

SENATE

Monday, June 24, 2019

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**PAPER LAID**

Annual Audited Financial Statements of InvesTT Limited for the financial year ended September 30, 2018. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]

URGENT QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I crave your indulgence to stand down the three urgent questions. Minister Young is expected shortly. I am asking that it to be stood down for later on in the proceedings.

Madam President: Hon. Members, I will stand down this part of the Order Paper for later on in the proceedings.

ORAL ANSWERS TO QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, there are eight questions on notice. The Government is responding to six of those questions. I am asking for a deferral of No. 183 and No. 283, both of which are directed to the Minister of National Security, and, Madam President, I am also asking that No. 184 be stood down until the arrival of the Minister of National Security. Thank you.

The following questions stood on the Order Paper:

Recruitment of Police Officers on Contract

(Government's Position on)

UNREVISED

- 183.** Given the statement made by the Commissioner of Police indicating an intention to recruit Police Officers on contract, can the hon. Minister of National Security advise as to the Government's position on this matter?
[*Sen. W. Mark*]

Venezuelan Criminals

(Involvement in Financial Crimes at ATMs)

- 283.** Can the hon. Minister of National Security advise as to whether Venezuelan criminals were involved in financial crimes at the ATMs of a local financial institution in the months of May and/or June, 2019? [*Sen. P. Richards*]

Questions, by leave, deferred.

Sen. Mark: Madam President.

Madam President: Just one second, questions Nos. 183 and 283 are deferred for 14 days Minister?

Sen. The Hon. C. Rambharat: Yes please, Madam President.

Madam President: Are deferred for 14 days. Sen. Mark.

Sen. Mark: Madam, question 184 is deferred until a little later in the proceedings?

Madam President: Yes.

Sen. Mark: Then shall I go to?

Madam President: 185.

Sen. Mark: 185

Madam President: Yes.

Sen. Mark: Thank you, Madam President.

Private Medical Institution

(Overdose of Radiation)

- 185. Sen. Wade Mark** asked the hon. Minister of Health:

In light of reports that a patient at a private medical institution in San Fernando received an overdose of radiation during a routine CT scan, can the Minister indicate:

- i. whether this matter has been brought to the attention of the Minister;
- ii. if the answer to (i) is in the affirmative, has an investigation been launched; and
- iii. what remedies exist to protect patients in similar circumstances?

Madam President: Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam President. Answer, part A, a report on this matter was brought to the attention of the Minister of Health.

Part B, an investigation was launched by the office of the Chief Medical Officer on July 10, 2018, almost a year ago. The final report consisted of reports from the private medical institution in San Fernando, as well as independent reviews from consultant radiologists, and an independent medical physicist.

And, part C, there are medical physicists employed both at the public and private health institutions to ensure that radiology equipment conforms to international standards for radiation safety. All concerns about excess radiation are investigated and if deemed necessary, referred to the International Atomic Energy Agency (IAEA), of which Trinidad and Tobago is a member, for any further investigation and expert recommendation and action. Thank you very much, Madam President.

Sen. Mark: Madam President, can I, through you, enquire from the hon. Minister, whether in this particular instance, there was any evidence of any excess radiation in this particular matter that engaged the Ministry of Health?

Hon. T. Deyalsingh: Thank you very much, Madam President. Madam President,

our investigations both from—included the independent evaluation, so that there was no evidence to substantiate the claims. Thank you very much.

Sen. Mark: Can the Minister therefore advise this honourable Senate that the claim that was splashed throughout many newspapers and voiced on many radio stations, can the Minister indicate whether the claim made by the persons involved were false?

Hon. T. Deyalsingh: Madam President, it is not for me as Minister of Health to adjudicate on whether claims are false or positive or whatever. I would simply say that the independent experts, radiologists and physicists, when we launched this investigation over a year ago, in their opinion they found no evidence to substantiate the claims. Thank you very much, Madam President.

Madam President: Next question, Sen. Haynes.

HDC/CGGC Agreement

(Details of)

285. Sen. Anita Haynes asked the hon. Minister of Housing and Urban Development:

With regard to the recent agreement between the Trinidad and Tobago Housing Development Corporation (HDC) and the China Gezhouba Group International Engineering Co. Ltd. (CGGC), can the Minister indicate:

- (i) the commencement date of the construction of 235 housing units at Lady Hailes Avenue, San Fernando;
- (ii) the commencement date of the construction of 204 housing units in Port of Spain; and
- (iii) the anticipated completion dates for the units mentioned in (i) and (ii) above?

Madam President: Minister of Housing and Urban Development.

The Minister of Housing and Urban Development (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Madam President, the commencement date for the construction of both Lady Hailes, San Fernando, and South Quay, Port of Spain, is dependent on contractors obtaining full statutory approvals prior to the commencement of construction. This is expected to occur in the year 2019. As soon as approvals are obtained construction will commence. The project is expected to take two years after the start of construction to complete, Madam President.

Madam President: Sen. Mark.

Sen. Mark: Can I ask through you, Madam President, to the distinguished Minister of Housing and Urban Development, can you provide this Senate with the list of statutory approvals required for this particular project to begin? Can you outline for us the various statutory approvals required?

Madam Speaker: Minister of Housing and Urban Development.

Hon. Maj. Gen. E. Dillon: Madam President, the standard statutory approvals T&TEC, WASA, sewer, designs, building. Those are statutory approvals that are required in most constructions. Those are the ones that are—and again that is just after the contractor signs, so they are in the process of being approved right now.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the Minister indicate what time frame can he advise this House it will take for these statutory approvals to be finalized so that construction can commence on these 235 housing units?

Madam President: Minister.

Hon. Maj. Gen. E. Dillon: Madam President, they are far advanced in the process right now. I cannot pinpoint the exact time.

Madam President: Next question, Sen. Haynes.

HDC/CGGC Agreement
(Distribution of Housing Units)

286. Sen. Anita Haynes asked the hon. Minister of Housing and Urban Development:

With regard to the recent agreement between the Trinidad and Tobago Housing Development Corporation (HDC) and the China Gezhouba Group International Engineering Co. Ltd. (CGGC), can the Minister indicate:

- (i) the prospective dates for the distribution of the housing units in San Fernando and Port of Spain; and
- (ii) the full and subsidised prices for each of the units referred to in (i) above?

Madam President: Minister of Housing and Urban Development.

The Minister of Housing and Urban Development (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam President. Madam President, the prospective dates for the distribution of the housing units in San Fernando and Port of Spain is immediately after the project is completed. The project duration is two years and the average construction cost per unit to the HDC is approximately TT \$1.15 million. The subsidised prices for sale or rental to members of the public have not yet been established, Madam President.

Madam President: Sen. Haynes.

Sen. Haynes: Can the Minister state when the application process would be open for the housing units?

Madam President: That question does not arise, Sen. Haynes. Next question.

Sen. Mark: Madam President.

Madam President: Yes.

Sen. Mark: Can the Minister indicate what system would be employed for the

distribution of these homes to citizens of the Republic when they are constructed? There must be a mechanism or system in place. Can he share with us what mechanism or system?

Madam President: Minister.

Hon. Maj. Gen. E. Dillon: Madam President, HDC distributes houses based on a random selection process based on assessment of persons who qualify for certain amounts based on the cost of the unit, and based on the requirement of the individual as to the location that they requested.

Madam President: Next question, Sen. Deonarine.

Central Bank Overdraft (Conflicting Figures)

290. Sen. Amrita Deonarine asked the hon. Minister of Finance:

In light of the response given to Senate Question No. 226 that the overdraft with the Central Bank (CBTT) as at September 2018 was TT \$9.86bn whilst it was recorded as TT \$13.65bn in the Auditor's General Report 2018, can the Minister provide details on the conflicting figures?

Madam President: Minister in the Ministry of Finance.

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the Treasury Division reports its balance based on the value of cheques issued, while the Central Bank of Trinidad and Tobago reports its balances based on cheques encashed. As such, the difference between the figures reported as the overdraft with the Central Bank and in the Auditor General's report 2018 can be explain by the following:

1. The value of un-presented cheques as of September 30, 2018 was approximately \$2.748 billion.
2. The CBTT calculate the overdraft percentage based on a suite of

- Government cash accounts at the bank. A number of these accounts are not represented in the consolidated statement of assets and liabilities. The value of these accounts as of September 30, 2018 was approximately \$434.9 million; and
3. Non-cash adjustments with the Treasury bank accounts are made as at September 30, 2018. These adjustments are accounted for by Central Bank with effect from the date of the request to transfer funds. The value of these non-cash adjustments to the Treasury's accounts as of September 30, 2018, was approximately \$592.7 million. Reconciliation statements which account for the differences between the Treasury's accounts and the Central Bank's report were prepared and have all been audited by the Auditor General's department.

Thank you, Madam President.

Madam President: Next question, Sen. Deonarine.

Sen. Deonarine: Thank you, Madam President.

Exchequer Account Deficit

(Government's Strategy to Reduce)

291. Sen. Amrita Deonarine asked the hon. Minister of Finance:

Given that the Exchequer Account has been in deficit since fiscal 2003, what is the Government's medium-term strategy to reduce this deficit?

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you again, Madam President. Madam President, the Government in its efforts to continue with fiscal consolidation efforts and by extension address the deficit on the Exchequer Account has and continues to undertake measures to improve the efficiency of its revenue collections and administration as well as expand its collection base by creating new avenues of revenue. Efforts to curtail superfluous

and inefficient expenditure while redirecting spending to capital projects that would stimulate economic activity and improve the country's economic output are also being pursued. Thank you, Madam President.

Madam President: Sen. Deonarine.

Sen. Deonarine: Can the hon. Minister in the Ministry of Finance indicate what are the measures currently being undertaken to address the inefficiencies in public expenditure?

Madam President: Minister.

Sen. The Hon. A. West: Yes, Madam President. There are various measures being taken. Among them is a careful review of all our contracts in terms of how they are put out for tender, a proper evaluation of the tender, going back to the contractors to renegotiate sums that have been put forward and then a careful monitoring of the actual spend. And this is resulted not only in significant reductions in the project cost but also in savings in some of those projects. That is a significant measure that the Government has taken to reduce its expenditure during the last few years.

1.45 p.m.

Sen. Deonarine: Thank you, Madam President. Could the hon. Minister in the Ministry of Finance indicate whether there has been any—in addition to reviewing of the efficiency of contract awarding and execution, has there been any independent reviews of the entire public expenditure of Trinidad and Tobago?

Sen. The Hon. A. West: We have started that process. We had an international body come in and review the expenditures of the three major Ministries, which will be social development, health and education. We have a report which indicates to them where the inefficiencies and duplications were identified and efforts are being made by those individual Ministries to address the issues where the shortcomings

have been identified.

Sen. S. Hosein: Thank you very much, Madam President. In light of the Minister's substantive answer with respect to investment into some capital projects, in capital expenditure, can the Minister please elaborate on some of those projects in which the Government will be undertaking in the medium term in order to close the deficit?

Sen. The Hon. A. West: Madam President, we have previously identified some of our major projects in this place before. They include: the Phoenix Park Industrial Park; they include the dry-dock facility; they include the marina in Tobago; they include the airport in Tobago. These are some of the areas we have identified for attention.

Sen. S. Hosein: Thank you. Madam President, can the Minister then indicate what is the projected year in which the deficit is expected to close in the near future?

Sen. The Hon. A. West: No, Senator. No, Madam President, I cannot identify that.

**MISCELLANEOUS PROVISIONS (PETROLEUM AND PETROLEUM
PRODUCTION LEVY AND SUBSIDY) BILL, 2019**

Order for second reading read.

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

That a Bill to amend the Petroleum Act, Chap. 62:01 and the Petroleum Production Levy and Subsidy Act, Chap. 62:02, be now read a second time.

Madam President, before you this afternoon is the Bill to amend the Petroleum Act and the Petroleum Production Levy and Subsidy Act. This is aimed at putting in place amendments to those Acts which are necessary to treat with the

implications of the recent closure of the Petrotrin refinery as they relate to, among other things, the calculation of the subsidy.

Madam President, you may be aware that with the reorganization of the business of Petrotrin, in particular the part of the business which dealt with the refinery, there was a need to incorporate a new company known as Paria Fuel Trading Company Limited. This company presently operates as a trading business to import refined petroleum products for sale in the domestic market via terminalling operations. Consequent upon this new business, several amendments are required to be made to the relevant pieces of legislation. Madam President, I will now take the opportunity to deal with the Bill in its entirety.

Clause 1 is self-explanatory and needs no further explanation except to say that it contains the short title of the Bill.

Clause 2 of the Bill, Madam President, deals with the amendments to the Petroleum Act, Chap. 62:01. Section 31 of that Act is being amended to insert the definition for “trading business” as it is not currently defined in the Act. In addition, the amendment explains what a trading business is for the purposes of Paria’s operations. In this regard:

“‘trading business’ means the business of supplying petroleum products by way of the purchase thereof, locally or internationally, for resale and use in Trinidad and Tobago;”

Furthermore, it is important to note that in the event that a refinery or refineries become operational in the future, that the refining business and the trading business could, in fact, be carried on by the same entity. Madam President, the relevant amendments could be found in clause 2(1)(a) and (b) of the Bill.

The Petroleum Regulations, Chap. 62:01, remains in its present form in

order to keep this country's options open in respect to the number of local refineries that can operate in Trinidad and Tobago.

Madam President, clause 2(2)(a) amends the Price of Petroleum Products Order to insert a definition for the term "ex-terminal price" because it is not currently defined in the Act. As previously stated, we now have a situation where there is sale of products in the domestic market by way of terminalling operations and, as such, a price mechanism suitable to the nature of the present operations is required.

Madam President, you may be aware that the ex-refinery price of the petroleum product is the price of the petroleum product as it leaves the refinery and, similarly, the ex-terminal price of a petroleum product is the price of the petroleum product as it leaves the terminal. As refinery and terminalling operations are two different types of operations, the component build-up of the ex-refining price in the First Schedule to the Price of Petroleum Products Order is different from the component build-up for the ex-terminal price. It is in this regard that there is a need for the insertion of a Fifth Schedule to the Order.

The Fifth Schedule provides the basis for the computation of the new ex-terminal price. Madam President, the insertion of the Fifth Schedule is found at clause 2(b) of the Bill. It should be noted that there is, at present, no intention to delete the First Schedule which deals with the ex-refinery price. This leaves the opportunity open for refinery operations to still occur in Trinidad and Tobago.

Madam President, the Petroleum Production Levy and Subsidy Act, Chap. 62:02, requires adjustments for consistency with amendments in the Petroleum Act, Chap. 62:01, and to include the operations of Paria, namely, a definition for "trading business". Clause 3(a) and (b) deal with the necessary amendments.

Currently, under section 8(1) of the Petroleum Production Levy and Subsidy Act, Chap. 62:02, there are four different variables in the calculation of the subsidy, one of which is the ex-refinery price. Given that the refinery is not currently in operation, this ex-refinery price variable in the calculation will not apply. Therefore, to provide for Paria's operations, a new subsection (1A) was inserted after subsection (1) in section 8 to include the new ex-terminal price variable in the calculation of the subsidy.

It should be noted that if the refinery or refineries become operational in the future, subsection (1) would still allow the Minister of Energy and Energy Industries, under the Act, to use the ex-refinery price in the calculation of the subsidy. It is also important to note that if both the refinery and Paria are operating simultaneously, then the subsidy can be calculated separately in accordance with subsections (1) and (1A) under section 8. Madam President, clause 3(c) deals with the relevant amendment.

Madam President, the Bill also amends section 12 of the Petroleum Production Levy and Subsidy Act, which allows for the filing of a return to the Minister of Energy and Energy Industries by a person carrying on refining or marketing business. The amendment will also require a person carrying on a trading business to file such a return. In addition, Madam President, the Minister of Energy and Energy Industries will now have to consult with persons carrying on refining business, trading business and/or marketing business on the form of return to be approved by the Minister. The form will also speak to the volume and the value of petroleum products sold by a person carrying on refining business or trading business. Madam President, the changes to section 12 of the Petroleum Production and Levy Subsidy Act can be found in clause 3(d) of the Bill.

Madam President, it is also proposed to amend section 13 of the Petroleum Production and Levy Subsidy Act at clause 3(e) of the Bill. This section provides for the keeping of proper records. The amendment will require not only a person carrying on a refining or marketing business to provide such records, but also a person carrying on trading business. The relevant amendment will also allow the Minister of Energy and Energy Industries to authorize in writing any employee of the Ministry of Energy and Energy Industries to inspect the records of a person carrying on refinery business or trading business.

Madam President, you will realize that there is a common thread throughout the amendments to the legislation. As indicated previously, the amendments are aimed at expanding the operations under the legislation to provide for a person to carry on another type of business, namely trading business, and that essentially is what the Bill deals with. Madam President, I beg to move.

Question proposed.

Sen. Wade Mark: Thank you, Madam President. Madam President, I am very disappointed, first of all, by the Minister of Energy and Energy Industries is not in this honourable House, and given the fact that he is not here, this honourable Senate was not given the kind of comprehensive evaluation and analysis required for the piece of legislation that is before us. [*Desk thumping*] I think the Minister spoke for just about six minutes and she took her seat. This is a very important piece of legislation, but I can well understand what has happened, Madam President.

Both the Minister of National Security and the Minister of Energy and Energy Industries have given priority to signing an agreement with NGC and Shell rather than come to this honourable Parliament to deal with the people's business.

[*Desk thumping*] And, Madam President, you will have to guide this Parliament on these matters, when a Minister is summoned here, whether he can go elsewhere and then come here.

And then we have the Minister of Energy and Energy Industries who is supposed to lead off on this matter, he is elsewhere without your excuse, Madam President, because nobody gave an excuse for the Minister of Energy and Energy Industries, and we were told by the acting Leader of Government Business that we are standing down my questions because the Minister is running late. Never at one point in time did the acting Leader of Government Business share with you, honourable President, that the Minister of National Security was elsewhere signing some or witnessing some—

Madam President: All right. Sen. Mark—

Sen. W. Mark: So, I just bring that to your attention.**Madam President:** Yes. But, Sen. Mark, you have made your statement. I would ask you to move on please.

Sen. W. Mark: Thank you very much. So, I am just recording our objection to this.

Madam President, this matter that is before us deals with the Government having allowed the horse to bolt the stable [*Desk thumping*] on November the 30th when they unceremoniously shut down—close down—Petrotrin. They have now come, Madam President, almost eight months later to deal with a matter as it relates to amending the Petroleum Act and the Petroleum Production Levy and Subsidy Act which ought to have been done simultaneously with the closure of Petrotrin. But this is how this Government operates, Madam President.

Nevertheless, this honourable Senate is called upon to address the

amendment to the Petroleum Act, Chap. 62:01 and the Petroleum Production Levy and Subsidy Act, 62:02, in order to accommodate the Petrotrin or, I should say, the business model of Paria Fuel Trading Limited. And, in this particular context, we are also dealing with what Petrotrin used to carry out before it was closed down on the 30th of November. Paria Fuel is replacing the marketing function of Petrotrin.

So, Madam President, as you are aware, Paria buys petroleum products such as gasoline and diesel from the international marketplace and, in turn, sells these products to National Petroleum and Unipet who, as you know, are the wholesalers operating in Trinidad and Tobago. And, of course, Paria we understand, also exports its fuels to some of the Caribbean markets.

Madam President, what we are being told today in the legislation before us, is that Paria Fuel Trading Company Limited, their business is described as a trading business as opposed, Madam President, to what existed under Petrotrin, which was a refining business and, therefore, this particular company is engaged in the wholesale of fuel, as I said, to both NP and Unipet, no longer at what is called the ex-refinery price, but the ex-terminal price, Madam President. And, of course, that is a very huge shift in this particular model, Madam President, because it also brings about an amendment to the Petroleum Production Levy and Subsidy Act, because no longer—and I would want to ask, Madam President, as I move on, I would like to ask the question of the Minister in the Ministry of Finance, whether, Madam President, the Petroleum Production Levy and Subsidy Act, as you would know, came into existence in 1974, when OPEC imposed an embargo on many countries who were supporting Israel in that war in the Middle East, resulting in a price of petroleum products skyrocketing based on the increase in the price of crude at that time, and the then government established legislation so that

consumers who were using gasoline—whether it was premium, super, diesel or regular—would not suffer as a result of these escalating costs as a result of the price increases in crude oil production.

As you know, Madam President, during that period, Amoco and Texaco were some of main companies in this country, multinationals, and they would have benefited enormously from that increase in the price of crude oil. So, this particular legislation that we are amending, Madam President, saw the imposition of a levy on those energy companies and this levy, Madam President, was paid by these producing companies. The levy, Madam President, was used to offset what is called the subsidy—the subsidy that customers and consumers were called upon—they were called and they were able to benefit from lower prices as a result of this subsidy that was applied to higher prices of petroleum products.

Madam President, the question that we have to ask the Government, and because the Minister was so short in her presentation, we did not get this answer, so I will pose the question to the Minister, so when she is winding up, Madam President, she can share with us and the general population, the state of play. Madam President, the question is, when that subsidy element in the price was introduced at the time it was, oil companies were funding that levy. But now, Madam President, we have a situation where the Government has actually closed down—temporarily I understand—the refinery. The question is, we are now importing petroleum products from different parts of the Gulf Coast of the United States. I would like to ask, Madam President, through you, whether the subsidy paid via levy by these energy companies, whether that levy is still being paid and applied through a subsidy which will result in lower prices at the pump for customers who have to buy super gasoline, premium gasoline, regular gasoline or

diesel fuel?

We would like the hon. Minister to share with us because, Madam President, you will see in this piece of legislation which I thought because of its technical nature, the appendices there that are giving us as a Parliament an appreciation, Madam President, of what is called the formula for determining not only wholesale prices for petroleum products, but it is also identifying the kind of prices that we have to pay at the retail level and the formula that has to be employed in order to apply this new arrangement involving Paria Fuel Trading Company.

So, I think it is incumbent upon the Minister to share with this honourable Senate what is the state of play, Madam President, as it relates to this matter? Can the Minister indicate, Madam President, whether the energy companies—BP, Shell, BHP, EOG, all of them who are engaged in the production of crude oil and the exportation of crude oil and they have to pay a production levy, whether that production levy is still being paid? And if it is being paid, Madam President, how does that subsidy arising out of the levy compute in the formula that we have in this Bill, Madam President? Because the Minister did not give us any hint whatsoever, of the role of the production subsidy and levy and how customers and consumers, Madam President, are going to benefit from this whole arrangement because we know, Madam President, we are moving from what is called “ex-refinery price” to what is called “ex-terminal price”.

So we have, as I said, this company called Paria Fuel importing fuel from the Gulf Coast of the United States bringing it into Trinidad, paying shipping cost, paying freight cost when it arrives here, Madam President, customs duties. When it arrives here, we have to pay fees to store and to perform a number of processes and then a final price is determined given the formula that we have been provided

with in this piece of legislation. So I think it is important for the Minister to share with us, Madam President, what is the arrangement for us, at this time, and I would like the hon. Minister to indicate that.

Madam President, as I go into what is called the definition, Madam President, if we go to the definition—and I am referring to clause 2, Madam President, (c)(ii) and it talks about what is called trading business. And, Madam President, if you look and you study carefully, the definition which is now being introduced for the first time in our legislation, which is the Petroleum Act and then it is also being introduced in the Petroleum Production Levy and Subsidy Act, it tells us, Madam President, that:

“‘trading business’ means the business of supplying petroleum products by way of the purchase thereof, locally or internationally, for resale and use in Trinidad and Tobago;”

Now, Madam President, this is not a very simple matter as the Minister attempted to make it out to be. Madam President, I have in my possession the Petroleum Act. It is 62:01. And, Madam President, in this Act which we are amending, it speaks, Madam President, to what is called the definition of a “petroleum product”. And, Madam President, always bear in mind that Paria Fuel Trading Company is engaged in marketing, marketing. That is their function. The question that has to be asked, Madam President, when we look at the “petroleum product” definition, and it says:

“...any finished or partly finished product derived from petroleum by any refining process;”

So we are not processing. That is coming from outside of Trinidad and Tobago, but the concept of a petroleum product remains because it finds its way in the

trading definition—in the definition rather of “trading business” when it talks about supplying petroleum products. So we have to see the link between the definition in the legislation and what this particular attempt by the Government is seeking to achieve.

But, Madam President, what is even more interesting, remember, Madam President, Paria Fuel Trading Company is a marketing organization. It is a marketing company. Madam President, in the definition, under the Petroleum Act of what is called “petroleum operations”, I want to share with this honourable House what “petroleum operations” mean.

2.15 p.m.

It—“means the operations related to the various phases of the petroleum industry, and includes natural gas processing, exploring for, producing, refining, transporting and marketing petroleum or petroleum products...”

This is what the definition means, among other things which I would not burden you with, if you go to this definition, Madam President, you will see what “petroleum operations” means.

Madam President, what is even more important for us to pay attention to is section 6(1) and (2) of this Act, it deals with petroleum operations and, Madam President, remember petroleum operations include the marketing and transportation of petroleum products. The trading business is engaged in the supplying of petroleum products, therefore, it falls squarely under the definition of “petroleum operations”, because it is involved in marketing, it is involved in transportation. Madam President, section 6(1) of this Petroleum Act says, and I quote:

“Subject to this Act, no person shall engage in petroleum operations on land

or in a submarine area, unless he first obtains a licence as provided for in this Act or the Regulations.”

It goes on in (2) and says, Madam President:

“A person who contravenes this section is liable on summary conviction to a fine of five hundred thousand dollars and in a case of a continued offence, to a further fine of fifty thousand dollars for every day during which the offence continues.”

Madam President, I raised this and I read this for your consumption because the Government has to tell this Parliament, my information—and Madam President, I may be wrong, I am always subject to correction—my information is Paria Fuel Trading Company Limited is operating in Trinidad and Tobago without a licence. I want to repeat, Paria Fuel Trading Company Limited is operating in Trinidad and Tobago from my information and investigation, without an approved licence by the Minister of Energy and Energy Industries. Madam President, if that is so, this legislation that we have before us today, this legislation and the Minister in the Ministry of Finance, Sen. The Hon. Allyson West, I will take my seat for a few seconds with your leave to ask the hon. Minister to clear for the President of the Senate, and for this Senate, Madam President, whether Paria Fuel Trading Company Limited has a licence that has been approved by the Minister of Energy and Energy Industries? I will give her two seconds, Madam President, and I will rise again, I want to know, what is the truth? Madam President, two seconds is up. [Laughter] Two seconds are up, so, Madam President, I can only assume that my information is correct; [Desk thumping] my information is correct that the Government of Trinidad and Tobago has a company operating in contravention of the law, in breach of the law, in violation of the law, and, Madam President, and if

I can tell you, this is not a tale out of school, both Guar— Is Guaya?

Hon. Members: Guaracara. [*Laughter*]

Sen. W. Mark: Ga-ra-cara?

Sen. Ameen: Guara-cara

Sen W. Mark: Ga-ra-ca-ra. Ga-ra-ca-ra refinery is operating without a licence; that is also operating without a licence. And the third one, Madam President, is the so-called Heritage—

Madam President: Sen. Mark, you have made some points, but you need to move on and get back to the matter at hand. Okay? You need to—

Sen W. Mark: Yes, yes, yes.

Madam President: Yes, tie in what you are saying to the matter at hand please.

Sen W. Mark: Yeah, Madam President, I was—just was a few seconds I strayed. So let us go back to—

Hon. Member: Pointe-a-Pierre.

Sen W. Mark: No, no “we going back”—yeah, we could go back to Pointe-a-Pierre “yuh know”, because we are in Pointe-a-Pierre. I fought Pointe-a-Pierre, my honourable friend fought Pointe-a-Pierre with me. “Ah geh some licks, ah must admit, ah geh licks.” [*Desk thumping and laughter*] “Ah geh licks and ah admit dat, ah admit dat, buh ah live tuh fight another day, [*Desk thumping*] I geh licks, I geh licks.” [*Desk thumping*] So, Madam President, let us go to Pointe-a-Pierre because we are familiar with that territory. [*Laughter*] We are familiar with the territory of Pointe-a-Pierre.

Madam President, the Government of this country has to tell us and, Madam President, this is a very serious one because when the Minister made her statement—her opening statement or remark—she made it very clear, very brief as

it may have been, she indicated that Paria emerged out of the ashes—she did not say ashes but I am saying that—but arose out of the closure of Petrotrin.

Madam President, would you believe that the financial year for Petrotrin, last financial year, was 2018 and Madam President, the audited financial accounts of Petrotrin for fiscal 2018, which was supposed to be published at the end of September 30, 2018. We are now in June of 2019—

Madam President: Sen. Mark, please, I have to now try and steer you to the matter at hand, and please, I really need you to come back to the Bill that is before us. Okay?

Sen W. Mark: Madam President, I know this is a very technical Bill eh, and because the Minister did not do justice, I have to do justice to the Bill. [*Desk thumping*] The Minister spoke for six minutes—

Madam President: Sen. Mark, I am asking you to do justice to the Standing Orders.

Sen. W. Mark: Yes, yes.

Madam President: And I would ask you please, to come back to the Bill. Okay.

Sen W. Mark: All right, Madam President, let me go back to the Petroleum Act, because I think this is very relevant. Madam President, so here it is we have a situation and, Madam President, just to consolidate the point I made earlier when I sought to indicate to this honourable House that a company that is operating either on land or sea must have a licence whether you are involved in exploration, production, or you are involved in marketing or transportation. And Madam President, to consolidate the point that I made earlier and based on your wise counsel, I invite you to travel with me, to journey with me under the Petroleum Regulations on page 35, Madam President, and on page 35 Regulation 3(1) states

and I quote:

“Subject to subregulation (2) the licences that may be issued to persons to engage in petroleum operations shall be—

- (a) an Exploration Licence;
- (b) an Exploration and Production (Public Petroleum Rights) Licence;
- (c) an Exploration and Production (Private Petroleum Rights) Licence;
- (d) a Refining Licence
- (e) a Liquefaction of Natural Gas Licence;
- (f) a Pipeline Licence;
- (g) Transportation (other than by pipeline) Licence;”

Madam President, it goes on to say:

- “(h) a Marketing Licence, in respect of any one of the following operations, that is to say:
- (i) wholesale;
 - (ii) peddling;
 - (iii) retail transactions at petrol filling stations; or
 - (iv) bunkering (including the supply of petroleum products to a marketing licensee’s own ship or aircraft);”

Madam President, look we have it here, clearly, under regulation 3, Madam President, where you must obtain a licence to operate and it is clear from what we have seen from the literature that none exists in the instance of this company.

So, Madam President, we are asking the Government to address this issue as

a matter of urgency. Now, Madam President, you would know that under the Petroleum Act of Trinidad and Tobago, the Government of Trinidad and Tobago through the Minister of Energy and Energy Industries is in fact compelled under the law and under the regulations, to establish what is called a petroleum register. Madam President, if a petroleum register was established we could have gone on the website of the Ministry of Energy and Energy Industries to determine if a licence was issued to this particular company and to other companies operating in Trinidad and Tobago. But, Madam President, no such petroleum register is established at the Ministry of Energy and Energy Industries. So you and I are unable to determine whether this company has been given, has been granted, a licence has been approved for it to operate.

Madam President, I want to also indicate to you that you would recall some time ago there was a big commotion, a lot of discussion surrounding Paria Fuel Trading Company, whether it was to be sold, Madam President, whether it was not to be sold, or whether, Madam President, if a good buyer comes along they will sell Paria Fuel. Madam President, the Government needs to come clean with us today in this Parliament. How this particular legislation is structured, Madam President, it is structured in such a way that it gives and it makes room for the possibility of a new operator coming on the scene and maybe, Madam President, purchasing not only Paria, but most importantly, the refinery.

So, hear the definition, Madam President, that we have here. It talks about not only local, Madam President, but that you will be supplying petroleum products locally for resale, but you are going to be supplying petroleum products internationally for resale and use, Madam President. So what is happening, Madam President, is that in this simple definition it is loaded with a lot of

possibilities that the Minister has not been able to clear up. The hon. Minister, Madam President, did not tell this Parliament, as far as I am aware, that the Government is considering by the end of December of 2019, selling the refinery to another independent operator, and the possibility exists, Madam President, that when that refinery is sold to another individual or operator, it may be that the marketing arm of this business which is known as Paria Fuel Trading Company can also be included in this entire exercise.

So we will have the refinery being owned and would be in control of the marketing arm of the operations at Pointe-a-Pierre which is now manifested in this company known as Paria Fuel Trading Company Limited.

2.30 p.m.

So, Madam President, when you look at the definition it tells you, it is not simply that you are going to just get Paria Fuel, consistent with the formula that we have here, to sell products to the citizens of this country; it is not that alone, it is Paria being taken over by a new company in the coming period and both of them would be one operating in Trinidad and Tobago. And I believe the Government, Madam President, owes this country a proper explanation. Is this legislation, Madam President, designed to facilitate this sale, ultimately, of Paria to a new owner that will come on board very shortly, and by December we are told, somewhere I read that some time in December we will have a new operator on the block and that operator may be able to buy this company called Paria Fuel Trading Company Limited. So it is very important that we pay attention to this issue as well.

So, Madam President, when we talk, in subclause (2) of clause 2, about the price of petroleum products, you will see when we talk about the price of

petroleum products, we are talking about an order in which the main amendment that is being inserted under this Price of Petroleum Products Order, it is being amended to introduce the following definition. And what is the following definition, Madam President?—"ex-terminal price". And what does ex-terminal price mean—

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

Sen. W. Mark: Yeah. Madam President, what ex-terminal price means, it simply means:

"...the price at which petroleum products may be disposed of or are to be deemed to have been disposed of by the trading business of any person to the marketing business of such person or any other person for disposal and use in Trinidad and Tobago;"

Madam President, this, to my mind, tells you the real intention of the Government even though they did not say it publicly and openly in this debate.

The Government is about to sell out the refinery at Pointe-a-Pierre to someone and that will be manifested come December, and that person or that international company will now be given the power to buy Paria Fuel, Madam President, and it will be an integrated operation. The only difference is that colonialism, imperialism would be revisiting Trinidad and Tobago with a bang under the PNM. [*Desk thumping*] That is what it will mean, Madam President. Instead of Trinidad and Tobago owning, as we had owned the refinery at Pointe-a-Pierre and we were in charge of our refinery, "We gone back to massa day. Massa day come back."

Madam President: Sen. Mark, please, in your last few minutes in your wrapping up, please, deal with the Bill. Okay?

Sen. W. Mark: Madam President, I do not know if you studied it but I studied it, and I believe, with your leave—

Hon. Senator: What is it?

Sen. W. Mark: No, no, this Bill is a serious Bill, you know. This is a very serious Bill, and I am telling you, honourable President, that the honourable mover of this Bill did not do justice to this Parliament. [*Desk thumping*] And because she did not do justice—I understand, you know, I was there before so I know what you are facing, but we have to understand, Madam President, that this is a very serious matter that we are dealing with and there are dots that we have to connect, and this is what I am trying to do in my contribution. I am looking at the Petroleum Act, I am looking at the Petroleum Production Levy and Subsidy Act to show, Madam President, the connection between what they have in this Bill and the intentions of the Government, because it has consequences for the people of the Republic of Trinidad and Tobago and it is our duty to expose it and to let them know what is going on, but I bow to your ruling eh.

Madam President, I did not talk about Petrotrin, I did not talk about the closure of Petrotrin; it came from the lips and utterances of the statement of the speaker who opened this debate. Madam President, I want to ask that the hon. Minister in the Ministry of Finance, in the few minutes I have or two minutes I have remaining, can the Minister bring to the attention of this Parliament what is the state with the closure of Petrotrin with the fake oil scandal, \$100 million? [*Desk thumping*] What is the state?

Sen. Gopee-Scoon: Point of order, 46(1).

Madam President: Sen. Mark—

Sen. W. Mark: I am winding down.

Madam President: Yes, you now have some seconds, please.

Sen. W. Mark: Yes. So, Madam President, this is a very serious matter. We want to propose some amendments to the legislation because we want trading business to include marketing and we want Paria Fuel, in that context, to be incorporated on the trading business. So we serve notice on the Government that we would be proposing amendments at the committee stage for this particular Bill to have some teeth and some effect. Madam President, I want to thank you for the opportunity for—[*Desk thumping*]

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

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate today. My contribution will be somewhat brief and would primarily seek clarification on various aspects of the Bill. So, the Bill before us today seems to be a fairly simple one. It is basically a legislative adjustment required to facilitate the move of refining crude oil to importing the refined product, which is done through the operations of Paria Fuel Trading. In these three clauses of the Bill I see that adjustments are being made to include definitions and suitable language to encapsulate trading business, the ex-terminal price and, subsequently, the inclusion of a new formula to calculate the fuel subsidy. Today, Madam President, I want to comment on three aspects of the Bill and these are, one, focusing on managing the core structure of the ex-terminal price; the calculation of the subsidy, what are we expecting it to be now given that we have an ex-terminal price which should reflect greater efficiency; and the third thing is the need to continue on a path of subsidy reform.

So, Madam President, we now have an ex-terminal price, before we had an ex-refinery price which was very high due to the inefficiencies associated with

refining crude oil locally; that is through the Petrotrin refinery. Going forward we have to be cautious in monitoring the operations of Paria Fuel Trading to ensure that the ex-terminal price is managed and we do not allow inefficiencies to seep through and unnecessarily send up this ex-terminal price. This would subsequently translate to a higher fuel subsidy. From my research I understand that the structure of the ex-terminal price is made up of the world market price, which is the market price or the US Gulf Coast price plus the cost of freight from the refinery to Trinidad and Tobago, plus the customs duty, plus terminalling fees, that is the fees associated with storage, handling and associated overhead cost that will be accumulated by Paria Fuel Trading, and plus the distribution cost, that is the cost associated with delivery of the gas from Paria Fuel Trading to NP, Unipet and all the other stations.

In terms of the world market price, the cost of freight and the customs duty, we have little control over. However, in terms of the terminal fee we need to exercise extreme oversight over these costs incurred. We need to ensure that payments are made to suppliers on time to reduce cost associated with delays, because any delay would mean that, given the foreign exchange shortages we would need to ensure that we secure advances for foreign exchange to pay for these shipments. So my first question is, what are the current arrangements in place to ensure that a steady supply of US dollars is available to cover the cost to suppliers for these shipments? With respect to the associated overhead cost, what resources are available for oversight, monitoring and evaluation? Whilst these are important it is also critical to ensure that standard operating procedures and processes are established and also documented.

Furthermore, Madam President, when I talk about monitoring and evaluation

I do not speak about only ensuring that there is an internal audit and an external audit, I also mean that there needs to be frequent monitoring and oversight through regular risk assessment and risk mitigation strategies. With that being said, I am wondering how much lower do we expect the ex-terminal price to be compared to the ex-refinery price, because a lower ex-terminal price will contribute positively towards the subsidy. The amount of subsidy that the Government would have to pay would be significantly lower. The ex-refinery price averaged in 2018 at around \$2.11 for premium, \$2.08 for super unleaded, \$2.04 for super regular, \$2.08 for diesel and \$2.15 for kerosene, and those were the ex-refinery prices. How much lower do we expect these prices to be for 2019? With an ex-terminal price lower than the previous ex-refinery price, what is the estimated impact on the subsidy?

Compared to 2018 where the annual total subsidy claim was TT \$1.042 billion, what is the forecast for 2019? Because given this move we should expect a lower subsidy. However, looking at the subsidy claims over 2015 to 2018 from the Ministry of Energy and Energy Industries the total claims were: 2015, \$1.7 billion; 2016, \$589 million; 2017, \$805 million; and 2018, \$1.04 million. Although there was a dramatic decline in 2016, the subsidy claim has been increasing since. So, finally, Madam President, the last thing I would like to ask is that, in light of not taking further action to reduce the fuel subsidy, are we at least trying to strategically target these subsidies to prevent any sort of allocative inefficiencies in the market that are presently apparent. With those few words, Madam President, I hope to get clarification on my questions. I thank you. [*Desk thumping*]

Madam President: The Minister of Trade and Industry. [*Desk thumping*]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):
Thank you very much, Madam President, and I want to say that I am going to be as

short as the mover of the Bill and it is because of the simplicity of the matter before us. It is a quite short and simple Bill containing all of three clauses and we all understand what it is to do, which is to make provision to add “trading business” to both pieces of legislation to account for the operations of Paria Fuel Trading. And it is a fact that with the cessation of the refining operations by Petrotrin and the introduction of the importation of fuels to supply the domestic market by Paria Fuel Trading Company, the computation of an ex-terminal price is required in lieu of the ex-refinery price, and I think considerable research would have been done in looking at the options available for the pricing of petroleum products in Trinidad and Tobago and therefore the Government came up with this particular computation of this new ex-terminal price.

Sen. Deonarine, you are right, you said you did your research as to what this new ex-terminal price is comprised of and you are so right, it is the market-related prices for each of the correspondent products in the Fifth Schedule. Also, the rate of freight paid for the carriage or the transportation of the petroleum products, whether by air, land or sea, also, the rate of import duty enforced at the date of the import of such petroleum products, and also the terminalling fee, which is the one that you had concerns of in terms of efficiencies, the terminalling fee which encompasses all the costs incurred due to terminalling, storage, and all of those ancillary services at that terminal, and so we are talking about the financing, the margins, the operations cost, the insurance, the storage losses, maintenance, capital expenditure, credit, and the gamut of all those things. And I can tell you with certainty that we have, employed at Paria Fuel Trading, employees that are well-equipped, and the proof is in the pudding in the way that Paria Fuel has been managed since coming into operations, and I will speak to that shortly. So those

are the kinds of margins of elements that were taken into the ex-terminal price, and your research was quite right.

So again, as I said, Paria was created to ensure this uninterrupted supply of fuel to the local market. It was consequential. And, thus far, Paria has been able to do what it was set about to do, which is to secure the supply of fuel to the country. I want to say that it has been quite a success. There has been a seamless transition for the supply. I said this in this House before. It all came out of the reinvention of Petrotrin and the five companies became one of them. The transition was a key success. It was successful. There was a safe shutdown of the refinery and, of course, the export of local crude began and the importation of refined products. Paria is living up to its value proposition. Its business model focuses on the safe, the responsible and the efficient terminal operations in order to deliver crude oil and condensate and other petroleum products, and it is doing just that. Its mandate will include the crude handling and loading, the product trading and marketing, the delivery and distribution and leasing opportunities or bunkering opportunities, if any of those should come up.

So it has all been going to plan and it has been run extremely successfully, and, of course, all of the products that they have said that they would supply have been supplied in the marketplace to the Trinidad and Tobago public, and, of course, there has never been any fuss or any outrage, or anything like that. It really has just been a smooth transaction. Paria would have utilized several of the storage and delivery facilities that Petrotrin once owned, and so that in terms of all of the requirements with vessels and the necessary berths, and so on, all of that is in use. So it certainly has all of the necessary storage capacity, and so on, that is required. There have been absolutely no hitches to Paria's activity. As I said before, there

has been security of supply, and so on. I know that Sen. Mark would have raised this whole question of a commotion about selling Paria Fuel. There is nothing like that contemplated, Sen. Mark, and this is just your usual hysteria. There is nothing like that. There is nothing like that contemplated. We all know that there have been several bids for the refinery and, naturally, when that comes along we will have to examine what is done about Paria, because, without a doubt, there will now be product that is available on the local market in TT dollars.

I know there was concern again raised by Amrita, Sen. Deonarine, about the foreign exchange availability, and I could not give you the details but I know that the Ministry of Finance took the necessary action to ensure that there would be no hindrance with regard to the availability of foreign exchange. But, notwithstanding, we know that this is something that we would want to avoid and therefore if product is available on the TT market in TT dollars, quite naturally, that is the option that will be looked at, but the exact business model has not been worked out. You have to see what the bids are and in the final analysis, what the company would be offering. I do not know the extent of the services. This is not something that we could guess or so, or pontificate on. So that commotion, no, there will be nothing of the sort, and the very seamless transition we have had with Petrotrin and removing the State from the enormous losses which the taxpayer carried for so many years, \$2 billion in the last three years before the decision was taken, we will be taking the right decision. And so that we look forward to the opportunity that presents itself when the bidding process is completed.

So, as I said before, it is simple and it is short. The Minister would have gone through all of the clauses, there is no need for that. I have explained what the formula is and I have given certainty in terms of the efficiencies, which is the work

of the employees of the Paria Fuel Trading Company; the efficiencies in the way they would carry out their responsibilities, I could see that there is no inflation to the customer or so, or no inflation of price, or so, to the customer that this is being done in a very fair way and fair and efficient way. This is the new reality. This is what we have had to face in the decision which we took, and therefore the adjustment in the two pieces of legislation was necessary because at the time when those pieces of legislation were put in place, none of this was contemplated about importing and terminalling, and that kind of thing. Trinidad and Tobago is not the only one in this situation. There are many other countries that have had to restructure their energy business and have had to go into the fuel trading business, and that has been done. But what we have done is that we have saved the public from the losses which were previously incurred.

We have put a system in place to ensure that there is a seamless availability of product to the population and there is also the opportunity for Paria to trade outside of Trinidad and Tobago to the Caricom markets. And I could not tell you the extent of which that has been done, but the operations to date, I give you the assurance that it has been successful. Again, I would like to take the opportunity to commend the staff of Paria Fuel Trading, the board, the management, again, for making the transition seamless. I mean, I know there would have been some noise and “ole” talk and negativity but all of that is now out of the way because there has been no question in terms of the ability to supply products to the public. So, again, I am sure—I give Sen. Deonarine again the assurance that Paria, at this time, is deepening its trading relations. I am sure that they are examining, on the global market, where are the best prices for the products to ensure that at the end of the day we give a price that is reasonable, and, as I said, they operate with efficiency.

I have the sense that the group of people there are operating with an international flare. As I said, this is international business, and I give this, in every certainty, that they are operating in a way that we had expected.

Again, I spoke about the future of the refinery, we cannot just guess or pull out of a hat what the final bid would be but, at the end of the day, the Government will do what is in the best interest for the people of Trinidad and Tobago and ensure that whatever operations would, as said, redound to the benefit of the people of Trinidad and Tobago. So, just finally, I mean, Paria was created for a particular reason, an uninterrupted supply, and that has happened in a very seamless fashion, and what we have come here to do today, the change from the ex-refinery to the ex-terminal price is one that has been approved by our Cabinet. And, as I said before, they have examined all the options and they have come up with the right model, which I have detailed, to ensure that all of these products are available to the public at a reasonable price, and so on, and we are just fixing the necessary two pieces of legislation. Thank you. [*Desk thumping*]

Madam President: Sen. Haynes.

Sen. Anita Haynes: Thank you, Madam President, for the opportunity to join in this debate on the Miscellaneous Provisions (Petroleum, Petroleum Production Levy and Subsidy) Bill. Madam President, I cannot help but notice the Government's undue haste in going through the provisions of this Bill. I tried, as best as I could, to take notes on what the Minister of Trade and Industry was attempting to tell the nation here today, and I would tell you what I have written down here. "It is all going according to plan", the Minister said on several occasions, never articulating what that plan is so we still have no clue what is going according to plan. The Minister just set to assure us that it, whatever "it" is,

it is all going according to plan, and that the transaction was smooth. There were no hiccups whatsoever, everything went, again, according to this mythical plan that they have going on.

Now, Madam President, I will get through some of my points here, but I really wanted to start on this concept that the Minister had that everything was smooth and the transaction was smooth and that what we are doing here today is just putting a couple of things in place from the, you know, as they call it, the restructuring of the operations of Petrotrin, which we know, in fact, to be the closure of Petrotrin which put well over 5,000 persons out of a job. And if that is their idea of a smooth transaction, Madam President, really and truly, I do not want to see what rocky waters is under this PNM administration. [*Desk thumping*] She said there was absolutely no—I think, Madam President, in directing what the Minister, no doubt, thought to be a rebuttable of Sen. Mark on the consideration of whether or not Paria will be sold, the Minister referred to it as hysteria.

I do not know where the Minister of Trade and Industry was in March of 2019, Madam President, when the Government had to—Minister Khan, who was notably absent at the moment—

Madam President: Sen. Haynes, I wish to draw your attention to the fact, Sen. Mark has already alluded to certain issues with the Minister not being here and I would be ask that that not be repeated in all the contributions to come. Okay?

Sen. A. Haynes: I assure you, Madam President, that as soon as the Minister arrives people will stop—

Madam President: Sen. Haynes, Sen. Haynes—

Sen. A. Haynes: Yes. But, Madam President, the Ministry of Energy and Energy Industries had to go on record, and I will read the title of this article here; this is

from Loop TT on March 18, 2019, “Gov’t orders retraction of RFPs for Paria Fuel Trading Co.”:

“Government has retracted all requests for proposals for the sale of the Paria Fuel Trading Company.

The Minister of Energy and Energy Industries, Franklin Khan, said in a statement issued March 18, 2019, that an order was issued to retract any request for proposals for Paria Fuel Trading Company.”

Now, Madam President, in order to retract something, it means it must have been done that the request for proposals for the sale of Paria Fuel Trading Company had to be a thing that was done in order for the Minister to retract it. So when you come here and you want to talk about hysteria and where Sen. Mark is getting his information from, it is from you all. You had to retract the sale, [*Desk thumping*] the request for proposal, and, therefore, when we come here now to tell us, “Look, there is nothing to worry about, there is nothing to look over here. All of these amendments are simple and everything we are doing here is very simple”. Madam President, we cannot believe that because they are still pretending, at this point, that there was no attempt to sell Paria in March of 2019. It is now June and you are telling us it is hysteria; amazing, Madam President.

The Bill that we have in front of us here today, Madam President, is seeking to accommodate the business model of the Paria Fuel Trading Company, and as innocuous as that sounds and as they will try to make it, as the Government Bench will try to make it, as each Member contributes for five minutes, again, in an effort to convince us of the simplicity, begs one question, Madam President. We are in June of 2019 and we are now seeking to accommodate the business model of Paria Fuel Trading Company Limited, Madam President.

3.00 p.m.

In August of 2018, and I have to go through this timeline and I am going to be very deliberate with the timeline that I am going through, Madam President because what got us here today is critical, and it also shows that what the Government attempts to paint as hysteria is in fact exactly what is happening and what we are doing is stating the facts as they have occurred in Trinidad and Tobago, Madam President.

So if we are in June, at the end of June, now seeking to accommodate the business model of Paria Fuel Trading company, when in August the announcement to shut down Petrotrin and put untold numbers of persons out of work and we said then that you are doing this in an ad hoc and vaille-que-vaille manner and that there was no roll-out strategy and no plan, Madam President, it appears, now today, that we were extraordinarily accurate in that assertion, Madam President.

Because if it took you from—well, the actual shutdown of Petrotrin took place on November 30th—if it took you from then till now to know that you have to do these things, what other parts of the puzzle are you missing? What else can we be coming here and asked to do because the Government missed certain important pieces of information or important changes because of their haste, Madam President. You see, Albert Einstein famously said that the definition of insanity is doing the same thing over and over again and expecting different results.

Well, you know, I do not think that when you look at what this Government's energy policy has been and their bizarre behaviour with what is our most important industry, Madam President, I do not even think Einstein could explain what is going on here. You see, the Government has over the last year,

probably a little more than that, they have on the one hand tried to make energy their defining achievement—having, you know, energy, spotlight on energy, and all of these massive, probably expensive workshops, et cetera. Going here, there and everywhere, the Ministers of Energy as you will. And at the same time being very opaque or lacking in accountability in terms of the information that is given to the public, Madam President, on important matters such as energy. And the Minister of Energy is on record as saying that accountability has to be measured, you cannot go into all of the details.

And when you look at the debate today, Madam President, when you look at what is happening here today, it is a continuation of that approach to our energy matters. So you have a Bill, the Bill seeks to accommodate the operations of Paria and no one thus far can tell us, well, what Paria was doing in the interim, since November 30th. Nobody was telling us what has been occurring if we are now bringing this legislation to accommodate the business model.

And you see, Madam President, if the approach had been one of openness and transparency in the energy sector from the beginning, if the Government had been up front and accountable and had given us the details that we asked for last year we would not be here today, because any responsible Government, Madam President, any responsible governing agency, as of August last year, when you made the announcement that you were closing our flagship energy company—one of the most critical companies in Trinidad and Tobago—when you made that announcement, what you would have done then, Madam President, in my estimation would have been to say, this is what is going to happen, this is how it is going to roll out, so we are going to form these companies, this legislation theoretically could have been brought since November last year. They knew what

they we doing.

But, Madam President, here you have it, six months-odd later, and the Government is still coming here and trying to tell us and convince us that all is well and there is nothing to look at over here. But, Madam President, as I went through the legislation, I noted that all the amendments that we were making in clause 2, what we were looking at, it was making it broad. Because as the Minister of Trade and Industry said, “we do not know what is going to happen in the future, so we have to make it as wide as possible”.

And you see that—and I think the fact that they cannot understand that that is what our issue is, that when you are playing fast and loose with energy in Trinidad and Tobago, it must be a cause for concern to the people of Trinidad and Tobago, Madam President, that you can come here and tell us, look we are doing this, trust us, all will work out, but you cannot acknowledge that the decisions you have taken have had massive ramifications to the majority of Trinidad and Tobago. That you could come here and say that Sen. Mark is hysterical and that everything went smoothly, when so many people remain unemployed, Madam President, I find that—[*Desk thumping*]

Madam President: Sen. Haynes, you have now been speaking for quite some time and you have made your points, but you need to make some comments on the Bill itself, please.

Sen. A. Haynes: Thank you, Madam President, I sought to contextualize—

Madam President: No need to give me an explanation, it is fine, you just move on.

Sen. A. Haynes: No problem, Madam President. When we are, I think—as we are discussing Paria Fuel Trading Company, I had a couple questions, the Minister of

Trade and Industry—and then as I looked at the contributions in the other place, because that is kind of where as it stands today, we would have to get the bulk of our information, since the Government Bench in the Senate seems remarkably unprepared to debate today. We had a couple questions in terms of Paria and the Minister of Finance sought to tell us that Paria is efficient and that it is doing well and nothing to worry about. But one of the questions that we had to ask was, if Paria is inefficient, will the taxpayers be asked to subsidize this inefficiency and will the inefficiency be built into the ex-terminal price.

And you see the questions we have to ask, Madam President, are because, as I have said before, the lack of accountability, because we have not seen any statements, audited or unaudited, from any of these companies and the data has been missing. What we have are assertions from a Government that I have already said we have difficulty believing, but they are seeking to tell us that we just need to believe what they have to say.

Madam President, I also looked at—when the Government is talking about—the Minister of Trade Industry raised it here today, the discussion on hiring the best in class for Paria and that they have put everything on track. And Madam President, we have known from previous debates that I have been in contact with a number of persons who had been part of the Petrotrin saga and who have lost their jobs and before I stood up here today, I got a text message because they wanted to ask the Minister, well who exactly has been hired in Petrotrin—how many persons in Paria, sorry—

Sen. Gopee-Scoon: Point of order, 46(1).

Sen. A. Haynes: Well, I am responding to you directly.

Sen. Ameen: Oh gosh.

Sen. A. Haynes: I found it interesting that you—

Madam President: May I make a ruling please? May I be allowed to? Thank you very much. Sen. Haynes, please continue but bear in mind what I have already cautioned you on, okay?

Sen. A. Haynes: Thank you, Madman President. Sorry that I pre-empted your ruling, because it really was a direct response to the Minister of Trade and Industry. So again with haste, yes that is what happens with haste, you tend to forget what happened. [*Desk thumping*] And, Madam President, when I am—as I was saying, when you look at the dream that was sold to us, was that by breaking up Petrotrin into these smaller companies they would be more efficient. We were told repeatedly about this unsustainable wage bill at Petrotrin.

Madam President: Sen. Haynes, to me you are re-debating an issue that has already been ventilated in other debates. There is a specific aim of this Bill. And I get that you want to make some of the points, but you need to not reintroduce debates of the past. You need to be able to focus on this Bill and make the points accordingly, okay?

Sen. A. Haynes: Yes, Madam President. I think you would appreciate that some of these points have to—necessarily must come back in here, because as the—

Madam President: So, let me tell you what I appreciate. I understand that you need to tie in your points, you may want to, but you need to do it faster and more tightly, okay?

Sen. A. Haynes: Thank you, Madam President. I will try to go quickly. Right, Madam President? So that what we are looking at—I am sorry, I lost my space there for a second. We are talking about the operations of Paria. Because if I get it correctly, we are talking about the operations of Paria. This Bill is by large to

facilitate to operations of the Paria Drilling Company. In discussing that, the Minister raised the point that persons had been hired, et cetera and that everything was moving efficiently and smoothly.

So my point was, one, how many persons have been hired?—because we have so far been only told about the CEO. And there had been a lot of debates, well a lot of discussion about the CEO's salary. But if Minister is coming here again and telling us, look everything is running smoothly and we are—and business is going well—how is it that we have not seen the material impact of any of these things, Madam President?

And the crux of my preparation here today, to come to this Parliament as we debated this Bill, was that when you look at how the events have unfolded, over time, it is clear that Government is still rolling this thing out and then just trying to hit swings and misses. Because there is no comprehensive, and has been no comprehensive policy articulated, no rollout plan and no measures for which Trinidad and Tobago must judge the success or failure—yes, of any of these companies, Madam President. And any—so even when you bring this legislation and you talk about its simplicity and you talk about what it is trying to do and it is really—and you try to couch it as best as you can, the fact is, the fact remains, Madam President, when you come here today what you are doing is putting an indictment on the incompetence of this Government.

The fact is in August of 2018, they had no clue what was going to happen over the course of this year and we are still seeing it rolling out today as part of this legislation and whatever else they may come up with between now and the end of the year. I thank you, Madam President. [*Desk thumping*]

3.15 p.m.

Sen. Dr. Varma Deyalsingh: Thank you, Madam President, for allowing me to partake in this Bill, an Act to amend the Petroleum Act and the Petroleum Production Levy and Subsidy Act.

I appreciate that this Bill is necessary to treat with the implications of the closure of the Petroleum Company of Trinidad and Tobago Refinery, in particular also the calculation of the subsidy on fuel, with the recognition that Petrotrin, as part of the business which dealt with the refinery, a need arose to incorporate a new company known as the Paria Fuel Trading Company Limited.

This company presently operates as a trading business to import refined petroleum products for the sale in the domestic and other markets. So I see this has now created the need for an amendment to move from a model where we were looking at strictly as a refinery company to a company that deals with trading. So in a sense we are now looking at this new company which imports fuel, takes it and now distributes it. So in a sense we are just like a middleman having the business of getting the material in and distributing it to others locally and regionally.

What I must say, Madam President, I have to echo the fears of Sen. Mark when he mentioned the fact that when this subsidy and the levy first came into place it was really to protect the individuals. It was to protect the citizens from markets which had fluctuations, the OPEC; you know, one minute you would have prices going skyrocketing. So it was there to put that protection in place.

I am hoping somehow we can have a sense of also protecting our citizens, and I am hoping certain mechanisms could be put in place to further protect our citizens in case there are any fluctuation in prices. Because, there are a lot of citizens complaining of the hard times they serve, the prices of goods and services, and I am thinking that any sort of interference with the levy and subsidy Act, I am

hoping the Minister of Finance could give me some sort of a guarantee or some sort of a comfort that things would not skyrocket to put a further burden on our citizens.

Again, I also fear too that—I have been hearing that the company is doing well, it is getting a profit. So we are getting a profit by getting the goods in and selling over. But we have to be cautious to the fact that other players could come into this market, and another player, a country with bigger finances could suddenly come and look at our country and say let us teach them a lesson, in case any sort of international problems occur. Another company could say let us stifle their economy, let us flood the market with cheaper goods and services, offer the regional persons products that are cheaper, and in that way the same company that is making the profit now will be stifled. So we have to be careful the international forces do not come in. What we are now saying is a company that is making profit would suddenly be in a position where that company may be in a position where they are competing with big markets outside.

So this Bill was described by persons on the other side as a small Bill, but this Bill is really not such a small Bill, because it is a billion dollar operation. Before I go into the clauses, I would just want to elaborate the fact that this Bill is a Bill that we have to look at it in the sense of what it can do to the taxpayers. There is the bond that was borrowed before, where I think it is US \$850 million, which is more than TT \$5 billion, which is due I think sometime in August.

Madam President: Sen. Deyalsingh, I allow Senators an opportunity to put your contribution in context, but it has to be in the context of the Bill. I would ask Members as the debate continues to please bear that in mind. So you are now kind of veering off of the Bill itself.

Sen. Dr. V. Deyalsingh: Thank you, Madam President. I was just trying to elaborate it is not a small Bill, Madam, in the sense that I think it brings up the point that whatever we are doing here, whatever we are giving the four companies now, our blessings. I think the Government had no choice. They were in a state where they had no choice to look at what was happening in the company, just as how a few years ago Caroni assets was sold out and it caused a lot of distress within the community, similarly hard decisions had to be made and were made.

I am looking at the context of this bond issue, \$850 million bond issue several years ago for the upgrade of Pointe-a-Pierre, and I am thinking—it brings up the point that if we got all that money years ago, what happened to this upgrade? Was the company not upgraded? The players that actually were responsible in the board, were they doing their jobs?

So I looked at, again, the fact that the moneys that would be owed, I think it is a lot, and I am thinking that even 10 to 12 years ago when we borrowed that money, lenders actually gave us this money without any government guarantee, and I found that strange. How could somebody lend a country money without any sort of guarantees? And this is something I think we need to look at.

So at the end of the day, the players who run these new companies, I think we need, as Sen. Deonarine said, to ensure that things are running efficiently. When the goods and services come in, we have to make sure that when it comes in there that the storage, the package, the cost is kept down so it would not trickle down to the consumers. I think that level of accountability is what we lacked before in successive boards that ran Petrotrin, and we have to ensure that it is not allowed—the same sort of mentality is not allowed to run in the four new companies that we have. So at the end of the day if the players who run these new

entities are not monitored, we run that same risk.

This Paria Fuel Trading Company is a start-up company. It starts afresh, so there is no history of profit and loss. And this I think—it reminds me of a few years ago of BWIA, and we might be coming into the same scenario with CAL. Now, I would like to just go into one aspect, Madam President, looking at the Bill itself, the clauses of the Bill. Clause 1, I think is just the title of the Bill, it does not need much to be said. Clause 2 actually inserts the definition of “trading business” as it is not currently defined in the Act. I think this is something that when the restructuring of Petrotrin took place, it was not realized or probably not noted, or as some others alluded to, it was probably such a quick work that it was not really, it was such a quick work in progress that it was missed out. But regardless of what it is, the fact that we are here now dealing with this entity, we have no choice now to try to bring it into sync with being a trading company rather than a company that refines.

So in the event that a refinery becomes operational in the future, I noted that this clause actually left open the option that it could be a trading business as well as a refinery business, in the event that in the future we are able to start back some level of refining in our country.

Looking at further down in the Bill, Sen. Deonarine actually looked at how the ex-terminal price was calculated, and went into details with that and even the Fifth Schedule of the Bill actually deals with the basis of computing this new ex-terminal price. And this is effected by clause 2(b) of the Bill which now allows for the insertion of the Fifth Schedule. So I am happy that the Bill now gives the country the flexibility, both to import fuel or to produce fuel at the refinery.

With respect to the Petroleum Production Levy and Subsidy Act,

adjustments have been made to make this Act consistent with the amendments made to the Petroleum Act. This is really to allow the inclusions of the operations of the Paria Fuel Trading Company Limited as a definition of a trading business.

Clause 3(a) and 3(b) deal with the amendments to the Petroleum Production Levy and Subsidy Act to make them consistent with the amendments to the Petroleum Act.

Under section 8(1) in the Petroleum Production Levy and Subsidy Act there are four different variables in the calculation of the subsidy, one of which is the ex-refinery price, and given that the refinery is not in operation at this time the prices will be apt to change.

I looked at the new subsection (1A) which was inserted after subsection (1) in section 8 to include the new ex-terminal price variable in the calculation of the subsidy.

Madam President, I understand the Bill also amends section 12 of the Petroleum Production Levy and Subsidy Act, which allows for the filing of a return to the Minister, which, I am looking at the effect that this brings into sync, the fact that this brings in a greater level of accountability, and looking at the runnings of the new companies.

So all in all, Madam President, I think that this Bill is needed to help the changes that came about. I think probably, be it a lapse in the initial Bill that we discussed before or is it a work in progress, and new things would come about that we may need to have changes as we go along. But all in all, I look at this Bill and I think that it has my support, it is just that I am thinking we need to look at these companies more to ensure that a similar culture of how things were before in Petrotrin, does not now present itself in these new companies. Thank you.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. I confess that I came to speak on another piece of law, but I am compelled in light of the last submission by Sen. Deyalsingh to join in this debate to just put a few simple facts upon the notes of *Hansard*.

I have heard it referenced a few times, and in particular by Sen. Deyalsingh when he said that he felt compelled to agree to a certain point made by Sen. Mark. This law is not rushed. This law was not ill thought out. This law is not a knee-jerk reaction. Law has to be constructed on the back of process and data. Law has to be extrapolated in the context of the amendments that we make today, very importantly, on the back of the several pieces of law that are affected. For the record, let me place it on record now.

The Petroleum Act, Chap. 62:01, the Petroleum Production Levy and Subsidy Act, Chap. 62:02, and certainly some of the subsidiary legislation, the Orders, the Schedules, one does not decide to produce work of this type by reference to detailed formulae and structures by way of knee-jerk reactions. So let us put this to bed very simply.

Contrary to the serious inconsistencies in argument by Sen. Haynes, because on the one hand Sen. Haynes came to this Senate to say the Government seems to have no plan at all, the Government has not spoken to a plan, and then Sen. Haynes went into great detail about the “Energy Spotlight”, about the publications, about the fora. And perhaps Sen. Haynes was not paying attention to the fact that the Prime Minister of this country spoke to the Petrotrin issue on three occasions. There were public addresses to the nation. [*Interruption*] Would you like me to give way?

Sen. Haynes: Thanks for giving way. Having a press conference is one thing, but

giving details is a completely different thing. And so it said, it gave us no plans, it really did not. So unless you are going to tell me what the plan was that was articulated, I know there were press conferences, but what were the details in the press conferences?

Hon. F. Al-Rawi: Sure. I regret that I cannot assist you with the absorption of details, that would be a matter of reflection, and I mean that most sincerely. I do accept that the Opposition's role is to pour scorn on any government, at least from your perspective but, Madam President, it is pellucidly clear for all those who wish to pay attention, in particular in the culmination of the "Energy Spotlight", that the hon. Prime Minister did not account to the nation with just a blank sheet. He certainly did not come with a wheel spinning as to what the plan looked like, as we saw in other quarters. In discovering the methodology for this particular Bill, no less team players came to the table than Poten & Partners, and White & Case. And for those who are not capable of following who these people are, as the entire UNC Bench seems incapable of following, these are the foremost experts in the energy industry in the world. One particularly on the exploration and production aspects, and what the yield and methodology should look like, and the other being the foremost expert in the negotiation of the law and negotiation surrounding the arrangements. This law which we have proposed, this Bill which proposes the amendment to the laws that we seek now, came on the back of published data with actual reference to methodology and rhyme and reason as to why the taxpayers of this country needed to relieve themselves of the situation of Petrotrin's perennial losses and go forward extrapolated losses, and why it is there needed to be restructure.

So, Sen. Haynes, I unfortunately can offer you no comfort. That would

require a little research and a little absorption.

But, Madam President, if I get to the Bill itself, I want to put on record that Sen. Deyalsingh raised a few important points which caused me to enter into this debate. Sen. Deyalsingh asked for us to remember that we had to manage the subsidy and protection of taxpayers quite carefully. Sen. Deyalsingh also raised the issue of whether the market could be flooded by someone entering the market and basically driving the profitability of the entities, Paria, Heritage, et cetera, and that combined matrix downward. I would just like to put that to bed very quickly and very simply, no person can enter this market without a licence. No licence is offered without the Minister of Energy and Energy Industries. No Minister of Energy and Energy Industries offers a licence without the Cabinet. Where the taxpayers of this country effectively own the primary assets, it would be illogical, if not insane, to allow a flooding of your market in the circumstances contemplated. It is just impossible that that scenario can present.

Sen. Dr. Deyalsingh: Attorney General, I am looking at the regional market. Could somebody look at the regional market, and we are now competing outside, selling some of the products outside, a big company comes in, says, “Let us stifle them here. Let us go outside now and give our products cheaper outside.” The regional market we will have no control. This is what I was saying.

Hon. F. Al-Rawi: Sure. Again, I will put that to bed immediately. We have two markets; we have an external market beyond Caricom, and then we have the Caricom market. The principles at the Caricom markets are very simple. If a Caricom territory which is part of the CSME has the product to offer, you trump it. Trinidad and Tobago’s product is on deck in the CSME. We have the preferential tariff treatment for this market. But what we are talking about today is the inflow

and price fixing, not an outflow. So as an importer and trader in petroleum products, this Bill is dealt squarely with the purpose of making sure the price formula at the pump is managed in a predictable published fashion.

So there can be no flooding of this market. No territory can enter the Caricom where we are present, or certainly our market without licensing and without purpose. So the concept, and I have to be extremely careful to correct, most respectfully through you, Madam President, the submission made by my learned colleague Sen. Deyalsingh, because if the media were to pick up on what the question was, there can be panic.

This Bill is the antithesis of that. This Bill is squarely rooted in having a publication of the Fifth Schedule, and very importantly in ensuring that we have the subsidy formula published. So the question asked by my learned colleague, Sen. Deyalsingh as to the subsidy aspect, we are in this Bill squarely treating with clause 3, the Petroleum Production Levy and Subsidy Act, and in treating with the formulation of that by preserving a bifurcation, when you come back to refining you can go to ex-terminalling based on that basis, or if you are importing you will deal with the formula on that basis, we are treating with the subsidy formulas within the parent law, Petroleum Production Levy and Subsidy Act, Chap. 62:02, by way of a published position.

Now let us deal with Sen. Mark's usual hysteria. It is hysteria intellectually to offer an argument that people ought to panic. Why? Let us deal with the facts. What is the price at the pump, today, yesterday, one month ago, August last year? The price at the pump has been fixed, and it has been fixed and will continue to be fixed because the law is in effect. On the one hand, by these amendments as we come into effect, but on the other hand the maintenance of price at the pump was

managed by the Ministry of Finance in conjunction with the Ministry of Energy and Energy Industries, and that was a public statement made by the Minister of Finance and made by the Minister of Energy and Energy Industries.

So let us get the hysteria of Sen. Mark out of the way, label it for what it is, “same old, same old”. This Bill is really very simple. This Bill is designed in the clauses that are set out here to put certainty and lawful purpose behind the formulation of ex-terminal pricing, and also how we treat with subsidies and levies. It is intended to preserve the return to the marketing by refining in Trinidad and Tobago, and also by the importation or trading of fuel. This is directly in concert with the Minister of Finance’s statement as to maintaining the price at the pump exactly the way it is.

And I will remind, as I come to a close very quickly, Madam President, when Basdeo Panday enjoyed the privilege of reforming Caroni, which had similar purpose. We had Petrotrin on the one hand driving this Bill and Caroni. Let me remind this population, and students of history would know this, Caroni and sugar cane fell in Trinidad and Tobago because of something called the “Cotonou Agreement”. It was the subsidy arrangement by the European Union, the EPA arrangements under the Cotonou Agreement. When those subsidies were removed by a UNC Government, the market for sugar and its profitability collapsed entirely.

Sen. Mark: “Same ol’, same ol’.”

Hon. F. Al-Rawi: The fact is, as we draw the comparison to this particular petroleum aspect, then Prime Minister Panday made the correct decision. The profitability was driven by the fact that the European Union said they would no longer be enjoying the subsidies, and if the subsidy fell out and the market was no longer apparent, the country had to take a decision. You will never hear a PNM

Government come here and bash the UNC, bash the DLP, bash Mr. Panday then as Prime Minister for doing the correct thing.

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

So for heaven's sake, Mr. Vice-President, why does the UNC intend to come here and cause mischief? Because the fact is that profitability is the profitability for the taxpayers of this country.

Sen. Mark: You are the biggest mischief maker!

Hon. F. Al-Rawi: And the taxpayers of this country need to ensure that their Government has the strength to take the hard decisions. This is not an easy decision to have been made. We are warmed by the fact that the bids for the purchase of the refinery are in and being assessed. We are warmed that the compensation packages for those who have been affected by the closure of the refinery have been processed; \$2.7 billion in cash has been paid out. Lands and other subsidies have been announced. Management of the fallout of industry and absorption in the creation of alternate industries is actively afoot. [*Interruption*]

Mr. Vice-President, I do not know where Sen. Mark's agitations come from. Perhaps he is just provoked by common sense meeting his line of logic or lack thereof. But what I can say, Mr. Vice-President, is we know that history will judge this equation in the correct context. [*Interruption*] We ask the people—Sen. Mark. Mr. Vice-President, could I ask you to control my learned friend?

Sen. Mark: “Yuh see he happy; he have 23 minutes.”

Mr. Vice-President: That is fine, Sen. Mark. Please allow the Attorney General to make his contribution. There is no need to shout across the floor when he is making his contribution. Continue, Attorney General.

Hon. F. Al-Rawi: Thank you, Mr. Vice-President.

Mr. Vice-President, the fact is that the certainty of ex-terminal pricing, the certainty of subsidy, the certainty of the levies that are engaged to underwrite this industry are before the Senate right now. It is this law that will give us protection for the taxpayers. It is this law that will give us the protection for persons at the pump. It is this law that will allow for the return to refinery. As those bids come to settling and to certainty, it is this law that will allow the Senate to make common sense become a reality. This is far from rushed. The *travaux préparatoires*, the working materials to take us to this law required a significant amount of data production and data analysis to get it right. In the meanwhile the Ministry of Energy and Energy Industries and the Ministry of Finance have managed the situation at the pump.

So, Mr. Vice-President, I thank you for the opportunity to make a few important corrections to the line of debate in this honourable Senate, and I thank you.

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Members, at this point in time, I crave your indulgence to return to Item 8 on the Order Paper that deals with Urgent Questions. Sen. Mark.

Sen. Mark: I hope this is the last time we have to go through this.

Mr. Vice-President: Sen. Mark.

Sen. Mark: To the Minister of everything.

Hon. Senator: No!

Sen. Mark: All right, sorry. I withdraw.

Mr. Vice-President: Sit, please take your seat. Members. Sen. Mark, just follow the procedure that we are accustomed to. Ask your Urgent Question.

URGENT QUESTIONS**Trinidad and Tobago****(Elimination of Human Trafficking)**

Sen. Wade Mark: To the Minister of National Security: In light of concerns by the United States State Department that Trinidad and Tobago has not met the minimum standards for the elimination of human trafficking, can the Minister advise what measures are being taken to improve this country's Tier 2 Level rating?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Mr. Vice-President. I start off by stating that it is wholly incorrect and inaccurate for anyone who has read the United States Department's TIP report, Trafficking in Persons Report, to state that the United States State Department has said that Trinidad and Tobago has not met the minimum standards. In fact, they have said the contrary.

The United States State Department TIP Report has congratulated Trinidad and Tobago on making significant progress in some areas. They have said that we still have progress to make in other areas, and they continue to encourage us. In fact, they have come out publicly, the Embassy here in Port of Spain, to say that they look forward to the continued good working relationship between themselves and this administration, unlike what happened to put us in a lower than a Tier 2 level what we came in and met as an administration in 2015.

Sen. Mark: Mr. Vice-President, if that is so then can the Minister explain why the United States Department of State has alleged that there are Government officials complicit in human trafficking in this country?

Mr. Vice-President: Sen. Mark. [*Crosstalk*]

Hon. Al-Rawi: Let him produce it.

Mr. Vice-President: I would ask you to just rephrase the question that you are asking.

Sen. Mark: I am saying that if that is so, can the hon. Minister indicate why in that said report the State Department has accused Trinidad and Tobago of the involvement of Government officials—Government officials—in the trafficking of human beings.

Mr. Vice-President: Sen. Mark, first and foremost I will not allow that question. Next supplemental question if you have it.

Sen. Mark: Can I ask the hon. Minister what steps have been taken to improve the screening process as it relates to victims of human trafficking, who seem to be mistaken for refugees in accordance with the report of the United States Department of State? Can the Minister indicate, give us some clarification?

Hon. S. Young: Mr. Vice-President, it appears as though Sen. Mark on the other side got a completely different report to the rest of the world.

First of all, the US State Department's official report, published by the US State Department, says nothing about Government officials being involved in anything. They have made certain allegations about persons in Immigration and the Trinidad and Tobago Police Service, and that is subject to investigations.

Sen. Mark: Mr. Vice-President, 48(1). You indicated to me to withdraw the question, so I cannot understand how he could respond. He cannot respond to something— [*Crosstalk*]

Mr. Vice-President: Sen. Mark, first and foremost, 48(1) is not relevance. It is the wrong Standing Order that you are raising.

Sen. Mark: 46(1).

Mr. Vice-President: Secondary to that, the Minister of National Security is answering the question as posed as your second supplementary question. I will allow him to do so. Continue, Minister of National Security.

3.45 p.m.

Hon. S. Young: Thank you very much, Mr. Vice-President. So, Mr. Vice-President, as I was saying, it is wholly incorrect to say that there were any Government officials involved.

And with respect to the answering of the question as to “screening of victims”, I find that to be a most unfortunate choice of words because any victim of human trafficking is not going to be subject by this administration to a screening process until after we have made sure that they have been properly looked after, they have received the necessary—

Hon. Al-Rawi: And that is the law.

Hon. S. Young:—assistance including psychological assistance, being put in a safe environment.

Also, the continued use of the buzz word by those on the other side, of “refugees”, we do not have refugees here, we are dealing with migrants. And anyone who is subjected to illegal human trafficking, this Government will treat with them with the highest level of sincerity, and also treat with them in the way and manner that we are obliged to treat with them under our laws and with a certain level of humanitarian assistance and dignity as we are accustomed treating with them. [*Desk thumping*]

Mr. Vice-President: Sen. Mark, next urgent question.

Sen. Mark: We understand what the Government is up to with these economic migrants [*Crosstalk*] but anyway we will deal with them.

Hon. Al-Rawi: Really?

Sen. Mark: Yes, of course. You too, Attorney General.

Mr. Vice-President: Next urgent question, Sen. Mark.

Sen. Mark: Mr. Vice-President, may I go on?

Counter Trafficking Unit Director

(Appointment of)

Sen. Wade Mark: In respect of Trinidad and Tobago's Tier 2 Level rating in the 2019 Trafficking in Persons Report, can the Minister state how soon will a director of the Counter Trafficking Unit be appointed?

Mr. Vice-President: Minister of National Security.

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Mr. Vice-President. Mr. Vice-President, once again, there is absolutely nothing in the US State Department's report and with respect to any tier two level rating that is in any way related whatsoever to a director of the Counter Trafficking Unit.

The Counter Trafficking Unit has only been without a director from the end of May, and they are in the process, this is the public servants are in the process, they have completed the questioning and the whole process, and they are expected to appoint a director of counter trafficking, I am told, within the next few days or within the shortest possible time frame, when I asked them. They said, within the next few days, they have completed evaluation and the recommendations side.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Can I ask the hon. Minister, or in the absence of a director since the month of May, how has this impacted on the workings of the Counter Trafficking Unit?

Mr. Vice-President: Minister of National Security.

Hon. S. Young: Thank you very much, Mr. Vice-President. Mr. Vice-President,

the Counter Trafficking Unit has continued to function, as happens in these circumstances, the next most senior people have stepped up to the plate, they have been acting along with the assistance of the Trinidad and Tobago Police Service. It is no different to how the UNC bench acts in the absence of a real leader.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Anyway, “doh” get involved in the UNC business, eh.

Mr. Vice-President: Sen. Mark—

Sen. Mark: “Doh” get involved in—

Mr. Vice-President: Sen. Mark, please. [*Crosstalk*] Let me remind Members those asking and those answering, that the time for Urgent Questions is only not very long, it is only 10 minutes in its totality. So every time there is a tit for tat and an argument across the floor, it eats away at the time and it undermines the process. Continue, Sen. Mark.

Sen. Mark: I apologize to you, Sir, only you.

[MADAM PRESIDENT *in the Chair*]

Land Occupation by Migrants in Brickfield

(Investigation of Reports)

Sen. Wade Mark: In light of recent reports of illegal land occupation by Venezuelan and Columbian migrants, as you are calling them, in Brickfield, Carapichaima, can the Minister verify whether these reports are being investigated?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President, welcome back. The answer is, yes.

Sen. Mark: And can the Minister indicate how long these investigations are going to take, in light of the severity of the reports that we have received thus far? What

time frame?

Mr. Vice-President: Minister of National Security.

Hon. S. Young: Thank you very much, Madam President. Madam President, these reports are being investigated. It is impossible to say how long the investigation is going to take place, resources are being placed on it, working along with the Commissioner of State Lands and the Ministry of Agriculture, Land and Fisheries, the necessary authorities are looking at it.

Madam President: Hon. Members, the time for Urgent Questions has expired. Sen. Mark, we now go on to your question on notice.

Sen. Mark: Thank you very much, Madam President, time flew so quickly. Question 183.

Madam President: No. 184.

Sen. Mark: 184? I beg your pardon.

Madam President: The Acting Leader of Government Business had asked for 183 to be deferred for two weeks and 184 was the one that was stood down. Is it that 183 is available for answer today?

Hon. S. Young: Yes. It is, Madam President.

Madam President: All right. Sen. Mark.

Sen. Mark: Thank you. Thank you. [*Crosstalk*] Yes. Red and dead. Anyway, Madam President, may I address you.

ORAL ANSWER TO QUESTION

Recruitment of Police Officers on Contract

(Government's Position)

183. Sen. Wade Mark asked the hon. Minister of National Security:

Given the statement made by the Commissioner of Police indicating an intention to recruit Police Officers on contract, can the Minister advise as to the Government's position on this matter?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, to date, no proposal has been submitted by the Commissioner of Police to the Ministry of National Security for the recruitment of police officers on contract.

Further, any recruitment of police officers has to be consistent with the applicable law which in this case is the Police Service Act, Police Service Regulations. And not being aware of the specifics of this matter, the Government is not going to comment any further until it has received a proposal from the Commissioner of Police.

Madam President: Sen. Mark.

Sen. Mark: Can the Minister indicate whether the Government will support a proposal from the Police Commissioner to recruit?

Madam President: Well, Sen. Mark, I would not allow that question because the Minister gave an answer to your question as posed, so you can ask another one.

Sen. Mark: Madam President, may I ask the hon. Minister whether at this point in time in the police service, are there officers on contract? Can I ask that question through you?

Madam President: That question is not relevant either to the one as posted.

Contracts to Alleged Gang Leaders

(Details of)

184. Sen. Wade Mark asked the hon. Minister of National Security:

In light of claims that Government contracts have been given to alleged gang leaders, can the Minister indicate the following:

- i. whether said claims have been investigated; and
- ii if the answer to (i) is in the affirmative, what are the findings?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, according to information provided by the Commissioner of Police, claims that Government contracts have been given to alleged gang leaders are being investigated. The investigations are currently ongoing, and as such information on findings cannot be disclosed at this time. It should be noted, that unlike previous Governments, it is not the policy of the present Government to award contracts to criminals.

Madam President: Sen. Mark.

Sen. Mark: Okay. Madam President—

Hon. Senator: He talking about Burkie?

Sen. Mark: No. No. Madam President, may I ask through you and get some peace in this Chamber, please? Madam President, can the hon. Minister indicate, whether he is aware, before the Commissioner of Police made these claims whether the Government was aware that gang leaders under the Government of the People's National Movement were, in fact, issued with contracts? Can the hon. Minister indicate whether he is aware prior to the Police Commissioner's intervention and claim of gang leaders being issued with contracts under the Government of Trinidad and Tobago?—the PNM Government that is.

Madam President: Minister of National Security.

Hon. S. Young: Madam President, as the Minister of National Security, I am not aware. I am however aware of Government contracts being given to gang leaders.

For example, under the former Minister of Housing and Urban Development, Dr. Moonilal, to a gang leader called “Spanish” from the Beetham to build a police station. [*Crosstalk*] Well, they built a police station.

Madam President: Next question, Sen. Mark.

Sen. Ameen: Are you allowing this thing inside of here?

Madam President: Supplemental?

Sen. Mark: Yes.

Madam President: Do you have anymore?

Sen. Mark: As I on my legs.

Madam President: Yes.

Sen. Mark: Can I ask the Minister having regard to his outburst or his statement whether these matters that he has referred to have been reported to the Commissioner of Police in this instance?

Madam President: Minister of National Security.

Hon. S. Young: Madam President, it is quite ironic. This is something that has been out in the public domain, I believe, since 2014, since 2015 and in fact, the then Minister of National Security who is now the current Commissioner of Police is the one who is alerted to it.

Hon. Senator: Before he was fired by the UNC. [*Crosstalk*]

Madam President: Sen. Mark. [*Crosstalk*] Sen. Ameen, please, please. Sen. Mark, you have another supplementary question to pose? You may pose it.

Sen. Mark: So can the Minister indicate to this House whether it is the policy of the PNM Government not to employ gang leaders via contracts within the state sector? Can he categorically state for this Senate today that it is the policy of the PNM not to engage gang leaders via contracts in the state sector? Can I get that information from the hon. Minister?

Madam President: Sen. Mark, that question is not allowed. You have one more supplementary if you wish.

Sen. Mark: No. I will— [*Inaudible*]

Madam President: Leader of Government Business.

Sen. Khan: Madam President, question 283 was deferred, but we are position to also answer 283, with your leave.

Madam President: Sen. Richards.

Sen. Richards: Thank you, Madam President. Good afternoon colleagues. Through you, Madam President, Question No. 283 to the Minister of National Security.

Venezuelan Criminals

(Involvement in Financial Crimes at ATMs)

283. Sen. Paul Richards asked the hon. Minister of National Security:

Can the Minister advise as to whether Venezuelan criminals were involved in financial crimes at the ATMs of a local financial institution in the months of May and/or June, 2019?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President, and to Sen. Richards. According to the information received from Trinidad and Tobago Police Service, the Fraud Squad has reported that no Venezuelan criminals were involved in financial crimes at ATMs of local financial institutions for the periods May 1st to 31st, 2019, and June 1st to 13th, 2019.

Further checks of the Crime and Problem Analysis Unit (CAPA) of the Trinidad and Tobago Police Service also revealed that for the same period there are no reports of Venezuelan criminals involved in financial crimes at ATMs of said

institutions.

Madam President: Sen. Richards.

Sen. Richards: Thank you for the answer, Minister. Can the Minister indicate if the said state agencies have been able to identify allegations of crimes in the last six months out of the period?

Madam President: Well, Sen. Richards, that question does not arise. Yes?

Sen. Richards: Thank you, Madam.

Sen. Mark: May I?

Mr. Vice-President: Sen. Mark.

Sen. Mark: No. I am not asking a question. I just wanted clarification.

Madam President: No one else has any more questions to the Minister? Yes. All right, Sen. Mark

Sen. Mark: Yeah. Madam President, I would like your guidance on question 269 in the appendix which is due on the 14th of June. May I get some clarification?

Madam President: Sen. Mark, the Order Paper itself has that question was deferred for two weeks on the 17th of June, so it is not yet due for answer. So hon. Senators we will now resume the debate. Sen. Obika. [*Desk thumping*]

MISCELLANEOUS PROVISIONS (PETROLEUM AND PETROLEUM PRODUCTION LEVY AND SUBSIDY) BILL, 2019

Sen. Taharqa Obika: Thank you, Madam President. As I rise to contribute to this debate, I want to start off with a quote from an article entitled, “Getting behind the headlines” which appeared in the *Business Guardian* of June06, 2019. And the sentence is, I quote:

“Not seeking advice presents a convenient opportunity for ‘plausible deniability’ of knowledge of the alternatives.”

A great economist in the Caribbean and son of the soil, Lloyd Best, is also

quoted as being kinder in his choice of words by claiming not ignorance but innocence which leads to incompetence.

So that this “plausible deniability”, Madam President, that has led to firstly, this PNM regime unceremoniously disbanding its only economic development and advisory board choosing to advise itself, closing down Petrotrin, now birthing Paria, Heritage and by proper pronunciation, Guaracara: I grew up in Marabella so I must know the proper pronunciation of Guaracara. [*Crosstalk*] Guaracara. Yes. I think the Minister of Trade and Industry is unaware of the proper pronunciation.

Sen. S. Hosein: She never went there for cricket.

Madam President: Please.

Sen. T. Obika: Despite the protests to the contrary, Madam President, of the Attorney General. Now, Madam President, what was unfortunate, I think you were out of the Chamber at the time and—

Madam President: I do not know why we are continuing with this who is “in the Chamber”, who is “not the Chamber”. Please, okay? Sen. Obika, make your contribution. All right?

Sen. T. Obika: I apologize. I was only seeking to keep you abreast of what happened. [*Crosstalk*] The Attorney General, Madam President, in contributing to this debate, he did say that he was unprepared and that he “jumped in without washing his feet” as we say in Trinidad and Tobago. But the Attorney General, Madam President, chose to bring up the closure of Caroni to justify Paria.

And because, Madam President, I understand that there is no other economist who can contribute in this debate and the one economist has already done so, being the Member the Independent Bench. The hon. Minister in the Ministry of Finance is asking, who is that?

So the issue is, the World Trade Organization, to correct the record from the Attorney General's misunderstanding of history, the World Trade Organization in responding from a panel response to a complaint by Brazil, Thailand and Australia regarding the preferential treatment afforded to sugar-producing countries of which Trinidad and Tobago is included, I will only go to the recommendation, the conclusion 8 at the end. And the panel concluded that the European communities through its sugar regime had acted inconsistently with its obligations under Articles 3.3 and 8 of the agreement on agriculture by providing export subsidies within the meaning of Article 9.

So in essence, a party to this complaint, a third party is listed as Trinidad and Tobago. For Trinidad and Tobago to be listed as a third party to this complaint, Madam President, and this was lodged in the year 2002, the panel report is of 15 October, 2004. All right?

In 2002, at the time of the complaint it was for a year in question 2000/2001, when the UNC was in Government. However, it meant that the UNC stood as a third party to the complaint, meaning, they saw that there was interest of Trinidad and Tobago in keeping in place, firmly in place the preferential treatment regarding most favoured nation tariffs for sugar to access the European Union. So, the Attorney General is wrong in laying blame with the UNC firstly.

Secondly, the closure of Caroni happened in the year 2003, and just last year, and I will close on this point, because whilst it may seem relevant to the debate, the Attorney General brought it in.

A headline entitled, "Union: 15 years later, ex-Caroni workers still waiting", Saturday 14 April, 2018, by Richardson Dhalai in the *Newsday*.

And the last point I will make on this statement, Madam President, they lay

the blame for unceremoniously closing Caroni and misappropriation of the lands thereafter falls squarely at the feet of the People's National Movement. [*Desk thumping*] So, I will get to where I was supposed to be talking about this Bill.

Now, Madam President, we have before us some Bill essentials, and we have three clauses, the Bill had four before it reached this House, but it only has three clauses in this Bill. So, I want to go straight to clause 3(c) subsection (1A). And it states there:

“The subsidy shall be computed monthly in respect of sales of each petroleum product listed in the Schedule by a person carrying on marketing business...”—et cetera, monthly subsidy.

Now, Madam President, I think the country is poorer for the way this Bill was piloted today, the country is poorer for the way this Bill was [*Desk thumping*] unceremoniously piloted today.

The hon. Minister in the Ministry of Finance made no attempt, zero attempt to do justice to the legislation that is before us. So therefore, we have it now, one must first identify the clauses in Bill and provide clarity where there was none even proffered at the beginning. The Minister spent less than six minutes, Madam President, to me, I find that should not happen in something where we are speaking about the patrimony of the people of Trinidad and Tobago.

Now, Madam President, it may surprise you to know, actually it would not because you are familiar with Pointe-a-Pierre, so it may disappoint you greatly to know the way in which the ex-workers and the current energy-sector workers are being treated in what this Government is calling Paria Fuel Trading Company—sorry, I apologize, what the PNM, because they soon will be in Opposition—what the PNM is calling Paria Trading, Heritage, there no full of complement of staff.

Madam President: No. Sen. Obika, thank you. Along the lines of my previous interventions, I need for you to have your contribution on the matter at hand and not—you have to deal what is before us in this Bill.

Sen. T. Obika: Madam President, I understand. We are talking about a trading operation, the Bill also contemplates that Trinidad and Tobago should return to refining. All right? There are clauses in this Bill that maintain ex-refinery price from the definition parts to the parts that deal with the calculation of the subsidy. So the question, Madam President, that the entire country wants to know is, who will run the refinery? We have one Wilfred Espinet saying, the refinery will be sold, Paria—Madam President, apologies. [*Crosstalk*]

Sen. S. Hosein: But it is the truth. [*Crosstalk*]

Sen. T. Obika: We have the Prime Minister, and I want to say something on the OWTU, the Oilfields Workers' Trade Union. Madam President, the din from the Attorney General is unbearable.

Madam President: Hon. Members, could we, please, abide by the Standing Orders and allow me to hear the contribution of Sen. Obika. Sen. Obika, please continue. [*Desk thumping*]

Sen. T. Obika: Graciously, Madam President. Now, Madam President, the Oilfields Workers' Trade Union was saying that they would have the opportunity, so that this Bill would have been about them. By now they would have thought that this Bill would have been about them. I am lowering my decibel levels to facilitate the low ceiling.

Hon. Al-Rawi: Madam President, I rise on Standing Order—

Sen. T. Obika: Well, call the Standing Order and I will sit. Call the number of the Standing Order, do not give me no speech. So, Madam President—

Madam President: Sen. Obika, please, allow the Standing Order to be invoked.
Attorney General.

Hon. Al-Rawi: Thank you, Madam President, I rise on Standing Orders 46(1) and
53(1)(b).

Sen. T. Obika: Okay. You called it.

Madam President: Sen. Obika— [*Crosstalk*]

Sen. T. Obika: I wanted to make sure he knew—

Madam President: Sen. Obika, I will caution you, again, about relevance, and I
will ask you, you can continue but be relevant to the Bill, please. Okay?

Sen. T. Obika: Madam President, after promising the OWTU the first take, the
Minister of Finance is on record and had he piloted this Bill, the response would
have been relevant. The Minister of Finance is on record as saying, no fly-by-night
company with no assets, no history, no capacity will take over—

Madam President: Sen. Obika, so—I am listening very attentively, so you just
heard your words, if the Minister of Finance had piloted the Bill, he would have
said. So you are responding to something that has not been said in essence. I will
ask you, please, to respond to what has been said in this debate and what is
relevant to the Bill that is at hand. Please, Sen. Obika.

Sen. T. Obika: I will go on to the Petrotrin Regulations, Chap. 62:01. Madam
President, you must understand that when you leave Point Fortin and you come
here after spending three hours in traffic and you get a lacklustre pilot of a Bill, it
is very disappointing and disheartening. So, I apologize, but this may be the train
for this debate, because really and truly is grieves me.

So clause 2 speaks to an ex-terminal price. Right? And before that in terms
of the Petrotrin Regulations, Madam President, the administration is saying that

they want that to remain open to allow this country to return to a time where we continue to refine our own oil, but it is this Government's doing, it is the PNM's doing that is the reason why we have no refinery; so the ex-terminal price. So the issue that we have here is, what are the components of this ex-terminal price, you know. Madam President, I think that is something that the entire country wants to know. What are the components of that?

The issue of maintaining Paria whilst the refinery is in operation creates a messy situation for policymakers. Madam President, this is because the formula will account for components all of which are variables except retail price at the pump.

So for instance, the formula which features throughout this Bill, ex-terminal price being a component of the ex-refinery price from the point of external origin, cost, insurance and freight, duties paid where applicable and so on.

Now, we have to make sure that there are mechanisms for benchmarking these fees, that is the first step in this whole process, and making sure that when these are paid they are in line with market rates. Because, Madam President, the Minister of Finance in another place would have mentioned, the rates are minute, small, but, Madam President, half of 1 per cent when you are dealing with millions, when you are dealing with billions in TT dollars is a lot of money.

So the gross margin of distributors being National Petroleum, UNIPET, for instance, or whomever else this Government is envisioning to bring into the market, you see that the hon. Minister of Energy and Energy Industries is with us, again, and I am sure the hon. Minister will speak about the shallow wells that Shell is going after and so on because that is the history of the past.

Hon. Senator: That is the second time he—

Sen. Ameen: Do not disturb people who are talking nah, man. Let the man talk.

Sen. T. Obika: So, Madam President, we know Shell and the other multinational corporations have no interest in the retail business in Trinidad and Tobago. So the question brings us to the petroleum levy, it brings us to what concessions are being contemplated by the vagueness of the Bill. What concessions, and when there are concessions, Madam President, the only people who stand to lose consistently, if the concessions are not well-thought out, are the people of Trinidad and Tobago, and since this Government has fired its entire advisory board, one thing you can guarantee yourself, Madam President, is that there they are short on good advice, they are very short on good advice, so those concessions may very well be to the detriment of the people of Trinidad and Tobago.

Now, regarding the difference between ex-terminal price and the gross margin less the retail price in terms of volume sales and wholesale and retail, it is messy because this is a transitional measure. So if we put in place approaches that can address any situation, we can be protected in unplanned situations. The issue is, Madam President, we are going from a situation where we had significant intense knowledge on the processes and the procedures and cost structures from the refinery gate to the pump before, but now because you are getting your supply maybe from different suppliers, different points in time where the price variations may be significant, you have challenges regarding control, regarding managing the level of expenditure and call on the public purse.

4.15 p.m.

Because the Minister of Energy and Energy Industries would come to the Parliament and boast, Paria is making a profit, the Minister of Trade and Industry, profits are being made. Madam President, even if you make 100 million in profit

but you increase the subsidy by half a billion, who are we fooling? One can only fool oneself when that is the narrative that they are trying to push. The reality is, the question this Government must answer, this Bill speaks to the levity, the space that we are giving the Government regarding the subsidy. That is what this Bill is about. But if you are bringing a Bill to speak to the space you want for the subsidy then more information should be afforded to the population free of charge.

So, there is talk about licences. This Bill contemplates that as well. I will get to that in terms of what the Government should have been bringing to the Parliament, and there is no space for this regime to blame the past administration regarding any licences, because this is a new arena for the country. This is a new arena for our country in terms of importing refined petroleum products for sale at the pump. So therefore, if it is a new arena it should be have been well ventilated, and then the opportunity for nationals to see which company is getting the deal to air freight the petroleum. What is the cost? Who is the customs broker at the point of origin? Who is the customs broker in Trinidad and Tobago? Madam President, in Paria right now persons are on month-to-month. PricewaterhouseCoopers is running roughshod in Paria Trading. Kenson, a PNM financier, has a stranglehold on Heritage. There are no staff members. There is no full complement of staff in those companies. The people of Trinidad and Tobago can be short changed, so what exactly is the situation we are faced with? Unclear knowledge. It begs the question as to the subsidy regime and who suffers versus who benefits.

Keep in mind, Madam President, that the Unemployment Levy, the history that the Minister of Energy and Energy Industries may come and boast that the first Prime Minister, Eric Williams, created the Unemployment Levy because of the significant swings in price and the significant profits the upstream operators were

making that the people of Trinidad and Tobago must benefit, so the levy was put in place. We accept that. That is point of history. But you cannot live on past glories. You understand? That is a point of history, but what is the situation today? The Unemployment Levy, what is the situation with the Unemployment Levy? At that time the mix was more in favour of oil than gas. You had meetings with Shell. You might be giving them concessions. You could have dropped on them the Unemployment Levy or some other levy regarding gas.

Now, I will move on, Madam President. I want to advance that this regime will do one of two things. One, this regime where the subsidy contemplates an ex-terminal price plus the gross margin for calculation of the subsidy in the same scenario where we can have a refinery, so you have an ex-refinery price which should be significantly lower, all things being equal. What is going to happen, it is going to penalize the local refinery producer, given the commonality of price at the pump and the subsidies to apply. Madam President, just for clarity for persons, I wish to just succinctly summarize what I just said. You have refined super gas coming from outside. It attracts shipping duties, other tariffs; it comes here, it attracts a customs duty, it attracts a VAT. VAT is paid on all the costs that were already compiled, so the VAT on that should be significantly higher compared to the VAT on the gas that you produced locally and you refined—the oil, sorry, that you refined, the super gas for the pump that you refined and produced locally.

So the guy who produces locally, he may not have an incentive to keep his price lower, so he would sell at that higher price, that is the ex-terminal price. In a situation where you only have Paria being allowed to import, given the boast of the Attorney General about licences are not given freely and we regulate these things, if we envisaged only Paria being able to import and then only one person operating

the refinery in Pointe-a-Pierre, then all the oligopolistic system will prevail. Only two players they will fix the price amongst themselves and the customer will suffer at the end of the day. That will lay waste to the whole point of the levy that you impose on the producers upstream because the system does not make sense.

Sen. Khan: Posted price.

Sen. T. Obika: Now, Madam President, I see the hon. Minister of Energy and Energy Industries sees the benefit in my argument and hopefully he may so advise the policymakers to take a second look at what would be the regime when there is a local refinery in place, whilst simultaneously you are importing through another player. Prior, we would have imported—Petrotrin may have imported for the refinery, Madam President, when the refinery is on shut down for maintenance, but it is the same player. So, that moral hazard of price fixing does not apply. So, I want to continue.

Hon. Senator: Conclude?

Sen. T. Obika: Continue, not conclude. So, Madam President, what will happen is we will have a scenario where there is significant inefficiency in the market. Can I ask what time I should end, Madam President?

Hon. Senator: Now. Now. [*Laughter*]

Sen. Ameen: All “yuh” hungry or what?

Madam President: Break would be taken at the regular time Sen. Obika.

Sen. T. Obika: Okay, thank you. Madam President, you know I really enjoy debates on the economy, so I have so much more in front of me. [*Interruption*] Now, Madam President, we are on clause 3, as the Minister of Agriculture, Land and Fisheries is asking for clarification.

Sen. S. Hosein: He did not read the Bill.

Sen. Ameen: He did not read the Bill.

Madam President: Sen. Ameen! Sen. Ameen!

Hon. Senator: Sen. Ameen, you are disturbing your colleague.

Sen. Ameen: “All yuh” read the Bill.

Madam President: Sen. Ameen!

Sen. Ameen: Madam President, I am sure you are not hearing me alone. Please.

Madam President: What you say!

Sen. Ameen: Members on the other side are disturbing.

Madam President: Sen. Obika, continue.

Sen. T. Obika: Madam President, I have some questions to ask. Thank you, Madam President. So, what are the benchmarks used? The hon. Minister of Energy and Energy Industries coming after, I want to ask that question. What are the other options given that you are contemplating a scenario where Paria would be involved and a separate operator for the refinery in Guaracara? And what is the justification for choosing the ones used? And, of course, the people want some detail.

Now, I would not go to what the Minister of Finance laid on the *Hansard* because I have already mentioned it in passing before. But I want to look at the rationale for keeping the ex-refinery price in calculation of formula. The implications on the trading industry. Now, the hon. Minister in the Ministry of Finance did in piloting the Bill mention that the industry may be similar with some modifications once we pass this legislation, and the refinery at Guaracara finally comes on stream. That begs the question. What is the tender process involved for engaging persons along the value chain, given that the legacy Petrotrin companies are not staffed and they are operating through service providers. Who controls the

tender process? Is it sole source? Does the Tenders Board have sight of it? What exactly are the regulations that protect the taxpayer and the Treasury? The computation of GDP.

Clause 4 of this Bill was taken out. We know that. I am not going to speak to clause 4. I am going to speak to the intent and where it is important to this Bill, because this Bill speaks to a subsidy which impacts the Treasury. And the Government was trying to look at calculation of GDP from production data. I want to advise the hon. Minister of Energy and Energy Industries, they need not look at the Income Tax Act for diminishing the secrecy clause. What they could have simply done was look at specific requirements to Paria and any operators engaged through Heritage and so on, to disclose all their production data to the State, and then the State could decide what they feel they can disclose beyond that. Because you do not need to remove the secrecy provision for all taxpayers just for us to see the production data for Paria and for Heritage, and Guaracara. So I just want to advise the Government that they did not need to look at the secrecy provisions in the Income Tax Act. *[Interruption]* So, Madam President, I am hearing some protest from the Minister in the Ministry of Finance. Those could have been in the piloting of the Bill.

Madam President, the Government—the financial position of Paria Trading, we always about the profit made. Now remember profit is on accrued basis, not cash basis. Profit does not speak to the financial position of the entity. And the impact of this legislation on the financial position of the entity will not be known because we have no means through which we can get that information. Now, we are saying that Paria makes profits of roughly 15 million per month after two months in operation. That was in the public domain, and that is very miniscule.

The question you always have to ask this Government is this, is it operating profit or is it net profit attributed to taxpayers?

Madam President: Sen. Obika—

Sen. T. Obika: I will continue. I will continue.

Madam President: Yes. Please, make your contribution relevant! You are giving us a lot of information, but that information is not relevant to the Bill at hand. Can you please!

Sen. T. Obika: [*Laughs*] Thank you, Madam President. Now, this Bill in clause 3 subsection (d), and (ii), speaks about marketing business and trading business and so on, and there is a question about licensing, and the Attorney General did not answer the question. He said, of course we should have a licence, but the question as to whether Paria what licence they have and under which law specifically that caters for, that contemplates such a licence, where is that covered? So the answer is still in the balance, but I guess that happens when you “doh” wash your foot before you jump in a debate.

Now, Madam President, so should Paria need to get a licence for trading, transportation and storage? Does the Ministry have a model licence or licenced regime for trading? Does the Ministry’s current staffing and operating procedures—very important, Madam President—allow it to efficiently regulate trading businesses? Because all of this, what is the sense of all of this if we do not have the teeth at the Ministry of Energy and Energy Industries? If you do not have the full and relevant staff complement at the Ministry of Energy and Energy Industries? Maybe the Government should have proposed some alterations where that is concerned.

Now, Madam President, regarding the Petroleum Act, Article 29, it

considers the necessary expedience for carrying out the purposes of such an Act, ensuring that the register of all licences issued and any orders, judgments or awards relating thereto is maintained in the appropriate department or departments. Now, because this is a special arrangement, because it was not contemplated prior, meaning trading business from an ex-refinery position—standpoint in terms of the business model of Paria, is this properly captured under the legislation? Under the Petroleum Act and the subsidiary regulations? Is it properly captured? If not, I want to ask the Minister of Energy and Energy Industries to engage his legal department to see if they can add some teeth there.

There are some questions I have as well, several questions I have, and this is how my contribution will flow until it ends, regarding licences. Should there be a new class of licence? Notwithstanding all the talk about licence, should there be a new class of licence for trading specifically? Can the Minister explain the state of the licensing regime? I hope the break, as would be afforded the Minister, will allow him to give an account as to the—the half an hour break—licensing regime in the Ministry of Energy and Energy Industries, and if there is any requirement to strengthen it at this point in time? Has the Minister established an order? The hon. Attorney General spoke to orders, for instance, but in this particular case has the Minister established such an order? The Bill contemplates particular orders regarding the type of fuel and so on, regarding compliance of companies that should be allowed to participate in such a business. And there are some final questions I have, and after that I will—

Madam President: Sen. Obika, we will now suspend hon. Senators and we will resume at 5.00 p.m. Sen. Obika, you have used up 32 minutes of your speaking time.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

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

Mr. Vice-President: Sen. Obika, you have eight minutes.

Sen. T. Obika: Thank you. [*Desk thumping*] Mr. Vice-President, it amazes, on the issue of Petrotrin, that the first time the Member of Parliament for San Fernando West, the hon. Faris Al-Rawi, can find his voice is when we give space to Paria. After closing Petrotrin, no voice; after sending home 10,000 workers, no voice; homes are being foreclosed as we speak. There are ex-workers from Petrotrin who have been facing their financial institutions and have to give up the keys to their homes. The Member of Parliament for San Fernando West could only find at this time, and even when he speaks, to lay before the public record that the workers are taken care of. If that is the way the PNM takes care of people because they love them, that kind of love, we eh want at all. [*Desk thumping*] Now, on the petroleum register, because again my time is limited, I will simply propose some questions.

Sen. Khan: You waste your time.

Sen. T. Obika: So, I will lay waste to the banter from the Minister of Energy and Energy Industries, by at least providing some proper questions regarding the petroleum register. What does registration entail in Trinidad and Tobago law and practice?

Now, Mr. Vice-President, continuity of administration: Continuity of administration in Government requires that you advance and you stand on the shoulders of those who went before. So it is not fit for a Government in office to say it was not done before. What is proper is for them to look at the foundation

that was laid in law and in practice. Now, the issue of registration and record, what does the record mean in terms of the companies? The Companies Act, Real Property Act, and the other registers where prescribed. The question is, are these public documents? Now, the Petroleum Regulations, it states here, Article 20:

“The Minister shall cause a petroleum register to be instituted and maintained in the Ministry for the registration of all applications for, and the grant, assignment, renewal, surrender, termination and revocation of licences and other particulars relating thereto.”

And number two:

“The petroleum register shall contain a record of any Court decisions, arbitration awards, Deeds or instruments of any kind relating to petroleum rights.”

This Bill speaks to licences for—specific licences. The issue is, will this be made public? And by public we do not mean when you go on the website, all you see in the Ministry of Energy and Energy Industries is a paltry line item that says licence to who or contract awarded to whom. What we want to see is the full disclosure of the details of the licence. And, Mr. Vice-President, the Minister of Energy and Energy Industries would not be proper if he comes, if the Minister comes before this House and says that that is private and confidential. Because we have a situation where the energy expertise of Trinidad and Tobago is being used across the world, and in the particular case of the Republic of Ghana, the President of whom was hosted by our Government recently, they have a petroleum register. They only came upon commercial oil in 2012. And in section 56 of Ghana’s Petroleum Exploration and Production Act, 2016:

“The Commission shall establish and maintain a register of petroleum

agreements, licences, permits and authorisations as prescribed.

The register shall be open to the public.”

Mr. Vice-President, you can go right now on your tablet, go on ghanapetroleumregister.com and you can see the full list of contracts. You can see the details of each contract in the upstream energy sector. I am saying, the whole issue of extractive industries transparency is something that is evolving, and as we are evolving we are saying that whilst it may not have been done before, now is the time that the Government should do it. Not just list the companies that are participating in the sector, but now that you are giving a new trading licence to Paria, disclose the full details of such a licence.

Sen. Mark: And he extended the share licence too.

Sen. T. Obika: And the Minister extended the licence for an upstream operator apparently today. It would be Shell.

Sen. Mark: Yeah. Yeah.

Sen. T. Obika: Put the contract to the public record. [*Desk thumping*] Put the contract to the public record. Now is the time to do it. Now is the time. So what we are saying is, whilst it was not done under the time of late Prime Minister, of blessed memory, Patrick Manning. Whilst it may not have been done before, whilst it still may not have been done today under Prime Minister Dr. Rowley, now might be the time for us to seek the wisdom of an evolving world, and give information public. The Minister may say it was not done 2010 to 2015, but now might be the time.

Sen. Mark: Now is the time.

Sen. T. Obika: Mr. Vice-President, what the world is saying, is that when you give full disclosure of information to the public it removes asymmetry of

information. It removes the imbalance that favours the multinationals, and it favours a fair playing field. The people of the country benefit with full disclosure, and because this is an example on its own, the issue of a licence for trading for Paria, because we are saying now is time to disclose in full, capture it in the regulations, capture it in the law, the details of any licence that is afforded to Paria, and all aspects of its value chain, so the people of Trinidad and Tobago will not suffer from asymmetric information, and we will benefit from whatever decisions we make today.

Mr. Vice-President, I want to end on stating this: That the Minister of Trade and Industry said there were no hitches. That we should not have anything to fuss, but the fishermen not having access to regular gas, that is a hitch. The increase in prices for fish for persons, for families, that is a hitch. So, they are saying they would not sell Paria, but the people are saying they cannot trust this PNM regime. They cannot trust this PNM regime. [*Desk thumping*] And anything they say we will wait, because the proof of the pudding is in the eating, and it is tasting really bad. I thank you very much. [*Desk thumping*]

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Mr. Vice-President. Mr. Vice-President, it is a privilege for me to join this debate on a Bill entitled an Act to amend the Petroleum Act, Chap. 62:01, the Petroleum Production Levy and Subsidy Act, Chap. 62:02. Let me first start by apologizing for my late arrival. I know everybody was anxiously awaiting—

Sen. Gopee-Scoon: It caused a stir.

Sen. The Hon. F. Khan:—for me to respond first, but we signed another major agreement today with Shell [*Desk thumping*] and it is a gas sales term sheet which

is the precursor to a gas sales agreement for the supply of gas to the NGC, as we deal frontally with the whole gas curtailment issue and the survival as it were of the downstream energy sector.

Mr. Vice-President, the Petroleum Act is a very broad piece of legislation, and it gives, if I should say so myself, tremendous power and responsibility to the Minister of Energy and Energy Industries, as the regulator of the industry. It ranges from the granting of oil and gas exploration licence and production sharing contracts in the upstream for the development plans and production plans of the upstream companies; it deals with the transportation and storage components of the energy sector; it deals with refining and marketing and petrochemicals; it deals with marketing and retail and a whole myriad of other activities. This amendment in a sense is a simple amendment, because all it is doing is recalibrating what we hope is an interim system right now. When the refinery ceased operation, the legislation called for an ex-refinery price. Obviously there is no ex-refinery price as we speak, so we converted that into an ex-terminal price. We must define what that means in the legislation and how it is calculated, because that is the basis of the calculation of the subsidy.

However, we have not deleted the ex-refinery component in the legislation. We have kept it. So no matter what course of action happens in the future, we will be covered legislatively by the Act. So, it is quite simple, there is no sinister motive behind it. It is just to be legislatively compliant, because that is how modern societies operate. That is how democracies operate. But you know I like to put things in context, Mr. Vice-President. You see, this whole story started in the '70s. For those of you, I do not want to call you out by age [*Laughter*] but you remember the days of Esso, "Put a tiger in your tank", "The big bright Texaco

star”, “Be sure with Shell”, and it was a free market system. The integrated oil companies were in upstream, midstream, downstream marketing, even into credit cards, “fus dey”—so you cannot go to a Shell gas station and pay with a Master Card because they still have to capture some value there, so they were issuing Shell credit cards to buy gasoline.

All that changed in 1974, when probably the most significant event of the 20th Century after World War II was something called the Arab Oil Embargo. It brought a new virtual world power on the scene, which is the Middle Eastern Arab countries, from nomads raising camel. Today go to Dubai, go to Doha in Qatar, go to Riyadh in Saudi Arabia. Within one year in 1974, oil prices increased six fold, 600 per cent, from \$6 to \$7 to \$36 to \$37. The world was in shock. The world was in turmoil. Gasoline was ubiquitously cheap all over the world. Those were the days of the American gas guzzlers, when you going cross countries with an Oldsmobile or a Buick Impala. You are just burning gas at 10 to 11 miles per gallon. That has caused a revolution in the car making industry.

The impact on that was a significant increase in the price of the retail fuel at the pump. Obviously, Trinidad had to do something, because Dr. Williams at the time felt you could not pass on that tremendous increase to the population, especially for a country that was producing significant volumes of oil. Nothing is wrong with that logic, you know.

5.15 p.m.

That is how the subsidy started; and the Petroleum Production Levy and Subsidy Act, 1974. And what that Act did, it took a cap of 4 per cent of gross revenue of the oil companies to cater for the subsidy of gasoline. In those days oil production was high; it was in excess of 200,000 barrels per day. So the 4 per cent

cap on gross revenue from the oil company was more than sufficient to cover the full cost of the subsidy. So there was no issue, the subsidy did not have to come from the Consolidated Fund and we survived like that for decades. And then there was a transformation that we were not finding oil again, we were finding gas and we converted quietly, but successfully, into a gas based economy.

However the subsidy, while we were getting significant revenue from gas, the subsidy was still based on 4 per cent of the gross revenue from oil production. Now, there came a time when the curves crossed, where the subsidy could have no longer paid—where the 4 per cent cap could have no longer paid for the level of subsidy, so much so that there were years that the subsidy was \$2 billion. That is in 2007, 2008, 2009 coming down that time. But, there was sufficient money generated from gas to cover that but coming through the Consolidated Fund. And that is how the subsidy evolved.

It became very apparent, at least for this administration on the onset in 2015, that on a long term basis we cannot support the subsidy ad infinitum. So what do you do as a Government? We have been weaned on that for years, you cannot just pull the carpet from under your feet. So we took the approach to progressively reduce the subsidy, which is good public policy. Because the income to subsidize to the level in which the subsidy required was not there. So, we started with premium gasoline which supposedly is the high-end boys. So we removed the subsidy from premium. Then progressively we started to reduce the subsidy on super and to some extent on diesel.

The Minister of Finance from all his budgets since he became Minister of Finance in 2015 had some reduction in subsidy to the point now that based on \$65 oil we have reduced the subsidy totally from super gasoline. However, it would

have been imprudent public policy at this time to remove the entire subsidy on diesel, because diesel is the transportation fuel for the poor man, so to speak, the maxi-taxi, the buses, diesel is the transport fuel for goods and services, what they call “goods vehicle”. It goes all over the country distributing products. So there is a subsidy and all this Bill is doing is recalibrating that subsidy by using an ex-terminal price in lieu of an ex-refinery price. And I will explain that very shortly.

Ultimately, it is our intention—how long it will take we do not know, but we will obviously consider it when we go back into office for the next five years, [*Desk thumping*] to come to a free market system where we will be posting prices at the pump, as Jamaica does on a weekly basis, in the United States it is on a daily basis and the whole subsidy issue will be dead and gone forever. But at this point in time we do not think the society can take it.

So let us deal with the calculation of the subsidy. But let me just make one thing clear. Both in the House and here, the Opposition there and here, the same Opposition, tries to morph this debate into a debate on Petrotrin. While there are links, they are two separate issues. We have gone at length to explain the rationale for our decision on Petrotrin. We think it is founded on good public policy, on good economic policy and in stringent fiscal and corporate management. There are social consequences to it; there are human consequences to it and there may well be political consequences to it. We accept that as a Government, because that is why we have been elected into office to lead, to take the country into a future that it deserves and not be stymied by baggage that are historical in nature, but which is taking us nowhere. As the saying goes we “eh afraid dat”, you know. We are going to Point on Thursday, you know, Sen. Obika.

Sen. Gopee-Scoon: Ha, ha, ha. You coming?

Sen. The Hon. F. Khan:—and we are speaking on energy matters. The Prime Minister will be leading the charge. Come and hear or send somebody to hear and put a microphone or something if you are shame.

Sen. Gopee-Scoon: “Nah, he putting on a hat and come.”

Sen. The Hon. F. Khan: Because we know we have to face it, frontally, because when you take actions like these you have to account to the people and it is our concerted view in the PNM that Trinidadians have sense. And while they may see their vested interest affected in some form or fashion it is our hope and our intention that the overall common good of this society will always prevail. So Sen. Obika was talking about whimsically setting price. Let me just show how the ex-refinery price was calculated.

The ex-refinery price is equal to PP, plus ED, plus HC. I will explain that. PP is the market related prices for each of the corresponding product; ED is a rate of excise duty enforced at the date of sale of such petroleum products; and HC is the handling charge allowed by the Minister of Energy and Energy Industries after consultation with the persons carrying out the refinery business. The key point here, Mr. Vice-President, is PP, which is the market related price.

So the refiner cannot just ups and say “This is my price this month”. That price is referenced to what is called “Platt’s Oilgram Price Report (OPR), Caribbean Product Posted”. It is based on a series of Caribbean refineries plus some Gulf Coast refineries. It is a basket of—

So if that is the posted price, that is the price you are allowed to quote. So nobody cannot set artificial prices. Because one of the good things about petroleum and petroleum products, not gas so much, but every crude and every

product is related to a posted price, because it is an internationally traded commodity. ED, excise duty, it is straightforward; and HC, obviously you have to give a small handling charge to do refinery before they send it out to the wholesalers.

With the closure—and that is how the refinery has operated for years. As a matter of fact, for decades. With this transition period we had to have legislative cover because we could have play dead, allow it to run, we would ex-refinery, ex-terminal, it does not matter, but we need to do the right thing in law. So the ex-terminal price will now be the basis on which you calculate the subsidy. And this thing about licence of Paria, let me put a rest to it.

The Petroleum Regulations give the Minister of Energy and Energy Industries the power to issue marketing licences, wholesale licences and retail licences. Paria in its own name has two licences issued by the Ministry of Trade and Industry. An import licence to import fuel and an export licence to export fuel, in particular, to the Caricom countries. They do not need a wholesale licence because that is a function of UNIPET and NP, nor a retail licence, nor peddler's licence. So there is the legislative cover. There is nothing illegal happening. And I will explain that now.

The ex-terminal price—

Sen. Mark: Hon. Minister.

Sen. The Hon. F. Khan: Yeah.

Sen. Mark: If you can explain to us, under the Petroleum Act, right, section 6(1) and subsection (2), if you could clarify for us, you know, how does Paria escape from the provisions of sections 1, 6(1) and 6(2), when you said that they do not need a licence? I do not agree.

Sen. The Hon. F. Khan: They have an import and export licence.

Sen. Mark: No. I am talking about from you, from the Minister of Energy and Energy Industries, not from the Minister of Trade and Industry, from you. You need to give them a licence according to 6(1) and (2) of the Act under the Regulations.

Sen. The Hon. F. Khan: Okay, I will shelve that. The ex-terminal price, Mr. Vice-President, is equal to PP, plus F, plus ID, plus TF, plus DC. I will explain that. PP is the market related prices for the corresponding products which are imported. Very similar to what is happening to ex-refinery, for every fuel that you import, whether it is super, RON92, RON95, diesel or regular, it is a posted price coming out of the Gulf Coast; F is the rate of freight paid for carriage or transportation of the petroleum products by air, land or sea.

So freight prices are known, it has to come with full disclosure from Paria. ID is the rate of import duty enforced at the date of import of each petroleum product; TF is a terminalling fee which encompasses all the costs incurred during the terminalling, dedicated storage and ancillary services at that terminal, which includes, financing, margins, operations, cost, insurance, storage losses, maintenance, capital expenditure and credit. What that does—this is the only, what I would say major difference between the ex-terminal and the ex-refinery. Because this terminalling fee gives Paria the opportunity to declare a small profit. Because you cannot have an enterprise operating in an environment like that and not give them a chance to make a profit. It is a reasonable profit, it is just cost plus and it is not a significant value. And then DC is the distribution cost incurred to deliver the petroleum products from the terminal to the purchaser.

Mr. Vice-President, I will share the figures. Freight is 0.054 cents per litre;

import duty, zero. There is no import duty, but it is in the equation in case an import duty is charged later on; terminalling fee, TT 0.154 cents per litre; and distribution cost, 0.044 cents per litre; giving you a total margin of 0.252 cents per litre. That is TT 25 cents per litre which is not an unreasonable charge for Paria—for terminalling fee in the distribution of petroleum products.

So what this does now, Mr. Vice-President, is the crux of the Bill. You have a situation where you have a method to calculate your ex-terminal price, but remember we are not in a free market system. The price of petroleum at the pump is fixed by order and those are the Schedules that you see here. By order the retail price with VAT for premium gasoline is \$5.75 per litre; for super gasoline, is \$4.97 per litre; for kerosene is \$1.50 per litre, and for diesel, is \$3.41 per litre. So the price build-up includes wholesale price, wholesale margin, retail price, retail margin, VAT. This is the sum total of the posted price.

So here is the situation. If the price for diesel, ex-terminal, is more than \$3.41 per litre, obviously there is a subsidy, because you are selling it for more than you are buying it. For premium, for example, if the price ex-terminal is less than what you are selling it for, you have a surplus and vice versa. And the surplus or the deficit, which is called the subsidy, is a function of the ex-terminal price which is a function of the oil price. So, every month it will fluctuate. Some months the subsidies will be higher, some months the subsidies will be lower based on the oil price. Right now it is not as bad because oil price has dropped to around \$55 per barrel. Remember the original budget figure for \$65 a barrel, that is when the Minister read his budget speech September of last year. In the mid-year review he reduced the price to \$60 per barrel. Right now we are getting around \$55, \$56 per barrel. So the subsidy has been reduced significantly, okay. In a sense, I have

to be careful how I say this, but when the oil price is low the subsidy is low. When the oil price is high the subsidy could be ridiculous. But we do not produce plenty oil, we do not produce a lot of oil. So some time on balancing the bottom line we have to be careful for wishing for too high an oil price. What we are supposed to wish for is gas price.

So the system is there, it is robust, it has worked well, we are weaning off the subsidy progressively, you cannot wean off it totally because “damn if you do, damn if you don’t”, you know. You will come here in the Parliament and say, we are paying X, \$1.5 billion in subsidy, and all these glorious economists will come and say, “You cannot survive like that!” Okay. But at the end of the day, to be in political power you have to run a country and a country is made up of citizens and a country is made up of voters, voters who elect you into office for you to seek what they perceive as their interest. Not to seek their interest, you know, to seek what they perceive as their interest. So it is not an easy experience to govern a country, because there are always vested interests. The Chambers of Commerce will have their views; the trade union movement will have their views; the so-called NGOs will have their views and you have to put all that into a basket and distill it to come up which is the best public policy for the country, both in the short term and in the long term. And I think this Government has successfully done that.

We have made and crafted public policy here in the interest of Trinidad and Tobago, in particular, in the energy sector. We have taken the bold decision to restructure and re-engineer the state oil company. We have taken the decision to confront the multinationals head on to deal with transfer pricing. That was no easy task you know. It was long and hard negotiation, negotiating with the best players

in the world. It is not Tom, Dick and Beharry you are dealing with, you know. When you go to The Hague and you meet the hierarchy of Shell, they are serious men and women. When you go to London and meet Mr. Bob Dudley and team from BP—

Sen. Gopee-Scoon: No jokers.

Sen. The Hon. F. Khan:—they are not jokers, they are serious people. And I must say so without being too boastful, we match them “manos a manos”. [*Desk thumping and crosstalk*] That was the—[*Continuous crosstalk*] Rose? Right here. [*Laughter*] And we have done well.

[MADAM PRESIDENT *in the Chair*]

Minister Young and myself with the team, I will call out the entire team one of these days in the Parliament, some of them are public servants, some of them are consultants. We were well equipped with the best legal advice, White & Case. Sen. Vieira, you could check White & Case on Google there and see, they are the world’s top energy consulting lawyers based in New York, London and Amsterdam. We have had Poten & Partners with us. I said it so at the signing that never before in the history of Trinidad and Tobago has an energy negotiation taken place where the State of Trinidad and Tobago was so well prepared. And I want to today go on record again and compliment the Prime Minister for his leadership in this regard. [*Desk thumping*]

A Prime Minister has to really see the value of that when he could get up and leave this country for 10 days. A leader does not leave the country for 10 days, you know, and when he does that, it is some Government to Government arrangement. When he led a team for 10 days to the energy capital of the world to meet with energy sector executives, that is the quality of the leadership we are

under. And it is politics. The former Prime Minister, let me go on record as saying—

Sen. S. Hosein: What is the relevance of this?

Sen. The Hon. F. Khan: No.

Sen. S. Hosein: What is the relevance of this?

Sen. The Hon. F. Khan: She was the Chairman of the Standing Committee of Energy of Cabinet, apart from the National Security Council. That is most important Cabinet Committee. For five years, Madam President, she did not attend one meeting.

Sen. S. Hosein: Madam President, respectfully, Standing Order 46(1). I do not think this has anything to do with the Bill, please, Madam President, thank you.

Madam President: Minister, continue.

Sen. The Hon. F. Khan: [*Desk thumping*] She was absent from work and that shows when a leader does not know what are the real issues that face the country. When the Member for Siparia got up in the House and said she did not know that the State had ownership in Atlantic.

Sen. S. Hosein: What is the relevance of this?

Sen. The Hon. F. Khan: It is energy.

Hon. Senators: “Oooh,” wait, wait.

Sen. The Hon. F. Khan: Ten per cent in Train 1 and 11.1 in Train 4. [*Crosstalk*] These are some of the issues that we face. No matter what spin you put on it, Madam President, this country is almost—I want to use my words guardedly, is very, very dependent still on the energy sector, in particular, the gas industry, without which, as the Prime Minister said today at the Shell signing, he cannot imagine if Trinidad and Tobago had not gone into gas, what would have been the

state of play in Trinidad and Tobago today. We have grown accustomed with a lifestyle; we have grown accustomed with a spending pattern; we have grown accustomed with certain things that we take for granted, but, Madam President, at the end of the day somebody has to pay the bills. And to pay the bills you need money. Sen. Hosein, you need “paisa” to pay the bills. And if there is not a source of revenue you cannot survive. Without a source of revenue and in particular foreign exchange, you have to go to the IMF. This is what we have avoided. We have kept the foreign exchange reserves intact, more or less. There was a call on it for spurious spending. We have brought back the gas industry to a level where now, it is now looking as if it is sustainable. We have restructured Petrotrin and we will be focusing on oil production and start to invest in exploration and production.

We are looking at modernizing the retail marketing sector. We are in a temporary phase with Paria and let me just—

Madam President: Minister, you have five more minutes.

Sen. The Hon. F. Khan: Yeah—deal with one other matter here. The refinery bids are in. I cannot disclose very much beyond that. However, it is very likely we will have an operator for the refinery in some form or fashion. That operator obviously will have to commit to supplying the local fuels markets first. It is in the national interest. We cannot allow you, sell you or lease you a refinery, you bring in your crude, refine your crude and export all. So there will be some arrangement in which the local demand is satisfied and the surplus products could be exported. What that will entail? I am not sure but that will be one of the fundamental principles of the Government of Trinidad and Tobago.

So, Madam President, there is no sinister motive in this Bill. It is just

converting the ex-refinery template to an ex-terminal template which is the basis in which you will calculate the subsidy, because the prices are fixed at the pump, at least for the time being. I hope I have made this debate clear or clearer and I hope, in particular, the Independents would have seen the logic in what I have said and what the team on this side has said and I do recommend this Bill for its support.

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

5.45p.m.

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

Sen. Khadijah Ameen: Thank you very much, Madam President. I want to thank you for this opportunity to contribute to this debate on the Miscellaneous Provisions (Petroleum and Petroleum Production Levy and Subsidy) Bill, 2019.

Madam President, we are here because, in local parlance, the PNM, without any warning, without any indication in their Manifesto, without any indication to the public—and as the local parlance says, “ketch a vaps” and shut down Petrotrin, [*Desk thumping*] and a refinery of international repute, a flagship petroleum company in the Caribbean, without consultation, with no proper analysis. In fact, contrary to the recommendations of the studies that were presented to them, with no clear thought-out plan—in fact, it seems that there was no plan at all, and their own Attorney General spoke about legislation being based on data and data informing law; nowhere along that line it seems that the PNM applied that to their logic.

And so, ever so often, little by little, drop by drop, “chirrup chirrup” as the saying goes, either by “vaps” or by necessity, sometimes with their back against a wall, the Government comes to Parliament with another piece of the puzzle that needs to fall in place. Mention was made of BWIA being shut down to form

Caribbean Airlines; the shutdown of Caroni 1975 Limited, and of course, Petrotrin. And Petrotrin is just another PNM nail in the coffin of Trinidad and Tobago.

But the people of Trinidad, Madam President, information and technology—technology is allowing information to reach more and more people and every government all over the world, whether they have a democracy or not, there is the Government's propaganda, in the original sense of the word, not in the corrupted meaning of the word, and there is a propaganda technique called—it is German. I am not sure if I am pronouncing it correctly, but I think it is Grobe Luge. But it is spelt G-r-o-b-e L-u-g-e. And it is a propaganda technique that was explained by Adolf Hitler when he wrote his book in 1925. So it is just a reference. And it is considered a logical trick, that when you repeat—and it gave rise over the years to quotes by different leaders, about repeating the same thing over and over until it is perceived as the truth. And over the time, the four years that this Government has spent in office, it appears that they are applying many of those principles of the propaganda technique in the hope of pulling wool over the eyes of Trinidad and Tobago. But I assure you, the people of Trinidad and Tobago are seeing through your tricks. The propaganda will not work. [*Desk thumping*]

Madam President, I am happy that the Minister of Energy and Energy Industries came. I know that he is a person who is very passionate about what he does. He is passionate about where he comes from. He is passionate about the history of Trinidad and Tobago. Compared to the Members on his bench who went before him, he certainly did much more justice to this debate and to this Bill, which I think it is appreciated on all sides. But, certainly, there were many elements of the Government's practice in terms of continuing to use those tricks in terms of the public relations. The very decision to split up Petrotrin into Paria, Guaracara and

Heritage had to come with a purpose. We debated the Bills that gave legal birth to these three companies in this Parliament, and upon arriving at that decision, the Government would have thought of the purpose for these companies.

Madam President, the definition of “a trading business” in clause 2 was referred to by Members on the other side as a small matter. Incidentally, the two very senior, or very important integral persons to this Cabinet, to any government, a Minister in the Ministry of Finance and a Minister of Trade and Industry, who gave such brief contributions—and the Minister of Trade and Industry unfortunately diminishing the measures in this Bill as a small matter. This small matter of trading which was a core function of Petrotrin must have been given consideration when the Government decided to unceremoniously shut down Petrotrin and formed these three companies.

“Trading business” by definition in the explanation here—trading companies, Madam President, essentially buy a specific range of products and they sell or deliver these products to their customers. Internationally, there are many huge companies who specify in certain things and they have an international reputation. Of course, there is the exception in terms of the Japanese model which I find very fascinating, which specializes in such a wide range of products, but, generally, these companies who took over from Petrotrin would have had to continue the trading aspect of the business.

So what was the purpose of Paria in the first place? The fact that the Government took such a rash decision has us in this position. And, Madam President, I want to take the opportunity to just point out a few of the things that have happened very rashly and which have surprised the population in this whole sequence of events. Madam President, it is in the public domain there was a Mr.

Lin who was hired and paid \$1.7 million; never worked day in Trinidad and Tobago, again, because of the lack of planning; the operation by “vaps”; the operation by announcement of this Government.

There was the shutdown of WGTL and there was the subsequent selling of WGTL in a very sweetheart deal to NiQuan. And, Madam President, coincidentally, not too long ago when this deal came up where the WGTL plant was sold to NiQuan at a peppercorn price, out of the blue—and this is relevant to the debate we are having today, because NiQuan, in their deal, stands to purchase gas at a very low price. All of the products from NiQuan were supposed to be purchased by Petrotrin. The scenario now is that cheap gas would be sold to NiQuan and their products could now be sold to Paria as a replacement to Petrotrin. This is a real sweetheart deal for NiQuan. And until the Government discloses the special price NiQuan will purchase gas from the Government and stop protecting the players, whose names are out in the public domain, the people who have strong PNM connections, the Ainsley Gill and the Alison Lewis—then the closure of Petrotrin and how the Government arrived at giving this billion-dollar plant—the WGTL plant for such a price to NiQuan, and now—

Madam President: Sen. Ameen, Sen. Ameen—

Sen. K. Ameen: Yes?

Madam President: I have given you quite some time to develop your arguments. I try to allow Members some time to formulate your contribution; put it in a context. I will ask you to get to the Bill, please.

Sen. K. Ameen: I was just about to tell you, Madam President. Now, you have in your definition, clause 3(a)(ii):

“By inserting in the appropriate alphabetical order the following definition:

‘Trading business’ means the business of supplying petroleum products by way of the purchase thereof, locally or internationally, for resale and use in Trinidad and Tobago;”

So, Madam President, all of a sudden we need to put in the word “local”. All of a sudden we need to give Paria the ability to purchase locally. Who stands to benefit out of this deal? When the entire story of Petrotrin and Paria, Guaracara, NiQuan and WGTL is told, it will be a continuation of the testimony of the PNM’s sucking of this country’s resources, and sucking this country dry. Madam President, the Minister of Energy and Energy Industries, in this contribution—

Sen. S. Hosein: “Just like how de pipes dry.”

Hon. Senator: “It eh ha no water by me.”

Sen. K. Ameen: The Minister of Energy and Energy Industries, in his contribution spoke about the good things that he felt his Government was doing, and it is every government’s prerogative, it is every government’s choice to pat themselves on the back. He spoke about the energy negotiations, energy meetings with energy companies, such as BP and Shell. He praised himself. I know he is usually a humble guy. He praised himself in this instance, on this occasion. Well, Madam President, “fisherman does never say his fish rotten”, so I do not expect the Government to come here and say anything except that they have made the best catch possible.

One of the concerns that I have to share is that in these negotiations, the politicians are negotiating on behalf of Trinidad and Tobago. Where were the technocrats on this 10-day trip that the Minister boasted about? [*Desk thumping*] Where were the people who would have negotiated, who usually do the negotiation on behalf of the State? The Minister of—sometimes I lose track—everything:

Misc Provisions (Petroleum & Petroleum
Production Levy & Subsidy) Bill, 2019
Sen. Ameen (cont'd)

2019.06.24

Minister of National Security, Acting “all kinds of things”; Minister of propaganda sometimes—

Madam President: No. Sen. Ameen, you are well aware of the Standing Orders. I would ask you to abide by them, please. Withdraw that statement. Withdraw it, please.

Sen. K. Ameen: Madam President, the Minister of National Security—

Madam President: I asked you to withdraw it. I will ask you—

Sen. K. Ameen: Sorry. I was correcting. Let me correct. Let me withdraw that and correct. The Minister of National Security, the Minister of Government Communications and Minister in the Office of the Prime Minister and Acting Attorney General—I will just stop the list there for now, but the Minister was out front, pushed the Minister of Energy and Energy Industries to the back. I felt so ashamed—

Sen. Haynes: Me too.

Sen. K. Ameen:—on behalf of this country to see—

Sen. Haynes: “Dey shoulda never do Frankie dat, man.”

Sen. K. Ameen: Minister Khan is a gentleman—

Madam President: Sen. Ameen, what are you talking about in relation to this Bill, please? Please, Sen. Ameen—

Sen. K. Ameen: Sorry. Madam President, I apologize if I may have lost anyone. I am responding to the Ministry of Energy and Energy Industries who spoke about his Government and his meetings with energy companies such as BP and Shell, who spoke about the recent 10-day trip where some of these negotiations took place, and I have been indicating that from the photographs we have seen where the persons at the forefront—

Madam President: Sen. Ameen, how is that relevant? Even if the Minister raised something about it, what you are saying now in response is not relevant at all, and you are not even making an attempt to make it relevant. So, please, I am guiding you, hopefully for the last time, to be relevant to the matter at hand, please.

Sen. K. Ameen: Madam President—

Sen. S. Hosein: We have a meeting in St. Joseph for eight o'clock.

Madam President: Sen. Hosein—

Sen. S. Hosein: Yes, Madam President.

Madam President: I find you extremely vociferous in your chair. I will ask you to—I am sure you are going to speak on this Bill. Save it for then. Sen. Ameen, continue, please.

Sen. K. Ameen: Thank you, Madam President, and I would want your protection from Sen. Cummings who is constantly making comments and having my colleague to have to respond to him. Madam President, if I could be allowed to complete this point in response to the Minister, and bring it back to the Bill at hand, I will appreciate it. Madam President—

Madam President: Are you throwing words for me? It sounds like that.

Sen. K. Ameen: I was referring to the interjection from Sen. Cummings who has been interrupting me. [*Crosstalk*]

Madam President: Sen. Ameen, Members, Sen. Cummings, please, would you all desist from interrupting the contributions? I really would like to hear what Sen. Ameen has to say. Okay? Sen. Ameen, continue.

Sen. K. Ameen: Madam President, the Minister of Energy and Energy Industries, I want to make the point that while I appreciate his enthusiasm about speaking about the recent negotiations, I want to urge the Government and I want to caution the

Government that you allow the technocrats to take the lead when it comes to international negotiations with energy companies; that you desist from, as politicians, making these decisions and being at the forefront. While, of course, you have your duty, it is important for the relevant persons to make these decisions and participate in these negotiations. It is not just about public relations.

Madam President, I also want to correct—or, in fact, to add to the point made by Sen. Mark which was responded to by Sen. Khan, and that has to do with Sen. Mark's indication that Paria, Guaracara, as well as Heritage, are operating without licences from the Ministry. In his contribution he said the Ministry. And Minister Khan indicated—the Minister of Energy and Energy Industries indicated that these companies have licences to operate from the Ministry of Trade and Industry. Madam President, I just want, for the record, to indicate that the Petroleum Act of Trinidad and Tobago indicates in Part 1, licences for petroleum operations under the Ministry of Energy that have to be issued by the Minister of Energy and Energy Industries, and I will read for the record 6(1):

“Subject to this Act, no person shall engage in petroleum operations on land or in a submarine area, unless he first obtains a licence as provided for in this Act or the Regulations.

(2) A person who contravenes this section is liable on summary conviction to a fine of five hundred thousand dollars and in the case of a continuing offence, to a further fine of fifty thousand dollars for every day during which this offence continues.”

The Minister has indicated that the companies are registered with the Ministry of Trade and Industry. He did not comment on the fact that these companies do not have licences from the Minister of Energy and Energy

Industries, which is himself—his portfolio. And I want to put on record the need for those companies to have these licences and what the cost would be, since they have been operating for months without these licences. And maybe someone on the other side might want to give an indication of the Government's intention to have these licences given to these companies. I do not know whether it can be done retroactively, but certainly it is in the interest of the Government to ensure that these companies stop operating illegally, stop operating without the licences that they are supposed to have under the Petroleum Act.

Madam President, there are two other points but I know my colleagues intend to expand on those. I want to say, Madam President, that on several occasions I know Members objected, or indicated their objection, to this becoming a Petrotrin debate. I think that for quite a number of Bills that will come to this House concerning revenue, concerning tax, concerning a number of the initiatives of the Government in the energy sector, and on the economy, the vein of Petrotrin will be running through it. What the Government has done with Petrotrin will stay with this country for some time. And the ghost of Petrotrin will haunt this Government and it certainly will haunt them out of office very soon. [*Desk thumping*]

Madam President, I want to thank you for this opportunity to contribute to this debate on the Miscellaneous Provisions (Petroleum and Petroleum Production Levy and Subsidy) Bill. Thank you. [*Desk thumping*]

Madam President: Minister in the Ministry of Finance. [*Desk thumping*]

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, as was to be expected, the Opposition sought to turn this into yet another debate on Petrotrin. I will try to

resist following suit. What this legislation is about, which is what I indicated when I opened, was that we have moved away from a situation where we are refining oil for sale within Trinidad and Tobago, into a situation where we are importing oil for sale in Trinidad and Tobago. And so the legislation, as it currently stands, which contemplates pricing of petroleum products on the basis of an ex-refinery price, is no longer appropriate in the current circumstances, and therefore we are moving to add a tier of pricing options which deals with pricing on the basis of an ex-terminal price. So that is the gist of this legislation.

Having said that, what I am going to try to do is respond to some of the issues that have been raised during the course of the debate. Sen. Mark and a couple of his colleagues would have raised the issue of the levy and how that continues to apply. The levy does continue to be collected from the energy companies and applied against the subsidy. Notwithstanding the reduction in the subsidy, the levy still only contributes to payment for the subsidy. It does not cover the entire amount. And it is not unemployment levy. It is the petroleum levy. My colleague, Sen. Khan, would have dealt with the issue of the sale of the refinery, so I will leave that alone.

Sen. Deonarine and Sen. Deyalsingh both asked about systems in place to monitor the operation of Paria to ensure that we continue to be efficient. I would like to assure them both, as well as the rest of this Senate and the public at large, that we do have a system in place to continuously monitor their performance and ensure they continue on the path which was set for them, which is to operate as efficiently as possible, to receive—to acquire oil for the public of Trinidad and Tobago in the most efficient and cost-effective manner while producing marginal profits for the company. They have been operating that way and we will continue

monitoring them to ensure that they do operate that way.

There was comment about the fact that we keep saying what the performance is but we are not producing evidence. But as you all know, the process is that a company operates for a period, produces its financial statements, and as a state company will have those accounts produced to the House for review and revision, and questioning. So that will happen in the not-too-distant future so there will be evidence of what we have been saying. What we are doing in the interim is giving you verbal updates as we continue to monitor the situation. So we are comfortable the company is on the right track, doing what needs to be done so that Trinidad and Tobago benefits from its operation.

My colleague in the Ministry of Trade and Industry did mention that the provisions have been put in place by the Ministry of Finance to ensure that the company has the requisite US dollars to continue to purchase the oil. In the model that we looked at, we had—because you will appreciate that the group that represents the operations of the former Petrotrin are both foreign exchange users and foreign exchange earners. And if you look at the product only, the contemplation is that the foreign exchange earned would be greater than the cost of the purchase of the product that they need for sale in Trinidad and Tobago, but while they continue to build in the exploration area and increase their production there, we have put processes in place to ensure that they have the foreign exchange to continue to operate and supply Trinidad and Tobago with the product that it needs.

Sen. Haynes mentioned that the legislation is broad and that what we are seeking to do is “play fast and loose” with the energy sector. Nothing could be further from the truth. What we are seeking to do is ensure that the legislation is

flexible enough to allow for determination of prices, whether we are securing a petroleum product through importation as we are now and/or we revert to a position where we are securing product through a local refining business. So we are just giving ourselves the flexibility in the legislation to take either approach. It is not that we are playing fast and loose, we have a plan for that sector. We have indicated ad nauseam what that plan is, and as things continue to develop and progress, we will continue to alert and update the public.

Another question raised by Sen. Haynes: If Paria is inefficient, will the taxpayer be asked to subsidize the inefficiency? As Petrotrin was, Paria is a state-owned company, so any losses incurred by Paria will, of course, be for the cost of the State. That goes without saying. But what we can say to you is that having restructured the Petrotrin operations, we do not expect to go back to a stage where the taxpayer is bearing an annual cost of \$2 billion to subsidize a losing, unsustainable industry.

Sen. Khan, again, would have dealt with the components of the ex-terminal price and I trust for those of you who were listening to him, that that issue is now clear. What concessions—this is Sen. Obika: What concessions are being contemplated by the vagueness of this Bill? I do not know what concessions have to do with a pricing policy and a pricing Bill. This has nothing to do with concessions. Concessions will come to light, if they are to come to light, in the context of exploration for petroleum product. But this is not about that. This is only about determining the price to be applied and the subsidy that will apply.

6.15 p.m.

Sen. Obika made a very, very strange comment and it surprises me that in the context of how many debates we have had in this place about FATCA and

Global Forum and FATF that Sen. Obika is not aware of the fact yet that the attempts to amend section 4 of the Income Tax Act to reduce the secrecy provisions have nothing to do with securing information from state corporations. The State, as the shareholder of all state corporations, is entitled to ask its companies for information and can get that information. The removal of the secrecy provisions is to allow us to fulfil our international obligations to share tax information with foreign countries—nothing at all to do with this legislation and what is before us. [*Crosstalk*]

Does the Minister have the wherewithal to monitor traders? The Minister of Energy and Energy Industries, this would be, has been monitoring complex energy operations for decades in terms of exploration, in terms of production, in terms of refinery. It certainly has the ability to monitor what is essentially a buy-and-sell operation: you buy petroleum products on the one hand and you sell petroleum products on the other hand. NP has been doing the same thing for decades and has been properly monitored. So I do not think that is an issue.

One comment made by Sen. Ameen, because a lot of her commentary I do not think was relevant to the substance of the Bill, but she made a comment that I have to respond to, and the comment in effect was technology is allowing more information to reach the public. What I would like to say to that is technology unfortunately is allowing more misinformation to reach the public and I think if anybody knows about that, it is my friends on the other side.

So, Madam President, although I have been accused of being too cursory with the Bill and not spending a lot of time in it, as I indicated, this Bill, contrary to comments coming from my colleagues, is not a complicated bit of legislation. We are at the point where pricing is based on an ex-refinery price. We no longer have

an operating refinery and therefore we are bringing in goods to a terminal and we are switching to allow us to impose price based on an ex-terminal price and this is all the Bill is about. All the provisions in the Bill are centred around that single fact, nothing more complicated, nothing more sinister than that. And in the context, I am hoping that you understand what we are trying to do, you are on board. I trust that we have answered all of your questions. Madam President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, I must apologize for not circulating a written amendment but I would like to ask the Minister of Energy and Energy Industries, in this instance, and even the Minister in the Ministry of Finance, given the fact that we are including this definition of “trading business” into this legislation, in terms of the amended legislation, would the Minister not share with me or agree with me that under the term “petroleum operations” which is in the Petroleum Act, there is need to incorporate trading, because Paria is a fuel trading company? But when we look at “petroleum operations” in the definition under the legislation called the Petroleum Act, there is no provision to be consistent with the legislation here. And given the fact, Madam Chair, that this is the parent legislation, the

parent Act, I am asking the hon. Minister of Energy and Energy Industries and the Minister in the Ministry of Finance to consider amending the “petroleum operations” definition to incorporate marketing—no, no, no, trading, trading rather, not marketing; marketing is already here. So I just feel, hon. Minister, that is an area that we need to consider.

Sen. Khan: Yes, we will consider it but not at this point in time. I will have to go back to the technocrats to hear their comments within the Ministry of Energy and Energy Industries.

Sen. Mark: So you do not think, at this time, we can discuss that without the technocrats? You think you need a little more time for that?

Sen. Khan: Yeah, yeah.

Sen. Mark: Because we will have to come back to this “yuh know”.

Madam Chairman: Minister.

Sen. West: And the view on our side currently, subject to Minister Khan’s further discussion with his technocrats, is that the inclusion of the word “marketing” in the current definition is sufficiently wide to encompass trading. That is our current view.

Sen. Mark: Yeah, but it is the problem that we have here, Madam Chair, is that I have not seen and if you can shout—not shout, rather—if you can point out to me where in the legislation, either the petroleum legislation or the Petroleum Production Levy and Subsidy Act where the concept of marketing is located so that we will have that before us.

Sen. West: It is in the definition of “petroleum operations”, marketing is one of the areas covered—

Sen. Mark: No, no, no. Madam Chair, I understand what you are saying but the concept, you are saying that marketing will include trading. I am saying that is not

included here and therefore if we have a separate concept for marketing and that would include trading, I could then agree with you, but at the moment, it is just incorporated under “petroleum operations”. But there is no integral understanding of what that concept means. You are just assuming that it means trading as well.

Sen. West: Madam Chair, it is not really an assumption on my part, it is using the common and ordinary definition of what marketing means which is what happens in the absence of a technical definition included in the legislation, and if you look at what NP has been doing for decades, they have clearly been identified as a petroleum marketing company. What are they doing? They are purchasing petroleum product and selling petroleum product. What is Paria doing? They are purchasing petroleum product and selling petroleum product, which is why I believe that it is already covered. But as the Minister said, he is happy to liaise with his technocrats and determine whether in fact we need an amendment but we do not think at this point that it is relevant.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, I would like to add to what the hon. Minister has quite correctly said, the Minister in the Ministry of Finance. This law is not interpreted in a vacuum. The reference to ex-terminal pricing, which is what the law and interpretation is designed to treat with, is done also by way of reference to the Schedules and then the parameters in the Schedules. So, the fixed methodology and the formulae as set out are abundantly clear and they, in fact, condescend as well to what the middleman cost looks like—wholesale, retail, et cetera—so there is no need at all to go into that form of definition, at least, most respectfully, from the point of view that I have in looking at the law as it is to be interpreted as a whole.

Madam Chairman: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam Chair. If I may just bring some light to this discussion, when you look at section 31 of the Petroleum Act, in particular subsection (6), a definition is given there of what “marketing business” is and it reads:

“‘marketing business’ means the business of dealing in petroleum products by way of the purchase thereof from a refining business for sale and use in Trinidad...;”

So, the definition that is in the Act does not in itself contemplate what Sen. Mark has raised in terms of trading and I think that is where the issue lies, with respect to Sen. Mark’s submission, that the definition, as found in the Act itself, with regard to section 31, does not include that of trading.

Madam Chairman: All right. Are there any other questions or comments on— Sen. Obika.

Sen. Obika: Thank you, Madam Chair.

Madam Chairman: Is it on the same point?

Sen. Obika: No, but it is on clause 2.

Madam Chairman: No. All right. I just want to clarify on this particular point as raised by Sen. Mark. Okay. So Sen. Obika, further questions and comments on clause 2.

Sen. Obika: Thank you, Madam Chair. The question I have is with regard to the Petroleum Act, the Regulations, Part III, 29(1).

Madam Chairman: No, refer to the Bill please.

Sen. Obika: Right, so in the Bill, clause 2 seeks to amend the Petroleum Act and what I want to ask is if the Minister would consider making the details of those licences public. The Minister did say—the Minister of Energy and Energy Industries, in his contribution—that those licenses pertain to upstream. We are

sure of that. We are clear where that is concerned. But what would be the Ministry's position in making the details of licences to trading companies, for instance, public? Public records so they can search online and so on.

Madam Chairman: So, Sen. Obika, we are now in the committee stage and we are dealing with the details of the Bill, so respectfully, I do not think that I am going to even ask the Minister to respond, because it is not really relevant right now to what we are dealing with, with clause 2. Yeah?

Sen. Obika: Well in essence, what I was trying to do is to attach a—well, through conversing with the Minister, an amendment to the Bill. So if he would consider such an amendment.

Madam Chairman: Right, but I am not even going to put that to the Minister because it is not—*[Interruption]* No, it does not come up here. Remember we are dealing with what is set out in the Bill. That is what we are working on right now. Okay? Any other questions and comments on clause—

Sen. Simonette: Madam Chair—

Madam Chairman: Just one second, Sen Simonette. Sen. Hosein.

Sen. S. Hosein: Now, I am seeing that we are defining “trading business”.

Madam Chairman: Where are you, please?

Sen. S. Hosein: Clause 2(1). Yes, please. (c)(ii), we are defining “trading business” in the definition section of that particular section of the Act. Now, where does this refer to in particular with respect to section 31 because it seems as though we are just adding a definition but is it that this definition stretches across to the other provisions of the Act? Because this definition alone is applicable to section 31 because when you read sub (6) it says in this section, “trading business” would mean this. Where is it substantively going to amend in the Act in terms of why are we inserting this definition here and not perhaps in the definition section

in section 2 of the Act?

Sen. West: Through you, Madam Chair, why are you contemplating that it needs to apply to the entire Act?

Sen. S. Hosein: Well, the thing is I am looking to see with respect to sub (2), “the disposal shall be”, it defines trading business as both trading and a marketing business. That deals with the disposal of the petroleum products. So I am seeing it mentioned there in terms of the definition of “trading business” and “marketing business” which would have come out from the refinery. So is it that this is now contemplating that the refinery would be up and running soon so we take care of that with respect to marketing and then the trading would be that as contemplated for Paria?

Sen. West: What we are saying is that section 31 of the Petroleum Act is the only section in respect of which we are introducing the term “trading business” and it is for that reason that we have confined the definition of “trading business” to that section.

Sen. S. Hosein: Minister, you see the thing is, right, Sen. Mark had raised a point with respect to the licences. Now, this definition, if we put it in section 2, would it stretch across to Paria now having to be licensed because Sen. Mark did raise some issues with respect to that? Because that would also apply to the entire Act.

Mr. Al-Rawi: Paria is licensed already.

Sen. S. Hosein: No, what I am saying, AG, is that Paria would not have been contemplated in the Petroleum Act because we are now adding a definition of what trading business is and it is only going to be applicable to section 31.

Mr. Al-Rawi: Madam Chair, we had a vesting order which we did in this Parliament where we took all of the absorptions of licences, assets, other positions. This is, most respectfully, a discussion which is outside the terms of the Bill

entirely.

Madam Chairman: Any further questions or comments?

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3.

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

Madam Chairman: Sen. Mark.

Sen. Mark: No, I am just looking for clause 3. Madam Chair, what page is it on?

Madam Chairman: Page 6 of the Bill. Any questions or comments on clause 3?

Sen. S. Hosein: Yes, please, Madam Chair, I do not know if you will permit me but when you look at the formula given in 3(c), Minister, is the calculation of the subsidy—if I may just ask for clarification. Right? That is the formula we will use to calculate the subsidy?

Madam Chairman: On page 7, yes.

Sen. S. Hosein: Now I just want to refer back to one particular section in clause 3 which we dealt with but it deals with retail price. Now, I am seeing that the retail price is set—when you look at clause 2, the Fifth Schedule, there is the retail prices that are set which will use to calculate the subsidy, but then when you look at 4 at page 5, if you look at the top of page 5, you will see:

“The retail price of petroleum products listed in the Appendix A...”

And the marginal note will read:

“Retail price of petroleum products in certain cases...”

Now, I just wanted to get some clarification. What will be those categories of cases? Because if the retail price is already set in the Schedule, what does this new 4 contemplate in order to calculate the subsidy?

Madam Chairman: Well, Sen. Hosein, I am now just a little slightly confused.

Sen. S. Hosein: Okay.

Madam Chairman: Are you asking for clarification on something that we have already voted on because we are now in the clause 3 of the Bill?

Sen. S. Hosein: Madam Chair, if you may, if you look at clause 3(c)(1)(b), right, you will see—

Madam Chairman: Yes, and you started speaking about the subsidy and you started talking about the calculation of the subsidy.

Sen. S. Hosein: Yes.

Madam Chairman: But then you went back to ask about retail prices.

Sen. S. Hosein: Yes, because when you calculate the subsidy, you have to determine what the retail price would be because you will see it is the ETP plus the GM minus the RP, the retail price. Now, what I am asking is what do those cases contemplate for the retail price if they are already set with like 511, 111, 441? “Ah doh know if I am making myself clear.”

Sen. West: Well, I hear you asking, Madam Chair, through you, I hear you asking what are the particular circumstances where this will apply, but the section itself spells out what those circumstances are. So they are talking about sale to an associated person or sale to a person carrying out production business, trading business or refinery business. So those are the circumstances that have been outlined.

Sen. S. Hosein: So that price will be different from what is already set which will be at the bottom of page 4?

Sen. Khan: Yes. There are two fixed prices. The retail price, as you see here, at the pump for “normal people” for want of a better phrase.

Sen. S. Hosein: Okay.

Sen. Khan: And then there is a special price which is listed in the order also for

the sale of fuel to exploration and production companies which is higher than the price that you see listed here.

Sen. S. Hosein: So that retail price, the second instance would be what 4 contemplates?

Sen. Khan: Yeah.

Sen. S. Hosein: Okay. And that will also be used to calculate a subsidy?

Sen. Khan: Yeah, yeah. So, in other words, what we did not want to do is subsidize the oil companies, we are subsidizing the population.

Sen. S. Hosein: So what you are saying is that would not be fixed—

Sen. Khan: But that subsidy is by order also.

Sen. S. Hosein: But the subsidy does not apply to that?

Sen. Khan: No, no.

Sen. West: That is correct.

Sen. S. Hosein: Okay. So the subsidy applies to what is fixed in the Schedule?

Sen. Khan: Yeah.

Sen. S. Hosein: Okay, thank you.

Madam Chairman: Just one second. Sen. Vieira, you wanted to ask a question on clause 3?

Sen. Vieira: Yes, thank you. I wanted to just talk about the definition of “trading business”. I think we have complicated it a little. Trading, as I understand it, is buying or selling commodities so it would be simple to just say “trading business” means the business of buying or selling petroleum products, locally or internationally, for resale and use in Trinidad and Tobago. Buying or selling “by way of the purchase thereof”, I find a little convoluted.

Madam Chairman: Okay, before Minister responds, Sen. Mark, you wanted to raise something?

Sen. Mark: Well yeah. I just wanted to ask the hon. Minister, when it comes to the subsidy, can you explain to us how are the companies that are supposed to be paying this 4 per cent on their gross earnings, how is that going to continue when you have a company no longer refining, in the case of Petrotrin, you have this company purchasing products from external markets—how is the subsidy, through the levy, applied to the formula to ensure that the energy companies continue to meet their obligations under the Petroleum and Production Levy and Subsidy Act?

Sen. Khan: The subsidy does not differentiate whether you refine, whether you purchase, whether you are terminal, it is a subsidy and the subsidy has to be paid according to law. As a matter of fact, I have been advised that if we go to open-market scenarios where prices are posted like in Jamaica where theoretically there is no subsidy, under law, they still have to pay it. Now, that might be too draconian. We may consider amending the legislation to reflect “justice”, for want of a better word but the subsidy Act is written in such a way that it is independent.

Sen. Mark: May I also—

Madam Chairman: Before you ask, Minister, you wanted to respond to Sen. Vieira?

Sen. West: Yes, Sen. Vieira, I have spoken to my drafters and they said that they were concerned about ensuring that they covered situations where persons are transporting but not necessarily buying and selling. They have looked at the provision and they have considered your recommendation but they are comfortable with the way it is drafted.

Madam Chairman: Sen. Mark, you had an issue that you wanted to raise?

Sen. Mark: Yes, just clarification.

Madam Chairman: Sure.

Sen. Mark: Minister, right at this time as we speak and you can correct me if I

wrong, my understanding is that there is no subsidy on premium gasoline, there is no subsidy on super gasoline and the only subsidy that we have at this time is on diesel. What I want to ask the hon. Minister is: Can you share with this Senate what is the total levy that we collect as a nation on an annual basis under the Petroleum Production Levy and Subsidy Act and what portion of that amount goes towards subsidizing diesel? Is it the entire amount or is it to certain—because I want to see how it fits into this formula in terms of the actual price that will be dealt with?

Madam Chairman: Minister, are you in a position to answer that?

Sen. Khan: Yes. I have been advised by the Minister in the Ministry of Finance, the subsidy now is around TT \$25 million per month because, again, the volume of fuel of liquid petroleum that we produce is very small. We are down to 60,000 barrels per day and at US \$55 per barrel, that is what it works out to be.

Sen. Mark: Hon. Minister, can you share with us what is the actual amount that we collect as a nation through the Ministry of Finance via the levy on an annual basis?

Sen. West: Well it is per month, by 12.

Sen. Khan: 25 by 12, yeah.

Sen. Mark: So it is 25 million—

Sen. Khan: Per month, yeah. But that varies with the price of oil. The price of oil fluctuates so it is the normalized average per quarter because the subsidies are paid per quarter.

Sen. Mark: And could you share with us, for instance, what is the actual subsidy on diesel at this time when you multiply that figure?

Sen. Khan: Again, what you could have is consolidated at the end of the fiscal year because the subsidies are calculated every month and every month, it

fluctuates. When oil price was \$65 at the beginning of the fiscal year, it was high, now it is down to \$54 and it has reduced significantly. So much so that there is a surplus on premium and super but the surplus is not enough to cover the diesel deficit. So it is a balancing act and it will never be totally balanced until we have a free market system.

Sen. Mark: And one final question, Madam Chair. I know that the Minister of Finance did in fact indicate, about two budgets ago or a budget ago, that the Government intends, at some future time, to introduce this automatic market mechanism. So that when—

Sen. Khan: “Buh yuh did not hear my contribution, you were asleep.”

Sen. Mark: No.

Sen. Khan: I dealt with that.

Sen. Mark: No, I was not here.

Sen. Khan: Yeah, well “yuh should have been”. [*Laughter*]

Sen. Mark: All right. Madam.

Madam Chairman: Sen. Obika.

Sen. Obika: Thanks, Madam Chair. The question I have is when you look at clause 3, the gross margin is stated, the retail prices at the pump stated, the ex-terminal price is not stated for obvious reasons, it is the variable component. Would there be any possibilities for the drafters in clause 3 to indicate that the ex-terminal price on a monthly basis would be made public so therefore you do not have the problem of full disclosure? Because you went at pains in this Bill to disclose the other variables in terms of the calculation of the subsidy but of course, the ex-terminal price is and will always be an unknown because that is a variable figure.

Sen. Khan: You see, you are reaching a thin line between commercial and

legislated. Now, when it was ex-refinery, that was based on a US Gulf Coast Caribbean posted price. What we have in the trading business is while we reference it to a posted price, the actual price paid, at that point in time, could be more or less. It would be a trade discount.

6.45 p.m.

There may be certain intricacies in the market for that month that the prices are higher. So really and truly, you may have one trader offering a discount to Trinidad Paria but not offering that same discount to Jamaica, and then that could cause conflict in the international market. They would not want that disclosed. So it is not “we hiding” information but there is commercial competitiveness in this market. And the formula here is robust enough to take care of some of these things. But the actual figure is literally commercial secrets.

Madam Chairman: Sen. Hosein?

Sen. Obika: Madam Chair, could I just respond briefly?

Madam Chairman: No, no. Just one second. Sen. Hosein.

Sen. S. Hosein: Thank you very much again, Madam Chair. I am looking at the amendment at section 13, Minister, and it contemplates the refining and marketing businesses to keep proper records at sub (1). Right? This is the amendment to section 13 of the petroleum levy Act. That is at page 8, at the bottom of page 8, subclause (e). Are you with me?

Sen. West: Um-hmm.

Sen. S. Hosein: Yeah. So subsection (1) contemplates the refining business marketing, and now with the amendment trading business to keep proper records. But when you go at sub (2) you only include the Minister having the authorization to inspect records of (i), refining business and (ii), trading business. Is there a reason why marketing business was not included?

Sen. West: Marketing business was not included?

Madam Chairman: I think so.

Sen. West: Yeah, we noticed the difference between the first subsection and the second. We will look at it with a view to revising it, but not today.

Sen. S. Hosein: It is contemplated that you will include marketing? Okay, but you will do it in a miscellaneous Bill afterwards? Is there a deadline for this Bill?

Sen. Khan: No, No.

Sen. S. Hosein: Okay.

Sen. Khan: It is better to have the legislative cover, because is Paria is operating. We do not want to be accused of being an illegal—

Sen. S. Hosein: You see the thing Minister, because Paria will now be contemplating a marketing business too. With the startup of the refinery in the near future, the amendments should come before then.

Sen. Khan: Yeah.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

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

Senate resumed.

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

FIREARMS (AMDT.) BILL, 2019

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President.

Madam President, I beg to move:

That a Bill to amend the Firearms Act, Chap. 16:01, be now read a second time.

Madam President, the Bill before us is one of great importance. The Bill

proposes, in the 28 sections that are set out, amendments to several sections of the Firearms Act itself. And I would like to state that this particular law comes on the back of a very important amendment to the Bail Act that we considered recently. It is fact that every single Senator on the Independent Bench and all of the Government votes had a very careful look at the bail amendment and we looked at how we managed with crime in our society. Regrettably, no one on the Opposition Bench saw it fit to support the amendments to the Bail Act but I will stop there, lest I intrude upon the work in the House of Representatives which is yet to come.

As I have said before, crime is the largest, most significant issue battling our population right now. It is something that affects every single human being and our children and aged in particular. It is often said that we are battling for our very souls in Trinidad and Tobago.

It is not very often that I bring to aid newspaper reports in any of my contributions. But today I am going to make an exception as I pilot the rationale for the amendments now before us.

Daily Express, article by Gyasi Gonzales, headline:

"Schoolgirl shot in PoS stable in hospital"

June 18, 2019. I quote:

"The 11-year-old schoolgirl shot on Monday in East Port of Spain while she was in a relative's car was operated on and is in stable condition at hospital. The relative believes the attack was a case of mistaken identity.

Police said around 4 p.m. the girl—a standard five pupil of the Mandressa al Muslimeen Primary School in Mucurapo—and another child were sitting in the Nissan B-14 car after school..."

Daily Express:

"Boy bawls for murdered mom gunned down on the street"

June 18, 2019.

“Mother of three has been executed at the side of the road in Santa Cruz.
...victim...identified.
...witness for the State in a shooting dating back ten years.”

Daily Express:

“Bel Air restaurateur attacked robbed at gates to home”

—by Susan Mohammed. June 19, 2019.

"A Restaurant owner was beaten and robbed of a large quantity of US,
Canadian and local currency and jewelry by gun-toting thieves on Monday
night."

Daily Express:

“The ‘buck’ pundit has been shot.”

—by Susan Mohammed, June 20...

“A Spiritual leader...shot”

Guardian newspaper:

“Cops seize guns, ammo in Central raids”

—by Rhondor Dowlad, Friday, May 24, 2019.

Guardian:

“Guard murdered heading to first day of work”

—by Shastri Boodan, Thursday, June 13, 2019

“...22-year-old Chase Village man...found murdered...”

Shot.

“Security guard shot”—dead at Woodbrook casino.

Guardian:

“Criminals switching to military weapons—senior cop”

—by Hassanali, February 20, 2019. Loop TT:

“High-powered weapons seized at Port of Spain port”

“Drive-by shooting in Cocorite”—CNC3

Guardian:

“Govt to bring gun trafficking charge”

Newsday, Melissa Doughty:

“Young wants no bail for illegal firearms”

—et cetera.

The irony of this is that whilst we sat as a Senate wrestling for no bail for gun-related matters in certain circumstances, the very day that we were debating that Bill there was a shooting of school children in Port of Spain. Whilst the Opposition said “No!” cries were heard, children were screaming, blood was spewing as gunfire echoed out.

Let us get to the statistics in Trinidad and Tobago, as we lay the fabric for proportionality in making the recommendations. But permit me for a moment on the Bill before I get to that second layer to say as follows. The Bill is actually an effective overhaul of the Firearms Act. It is something that we wrestle with very carefully to treat with how we are going to manage this scourge of firearms. I will come to the data in a moment to demonstrate why we need this kind of amendment.

In 2011, there was a significant attempt at reforming the firearms legislation. We effectively took the charges and offences up by 50 per cent, but that was all that we really did. There was no reference then effectively to the kind of data that existed then in 2011, nor was there any reflective period coming forward to that. The reason for making some of these amendments today is tied into the amendments that we intend to also add to the bail amendments.

Members of the Senate will recall that I specifically flagged the issue of

treating with no bail for high-powered weapons. Reason being, you have no reason on this good planet to find yourself in possession of an Ak-47, of high-powered weapons and sub-machine guns, and be asking a court for bail to consider whether you should be free in this society or not.

But when we looked to the Bill itself, effectively if I were to harmonize what the amendments look like, number one, we are proposing that we treat with first-time offenders, second-time offenders, and third-time offenders in a particular way, both for summary and for indictable processes. Effectively, we are saying: If you are a first time offender, you can have a summary offence, where you have a fine and imprisonment. If you are a first-time offender and the charge is laid indictably, we will again treat with a fine, which is of a higher level, and a jail term of a higher level. If you are a second-time offender, no fine for you at all, straight to jail is the penalty. There is no discretion, and I will explain why in a moment. And if you are a third-time offender, we are looking on the indictable route in some circumstances to taking it to natural life.

Before I get to the data, let me explain why we are treating with it that way. I ask hon. Members to be conscious of the Interpretation Act, and in particular three particular sections of the Interpretation Act. They are sections 67, 68 and 69A. When we look to section 67 of the Interpretation Act, we are looking at summary conviction. It says:

“Where in a written law an offence is declared to be punishable on summary conviction, the procedure in respect of the trial and punishment of the offence and the recovery of the penalty, and all matters incidental to or arising out of the trial and punishment of the offence...shall be in accordance with the Summary Courts Act.”

I take you now to 68:

“PENALTIES

68. (1) Where a punishment is provided by a written law for an offence against the written law, the provision indicates that the offence is punishable by a punishment not exceeding that provided.

(2) Where in any Act or statutory instrument provision is made for any minimum penalty or fine, or for any fixed penalty or fine, as a punishment for a criminal offence, such Act or statutory instrument shall have effect as though no such minimum penalty or fine had been provided, or as though the fixed penalty or fine was the maximum penalty or fine, as the case may be.

(3) Where in any written law more than one penalty linked by the word ‘and’ is prescribed for an offence, this shall be construed to mean that the penalties may be imposed alternatively or cumulatively.

69. Where under any written law imprisonment may be awarded, it may be awarded with or without hard labour.”

And the last one:

“69A. Where punishment of imprisonment for life is provided for a criminal offence by any written law, the Court on sentencing any person convicted of that criminal offence to imprisonment for life may, notwithstanding anything contained in any other law, declare at the same time a period before the expiration of which in its view that person shall not be released.”

In other words, then 69A says life does not mean life. That is what it means.

In this matrix of law that we propose in these amendments, we are asking the Senate in the circumstances where you will see the replication of formula, first offence, second offence, third offence. When we get to the prescription of natural life, we are therefore, Parliament under its provisions in the Constitution, as a

Legislature, is telling the Judiciary that natural life is natural life.

Let us get to the statistics and then I would go to the rationale for this kind of formula and then to the actual provisions itself, of the law. When we come to Trinidad and Tobago's particular context, it is important that we reflect upon what our society is tackling right now.

I would like, Madam President, to say into the record of *Hansard* that—

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

—we have had an analysis from the Trinidad and Tobago Police Service. In fact, I circulated as Senators will remember, some of the data on the last occasion, to treat with bail. Some of them are very material and relevant on this occasion, obviously.

Persons charged for the period 2009 to 2019, a 10-year period. Persons charged, firearms found and seized for the period 2009 to 2019, was also another category we took. When we looked at the firearms seized, we looked in total at a number of 6,387 firearms found and seized in that 10-year period. What I ask hon. Senators to note are those two lines for machine gun and sub-machine gun. And we will note in particular that we have had 97 machine guns and 43 sub-machine guns. But in the entire period for sub-machine guns in the period 2009 to 2016, every year the number was zero.

In 2017, we went to 23; 2018, 14; and 2019, six to date. When we looked to machine guns, we see machine guns have been with us for quite some time. Certainly in 2009, there were 7; 2010, 8; 2011, 7; 2012, 6; 2013, 12; 2014, 18; 2015, 23; 2016, 16, et cetera. We are noticing certainly that there is a prevalence now of firearms actually found and seized of hundreds of high-powered weapons on the streets of Trinidad and Tobago.

When we looked at the report of firearm offences in the period 2009 to 2019,

again that 10-year period, in that 10-year period, the report of firearm-related offences, Mr. Vice-President, 17,363. But, Mr. Vice-President, when we looked at the numbers, we noticed that whereas there were peaks in 2009 and 2010, which were up in 2,300 figures for each year, we will note that the Special Anti-Crime Unit went into operation in particular in those years and we saw an immediate reduction down to 1,620. But from a low of 1,620 in 2011, we have gone on to a steady rise. Coming through 2015 at a 1,059; 2016, 1,185; 2017, 1,600; 2018, 1,552. And that, Mr. Vice-President, demonstrates that reports of firearm-related offences are on the ascendancy.

The arrests for possession of firearms for the same 10-year period, we have had 5,391 arrests, and when we look to the number of arrests, certainly the TTPS is doing much better year on year. In 2009, there were 360. If I take the years go forward to date, we move from 360 arrests. Next year, 412, 353, 366, 410, 568, 540, 673 in 2016, 765 in 2017, 804 in 2018. Trinidad and Tobago Police is clearly in an exercise of arresting more, detecting more.

Arrests under the Anti-gang Act for the period 2011 to 2019, including the hiatus when we did not have that law, in total amounts to 213. We then have arrests that trigger under the Anti-Terrorism Act. There has been one arrest in 2018. We have had trafficking in persons. We have had kidnapping arrests. For that 10-year period for kidnapping, 840 persons arrested.

When we get to serious crime detection rate from 2009 to 2019, we noticed that the figures are going up, in terms of detection. Believe it or not, there is a greater detection year on year; 17 per cent in 2009; 16 in 2010; 19, 2011; 17, 2012; 18 per cent; 23 per cent; 23 per cent in 2015; 24 per cent 2016; 31 per cent 2017; 34 per cent 2018; and so we go on the ascendancy in this particular point.

But, Mr. Vice-President, let us go to the report of firearm-related murders.

Let us take a shorter period, 2015—2019. There have been reported firearm-related murders for that four-year period to the period 21st of June, 2019; 1,679. And related to the figures for gang-related murders for the period 2015—2019, again to the 21st of June, it is estimated that there were 638 gang-related murders again centred on firearms.

Mr. Vice-President, what we essentially see in our data as it is presumed, is that we are having a significant rally with the numbers. Now what causes this particular phenomenon? It is a fact that we are 360 degrees surrounded by water. It is a fact that there is a migration and economic sanction upon the people of Venezuela right now. There is a circumstance causing millions of people to leave that particular country, certainly into surrounding countries of Colombia, Brazil Guyana, Trinidad and Tobago. It is a fact that with human migration and hardship that weapons, et cetera, can find themselves here. But it is also an equal fact that the importation of firearms, through our ports and by way of transshipment coming from the United States of America, is an equally important situation for us as well. Because this is not about Venezuela. This is about the importation of firearms that are freely available. And when the source information for the firearms is taken back, a lot of it can be attributed to the northern regions of our hemisphere. And that is a significant impact. There are some Russian-made weapons, et cetera that are also in circulation in our particular societal context.

But, Mr. Vice-President, it is important to note that when we are treating with these provisions, Trinidad and Tobago is wrestling with firearms. What then do we prescribe? We could look to other jurisdictions. We could look to the method of treating with this for instance, and I would like to put this on record. We looked at the United Kingdom, the Firearms Act 1968. We looked at Canada in its criminal code. We looked at Singapore, under the Arms Offences Act. And

what is quite interesting, I chose those three because of the particular context and proximity to Trinidad and Tobago.

Singapore is a country that we often herald as a country that has the formula right, in terms of approach. We often want that which is in Singapore to be that which Trinidad and Tobago should aspire to. But I would like to put on record some very interesting provisions in the Singapore law.

Singapore actually has a very short Arms Offences Act. They have a standalone piece of law called the Arms Offences Act. It is separate from the Arms and Explosives Act that they have, which is a concurrent piece of law running alongside. And I want to point out on to the record, penalty for being in unlawful possession of arms and ammunition in Singapore, section 3. If you are in unlawful possession, you are looking at a term not less than five years, not more than 10, you shall be punished with caning with not less than six strokes, caning not less than six strokes.

A person who unlawfully carries a firearm shall be guilty of an offence. Again, we are looking at five years and not more than 14 years, punished with caning, not less than six strokes. Similarly, if a person at the time of committing an offence, at the time of his apprehension, he has on his person any firearm, again we are looking at imprisonment for life. Let me repeat that. If at the time of the commission of your offence, you had a firearm on your person, not that you used it, you had it on your person, they go straight for imprisonment for life and six strokes. If you had a previous conviction of a scheduled offence, you shall also be punished, imprisonment for a term not less than five, 20 years and six strokes. But listen to what the scheduled offences are. The scheduled offences are: mischief, vandalism, prevention or resisting arrest, house breaking and trespass, extortion, and then some of the more serious offences.

But what I found very interesting was sections 4A, 5, 6 of the Singapore legislation, using or attempting to use arms to commit a scheduled offence, and I just read the scheduled offences. A person who uses or attempts to use, take a guess what the conviction is, death. If you attempt to use a firearm for vandalism in Singapore, for preventing or resisting arrest for robbery, for extortion, for house breaking or trespass, you get the death penalty. Punishment for accomplices, *R v Caldwell*, *R v Cunningham*, Gallagher, whatever you want to call it in the various constructs, many examples in Trinidad and Tobago, accomplices, an offence shall be the conviction punished with death.

You are the driver in a getaway car, where anyone of those scheduled offences happened, your punishment for being the driver in Singapore is the death penalty. Trafficking in arms, death penalty; consorting with a person carrying arms; if you are in the company of somebody who is carrying a firearm, who trips an offence, you get the like punishment. In other words then, death, life imprisonment, caning.

So I just thought that I would provide an example of a country that sets out how laws are to be applied in the circumstance of this particular debate, because in the recommendations, it is true that the United Kingdom, that Australia, that Canada, the other forms of democracies that we see in the Commonwealth, that we have similar offences, but obviously they do not carry the death penalty.

Now, we propose in this particular law an improvement across the remedies and positions that we find. But one more piece of statistical information that I think is important is when we look to convicted and remanded inmates for firearm-related offences coming from the prisons. There are 354 remanded inmates in prison custody who were charged for firearm-related offences. There are 246 convicted inmates, who were convicted for firearm-related offences and

the number of convicted persons in prison who may be classified as reoffenders of firearms is 37. So that is 37 out of 246, which is a fairly high recidivism rate at the prisons.

7.15 p.m.

Now, Mr. Vice-President, I think it important that we actually appreciate the law in its context. First of all, this is not the first time we are treating with amendments to the firearms legislation. The firearms and ammunition ordinance came about in March 1909 and in that we defined the terms of rifle and gun, we provided for licensing, a certificate of fitness. So certainly in Trinidad and Tobago we sought to regulate firearms in the manner in which we can say, in some senses, we still follow in 1909.

We had the Firearms Act in 1970, which is a very important year for Trinidad and Tobago in many senses, in terms of what we were wrestling with in a societal context. Indeed, it was Karl Hudson-Phillips as Attorney General who piloted those amendments, 02 November 1970. We had the Firearms (Amdt.) Act in 2004 by Sen. Martin Joseph; we had the Firearms (Amdt.) Act in 2006 by Sen. Conrad Enill; we had Brig. John Sandy causing certain amendments in 2011 as Minister of National Security. And those in essence are the extent of amendments that we had. There have been 11 in total, but the large part has happened under the management of the regimes that followed under a PNM government cycle, which is where we took the steps of codifying and improving the laws.

Now, the Firearms Act apart from causing the proposal, what I would call the matrix of penalties, where we are taking first offences, second offences, third offences and graduating the matter in which we prescribe the penalties. There is something else that we are introducing into this law and that is very importantly introducing a new offence of trafficking of firearms or prohibited weapons. So

point No. 2 in the legislation is to introduce an offence into law which our laws do not currently recognize. That is to be found in a new section 9A which is proposed in insertion into this. And that is, of course, married up with a very important amendment to section 31 of the legislation which is importation of firearms.

So let us get to what the Bill proposes in its sections. We propose, by way of amendments—from the Bill we propose amendments to section 6, possession with licences only. Section 8, carrying firearm or ammunition in public place. Section 9, offences related to selling or transferring firearms. A new 9A, which is trafficking of firearms or prohibited weapons. Section 10, special offences as to possession of firearms. Section 11, which is the restrictions relating to discharge of firearms. Section 12, which is the penalty for possessing firearms. Section 13, the penalty for use or possession of firearms in certain circumstances. Section 13A, trespassing with a firearm; 13B, possession of a firearm whilst under the influence of the dangerous drugs regime. That has not yet been proclaimed but we intend to proclaim it shortly. That law came into effect since 2004 and has stood unproclaimed on our books so far. 13B, possession of firearm as I said. Section 14, penalty for use of a firearm and breach of conditions. Section 15, prohibition on manufacture, et cetera, firearms. Section 22, the power to call in firearms and ammunitions. Section 23, special restrictions upon holders of firearms dealers' licences. Section 24, restrictions relating to gunsmiths. 25, notice to be displayed by licensees. 26, records and returns. Section 27, carrying of firearms and ammunition in public places and the powers of the police. Section 28, report of loss or theft of firearms and ammunition; 29, the power to stop and search vehicles. Section 30, search warrants. Section 31, restrictions on importation and exportation of firearms and ammunition. Section 32, travellers and their declarations of firearms and ammunition; 33, permission to take firearms abroad; 34, special

offence relating to firearms on air crafts and lastly; section 40, custody of firearms and ammunition.

I have taken the time to read out these particular sections because a lot of the amendments can be grouped into a formula as I have said before. And permit me now therefore, Mr. Vice-President, to get to some of the more salient features. May I ask you, Mr. Vice-President, what time I end in full time?

Mr. Vice-President: 7.36.

Hon. F. Al-Rawi: Thank you very much. It is important to note that the Firearms Act has some very core definitional anchors, ammunition, automatic firearm, competent authority, the definition of a firearm itself and what a prohibited weapon is. Basically a firearm and ammunition includes every aspect of the weapon. The automatic weapons are those which you exert, one squeeze, if I can put it that way of the trigger and then the clip can discharge itself completely.

The prohibited weapons are the serious weapons; artillery, automatic firearm, grenade, weapon of whatever description or design, which is designed to put noxious liquid out, et cetera, teargas, et cetera. And very importantly the definition section that applies to offences under Part I and Part IV of the legislation tells you a have key aspect. 5(2) says that:

“For the purposes of any prosecution for an offence under”—Part I—“or Part IV, a person who—

(a) is found with”—ammunition or firearm

“(b) occupies, controls”—the—“land, building”—et cetera, in which it is found—” on which is found...;

(c) is proved to have had with him”—the—“firearm or ammunition...had with him...under his control anything...

shall be deemed to be in possession of such firearm or ammunition in the

absence of lawful excuse, the proof of which lies on the person.”

In terms of constitutionality we take this deeming provision, we add it into the new trafficking in firearms provision, section 9A. We utilize the constitutionality of the deeming provision, finding comfort for that purpose in no less a feature than the Constitution in section 5(2)(f)(i) and also in finding solace in other laws which operate with similar deeming provisions. For instance, in the Dangerous Drugs Act where you are deemed to be in possession in certain circumstances.

Very importantly, we seek, Mr. Vice-President, to amend section 6 of the law to say, and this is the possession with licence only and a savings provision. Effectively we provide in section 6, when you are allowed to have a firearm, either you have a Firearm User's Licence for that or you have another form of licence, for instance, as a dealer or a gunsmith, et cetera, or you are a member of a category of persons, for instance, police, defence force, director of forensics institute, scientific officers, customs officers, prison officers and you are carrying the weapons in the course of the performance of your public duties.

But we say in subclause (3) by way of amendment that any person who contravenes any of the provisions, i.e., for possession other than those accepted circumstances on an offence on the first part, summary conviction for first offence to a fine of \$500,000 and imprisonment for 15 years. We are effectively moving that offence up from \$15,000 to \$500,000 and we are moving the imprisonment from eight years straight up to 15 years. We then say on conviction on indictment for a first offence, we are removing the application which normally finds itself in other offences for a fine and we are bumping up from 15 years, if you are found on indictment to 20 years. If you are on a second offence on indictment we are moving to 25 years. Personally, I would have preferred to move it to 30 years, but the drafting practice is that 25 is usually said to be the highest figure that is used in

laws although I have seen 30 years in other circumstances.

With looking for an offence under subsection (2), this is where the people who ought to know better, that is where you have prohibited weapons in the category of persons who are allowed. If you have a prohibited weapon, that is a trip of section 6(2), if you are on summary conviction, first offence; we are jumping, remember prohibited weapons included automatic weapons, artillery, grenades. We are jumping on summary conviction to \$1 million and imprisonment for 15 years. On first conviction on indictment to 20 years straight away, on conviction on indictment to a second offence to 25 years. And we are taking in addition to those offences and the manner in which they are treated we are adding a catch-all provision that an offence under subsection (1) can be—you can top up, if I can use that expression, by \$500,000 and imprisonment for 15 years. That is to be found in the amendments to the proposed subsection (4). We are saying in relation to an offence under subsection (2), this is in addition to any other offence you may be liable to summary conviction to a fine of \$1 million and 15 years.

So let us deal with the obvious specter which is whether this is excessive in terms of a proportionality position.

[MADAM PRESIDENT *in the Chair*]

I would just like to add, Madam President and Mr. Vice-President, both, I would like to add the fact if you turn to our insurance legislation, if you turn to our securities laws, you will see summary offences way up in the \$1 million category, \$500,000 category and in those circumstances we find comfort that if white collar crimes are going to catch that kind of offence, surely things which can result in actual murder, death, mayhem, because shootings and woundings are of a significant number as well in our jurisdiction. Shootings and woundings are numbered, the thousands in Trinidad and Tobago that is beyond the statistics I

have given for weapons being found or murders having been committed. When you look to shootings and woundings we are in the tens of thousands. Clearly a \$1 million summary offence as a maximum penalty is certainly something that this society, I respectfully believe, can tolerate as proportional in a society such as ours.

Madam President, in section 8 of the Act—the Bill proposes an amendment to section 8. We are moving the offence for carrying a firearm in a public place. Before it was a mere \$40,000, we have moved it to \$250,000. When we look to section 9 and the amendments that the Bill calls for, offences relating to selling or transferring firearms or ammunition, again we are sub-categorizing these things. Summary convictions, first offence, indictment first offence, indictment second offence and indictment on a third offence; this case here we now bring in the concept of natural life. And, Madam President, that is the circumstance of a person who sells or transfers a firearm or ammunition to any other person who does not or is not exempted from holding a Firearm User's Licence. And it is important if you are going to trip the law on three occasions, if you are going to prosper gang activity, if you are going to transfer firearms to people, you are going to rent a gun out as is reputed in this country, if you have been caught on three occasions you ought to forfeit your rights and privileges in this country and that is the recommendation we bring forward. We have not gone as far as Singapore to say that it shall be accompanied by death, we instead say natural life on a third offence.

Madam President, that is to be added by the amendments to section 9(2). Again, we are moving all the way up to natural life where we are treating with persons who purchase or acquire, sell or transfer firearms to a restricted person, a drunk, a person who is unfit, et cetera. And when we get to section 9A, which is the trafficking provision, permit me to put this onto the record. Trafficking in firearms was unknown to our laws. The recent finds in the criminal arena by the

TTPS demonstrate that we have found high-powered weapons. You will vividly recall the images of high-powered weapons being found in many parts of Trinidad and Tobago and persons arrested.

What we have provided here is that the person who has in his possession two or more firearms or prohibited weapons is deemed to have the firearms or prohibited weapons for the purposes of trafficking, et cetera. And that the burden of proof is on the accused and if it is that the person cannot discharge the burden of proving that he did not have it for the purposes of trafficking, then we are going to apply summary first offence, conviction on indictment, first offence, indictment second offence 25 years but we then go down to conviction on indictment on a third occasion for a trafficking offence of natural life. We have defined trafficking to include importing, exporting, acquiring, delivering, selling or transferring firearms or prohibited weapons.

Section 10 is where we deal with amendments that the Bill proposes to section 10, special offence as to possession of firearms in certain circumstances we have here treated with if you have in your possession or control firearms or ammunition with the intent to sell or transfer and for the purpose of commission of any crime. Again, we have seen it fit to disaggregate these offences, summary indictment, first offence, second offence. We have not gone to a third offence on this particular ground but we believe that the proportionalities demonstrated for the type of positions that we treat on this end.

Madam President, if I were to look at section 11 as it is proposed to be amended by the Bill:

“A person who discharges a firearm or ammunition on or within forty metres of any public road...”

Previously or the law as it now stands, is that it is summary conviction to a fine of

\$15,000. In today's gang culture, in the scenes where we see people gathering around and shooting firearms in the air as you can sometime see, we think that that is way too low an offence. We have gone for summary conviction, first offence \$500,000, 10 years imprisonment, indictment first offence 15 years, conviction on indictment second or subsequent offence 20 years.

Madam President, we ask for amendments to section 13 which is the penalty for use and possession of firearm, imitation firearm in certain circumstances, we are asking for it to be moved from 15 years to 25 years. We also ask for an amendment to section 13A of the Act where we are dealing with trespassing with a firearm.

Madam President: Attorney General, you have five more minutes.

Hon. F. Al-Rawi: Thank you very much. We are asking for the fine to be moved from \$30,000 to \$250,000 and from five years to 15 years. 13B, as I mentioned, is not yet proclaimed. It is something that we are looking at proclaiming now. That is where you are treating with a person committing an offence whilst he is drunk or under dangerous drugs. As we deal with amendments to the Dangerous Drugs Act, in particular in treating with the cannabis issue as we are going to treat with amendments to the Dangerous Drugs Act, we propose to harmonize this law with that law and therefore marry up the two provisions, also as we introduce a "drugalyzer" into the equation so that we can test for those positions on the roads and in places.

Section 14 is proposed to be amended. Again, we are bumping up the penalty for use of firearms in contravention of licences. It was a mere \$300 and imprisonment for six months. We have moved now to \$50,000 and imprisonment for two years. That was way too low an offence. Prohibition on manufacture of firearms or ammunition: the person who contravenes shortening of a barrel of a

firearm that can kill you, saw you in half, converting a firearm into anything which is not a firearm, converting a prohibited weapon into something which is not a prohibited weapon. We have sought to take this in its severe terms up to the graduated scale of natural life, from first convictions, second convictions to third convictions to natural life. And we propose that section 15 be amended, taking offences up to a \$1 million on summary conviction and treating with the terms of imprisonment, 20 years, 25 years and natural life.

We, of course, Madam President, propose amendments that are basically a same form of management of offences, for instance, in section 22, the power to call in for firearms, the offences were too low \$3,000, nine months imprisonment we bump that up to \$25,000—

Sen. Thompson-Ahye: If I may.

Hon. F. Al-Rawi: I just have two minutes to end my speech.

Sen. Thompson-Ahye: It is just to help my colleague here. Madam President, I am suggesting—

Madam President: Senator, the Attorney General has to give way.

Hon. F. Al-Rawi: I have two minutes, I am so sorry, forgive me. Madam President, I ask you to just pay simple note to importation of firearms, et cetera. As I am apologize to my learned friend, but otherwise I would not be able to move the Bill properly. Importation of firearms, et cetera, I ask for subsection (2) to be noted in particular. It is on this case here, if you aid or abet or you contravene the importation of firearms including in trafficking circumstances, that we are taking the fines up to a \$1 million and imprisonment for 15 years, et cetera.

Madam President, I propose to circulate for the benefit of all Senators for their ease of reading a document which I just got prepared which is a marked up amendment version of the Act as it is proposed to be amended. It will make the

reading a lot easier. This is not an easy thing to manage in terms of production because of the manner in which the laws are actually kept. So we had to reproduce the law but we certainly intend, because we do not intend to finish this debate tonight if necessary, to circulate this version so that all Senators can read the law in a more efficient fashion and therefore digest it in better form.

I have 30 seconds to give way.

Sen. Thompson-Ahye: I was merely about to suggest that we do what we normally do. Instead of saying clause 15, you know, section so and so, that the Attorney General refer to the clause so that people would be able to follow it more effectively. But when he goes back and he talks about section so and so, people are hunting, you know, whereas if the Bill, clause by clause—

Hon. F. Al-Rawi: Thank you. I got you which is why I will circulate the version so perhaps I have anticipated your concern. It would have been very difficult to just refer to the clauses. So—[*Interruption*—I will give you in hard copy and circulate it. I want to add, Madam President, that this is a very exceptional thing. It is the habit of this Government to do this; it was never the habit of any—certainly the previous government of doing this, but we think it makes for good reading.

Madam President, with my time now having completely run— Do I have just one minute left?

Madam President: You have 30 seconds.

Hon. F. Al-Rawi: Thank you. With my time now having completely run, Sen. Rambharat telling me I had more time than normal, I beg to move.

Question proposed.

Sen. Sean Sobers: [*Desk thumping*] Good night, Madam President, I am very grateful for the opportunity to contribute tonight on this Bill, an Act to amend the Firearms Act, Chap. 16:01.

I think we Members of the Opposition, just like the Government, appreciate and understand that firearms are a very, very big problem in this country, that pursuant to the statistics read by the hon. Attorney General in his contribution, we appreciate that the preferred weapon of choice of violent offenders, from the most violent offences that can in fact be committed upon a person in this country, that being murder, to other less serious but still serious offences in this country, firearms are the preferred weapons of choice. Gone are the days where persons would usually utilize other instruments for ill doing and now they focus strictly on the utilization of firearms.

So that in terms of increasing penalties with respect to the legislation both in terms of fines and in terms of imprisonment periods, it could in fact be considered a welcomed position. The difficulty, however, please, Madam President, is that, you know, in terms of listening to the Government, not really the Attorney General, but the Government on the whole, many times in terms of their contributions or the narrative that is being spun, it is painted as if these activities by the Government their approach is novel in nature, and to be fair they are not. I mean, previous administrations such as the United National Congress under the People's Partnership would have done significant amendments apart from the firearms legislation, but other pieces of legislation that would have come before this honourable House. And, Madam President, you would have to forgive me with my tone and my speed. I have a lot to discuss on the Bill itself, so I just want to get through my introduction as quickly as possible.

So that being said, I would want to say to begin properly, Madam President, that we on this side of the House consider imitation to be the best form of flattery and to be fair the Government's approach in terms of treating with these types of legislation and other legislation such as the abolition of preliminary enquiries, the

criminal procedure, plea discussion and plea agreement, the miscellaneous provision, trial by jury, DNA regulations; all of these things would have come from, or had their genesis at some point in time under the People's Partnership administration. [*Desk thumping*] As a matter of fact, Madam President, as it pertains to the current incarnation of the Commissioner of Police, he was once a Minister of National Security under the People's Partnership administration. [*Desk thumping*] And he had some really, really, stellar success—

Hon. Senator: Good enough to be fired.

Sen. S. Sobers: As the Minister of National Security. So on behalf of the United National Congress, I would like to say that we are extremely flattered with the Government's imitation of our approach to crime. [*Desk thumping*] But where we are not flattered is the fact that in terms of imitating the execution of that imitation unfortunately is poor because the infrastructural developments and changes that should have accompanied some of these legislation are absent and it goes to the heart of the effectiveness of the legislation redounding to the benefit of the people. And as it pertains to that effectiveness, Madam President, I will definitely treat on that at the conclusion of my contribution tonight.

So with that being said, I would just like to jump right into the Bill itself because it is a lot. So when one looks at clause 5, which, and I hope this is for the benefit of—I will call the clauses as we go along. So clause 5, which can be found on page 4 of the amendments of the Bill itself, clause 5 treats with the increasing of fines and penalties, but in particular I was looking at clause 5 as it pertains to amending section 9(4) of the firearms—the parent legislation itself.

Madam President: Sen. Sobers, could you just give way for a minute.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin

Khan): Thank you very much, Madam President, In accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until 10.30p.m.

Question put and agreed to.

Madam President: Sen. Sobers.

FIREARMS (AMDT.) BILL, 2019

Sen. S. Sobers: Grateful, please. So when looking at 9(4) of the parent legislation and the amendments here, the amendments are set up in increase the punishment on conviction on indictment to imprisonment from 20 years to the remainder of one's natural life. Now, that particular amendment in section 9(4) treats with persons who are under section 6(2)(a) to (f), persons who have a certain degree of responsibility as they are entrusted to carry firearms in public places, ammunition in public places. As a matter of fact, Madam President, those persons under section 6(2)(a) to (f) when one looks at the parent legislation, are persons such as police officers, members of the defence force, customs officers, prisons officers. And I believe the learning, in so doing, in increasing the penalties is because those persons having that degree of power and responsibility should be held to a greater account than a normal ordinary citizens who is not so entrusted under section 6.

But in speaking to the hon. Attorney General earlier on in today's sitting, I also informed him that there are other persons who should be caught under this particular section and those are persons who have Firearm User's Licence or Firearms User's (Employee's) Certificates, because they are also persons entrusted to carry firearms in public and carry ammunition in public. And it is not absent, Madam President, with the greatest of respect that there have been instances, up to recently as earlier this year, wherein there was a detention of certain individuals who were involved, alleged, in a robbery and upon their detention when a search was conducted of the home, boxes of ammunition were found at the address. In

particular and the ammunition bore quite a similar resemblance to ammunition used on several ranges throughout the country.

And it was found, which is not a novel situation that there are instances where persons who have FULs and FUECs who attend these ranges purchase, let us say, ten boxes of ammunition; they utilize five, no checks are conducted on their person when they leave the range. They leave the range with these boxes, these residuary boxes, about five boxes of ammunition and then they go out and they sell to criminal elements. You have situations where you are paying maybe about \$150 to \$250 per box of ammunition and then you are selling it now to criminal elements upwards of \$2,500 a box. So that if we are considering amending the legislation to increase penalties for persons who are considered to be in greater trust and responsibility under section 6(2)(a) to (f), we should also include persons who are FUL and FUEC holders so that they can be held accountable if they are found running afoul of the law as it pertains to this particular piece of legislation.

Moving on now to clause 6 which could be found on pages 4 and 5 of the amendment on the Bill. Now, clause 6 introduces this new section 9A which is the trafficking section as the hon. Attorney General was just speaking about, and when I looked at this trafficking section, I also looked at the Dangerous Drugs Act to see the similarities with respect to how trafficking is contemplated there and what the intention would have been in this particular Act. Now, the only thing that I saw existent in the dangerous drug provision that I did not see here and I would want the Government to consider, is that in terms of trafficking there are situations in the dangerous drugs provisions which would allow for a person who is found with even a minute quantity of marijuana or a narcotic in a particular proximity to a school to also be caught under the trafficking legislation. And I thought, because by the grace of God it has not happened here, Madam President, that we have not

had any shootings or anything of the sort at schools—

Sen. Thompson-Ahye: Yes.

Sen. S. Sobers: But—within a school? I am unaware, I apologize.

7.45 p.m.

But, if we are contemplating trafficking, we should also consider maybe amending that particular section 9A to include a provision to treat with persons who are found, apart from the earlier section—I think it is clause 5, which just simply amends persons having firearms in public or clause 4—clause 4 which just deals with increasing the fines for persons having firearms in public, but we should also include a provision to increase the penalties for persons who are found with a firearm, be it one firearm as opposed to two, within a particular proximity to a school, so that it dissuades anyone from contemplating an ill act as going into a school and causing mayhem and havoc. As far as I thought, we were spared of such an instance, but to try to keep our record as it pertains to same clear, we should include that in the provision today before us.

Moving on. Looking at clause 11, Madam President, clause 11, which could be found on page 6 of the amendment of the Bill itself, clause 11 treats with trespass to land, increasing the fines for trespass to land, and when I looked at that particular clause, under section 13A of the parent legislation, the first thing that came to my mind was hunters, Madam President. I am certain maybe the hon. Sen. Clarence Rambharat, Minister of Agriculture, Land and Fisheries, will also agree with me in principle, that when an individual is hunting—after you get your licence and you are hunting on state land—there is a very real possibility, Madam President, that while in pursuit of game, a lot of the state lands run parallel to or very near to private lands, and there may be instances where hunters may run afoul of this particular piece of legislation by coming on to private lands thereby

trespassing in pursuit of game. I know that the particular section 13A gives an ability for the person to give a reasonable excuse for being present, but I am wondering whether or not we could tweak it a bit to possibly exclude members of the community who are hunters or even FUL or FUEC carriers from that particular section, but I would leave that up to the Government to consider and I could raise it again in the committee stage.

I also looked at clause 12, which is also on page 6, which intends to amend section 13B. The hon. Attorney General discussed the fact that the Dangerous Drugs Act had to be proclaimed, that particular provision as it pertains to marijuana and whatnot. My issue with respect to that particular clause, it is my understanding that this particular clause, I suspect, would more treat with FUL and FUEC holders who are in possession of firearms and are possibly under the influence of dangerous drug and drink. Again, it goes back to the inherent responsibility that an individual who is entrusted with such a licence is supposed to have, and that you would really and truly be betraying such a responsibility by being under the influence of drug or drink.

As it pertains to the penalties located in this particular clause, I am wondering whether or not it could be staggered a bit. So for persons who are non-FUL holders, maybe the fine could be increased from the 20,000 maybe to 50,000 or 100,000, and then in terms of FUL holders, the fine could then go up a bit more because of the inherent responsibility that runs concurrent with having an FUL. So maybe as an FUL holder, the fine could go up to the 150,000 or even the 200,000 as the amendments currently contemplate.

I move on to clause 15 which is located on page 8 of the Bill, and clause 15 intends to amend section 22(2) of the Act, which is on page 26. Right? So, clause 15 treats with the ability for the Commissioner of Police to call in firearms and

ammunition. So it reads:

“The Commissioner of Police may at any time he considers it necessary or expedient”—this is section 22(1) of the Act in—“safeguarding the safety of the public, by Notification published in the Gazette and in at least one daily newspaper circulating in Trinidad and Tobago, temporarily suspend any or all licences, certificates or permits granted by him...”

And it goes on to say that the individuals who have FULs or FUECs and have firearms in their possession are supposed to bring those firearms to the nearest police station and if they fail to do so, the penalty has now been increased from \$3,000 on conviction to \$25,000 and to imprisonment from nine months to one year.

But what I think the legislation did not contemplate is the fact that there may be FUL holders who are possibly bedridden, so that they may have a firearm in their possession or they could be possibly incapacitated, and this circular goes out, this notification goes out that they are to bring the firearms into the police station, if you are incapacitated or bedridden, you cannot comply with the notification. You would run afoul of this provision, and it is not a situation where you could simply instruct an individual to carry the firearm to the police station because then they, themselves could in fact, be charged for possession of firearm where they do not have a permit to carry. So that may be an amendment could be placed here, where the person, if they do not comply within a reasonable time, without reasonable or just cause, then they run afoul of the offence created in the Act itself.

I also looked at clause 18, which is on page 9 of the Bill, which seeks to amend section 25(2), which really and truly just deals with a gunsmith or a firearms dealer not displaying their licence at their shop or whatever the case is, and it seeks to increase the fine from “five hundred dollars” to “fifty thousand

dollars” and from six months imprisonment to two years. That, I would have to say, at this stage, in my humble opinion is not proportionate. There could be a plethora of reasons why a firearms dealer or a gunsmith may not have displayed the sign. They could have moved, they are in the process of so doing, and the Act does not allow for a reasonable excuse being proffered as it pertains to running afoul of the legislation itself. So I am wondering if maybe the Government could consider that particular situation as opposed to just increasing the fines as it is.

It is at this stage that I also, earlier on in the proceedings, I would have had a discussion with the hon. Attorney General, and I wish to place it on the record now in my contribution, to possibly insert a new clause to treat with individuals training persons in the use of firearms. Now, it is not absent at all that there have been situations in this country wherein persons have been training individuals, criminal individuals, in the use of firearms and training them to be more proficient in the use of a firearm, and I am saying as it stands right now, for a person to conduct such training, they have to be approved by the Commissioner of Police. So they would tender their qualifications or whatever to the Commissioner of Police’s office and they would now be placed upon a register that would indicate to the public at large that these persons have been vetted and they are approved to train persons in the proficiency of firearm and firearm related activities.

But what we should consider if we are amending the legislation as a whole, that we introduce a new clause to treat with individuals who are not on that particular list and that are, in fact, engaging in training criminal elements in the use of firearms and firearm handling, that there is a penalty for imprisonment and a fine that would treat with individuals who run afoul of that particular situation. I think within the past there was some discussion of an individual, who is a Trinidadian, but also a member of the United States Marines who was down here

conducting such exercises with members of notorious gangs in this country. So we need to contemplate that and, hopefully, the Government could take that suggestion on board.

I also looked at clause 20, which is on page 9, and clause 20 seeks to amend section 27(7), which is located on page 32 of the Act, and that section—right, so clause 20 as well as clause 21. Clause 20 treats with situations wherein a person may be called upon by a police officer to produce their FUL if they are carrying a firearm in public, and the fine for such a situation is increased, whereas clause 21 deals with if someone loses their FUL or FUEC or their firearm, they are to report it in a particular time frame and if they are negligent or found negligent in so doing, the fines for that as well too, they are increased.

Now, at this stage, I would like to place on record for the Members of the House and also for the listening and viewing public, when one contemplates or ones considers what the FUL is, the FUL is really just a book, a paperback book with some pages in it. In most instances, they become very tattered and worn after a couple years with the book. There are persons within this country who have had FUL books for 20 years, 20 years plus and the books are totally in a mess. Some of them only carry the pages of the book around with them. So that there has been a practice by some FUL holders to leave the book home. So the situation is not such that they have not been issued with a licence, but because of the book itself and how easily worn it can become, they simply leave the book home and they carry the firearm, and if called upon to produce, they can simply retrieve at home, but what this amendment is really telling you is that you need to carry the book on you at all times, and there is a penalty increase if you are found without the book, and I am wondering whether or not we could include in amending it as it pertains to clause 20, if called upon to produce the FUL that you can be given sufficient

time to retrieve the FUL as opposed to being subject to this charge.

I know that there has been some discussion on a licence, an actual hard plastic licence being created by the Commissioner of Police's Office and, you know, I await for that to happen, to manifest itself. But until then, you know, because of the nature of the book itself, this would be extremely harsh on someone who has the book home. It is not that you do not have the licence issued in your name and it is not that it cannot be checked. It can, in fact, be checked but to be given sufficient time to produce it before you run afoul is something that I would want the Government to consider.

And then, as it pertains to clause 21, in terms of the book itself being lost, the certificate being lost, the first thing that jumped into my mind when I read the legislation and the amendment is the fact that there are members of the security services such security firms, security personnel who would have an FUEC. You are hired as an armed guard for the security services, and the convention—so it is not law, the convention is if you lose your FUEC, you simply go to fourth floor, you inform them of the situation, they would, you know, do up a correspondence indicating to you that they are in the process of regenerating your FUEC and that you are to be allowed to carry this letter around until they regenerate the FUEC. I know persons who have lost their FUEC going on six and seven years now and they have not been given a new FUEC.

So if you are called upon to produce, you have indicated to the police that you have lost your FUEC, you have this paper and you are now running afoul of the law, you could in fact be arrested as a security guard. You are an armed guard, so you are not going to be able to work. It tarnishes your ability to be gainfully employed. I mean, we need, as we are dealing with the legislation right now as it pertains to these two particular clauses, to consider those situations and make

relative amendments with respect to maybe reasonable excuses, a particular time frame—legislate with respect to what is currently the convention right now to assist those persons who may run afoul of these particular sections.

Looking at clause 25 now, on page 11 of the Bill—Madam President, if I may, time?

Madam President: You finish at 8.15 p.m.

Sen. S. Sobers: Okay, then I have some time. Thank you. So clause 25 of the Bill which is on page 11—so clause 25 seeks to amend section 32(6) of the Act, which is located on page 36 of the Firearms Act. Right? So this particular clause treats with situations wherein persons, travellers making or failing to make declarations of firearms and ammunitions upon their entry into Trinidad. And, Madam President, again, when I read it, the first thing that came into my mind is the issue which I think many of us are familiar with, with the Canadian national who ran afoul of this particular section, and I would like to quote from the *Trinidad and Tobago Guardian* Sunday February 03, 2019, “Canadian issues warning after arrest for ‘keychain’ in T&T”.

“A Canadian businessman has warned his countrymen to be careful when travelling to Trinidad after he was arrested for possession of three empty bullet shell casings and kept for a week at the Maximum Security Prison...

On Thursday, in an interview with a Canadian-based news outlet, businessman Brian Doubt recounted coming to Trinidad on a layover flight from Guyana on his way home and being arrested for possession of three empty bullet cases, which he was using as keychains. He said the bullet cases were inert and could never be fired.

Doubt said he came into the country and went through Immigration after getting off the airplane. He said when he tried to go through Immigration again to sit in the waiting area, he was stopped and questioned about his keychains.”

He said, I quote:

““They were like, what are you doing with this? And the same things had been through airport security in Kelowna, Miami, and Guyana. They told me this is illegal here and we consider this ammunition. I told them it was not ammunition and they said in Trinidad even an empty shell casing is considered ammunition,” Doubt said.

He was charged for possession of ammunition without a licence and for attempting to board an aircraft with ammunition.”

Now, he said other things too, which I do not see any need to repeat.

But basically, Madam President, there are many other parts of the world wherein ammunition in an inert nature pose no danger. They cannot be fired. What really makes a bullet or gives the bullet the ability to fire is the composition of bullet, which is the percussion cap, the shell itself and the gunpowder in the bullet. If the percussion cap is altered, which I suspect it would have been in his case to have them as key chains, and there is no gunpowder in the bullet itself, it poses no real danger.

I know as it pertains to other items such as camouflage, usually the customs officers at the airport would indicate to the individual, well listen, it may be legal back at home, wherever you came from, but it is not legal here, and they would give them some sort of discretion, and I am wondering as we are dealing with this now maybe we should, in fact, amend the definition for “ammunition” so that foreigners who do come to our shores would not find themselves in this truly

precarious position for an inert bullet that can never be fired, Madam President. I am not saying that we relax our laws to suit as the Sen. The Hon. Franklin Khan said earlier, every Tom, Dick, Harry and Harrilal [*Laughter*] but what we do, we have to anticipate that in foreign countries these types of items, they are far more knowledgeable of these items and they really and truly would not pose any threat. And it may very well be a backward approach to deal with ammunition on a broad-brush situation as we have currently in the legislation.

Madam President, further, when I looked at clause 26, because it is, in fact, connected in a way to clause 25, clause 26 amends section 33(5), on page 39 of the Firearms Act, and it treats with persons who are leaving the country — Trinbagonian citizens who are leaving the country and possibly attempting to board a plane or a vessel or whatever the case is with a firearm or ammunition. Now, I could recall vividly when we were debating—I came after when the Bail (Amdt.) Bill was being debated—I think it was Sen. Chote who made mention of persons who are FUL or FUEC holders. Generally, FUL holders, who would possibly mistakenly board planes with a round or two rounds or something that may have fell out from a magazine or they would have used the same bag—when they are going on the range, they used that same bag—to go to the airport, you know.

So that, I am wondering if when we are looking at that particular section, it really and truly contemplates persons who are attempting to traffic these arms out of the country, and I cannot really fathom a person who is intending to traffic one round out of the country. It makes absolutely no sense. It could very well be that it is an issue for the court to consider, but maybe as we have the opportunity now to amend the legislation, we could amend it accordingly to treat with a particular situation where an FUL holder, could, in fact, run afoul of that situation.

I also looked at clause 28, which is located on page 12, which is the final part of the Bill itself, and clause 28 intended to amend section 40, and section 40 treated with custody, custody of firearms and ammunition and, in particular, it dealt with situations where persons would usually lodge firearms at police stations and the custody aspect of things involved there. What was absent in section 40, however, is the fact that when an FUL holder who is leaving the jurisdiction and decides to lodge a firearm at the police station, you are placing that item, the firearm, bullets and whatnot in the custody of officers in the charge room who would then place it in the strongroom. Now, there is no sanction or no clause to treat with an interference in terms of custody by a police officer.

There are loose narratives or conversation had by FUL holders that there could be a situation where a police officer could utilize your firearm whilst in their custody if you do not properly lock the gun or whatever the case is. And I am saying that if we are treating with increasing penalties, we should possibly include a section here or a clause that would treat with police officers who tamper with firearms in their custody once entrusted with it when a firearm user is leaving the jurisdiction, so that they could ward off individuals from contemplating such a nefarious action, because it has been done before. And, in some instances, the only way in which an individual is caught by such a situation is by the cameras in the charge room or the strongroom, and if there are no working cameras in the police station, which is the occurrence in some stations throughout the country, these persons could escape. So if we are considering custody, I would also want us to consider placing a penalty for such an individual in this particular section.

Now, Madam President, as I said at the beginning of my contribution, in terms of going through the Bill itself, I wanted to also spend loosely, and not for much longer, just a tad bit of time in considering the effectiveness of the legislation

itself. You know, it is not a bad step in trying to increase the penalties and fines associated with being in possession of firearms and ammunition, but it has been tried and tested and proven to be fair, not to be 100 per cent effective. Because at the end of day there are a lot of criminals out there who are engaged in this activity and they know, or at least they verily believe that they are not going to be caught. So the real discussion that should truly be had if we are serious is about detection.

Now, I heard the hon. Attorney General, in terms of the statistics presented to this House, talk about increases in detection levels throughout the years coming up to 2019, but none of the statistics that he gave indicated a detection level of above 40 per cent. So that means 60 per cent of firearm-related offences, persons are not caught. [*Desk thumping*] We alone here in this House, we are not the only ones aware of that. The perpetrators out there are also equally aware that they more than likely may not be caught, may never be caught. And the thing about it is, Madam President, even if we legislate and put in penalties and sanctions for firearm-related offences, when do they come into this entire situation?

If you are arrested today for a firearm-related offence, these are sanctions upon conviction, Madam President. But if you are arrested today, you would go before the court, you get bail, depending upon the situation, but then in terms of your matter even starting at the Magistrates' Court, that is next two, three years down the line. Why? Because you have to wait on a certificate of analysis that has to come back from the Forensic Science Centre to simply say that the item that you were found with, in your possession, was a gun, and that certificate does not come back any time soon.

I have heard several persons within this House talk about an arrangement with the Chinese Government to build a Forensic Science Centre. I passed Mount Hope yesterday, Madam President, the site of this purported Forensic Science

Centre, this new Forensic Science Centre, I have not seen a banner, a poster, no sod turning, nothing, for any Forensic Science Centre. So, as far as I know, that is still fictitious, and until we can sort that issue out and get these persons before the court and have their matters started and convictions start going up, then these things will make no difference. We would be spinning top in mud.

I would have considered in terms of dealing with crime and criminality, because that is what we are here to treat with today, Madam President, apart from amending the legislation, the broader picture is to treat with crime and criminality. I would have considered increasing the budget with respect to criminal informants, because we all know where the gangs and the gangsters are, and if we increase some budgets to assist these criminal informants to give us the information, to give the TTPS the information, then super Gary Griffith will find them. *[Laughter]* Right? We need to help him out.

And when I thought about the effectiveness of this particular legislation with respect to the penalties, Madam President, I considered what is the worst penalty or sanction we could put on the books? The hon. Attorney General quoted from the Singapore legislation. The worst penalty is the death penalty, and the offence that carries the worst penalty in this country is murder. So by the logic in terms of increasing the penalties in the Firearms Act, we should suspect that in terms of having an offence like murder carry the death penalty that the murder rate in the country should also be low. The murder rate is very high.

Madam President: Sen. Sobers, you have five more minutes.

Sen. S. Sobers: Grateful, please, Madam President. So, I am wondering whether or not—sometimes it really makes we wonder whether or not it makes any sense at all. I mean, I just like everyone else in this House was extremely touched and hurt when I saw that video with the young boy holding on to his mother, that these

animals could shoot that woman when she is leaving a graduation, a graduation for her son. I was really hurt and something needs to be done, and whether or not it is this or we consider dealing with detection or we consider even contemplating CCTV cameras. When you walk into a police station, Madam President, and you go behind any charge room and you watch the big TV screen that they have which is supposed to be showing all the CCTV cameras in that particular district, eight or nine cameras that are supposed to be on the screen, seven of them are down. What are we really doing? This by itself will not work. We need to be more serious.

[Desk thumping]

So, Madam President, I implore the Government, apart from considering the amendments that we could discuss in committee stage, really and truly, get out there and help the service; get out there and help the TTPS; get out there and assist criminal informants, increase the budget; get out there and assist with respect to detection, because we are drowning in crime. I thank you, Madam President.

[Desk thumping]

Sen. Charrise Seepersad: Thank you, Madam President, for the opportunity to contribute to the debate on a Bill to amend the Firearms Act, Chap. 16:01. Madam President, the Bill before us seeks to strengthen the current provisions that deal with firearm offences and includes the creation of a new firearm offence, namely trafficking in firearms and prohibited weapons. While law-abiding citizens will undoubtedly welcome any initiative that seeks to reduce crime, including the commission of firearm offences, we must ensure what the legislation before us is not operating in a vacuum that would result in unrealized expectations.

This is not the first time that the Legislature has been called upon to stiffen the penalties for firearm offences. Although there has been no increase sorry—although there has been an increased in penalties in the past, there has been no

significant reduction in firearm offences. It is a fact that firearms are frequently used in violent and serious crimes. However, not enough attention has been paid to increasing the resources of the agencies that are required to examine and report on firearm exhibits used in criminal cases. I believe Sen. Sobers referred to that fact in his contribution.

I, personally, was alarmed to learn that firearm exhibits in criminal matters that are sent for analysis usually take years and it is more than two years before they are returned with their respective certificates of analysis to the police complainants. This must mean that there is a serious backlog of cases involving firearms in the courts. With all the legislation that has been passed to streamline and speed up the process flow in the courts, little will be achieved if firearm matters are unable to be heard by the courts in a reasonable time.

Madam President, what is very important is the procedures that would be used by and the resources that would be given to the entities that are involved in the investigative aspects of firearm matters. We need to determine the reason for the inordinate delay in having the firearms tested. If the problem is manpower, then we must implement strategic methods that can resolve this challenge.

8.15 p.m.

For example, with all the advancement in technology there must be updated machines and devices that can be used to accelerate the process of ballistic testing. Why not employ persons on contract to assist with the backlog of exhibits to be tested and while these persons are performing their duties they can also train others who can then become qualified armourers? If we increase the number of persons who are armourers and increase the number of facilities where the testing can be conducted, we can move to having these experts spread throughout Trinidad and Tobago. This will result in a faster system of analysis.

Madam President, firearms used in the commission of offences may contain important information that could be used in the detection of the perpetrators of specific firearm offences and other crimes. For example, a weapon that is retrieved from a crime scene may have the fingerprints of not only the perpetrator of that specific crime but of other persons who may have used the weapon to commit other crimes. Is there a databank which has all the information and intelligence obtained from each firearm that has been retrieved and is the data analyzed in relation to crimes? Are there statistics that are compiled to determine the most frequently used type of weapon for a particular type of crime? Has any attempt been made to match the type of weapons with a specific gang or gangs?

Madam President, my great concern is that we do not maximize, store or resort to the intelligence that can be gained from a single weapon when we are dealing with the holistic fight against crime. We are still operating in silos and we are losing important intelligence that can assist in bringing persons to justice. We need cross-functional cooperation that works in practice.

Clause 6 of this Bill creates the offence of trafficking in firearms or prohibited weapons. We do not manufacture firearms in Trinidad and Tobago but weapons are being brought into the country and distributed with relative ease amongst the criminals. The Customs Division and other agencies must be properly outfitted to detect the importation of weapons. It does not help that our borders are porous and weapons can easily be sneaked into the country under the very noses of those who are supposed to prevent the illegal entry of firearms. There is also corruption in the services of those who are meant to detect and prevent crime. Further, some members of these services are involved in a myriad of offences involving firearms. It makes no sense to strengthen the law and hope the legislation will automatically result in an increase in the detection and conviction

rates of firearm offences.

Madam President, I would like to urge the hon. Attorney General to audit the resources; that is, personnel, technology and systems for adequacy and effectiveness. The law can only successfully be operationalized if this is done. Thank you, Madam President. [*Desk thumping*]

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

Sen. Sophia Chote SC: Thank you, Madam President, for the opportunity to speak on this proposed piece of legislation. May I begin by saying two things: one, some may be of the view, when I develop my argument, that I am soft on these kinds of offences; I am not. I have been the victim of a firearm-related crime on two occasions, so I very well know what it feels like to be a victim in these circumstances.

The second thing is that I am all for increasing penalties for firearm-related offences but I have some questions with respect to the manner in which these penalties, these particular penalties have been increased. For example, if we start with the first one which is a proposed amendment to section 6 of the Act, which is your standard possession without an FUL, what you see is that the penalty for a summary conviction is moving from \$15,000 to \$500,000 and eight to 15 years, so it means that you are multiplying the penalty for a summary offence 33 times.

When you look at the conviction in terms of summary conviction for a prohibited weapon it moves from \$75,000 to \$1 million, so you are increasing it—I am not great at mathematics—you are increasing it eight times. When you look at the section which deals with restricted persons, you are increasing it from \$75,000 to \$500,000, so you are increasing it four times and adding on 15 years. I cannot seem to follow the rationale behind the figures chosen. So, certainly, when the hon. Attorney General comes to wind up, I would be very grateful if perhaps we

could have some sort of explanation for that.

Selling firearms, for example, it has gone up from \$5,000 to \$500,000, which means that it has gone up 100 times; possession of a firearm in a public place has gone from \$40,000 to \$250,000, it has gone up six times, so why are we, in some cases, increasing the penalty 100 times, in some cases six times, in some cases 33 times? I do not think we have had too much guidance on that from the hon. Attorney General and I look forward to it, because that is one of my concerns. I think when it comes to sentencing, while it is true that there are different offences within the Act and some are more serious than others, you must have some sort of relationship in terms of sentencing when you come to do so.

Now, with respect to the point about trafficking in firearms, I think it is a good idea but it must be looked at a little more carefully, and I will explain why I think so. There was an occasion where someone—it is not a case which is before the courts—someone was arrested with two firearms. As it happened the person was represented by Mrs. Pamela Elder, Senior Counsel, whose name the Attorney General is very familiar with, and they were two old rusty firearms, and Mrs. Elder made the joke and she said, “The only thing you could do with this, even though you call it a firearm, is perhaps pelt a mango with it.” But if somebody is now found in possession of two firearms, even if they are two rusty old firearms, it means that now they have to face a reverse burden—they have to face the reverse burden—of proving that they were not trafficking in firearms, and I think that that is a bit onerous. I think it does not take into account all of the fact situations which may occur in these circumstances.

I certainly think trafficking firearms should be an offence, but I would respectfully suggest that we find some other methodology for explaining what it means, especially since the idea is to switch around the burden of proof. Now, I

think what we have also not mentioned in this when we talk about selling firearms, and so on, is we have not really taken into account section 9 which is proposed to be amended:

“Any person who sells or transfers a firearm or ammunition to any other person who does not hold or who is not exempted from holding a Firearm User’s Licence is liable—”

—and so on. Well, I think perhaps there are things we could insert there, for example, the police officer or the soldier who rents or lends his service-issued firearm to someone to carry out nefarious activities, I think there should be some sort of accommodation or specific accommodation for that in the Bill, and that there should be a prescribed penalty for it. It may be that it is there but I have not seen it.

Now, the one sticking point or the big sticking point I have with this piece of legislation is the penalty for natural life, and the reason I have this difficulty is because, first of all, we have not been given any information about the demographic of our society which might fall into the category facing a penalty for natural life. I suspect because it is unlikely that you would find the over-60s with three convictions for firearm offences, I suspect that what we are looking at is we are probably looking at a group, primarily male, 18 to 30, and it means that if we have the imposition of this potential sentence we are removing a segment of our society and placing them into prison for their natural lives. I think that is disproportionate. I think the natural life sentence itself is disproportionate.

When you look at the academic literature that deals with natural life penalties, they essentially deal with murder, in one form or the other. And while it is true in the Asian countries you have the death penalty carried out for possession of narcotics, and that kind of thing, they also give natural life sentences to

juveniles, so I do not know how much guidance we can get from those jurisdictions.

Hon. Al-Rawi: Senator?

Sen. S. Chote SC: Sure.

Hon. Al-Rawi: Thanks. Just a quick one, just to remind you that in the Dangerous Drugs Act we also have natural life as well on our existing books, but I take your point and will pull some more Commonwealth precedents on it. Thank you for giving way.

Sen. S. Chote SC: Thank you. Now, the reason why this is something that we need to urgently address is because of the recent decision of the Caribbean Court of Justice in the case of Renaldo Anderson Alleyne, [2019] CCJ 6, and it was a full court of five. Now, essentially, what the court had to look at was the whole issue of sentencing. The facts are not so important, it was this man with a mental problem who threw two Molotov cocktails, killed people and the issue was whether the judges who sentenced him took the right things into account. But in considering the facts of the case, one of the things that the Caribbean Court of Justice had to look at was the issue of a natural life term of imprisonment, and the judges had some things to say. For example, if we look at, from paragraph 45 of the judgment they refer to the case of Hodgson where they say a sentence of that kind must come from a crime which is grave enough to warrant such an overlong sentence. And they also pointed out that you ought not to say, a Legislature ought not to say, to a judge or to a court what weight that sentencing judge should give to any of the objectives to be taken into account when sentencing.

So, I do not consider myself to be a specialist constitutional lawyer but certainly a little red flag went up in my head there. Are we talking about the possible infringement of the separation of powers? I would like us to be alert to

that. In paragraph 48 of the judgment the Caribbean Court speaks of a case from the Ontario Court of Appeal; it is called Horvath, and what the Canadians say is that natural life sentences are usually given where you have a crime with unusual features of brutality.

Now, the Caribbean Court of Justice goes on to discuss this further and the judges point out that long ago—and they referred to the case of Foy in 1962, life imprisonment meant natural life and that was acceptable at that time. The Caribbean Court of Justice was of the view that that is not necessarily acceptable now and went on to try to verify what a natural life sentence means. And it turns out it means different things in different countries in the Caribbean. In our jurisdiction it usually means 15 to 25 years, although it has gone up to 30 and 35, and in other countries it has gone up to other numbers, but the fact is it is not fixed. But this is what the court had to say at paragraph 58:

“Sentencing is quintessentially a judicial function and is first and foremost an exercise of judicial discretion. That discretion cannot properly be exercised by non-judicial bodies.”

And they were referring to the fact that when you sentence someone to prison for natural life it is an indeterminate sentence. True, under the Prison Rules of the 1800s they are supposed to get four-year reviews; well, that is a fairly new thing, but the Commissioner of Prisons does not have the power; having authorized the review the Commissioner of Prisons does not have the power to have this person released.

So, essentially, what we are doing is we are sending someone—a particular demographic—I am assuming it is 18 to 30, or thereabout, we are sending these people to prison to serve an indeterminate sentence. To me, it runs in the face of what we mouth out about restorative justice, and this kind of thing, because I

would think the 18-to-30s would be an ideal group for you to try to have restorative justice initiatives used because it is possible that they may come out of jail and be able to contribute to society. So, it seems as though, in terms of principle, we are enacting laws which contradict each other in principle.

Now, I came across some interesting information as well in an article from Penal Reform International and it was a policy brief. It is on the Internet. It can be found, and that policy brief pointed out that women who are sentenced to natural life or life imprisonment, they suffer tremendously more than men because their studies found that the women are the ones who are likely to be abandoned in the prisons. They are the ones who are abandoned by their children, spouses, and, you know, other members of the family. They are least likely to have visitors in the prison, and even if they do courses, and so on, towards a learning and improving their skills it seems to be that there is no point to it because they are serving an indeterminate sentence. So it does not really lend much confidence to this proposition that we should have the imposition or the possible imposition of a natural life sentence.

Another thing that we could look at is perhaps two cases which came from the European Court, and cases of Vintner and Hutchinson, and there was some dispute as to whether this kind of legislation was inhuman and degrading punishment, and the cases decided differently. And when you look at the facts of the cases, the reasoning shows you why they were decided differently. Now, if there is a means whereby you can have some kind of proper review of your sentence then, as the English do, then it is proportionate. It is constitutionally proportionate. This legislation would be constitutionally proportionate, but where you do not have that then it would mean that you are really just taking a chance. If you receive a life sentence then you have to go before the Mercy Committee, and

we all know that that does not meet very often, and that is dependent on how many cases are placed before it and by whom.

So, there is too much uncertainty about the way in which this natural life sentence is going to be used, upon whom it is going to be imposed; and what I would have liked to have heard is that if there are territories which have used natural life sentences within similar constitutional frameworks to ours, is it that these countries intend that once it is three strikes you are out and you die in prison, or it is that it means three strikes, you get your natural life sentence but then you have some means of rehabilitation and eventually trying to reform yourself and come back out into society? Because, you see, when we talk about three convictions for firearms and ammunition, we could be talking about three old pistols, three sawn-off shotguns that a hunter has in the bush, or we could be talking about three high-powered weapons, so we are talking about different levels of criminals and we are not distinguishing in the sentencing framework how those people may be treated.

I think we would be better off if perhaps we look at it more simply, that is to say, we look at it in terms of increasing the sentences for these offences; we look at it in terms of broadening the scope of some of the offences and perhaps introducing some additional offences to the Act in addition to increasing the penalties. But, certainly, I think we are likely to be potentially stepping into the realm of affecting judicial discretion by laying out the penalties in the way in which we have, and I would be very cautious about that. And I also think that—I do not understand the justification for imposing a penalty for a firearm-related offence, or three firearm-related offences, which is the same as you would for murder because this is what you get, for example, under the murder felony rule—if you plead guilty you may get life in prison.

So we are treating these offences as if they were murder when there are far, in my respectful view, far more serious offences; rape is just one that comes to mind, and we do not have that kind of discretion taken away from the Judiciary. Now, the other thing that troubles me with this is I would have wanted to hear, “okay, we have to draft it this way because, you know what”—the Magistracy or the judges, or whatever, or even if we put it in the context of the sentences: so many firearm cases came before the courts; first offenders, this is the range of sentences that they got; second offenders, this is the range of sentences that they got; third offenders, this is the range of sentences that they got.

What I would also like to know is whether the range of sentences was unacceptable, was the sentence appealed in any of those cases, because there is a right of appeal if it is unacceptable, and if so, what did the Court of Appeal say? That would give us, because we have sentencing guidelines drawn up by the judges themselves from the Judicial Education Institute; we have Sentencing Guidelines—what do the judges say about how offences such as these should be approached? So I thought some data with respect to that—so how are the courts currently treating with firearm-related offences? Are they treating with them in an acceptable manner or in an unacceptable manner? And if in an unacceptable manner, by perhaps sentences are too light, and this kind of thing, well, then perhaps we should have some statistics to tell us how many, because, I think, as a population we need to know what kind of service is being offered to us when crimes are prosecuted.

So, Madam President, these are my few points. Much of what I have to say would perhaps be better served at the committee stage, so I will not trouble my colleagues in the Senate tonight with much more. I thank you for the opportunity to speak. [*Desk thumping*]

Madam President: Sen. Simonette.

Sen. Garvin Simonette: Madam President, thank you for the opportunity of contributing to this very important Bill entitled “An Act to amend the Firearms Act, Chap. 16:01”.

Madam President, there is no gainsaying that guns and the havoc that illicit guns and guns even getting into the hands of those who are not licensed to use them are wreaking havoc in the society and are the cause of tremendous tragedy, pain and suffering of persons of all ages. Madam President, it is very instructive to consider all of the circumstances that could arise in relation to one who finds him or herself contravening the provisions of the Firearms Act and, of course, the provisions of the amendments being advocated for by the Government. That having been said—but for the new offence, which I will deal with shortly, the contraventions that carry with them, increased penalties, are contained in the principal Act, and indeed the principal Act is, in my respectful view, a very detailed and sophisticated code that governs the permissions to deal in guns, ammunition, weaponry and the like in a lawful manner in a regulated environment with imposing on those who are licensed, whether as firearm users or gunsmiths or firearm dealers to comply with a very rigid regime of regulation intended for the safety of the general public. So that our Firearms Act, in its incarnation from 1909 to its various amendments, exists today as of, in my view, superior item of legislation to that in many other developed countries, and we have no second amendment right as exists in the United States.

8.45 p.m.

Indeed, Madam President, it is correct that the Firearms Act and the Bill that is being contended for today create a very detailed regime in the area of the dealings with firearms, both with regard to what constitutes the offences as well as

what constitutes the obligations of those with the privilege to be licensed to either use, trade, repair firearms and dangerous prohibited weapons.

So that with the privilege comes the responsibility to comply with a very rigid, but advisedly so, regime of caretaking in dealing with these firearms. So that I do take a different view to that of my friend Sen. Sobers and to some extent to that of Sen. Chote in relation to the rigidity of the obligations placed on those who are entrusted with the responsibility to own firearms, to trade in firearms and, indeed, to repair and maintain firearms for those who own firearms under licence and the permissions given by the principal Act.

If you assume and you become entitled to use a firearm and to have a firearm, and to be trained in the use of a firearm, then you are vested with the solemn duty of ensuring that that firearm does not fall into the wrong hands, whether by negligence or by yourself taking some unlawful action to authorize, rent, deliver, trade, sell firearms that you are licensed to use. And if you are in a situation where you feel that you cannot abide by these rules intended for the protection of the general public, well then you have the simple option to return the licence, surrender the firearm or, indeed, to not apply for one at all if your inclination is so to do.

When it comes to the question of the penalties and the increases in the penalties, Madam President, I think that we have to stand back from it and take, not just a look at what may or may not be inconsistent, or what appears to be draconian. The fact of the matter is that this pandemic is really out of control in our country. It is very clear that those who are inclined to rob, to steal, to take engagements to assassinate people, are now resorting to the use of firearms and, God forbid, that prohibited weapons as defined in the principal Act emerge as some kind of resort of criminals as well. But those who have been running

mayhem, as is now being said, almost as though it is as natural as having a Coca Cola on a hot day, resorting to firearms and guns as their weapons of choice. So nobody “pelting big stone” again, nobody even using a knife to stick to your throat, shoot somebody. As is known quite plainly, it is now even rumoured, that as little as TT \$500 can purchase a commitment to take a job to assassinate a human being.

What are we to do? Are we to sit back and deliberate that, well, the penalties have clearly not dissuaded this kind of activity or just to stand? Are we to do nothing because we must fix the forensic centre first, we must fix the detection rate first, we must get this right and that right before we take action to intervene? That cannot be correct, because we have taken action to intervene. We have taken action to speed up the pace of criminal trials. We have taken action, with difficulty, in persuading those on the other side on the Opposition Bench, to support, of getting rid of this anachronistic Victorian preliminary enquiry that all manner of my colleagues at the Criminal Bar abuse in ways to just delay, filibuster and stretch out the length of criminal trials. And the whole area of criminal justice now we know and accept, each and every one of us, if we are to be honest with ourselves, is completely out of step with instilling any respect for the law.

So I am fully in support of this Bill that takes a step in the area of guns and ammunition and prohibited weapons, to send a very firm message to wrongdoers that if you transgress you are going to be punished, you are going to have to be exposed to considerable jail term, and you need to also put your hands in your pocket and pay fines that are now truly punitive, as opposed to derisory. That in the whole context of the criminal activity in the country, pay the fine, steep and walk away and repeat offend and cause tragedy to someone or other or numbers of families.

Madam President, the mayhem is not just amongst the misguided

eliminating themselves, and by that I refer to the gang warfare in the country. We are too often seeing that young children, innocent mothers, innocent fathers, are being caught in the crossfire of this ridiculous wanton use of guns in our society. Something has to be done, and this Government is of the fortitude to intervene to do something about it. I certainly urge those on the other side, and I am grateful for the contribution made, mainly sober contribution, by my learned friend, Sen. Sobers—

Sen. S. Hosein: No pun intended.

Sen. G. Simonette:—but I urge that we all reflect on what we are here to do and on the realities of what is taking place in our society. The statistics of how judges have dealt with it, of how judges may be dealing with it, of what the views are in relation to judicial discretion, are all well and good. Those are not comments that are nonsensical. But do we have the time in these circumstances to peruse each and every cranny of deliberation? Respectfully we do not. We have to do the best that we can. We have to act, we have to intervene. Yes, we can reflect. We can look at the statistics and determine whether there is a disproportionate number of our young men who are going to be affected by this, but at the same time of trying to assist in programmes and in initiatives that sway those away from crime, we need to send a definitive message to the hardened ones who perhaps are beyond restoration.

I say that with a sad heart, because it is correct that we are seeing more and more young, urban males embroiled in this very, very damaging practice and criminal wanton gang activity, et cetera. But it has gotten so hardened in our country that bringing it back is going to be tremendous work on all sides: on the sides of the Government in creating alternative opportunities to that of crime; on the sides of the schoolteachers in trying their best to impart knowledge and

learning to the young ones; on the part of parents who are called upon, even by this type of intervention, to reflect on how they parent and how they intervene in the discipline of their children.

Madam President, to comment briefly on sections of the Act and on one or two of the themes of the amendments, the Act is in fact not overly complex. The principal Act contains the regime and the regulations for compliance, and that creates the offences that are being now addressed by way of increasing the penalties and the terms of imprisonment.

In relation to the new offence created of trafficking, which is clause 6 of the Bill, creating the new section 9A, the section deals with not just two or more firearms, it deals as well with those who have in their possession prohibitive weapons for the purpose of trafficking the firearms. Again, one has to ask the question: If you have two or more firearms that are old and rusty, that are inoperable, is the person with the duty to lay a charge really going to just proceed to lay a charge in the circumstances as Sen. Chote has indicated?

Hon. Senators: Yes.

Sen. G. Simonette: That is my first concern. I am not a criminal lawyer, but I ask the question.

The section is aimed at those who have in their possession two or more and/or prohibited weapons. I want to suggest, Madam President, that the amendment is appropriate in the light of what has been observed in the general criminal community of the sale and renting and importation into the country of illegal arms and ammunition. It was not an offence under the principal Act, and I think that it is in all of the circumstances proportionate.

In relation to the regime of increased penalties for those who are repeat offenders, what is the Government to do? What is the Government to do when

persons who determine to ground themselves in criminal activity come before the courts on a third occasion? I think that the increase of the penalties, the increase of the terms of imprisonment in relation to that modus adopted by the Attorney General can only be proportionate, in terms of dissuading those who are inclined to repeat the transgressions for which they have been convicted on earlier occasions. So I support that regime of ramping up, as it were, the terms ascribed to third time offenders.

Madam President, to run through the offences in terms of assessing the proportionality of the approach being taken by the Government, the amendments to section 6(3) is fairly clear. If you do not hold a Firearm User's Licence you are not permitted to purchase or to have a firearm in your possession.

The original fine on summary conviction of \$15,000 is increased to \$500,000 and imprisonment of eight years to 15 years. On conviction on indictment on the first offence, from 15 to 20, and on conviction on indictment of a second offence, imprisonment up to 25 years. I could see nothing disproportionate about that. You are in possession of a firearm without a licence, you are not authorized to have a firearm, how do you then explain being in possession of that firearm?

The amendments to section 6(3)(b) of the Act, as contained in new subsection (3), deals with the prohibited weapons. And of course the definition of "prohibited weapon" includes any artillery or firearm, grenade, bomb, missile or element capable of noxious explosion, aka "chemical weapons". On summary conviction, up from \$75,000 to \$1 million. Imprisonment has remained, it would appear at 15 years for conviction on indictment, 20 years, and on conviction on indictment for a second offence up to 25 years.

The objection that my learned friend, Sen. Sobers, raised to clause 4 in

relation to the amendment to section 8, I think is one of the sections that underscores the obligations that come with the privilege of having the Firearm User's Licence. If you have the Firearm User's Licence I am afraid you maintain, in a public place, you keep your licence, whether it is in booklet form, on you. You do not do that, well then face the penalty in that regard.

In relation to the amendments to section 9(1)(a) contained at clause 5 of the Bill, again, the authorization to sell and trade in firearms is pursuant to, I believe it is called a "Firearm Importation and Sale Licence". If you are selling and transferring firearms without that authorization well then clearly you are committing an offence in any event, and worse off if you are selling the firearms to those who are going to be using them for criminal activity. And that relates to offences in relation to gunsmiths that are repairing firearms, adjusting them, creating sawn-off shotguns, et cetera. Again, if you are in that activity, what other enterprise are you engaged upon but assisting potentially in some criminal endeavour of one sort or the other, God forbid ending in actual physical maiming and damage to human beings.

Clause 5 amends section 9(2). Again, in relation to the responsibility that comes with having a Firearm User's Licence. If you have the permission, the responsibility comes with being sober at all times and refraining from being impaired whilst you are in possession of a firearm. What is objectionable about that? Because you equally can cause irreparable damage to human beings in indiscriminate use of your firearm while you are not of sound mind or of sober mind.

I am sure the Attorney General will deal with the suggestion made by Sen. Sobers, but police officers, defence force officers and customs officers who engage in the illegal use of their firearms ought to face the penalty being recommended.

Again, their position of greater responsibility being officers of law and defence imposes that higher duty on them to act with probity and to act within the law. You transgress, I think you ought to pay.

Again, possessing—clause 7 which amends 10 of the Act—possessing ammunition or firearms with an intent to sell for the purpose of the commission of a crime. I think that there could be nothing objectionable in increasing the fine from the derisory \$15,000 to \$750,000 and imprisonment from five to 15 years. That is on summary conviction. On conviction on indictment, the sentence is increased to 20 years.

Discharging a firearm or ammunition on or within 40 metres of any public road or in any public place—again, this is an amendment to section 11 of the principal Act, and section 11 is not amended in terms of the exceptions provided for in section 11.

Madam President: Sen. Simonette, you have five more minutes.

Sen. G. Simonette: Much obliged, Madam President.

The amendments to section 14 of the Act are indicative of again what I have been saying on the responsibility that comes with the privilege of being permitted a Firearm User's Licence, and that is section 14 is amended by clause 13 where a licensed holder who contravenes any of the terms or conditions of the licence is liable on summary conviction up from \$300 and imprisonment of six months, to \$50,000 and two years.

Now, Madam President, when we talk of the privilege, the licensed firearm user is required to comply with the terms and conditions of the licence. In essence and summary, those terms and conditions require the firearm user to licence holder to register with the police his permanent address to ensure that if he is leaving the country that he lodges the firearm at the nearest police station. If he is keeping the

firearm at his home, to have it in a secure and safe place, amongst others.

Madam President, there could be nothing disproportionate in holding a negligent or non-compliant firearm licence holder to account for such non-compliance for negligence. And accordingly that provision in my view demonstrates the proportionality and the balance that we seek in creating and ensuring that the responsibility of those who are given the privilege are held to answer for any transgressions that themselves could cause a firearm to fall into the wrong hands causing of course serious damage, pain and suffering to others in the society.

Section 15(3) is amended by clause 14 where the manufacture, assembly or conversion of firearms or prohibited weapons is treated with by an increase in the fine from \$40,000 to \$1 million on summary conviction, or 15 years, on conviction on indictment to imprisonment of 20 years, on conviction and indictment for a second offence, 25. And lastly I come to the issue of the third offence in the third term of imprisonment for conviction on a third or any subsequent offence to the remainder of natural life.

Again, Madam President, the observations of my friend, Sen. Chote, are not nonsensical, but what are we to do in the circumstances when the transgressions are of this very serious nature? In this instance which I use as the example of the—

Madam President: Sen. Simonette, could I just interrupt you to apologize. I gave you the wrong time. You actually finish at 9.20. [*Laughter and crosstalk*] Sen. Simonette, you now have five minutes remaining. [*Laughter*]

9.15 p.m.

Sen. G. Simonette: Madam President, much obliged. [*Laughter and crosstalk*]

Sen. Rambharat: “Gih dem, Simmo, gih dem”.

Sen. Sinanan: Good contribution, take a next five.

Sen. G. Simonette: Madam President, the question of the natural life term in the instances in which it is being contended for relates to, in my respectful view, the more grave criminal activity in the amendments suggested— manufacturing and assembling of arms without a licence well indicates that such activity could be in furtherance of deep-seated activity of that nature. You are only—well, not that you are only—the maximum term comes after your third conviction or upon your third conviction or subsequent offences. In relation to the—and it applies as well to, Madam President, to the manufacture of prohibited weapons—I cannot see an objection to such a sentence to somebody who engages in making bombs or chemical weapons.

In relation to the other instances in which—and that is in relation as well, Madam President, to other offences under the clause treating with manufacturing of ammunition, firearms and prohibited weapons. So that I believe that the penalties for the third strike apply to the more serious offences, and are indeed not as objectionable as Sen. Chote would have made out.

Madam President, if we fail to act, we ought to prepare to continue down this slippery slope of wanton murders and carnage in our society at the hands of those who choose to use firearms and ammunition in the carrying out of their criminal activity. No right-thinking member of our society, Madam President, I believe will object to the intervention that is being taken now by this Government, to send a very strong message to the criminal element that, being found engaging in these activities could well result in serious financial pain and, of course, terms of imprisonment that will deprive you of your liberty for considerable periods of time. Wedded to the improved speed of criminal trials, I am confident, Madam President, that we will see in the medium term a reduction in this type of mayhem.

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

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

Sen. Saddam Hosein: Thank you very much, Madam President, for allowing me to join this debate at this very late hour. And I join this debate on the Bill which is a Bill to amend the Firearms Act, Chap. 16:01.

And, Madam President, this particular piece of legislation is one of the most used pieces of legislation in the court and also in the Parliament, and if you look at legislative history of the particular Act of Parliament, you would have seen that it was amended over approximately 10 times before, this now being the 11th time this particular piece of legislation will be amended.

And, Madam President, when you look at how a Bill is introduced and passed into the Parliament, there must be some identified mischief or there must be some issue or problem in which the legislation is seeking to address. So in this particular instance, when you look at the Bill, taking it as a whole on a macro level, you will find that this particular piece of legislation is increasing the fines of various offences that are criminal offences under the Firearms Act which are statutory offences and introduction of the new offence called the trafficking offence in firearms.

And when you look at most of the fines and also the imprisonment that were increased in the Bill, you would have seen that there were exponential increases in certain circumstances. And I will go through, Madam President, some of the statistics that I have in my possession and that were provided to me on the last occasion by the Attorney General when we did the Bail (Amdt.) Bill.

And, Madam President, when you look at the statistics you will find it very frightening because firearms in this country have become one of the most used, most convenient, most accessible and for the criminals, one of the most effective

tools in which they can commit or commission of any particular offence.

And when you look at the statistics from 2009 to 2019, a 10-year period, you would have an increase in the amount of firearms that are found and seized for this particular period. In 2009, there were 390; 2010, 382; 2011, 425; 2012, 420; 2013, 465; 2014; 585; 2015, 691; 2016, 765. Madam President, 2017 was the highest number, reaching 1,064; 2018, 988; and for the few months in 2019, 212. So for a 10-year period you have found and seized 6,387 firearms; now that is totally unacceptable especially in a democratic country like ours.

And these firearms were disaggregated into various categories, and they would have included revolvers, pistols, shotguns, homemade shotgun, rifle, trap gun, flare gun, machine gun, sub-machine gun, other types of firearms and air rifles.

So, Madam President, you will well appreciate the sophistication of some of these criminals when they commit offences, that certain firearms that are used in the commission of offences are what you will find in other parts of the world where wars are being fought, that are finding itself here in Trinidad and Tobago. And as Sen. Seepersad correctly pointed out, that Trinidad and Tobago is not a manufacturer of firearms. So therefore, we must address the issue or the problem. Well, where do these firearms come from?—because they clearly cannot come from Trinidad and Tobago.

Madam President, we are at a time where our borders are very porous, and that is an issue that I will also address later in my contribution, but while I am on the issue of the statistics we have found, as I mentioned earlier, 6,387 firearms in a 10-year period, but let us look at the performance of the court system when dealing these firearm offences, because this Bill that we are dealing with right now is not for the police, you know, this Bill is for the courts. This is the discretion and the

powers that we are giving to the judicial system in order to pass increased sentences on certain persons who are convicted of offences under the Firearms Act.

So the law term 2014, firearm offences, this is the number of indictments filed in the criminal registry. In 2014, 7; in 2015, 4; in 2016, 8; in 2017, 16; in 2018, 1; firearm offences, indictments, those were the indictments that were filed. And when you look at the figures, 2014/2015, the average amount of firearms being found is about 650. So clearly something is not being done properly with respect to the stage of detection. Something is not being done properly when it comes to the stage of charges, and something has to be going totally wrong when it comes to the stage of the preliminary enquiries, because if these are all of the firearms that a person is indicted for, well then clearly something is not working.

So, Madam President, this Bill is premised, this particular Bill is premised on the fact that the Trinidad and Tobago Police Service, the DPP's Office, the prosecution authority in this country can get a conviction, because without a conviction this Bill means absolutely nothing and therefore, you must fix the problem when it comes to convictions in the court in a speedy, an effective and a safe manner because I raised in this Parliament before, the quality of certain prosecutions in this country. And, Madam President, we must ensure that what we are doing here reaps benefit, because this paper can give us a false promise and a false hope that, at the end of the day, in the morning we will find an article in the papers saying that the Government increased fines for gun offences, but when you look back at it, you realize nobody is being convicted. So clearly what is efficacy and the efficiency and effectiveness of passing particular pieces of legislation like this [*Desk thumping*] if we are not fixing the system, Madam President, and that is a very important issue, I think, that needs to be addressed.

And this brings me to the point and it is a point of rebuttal. Now, Sen.

Simonette, I listened to him thoroughly and, Madam President, I was extremely disappointed and worried when Sen. Simonette made a particular comment. He made a comment that criminal attorneys in this country abuse the criminal system. And to quote him, he said, it is completely out of step. Well, Madam President, through you, I would like to tell the hon. Senator, he was completely out of step for making a comment like that. [*Desk thumping*]

Madam President, when you have laws in this country that an accused person who is before the court, who under our Trinidad and Tobago Constitution is presumed to be innocent has at his disposal certain particular pieces of legislation to ensure procedural fairness and justice, how can you come and say that that person is abusing the court system?

Madam President, we live in a democratic state and therefore, if a person has the opportunity to have the preliminary enquiry, well then you cannot complain about that because this is his right, that is his statutory right. Madam President, maybe Sen. Simonette is not familiar, but when you go to court and you have cases of possession of firearms in this country, you would find that the persons who are keeping back the system is not the defence attorneys, but most of the time the prosecution. [*Desk thumping*] Because when you have committal proceedings especially those that are done by paper committals that have to speed up the system, you would find that police officers are taking years, and the prosecution is taking years to get sworn statements in matters involving firearms.

And in order, Madam President, to have a proper and safe conviction, you must have a ballistic report indicating that the device that was found was actually a firearm, and if that takes two to three years to come in the court, Madam President, how can you blame the attorneys in Trinidad and Tobago for doing that? [*Desk*

thumping] How can do that? You are in charge, you have the resources, you have the ability to make policy to ensure that the Forensic Science Centre is working up to mark. You have the authority of the resources at your disposal to ensure that the Trinidad and Tobago Police Service is doing their job, but it has been the habit of this Government that they are engaged in something called “lawyer blaming” in this country.

And I would like to thank the Law Association of Trinidad and Tobago for standing up for the attorneys in Trinidad and Tobago against lawyer bashing, Madam President, [*Desk thumping*] because at the end of the day, every single one of us who took an oath to the court, we are officers of the court of Trinidad and Tobago, and we should not be bashed for doing our jobs, for protecting the rights, the freedoms and the privileges [*Desk thumping*] of the people of Trinidad and Tobago. We should not be blamed for doing that because we are doing our job, we took an oath to do that without fear or favour. And, Madam President, I will stand here and always defend my colleagues as long as they are on the right path, and to protect the rights of the ordinary people of Trinidad and Tobago [*Desk thumping*] I will do that.

And while I am on the court system, Madam President, time and time again we will come to this Parliament, we will come here and we will complain about the system. Madam President, would you know that right in the Chaguanas Magistrates’ Court there is not a room for a person to interview a client? Madam President, when you go to court and your client is on bail, for example, you have to have a conference with this person if you have to take instructions on the corridor. Right now persons have—they line up on the corridor of the Chaguanas Magistrates’ Court because there is, what?—they do not even have seats for these people.

Madam President, there is a serious problem with respect to the Judiciary and the Magistracy because that is slowing down the system, because most of the time when you go to some of these Magistrates' Courts, there are no magistrates present and therefore, matters have to be adjourned. So, I really think that we really have to do something in order to look at some of the causes of high absenteeism with respect to some of the magistrates. Now, I will cast no blame on any magistrate but, Madam President, we all know that it is, in fact, a reality in Trinidad and Tobago.

Now, there is another point that Sen. Simonette raised with respect to these offences and their relationship with gangs, and I looked at this particular point from a criminological perspective. That, yes, we understand that firearm offences are related to gang-related offences, and most of the murders in Trinidad and Tobago are committed through the use of firearms.

We look at some of the statistics and we said, well that is probably the case but, Madam President, when you look at this from the sociological perspective, the criminological perspective there is something called a criminal or a subculture of the society and, Madam President, gangs are what we call subculture of the society. Someday a person does not wake up and realize that they want to join a gang, you know, Madam President. It is because there are certain push and pull factors that are operating on a person's mind and their circumstances that will encourage them to go towards deviance.

And when you look at this holistically, by us just trying to increase fines, it is not going to take off any guns from the street, you know. By us increasing these fines or firearm offences means that the number of gangs are not going to be reduced in this country. What, in fact, that is going to do, if there are safe convictions, is just increase the prison population.

And would you know, Madam President, that the prison population there are also subcultures within there, and there is also the increase and growth of crimes within the prison. And as recently when the Attorney General made reference to the woman that was gunned down right after the graduation, I read in the newspaper somewhere that that hit was called from somewhere inside of the prison.

And, Madam President, we must be careful of what we do in here. We cannot just go and lock up everybody in this country, because when you sentence somebody, when a judge sentences somebody, because this Bill, all it does is deal with sentencing. There are five principles which a judge has to take into consideration when sentencing; it is trite law, it came from a case called *Benjamin v The Queen*. And, Madam President, the judge will look at principles such as whether or not this person can be rehabilitated, whether or not if I sentence him it will prevent him from committing crimes, whether or not it is for retribution, so that whatever offence that the person committed, we have to say that society looks at this thing with scorn so therefore we throw you in prison. You look at deterrence vis-à-vis the offender, and you look at deterrence vis-à-vis society, meaning that you punish this person, so therefore, persons who may want to commit similar-type offences will now be deterred from going that particular way.

So by increasing these fines, this particular piece of legislation, what it does is just contemplates one arm of sentencing which is really retribution because possession of firearms in this country, everybody wants to throw them in jail. But, Madam President, we must do more than that, because at the end of the day, the prison system should not be one of punishment, the prison system should be one of rehabilitation, because at the end of day when these persons go into prison and serve two, three, four years, they come out back as even harder criminals so

therefore, we must fix the problem. When you go into the prison system there must be some sort of rehabilitation.

Why it is that we are in 2019, that Trinidad and Tobago as a country did not contemplate as yet or introduce legislation that deals with parole in this country, that deals with when you are going to exit prison, Madam President, that there is something called halfway houses, that there is a stage of reintegration within the convicted person and society.

Madam President: So, Sen. Hosein, you are starting to stray a little bit. You have made your points, I think the point is clear what you are making, but you are straying now and making this about alternatives to imprisonment, and that is not what this Bill is about. So, I will just ask you to try and come back to the Bill, please.

Sen. S. Hosein: Thank you very much, Madam President. And the thing about this Bill, Madam President—and that is why I have issues with it—it is that we are only thinking in a vacuum, we are not thinking outside of the box and therefore, we must model ourselves after Singapore, and we look at the United States of America, but why are we not doing it right here in Trinidad and Tobago. Why? The policy of the Government, as I said, is just to throw everybody in prison, you know, lock up everybody. That is not going to deal with the crime situation, it may even get the crime situation even worse.

And I want to deal with a particular part of the legislation that I think we may be crossing some constitutional boundaries, and I seek some clarification from the Attorney General with respect to these particular clauses, Madam President. Because when you look at clause 5, clause 5 amends section 9 of the Act and these are offences relating to selling or transferring firearms or ammunition.

Now, the first year we have a summary conviction for a first offence and a

fine of imprisonment, conviction on indictment of a first offence, imprisonment. For a second offence on indictment you have a higher imprisonment of 25 years, but when you go to the third or any subsequent offence, it says, that:

“(d) on conviction on indictment for a third or any subsequent offence to imprisonment for the remainder of his natural life.”

Now, Madam President, I do not know whether or not that the Attorney General is legislating a mandatory sentence, because if you legislate a mandatory sentence, what you are doing is that you are tripping constitutional boundaries, because as it is set up, we all are familiar with the cast of *Hinds v R*—the Privy Council decision that speaks of the separation of powers. You have the Judiciary, you have the Executive and you have the legislative arm.

Now, if the legislative arm is directing the court and removing a discretion of the court, then we will be tripping over the doctrine of the separation of powers and we will be in violation notwithstanding the fact that it has been passed by the Parliament and there is a presumption of constitutionality. If the legislation is eventually challenged, then it comes to see whether or not it withholds constitutional scrutiny.

And, Madam President, you see the thing is, if the legislation was drafted that a person is going to be imprisoned for life, well then I believe section 69A of the Interpretation Act will kick in, because section 69A of the Interpretation Act, what it does, it gives the court, it preserves the court's discretion in order for a sentence where it is stated “imprisonment for life”, because it says that the court has the power to also grant any other imprisonment or any other sentence, Madam President, which is an imprisonment, a custodial sentence.

But when you have it drafted in such a way for the “remainder of his natural life”, it means that, as soon as a third offence committed, the judge has no

discretion with respect to the amount of years, and you go straight to prison for the remainder of your natural life, mandatory sentence, no discretion, something very similar to the death penalty. As soon as you are convicted of murder, the penalty for murder is death by hanging, the judge has no discretion.

And the reason why that is still proper in our law is because it was part of the saved law of our country, it was saved under the Constitution, but this particular piece of legislation is not saved law, it is law that we are making post our 1976 Republican Constitution and therefore, it must be working together with all of the other provisions of the common law and also of the constitutional framework that we have in our country.

So, I would ask the Attorney General to give this some reconsideration whether or not he may want to preserve the discretion of the trial judge or the magistrate or whatever the case is in terms of—sorry, it will be a trial judge, it is on indictment, that he will preserve the discretion of the trial judge when sentencing a person who is convicted of any particular offence with respect to firearms.

Because when you look at some of the learning, Madam President, with respect to mandatory sentences, I found a case in Ireland, and in this case it is entitled, *Ellis v Minister for Justice and Equality & Ors* [2019] IESC 30. Now, that case dealt with minimum sentences, but the principles in the case can be applicable because they did the same thing, that they had mandatory sentences for firearm offences and those were found to be unconstitutional, and the court eventually struck down the legislation that had mandatory sentences.

So that is a very important point I think that the Attorney General should reconsider when we are at the committee stage, because you would find in the Offences Against the Person Act that when you look at the offence of attempted

murder, you will see that the person can be imprisoned for life, but there is a caveat added at the end of the section which says or for any other term of imprisonment.

Now, I think if we add those magic words at the end, those tail words we may be able to preserve the legitimacy of this particular piece of legislation so that it does not trip over our constitutional boundaries, and that is a point that we are here as a Parliament and we need to work as a Parliament in order to pass good laws for the citizens of our country. Because you would understand, Madam President, how grave this situation is because you are effectively denying a person his liberty for the rest of his entire life, especially if it is a youth offender, well then he has no more future, he lives in prison until he dies, and that is an issue that we have to take into consideration very seriously.

There is one other issue I want to go on to that I alluded earlier on in my contribution that I would want to address, because Trinidad and Tobago does not manufacture firearms. So what I did is that I went back, I went back to 2015 because I wanted to know, Madam President, why Trinidad and Tobago voted for the PNM. I wanted to know why they found the PNM attractive at that time. And I found, Madam President, that there is a book of mamaguy and that is the called the PNM Manifesto 2015, and you would see at page 25 of that particular document, it says that they will:

“Establish a Joint border Protection Agency that will manage the security and integrity of Trinidad and Tobago’s borders;” [*Crosstalk*]

Four years later, Madam President, four years later no joint border agency. Then I went on again because I wanted to know what was happening with this thing. So I looked at 2016 budget and they said:

“We will move swiftly to establish a Joint Border Patrol Agency to manage the security and integrity of our open and vulnerable borders.”

9.45 p.m.

2017:

“We are far advanced on establishing the Joint Border Patrol Agency which would strengthen the security and integrity of our maritime borders through the acquisition and deployment of appropriate military assets. The agency would coordinate rapid responses of all agencies to meet external threats;”

You hear that? That is 2017. We are in 2019, no joint border control, it looks like that border patrol is just like the *Galleons Passage* [Laughter] but I would leave it right there. [Desk thumping] It is just like the *Galleons Passage*, “it take very long to reach, and when it reach it eh working”. [Laughter] Madam President, you would find that in order for this Bill to be effective, for the policy of this Bill to be effective, we must close off our borders, because if we do not close the borders you would just have more and more and more firearms coming.

Because I was quite surprised that when I saw the amount of persons who are of Venezuelan citizenship come into our country, I was surprised that warm bodies are coming through our borders, so what does that say for drugs? What does that say for firearms? How easy it would be for persons to bring, traffic these things in our country? And it was a very frightening situation. But, what this Government has done is that they have allowed the borders to remain porous, because when you look at the joint border agency that they spoke of, it should have been a proper coast guard system, a proper maritime border system together with an air guard. But what has this Government done? They did not maintain the coast guards vessels, they did not maintain the air assets, and I know my time is coming very short for me to stop, I think I have four minutes if I—

Madam President: That was not why you saw me move my mike.

Sen. S. Hosein: Okay. No, but do I have four minutes?

Madam President: Yes.

Sen. Khan: For the adjournment.

Sen. S. Hosein: For the adjournment. Okay. So, Madam President, you would find that all of these things had to work in tandem with each other, and if these things were working, you would have had less firearms and narcotics coming into our country. But when you have a porous border this legislation is going to do little or nothing to alleviate or help the situation. Because you would remember that the four helicopters that they “bad talked” they maintained none. They are going to buy new ones. You would realize when there was the prison break all of those helicopters were shut down.

Madam President: Sen. Hosein, once again, you have made your point, but the Bill is not about what you are speaking about now. Now, you have made your point but you need to make more points and not dwell on this point, because when you dwell on it you start to become irrelevant.

Sen. S. Hosein: You see, Madam President, I did not want to go into the Bill, the merits of the Bill as yet because I was saving that for the next day, but I will go now.

Madam President, there are certain increases in the offences that I saw for certain offences and I would really like to know why these offences were increased. For example one that struck me was this one that—[*Sen. S. Hosein peruses document*] right, this is it here. It deals with section 25, and this is a fine for the holder of a firearm dealer’s licence or a gunsmith’s licence to display notice of business at licensed premises. So the fine before was \$500 or six months in prison. Now, the amendment would take up the fine to \$50,000 and two years’ imprisonment. Now, why is there such an exponential increase in the fine with respect to a gunsmith not displaying his notice?

Now, I would have thought that the Bill would have used statistics in terms of the types of offences that are before the court, and therefore where there is a prevalence in these specific types of offences, I would have understood that there would have been an increase in the fine there. So, for example, one of the most popular offences in the court is that of possession, and when you look at the offence of possession there was an increase in the fine, and I could say, well, okay, I could understand the policy of the Government there. But when you have things like you are not displaying a notice, the licenced dealer is keeping books. Madam President, what is the issue there? Has anybody been charged under these sections? Is there a particular mischief that this piece of legislation is attempting to address there? Because clearly it shows that it is across the board, it just increases right through, and it does not make much sense when I look at the legislation as a whole, because there are certain offences that you may not need to have an amendment to but in fact there were amendments. And I have two minutes again before I close, and I would just like to say, Madam President—

Sen. Ameen: No, close for tonight.

Sen. S. Hosein: Or, close for tonight. And, Madam President, I would also extend this call when I come back on the next day, so I am giving you a preamble. *[Laughter]* And that call is businessmen in this country are like sitting ducks, because when criminals invade their business, and criminals invade their homes they have nothing to defend themselves. And you have businessmen all over this country—

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Leave it for a next week. Madam President, I beg to move that this Senate do now adjourn to Tuesday the 25th of June, that is tomorrow, 2019, at 1.30 p.m.

That is Private Members' Day. We will be dealing with Motion No. 5 under Private Motions. That is the one from Sen. Obika that deals with crime and security.

I have also been informed, Madam President, that you in your capacity have approved a Motion to negative the Immigration (Amendment) Regulations, 2019, and based on Standing Order 78(4), it requires that that be debated as soon as it is practicable. Seeing that next week is full and we are going into recess, well, next week Friday, the only practicable time is to deal with this Motion after the adjournment of the Private Members' Motion tomorrow at six o'clock. So, I so guide.

Madam President: Hon. Senators, before I put the question on the adjournment there are two matters to be raised. Sen. Mark. [*Desk thumping*]

Retired Public Officers Pensions

(Indexing of)

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I rise to make a limited intervention consistent with the 10 minutes allocated for matters of this nature, to address a Motion dealing with the need for the Government to consider indexing pensions paid to retired public officers, and to index their pension to the cost of living.

Madam President, many public officers are suffering in silence in this country. My estimation based on some research revealed that we have close to 28 to 30,000 retired public officers in the system at this time. And, Madam President, these public officers who have retired and have served their country with distinction are under a lot of stress, financial stress, and the time has come for the Government to consider examining the need for consideration to be given to indexing these citizens' pension to the cost of living. Madam President, many of

these citizens, some of them I have known since retirement, since their retirement that is, and, Madam President, they received sometimes \$4,000 a month, some of them get \$5,000 a month, and those who are extremely lucky may be receiving about \$7,000 a month. And, Madam President, they face astronomical increases in the cost of living. The dollar or their purchasing power has also experienced an erosion because of the small pension that they have been receiving or are in receipt of, and of course, there is this continuous increase in the cost of living caused by the state of our economy and of course the impact on what takes place externally that also impacts on our society.

So, Madam President, this erosion in the pension dollar, because of the absence of this cost of living, has led to many of these retirees facing virtual poverty, virtual financial hardship, and there is a crying need for some kind of intervention on the part of the Government. Now, Madam President, you would know that sometime ago the Government did attempt to provide these retirees or those public officers who have reached $33\frac{1}{3}$ years, and they are still having challenges to access their pension, the Government intervened and made some attempt to provide them with \$3,500, which is the basic minimum pension, in an effort to allow them to get an advance on their retirement benefits. But, Madam President, with the best of efforts what has happened is that only about in the month of January we had 100 and let us say 30 of those persons receiving that \$3,500, and when we came to the month of February that was reduced to about 40. So not even that attempt by the Government to deal with those retirees who are leaving the system has in fact worked.

Madam President, in the years gone by when a public officer retired from the service there was something called a cost of living allowance which was attached to their pension, and they would have received this cost of living

allowance every month as the cost of living rose during that period. I think it was sometime in 2000 or 2001 that that particular indexation was discontinued, and from that period to now, thousands of pensioners have suffered, their living conditions have worsened, as I said their purchasing power has been eroded. So, I have raised this matter tonight in this honourable Senate to appeal to the Government, just as how they have extended to certain office holders their benefit of an increase in pension, and they have indexed that pension to increases every so often, I think that the Government needs to give urgent consideration to the plight of our retirees in Trinidad and Tobago. And as I said, Madam President, there are close to 30,000 retired public officers who are suffering in silence and we need to come to their rescue, and I am therefore urging the Government to take some action, take some urgent interventionist action and measures to provide some support to those public officers who are crying out and appealing for help. They are crying out and they are appealing for assistance, and it is our responsibility in this Senate to come to their assistance and to see how we as a Parliament through the Government can intervene and give some support to those retirees.

Madam President, what is even more disturbing as you know, when a person begins to enjoy the retirement pension, you have to be issued with a life certificate, and, Madam President, at the end of each year you have to ensure that you report to the Treasury that you are alive and not dead, and you could imagine the plight of these retirees who have to go through this ritual every year, and we have been promised by the Government, through the Comptroller of Accounts, to abolish this life certificate as they have done for NIS, and we are hoping that by the end of this year, first quarter of 2020, that our retirees would not have to be saddled with this burden of producing a life certificate.

So, Madam President, these are my submissions for the Government's

consideration, as I plea and make the case for our retired public officers so that the Government can intervene and give them some sort of hope that the Government is listening to their plight. They need the Government's intervention, they need some increases, they need for the Government and us to look at the indexation matter.

Madam President: Sen. Mark.

Sen. W. Mark: Thank you very much, Madam President.

Madam President: Yes. Minister in the Ministry of Finance. [*Desk thumping*]

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Madam President. Madam President, the issue of indexing public service pensions has been a matter under consideration for several years, and in fact the Government has taken advice from several consultants over those years as to whether and how it can be done and how it can be afforded. In fact, a study in 2009, which recommended an indexation of 50 per cent of the inflation rate was the last official report on the table, and that study indicated the cost of doing this would be \$500 million a year, and that was in 2009. So one can only imagine what it would cost today to implement a provision like that, especially having regard to the size of the public service, the fact that pensions are non-contributory, and the fact that there have been increases in public service wages over those periods.

So, Madam President, what we have to do is weigh on the one hand the cost of pursuing this objective and the benefit of pursuing this objective against the cost of implementing this for Trinidad and Tobago in the context of a public service which already cost about 50 per cent of the annual national budget. So that is something that has to be clearly weighed, but even in the context of such a heavy cost it is something that is being actively pursued and considered and when a final decision is made, we will come to the country and indicate what that position is. I thank you, Madam President. [*Desk thumping*]

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

Food Security

(Government's Failure to use Caroni Land)

Sen. Taharqa Obika: Thank you, Madam President. Now, I rise to deal with a very important matter which has to do with the failure of the Government to use the Caroni lands to focus on something that is paramount to our civilization here in Trinidad and Tobago which is food security.

Now, in the Caribbean region, whilst we recognize that agriculture in its purest form which is primary crop production and animal husbandry contributes very little to the gross domestic product of region, and based on the food and agriculture organization of the United Nations 2015 report, almost all Caricom countries import more than 60 per cent of the food they consume. And a simple statistic, Madam President, over a decade, about a decade ago, a decade and a couple years ago, goat's milk consumed in Trinidad and Tobago, over 90 per cent of it was imported, and that was from the Goat and Sheep Society, I believe.

Hon. Senator: Sheraz.

Sen. T. Obika: So the issue that we have is, as a nation failure to feed ourselves becomes a problem. The Minister of Agriculture, Land and Fisheries is on record discouraging ex-Caroni workers not to use lands for commercial gains. In a 29th January, 2018, article, it captured the Minister's speech to farmers, ex-Caroni workers.

But, Madam President, however along the value chain of agriculture, commercial enterprise is necessary. One can even say, mandatory, because it manifests itself based on the Food and Agriculture Organization Report of 2017, Article of 2017, entitled, "Agri-Business Value Chains and the Rapid Transformation of Agri-Food Systems". It improves the value chain by supplying

agricultural inputs, production of agricultural products, transformation of agricultural products, and distribution to final consumers. And the FAO stated further that agri-business includes business along the value chain from farm to fork, from farm gate to the table. It is a main source of off-farm employment. It also contributes to reduction of poverty, and it links agriculture to manufacturing and tourism.

Now, Caroni (1975) Limited was closed down by Government in 2003, on August 1st, Emancipation Day. That day should be significant to us as a country, bearing in mind that the two major races of Trinidad and Tobago were impacted significantly by Emancipation Day. Because African labour, when freed on August the 1st, declared never again slavery and left the plantations, and East Indian indentured labourers came. So that day is a pivotal day, and for the Government to close Caroni on that very day means that it is either they were unaware of history or they did it in spite of the history of our people.

Sen. Ameen: They do not care.

Sen. T. Obika: Now, the lands that Caroni occupies constitute 75,000 acres roughly, and this is from an article titled Caroni Lands Part 1 on 06 May, 2004, by Afra Raymond. And if anyone would know of the acreage, it would be him.

He indicated that is about 6 per cent of the total acreage of Trinidad and Tobago, and he went further to indicate that research suggests that only 9 per cent of our country's land areas are available for development, which includes the areas we now live in. So if Caroni would have held 6 per cent, and we only reside in 9 per cent, it is a very significant 6 per cent. Now, Madam President, I am sure the population is familiar with the closure of Caroni and the negative impact on food production in Trinidad and Tobago, because Caroni was not only about sugar, you had the buffalypso, you had many other aspects of the agriculture value chain,

different farms that meant different purposes for different aspects of the food production network beyond sugar.

The People's Partnership Government sought to lead by example, and Guyana took notice. They looked at Trinidad and Tobago's pepper success, and they were looking at the model that Trinidad and Tobago was using to promote to farmers, taking one commodity, that is peppers, and indicating to farmers that agriculture is beyond what happens before you reach the farm gate. Agriculture continues after the farm gate, and farmers could have, if the Government instead of closing down Caroni Green, looking at it as a sole economic model and saying because it is not making, it should be closed. If it was not making they could have looked at remedying it. But Caroni Green could have been used as an example to farmers to say, here is what, those in pineapples you can do something similar for the beverage industry; those in moringa farming can look at that for the food health sector; those in mango production can focus on the value chain towards the hotel and tourism sector. But instead, this Government could not see the wisdom in a pioneering effort.

When you assess the value to a business sector of a pioneering effort, a green field business venture, it must not be the same as an effort in an industry that has already matured. The cost benefit analysis of Caroni Green is beyond the balance sheet of the particular entity. It should have been used as an example as to how you can invest along the value chain of all the commodities in the agricultural sector. And therefore you would have shepherded those who got those Caroni leases instead of bouffing them, as the Minister did, in my humble view, in January 2018, and saying do not use it for commercial purposes, despite what the Food and Agriculture Organization is directing them to do. They are saying commercial enterprise in agriculture is necessary. The Minister is saying do not use it for—

well, he is not saying do not use it, he is suggesting that they should not use it or else they would face significant charges in property tax and so on. Okay, if the use has changed then they pay more property tax. However, instead of using a negative approach you could have told them the benefits that would have accrued to their business models, they would have been able to pay any increases that are required based on the use of the lands.

So, Madam President, the Minister's comment is contrary, and there is an important point in the FAO's recommendations in that very article I mentioned, "Agribusiness value chains and the rapid transformation of agrifood systems", where it states that encouraging small and medium enterprise development, entrepreneurships, agri-business start-ups, and innovation through inclusive business models and agri-business incubators should be the focus of policymakers. So, I want to close on this point, the Government has failed to focus on encouraging small and medium enterprise development in the agricultural sector along the value chain. What they have done, is instead reprimand them for even thinking about going down the value chain.

In fact, the Minister in the article proudly stated that he saw a bulldozer levelling some land and he ensured through his actions that the Commissioner of State Lands, I believe was the position, they stopped them. Now, if someone is in agriculture, Madam President, and they decide to go into distribution of finished agricultural products, is that not a commercial activity, but in the value chain of agriculture that could have contributed to reducing the food import bill, that could have increased more jobs in the sector. So, I want to close, and I thank you, Madam President, and I hope the hon. Minister will come and present some plan that would show that this Government will not be killing the sector and killing the dreams of those who wish to grow and improve the food security in Trinidad and

Tobago. I thank you. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, if it helps my friend to understand, I could be very brief, because I believe he has fallen on his own sword. [*Laughter*] This Motion talks about the failure of the Government to use Caroni lands, and at the end I heard a Motion about agro-processing and small business development.

Madam President, the classification of land for the purpose of Town and Country approval in this country, for the purpose of stamp duty, for the purpose of property tax, if we ever are allowed to collect it, for the purpose of valuation—the classification is basically agricultural, residential, commercial, industrial. The point I was making to the farmers, and now I understand why the policy of my predecessors, why it went so sideways. The point I was making to the farmers is that this land is provided by the taxpayers, by the citizens of this country, for the purpose of agriculture, to grow things on, and they should not put the land into townhouses, they should not put the land into commercial use, like supermarkets and so on, and the reference to the bulldozer was a particular parcel of land that my friends turned a blind eye to when the person first sought to construct a supermarket on former Caroni land, which is leased for agricultural purposes, and the intention is that it must stay in agriculture for agricultural use. So, the commercial is not the business side of agriculture. Agriculture is a business, it has to do with the classification of land.

10.15 p.m.

The second thing is that this notion of food security is something—I am surprised that my friend, someone educated in the modern world, would hold on to that. Food security is 40 years old. The fact is, no matter what you think about the food import bill, this country will continue to import and rely on wheat, for

example, and wheat products: on rice, imported cooking oil, peas and beans, beef, pork, lamb, milk, butter, cheese; we will continue to rely on it. In the current free market system we will continue to open our borders because we are required to in international trade.

So that the idea that this country will ever be covered in wheat and we will produce our own flour and so on, it makes no sense, not even common sense far less economic sense. And just to give you an example, whether it makes you unhappy or what, the fact is that parboiled long grain rice landed in NFM on Wrightson Road in Port-of-Spain from the United States, lands that are priced which is 50 per cent the cost of local white rice produced in the field. Not even leaving the field as yet, not harvested yet, because rice is supported by the taxpayers in terms of the seed, in terms of the access to water, in terms of the guaranteed price, in terms of the milling feed that is paid and in terms of the market that is provided by NFM and NFM told a Joint Select Committee that we buy the local white rice at a premium price and put 95 per cent of it into dog food.

So I do not want to get hang up on the CEPEP labour for agriculture and use prisoners and all of that. What you should tell the country is, how many of those Caroni leases you enforced the covenance for agriculture to be done on those lands? The answer is none. How many of those leases did you terminate on account of the wrongful use of it? The answer is none. How many of those fraudulent Caroni transactions, I am just dealing with transactions. Did you refer to the Fraud Squad in this country? The answer is none. Caroni Green, you should be ashamed to use that as an example, as a modern trained university graduate in this country. We took taxpayers' money, \$22million over two and a half years to produce a few thousand pounds of peppers. I dare you to produce one receipt or one piece of paper that showed that Caroni Green exported peppers from this

country. What we did, the production cost of Caroni's pepper was 10 times the farmers pepper. And what we did is that we put Caroni Green pepper, subsidized by the taxpayers onto the market and kept local farmers out of the market, highly subsidized.

That was the way this country was doing it 20/25 years ago and I have said on behalf of this Government, the Government of Trinidad, the taxpayers should not be in the production of primary agricultural—we should not be growing anything. What we should be doing is what we are doing now. That is to turn our eyes off Caroni land for the sake of getting or keeping votes and focusing all those farmers, from Matelot to Marac, [*Desk thumping*] Point Fortin, all over. Last week Tuesday afternoon into Wednesday, into Thursday, I gave out more than 100 letters of approval in little Rio Claro and Cushe alone to bona fide farmers, not people who may go into farming. The people who for more than 60 years in this country have toiled without having land tenure. And at the heart of what this Government wants to do to agriculture, is to give people who are already producing their leases so they and their families and the farming families in this country could see 60 years down the road and feel secure as every other commercial person in this country feel secure in doing business. This is not about wasting Caroni land, this is not about wasting money on Caroni Green, this is once and for all dealing with the real people who produce food in all those rural communities and giving them that piece of paper which will hold them, which will keep them for 30 years followed by 30 years. I thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.20 p.m.