirectly, would fall within this Act?

Hon. Jeremie SC: Of course. The financing of terrorism is the mischief that the Act is seeking to get at. But I do not agree that criminal activity is terrorism, and that the illustrations that you made from the research paper or the working document are sufficient to—*[Interruption]*

Mr. R. L. Maharaj SC: Well, let me see if I can enlighten you and the Members of the Government, and the national community. Under the Act, a terrorist act includes any act which causes or is likely to cause prejudice to national security. So prejudice to national security in my view would include: If the Government knows that there are criminals being financed from the work-shift programmes of the Government? If they are employed, they are not brought to justice, but they are being paid by state money. But under the Act itself, in section 2, it also includes—

Hon. Jeremie SC: Is it the same—

Mr. R. L. Maharaj SC: The Act itself.

Hon. Jeremie SC: No. 26 of 2005?

Mr. R. L. Maharaj SC: Yes, No. 26 of 2005. If you look at terrorist act, it means (i), (ii) or (iii):

“(iii) prejudice to national security or disruption of public safety including disruption in the provision of...”

And it then gives a set of services. But it also includes disruption in the provision of public utilities, transportation or other essential infrastructure. I am coming to that after. But in relation to prejudice to national security, are you saying, hon. Attorney General, assuming that there are criminal gangs leaders in these programmes and the Government knew or ought to know about it, and that the Government continues to allow them to work in these programmes and give them money, does that not fall within the Act?

Hon. Jeremie SC: Member for Tabagite, you sat in this chair and we have a relationship, if I can read the full section because you are not reading the full section. "terrorist act" in section 2 means, and the bit that you are referring to, (a) is the chapeau:

“(iii) prejudice to national security"—and it continues—" or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,

and is intended to—

(iv) compel a government or an international organization to do or refrain from doing any act; or

(v) intimidate the public or a section of the public,

for the purpose of advancing a political, ideological or a religious cause;...”

I think we would both agree that the conduct to which you refer is criminal conduct and does not fall within either this definition of what constitutes terrorism, or the internationally accepted benchmarks as to what constitutes terrorism.

Mr. R. L. Maharaj SC: Mr. Speaker, hon. Attorney General, by reading that you have strengthened my argument, and therefore, we cannot judge this. You will respond, the public will judge it. But listen, let me tell what you have just read. It is saying that a terrorist act—in relation to what I am making—includes any act:

“...committed in or outside of Trinidad and Tobago which causes or is likely to cause—

(iii) prejudice to national security”—[*Interruption*]

We will go to the others.

“and is intended to—

(iv) compel a government;...or

(v) intimidate the public or a section of the public,

for the purpose of advancing a political, ideological or a religious cause;...”

Now what I read to you, it states the findings are that these gangs are being supported in order to assist the Government in a political way to win elections. So it is for the purpose of advancing a political cause. [*Desk thumping*] So, I am not saying that—I did not do this survey. I am saying, assuming this survey is correct, and assuming there is evidence to support this survey, would you tell the national community with conduct like that, if an organization A, in Trinidad and Tobago, is in effect, committing an act, causing or likely to cause prejudice to national security—

[*Hon. Jeremie SC stood*]

Hold on a second, please. You will have your full time. I am giving you my time—and would intimidate the public or a section of the public, for the purpose of advancing a political cause. The criminal activity of the persons in the programme intimidates the public or a section of the public.

Hon. Jeremie SC: First of all, you started off by making two big ifs and I reject both of those assumptions, so that the rest falls aside. It is as if someone were to write a paper which seeks to conform to the definition of what constitutes terrorism in an oblique way, because you are really stretching it. The conduct which you described and which is described in the working document is clearly criminal conduct. It is not terrorist conduct.

Mr. R. L. Maharaj SC: I am very indebted for the Attorney General's intervention, but I am sure he will have his full 75 minutes to respond. Therefore, I am indebted for his assistance, but my job here, Mr. Speaker, is to present to this Parliament, and for the Parliament to be able to consider what I have said, and therefore, the public should be able to understand what we are saying.

So, Mr. Speaker, I am saying, that based on what I have explained to this House, that if this report is correct, then therefore it will seem to me that the Government would have to give an explanation— even if it is not correct—today, why this report is not correct. Is it that the Government is saying that in the makeshift programmes that these community leaders are not employed? Is it that the Government is saying that the Prime Minister is not aware that these community leaders are involved in criminal activity? If that is so, could the Government explain why the Prime Minister had two meetings with community leaders, who are referred to as "gang leaders", but he has called them community

leaders? Why is it that a rule was changed in the URP programme, where only past police officers could have headed these programmes? That was changed to permit these people to be able to have jobs and to have leading roles in these programmes.

This is a serious matter, and I am not going to go into an affidavit sworn to by another person. I am not dealing with that. What I am dealing with is if the Government is coming here to deal with taking away people's money because they say it could be the profit of crime, we support it. But the Government has a responsibility to show that it is clean if it is coming with legislation like this. I am not passing judgment on the Government. The Government has to explain its conduct in relation to criminal gangs. Is it that these persons are not members of criminal gangs? Are they not involved in crime? If they are not involved in crime and the Government is sure about that, then the Government is entitled to employ them and pay them. But if it is that persons who are called community leaders are gang leaders, and if they are the persons that the Minister of National Security was talking about in this House and there is an increase in these gang leaders, the Government has an obligation to the country, to tell the country the whole question what it is doing about gang leaders. Convince us they do not fall within this category because when we are passing law here, we pass it for everyone. But, Mr. Speaker, there is another point. I have read the international convention.

3.00 p.m.

The international conventions have put it in a very wide context so that not even the Government could use acts of terrorism against the population. When I quoted what a terrorist act means, it goes down to include the disruption of safety. It includes public utilities, transportation or essential infrastructure and is intended to:

“...intimidate the public or a section of the public for the purpose of advancing political...cause.”

The international convention is not only saying that the Government must be immune from using terror tactics, because it is terrorism in its widest form.

Mr. Speaker, in a walk through Plum Mitan this week, I saw a pipeline which the people said was ordered to be constructed by the Prime Minister a few years ago and that he said, "If you want water in that pipeline, you know what you have to do; you have to vote for the PNM." I want the hon. Attorney General to tell us whether that kind of action would fall under this Act, because that pipeline still does not have water, but around the area in which there is a PNM constituency there is water. I think this is a serious piece of law.

A major problem which the international community has been faced with is the question of power and misuse of power by governments. The international

community over the years has been trying to have conventions formulated to give guidance to governments to improve the lives of people and for power not to be abused. There is a misconception by the Government that these conventions on terrorism and financing terrorism would not apply to a government in respect of public utilities. The Act itself, when it describes a terrorist act, deals with disruption to public utilities, transportation, or other essential infrastructure. Water is an essential infrastructure; transportation is an essential infrastructure; roads are essential infrastructure. It seems to me that it is an act of terrorism by the Government when it does not supply drinking water to the people; it is an act of terrorism. [*Crosstalk*]

Mr. Speaker: Order!

Mr. R. L. Maharaj SC: Let me show you a community centre established by the Government in Bunsee Trace in the constituency of Siparia. I saw a carrot shed; that is a community centre. [*Mr. Maharaj SC displays photo*] That is in Penal; the Bunsee Trace Community Centre. [*Crosstalk*] If you put a community centre like that in Penal Rock Road, Bunsee Trace—as a matter of fact, when I walked there on Saturday, I could not believe that was a community centre. I attempted to go into the community centre and the constituents said, "Do not go, because animals do not want to go in that; human beings do not go in that." [*Crosstalk*] I want to know, where this Act says:

“Prejudice to national security or disruption of public utilities...” —because that is one—” transportation or other essential infrastructure...

- (v) to intimidate the public or a section of the public for the purpose of advancing a political, ideological...cause;...” —is it correct then that if a government—[*Interruption*]

Miss Mc Donald: Mr. Speaker, I want to tell the national community this afternoon that community centre which the Member for Tabaquite showed, I do not know who built that, but what I do know is that the Government opened two brand new community centres in 2008 and 2009. The Member for Siparia accompanied me opening two brand new community centres. One of those community centres is very near to this Bunsee Trace. As a matter of fact, I got a petition from the Member for Siparia with only about 300 names representing persons who asked for a community centre in Bunsee Trace.

Mr. Imbert: And you built it for them.

Miss Mc Donald: The point about it, Sir, is that we normally look at how many persons are serviced by a community centre; 300 was insufficient,

Anti-Terrorism (Amdt.) Bill
[MISS MC DONALD]

Wednesday, January 20, 2010

especially when we built two brand new community centres. Siparia got three, as a matter of fact, brand new community centres, between 2008 and 2009. Member for Tabaquite, please speak the truth to the national community. [*Desk thumping*]

Mr. R. L. Maharaj SC: The issue is not whether Siparia got two, three or five. [*Crosstalk*]

Mr. Speaker: Order! Order!

Mr. R. L. Maharaj SC: The issue is that there is a carrot shed community centre in Bunsee Trace. The issue is that in Bunsee Trace there is no other community centre. [*Interruption*] Well, I walked there. You ever went there?

Mr. Imbert: Do you want to give way?

Mr. Speaker: I think you are giving way to me. You must understand what is going on. Please, let the Member continue. [*Laughter*] [*Crosstalk*] [*Desk thumping*]

Mr. R. L. Maharaj SC: Mr. Speaker, the issue is that the Government is allowing the people of Bunsee Trace to have a community centre which is a carrot shed; therefore, I want to know whether that is an act of terrorism and if the Government knows about it, what the Government is going to do in order to prevent that act of terrorism from continuing. Whether the Minister and the Government built five community centres in Siparia is not an answer, because you have constituencies which are very large.

Mr. Speaker: Order, please!

Mr. R. L. Maharaj SC: You do not expect people in Bunsee Trace to go in any other trace, San Fernando or Penal. [*Interruption*]

Mr. Imbert: Would you give way?

Mr. R. L. Maharaj SC: I want to find out also that in respect—[*Crosstalk*]

Mr. Ramnath: You want to talk on everything; shut up and sit down!

Mr. Speaker: Order, please!

Mr. R. L. Maharaj SC:—of defining a terrorist act, I will repeat it again because I want to put another perspective:

“(a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—

disruption...public utilities transportation or other essential infrastructure...”

People do not have drinking water in their houses, they do not have a pipe borne supply, but they are being asked by the Government to pay water rates. Is that an act of terrorism? That might be stretching it too far. [*Interruption*]

Hon. Members: No!

Mr. R. L. Maharaj SC: I am entitled to ask the question; the Government would have adequate time to respond. If the Government knows that it does not have water in that area, it is not supplying water and the Prime Minister is saying, "If you want water in your pipe, you have to vote PNM," but the Government is still sending water bills and demanding payment—I have in my possession for Seuchan Rampersad of Penal Rock Road, a bill to pay for water. [*Crosstalk*]

Hon. Members: No, man!

Mr. Speaker: It is not so much 36(1). I think you are stretching the elasticity of your argument. [*Laughter*] It is obvious. [*Laughter*]

Mr. R. L. Maharaj SC: Mr. Speaker, may I talk about something else then? The last example of where there is cause in the Act. We came to the opening of this Parliament and we heard the words of the learned and distinguished President elect, His Excellency The President of Trinidad and Tobago. I am not going to talk about the property tax. I am talking about pension.

His Excellency The President made remarks about the pension. He said that pensions must be brought to international standard practices. I want to find out, in relation to those kind of amenities—I am not saying it is, I want answers—that where the Government knows you have a situation in which the inflation rate is denying public servants their pensions and the Government continues to do that, but it has an effect on the lives of people—[*Interruption*]

Mr. Imbert: Mr. Speaker, Standing Order 36(1).

Mr. Speaker: He is probably getting close to it. I have to hear him to see where he is going. I understand what is going on, to an extent, but let me hear him.

Mr. R. L. Maharaj SC: Mr. Speaker, I could understand how they do not want me to talk about this. It is said that when you do not have a defence, you object; but I think I have made my point.

Mr. Speaker: I think so myself.

Mr. R. L. Maharaj SC: Let us go to the Bill.

Anti-Terrorism (Amdt.) Bill
[MR. MAHARAJ SC]

Wednesday, January 20, 2010

Under the definition of financing of terrorism, section 22A reads:

“Any person who by any means, directly or indirectly, wilfully provides or collects funds, or attempts to do so, with the intention...or in the knowledge that they are to be used in whole or in part—

- (a) in order to carry out a terrorist act;
- (b) by a terrorist; or
- (c) by a terrorist organization...”

It would seem to me that the offence is committed of financing of terrorism, if the person is directly or indirectly providing or collecting funds with the intention or in the knowledge that such funds are to be used for that purpose. What concerns me is that an application can be made by the Attorney General. [*Interruption*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. W. Peters*]

Question put and agreed to.

Mr. R. L. Maharaj SC: The hon. Member for Diego Martin North/East wants it to be recorded that he said, "No".

Hon. Members: "He alone must talk."

Hon. C. Imbert: You are being irrelevant.

Mr. R. L. Maharaj SC: The Attorney General may apply to a judge in respect of any entity which he has reasonable grounds to believe is really a terrorist organization. The application is made to the judge. The judge makes this application *ex parte* and after the judge makes that order, then the order is served. It means that the order having been served, the person against whom the order is made would then have the opportunity, after the order is published in the newspapers and in the *Gazette*.

I could understand that in cases like these sometimes one has to go without notice to the other side; but I am concerned that you can have a situation in which an organization may not be such an organization. There can be errors made; therefore, the damage suffered afterwards could be very great. It may be that the Government may wish to consider that there should be publication after the matter is served and after the judge, having heard the party, decides that the order should have been made.

In other words, according to this, as I understand it, the order is made *ex parte*, it can be published in the newspapers, everyone can know about it and then the judge could make an order in which it would show that there was an error or no basis for the order.

3.15 p.m.

It would seem to me that much damage can be done by an individual, company or organization in the way it is put here. It may be that the Government should structure it in such a way that it can go *ex parte* in the absence of the other party. The order can be served on the other party. The other party would have an opportunity and the court would then rule. Therefore, if it has to be proceeded, then you would have the publication. I think that consideration should be given for the banning or not having this matter published until at least, the matter is heard *inter partes* by a judge.

I think that that would be very important for due process of law. I am conscious of the fact that in money laundering legislation that we passed, we have the provision for an *ex parte* order. I do not think—I am subject to correction—that the order can be published before the person gets an opportunity to respond to the order.

The other aspect of this measure, as I understand this proposed law, is that financing of terrorism would be a separate criminal offence. Under financing of terrorism you can have the money laundering provisions *et cetera* applied to the financing of terrorism. As the hon. Minister said, one of the principles of these laws would be to starve the terrorists of money. If you ensure that money which is made out of terrorism can be confiscated and taken by the State, by stopping financing you can stop terrorism. That strengthens my point by saying if there are activities in a country in which there are criminal gangs and they are benefitting from taxpayers' money, if the object of the legislation is to starve the terrorists from the financing, then the law should be there to prevent those terrorists from getting financing from the State directly or indirectly.

If the Government believes that what I said a short while ago and in the Government's view this kind of activity by the Government would not be covered under the Act, it is my respectful submission that the Government should amend this law to be wide enough so that public authority, not necessarily the Government or the Cabinet, would be involved in these activities. The government is carried out by public officials. The Government should take steps to ensure that those who implement government's policy are not involved in activities on behalf of the State in financing terrorism in accordance with the Act, directly or indirectly.

This law should be reconsidered in order to ensure that not only the private sector or non-government sector—I do not see anything in this law which prevents the Government from being liable under the Act. The law should be considered to ensure that not only the Cabinet or the Government—because in most cases the Government is carried out by officials. If the Government believes that this law does not cover that situation, in my view it covers it. If what is stated in this report can be proven, it covers and makes the Government amenable to this law. Let us assume that the Government is saying no, my submission is that the Government should make it amenable, so that the government officials who are involved in this kind of activity can also be made part of the prohibition of the law.

In order for law to have any authority, we cannot have a situation in which you have a law, but the Government is placing itself and its officers above the law. Mr. Speaker, as you would know, one of the basics of the rule of law has always been no one is above the law. If the Government's position would be that the Government will not be liable, assuming that these matters are correct, then the Government is putting itself above the law. It is saying that there is one law for an offender who is not an official of the Government, and another law for an offender who is an official. In respect of a person who is not an official, he or she would be prosecuted. In respect of an offender who is an official of the Government, he or she would not be prosecuted.

I find it very troubling that there can be a report in which it expressly states that these gangs are being financed by the Government in its makeshift programmes and are being used for political purpose. If the members of the public have to weigh this matter, there can be no doubt that any Opposition committed to fighting crime would support these measures in principle. That does not mean to say that the Opposition would not air to the government some of its concerns with respect to the proper morality in having the law if the Government wants to exempt itself from the law.

The final point I want to make is on implementation of laws which are passed to fight crime. This is something I owe a duty to speak about frankly. There can be no doubt that this Government has taken the position that it needed law to fight crime. Whether or not that is right or wrong, it is not important for what I have to say. The fact is that the Government got those laws. A major asset of those laws was that you can fight crime if you can take away the profit from crime. With respect to some of the laws which were passed, as a pillar of the government's policy was that this law was necessary because it had to get to the profit in crime. In order to get to the taking away of the profit in crime, if we take away the profit,

then obviously, we would starve the criminal. That is a very good philosophy. If it is that we pass the laws but they are not being implemented and are on the statute books, there would be a total disrespect for the law. It would strengthen the criminals.

The other day, in this House, I asked a question with respect to money laundering. I think that I would be correct in saying that since 2002, there has been no known order for confiscation of proceeds of crime under the Money Laundering Act. There has been no aggressive money laundering machinery for investigation. If as part of this law we are having one of the things to sell it is that we are going to take the profits out of crime, how can the Government implement this law, if it does not have the machinery to investigate and prosecute money launderers and take steps to have confiscation in accordance with the Act? There has to be specialized machinery if the Government is serious in fighting organized crime and criminal gangs.

I have done some study of criminal gangs in Trinidad and Tobago based on what I see other people have done. I have read extensively. It is quite clear to me that what is happening in Trinidad and Tobago is that these gangs are in the business because it is very profitable. As a matter of fact it is supposed to be a growth industry in Trinidad and Tobago. Many of the young people are attracted to these gangs because they get much money out of it.

I have gone to some of the areas in Trinidad and Tobago which are perceived to some of the seats of these gangs. Recently, I went to Sea Lots. I go to Laventille and the Beetham because I go to talk to people. One of the complaints is that on a weekend many Afro-Trinidadian youths are locked up on Friday whether or not they are guilty and on Monday or Tuesday they are released. I have seen it. On a Friday afternoon they are locked up. One of the causes given by the social scientists for these gang related activities is that the young people are rebelling against the treatment they are getting.

The Government has a duty to come in this debate with a policy statement to deal with gang warfare in Trinidad and Tobago that would put some ease to the feeling of the national community. According to this report the criminal gangs are responsible for the proliferation of guns in Trinidad and Tobago. Most of the crimes are gun related. It seems to me that this issue should not be treated as a trivial matter. It is an issue which the studies show—I think that the Minister of National Security must know about the studies—that some of these areas in Trinidad and Tobago where some of our fellow citizens live, are the areas in which you have a multitude of the creation of these gangs. The Government has to approach this aggressively in a proactive manner and balance the fight with law and order in addressing the social injustices.

I am not seeing that being done. I am not seeing that the Government has a policy or programme or is taking action to arrest the causes of these programmes. With the greatest respect, I do not see that this law will help to fight terrorism in Trinidad and Tobago or the financing of terrorism. We are passing many laws saying that they are to fight crime, but we do not have the means, expertise, personnel and passion in order to implement these laws to deal with this problem.

Thank you very much.

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, I begin by thanking the Member for Tabagite for giving way so many times during the course of his contribution. My interruption was necessary because I could not believe some of what I was hearing. The Member for Tabagite started off by—this is always the best way to begin—looking at the parent statute and then by turning to the amendment statute. That is Act No. 2 of 2010. In his first pass, he looked at the terrorist act, but he did not do what I always tell my students at the university, turn the page. [*Laughter*] He read from Act No. 26, 2005, page 747. On page 747, it provides as follows:

“‘terrorist act’ means—

- (a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—
 - (i) loss of human life or serious bodily harm;
 - (ii) damage to property; or
 - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure.”

3.30 p.m.

Mr. Speaker, I pause to say that worldwide it is known that terrorists focus on the financial system; they focus on communications; they focus on infrastructure; they focus on financial services; they focus on public utilities and on transportation, particularly air transportation. But that was not the end of the definition of "terrorist act". When you turn the page, on page 742, you see the important words:

“and is intended to—

- (iv) compel a government or an international organisation such as the United

Nations to do or refrain from doing any act; or

(v) intimidate the public or a section of the public”

And it goes on:

“for the purpose of advancing a political, ideological or a religious cause; or”

And then it says:

“(b) an offence under any of the Conventions;”

This definition is consistent with international best practices as to what terrorism is and what we all know what that terrorism constitutes. But if that were not clear enough, in subsection (2), it says:

“An act which—”

And it goes on to say so far as it is material, at (b):

“disrupts any service and is committed in pursuance of a demonstration, protest, or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of 'terrorist act',
shall not be considered a terrorist act.”

So then, you have to go back to what is on (a); you have to turn back the page. And what is on (a) carries us back to loss of life; damage to property; prejudice to national security and the likes; damage to infrastructure, and so on.

Now, with that definition out of the way, I know there is a dictionary definition as to what constitutes terrorism and if my friend did not have one by now, he should buy an Oxford Dictionary of English. It is said to be the world's most trusted dictionary, so I recommend it to him. Now, under "terror", this is what it says: The meaning is:

“The use of extreme fear to intimidate people especially for political reasons.”

And then there is a derivative:

“Weapons of terror; person or thing which causes extreme fear...”

And so on and so forth. And there is a concomitant definition of "terrorism" which refers to:

“The unofficial or unauthorized use of violence and intimidation in the pursuit of political aims.”

I think that to speak about the plight—and it is the plight—of the residents of—was it Penal Rock Road?

Hon. Members: Bunsee Trace.

Sen. The Hon. J. Jeremie SC: I must admit I am geographically challenged; Bunsee Trace. To trivialize the plight of the residents of Bunsee Trace and Penal Rock Road in relation to the disruption of public utilities, the non-provision of public infrastructure and so on and so forth, and to equate that to a terrorist act, is not a submission that my learned friend and a former Attorney General, an office holder, would make in another place; He might make it in this court here, but he knows that if he makes it in another place, he would be laughed out of court.

So, Mr. Speaker, that is what I propose to say with respect to his submissions on public utilities, public infrastructure and Bunsee Trace. I am sure that there are noble and decent citizens of Trinidad and Tobago—the salt of the earth—who live at Bunsee Trace.

Mr. Speaker, the Member referred to a publication: "No other life - Gangs, Guns and Governance in Trinidad and Tobago" by one Dorn Townsend, which describes itself as a working paper of the Small Arms Survey. Now, because it is published in Switzerland, I am not sure if my friend and colleague attached any great significance to it, but there are bandits and terrorists in Switzerland as well.

Mr. Imbert: Probably more than here.

Sen. The Hon. J. Jeremie SC: That is true, perhaps more than in Trinidad and Tobago. It might have slipped his attention that on the *Express* of just a few days ago, Wednesday, January 13, 2010—

Mr. Manning: He will read other things; he "ain't" read that.

Sen. The Hon. J. Jeremie SC: He might have been otherwise engaged at the time. There is a report on this publication and there was, subsequent to that, a statement made by Sen. Prof. Ramesh Deosaran who is one of our own. I do not know who Dorn Townsend is, but I know who Sen. Prof. Deosaran is. He was one of the persons who greeted me. [*Crosstalk*]

Mr. Maharaj SC: You are relying on a Ramesh.

Sen. The Hon. J. Jeremie SC: Sen. Prof. Ramesh Deosaran. Now, this is what Sen. Prof. Deosaran said in respect of that precise report of Dorn Townsend, "Gangs, Guns and Governance in Trinidad and Tobago". Now, I was a student at one time and I wrote all sorts of thing as a student and I do not know what Mr. Townsend's status is, but I rather suspect, having read this report and having heard excerpts of it from the hon. Member, my good friend from Tabaquite, that Mr. Townsend is a student and is enjoying the sort of liberties that students enjoy in university and in places of learning.

This is what Sen. Prof. Deosaran, who is a teacher of students, said—because he was dragged into this in some shape or form. He says:

“I myself had no part in providing such information. I remember when the person who presumed to be the author of this report came into my office, I don’t think I was able to meet with him or provide him with any information, but certainly I think to provide information that would cause a report to be written in such a way, is, to some extent, it does—”

I am just reading from what he said:

“it does unnecessary damage to this country.”

And he goes on say; he is questioning a credibility of the author and the publishing agency. He says:

“The issue really is to be very serious about such reports from a professional point of view, as I would want to assess the credibility of the information gathering. I would want to assess the credibility of the agency or the person who is the author of this report, because it is indeed very damaging.”

Now, he was being interviewed by a certain gentleman who then poses the question:

“From what we see going on, I don't know who did this study, but that could be possible. You know it could be when you take our country per capita, what is happening on that border there, and I mean in a peaceful place, not like in places like Afghanistan and all these places, could they be right?”

He was asking the question and Sen. Prof. Deosaran is debunking what he is saying. I quote from Prof. Deosaran because I would rather rest my faith in the hands of a teacher of students than in the hands of a student. I speak from both perspectives. I was a student who wrote all sorts of things. I was also a teacher of students who corrected all sorts of things written by students and I would also prefer to rest my position on the media release done by the responsible Minister in respect of this matter.

The Minister responded with admirable haste to this report. What he says is:

“The Ministry of National Security has noted the Small Arms Survey Working Paper—”

I do not know why it has such a laudable title and what its ambitions are, but he describes it as it describes itself. He says:

“The Ministry of National Security has noted the Small Arms Survey Working Paper—”

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. J. JEREMIE SC]

Wednesday, January 20, 2010

I would call it something else:

“No Other Life - Gangs, Guns and Governance in Trinidad and Tobago, and the comments that have appeared in the media on the issue. The ministry of the view that the report brings together a compilation of unsubstantiated media reports and opinions to paint an unnecessarily—”

I would have said:

“negative picture of Trinidad and Tobago that is not in keeping with the facts of life in our twin-island Republic. The author suggests that there is no other life but gangs and guns in some of the at-risk communities and that comment is indeed unfortunate and does a disservice to the many hard working and law abiding citizens in these communities. The Ministry is mindful of the fact that the report is a research paper—”

I will call it something else. But he is, generally speaking, a more gentle character than I am.

Mr. Imbert: It is a novel.

Sen. The Hon. J. Jeremie SC: The Minister on my left is saying that it is a novel. I think I would be somewhere in the middle.

“The Ministry is mindful of the fact that the report a research paper which sought to prove its thesis in a partially informed manner, so much so that some of those whose works are quoted in the report, are distancing themselves from it.”

And what I am sure he was referring to was the effort of Sen. Prof. Deosaran to say: "I had nothing to do with this." The Minister goes on:

“Crime is too complex an issue to draw conclusions based only on statistics relating to murder and arrest.”

I think he should have added "and to refer to works such as 'No Other Life - Gangs, Guns and Governance in Trinidad and Tobago'." But those are my words, not his. He says:

“There are serious sociological and historical factors that need to be taken into account for an in-depth understanding to be achieved.”

He concludes with these telling words:

“Unfortunately, this is not the case in this paper." Now, Mr. Speaker, that is really all that I would like to say about Mr. Dorn Townsend and his work with such a high-sounding title: 'No Other Life - Gangs, Guns and Governance in Trinidad and Tobago'.”

3.45 p.m.

The Member for Tabaquite also raised two short points in his contribution. Most of his contribution was spent talking about Mr. Townsend; but there is nothing much to talk about, so I can only spend 15 minutes on him.

I turn my attention to the few remarks the Member made on the Bill itself. He looked at new section 22B, which I think is in clause 9 of the Bill. That section—I will read it, Mr. Speaker—gives the Attorney General—and he made no comment on it, unlike his friends and colleagues in the other place, who had a problem with the Attorney General doing this action when, of course, the Attorney General is the central authority under the Mutual Legal Assistance in Criminal Matters Act. He did not go down that route, thankfully.

The Member read the subsection, and I will read it. He said:

- “(1) The Attorney General shall apply to a judge for an order under subsection (3) in respect of an entity where—
- (a) the entity is included on a list of entities designated as terrorist entities by the United Nations Security Council; or
 - (b) there are reasonable grounds to believe that the entity—
 - (i) has knowingly committed or participated in the commission of a terrorist act; or
 - (ii) is knowingly acting on behalf of, at the direction of, or in association with, an entity referred to in paragraph (a).”

He goes on to (2)—and this is where he has an objection:

- “(2) An application under subsection (1) shall be—
- (a) *ex parte*; and
 - (b) accompanied by an affidavit deposing to the matters referred to in subsection (1).”

Mr. Speaker, if you are looking to list a terrorist entity, what conceivable reason would you give by way of notice to that terrorist entity that you are looking to list it as a terrorist entity when the consequences which follow from listing would be an order made and the assets of the entity frozen. That would be the end of the section. The section is of no use if it allows for an *inter partes* hearing. In any event, a judge at an *ex parte* hearing can decide: Listen, your affidavit does not tell me sufficient; I want to hear the other side. In which case, the application will proceed as an opposed *ex parte* hearing.

Anti-Terrorism (Amdt.) Bill
[SEN. THE HON. J. JEREMIE SC]

Wednesday, January 20, 2010

The distinguished Member for Tabaquite would know that, so that is not the difficulty with the legislation; it is consistent with best practices. If it were otherwise, the mischief the legislation seeks to address would be defeated and we would be out of sync and not in conformity with our international obligations.

The Member also spoke to what he described as the policy of the Government in fighting crime. I am not the Minister of National Security; but I know that our policy has not been to pass law to fight crime. We have sought to give the police service additional resources. We have sought, indeed, to revolutionize the police service and we have done that in cooperation with Members of the other side; to give the police commissioner control of his force.

That was a major initiative. It was only accomplished some days into our last tenure in office. That is in the 2002—2007 version of our period in office. So police service reform was key to our efforts to fight crime.

We have, in recent times, passed the Financial Intelligence Unit Act, the Proceeds of Crime (Amdt.) Act, of which the Member for Tabaquite was author of the principal legislation; we passed an amendment to make the Act operative and we have before the House today the Anti-terrorism (Amdt.) Bill.

We are also moving to increase the number of judges in the High Court and in the Court of Appeal to deal with what is obviously an increased workload. That comes up on the Tuesday after next in the Senate. We have made changes to the Evidence Act to balance the field in relation to the prosecution of offences. We intend to make changes to the Criminal Act and we have to make several changes along the way to the criminal justice system. It is not correct to say that we are passing laws and not implementing them. As we pass the laws, we are moving expeditiously to implement them and the Financial Intelligence Unit Bill to which we refer is now an Act. It will be brought into full force once the administrative arrangements, which we are working feverishly to sort out, are settled.

I had intended to speak after the Member for Tabaquite in the hope that he would have raised substantive legal points in his contribution; but the only legal points that he raised concerned the definition of Terrorist Act. So my task this afternoon was much less onerous than I had thought it would otherwise be. It was solved by reference to a dictionary; by reference to the Bill itself and by reference to the parent statute.

I thank you.

Mr. Subhas Panday (*Princes Town North*): The hon. Member for Tabaquite and the hon. Attorney General have dealt with the definition of terrorism.

Terrorism is indeed a serious thing and is like an earthquake with the force of over 7.0 on the Richter scale.

Hon. Jeremie SC: That is not what he said. He talked about public utilities and no water.

Mr. S. Panday: Terrorism could be described, as I said, as an earthquake with the force of over 7.0 on the Richter scale because it hits you when you least expect it and it is as devastating as an earthquake.

Terrorism also has no borders. At this present time, it is international and international networking. There are various ways we try to deal with this issue of terrorism and terrorists. We try to locate them, identify them and eliminate their terrorist behaviour. But as we look in certain parts of the world, we see great difficulty in identifying terrorists and dealing with them. Therefore, one cannot really object to the legislation trying to starve the terrorist movements. You cannot find them and they are destroying you. The reason they could perform like this is that they are well funded internationally and, as such, legislation to starve them from funding is indeed important.

When I said that terrorism is really like an earthquake, what comes to mind is the bombing of that Panam Flight 243 over Lockbie in Scotland, where persons going on their lawful business; persons travelling with their children; innocent persons, at 35,000 feet in the air, were blown out of existence.

When one looks at September 11, one would see that they were decent people going to work to make a living and these persons who have a terrorist agenda, smashed into the Twin Towers and destroyed them. Therefore, we should all come together and deal with the issue of terrorism.

The question I ask here today, having said that, is: What is the intention of the Government? My humble submission is that the Government has no intention of implementing the legislation; of really dealing with terrorism. It seems to me that this legislation is merely to fulfil international obligations, so that we may not be blacklisted. I did a lot of work on the parent amendment and when I look at the amendments in the Senate, the Government has taken a flip-flop position with some amendments.

The Bill spoke of reporting to the police or other law enforcement agency and the argument in the other place was that you did not have—you were speaking about the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT); that it had no legal status and, therefore, you were giving a body without legal status the authority to deal with the issue of terrorism and that was improper.

Anti-Terrorism (Amdt.) Bill
[MR. S. PANDAY]

Wednesday, January 20, 2010

What one would have thought would have taken place was that the Government would have come before this honourable House and brought the SAUTT legislation; legalize SAUTT, so that they would not have gone to the Senate and made such silly amendments.

The hon. Minister has told this country on several occasions that the legislation for SAUTT is coming. That promise has been given to us for a long time. SAUTT has been in existence now for five years.

4.00 p.m.

We have spent billions of dollars on SAUTT and yet SAUTT has no legal status. Why? [*Interruption*] Well, if it has legal status why you promised to bring legislation to legalize SAUTT?

In July of 2009 at a post Cabinet meeting, this hon. Minister of National Security, Sen. The Hon. Martin Joseph promised for the umpteenth time—they cannot count it anymore—that SAUTT legislation would be brought to Parliament before the end of the year. It says:

“National Security Minister, Martin Joseph has given the assurance that legislation for the controversial Special Anti-Crime Unit of Trinidad and Tobago (SAUTT) will be presented to Parliament before the end of the year, some four years after it was established.”

Members of SAUTT do not know if they are coming or they are going. How valid are those appointments with SAUTT? How secure are those appointments? Where is the legislation to govern appointments in SAUTT? Where is this legislation to govern the activities of SAUTT?

Sen. The Hon. Martin Joseph also gave the assurance during yesterday's post Cabinet news conference at the Diplomatic Centre, St. Ann's as he responded to questions concerning the State Department Bureau of International Narcotics Strategy Report (INCSR) that the absence of legislation, specifically defining the mission—hon. Minister you said that—and strategy of SAUTT is hindering its potential effectiveness.

We have spent billions of dollars on SAUTT. The hon. Minister knows that the lack of bringing the legislation is hindering potential effectiveness. In those circumstances, why have you waited for over five years and you have not brought that legislation before the Parliament?

Mr. Speaker, you are right, the state department lamented the fact that SAUTT could be a whole lot more effective with legislation and we are working on that.

Always working on something but cannot give you a conclusion. We are working on that. Legislation would be presented in the Parliament in short order before the end of the calendar year. Hon. Minister you said that, yet you come to the Senate, you came to the other place and instead of bringing that legislation—have the legislation passed and allow this legislation to dovetail into that legislation, you know what you did? You flip-flop and you said in that legislation you do not have to resort to SAUTT anymore, you deleted any reference to SAUTT—

Hon. Joseph: SAUTT was referred there in the law.

Mr. S. Panday: Okay, then tell this honourable House when you say with reference to law enforcement authority, which one you meant if you did not mean SAUTT?

Hon. Joseph: I indicated what it meant.

Dr. Gopeesingh: You are reopening the debate.

Mr. S. Panday: Over six months ago the Minister has been in the *Daily Express* on Friday, July 17, 2009 and it says, suffice it to say the Minister has been less than—I would not like to use the word ‘dishonest’ in the Parliament, but I will say less than frank and forthright—with the nation with regard to this issue.

We are dealing with a serious thing like terrorism and yet you are failing, hon. Minister, in not bringing that legislation. Four years later, and despite local and international calls for SAUTT to be legalized—

Hon. Member: Again.

Mr. S. Panday: You are saying they are legalized?—the Government still hesitates. Why are you hesitating? The Government is still hesitating; it begs the question, why? By the Prime Minister's own admission SAUTT has been carrying out surveillance, not on criminal and terrorist entities but on Opposition Members.

Is that the reason why you do not want the legislation in Parliament to deal with SAUTT? What exactly is SAUTT doing? This country has been spending millions of dollars on SAUTT. *[Interruption]* Yes, the Government will obviously hide behind the ambiguous confidential national security excuse, but is it that in order for SAUTT to execute the primary mandate its members cannot be confined to operate within the boundaries of lawful constraint.

You see in the legislation where you said that these legal entities in the un-amended Bill which went to the Senate—you spoke about reporting to SAUTT.

Hon. Joseph: What are you talking about?

Mr. S. Panday: Yes, law enforcement agencies. Then you were fooling the nation as to what you were referring to. In other words, if SAUTT were to be placed under the same legal checks and balances of other law enforcement agencies they will be unable to continue whatever it is they are doing on behalf of the political master, the "PM". This is nonsense with SAUTT. This nonsense with SAUTT has gone on for too long and they demand that the legislation come.

Mr. Speaker, why have I raised that issue about SAUTT, because in the un-amended Bill it spoke about reporting to the police and to other law enforcement agencies. As far as we are aware of the other law enforcement agencies in Trinidad and Tobago it says, and we go to 22D(1): "Identification of offence of financing of terrorism".

So you see how SAUTT is tied up with the issue of terrorism and the issue of financing terrorism, Part II clause 22D says:

“Where the FIU receives information from a financial institution or listed business and it considers that an investigation may disclose that funds in the possession of any individual or legal entity is being used, has been used or is intend for use”—that has been amended—“in the financing of terrorism, it shall forward such information to the relevant law enforcement authority for further investigation.”

Mr. Speaker, he said it. That is the point I am making. When one looks at the amended Bill that came from the Senate it says:

“Delete the word ‘relevant law enforcement authority’ and submit it to the commissioner for investigation.”

So they have changed from the definition in the amendment that they gave us last week and the one which they gave us today. It speaks about, they should report, if the FIU has concluded its evaluation analysis of a suspicious transaction or suspicious activity—with the director of the FIU is of the view that the circumstance warrants an investigation, a report shall be submitted to the Commissioner of Police for investigation.

In the former it said that they should report to the relevant law enforcement authority. Why did you remove from the legislation relevant lawful authority and substitute the words "Commissioner of Police"? Why? That is a question we are asking.

Again, in 22E(3) it says:

“After the FIU has concluded its evaluation”—

Hon. Member: [*Inaudible*]

Mr. S. Panday: Yes, Commissioner of Police.

It says that if you receive information about a listed organization it must report to the relevant lawful authority, and again we knock it off. The point I am making here is that they have continuously wherever the word "relevant law enforcement authority", they have reduced it to Commissioner of Police. The point I was making is that they do not intend to implement this legislation, because which authority in Trinidad and Tobago has the capacity, has the resources and has the personnel to deal with this kind of issue.

They knew well before they went to the Senate with the original amendment, they knew it with SAUTT they were talking about, because that was the organization which they spent so much money on to have it in a state of readiness to perform these kinds of activities and that is why they went with that. However, when they went to the other place and the other place brought it to their attention that they should have brought that legislation before this, they flip-flop and they delete that and put they would report to the Commissioner of Police. But the Commissioner of Police does not have the resources. The Commissioner of Police's hands are filled. There is no expertise in the general police service to deal with this kind of specialized type of activities, and that gives me the impression that this Government, all the "ol'talk" that they are giving us here today is really to fulfil an international obligation, not to be blacklisted like some other countries, but they have no intention of implementing this law. I am telling you that.

Mr. Speaker, as a matter of fact, one asks the question: Why do they not intend to implement this law? Maybe, they are taking it as a joke. This legislation they are taking it as a joke, because the only one time in our history in this country there has been some activity akin to some sort of terrorist activities. Not only taking it for a joke, but they were probably involved in the activities.

In 1990, there was an assault on this honourable and august Chamber.

Mr. Dumas: Were you involved?

Mr. S. Panday: No, I was not involved.

There were allegations that certain people were in cahoots, certain people knew what was going on. The persons who have been affected from such activity have been begging this Government all the time to launch an enquiry into the events of 1990 on activities which were closest to terrorist activities.

Anti-Terrorism (Amdt.) Bill
[MR. S. PANDAY]

Wednesday, January 20, 2010

This Government—I say either they are making a joke with terrorism or they are a part of it, they have decided not at all. They do not want to have any investigation on any activity which was close or akin to terrorist activity. As a matter of fact, what did the hon. Prime Minister say about this? The hon. Prime Minister said that no useful purpose will be served by having an investigation into the events of 1990 which many people deemed to be terrorist activities.

Mr. Speaker, as I said, I would not be very long but to say that the Government is merely pulling wool over our eyes and they have no intention of implementing it.

4.15 p.m.

Mr. Speaker in the other place again, they said in clause 12, section 24:

- (i) by inserting after the words "Inspector or above" the words "or officer of a law enforcement authority;...
- (ii) by deleting the words "in chambers";
 - (b) in subsection (2) by inserting after the words "police officer" the words "above the rank of Sergeant".

Mr. Speaker, the reason why they moved from "police" to the phrase "to a police officer above the rank of Sergeant" is because people were saying that because of corruption in the police service and because there was not enough expertise at that level of the police service, they said raise it to the rank above sergeant. That really does not add anything significant to the amendment and to the legislation. But that is merely to give the impression that the Government is doing something, when in truth and in fact, they know full well that this will never be done.

Mr. Speaker, we looked at the Act. I go on to the Bill now, and the Bill speaks about going to the court for an ex parte order. It says that:

- “22B. (1) The Attorney General shall apply...for an order under subsection (3) in respect of an entity where—
- (a) the entity is included on a list of entities designated as terrorism entities by the United Nations Security Council; or
 - (b) there are reasonable grounds to believe that the entity—
 - (i) has knowingly committed or participated in the commission of terrorism act, or
 - (ii) is knowingly acting on behalf of, at the direction of, or in association with, an entity referred to in paragraph (a).”

That is an entity listed by the United Nations. And it says:

- “(2) An application under subsection (1) shall be—
 (a) ex parte;...”

The hon. Attorney General indicated that there was a need to go ex parte and publish. He says that if you have an inter partes immediately or something like that, it will negate the whole section or the purpose of the activity. It says:

- “(2) An application"—that is to freeze assets—"under subsection (1) shall be—
 (a) ex parte;...”

"Ex parte" means to go to the judge with an affidavit and you place matters on the affidavit. Who will now give the hon. Attorney General that information? Not an expert organization. Not an organization like SAUTT that shall go and do the investigation and bring real substantial matters. You have somebody of the level of a sergeant going and doing the investigation, bringing information to the Attorney General; Attorney General taking that information, putting it in an affidavit and going before a court. We know how affidavits are done. They are done in such a way as to give the impression that the world is going to fall now. Yes! Yes! And that is why we thought—because I will tell you something. [*Interruption*] So what are you going before the courts for if you do not believe that you have something substantial on paper? But you do not have the services of an expert organization like SAUTT which has all the facilities to give you the right information. So you go before the judge on an ex parte order and you get the ex parte order.

Mr. Speaker, what it does, it declares an entity to be a listed entity for the purpose of this Act if the judge is satisfied as to matters referred to therein. But the honourable. judge only hears one side of the story. When an attorney-at-law goes with one side of the story, the way he puts that story is to convince anyone. So he goes before the court with a one-sided story and he convinces the court, and then freezes the fund of that entity. The court may make whatever order they make.

Now, I am saying that if it is a matter of emergency and you need to go, yes, go. Go! However, what I am humbly suggesting is that the moment you get the order, you serve the order on the entity within three days or whatever specified time. My humble view is that the legislation should indicate that that entity should be given the opportunity, or if given the opportunity, should be able to go to the court and respond to the affidavit. Make it inter partes and respond to the affidavit. If the response to that affidavit really had no substance, or there was mis-constraint of activities, when that legal entity comes before the court and

Anti-Terrorism (Amdt.) Bill
[MR. S. PANDAY]

Wednesday, January 20, 2010

explains the affidavit or response to the affidavit of the Attorney General, the court may say, "What is wrong with you all? You did not do proper investigations? You did not do proper investigations at all." As a matter of fact this should have never been brought to the court—[*Interruption*]

Ms. Kangaloo: What clause?

Mr. S. Panday: Pardon—or that there was not a full and frank disclosure. Certain other evidence which would have given credence to what the legal entity is saying was not brought before the court, and the court strikes it out.

Mr. Speaker, we are saying that in those circumstances, the publication in the Bill here as it says:

“(5) Where an order is made under subsections (3), (7)(d) or (10), the Attorney General shall, within seven days...of the order, cause to be published in the *Gazette* and in two daily newspapers of general circulation in Trinidad and Tobago—

(a) a copy of the order;”

That copy of the order will indeed carry not only the contents of the order, but that will carry the name of the entity, the name of the person. When you do that, you are damning them for life.

Although the matter has not been fully ventilated, if you publish this within seven days of obtaining an ex parte order, an affidavit which has not been tested in order to obtain the order, you are running the risk of damaging people's lives forever, or if there are companies, to damage them forever. Not only that, not only damaging them in the local environment, but it may also damage them in the international environment because it says in subclause (3):

“(a) declare an entity to be a listed...if the judge is satisfied...”

Declare it to be listed. So when you are listed, you go on the terrorist list for nothing. You have done nothing wrong and you go on the terrorist list. Next thing they flag you; you cannot travel; you cannot go away; you are doomed for life.

Mr. Speaker, when one looks at this legislation, it is against the implementation of global and counter-terrorism strategy. It is from that we develop this issue, or this idea, or this legislation, of dealing with financing of terrorists. But hear what it says—and the reason why I say that the publication should not take place before an inter partes hearing because you could damage somebody. On the other hand, assuming the person goes before the judge and he

argues a case before the judge, and the judge says, "Look. Listen. The Attorney General was right. I have looked at his submissions, I have looked at his allegations, I have looked at your affidavit and your affidavit does not hold water, and the Attorney General is right to bring this legislation, and therefore, I shall cause the ex parte order to continue."

Mr. Speaker, I humbly submit, it is in those circumstances, when there has been some sort of ventilation of the issues on both sides in the matter, then at that stage you may publish if you wish. Because in this kind of matter, it will seem to me that affidavit evidence will be the kind of evidence which will bring a determination to the matter. The reason why I make that submission is because it says, and I read from the UN Action to Counter Terrorism, March 2009: Implementing the Global Counter-terrorism Strategy. It says:

“The United Nations global terrorism strategy (A/RES/60/288), adopted by the General Assembly on 8 September 2006—is the first ever comprehensive, collective and internationally approved global framework for tackling the problem of terrorism.”

So we all agree that we are tackling this problem.

“In September 2008, all 192 members States confirmed their full commitment to the principles of the strategy and pledged to pursue its vigorous implementation... The strategy through its action plan divided into four topical pillars, spells out concrete measures for Member States to take individually as well as collectively: address the conditions conducive to the spread of terrorism,...”

So they are saying, take action to deal with the spread of terrorism.

“prevent and combat terrorism and strengthen their individual and collective capacity to do so,...”

Mr. Speaker, we have no problems with them. It says however, since the consequences are so severe, since the penalties are so severe, it says you must ensure that human rights are protected and uphold the rule of law while countering terrorism. Strategy calls for Member States to work together with the United Nations to implement this programme.

So what they are saying here is that we know that we are trying to deal with the terrorists. We want to catch them. We want to punish them. We want to punish them severely, but at the same time the authorities are saying, or the international agency is saying, "Make sure that you protect people's human rights". It is based upon that issue, I argue that before you rush to the press and

Anti-Terrorism (Amdt.) Bill
[MR. S. PANDAY]

Wednesday, January 20, 2010

publish the order, publishing names of persons, publishing names of entities, we must be indeed certain what we are doing, for to do so, we will be undermining people's human rights. I do not see that in any way interfering or negating the section. I do not see that in any way undermining the legislation. I see that as being such serious offences that we protect people's rights.

Mr. Speaker, you know Trinidad and Tobago. It says that you adapt the legislation to suit your local conditions. In Trinidad and Tobago you know the kind of society we live in. It is a *mauvais langue* society, and give a dog a bad name even without the dog doing anything, you damage it for life.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea and we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. S. Panday: Mr. Speaker, most of the points which I had researched have been ventilated in the other place and action has been taken. There is only one issue again which I would like to address this honourable House on, that is in Part II, subsection (3)(a) financing of terrorism, section 22B. It says that the Attorney General shall apply to a judge for an order in respect of an entity, et cetera. That is where they intend to freeze assets, et cetera.

The argument proffered by the Government and by other proponents of that idea is that the hon. Attorney General, as the office holder of that office, is the one who would negotiate and enter agreements with international organizations or other countries. Because the hon. Attorney General would be au courant with all the issues which are raised at those conferences and decisions, it is said that it is best to have the Attorney General going into the legal arena and applying for this order.

Mr. Speaker, having regard to the country in which we live, the Office of the Attorney General is a political office. Although the Attorney General is the one who negotiates on behalf of the Government with other agencies, we should create a system where the Attorney General, a politician, does not use his fists, or be given the opportunity to, against citizens, especially where it concerns seizing their property, which is protected by the Constitution. [*Interruption*]

Hon. Jeremie SC: During the debate in the other place this was raised, and Sen. Seetahal SC, who is a strong defender of the rights of the Office of the Director of Public Prosecutions (DPP), was at pains to point out that this was not a prosecutorial decision which is taken under section 90. Indeed, it is a power

which the Attorney General is exercising under an Act passed by your administration, the Mutual Legal Assistance in Criminal Matters Act, which gave effect to the Mutual Legal Assistance Scheme, the Harare Scheme, in 1997, which obliged the Attorney General to make applications to the court in Trinidad and Tobago in fulfilment of our international obligations. That is how this is dealt with. These are conventions, treaties, and the Attorney General is the functionary in Trinidad and Tobago who is the central authority under that Act and who must give effect to our international obligations.

Mr. S. Panday: Thank you, hon. Attorney General.

If the Attorney General under that system is the central authority, that may be in a different situation. But here, although we are saying it is not prosecutorial, the question is that you are going with an affidavit to seize people's assets, and that is important. Although you may say it is not prosecutorial, my view is that it may appear so, you could argue that it is not so, but, in truth and in fact, it is. You are going to take people's money. You are going to freeze people's assets. Therefore, a politician should not exercise that function to go against people's assets.

Hon. Jeremie SC: We do it in extraditions and for state requests, cooperation.

Mr. S. Panday: Okay, fair enough.

We should include a certain amount of independence in this issue. We should not give persons the opportunity to say, "Oh, you are spiting me; I belong to X, Y and Z; you are out for me; you are targeting me; I am a political opponent or I am some sort of opponent of the Government and, therefore, you are using your political clout to come at me."

We are dealing with people's constitutional rights. In those circumstances, although we speak about other pieces of legislation in which the Attorney General takes action, in this one you are going against individuals in the society and you are going against companies in the society; as such, we should distance the politics from the legal aspect of the Act.

What I humbly suggest that since the hon. Attorney General said that he was the central authority—

Hon. Jeremie SC: I did not say so, the legislation says so.

Mr. S. Panday:—we could still find a way to maintain that position, keep the office of Attorney General within the loop and yet give that semblance of independence. Maybe we could look at the legislation which says that:

“The Attorney General shall apply to a judge...”

Anti-Terrorism (Amdt.) Bill
[MR. S. PANDAY]

Wednesday, January 20, 2010

You may say that it is not prosecutorial for an Attorney General to apply to a judge to freeze people's assets, but we could say:

“The Director of Public Prosecutions, in consultation with the Attorney General, may apply to a judge on order under subsection (3).”

So in those circumstances, the Office of the Attorney General is still within the loop; all the knowledge, information, recommendations and advice would remain within the loop, but the office which is making the move against the person or entity would be the DPP. That would engender confidence on the part of the population on any action taken under this piece of legislation.

Mr. Speaker, with those few words, I thank you and hon. Members very much for this opportunity.

The Minister of Science, Technology and Tertiary Education (Hon. Christine Kangaloo): Mr. Speaker, I rise to speak in support of this far-reaching piece of legislation that is before this honourable Chamber today and to commend the Minister of National Security for bringing such a forward thinking piece of legislation.

Before I talk on the legislation itself, I have to say that in listening to Members of the Opposition who have spoken it just seems that as they approach the home stretch, it seems as if they are a little tired and they have really reserved their adjectives for amongst themselves. So tired was the Member for Tabaquite, so absolutely tired, he actually forgot that he was a former Attorney General and gave the most ludicrous interpretation for the definition of terrorism.

The Member for Tabaquite took great delight in referring to the Small Arms Survey report. The hon. Attorney General also took great delight in refuting all that the Member for Tabaquite had to say on the report. There is just one thing I want to add in respect of that report and it is important to add it and place it on the record, because in Trinidad and Tobago we sometimes have the tendency to believe what we hear coming from the Opposition, over and over and over. So it is critical for me to also place on the record another important reaction to that Small Arms Survey. It is the response given by the Women's Institute for Alternative Development (WINAD).

The hon. Attorney General did allude to the fact that there was a newspaper report on what WINAD had to say about that particular Small Arms Survey. I think it is important that I read into the record of the *Hansard* what that news release actually said. It read as follows:

“The Women's Institute for Alternative Development (WINAD) notes with interest the contents of the Small Arms Survey report on Guns, Gangs and Governance in Trinidad and Tobago.

WINAD has had a long standing working relationship with the SAS but opted out of participating in this project.

In our view the timeline for completion of the project, as well as the methodology, required longer and deeper reflection and interrogation.

The content of the report reveals a need for several inaccuracies to be clarified. The fundamental argument of the report relied heavily on newspaper reports and consequently, regurgitated accusations which have fuelled public debate on the effectiveness of the state response to the challenge of armed violence. Throughout it all, there is the absence of clinical analysis.”

Mr. Speaker, the news release went on to say, and I would just focus on this part:

“The report would have been more useful had it focused more rigorously on the root elements of the challenge of guns, gangs and governance in Trinidad and Tobago by exploring the historical antecedents; structural violence; human rights violations; and the gendered nature of the challenge. Had it done so, it would have presented an opportunity for citizens, including policy makers, to reflect on the many and varied responses which have been designed to respond and counteract violent crime, especially armed violence, and evaluate the impact and usefulness.”

I put on record what the Women's Institute for Alternative Development had to say, to also refute what the that Member for Tabaquite presented as a fait accompli when he referred to the Small Arms Survey report.

The legislation that is before this Parliament today is all part of Trinidad and Tobago's march towards full and responsible participation in the global village. There was a package of legislation which preceded this particular piece of legislation and that package, including this piece of legislation, really seeks to solidify our legislative boundaries against financial wrongdoing.

We cannot, in Trinidad and Tobago, have the benefit of a liberalized modern world economy and not also rise to our responsibility to ensure that our economy is not abused in the pursuit of illegitimate enterprises. So the legislation is designed to also protect our aspirations, the aspiration of this country to become a developed country by the year 2020 and to make those aspirations a reality. Let us look at some of those aspirations.

We have said that we want to be the international financial centre; we say that we want to attract foreign economic investment, which is happening, but for all this to happen, you have to have the legislative framework in place. That is what this piece of legislation is doing; it is adding to the suite of legislation that has already been introduced.

Anti-Terrorism (Amdt.) Bill
[HON. C. KANGALOO]

Wednesday, January 20, 2010

When we talk about aspirations, we have to remember that we have already moved on to the world stage. We have hosted two international conferences and we are, therefore, now seen as a world venue. So it is important that we have our legislation in place to protect against anything with the financing of terrorism and to really protect against terrorism itself.

The legislation is not all about being in the global village. We also are protecting ourselves in this country. We have persons who have interests in other countries; we have our citizens who travel to other countries which are the target of terrorism.

5.15 p.m.

We need to protect those citizens. We need to understand that while some people may say that the issues that face those countries do not face us, as those countries close their doors and tighten their legislative framework, those elements who are interested in continuing with their terrorist acts would be looking for other countries to perpetuate those acts of terrorism. By doing this we have to ensure that we protect ourselves and our country. [*Desk thumping*]

We cannot belabour that point enough because there will come a time when those who wish to perform terrorist acts would look at perhaps, the interest that we have in different countries in our region and may decide to focus their efforts on these countries. That is why it is important at this very early stage to prevent those things from happening. The legislation that we are dealing with today treats with our being on the global world scene, our aspirations to become a developed country and all that we want to do in terms of expanding our economic base. The legislation is preventative in nature as we seek to put measures in place once and for all so that we can stop any threat of terrorism coming to our shores. It is a critical piece of legislation.

There are those who will say that the legislation is draconian. The legislation requires a special majority. One aspect of the legislation that we have to look at is the sanctions and safeguards that have been put into the legislation. I think that Sen. Prof. Deosaran in the other place said that there were at least 33 times when the court's authority had been invoked in the legislation.

The hon. Minister of National Security in piloting the legislation pointed out to the fact that we put certain avenues to the courts to protect citizens' rights. We recognized that in treating with this the legislation must have teeth and force. We also understood that we needed to balance our citizens' rights. As Sen. Prof. Deosaran said, that has been done at least 33 times in the legislation.

The Members of the Opposition would remember that it was under their stewardship in 1996, the Memorandum of Understanding with the Caribbean Financial Task Force had been signed. From the Caribbean Financial Task Force all these actions have been flowing. The Members of the Opposition should remember there was the convention in 2001 that was acceded to by the Government of Trinidad and Tobago.

In 2001, when the Member for Tabaquite was introducing the Proceeds of Crime Bill in Parliament had this to say:

“Mr. Speaker, one would see therefore why it is important for a country to take what are considered to be very harsh measures which are sometimes described as draconian. Where governments have to deal with drug lords, money laundering and the problems which the international community face, the international community has recognized that these harsh laws, even if they are considered draconian, are necessary to protect public interest.”

That is what the Member for Tabaquite had to say when he occupied the Office of Attorney General in 2000. We have sought to understand what the legislation is about and the measures which have to be put in the legislation to ensure that it would work, but at the same time, we have gone to allow for the court to have the powers in the Act, that certain things have to be done with the sanction of the court. We have sought to balance the interest of everyone as we proceed with the legislation.

The Member for Princes Town North raised several issues. He spoke about the flip-flopping position of the Government in the amendments which we have made in respect of the law enforcement agency which was deleted from the legislation. He went at length to talk about the fact that the legislation would not work because the Commissioner of Police does not have the resources. He spoke about the fact that we have not brought the SAUTT legislation. He said several other things.

When the Minister of National Security introduced the Bill in question, he spoke about the fact that the Government will bring the legislation for the highly specialized investigative body with responsibility for investigating terrorism offences under this Act. In the other place he indicated that this body will be SAUTT and he will bring the legislation to deal with SAUTT very soon. I have to point out and the Members of the Opposition keep saying it over and over and over, SAUTT is not illegal. The fact that we are bringing legislation to incorporate SAUTT by an Act of Parliament does not mean that SAUTT is now illegal. That is not the case. We have to keep saying it. Every time Members of the Opposition raise this issue we have to put it on the record that SAUTT as it is constituted now is not illegal.

SAUTT functions as an inter agency task force. It is comprised of police officers, members of the defence staff and civilians. There are certain reporting operations at the present time. When the Act of Parliament comes it would seek to treat with all the reporting mechanisms in which SAUTT would have to be involved.

When the Member for Princes Town North said that the Commissioner of Police has no resources, I need to point out to him that the Commissioner of Police can utilize the resources that have been given to SAUTT in working through some of the issues of this legislation. It is the intention of the Government that this legislation works. The Minister of National Security has indicated the kind of public sensitization that is taking place and would be continuing. The Government is saying that it is going to ensure that all the resources necessary to make this legislation, as well as the other pieces of legislation that we have put in place, work. Those resources will be allocated to allow for that result.

The hon. Member for Princes Town North spoke at length about the publication of the notice at clause 9(22 (b (5)). He asked why that publication was necessary. That publication is necessary because it is part of the special recommendation and interpreted note made by the Financial Action Task Force. That special recommendation says that the listing and delisting procedures should be publicly known in accordance with international obligations and applicable legal principles. For persons with similar names who have been inadvertently affected by a freezing mechanism, jurisdiction should develop and implement publicly known procedures in a timely manner upon verification that the person or entity involved is not a designated person. That is the purpose of having the publications by the notice.

We have spoken about treating with terrorism and the legislative framework that we are putting in place. We have said why it is necessary to put that legislative framework in place. There is one point that I want to make. That has to do with terrorism in itself. We are addressing terrorism from a legislative standpoint today. We also have to ensure that the causes of terrorism; prospects of marginalization and the economic marginalization of people—we have to understand those concepts and put measures in place to treat with those issues.

The Government of Trinidad and Tobago has an extensive social programme where we provide safety nets for persons in need. Through the Ministry of Science, Technology and Tertiary Education and other ministries, we provide training opportunities for those who may not have been able to get those opportunities, as those who have been marginalized; fallen through the cracks and did not finish school for some reason. The Government has an ambitious social

programme network. Implementing all those programmes would go a long way in treating with the issue of preventing elements of terrorism in Trinidad and Tobago.

It is an issue that we have to treat with from all sides, the legislative framework and the social side of it. We would be failing as a government if we did not seek to address those issues and adopt a preventative approach. That is what the Government of Trinidad and Tobago is doing by its numerous educational programmes and opportunities that we are presenting to the people of Trinidad and Tobago.

With these few words, I ask that the Members of the Opposition—I noticed that the two previous Members have not said whether they are supporting the legislation. Clearly, they have recognized the importance of the legislation because both the Member for Tabaquite and the Member for Princes Town North have spoken about the effects of terrorism. The Member for Princes Town North spoke about it being like an earthquake. They have not said whether they are supporting the legislation. It would be quite disappointing, in the face of what they have said and seeing the results of terrorism, if they do not support the legislation today. They cannot be that tired. They are in the home stretch. They should not be that tired. At least, they should call on the reserves of whatever strength they have left and support the legislation. It is important legislation.

Thank you. [*Desk thumping*]

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker and colleagues, my presentation will not be a very long one. I can assure you that we have our reserves and strength to continue. We are accustomed with long and arduous work, tasks and responsibilities. It is nothing new for us on this side. I am sure that the Prime Minister recognizes the talent and capability on this side and he would bow his head to acknowledge that.

Mr. Manning: I am checking to see if you are running out of endurance.

Dr. Gopeesingh: Not at all. Any act of terrorism committed against the nation or the people of another nation ought to be severely punished. It should be deprecated to be the worst act of humanity to go against people of another nation and commit an act of terrorism against a people. Any piece of legislation that deals with trying to prevent or detect at an early stage, this act of terrorism, of course, is sincerely appreciated.

5.30 p.m.

So, in the quest for the Government to bring on this piece of legislation, it is to be appreciated. But I can remember the Minister of Finance in her presentation on

Anti-Terrorism (Amdt.) Bill
[DR. GOPEESINGH]

Wednesday, January 20, 2010

May 22, 2009, speaking about the question of bringing in four major pieces of legislation to deal with the whole question of financing terrorism, money laundering and proceeds of crime, et cetera, and when the hon. Minister of Finance was speaking about the Financial Intelligence Unit, she indicated that:

“The Bill established a department of Government designed to play a pivotal role within a regulatory system which will ultimately be governed by three principal items of legislation.”

The first she spoke was the Proceeds of Crime (Amdt.) Bill 2009, which has been passed; otherwise known as POCA. But since that has been passed, I am not too sure whether there are any aspects of that which have been implemented as yet, in terms of: Have there been any cases that have been before the courts and prosecution has taken place and conviction has been made under the Proceeds of Crime Act?

I am not aware—we are not aware—that any aspect of this has been implemented in terms of getting a result under the Proceeds of Crime Act, which was the Proceeds of Crime (Amdt.) Bill subsequent to the original Act.

Then, the second item of legislation that the Minister spoke about was the Draft Financial Obligation Regulations, 2009. I see on the Supplemental Order Paper here, that this is to come. A Paper was laid today, I believe. So we look forward to that, but I am not sure whether one would have preceded the other and what is the rationale for having this Anti-terrorism (Amdt.) Bill before that Financial Obligation Regulations, because I believe that that Financial Obligation Regulations, 2010 would have been tied in with the Financial Intelligence Unit Bill. So I believe that should have been a piece of legislation that should have come before this one.

Nevertheless, one of the issues which we have on this side is, the Government seems to laze around for a long time in terms of passing legislation on applications of international conventions for the particular country. They take a long time before bringing these Bills to Parliament and then they try to rush through. I remember the Financial Intelligence Unit Bill was rushed through because we had to satisfy certain dates on the conventions for the Financial Action Task Force Recommendations (FATF).

So the point I am making here is that the Government behaves in a tardy manner most times and then rushes through pieces of legislation in a haphazard manner, and I do not believe with a purpose in terms of which pieces of legislation must come before the other. I see that there is some degree of confusion as far as introduction of the pieces of legislation.

We passed the Financial Intelligence Unit Bill, which this amendment impacts upon considerably. I think it is important for the hon. Minister of National Security or possibly the Minister of Finance, to tell us where we have reached in terms of the establishment of this Financial Intelligence Unit, and whether a director has been appointed as yet and, if so, what is the time frame that you feel that this unit will come into effect and when the director will be appointed. Because the effect of this Anti-terrorism Bill, all the issues on this—suspicious transactions have to be reported to that Financial Intelligence Unit. So we could pass this Bill, and if that FIU is not established, although this Bill will be legal, there would be no FIU for you to report any financial transactions that are irregular or considered to be suspicious, or financial transactions against terrorism. Would the hon. Minister want to answer that now, or through the Minister of Finance?

Hon. Joseph: In the winding up I will answer it.

Dr. T. Gopeesingh: All right. So that is an important question we ask the Government about the Financial Intelligence Unit, because as the Minister had said:

“The Financial Intelligence Unit is a central national agency responsible for receiving and, as permitted, requesting, analyzing and disseminating to the competent authorities, disclosure of financial information.”

So that is the second issue.

The question of financial institutions reporting, under section 22C(1) of the legislation, the amended one that came from the Senate, it says:

“Reporting

requirements

Where a financial institution or listed business knows or has reasonable grounds to suspect that fund within the financial institution or listed business belong to an individual or legal entity who—

- (a) commits terrorist acts or participates...
- (b) is a person or entity designated as a terrorist entity...

the financial institution or listed business shall report the existence of such funds to the FIU.”

So you see how important this Act impacts upon the FIU.

Now, the first question on the financial institution is: Do financial institutions in this country have the capacity and the capability to detect what one may

Anti-Terrorism (Amdt.) Bill
[DR. GOPEESINGH]

Wednesday, January 20, 2010

consider abnormal financial transactions? It would seem as though they do not have because we have not been privileged from a national community to see any cases that have really impacted upon the Proceeds of Crime Act or financial transactions that will impact upon terrorism. It has been there.

The Anti-terrorism (Amdt.) Bill has been in existence since 2005 and now it is four or five years later and I am not too sure whether there has been application of this Act to the national community except in the airport situation. I know you will come with that. *[Interruption]* I was talking about the Proceeds of Crime Act linked to the financial institutions and the question of whether financial institutions have the capacity and the capability to detect if there are any abnormal transactions. *[Interruption]* You will respond to that. Because we have not seen evidence of that and we know the informal economy is so large in Trinidad and Tobago; the informal economy is larger than the formal economy in Trinidad and Tobago, so obviously there are financial transactions taking place which go undetected.

Is that a direct omission, a deliberate omission not to pick up those financial transactions? Or are the banks incapable of picking up those transactions? They have been going through the banking system for a long time. There is a certain regulation that if you deposit, I think, more than \$50,000 in cash—

Mr. Imbert: Sixty thousand.

Dr. T. Gopeesingh: Sixty thousand in cash, you have to fill out a form. But so many people fill out the forms, yet there are a lot of irregular transactions going on in this country because the informal economy is operating very willingly and easily, but the banks are not picking them up. So even though the financial institutions have the responsibility of advising the FIU about suspicious transactions, we are not sure that at the end of it, this Bill would have the desired effect that it is supposed to have.

I pose that question so that the Ministry of Finance, working with the Attorney General and the Minister of National Security, working with the financial institutions and the Central Bank, possibly, which is another financial institution, can ensure that these irregular financial transactions are detected very early.

Now the other issue to that is, under section 22C(2)(ii) states:

“Every financial institution or listed business shall—

- (a) pay special attention to and report all—
 - (ii) complex, unusual, or large transactions, whether completed or not, unusual patterns of transactions and significant but periodic transactions which have no apparent economic or visible lawful purpose,”

Mr. Imbert: Where are you reading from?

Dr. T. Gopeesingh: This is page 16 of the amended Bill that came from the Senate, section 22C(2)(a)(ii) at the bottom of the page.

So what is considered a complex, unusual or large transaction? It is very vague and amorphous. So to put that in a piece of legislation really does not give the real meaning and purpose of what is intended, because it is cloudy and what a Member, let us say, the Member for Diego Martin North/East in his normal life may consider complex or unusual, that may not be so with me.

So I think it is important for the Minister of Finance or the Minister piloting the Bill, the hon. Minister of National Security, to explain, to some extent, what is meant by "complex, unusual or large transactions". That is, as I said, a little amorphous at this time.

The same section 22C(4) on the question of confidentiality, it states:

“Subject to section 22D, where a financial institution or listed business makes a suspicious transaction or suspicious activity report to the FIU under this section, the Director or staff of the FIU or of such financial institution or listed business shall not disclose the fact or content of such report to any person.”

We have seen that there has been deliberate leaking of confidential information and little or no prosecutorial aspect had been implemented or had been untaken where there had been leaks of confidential information. So that is another important aspect that we want to bring to the attention of the Government, that the whole question of confidentiality is very important.

Under section 22C(7) it states:

“When the report referred to in this section is made in good faith, the financial institution or listed business and their employees, staff, directors, owners or other representatives as authorized by law, are exempt from criminal, civil or administrative liability...”

Could the hon. Minister who piloted the Bill, the Minister of National Security, indicate to us who from these financial institutions are responsible for the reporting? Is it the CEO? Is it a normal staff?

Mrs. Nunez-Tesheira: Look at the regulations. It sets out who it is; the compliance officer. If you look at the regulations, it sets out who is responsible and what—

Dr. T. Gopeesingh: That is the Bill to come?

Mrs. Nunez-Tesheira: No, the regulations under which the report has to be made.

Dr. T. Gopeesingh: All right, a compliance officer. Do you want to explain?

Mrs. Nunez-Tesheira: Mr. Speaker, what it says here, actually, if I could defer, to give some clarity, when you look at the Financial Obligations Regulations under which—

Dr. T. Gopeesingh: That is to come.

Mrs. Nunez-Tesheira: Right—which are made under the Proceeds of Crime Act and which all the financial institutions and listed businesses are required to make their reports, there are regulations governing it. It says that the compliance officer—it should be a manager or official employed at managerial level as the compliance officer of that institution and where the financial institution or listed business employs five persons or less, the employee who occupies the most senior position shall be the compliance officer. It sets out all the functions of the compliance officer. It sets out the training requirements of the staff; the compliance programme; how they are to do the internal reporting and how they are to file their report to the FIU. So it is very detailed.

5.45 p.m.

Dr. T. Gopeesingh: We appreciate the explanation given and thanks for the elucidation on the question.

There are two other small areas. One is the question of the FIU forwarding the information to the Commissioner of Police in section 22D. I think, in the Financial Intelligence Unit Bill and the list of amendments which have been passed, there were some amendments which indicated what a law enforcement authority is. This means the Commissioner of Police or any law enforcement body prescribed by the Minister with responsibility for national security under subsection (2).

Mrs. Nunez-Tesheira: They removed that and it is now the Commissioner of Police. That is the amendment they made in the Senate.

Hon. Joseph: We indicated that wherever reference is made to the law enforcement authority, it has been removed and the Commissioner of Police is placed. In the other place, they said you cannot anticipate legislation. The Member for Pointe-a-Pierre, in making her contribution, also alluded to that. The intention at the end of the day is that it will be SAUTT. Since that legislation has not yet been brought, it was recommended, and we agreed with it, to remove any reference to other law enforcement agency and, in the circumstances, it is the Commissioner of Police.

Dr. T. Gopeesingh: We also accept and appreciate that clarification. The question is whether the Commissioner of Police and his officers have the capacity to deal with it. I will come to that. I will give two examples.

I have letters from the Director of Public Prosecutions, Mr. Geoffrey Henderson, and now Mr. Roger Gaspard, on matters that have been sent to the Commissioner of Police since 2007 pertaining to corruption by public officials and so on. For three years now, the Member for Caroni East has written to the Attorney General in some matters. The Director of Public Prosecutions, the Commissioner of Police and the DPP cannot undertake any prosecution unless the police investigate it. The Commissioner of Police has matters before him since 2007 and 2009 and so far he has failed to investigate any of these matters.

Hon. Jeremie SC: How do you know that the Commissioner of Police has not investigated a matter? He does not make it public knowledge that he is investigating a matter. Did he have a conversation with you when he whispered in your ear that he was not doing it?

Dr. T. Gopeesingh: I wrote letters to the Commissioner of Police on two occasions asking him the state of the investigations into these matters that I had reported to him since 2007—a number of corruption matters by public officials.

Hon. Jeremie SC: I wrote you back.

Dr. T. Gopeesingh: Yes, you had written me back. The Director of Public Prosecutions wrote me back and one of the letters said:

“I am aware of the ongoing investigation relative to the above-mentioned health sector as these investigations are being pursued by the police.”

This letter was written to me on July 31, 2008, by Geoffrey Henderson.

“I must ascertain from them an update in this matter. I have requested this by way of correspondence of even date. As soon as I receive an update, I shall revert to you.”

This is a letter written to me on July 31, 2008 in a matter about which I wrote to him in 2007. So the Director of Public Prosecutions cannot do anything unless the Commissioner of Police investigates the matter. We want to send all these matters of financial irregularities and suspicious financial transactions to the FIU, who will report it to the Commissioner of Police; but I am not sure whether we will get the desired outcome for any of these matters.

First, the banks do not have the capability to detect it and far more send to the FIU, which has not been formed as yet and the director appointed. I do not see the application of the Bill having success for a long time.

Anti-Terrorism (Amdt.) Bill
[DR. GOPEESINGH]

Wednesday, January 20, 2010

These are the points I wanted to raise and thank you very much, colleagues, for listening.

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you very much, Mr. Speaker. Let me, first of all, start by thanking all Members who participated in this debate. In some instances, the comments made, especially by the Member for Tabaquite, were adequately responded to by the hon. Attorney General and by the Member for Pointe-a-Pierre and Minister of Science, Technology and Tertiary Education. The comments made by the Member for Princes Town were also adequately responded to by the Member for Pointe-a-Pierre.

I would say a couple things on the contribution just made by the Member for Caroni East. He asked questions related to the institution's capacity to do a number of things. He is missing the point. You will recall that, as a result of the mutual evaluations conducted on Trinidad and Tobago with respect to the 40 + 9, we were non-compliant in a number of areas.

In the past, we were relying on moral suasion to have certain things done and we were required to put legislation, and this is the reason why this is the last of the four pieces of legislation necessary to make sure that we are compliant. The points were okay, but they need to be received within a context.

The Member also made the point as to our readiness. You will recall, in my piloting, I indicated that a serious public education programme must and is taking place and it is all part of the ability of the State to ensure that all arms of the State adhere to these requirements. It is a whole new area that we are going into.

We said earlier that it is necessary. If we are talking about being the financial capital of the Caribbean—and we are an international player whether we like it or not; and coming from hosting these two major summits last year, our stature internationally has increased. We have been saying over and over that we expect a huge amount of investments coming to Trinidad and Tobago and we must make sure that the legislation is in place. The last piece of the legislative part is before us today and I anticipate that we will pass it and will now be compliant.

The Member raised a very important question about the FIU and had indicated that—we just passed the Financial Intelligence Unit Bill—we now have to appoint a director. There is a mechanism we are putting in place to make sure that the director meets all the requirements. We anticipate that in about two months' time, at the very latest, there would be the appointment of the director and the deputy director and the establishment of the unit.

Only last week Cabinet approved a proposal that came from the Minister of Finance as it relates to consultants and the whole establishment of the unit. We anticipate that in about two months, at the latest, we would have all those things in place.

I thank all persons who participated in the debate and, with those few words, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 20 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to, That the Bill be reported to the House.

House resumed.

Bill reported, without amendment.

Question put, That the Bill be now read the third time.

The House divided: Ayes 26

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Parsanlal, Hon. N.

Beckles, Miss P.

Mc Donald, Hon. M.

Hunt, Hon. G.

Le Gendre, Hon. E.

Browne, Hon. Dr. A.

Callender, Hon. S.

Cox, Hon. D.

Jeffrey, Hon. F.

Hospedales, Miss A.

Joseph, R.

Hypolite, N.

Regrello, J.

Rowley, Dr. K.

Roberts, A.

Sinanan Ojah-Maharaj, Mrs. I.

The following Members abstained: Dr. R. Moonilal, Dr. T. Gopeesingh, Mr. S. Panday, Mr. C. Sharma.

Question agreed to.

Bill accordingly read the third time and passed.

6.00 p.m.

CIVIL AVIATION (AMDT.) BILL

Order for second reading read.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move,

That a Bill to amend the Civil Aviation Act, Chap. 49:03, be now read a second time.

This is a truly a simple Bill and it essentially involves two important clauses. It was the intention of the Government to debate this Bill on Friday—

Hon. Member: "Ol' talk" now.

Hon. C. Imbert: It is a fact—but out of consideration for the very heavy schedule for Members opposite and the fact that Friday would be a very intense day for the Members opposite, as the Member for Couva North seeks to retain his position as political leader of the UNC and the Member for Siparia seeks to remove him from that position out of deference and consideration, out of deference to the Members opposite—

Hon. Member: Tabaquite out already.

Hon. C. Imbert: Forget the Member for Tabaquite. He is not even in the running. [*Laughter*—the Government has agreed to facilitate the Opposition by having the debate on this Bill today rather than Friday, but on one condition: that the Panday slate is victorious. So we shall see.

Dr. Moonilal: We just lost, that curse—[*Inaudible and laughter*]

Hon. C. Imbert: The Bill in fact is a one-page Bill. Clause 1 is the short title:

“This Act may be cited as the Civil Aviation (Amendment) Act, 2010.”

The second clause is an interpretation clause in this Act.

“‘The Act’ means the Civil Aviation Act.”

The third clause which is the first important clause of the Bill seeks to insert the words "radio licence fees," after the words "corporation tax," in section 71 of the Act.

The fourth clause seeks to give the Minister the "Power to amend Schedules" by Order. The fifth clause makes an amendment to the First Schedule.

Now, if one goes to the parent Act which is the Civil Aviation Act, Chap. 49:03; Act No. 11 of 2001 as amended by Act No. 17 of 2003. The Civil Aviation Authority was operationalized by this Government in 2003 and it was a truly innovative act of transformation of the public service. Prior to the operationalization of the Civil Aviation Authority legislation there was a division of the ministry called the Civil Aviation Division, which was a typical mainstream division and part of the public service.

Because of developments in civil aviation all over the world it was considered necessary and in fact it almost became a condition that the Civil Aviation Division be converted into a Civil Aviation Authority, and it was a requirement, certainly for us to regain category 1 status for our airport at Piarco, and certainly again for us to keep pace with the developments in civil aviation, that the Civil Aviation Division be converted into an Authority. This was finalized with Act No. 17 of 2003.

Civil Aviation (Amdt.) Bill
[HON. C. IMBERT]

Wednesday, January 20, 2010

Now with all such initiatives after the effluxion of time it becomes apparent that some tweaking of the legislation is required. As the legislation begins to operate it becomes apparent that you have to do some refinement and some fine-tuning, and that is what we are about today.

I will now explain why we are amending section 71 to include the words "radio licence fees," after the words "corporation tax,".

Section 71 of the Act currently reads as follows:

“The Authority is hereby exempt from all taxes including value added tax and corporation tax, levies including the Green Fund Levy and customs and excise duties.”

When the authority was established therefore the intention was they would be exempt from all taxes, duties and charges of any kind. However, what was left out of the legislation at the time was radio licence fees. At the time it was not significant but it has become significant.

I have been advised by the Civil Aviation Authority that the amount of radio licence charges that the authority is now required to pay could be as much as \$3 million per year. I will explain how important radio licences are to the authority and why the authority has to rely upon radio transmission. Now the Trinidad and Tobago Civil Aviation Authority is responsible for providing air navigation services in an area of some 750,000 square miles that stretches halfway across the Atlantic Ocean and as high as Antigua, and is known as the Piarco Flight Information Region.

So the Trinidad and Tobago Civil Aviation Authority is responsible for air navigation in this very large area. As I said going east, halfway across the Atlantic going towards the continent of Africa and going north, as far north almost as Antigua, so it is a huge area, 750,000 square miles. In order to manage air navigation in this area the authority in the past operated a wide range of navigation and telecommunications equipment, necessary for the safe separation of aircraft flying through this region.

Now, we are talking about overflight. We are talking about aircraft that would pass through the Piarco flight information region en route to another destination, and what you want to be very careful about is that there are no midair collisions. So you want to manage the aircraft at different heights and in different directions to ensure air safety. The equipment such as the instrument landing system for Piarco and Crown Point Airports operate using radio waves and the authority also has satellite links with all of the countries in South America that operate air navigation services for the transmission of data such as flight plans and radar information.

A flight plan is exactly what the English meaning tells you. A pilot will file a plan with an airport when he departs and when he lands, and that flight plan would indicate the intended destination, the altitude they would be flying at, the direction they would be flying in, the duration of the flight and so on. This information is communicated to Piarco using satellite links among other forms of communication.

The authority also receives radar data at Piarco from Guadeloupe and Martinique. The authority is in the process at this time of installing additional satellite links to enhance the reliability of its radar surveillance and its air to ground communication with aircraft, and in so doing, it would be able to reduce its sole dependence on landlines which when broken literally shut down aviation.

If I might digress, the Director General of Civil Aviation, Mr. Lutchmedial just informed me that—we all know that he was in Haiti and he informed me that one of the things that he realized that Trinidad and Tobago requires during a natural disaster such as an earthquake is satellite telephones. Those of you may have seen the use of satellite telephones in movies; they were quite prevalent in movies where these telephones which operate by satellite links can be operated independently of the telecommunication systems within countries. So I am just digressing and certainly this is something that Trinidad and Tobago will need to get; the capability to use satellite telephones.

I am told that during the recent earthquake at Haiti this is how Haiti was able to communicate with the outside world by using satellite telephones. *[Interruption]* Cell, someone had. Remember there are large contingents of international agencies, the United Nations there and so on. So there were some people, not the Government per se, but there were some international agencies in Haiti that had satellite telephones and this is how they were able to get the information out, because all of the land telecommunication systems and cellular services in Haiti were down.

As I have said before with the enactment of the Telecommunications Act of 2001—*[Interruption]* I am nearly finished, do not worry—the authority is now required to pay radio licence fees for all the telecommunications and navigation equipment that it now operates. The fees are based on band width and the satellite links use a wide band. So just by virtue of the nature of their operation, because they use satellite links and because the satellite links use a very wide band, the fees that they have to pay for the use of radio communication based on band width are very high. As I said, they have told me it could be as much as \$3 million per year.

Civil aviation has an international nature and the International Civil Aviation organization has asked all countries to exempt air navigation services from duties

Civil Aviation (Amdt.) Bill
[HON. C. IMBERT]

Wednesday, January 20, 2010

all taxes and radio licence fees, and that was the spirit and intent of section 71. It exempted the authority from value added tax, corporation tax, Green Fund Levy, custom and excise duties and so on, but it left out this radio licence charge.

It is international best practice to exempt Civil Aviation Authorities from these fees and charges, and there is a very simple reason for it. The fees that are charged to the airlines for these air navigation services by authorities are based on the principle of cost recovery, because all of these airlines that overfly the Piarco flight information region are charged a fee for the air navigation services provided by the Civil Aviation Authority and the internationally accepted principle is that the fee should be based on cost recovery.

6.15 p.m.

So, if within the cost borne by the authority is a radio licence fee, they have to pass this on to the airlines, and the airlines of course will pass it on to air travellers. So it becomes a burden that is passed from the Telecommunications Authority to the Civil Aviation Authority, then to the airlines and back to the air traveller. So it really does not make much sense. It was always the intention that the authority will be exempt from all taxes and fees of this nature, so that they would not have to pass on these charges to the airlines and back to air travellers. So, all we are simply doing is tidying up a lacuna in the original legislation.

With respect to the amendment to the Schedules, those of you who have been in this House for some time would have observed that every six months we bring regulations to the Parliament, to amend the Civil Aviation Regulations, and that is because of the fast changing nature of the industry. Every six months the International Civil Aviation Organization amends regulations, primarily aimed at air safety, and as a result, you will see every six months or so, a new set of regulations laid in this Parliament and they are subject to negative resolution. They are not debated. I never had a situation where I can recall at any time these things were debated. It was felt that the same principle should apply to the Schedules, and this is why we are now asking the House to agree that the Minister may by order, amend the Schedules. And in the interest of complete transparency, when you look at clause 5, we are seeking immediately to amend clause 2(2) of the First Schedule. Clause 2(2) of the First Schedule reads as follows:

“No member of the Board, other than the Director General, shall hold office for more than two consecutive terms.”

Now that sounds nice and it might work in the United States where they put term limits on Presidents, but in a small country like Trinidad and Tobago, when you

limit the term of office of a member of the board of Civil Aviation Authority to two terms, it means you are denying yourself of these resources which will now be no longer available to you, and it simply does not make any sense. It does not make any sense in a specialist area, as the hon. Member for Arima has just pointed out to me. In an area where there is no such expertise in terms of civil aviation to deny yourself of the resources available in Trinidad and Tobago, and by limiting the term of office of board members to two terms, it is really not practical.

So we are taking that out, and consistent with the requirement to make constant amendment to this legislation in order to maintain our Category 1 status, and to keep a pace with developments in the rest of the aviation world, the Act seeks to give the Minister the authority from now on to amend the Schedules, and of course, consistent with the Westminster form of cabinet government, the Minister of course would have to get the approval of Cabinet in order to amend the Schedules. That is basically it. As I said, it is just a cleaning up, and having looked at the way the law has operated over the last six years or so, we thought that it was necessary to come to this Parliament to make these very simple amendments to the Civil Aviation Act.

I now beg to move. [*Desk thumping*]

Question proposed.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Mr. Speaker. I promise to be equally brief as the Minister was. I do not know why the Minister chose to spring this debate on us, but—

Mr. Imbert: "Ah! Doh try dat."

Dr. R. Moonilal: Whatever the reason, we are prepared to debate this matter. Mr. Speaker, as you can see, it is lonely at the top. [*Laughter*] As you know, those colleagues of mine are very busy as we intensify the democratic process in the country and in the party to which we are so proud to belong. We are now contributing a new culture of democracy to this country and Members opposite are already indicating that they are attracted to this idea, so that no longer would their leader be selected by some private delegate cabal that is regularly abused at Chaguaramas Convention Centre. But anyway, let me get to this matter very quickly.

Mr. Speaker, let me say categorically that the Opposition rejects this amendment. Vehemently! Strenuously! Forcefully!

Mr. Imbert: Why?

Dr. R. Moonilal: Mr. Speaker, the Minister advised us as to the reason that they will be seeking to place the radio fees under the category of those fees that are exempted. One has to go by what the Minister has said, that this is a global practice and it has to do with cost recovery and the principle of cost recovery. But implicit in that, if we are to understand the issue, is it that the Civil Aviation Authority, and by extension, the taxpayers of Trinidad and Tobago are subsidizing the global airline industry by the taxpayer footing the bill for the radio fees that will not be passed on to airline users in the Piarco space? I got the impression that the Minister was saying that when we charge the civil aviation, \$3 million for example, the Civil Aviation Authority has to pass this on to the airlines or the users of their navigation services. So that by extension, we are subsidizing the users of navigation services outside of Trinidad and Tobago.

However, be that as it may, the Minister said that this is the international practice and if that is so, we would have to go with that. The point I take objection to, and it has a bearing on other matters before the national community, and relevance to the governance that we see before us at this time in our history. This is a country where the present Government is straining to make appointments to certain bodies and state enterprises. The Prime Minister is on record indicating that one of the challenges his Government faces, is the inability to attract persons to serve in high office of the State, in part, because of certain obligations that are required by law, particularly, but not only with the Integrity Commission legislation—[*Interruption*]

Mr. Manning: Accurate.

Dr. R. Moonilal: I am giving an accurate account. While my account is accurate, my argument, I hope will be equally accurate and clear. The fact that this Government is unable to find persons who are willing to serve, should not determine that we change the law to facilitate that because I am arguing that there are people who are willing to serve. They may not be people who the Prime Minister or his Government may want, but they are people willing to serve, as there are people who are willing to serve on the Integrity Commission, but the Prime Minister in his wisdom may not be approving of such persons of integrity. Likewise, I am sure you can get persons to serve on the Civil Aviation Authority. The Government is seeking to amend this law at this hour without notice [*Interruption*] but we are prepared to deal with the matter. The Government indicated the circumstances, but is seeking to amend the law so that persons—

Mrs. Tesheira-Nunez: Let us come back on Friday.

Dr. R. Moonilal: I may have an amendment. We may have to consider it. Mr. Speaker, the Government is seeking to amend the law. The long and short is that once somebody is appointed to the Civil Aviation Authority, that person could presumably spend the rest of his or her life there. It would save the Government the trouble of seeking to attract new skill and new persons who may not want to subscribe to the stringent Integrity Commission regulations.

Mr. Speaker, we on this side of the House take objection to this, because when this matter came to the Parliament, the Civil Aviation Authority, and this House collectively passed this legislation, it was on the understanding that persons appointed to the board, according to the law, would be appointed to hold office for no more than two consecutive terms. Now, the Government is trying in a blanket manner to change this. Why could the Government not propose the chairman should be allowed to hold office for two consecutive terms or more, or in the case of a vice chairman or some personnel that is required for continuity? Of course, persons will be exposed to the international system.

This is a very sophisticated area and you may not want to part with their skill. You may not want to part with the expertise they would have brought to the position. I am not sure that we are in a position to agree that the entire board should be allowed to remain forever, because there may be issues—This is an area with enormous concentration, technology, science, engineering and so on, where there may be new people who are willing and able to serve, and you put in place a situation where you create almost a lodge at the Civil Aviation Authority, where persons remain there forever. Could the Government tell us it is unable to attract the highest level to the public service? The Government is unable to attract qualified, competent and educated persons. Is that the crisis that the Government faces today? This is suggesting to us on this side that the Government cannot attract the brain power to serve this country. That is one of the problems we face in all spheres. We have the square peg in the round hole, and the round peg in the square hole. That is the crisis. Those of us on this side would not be able to support this Bill in its present form. An amendment may be debatable.

Secondly, I want to clarify this with the Government before I take my seat. The amendment at clause 4, to insert section 72, would allow for the Minister by order to amend the Schedules, but presumably, these orders will still be laid in the House.

Mr. Imbert: [*Inaudible*]

Dr. R. Moonilal: This is what I am asking and this is what I would like. The Minister made the point that over the years, which is a fact, every month or so,

Civil Aviation (Amdt.) Bill
[DR. MOONILAL]

Wednesday, January 20, 2010

you see these thick documents coming with regulations, much scientific information, not all health and safety, that are used. I cannot remember anytime that was ever debated. Amendments to the Act would be debated, but I cannot remember the regulations. But, it is still important, notwithstanding it is a critical area. Civil aviation is a critical area, in several perspectives, including the perspective from which we are discussing international crime and terrorism. Members of Parliament as a whole, have an opportunity, if need be, to debate any changes to regulations that the Minister may make. It will make for efficiency, for the Minister, by order, to amend the Schedules.

6.30 p.m.

I think as a watch, as an oversight, the Parliament should still have access to these changes that the Minister is making, so that someone could file a private motion, for example, on changes that the Minister has made, so we could debate it and recommend to the Government whether we support it or not. I am not sure if by order these would be first laid in the House and whether or not any of these pieces of legislation could be debated; at least, not in the process that the Government is now departing from. Those are the few concerns I have at this time.

I would also like to put on record that those of us on this side, and I am sure all Members of the House, are extremely grateful for the return of the head of the Civil Aviation Authority to the shores of Trinidad and Tobago. Our prayers and great concern are with the people of Haiti at this very difficult time. On another occasion I am sure we would debate the nature of assistance that we give to Haiti and whether or not we are in a position to do more, but certainly not less. We are grateful for his return; we would like to put that on record.

Mr. Speaker, with those few words, I thank you.

The Prime Minister (Hon. Patrick Manning): Mr. Speaker, there was an agreement between the Chief Whip and the Leader of Government Business that only both of them would speak in this debate. I am seeking the indulgence of my very distinguished friends opposite to make a very brief intervention in this debate. I hope that the very distinguished Member for Oropouche East would be kind enough to oblige. Do you?

Dr. Moonilal: Please.

Hon. P. Manning: Mr. Speaker, a board of directors of an authority and a state enterprise, the difference between the two is that one is established by statute, the other is established by memorandum and articles of association. Both of them carry out the same functions essentially and they are instruments by which the Government executes its policy positions.

It follows, therefore, that in selecting the members for a board of directors, whether it is an authority or a state enterprise, the Government has to concern itself with selecting persons who share its views in respect of policy. So whereas hon. Members opposite would say that you have a large reservoir of people from which to choose, when you are thinking in terms of an authority or when you are thinking in terms of the board of directors of a state enterprise, the reservoir becomes narrower to the extent that a restriction has to be placed on the views of the individuals. The Government is therefore seeking individuals who share its view in respect of the policy positions that the particular enterprise is likely to carry out.

I do not know if my honourable friend opposite considered this, but if a government makes the error of putting on a board of directors of a company or an authority persons whose views are different from the views of the Government of the day, then the government is likely to run into serious problems in getting its policy positions implemented.

Essentially, a government is elected by the people and when the people elect a government they are, in fact, saying, "You have brought policies to which we subscribe." There are certain other elements of policy that we may wish to carry out, and we may want some level of consultation and we have public consultations on some elements of policy, but, by and large, the population has said to the government, "We subscribe to your policy positions and we authorize you to implement them." Therefore, in selecting a board of directors, that is the constraint, in the first instance.

Secondly, there are those who say that you should restrict the term for which members should serve on a particular board. In the current legislation, in respect of the Civil Aviation Authority, there is a term restriction. I am not so sure when that was implemented in the law and which government was in office at the time. What I do know is that if we agree that there should be a restriction on the term of office of members of the Civil Aviation Authority, then we have no argument whatsoever against extending that principle to every other authority in the country, every other state enterprise and, eventually, to those who hold the highest position in the land, including the Prime Minister and/or the President.

So you see, whereas we are dealing with civil aviation and we are talking about the removal of a term limit on the Civil Aviation Authority, we are, in fact, considering a question that is much larger than that. If, therefore, we conceive that position in respect of the Civil Aviation Authority, then we have no argument whatsoever in not conceiving that position in respect of the other areas of national development. Mr. Speaker, countries of our size and at our stage of development,

Civil Aviation (Amdt.) Bill
[DR. MOONILAL]

Wednesday, January 20, 2010

do not possess the range of resources, and in the quantity that are required, to be able to take positions like those, which are luxuries that can only be visited on some developed countries.

I want to tell you something that happened to me recently; it was most interesting, because, you see, we argue things in a certain way. In theory, some of these things sound all right, but in practice they do not.

I was talking to a leading Member of the Conservative party in the United Kingdom not too long ago. I was telling him that I had a discussion with a Congressman in the United States in the context of Constitution reform. The Congressman said, "I have been a Member of the US Congress for upwards of 50 years and the most difficult period I have experienced was when the President of the country was from a political party different from the party controlled by the Congress." He said that the period was so difficult that some of them had begun to review the system of government under which the United States operated and had begun to see elements of attraction in the Westminster system. That was his argument. He went on to say to me, "As you pursue constitutional reform in Trinidad and Tobago, the one thing you ought to avoid is a situation in which the head of government could be different from the party that controls the Parliament."

I said this to a leading British leader, and do you know what he said to me? He said, "I agree with that with one reservation." What was the reservation? The reservation was this: "The arrangement in the United States where you can select members of the Cabinet from outside of the Parliament is an arrangement that is very attractive."

He went on to say that some years ago the Conservative Party won an election in the United Kingdom with 166 seats. The British Parliament has about 600 persons. He said that it turned out that some of their key people who they wanted to form the government did not win the election and so they were called upon to select a government from among the 166 persons who won. They were finding difficulty in putting together a government that satisfied their own requirements and their own aspirations. Therefore, he said that the modifications which he believes ought to be made to the Westminster system, is where ministers could be selected from outside of the Parliament.

Mr. Speaker, that comes from a political leader from a country of 640 million people, with a Parliament of 600 persons approximately and with a political party which had, at that time, 166 seats in the House and yet they ran into the problem of finding the expertise required to put and appropriate government together.

If that could happen in a country of that size, then understand it is a major consideration in a country of this size. It is for those reasons that we believe the time has come to change the legislation before us in respect of term limits and that we should remove the limits on the appointments of members of the Civil Aviation Authority.

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, with that incisive intervention from the Prime Minister, I really do not have much to add, except to say, following on that argument, that the party of—only three of you all left? My goodness. The party of the absent hon. Members opposite has demonstrated that it does not subscribe to the principle that unsuccessful candidates at general elections should not hold ministerial office.

The PNM fortunately still has available to it a substantial pool of talent. Therefore, while it is a principle and convention of the PNM that if one contests a general election and one is unsuccessful—at this time it is a principle of the PNM—you are not eligible for ministerial office, the UNC has demonstrated, because of the paucity of talent available to it and because of the very small numbers of persons in that party who are available, that it cannot subscribe to that principle.

So following on the point made by the Prime Minister, Trinidad and Tobago is just too small for us to have those esoteric principles within our legislation.

If you look on the academic and esoteric, idealistic, but impractical, and if you look at all the legislation on the books and at all the statutory authorities, I dare say, the only one that has a term limit on board members is the Civil Aviation Authority. I, too, like the Prime Minister, am not absolutely certain when that was done, but I rather suspect it was done in 2001 by the UNC. No blame should be cast, because it was very technical legislation and I am certain it was copied, certainly in part, from model legislation from other countries. I am certain.

In 2001, for those of you who were not here, there was a mad rush to pass legislation. I mean, every Friday we came to this Parliament, three, four, five, six, pieces of legislation were being rushed through. If you look at 2001, it was a very interesting year; that was when the Member for Tabaquite was still the Attorney General; that was before he was dismissed as Attorney General towards the end of 2001. It is important that people know.

In 2001, before the Member for Tabaquite was dismissed, he was in a mad rush to pass legislation. [*Crosstalk*] I am not opening anything; I am winding up. [*Laughter*] I have no doubt that because of that initiative, this clause came into the legislation. It simply does not make any sense to limit the pool of persons

Civil Aviation (Amdt.) Bill
[HON. C. IMBERT]

Wednesday, January 20, 2010

available to the Government to serve as members of the civil aviation board and, in particular, a board so specialized.

The Member for Oropouche East made the point that it was a very technical and specialized area. It simply does not make good common sense to limit oneself to a very small pool of persons by excluding persons through term limits.

6.45 p.m.

With respect to the other point made by the Member for Oropouche East that we are subsidizing airline operators outside of Trinidad, I cannot understand the point. Firstly, it is an international convention that you exempt civil aviation organizations and authorities from taxes and duties because of the principle of cost recovery and it is well known in the industry that whatever you charge a civil aviation authority, they would pass it on to the airlines. The airlines being for-profit organizations, they are not NGOs, they are not, not-for-profit, they are not charities, so that once the Civil Aviation Authority passes on this charge, the airline would recover it from the travelling public.

There is an international desire and wish to make air transportation as cost effective and as affordable. Therefore, I could not understand this point about subsidizing airline operators outside of Trinidad. It did not make any sense.

Finally, let me correct the mischief uttered by the hon. Member for Oropouche East. I am scandalized. I had informed the hon. Member for Oropouche East that the Government intended to come back on Friday to debate this legislation. I had informed them of this. And to a man, every one of them asked me, begged, pleaded and said, "Please can we do the civil aviation legislation today, because we have to campaign on Friday because Sunday is D-Day?" In particular it was the Members of the Panday slate.

Mr. Manning: "Who eh dead badly wounded."

Hon. C. Imbert: That includes the hon. Member for Oropouche East who begged me to debate this Civil Aviation (Amdt.) Bill.

Dr. Moonilal: You sprung it on me.

Hon. C. Imbert: I sprung it on you. This is political deception at its worst. It should be obvious that it was not the Government's intention to debate this legislation today. In fact, when the Opposition sprung it on me that they wanted Friday off to go and ensure that the hon. Member for Siparia loses. Yes, to put their machinery in place. The Member for Couva South went off to deal with the

voters' list. The Member for Couva North took off to go to campaign. The Member for Chaguanas West went off to deal with the Member for Couva North.

When the hon. Members sprung it on me that they wanted to do this today, I had to call for the Director General of Civil Aviation, Mr. Lutchmedial and ask him to come to Parliament to brief me on the purpose and intent of this legislation. We all saw Mr. Lutchmedial come here. It was never my intention and I think that it was the height of political deceit for the Opposition having begged us and pleaded with us to allow them to give them time to engage in this battle of the Gorgons, this titanic struggle that is taking place for the soul of the UNC, to come and pretend that we have sprung this legislation on them.

They are burning up goodwill. All I will tell hon. Members opposite is do not try that again. Next time you beg us to facilitate your internal—the Attorney General is telling me that you are being so irresponsible that we might consider doing the Criminal Procedure (Amdt.) Bill, now. We will ease you up.

With these few words, 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 House.

House in committee.

Clauses 1 to 5 ordered to stand part of the Bill.

Question put and agreed to, That the Bill be reported to the House.

House resumed.

Hon. C. Imbert: Mr. Speaker, I beg to move that this House do now adjourn. Oh, I am so sorry. I am so sorry, I apologize profusely.

Mr. Manning: Bill be reported to the House.

Hon. C. Imbert: I do not know what came over me, Mr. Speaker. I was thinking about the excitement on the other side.

Bill reported, without amendment, read the third time and passed.

Mr. Speaker: Now I will hear you Leader of Government Business.

Hon. C. Imbert: I am truly grateful, Mr. Speaker.

Adjournment

Wednesday, January 20, 2010

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to Friday January 29, 2010 at 1.30 p.m. [*Interruption*] That would be Private Members' Day. [*Interruption*]

Mr. Speaker: You can have your day.

Hon. C. Imbert: Look at that. We wanted to give them Private Members' Day. On that day we will do Bill No 7, an Act to amend the Prisons Act, Chap. 13:01 and the other Bills on the Order Paper if time permits.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.53 p.m.