

Leave of Absence

Tuesday, December 09, 2014

SENATE

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The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Bhoendradatt Tewarie, who is out of the country.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: MR. LARRY LALLA

WHEREAS Senator Dr. the Honourable Bhoendradatt Tewarie is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, LARRY LALLA, to be temporarily a member of the Senate, with effect from 9th December, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. the Honourable Bhoendradatt Tewarie.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 9th day of December, 2014.”

Oath of Allegiance

Tuesday, December 09, 2014

OATH OF ALLEGIANCE

Senator Larry Lalla took and subscribed the Oath of Allegiance as required by law.

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY (NO. 2) BILL, 2014

Bill to provide for public procurement, and for the retention and disposal of public property, in accordance with the principles of good governance, namely accountability, transparency, integrity and value for money, the establishment of the Office of Procurement Regulation, the repeal of the Central Tenders Board Act, Chap. 71:91 and related matters, brought from the House of Representatives [*The Minister of Planning and Sustainable Development*]; read the first time.

Motion made: That the next stage be taken at a sitting of the Senate to be held on Tuesday, December 16, 2014. [*Hon. G. Singh*]

Question put and agreed to.

PAPERS LAID

1. Annual Administrative Report of the Ministry of Trade, Industry and Investment for the year 2012/2013. [*The Minister of Tertiary Education and Skills Training (Sen. The Hon. Fazal Karim)*]
2. Annual Administrative Report of the Trinidad and Tobago Entertainment Company Limited for the year 2011/2012. [*Sen. The Hon. F. Karim*]
3. Annual Administrative Report of the Ministry of Tourism for the year 2013. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
4. Annual Administrative Report of the Tourism Development Company Limited for the year 2013. [*Sen. The Hon. G. Singh*]
5. Annual Administrative Report of the Tobago House of Assembly for the year 2013. [*The Vice-President (Sen. James Lambert)*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Operations of the Sports Company of Trinidad and Tobago Limited with particular reference to the development and upgrading of Sporting Facilities in Trinidad. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]

7. Annual Report on the Operations of the National Insurance Board of Trinidad and Tobago (NIBTT) for the year ended June 30, 2014. [*Sen. The Hon. L. Howai*)]

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we are in a position to answer question No. 6 to the Minister of Transport and question No. 12 to the hon. Minister of Health. I ask for a deferral of question No. 10 to the Minister of National Security; No. 11 to the hon. Minister of Trade, Industry, Investment and Communications for a two-week period.

The following questions stood on the Order Paper in the name of Sen. Camille Robinson-Regis:

Incidences of Summary Offences (January 01, 2011 to date)

10. Would the hon. Minister of National Security indicate the number of office/store break-ins, car break-ins, robberies and residential burglaries that have been reported during the period January 01, 2011 to date, in the Port of Spain, Central and Southern Police Divisions?

Memorandum of Agreement (Government of Trinidad and Tobago and the Government of India)

11. With regard to the Memorandum of Agreement (MOA) between the Government of Trinidad and Tobago and the Government of India which was settled and executed during the visit by the Prime Minister to India in 2012, would the hon. Minister of Trade, Industry, Investment and Communications indicate:

- (a) whether the Government has published the MOA;
- (b) briefly describe or identify the projects in Trinidad and Tobago that have actually been initiated or have gone beyond mere planning to the point of implementation arising out of this MOA;
- (c) the gross monetary value of the investments in these projects?

Questions, by leave, deferred.

**Public Transport Service Corporation — Terminal Malls
(Ejection of Tenants)**

6. Sen. Camille Robinson-Regis asked the hon. Minister of Transport:

- A. Could the Minister indicate whether any tenant was ejected from occupation of any unit in any of the Terminal Malls under the purview of the Public Transport Service Corporation (PTSC), during the period May 2010 to August 2014?
- B. If the answer to (A) is in the affirmative, would the Minister indicate:
 - (i) how many such occupants were ejected;
 - (ii) from which mall and which unit(s);
 - (iii) when was/were this/these tenant(s) ejected;
 - (iv) by what legal means this was achieved; and
 - (v) whether any legal proceedings were instituted in the High Court or the Magistrates' Courts to achieve this objective and if so, the names of the Attorney(s) used for this purpose and the respective fees(s) paid in each case?

The Minister of Transport (Hon. Stephen Cadiz): Thank you, Mr. President. Yes, the tenants were in fact ejected from occupation of units in the Arima and San Juan Terminal Malls, which fall under the purview of the Public Transport Service Corporation.

Four occupants were ejected. The malls and units from which these tenants were ejected are as follows:

- Arima Transit Mall — Unit No. 01;
- San Juan Transit Mall — Unit No. 07;
- San Juan Transit Mall — Unit No. 29;
- San Juan Transit Mall — Unit No. 33.

The dates on which these tenants were ejected are as follows:

- Unit No. 1 in Arima — March 31, 2012;
- Unit No. 7 in San Juan Mall — July 31, 2013;
- Unit No. 29, San Juan Mall — July 08, 2013;
- Unit No. 33, San Juan Mall — July 31, 2013.

In answer to part (iv), by letters of termination, three of the tenants were in arrears for rent and were served notices of termination by PTSC. These persons complied with the said notices and vacated the premises.

By an Order of the court, the fourth tenant, who was in occupation of Unit 1 of the Arima Transit Mall was served a letter of termination by PTSC. The tenant resisted this termination notice and subsequently instituted High Court proceedings against PTSC, seeking an injunction to prevent PTSC from terminating occupation of the premises.

Part (v): legal proceedings were instituted in the High Court by the tenant of Unit No. 1 at the Arima Transit Mall and PTSC required the tenant to vacate the premises for major refurbishment works to be carried out.

The attorneys used for this purpose were Mr. Jagdeo Singh and Mr. Larry Lalla. PTSC received an invoice in the sum of \$147,000 for both attorneys. That is the total amount.

Those are the answers, Mr. President.

Sen. Robinson-Regis: Supplemental please, Mr. President. Minister, would you be able to say how long the tenant was in arrears?

Hon. S. Cadiz: I do not have information saying that the tenant was in arrears, but the PTSC required their premises so that they could redo and refurbish the entire mall, which was part of the upgrading of all PTSC premises. The tenant, from the notes that we have, refused to terminate the mall thereby restricting PTSC from doing any work on the mall itself.

Sen. Robinson-Regis: Further supplemental please, Mr. President. Minister, I thought I heard you say that some tenant was in arrears. Am I incorrect? I am not talking about the Arima tenant at this time. I will come to a question on that. You did say that a tenant or some tenants were in arrears, so I am trying to find out how long these persons were in arrears.

Hon. S. Cadiz: The tenants in San Juan Mall, Unit No. 7, were six months in arrears; San Juan Transit Mall, Unit No. 29, I do not have that amount, but the total amount was \$2,700; San Juan Transit Mall, Unit No. 33, was five and a half months outstanding rent.

Sen. Robinson-Regis: Further supplemental please, Mr. President. Minister, would you be able to say how long the tenants had been in occupation of these premises prior to being ejected?

Sen. The Hon. G. Hadeed: Mr. President, I do not have that information. The PTSC actually took over the management of these malls in, I believe, January 2011, so I do not have that information as to how long these tenants had been there. I would say, though, that with PTSC taking over the responsibility for the tenancy, PTSC was trying their level best to put their house in order. These rents that are being paid are very, very small rents. But we have to get our books straight and, therefore, PTSC was making a serious attempt at getting the arrears in and getting the tenants up-to-date with their rents.

Sen. Robinson-Regis: Further supplemental please, Mr. President. Minister, would you be able to say whether the person who was removed, because you needed the place to be refurbished or repaired, be repositioned in that specific mall?

Hon. S. Cadiz: I would think, Mr. President, that like any other business transaction, people would be free to apply for space in any one of the malls and I would like to think that the tenant that was removed would be in the same position that, if they wanted, they could actually apply for a space.

1.45 p.m.

Sen. Robinson-Regis: Further supplemental please, Mr. President. Minister would you be able to say the length of the court action that necessitated the payment of \$147,000 to the attorneys-at-law?

Hon. S. Cadiz: I would not have those details and, again, that is a question that can be filed as to what took place at the courts.

Sen. Robinson-Regis: Minister, would you be able to indicate the date that the High Court action was instituted?

Hon. S. Cadiz: There was a hearing on Tuesday, February 07, 2010, but there are a number of other fees that are attached to that and, again, if the question is posed, we could prepare an answer for that question.

Sen. Robinson-Regis: Minister, would you be able to indicate how many appearances were made if you do not have the invoice here?

Hon. S. Cadiz: Mr. President, again, the questions that were asked on the Order Paper, I think we have dealt with those questions. If there are further questions regarding the court matter, in particular, I am pretty sure the hon. Senator could file those questions.

Sen. Robinson-Regis: I am just asking.

**Outsourcing Health Care Services
(Government's Policy)**

12. Sen. Camille Robinson-Regis asked the hon. Minister of Health:

With regard to the Memorandum of Agreement (MOA) between the Government of Trinidad and Tobago and the Government of India which was settled and executed during the visit by the Prime Minister to India in 2012, would the Minister indicate:

- (a) whether the Government's policy of out-sourcing certain health-care services, from the public health care sector in Trinidad and Tobago, as articulated by the Health Minister, is in any way linked to this MOA; and
- (b) if so, would the Minister indicate the nature of and clarify this link?

The Minister of Health (Hon. Dr. Fuad Khan): Mr. President, the answer for question 12(a) is no, so therefore 12(b) does not qualify. [*Desk thumping*]

**JOINT STANDING COMMITTEES
(Appointment to)**

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President. Having regard to correspondence received from the Speaker of the House of Representatives, I beg to move that the Senate appoint the following Senators to the respective committees:

Committee on Public Administration and Appropriation

Mr. Emmanuel George
Ms. Marlene Coudray
Mr. Vasant Bharath
Mrs. Camille Robinson-Regis
Mr. H. R. Ian Roach

Committee on National Security

Mr. Gary Griffith
Mr. Embau Moheni
Mrs. Raziah Ahmed
Mr. Faris Al-Rawi
Dr. Rolph Balgobin

Committee on Energy Affairs

Mr. Kevin Ramnarine

Mr. Fazal Karim

Mr. Gerald Hadeed

Dr. Lester Henry

Mr. David Small

Committee on Foreign Affairs

Dr. Bhoendradatt Tewarie

Mr. Devant Maharaj

Mr. Fazal Karim

Mr. Avinash Singh

Dr. Dhanayshar Mahabir

Committee on Human Rights, Diversity, the Environment and Sustainable Development

Mr. Anand Ramlogan SC

Mr. Ganga Singh

Dr. Bhoendradatt Tewarie

Mrs. Camille Robinson-Regis

Rev. Joy Abdul-Mohan

Committee on Parliamentary Broadcasting

Mr. Timothy Hamel-Smith

Mr. Gerald Hadeed

Mr. Devant Maharaj

Mrs. Dianne Baldeo-Chadeesingh

Mr. Anthony Vieira

Committee on Government Assurances

Mr. Timothy Hamel-Smith

Mr. Ganga Singh

Mr. Larry Howai

Miss Shamfa Cudjoe

Dr. Victor Wheeler

Question put and agreed to.

PRECURSOR CHEMICALS (NO. 2) BILL, 2014

Order for second reading read.

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you, Mr. President. I beg to move:

That a Bill to provide for the monitoring of prescribed activities and the prevention of the diversion of precursor chemicals and other chemical substances used, or capable of being used, in any type of illicit transaction involving narcotic drugs, psychotropic substances and other drugs or substances having a similar effect and for purposes connected therewith, be read a second time.

Mr. President, this is a Bill to provide for the monitoring of prescribed activities and for the prevention of the diversion of precursor chemicals, and other chemical substances used or capable of being used in any type of illicit transaction involving narcotic drugs, psychotropic substances and other drugs or substances having a similar effect or for purposes connected therewith.

The illicit trafficking in narcotic drugs and psychotropic substances continues to pose a serious threat to the social stability of Trinidad and Tobago and, indeed, our region. It affects our social and moral well-being as a society and, of course, quite apart from the hard and classic and more well-known drugs such as cocaine and others, the chemicals that go into the making of these drugs must be of equal concern, and that is because of the novelty drugs that we are seeing on the market, and because of the constant chess game that we play with the drug traffickers who constantly find innovative and ingenious methods of altering the substances that go into a particular drug to ensure that they create new products to satisfy the thirst for this kind of illegal drugs.

A Precursor Chemicals Committee, to this end, was set up by the Government and assembled to formulate a policy document to guide us on this matter. Members of the team included officers from the Trinidad and Tobago Forensic Science Centre, the Chemistry Food and Drug Division, the Customs and Excise Division, the Drugs Inspectorate, the Ministry of the Attorney General and, of course, the SSA. The SSA's involvement in this committee is, in part, due to section 6 of the SSA Act which has as one of its main functions and I quote:

“...act as an office for centralising information that could facilitate the detection and prevention of illicit traffic in narcotic drugs, psychotropic substances and precursor chemicals...”

The SSA, of course, is the Strategic Services Agency.

The report received from this committee, Mr. President, outlined the existing legislative and administrative measures that currently exist in place to regulate precursor chemicals, but it recommended that there be a comprehensive legislative overhaul to deal with precursor chemicals, and it also called for the creation of a specialized unit to be known as the Precursor Chemicals Unit.

The Government, therefore, pursuant to that report, has come to this Parliament with legislation that will allow for the monitoring of activities related to these substances, which are listed in the First Schedule of the Bill, and this is with a view to preventing their diversion toward the illicit manufacturing process whether at home or abroad.

Mr. President, a precursor chemical may be defined as any substance which may be used in any chemical process involved in the production, manufacture or preparation of narcotic drugs, psychotropic substances or those that have a similar effect. Put in layman's terms, a number of chemical ingredients that go into making everyday household products—whether it is detergents, fabric softeners, plastics, paints, pharmaceuticals—they can be diverted into the making of harder drugs such as heroin, cocaine or any other kind of substance. We have seen over time how the drug traffickers pattern and model their behaviour based on human reaction to the drugs, and that of the law enforcement agencies.

You may recall only recently in the United States of America, after you had the hard-core drugs of heroin, opium, cocaine, marijuana, et cetera, all of that, you suddenly read that children started sniffing glue to get high. Right here in Trinidad and Tobago, there are a number of persons who are addicted to drugs like pethidine, and other forms of drugs that are mixed together and because of

the potency of the ingredients, what in fact is the resulting end is something that can be very deleterious to their own health. Chemicals such as benzene, sulphuric acid and others are just minor examples of what we are dealing with.

Mr. President, in 1995, the Government of Trinidad and Tobago ratified the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Article 12 of that convention establishes the international standard for the control of precursor chemicals and requires that all member states implement measures to control and monitor the legitimate trade in precursor drugs to prevent the diversion of these chemicals.

So, I want to stress that what we are dealing with here is not drugs or ingredients—chemicals that are by off and by themselves illegal. We are dealing with drugs that have the potential to be misused because they can be base ingredients or constitute part of another drug that can form a very lethal cocktail if it is mixed by the right people and they know how to create the product. So, we are about not preventing the legitimate use. No one is saying that we will stop using paints and fabric softeners and all of that. What we are saying, however, is we must prevent the diversion under the guise of these legitimate products. We must be careful that it is not diverted surreptitiously into making something illegal and harmful.

In Trinidad and Tobago, we have a particularly high responsibility in this regard, because there are many companies resident here that import these chemicals as part of their business, and very high concentrations and we therefore must monitor and police it very very carefully. Indeed, this is a critical component of the fight against crime. Trinidad and Tobago cannot afford to rest on its laurels. We must be vigilant and alive to the permutations that exist in the underworld and, indeed, to ensure that our population is protected from the harmful effects. You are protecting people from themselves in this regard.

Trinidad and Tobago is particularly vulnerable and has a heightened sense of responsibility to the region and the world at large, and that is so because geopolitically and geo-strategically we are located between the drug-producing countries and the consumer. So, we are located and straddled that divide between South and Central America as the drug-producing countries and, of course, the consumer markets that exist in North America and in Europe.

We have a heightened sense of responsibility in this regard also because Trinidad and Tobago, we do in fact import in very large quantities some of these chemicals, and we do so because of our large petrochemical sector and our

manufacturing base. Therefore, large quantities of these chemicals can easily enter Trinidad and Tobago without any red flag being raised, because we are accustomed to seeing a large quantity and volume of these drugs coming in to support these industries.

So, therefore, we cannot afford to remain nonchalant and indifferent in the face of the entrepreneurial drug cartels that have already tried to use countries in the Caribbean to divert chemical substances. We cannot afford to wait until there are recorded instances and cases that cause alarm. We must be proactive in this regard, and that is why this Bill is before us.

2.00 p.m.

In 2006 the International Narcotics Control Strategy Report highlighted for Trinidad and Tobago how urgent this matter is. It said, and I quote:

“Trinidad and Tobago has an advanced petrochemical sector, which requires the import and export of chemicals that can be diverted for the manufacturing of cocaine hydrochloride. Precursor chemicals originating from Trinidad and Tobago have been found in illegal drug labs in Colombia.”

In 2007, in a United Nations Office report on drugs and crime training manual, an example of diversion was cited, and it read as follows:

A Mumbai based exporter presented to the Narcotics Commissioner of India a No Objection Certificate...from the competent authority of the importing country for export of two million ephedrine tablets to Trinidad and Tobago. Suspicion led to enquiry which confirmed that the actual quantity permitted in the NOC was two hundred thousand tablets only.

Mr. President, in the *Belize Times* in February 2012, Belize customs officials, acting in concert with the United States Drug Enforcement Agency, intercepted some 3,000 sacks of methylamine hydrochloride concealed in a shipment of six 12-metre containers purportedly containing fertilizer from China. The chemical would have been used to produce 400 tonnes of methamphetamine worth US \$10 billion, according to authorities. Suspicions were aroused because of the large quantity that was being imported in one go, and the United States DA was able to red flag it and deal with it.

The International Narcotics Control Board, INCB, which is an independent quasi-judicial authority tasked with monitoring United Nations international drug control conventions, monitors the government-controlled mechanisms and

its regulatory framework used in the illicit manufacture of drugs, and assists the government in preventing the diversion of these legitimate drugs into the illicit drug trade.

In 2013 in its report, after mentioning the dismantling of cocaine-producing labs in the Dominican Republic and nearby Panama, the INCB warned, and I quote:

The Board wishes to warn the authorities of countries in Central America and the Caribbean about the increasing number of incidents involving illicit cocaine manufacture in the region and the need to increase efforts to counter the illicit manufacture of that drug before it takes root.

According to the World Drug Report of 2014, cocaine supply indicators worldwide show that Central and South America and the Caribbean—they have now lumped us together with Central, South America and the Caribbean—drug seizures for 2011/2012 amounted to a staggering and incredible 70 per cent of the global total. That means that more than two-thirds, almost three quarters of the drugs in the illegal drug trade worldwide, potentially pass through the Caribbean, which is a stepping stone to access the consumer markets. It is a staggering statistic that we must take heed of.

That is why we must be proactive to develop new and organic approaches, not simply to monitor and take control measures, but also to be proactive and go one step further and look at those used in the production of explosives and chemical weapons. I am advised that monitoring techniques to be employed by this legislation can be made applicable to similar chemicals in a control regime, to prevent the surreptitious diversion of precursor chemicals that can be used for the equally nefarious purpose of making such explosives and harmful devices.

Mr. President, this ping-pong match, this chess game that we play between drug enforcement agencies and the drug cartels is one that we are familiar with, but every day it is almost as if the drug cartels have a research and development unit that is designed for concealing the transshipment of drugs. I mean, in preparing for today, because of the absence of the substantive Minister of National Security, Sen. Gary Griffith, I was amazed at the innovative, ingenious methods that they come up with. Apart from changing the colour of the drugs so that you cannot notice them, and putting it in juice and sweet drink and what have you, now the very lining of the suitcase, the inside of the suitcase, the lining of it is being made in a special way out of a form of liquefied cocaine.

We now have people who are taking advantage of the status of being disabled. Travelling, as you know, with a disabled passenger has its perks, because you get to enter the plane with an escort and you get to leave the plane first or last as the case may be. Now that is becoming a disadvantage, because the wheelchair itself, the lining of the wheelchair, and by that I mean the inner tubing, is being made out of cocaine. So you wheel in the cocaine with somebody in it, right past the watchful eyes of the Customs and Excise officials and the drug enforcement officials, because it is concealed inside of the wheelchair.

You have the latest trend now, figurines and all sorts of ceramic statues and so on. Before, these figurines would be hollow and the cocaine would be inside, and the ceramic is mixed with some odour so that the sniffer dog would not be able to detect what is inside. But now they realize that because they are on to them, do you know what they do? They are leaving the inside hollow and the actual figurine on the outside is the cocaine. So the actual figurine, the mould itself, is being made out of cocaine. “So the fella now, he pick it up”, check inside, empty it out, he says, “Well, go”, but he is actually holding the cocaine, the vessel and the container in his hand.

Even now, the Environmental Commission which falls under my ministerial jurisdiction, I want to convene a meeting with the Chairman, because some of the offences for wildlife, the wildlife offences, we have to take a closer look at them. Before we would see all these nice, rare birds and so on being brought in from Venezuela and elsewhere, and we would charge them for breaching wildlife laws, \$200. Do you know what the latest trend is? The wildlife is transporting the cocaine. They take them to a vet, cut them open, insert the cocaine, sew them back up together and you have the poor animals coming in, and you get a charge for what, \$200. No problem; \$200 for \$20 million inside the animals is a good deal, no jail. So we now have to keep ahead of the game by looking at all these methods. That is why the movement and the diversion of precursor chemicals is so important, because it is a constituent ingredient that can be used in making of harmful drugs.

That is also why we must be very careful when we receive reports from the security agencies in our country. We must be very careful when we pour scorn and deride them. We have to be careful. In the African continent you have a huge opium/heroin trade. You have the piracy on the high seas. Now, one cannot bury one's head in the sand. We have a tendency in Trinidad and Tobago to call upon the law enforcement authorities to do their duty, enforce the law, and then having called upon them so to do, when they enforce the law and they take action, the very same people come now and criticize and condemn.

The latest trend is if you arrest anybody, racial profiling, and religious profiling. I do not know what they expect the police to do and I do not know how we expect them to perform their duties. It is high time that we stop this hypocritical behaviour in Trinidad and Tobago and allow the law enforcement agencies to do their job, as they were trained to do.

On that note, Mr. President, the latest cry concerning the deportation of our brothers and sisters from the African continent—permit me to say, absolute, arrant nonsense, to claim anything about discrimination and profiling. I asked for the statistics from National Security and the Immigration Department. I asked from the head of the Immigration Department, Mr. Jerry Downes, because I wanted to see for myself if there was any merit in this. I asked from 2010 onwards, and from 2010 to the present time, this is what it shows: the No. 1 country with deportees from Trinidad and Tobago, from 2010 to now, is not the African continent, it is not India. Do you know where it is? It is from Guyana. Guyana comprised 41.8 per cent of deportees. It is the single largest number of persons deported from Trinidad and Tobago from 2010 to now.

Then it is followed way back, it is a big gap, by Jamaica next in line, third was the Dominican Republic, Cuba and other Caribbean countries—I separated Jamaica because it is 18.5 per cent. Then, of course fourth was in fact, Asia. Asia was fourth then you know—fourth was in fact Asia—Asia was fourth. Then you know, fifth—I still did not reach the African continent—fifth was Central and South America.

The truth of the matter, for the record, is that illegal immigrants from the African continent were way down the list at No. 7. So from 2010 since the People's Partnership assumed office—well it would be before, probably January 2010—but from 2010 to now the total number of African immigrants that have been deported from the Republic of Trinidad and Tobago is 70 persons—70 in four years, nearly five years. Seventy African immigrants deported in almost five years.

Sen. Maharaj: “How much Guyanese?”

Sen. The Hon. A. Ramlogan SC: The Guyanese amount to 734. So when we run to light a fire, coming on the heels of the Ferguson experience in the United States of America, and we jump to pour kerosene to ignite a social flame that we cannot control, then we must look to the truth, because the truth shall set us free. The figures and the statistics show that we must reject outright that kind of

nonsense and that kind of absurd allegation against the Government of Trinidad and Tobago. [*Desk thumping*] There is absolutely no merit in it, no truth in it, no justification in it, and it is mischievous, malicious and very dangerous in a society such as ours.

2.15 p.m.

Mr. President, the United Nations Security Resolution 1540 which Trinidad and Tobago had agreed to implement, requires us to establish and intensify the enforcement of strict controls to prevent the proliferation of chemical and nuclear and biological weapons, some of which require the use of precursor chemicals. The three main obligations mandated by the resolution are to:

“...refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear chemical or biological weapons and their means of delivery:

2...adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons as a means of delivery,...

3...take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons as means of delivery,...”

The resolution also requires participant states to:

“...develop...laws and regulations to control the movement of certain materials and maintain effective national export and transshipment controls over...” them.

The resolution requires:

“...establishing end-user controls; and establishing appropriate criminal or civil penalties for violations of such export control laws and regulations;”

In the face of rapidly emerging global terrorist threats in Al-Qaeda and ISIS, this puts intended chemical weapons legislation into sharp focus. Given the limited human resources and technological capacity constraints faced by small countries and state agencies in meeting their crowded international obligations, there is a fundamental need to maximize efficiency, as well as reduce cost by avoiding unnecessary duplication in our monitoring functions.

The precursor chemical does not only seek to protect us from the insidious threats of external drug traffickers and terrorists, but also has significant importance locally as well.

Mr. President, in Trinidad and Tobago we know we have a drug problem. It not just a drug problem that has to do with the inflow of drugs and the supply of drugs, it is also a problem about the use of drugs. That is why in the Judiciary we have now established a Drug Treatment Court as part of the new restorative justice and rehabilitative approach to justice. Because if a man is addicted to a drug and he commits a crime to feed his cocaine habit, putting him behind bars is not going to solve that problem. You are treating the symptom and not the root cause.

That is why I am very proud as Attorney General to have been able to spearhead and collaborate with the Judiciary in this regard, and I want to say it has been a resounding success. [*Desk thumping*] A Drug Treatment Court has been an outstanding success. Only two weeks ago we had the first set of graduates. These are young men and women who lives were destroyed by cocaine, and now they are graduating having been rehabilitated. Now we have a duty as a society to accept a heightened sense of social responsibility to give them a second chance because if we alienate them and ostracize them, then we are driving them back into the same old habit. We need to monitor what is happening on the ground.

You know, Mr. President, in Trinidad and Tobago now recreational drugs have acquired prestige status. It used to be, “long time”, drugs were thought to be a “poor man ting, fellas on de block” and so on. Nowadays, recreational drugs and the use of recreational drugs have become a badge of honour because it is something that is done in the prestigious areas and communities, in high society parties and so on, where you have, you know, all manner of drugs being laid out. And the age of the children that are using it, it keeps getting lower and lower. I am amazed to have received some of the reports from some of the agencies and the NGOs that deal with this matter.

Mr. President, I want to use this opportunity to warn all parents—we are coming up to the Carnival season, we are in the parang and Christmas season; speak to your daughters. Date rape is a fact of life in Trinidad and Tobago, and we have in fact many instances of young girls who have gone out on what was meant to be a good night out, and they do not reach home. When they reach home the next day, it is only when they feel soreness and pain in certain parts of their bodies that they then realize that something went wrong the night before. When they think is because they “conk out” with the alcohol because they “overdo it”, it is not the alcohol, it is because somebody spiked their drink.

There are drugs that we know such as Rohypnol and others, and there may be others drugs that make you just delirious, induce hallucinations, and you know, all of a sudden—I actually spoke to one victim. She said, you know, she was just partying with her friends at about 1.00 a.m. in morning she felt a little delirious, a little giddy, and all of a sudden she was encircled on the very dance floor in that crowded area, she was encircled by a group of young men who just started dancing around her, and before she knew it, they had held her by both arms and were taking her out. She said she could not even signal for help—that she did not know these men, and they were taking her out. She was removed under the nose and watchful eye of the bouncer—everybody. Her friends—Lord alone knows where they were, and that was how it went.

So, now in Trinidad and Tobago is it not just about getting a designated driver. It is about having responsible friends monitoring who you take your drinks from, being alive to the possibility that it could be spiked, and knowing that you have a personal responsibility to protect yourself from yourself. That is why many young ladies when they go out now, they only drink something that you could open the bottle in front of them. Unscrew it, make sure “yuh crack de bottle”, whatever it is you want to do, but be alive to the possibility of this pernicious social evil that has taken root in Trinidad and Tobago.

So, I make an open appeal, I can tell you that the Victims and Witness Support Unit of the Trinidad and Tobago Police Service, they have confirmed to me that they have received reports of this kind of rape. And you know, the instances of sexual abuse, whether it is one person or with multiple partners, whilst you are there helpless and unable to control and you are no longer in full possession of your mental faculties, far less your physical functions of your body, the sexual abuse resulting from the use of this kind of drug, it requires intensive traumatic incidence reduction therapy.

So where else is this type of legislation being used, Mr. President? We have in the Caribbean our neighbours in Jamaica, St. Kitts/Nevis, Antigua and Barbuda with no significant chemical-based industries. They have all put stringent anti-diversion measures in the form of legislation in place. We must therefore now do our part in this important issue.

In South America, Argentina has enhanced its precursor chemical regulatory framework while improving on ministerial cooperation to facilitate efforts to isolate shipments being diverted for illegal narcotics production.

In Brazil, one of the world’s largest chemical producers, established a controlled system for precursor chemicals with the Brazilian Federal Police

Chemical Division, and is the lead agency which monitors and controls these substances.

Our next door neighbour Venezuela implemented its Organic Law against Illicit Trafficking and Consumption of Narcotic and Psychotropic Substances 2005.

In Peru, they modified their law in 2007 to say that—controlled chemicals they must now be registered because they are subject to diversion.

In the United States of America, chemical control laws via the Chemical Diversion and Trafficking Act of 1988, is done through the Drug Enforcement Agency, and you have highly trained special agents who partner with other agencies in other countries such as Trinidad and Tobago to detect and monitor the movement of chemical drugs.

In Canada, they have introduced a licensing system, and it has led to a dramatic decrease in drugs such as Ecstasy and Speed and others. They participate in Project Prism which is an INCB-led initiative that targets these stimulants.

Mexico—ironically it is the office of the Attorney General that is responsible for enforcing chemical control laws. I am not making sales pitch; I have enough work.

In Asia, China having recognized the weakness in its existing chemical control laws is drafting new legislation to address the export of those chemicals that are presently unregulated by the Chinese Government.

In India, the Narcotic Drug and Psychotropic Substances Act requires that every manufacturer, importer and exporter maintain records and file returns with their Narcotics Control Bureau.

In Singapore, precursor chemicals in accordance with the 1988 UN drug convention, participates in several other multilateral precursor chemical controlled programmes.

In Europe, the European Union has asked all 27-member states to make regulations governing chemical diversion control. The commission currently has two legislative proposals that the council and the Parliament are discussing.

The United Kingdom strictly enforces precursor chemical legislation in compliance with the European Union regulations and, of course, is a party to the 1988 UN drug convention. Its revenue and customs department is responsible for the monitoring function.

Mr. President, with the anticipated passage of this Bill, criminal offences of diversion and its related activities will, in fact, now be criminalized. We have decided to go with a single dedicated unit within the SSA, where there is well-trained staff and the relevant support of the Ministry of Health and the Customs and Excise Division, and they will all join hands to monitor the movement of precursor chemicals. They will collect, analyse and manage information relating to these chemicals, and liaise with and provide assistance to bodies outside of Trinidad and Tobago which perform similar functions listed in the Bill. The accounting process will be one of the functions of the precursor chemical unit to be established in the SSA, and we will empower and equip these various entities and stakeholders to ensure that they all work synergistically in its regulatory process.

Mr. President, one of the interesting aspects about the policy direction in which this Government has gone with respect to national security, is to create the legislative framework and bring together, under one roof, all of the constituent elements in the fight against crime. So, we have the National Operating Centre, and now we have seen whether it is the Ministry of Health, whether it is the Customs and Excise Division and the SSA and the police service and so on, it is necessary to have all the reins in the hands of the charioteer so that they can determine the way forward.

That is why we are housing it in the SSA, and it is our hope that it will bring about some kind of collaboration and coordination, and the synergy will lead to a very effective unit in this regard. Too often we have seen our national security agencies operating in a very compartmentalized manner. They do not share information, and the right hand is not aware of what the left hand is doing. One of the important things that we have done is to adopt an architecture for national security in the country that attempts to change and transforms that by having the necessary coordination by creating the right umbrella approach.

The Ministry of Health, for example, currently grants the necessary permits and licences for the import and export of precursor chemical, based on the authority granted in the Pesticides and Toxic Chemicals Act, the Food and Drugs Act, and of course, those that are listed under the Third Schedule of the Food and Drugs Act.

The Customs and Excise Division works with the Ministry of Health at the ports to ensure that these chemicals, whether in bulk or as a refined product, enter and leave this country in the manner prescribed by law, and is therefore, another important stakeholder.

The unit will rely on the enhanced enforcement powers which are given in this legislation to the police and the customs officers to prevent diversion. For example, in Part V of the Bill special powers are given to the police and customs to prosecute the offences in Part VI which comprehensively criminalise the diversionary acts as compared to its predecessor in section 6A of the Dangerous Drugs Act. So it is a multidisciplinary, multi-sectoral coordinated approach to precursor chemical management.

2.30 p.m.

It is anticipated that the establishment of this unit will provide the critical, legal, operational framework for the elaboration of future legislation which will be aimed at instituting a comprehensive, harmonized approach to precursor chemical management in Trinidad and Tobago, such that we will be able to look at other areas and offshoots that precursor chemicals play an important role in, such as the manufacturing and proliferation of weapons of mass destruction and so forth.

Permit me now, Mr. President, to turn to the legislation itself. Part I, of course, is the standard clauses where we have the short title of the Act, the commencement upon proclamation clause. It is inconsistent with the Constitution's sections 4 and 5 because of the wide powers of search and seizure that are given to the law enforcement officials. Key terminology is defined, licence, for example, means a permit or a licence under the Pesticides and Toxic Chemicals Act or the Food and Drugs Act. Licence is given a definition here because of the type of chemicals that are commonly used to create illicit substances. They are normally to be found in over-the-counter medication, certain types of food stuff and, of course, chemicals used in the agricultural sector. So my colleague, the hon. Minister of Agriculture, Sen. Devant Maharaj would need to have a very critical input into the operationalization of this legislation, because the agricultural sector does in fact import quite a lot of it. Precursor chemical is defined as:

“any substance which—

- (a) can be used in any of the chemical processes involved in the manufacture of narcotic drugs, psychotropic substances or other drugs or substances having a similar effect; and
- (b) incorporates its molecular structure into the final product making it essential for chemical process referred to in...(a);”

These seemingly harmless chemicals can be altered by those with the expertise, the knowledge and experience when they know how to do so, and we must therefore ensure that they are used for the legitimate purpose for which they were intended and diverted into the manufacture of narcotic drugs and psychotropic substances. There will now be a Pre-Export Notification System (PEN), and that is defined—it is really a system where a notification of the shipment of a specified chemical substance is sent to the competent authority in the exporting country.

I mean, essentially it is like the advance passenger cargo information system, you will notify the country that is about to receive it and the competent authority in that country will have the right to determine whether it wants to receive, given the quantity, given where it is coming from, the particular carrier, the kind of crew, the nationality of the vessel. There will be a range of factors they would want to take into account, but they can lodge their objection before it actually arrives in Trinidad and Tobago, and I think that is a very important system that will prevent it from even entering our shores.

The PEN system is one that facilitates full electronic reply to acknowledge receipt and notify the exporting country of clearance to export. An electronic copy is also sent to the INCB by default, and it was a recipient of UN 21 Awards in the year 2006.

“prescribed activity” means—

- (a) the manufacturing, wholesale distribution, marketing, importation, exportation, storage, possession, transportation or delivery of a specified chemical substance;
- (b) the use of a specified chemical substance in the making of another product; or
- (c) any other activity which is permitted under the Food and Drugs Act or the Pesticides and Toxic Chemicals Act, in relation to a specified chemical substance;”

So, by defining the activities in such a precise manner, it means that they can be monitored and tracked with the full force and authority of the law, and it is the monitoring of these activities that leads to the detection and prosecution of the culprits involved in drug trafficking.

“specified chemical substance means precursor chemicals and other chemical substances listed in Schedule 1;”

And, of course, that list will be amended from time to time as and when necessary.

Part II of the Bill establishes the Precursor Chemicals Unit. In clause 5, it will be housed in the Strategic Services Agency, the SSA, which will be headed by a person appointed by the Agency itself, who shall have training and experience in precursor chemical control. This person will be employed in accordance with section 5 of the Act and the unit will have the necessary resources and manpower to be able to identify and monitor such chemicals.

Clause 6 provides for it to have a complement of staff.

Clause 7 outlines the functions of the unit and, of course, it is to monitor the prescribed activities with a view to detecting the prevention of diversion for illicit manufacture of narcotic drugs, psychotropic substances and other drugs and substances having a similar effect; to identify and report to the relevant authority any suspected cases of diversion of specified chemical substances for the illicit manufacture; to collect and analyse and manage information relating to chemical substances, and to coordinate activities amongst stakeholders as it relates to specified chemical substances.

These functions are, of course, very similar to what obtains in the United Kingdom through the national crime agency and, of course, modelled on what exists in the United States with the Drug Enforcement Agency, the DEA.

Clause 8 provides the functions for the head of the unit to keep a register of persons and entities involved in prescribed activities; giving designated officers such information as may be necessary for carrying out the purposes of the Act; advising the Director on all matters relating to this Act. By identifying in a discrete manner the functions of the head of the unit, it was felt that this would lend itself to greater transparency and deficiency, and make it clear what the chain of command is.

Clause 9 deals with the various Ministries and departments that are meant to assist in obtaining information which can be used to monitor the movement of precursor chemicals.

Schedule 3 of the Bill provides for the information to be shared and includes exporter/consignor and number, country of origin, port of entry and, of course, the number of packages.

The sharing of information between the relevant agencies is paramount to the effective organization and enforcement of the provisions within this Bill. It was therefore necessary to provide the legal infrastructure in the Bill for intelligence

sharing between the agencies to mandate that such information be shared for the purpose of monitoring the movement of precursor chemicals.

Clause 10 would provide for the Minister to designate analyst and designated officers. A person so designated will be furnished with a certificate of designation and the certificate would be admissible in any court. Again, to maintain transparency the Precursor Chemicals Unit would ensure that persons who are entrusted with the analysing of the information gathered from the monitoring process are persons who would be sufficiently competent, trustworthy and meet the international standards.

Part III, this deals with the activities of the Competent Authority.

Clause 11, the Chief Medical Officer will be the Competent Authority for Trinidad and Tobago. This is because Article 12 of United Nations Convention requires that the Competent Authority be appointed in order to implement and enforce a system to monitor and control precursor chemicals, and it was felt that the Chief Medical Officer would possess the required expertise to hold this important and critical office.

Clause 12 notifies us of the functions of the Competent Authority to—

(a) notify the Unit of—

(i) the granting of any licence in relation to a specified chemical substance; and—notify the unit of

(ii) any suspicious activity—concerning—a specified chemical substance;

(b) conduct investigations, inspect data relating to specified chemical substances on the national drug control system; and

(c) Pre-Export Notification System or such other information sharing system or mechanism as the Unit may require.

(d) report on the International Narcotic Control Board—report to that board—matters concerning specified chemical substances.

Part 4 deals with commercial documents and security. This clause, clause 13, states that every commercial document, including an invoice, cargo manifest, airway bill, customs and transport and other kinds of shipping document, relating to a prescribed activity pertaining to a chemical substance shall include the—

(a) name and quantity of that substance;

(b) the names and addresses of the exporter, the supplier;

- (c) the registration of the vehicle that is used to transport it, and where applicable;
- (d) the container and seal number;
- (e) the country of origin and the port of lading;
- (f) the country of consignment; and
- (g) rotation number for bonded warehouse.

It is very detailed and very comprehensive.

Such information will be paramount to keeping the imported and exported chemicals sufficiently monitored. Thus, should the chemical enter Trinidad and Tobago through legal and regular means, in order to be forwarded to legitimate businesses for legitimate use, this will be reflected in the records. Should the chemical be found to be in illicit use, those records will ensure that the chemical can be traced back to its country of origin right down to the specific business or person who exported it, and this information passed on to the relevant authorities for prosecution.

Clause 14 of the Bill provides for the detention of any consignment by the Comptroller of Customs and Excise, where he has reasonable grounds to believe that any specified chemical substance is being imported in contravention of the Act. It can be inspected by a customs officer, an inspector under the Pesticides and Toxic Chemicals Act, as well as any inspector under the Food and Drugs Act.

Clause 14(3) stipulates that where the Head of the Unit notifies the Competent Authority and the Comptroller but does not make a request under that subsection, the Competent Authority and the Comptroller shall inform the Head of the Unit of the outcome of their inspection of the consignment. In other words, they have the necessary teeth to ensure that the movement of the chemical substances is halted even before it can be used for such illicit purpose.

The Precursor Chemicals Unit is not just an intelligence gathering body. It has the ability to inspect consignments where there are grounds for reasonable suspicion and to share information and partner with other agencies as and where appropriate.

Part V deals with enforcement. Clause 15 speaks to the powers and duties of the designated officer. Where he obtains a warrant on an ex parte application, he can enter the premises at any time. He can inspect any specified chemical substance, the labeling and storage thereof any registered book, licence, et cetera,

require the production of any of these books or records, investigate or cause to be investigated any suspicious activity, ascertain that the licences required under the Act are displayed on the premises, and he can make such examinations, inspections and investigations and enquiries as he deems fit.

Mr. President, subclause 15(2) stipulates that a police officer or customs officer who has reasonable cause to suspect that any premises are being used for any prescribed activity without a required licence; any vessel, vehicle, aircraft, enclosure, container or other storage facility so being used; any specified chemical substance is being kept, equipment or any activities taking place pertaining to a prescribed chemical substance, they can at any time day or night, without warrant, enter and search those premises and, if necessary, seize and detain the substance and take it before a magistrate or a Justice of the Peace. And that is where they have reasonable cause to suspect any of those things.

In 15(3) they are authorized to collect any evidence of a prescribed activity in contravention of the Act. They can, of course, take samples, interview persons and require information stored on a computer. They are given the ability to search and seize evidence and even prosecute offenders. Not only do we have a specialized and dedicated unit for the monitoring of these chemicals, but also within this unit prosecution can immediately begin once the relevant information is collected.

Clause 16 provides for offences of failing to provide reasonable assistance to the designated officer. So, you know, if you are playing hardball and you are stonewalling or you are hiding, that would be an offence. If found guilty it is a fine of \$50,000, and it is necessary to provide a proper incentive for those involved in the movement of these specified chemical substances, and we want to make sure they are as cooperative as possible, therefore \$50,000, we think is a sufficient and potent deterrent to ensure that they cooperate with the police or customs officer in their investigations.

Clause 17 permits a designated officer in cases where he considers it necessary to take with him when entering any place or vehicle, a person who possesses expert knowledge such that he can detect and identify the chemical substances. So, you will remember we had the famous case of *Northern Construction Limited v the Attorney General*, where the police had taken the Lindquist forensic experts with them, and there was a ruling that they were not police officers, they were not authorized to be there to touch and seize and pick up anything, because they are not protected by the privileges, powers and immunities under the Police Service Act.

2.45 p.m.

We are now catering for that problem in our legislation by specifically providing, that if you feel it is necessary you can take an appropriately qualified expert to assist you when you are entering those premises. This will also, now, take care of all of those problems we have had, where you have long, long voir dires and all sort of things in the criminal courts that deal with the question of admissibility of evidence. So by setting out in the legislation, clearly, the procedure with respect to entering the premises, the circumstances, and of course, what happens if you seize and detain the substance for the chain of custody. We are trying to make sure that the criminal justice system does not waste unnecessary time to deal with arguments about the admissibility of the evidence.

Clause 18 lays out the procedure to be adopted for the purposes of analysis when an officer seizes anything or takes a sample, he must of course produce a certificate or report setting forth the results of his examination and analysis, and that will be submitted to the court.

Mr. President: I am just letting you know that you have six more minutes.

Sen. The Hon. A. Ramlogan SC: Thank you very much, Mr. President. The certificate or report which is issued by the analyst shall be prima facie evidence of the facts stated in the certificate and to ensure the integrity of the evidence obtained, it is important that these chemicals do not become tainted through mishandling or recklessness. Outlining the clear and proper procedure to be used when samples are taken, and items or chemicals are seized is the first step in ensuring that the evidence is handled, stored and processed with care.

Clause 19 of the Bill stipulates the method of storage and disposal for specified chemicals and any equipment that is seized by the police or customs officers. Chemicals, particularly synthetic chemicals, pose a serious threat to the flora and fauna which may have been exposed to them, and it is therefore necessary to stipulate proper and safe manners of disposal after you have seized it, and it is no longer necessary to keep it.

In clause 20, we have now provided for the court to make a forfeiture order so that they can confiscate any property of a person convicted for an offence under this Act. I want to pause here to mention, of course, the revolutionary amendment we made to the Proceeds of Crime Act, where the Government removed what was thought to be a significant insurmountable legal hurdle to getting confiscation of assets under the Proceeds of Crime Act, and that was the predicate offence.

If you held a man for murder, and the allegation is he was paid a million dollars to murder his girlfriend or perhaps, more, probably his mother-in-law or something like that, [*Laughter and crosstalk*] in a case like that, what happens is, when you get the evidence of the murder, if you go and hold the man and you find a million dollars in cash under the mattress, you could not seize that million dollars, because you had to show there was some causal relationship and that was the million dollars he got paid to commit the murder. And unless it was marked, unless you were somehow able to prove that this was in fact the fruit of the crime of the murder, then you are in problems.

So what we have done is to remove the predicate offence, so you no longer need to prove that that is the million dollars he was paid to murder the mother-in-law. What you will simply have to ask now, is the burden of proof shifts onto the person, and he will have to explain how he came into possession of a million dollars. He will have to show that it came from a legitimate source.

So what we have done is to turn the burden of proof which exists in the criminal law upside down, where the prosecution was traditionally—required to prove its case beyond all reasonable doubt. Now, you are required to prove your innocence, beyond all reasonable doubt, because the evidential burden has shifted from the State and the prosecution unto you, because of the evidence they have found and you must now back-pedal your way out of guilt to demonstrate your innocence by showing that this is not proceeds of a crime and it is not the fruit of a crime.

This is going to be a very helpful tool in the arsenal of the police service in raising the detection rate, and indeed, I hope the rate of charges and convictions under the Proceeds of Crime Act, because you have all these gang men robbing people. I mean, we saw the horrific murder of that beautiful girl from Chaguanas recently, money in cash taken. [*Crosstalk*] I had extra sympathy because of how she looks, Sen. Dr. Mahabir, yes. Every life is precious, but she was a beautiful girl, cut down in the prime of her life. So what do we do? Where are the gangsters putting the money? We have to ask them to account for their properties and their fancy expensive cars and let them explain the legitimate source of the income. Clause 20 therefore deals with that.

The offences in Part VI, Mr. President, we have imposed some very, very strong penalties. We have made it any offence under this Act will be an extraditable offence so you can be extradited because we recognized the transnational nature of the crime.

Clause 21 deals with the offence of diversion. It is \$1 million and imprisonment for three years upon conviction, if it is summary and if it is an indictment, \$3 million and imprisonment for five years. The offence of facilitating a diversion, in that case, it is \$1 million and three years on summary conviction and a fine of \$3 million and imprisonment for five years if convicted upon indictment.

Clause 23, unlawfully engaging in prescribed activity without a licence, convicted on summary conviction, \$100,000 and imprisonment for one year, convicted on indictment \$250,000 and imprisonment for one year.

Clause 24, offences for making false or misleading statements for the purpose of obtaining the issue or grant of a license or making a declaration or statement which is false, if you are found guilty, \$75,000 and imprisonment for six months.

Clause 25, if, in the prosecution of any offence under this Act, it is proved that a sample which was taken from any specified chemical substance possesses particular properties, it shall be presumed until the contrary is proven that the whole of such substance possesses the same properties yet another instance of us shifting the burden. So once we find it on top the entire vessel that contains it, it is presumed that it contains the same thing. Part VII is, of course, the miscellaneous consequential amendment provision and so forth.

Mr. President, in closing, according to the United Nations office on drugs and crime, the world drug report and analysis precursor control highlights that substantial progress has in fact been made over the last two decades. As the international community in the 1988 convention adopted precursor control as one of its most critical strategies in the fight against illegal drug production. This Bill is most important as it will allow us to have in our arsenal new strategies to combat the drug trade.

So, Mr. President, it is with those remarks that I ask that this honourable Senate to support this Bill in the interest of protecting our society from the scourge and evil of the illicit drug trade. I thank you very much and I beg to move. [*Desk thumping*]

Question proposed.

Sen. Faris Al-Rawi: Thank you, Mr. President, thank you hon. colleagues. Mr. President, I rise to join in the contributions which I am sure will be lively this afternoon, in relation to this Bill No. 6 of 2014 laid in the Senate, this being a proposed Act to establish a precursor chemicals unit within the Strategic Services Agency.

Mr. President, I know that the hon. Attorney General filled in shoes for the hon. Minister of National Security this afternoon, who really was the person intended to pilot this piece of legislation, and I know that it certainly cannot be. You know, perhaps my reflections have softened a little bit. As the PNM heads towards becoming the next Government of Trinidad and Tobago, [*Desk thumping*] we have to stop and pause at how difficult it can be at times—
[*Interruption*]

Sen. Bharath: Which year is that?

Sen. F. Al-Rawi:—to inherit work and have to explain it—as Sen. Bharath is asking, but which year is that? That is in 2015, hon. Sen. Bharath, [*Desk thumping*] that we will be forming the next Government of Trinidad and Tobago. And so it is with some degree of—how do I say, concern, that I commiserate with the hon. Attorney General for picking up someone else’s work and for trying to make some sense out of what is a legitimate aim before this Parliament. That we should seek to bring to life the 1988 United Nations Convention against certain illicit drugs and psychotropic substances, is a joint purpose of everyone here. It is for that reason that the Laws of Trinidad and Tobago currently have laws in place to deal with this very issue.

We are not creating anything novel this afternoon, Mr. President. We are taking from an existing law of Trinidad and Tobago, that is, the Dangerous Drugs Act, Part II (a) of that Act, beginning with section 6(a), we are taking and hiving off the provisions which deal with precursor chemicals and psychotropic substances, et cetera, included therein, and we are seeking to do something with it. We are seeking specifically to pass three-fifths majority legislation. That means we are agreeing as a Parliament that we are affecting certain enshrined rights in the Constitution of Trinidad and Tobago which our citizens are entitled to rely upon.

This Bill certainly deals with trampling or traversing upon the right to property, insofar as there are provisions for forfeiture of property. It deals with the right against self-incrimination, insofar as you may be called upon to make—to give information and to provide testimony and answer to certain questions. It calls upon due process considerations, insofar as we are being invited to allow for a process of appeals and we are allowing for a process of forfeiture of goods.

So we are dealing with new legislation, asking the Parliament as a whole this afternoon, to agree by a three-fifths majority of us present, that this law is reasonable and that it is proportionate, but what we are not doing, Mr. President,

we are not creating ground-breaking legislation. We are seeking to create an agency to deal with the existing laws, and in lifting that agency out and putting it into a Bill, what we are doing is unfortunately, unwittingly leaving behind a lot of very good substance.

Let me explain what I mean by that, but let me stick a pin for a moment and say this law has wide-reaching consequences. Precursor chemicals is something which is defined in the Laws of Trinidad and Tobago, and, in fact, if you go to the International Narcotics Control Board red list, where they produced a list of precursors and chemicals, frequently used in illicit manufacture of narcotic drugs and psychotropic substances under international control, which piggybacks upon the 1988 convention of the United Nations against illicit trafficking, narcotic drugs and psychotropic substances, you will see simple drugs included in that list.

Ephedrine: Ephedrine is a drug that is used to treat asthma. It is a vascular dilator which allows someone to breathe somewhat better, by allowing for better absorption of oxygen, I think it is in the lungs, by dilating the aspects of the lungs that pull in oxygen and exchange with carbon monoxide and dioxide. We are looking at Acetone; we are looking at Toluene; we are looking at sulphuric acid; we are looking at hydrochloric acid. These things, Mr. President, are not earth-shattering chemicals. They are in fact used right here in Trinidad and Tobago. We are after all a petroleum-based industry where we have subsidiary industries engaged in chemical manufacture and we have manufacturers of cosmetics, of perfumes, of many different things.

3.00 p.m.

So there is the wide array of application that goes on. But why I say we are not doing ground-breaking things that the Attorney General unfortunately suggested, is that we already have in Trinidad and Tobago, the Customs Act, the Pesticides and Toxic Chemicals Act, the Food and Drugs Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Anti-Terrorism Act.

Take a look at the Customs Act. That is a law that we inherited from the English, modified from time to time. Look at the Pesticides and Toxic Chemicals Act. That is an Act of 1979. Look at the Food and Drugs Act, look at the Dangerous Drugs Act, and you will see—when we look at Dangerous Drugs Act, that is an Act that has been around for quite some time, and inside of these pieces of legislation we took, as a country, cognizance of the international regulations that existed.

The international picture started in 1971. In 1971, we had the UN Convention on Psychotropic Substances. In 1984, we had the General Assembly's Declaration Against Drug Trafficking and Drug Abuse. In 1988, we had the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In 1990, we had the Global Programme of Action; 1991, we had the United Nations Drug Control Programme, all guided by the Inter-American Drug Abuse Council now.

But throughout those years, Trinidad and Tobago has kept up pace with its obligations because when international law is made, our laws are dualistic in nature, as opposed to monistic. In the dualistic realm that we exist, international law does not become law in Trinidad upon signatory to an international convention. You have to incorporate it in your laws. That is what the dualistic model is; and so we did, in a very significant piece of legislation, that is the Pesticides and Toxic Chemicals Act, which is Act 42 of 1979, amended four times, last in 2005. We did it in the Dangerous Drugs Act, Chap. 11:25, an Act in 1991—it is Act No. 38 of 1991. We did it in the Food and Drugs Act, Act No. 8 of 1960. In fact, the Bill before us today seeks to repeal a very specific section of the Dangerous Drugs Act. The Bill seeks to repeal Part IIA, the Offences Relating to Precursor Chemicals.

So we have existing laws. The question is: why should we adopt this law? The legitimate aim of having control against psychotropic substances and the type of precursor chemicals that we are looking at is controlled by the laws of Trinidad and Tobago right now. The Dangerous Drugs Act says you cannot import a single drug into Trinidad and Tobago unless you have a licence. The breach of that is that you suffer an offence by way of summary or indictable proceedings and you pay fines or go to jail. Psychotropic substances are included in the dangerous drugs legislation.

Next, we have Pesticides and Toxic Chemicals Act, an Act of 1979. That Act allows for the holding, the keeping, the import and export of all drugs deemed to be pesticides and toxic chemicals, and all of the precursor chemicals fall into categories in this legislation. It allows you to keep those only with a licence. Bring them in, export them only, with a licence, and without that licence you suffer, again, penalty by way of fine; the offence including jail term.

We have the Food and Drugs Act. You often hear me talking about the rotten tomatoes legislation, that indictable offences include the sale of rotten tomatoes or adulterated goods. This is an example of this particular piece of legislation which provides for dirty produce to be met with an offence. Mr. President, the fact is, in the Food and Drugs Act we have the ability to monitor, again, because every aspect of drugs, you must have a licence to import.

So the hon. Attorney General, substituting for the Minister of National Security, has to explain to this Parliament why we need this legislation. Let me put this into a little bit of example. The hon. Attorney General said, towards the end of his contribution, that we were doing a significant thing. We were shifting the burden of proof. He repeated the fact—something which I looked at—the amendments that we did recently to the Proceeds of Crime Act. In fact, you will certainly remember what is now Act No. 15 of 2014. We amended the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago. It was assented to on October 13, 2014. We, in the Senate, debated it in August of this year.

But it is not what the Attorney General said. You are not allowing for the de-linking of the predicate offence. In the legislation which he referred us to, he said that we are taking revolutionary aid of this law, and he said that under this amendment to the Proceeds of Crime Act, we would be de-linking the predicate offence, meaning you no longer had to rely upon a conviction to forfeit property. That is what he meant.

But, Mr. President—and I say this most generously—I am sure the hon. Attorney General, substituting, as he did for the Minister of National Security, probably did not reflect in the manner that he should have. What we did by Act No. 15 of 2014 was to remove the predicate offence for money laundering only. We did not do it with respect to drugs and the property of drugs. [*Desk thumping*] That is just not correct. In fact, there is another extremely dangerous thing the hon. Attorney General said—and let me finish with that point. It is, in fact, in the Dangerous Drugs Act—sorry, in this current Bill that we are looking to—forgive me—[*Searches for document*—yes, Mr. President, in this particular Bill, clause 20, which the hon. Attorney General referred us to in making that submission that he just did. Clause 20 specifically says:

“Where a person is convicted of an offence under this Act and the Court...is satisfied that any property...was in his possession or...control”—et cetera—

“...may make an order for the forfeiture...”

How could that be a de-linking of a predicate offence, meaning, how could that be to remove the necessity of having an offence to allow you to forfeit as we did in the amendments in August, made law in October, in amending the Proceeds of Crime Act? It is the exact opposite, Mr. President. [*Desk thumping*]

The hon. Attorney General also told us that we would be fixing something which the Northern Construction case came up with. He said, “You remember in that case the court pronounced that you could not have the Linquist experts taking certain evidence and that therefore we are making ground-breaking provisions today by fixing the law as we are, by allowing experts, as we put in this Bill, to go along with persons who are acting on reasonable suspicion, or with a warrant because the designated officers under this proposed law can enter your premises with a warrant or without a warrant.” He is saying that we are making ground-breaking provision today.

I wonder if the hon. Attorney General is aware of the provisions contained in the Pesticides and Toxic Chemicals Act, Mr. President, specifically section 8(4)(a). Listen to what this says—and this Act deals with all precursor chemical—all. Section 8(4) says:

“An inspector shall have power to do all or any of the following things for the purpose of the execution of this Act or the Regulations, that is to say:

- (a) if he considers it necessary, take with him when entering any vehicle, land or premises mentioned...a police officer, a medical practitioner, a public health inspector and any person who possesses expert knowledge of the use or effects of controlled products in any class thereof;”

What is ground-breaking about that? That has been the law since 1979. That did not need the assistance of Northern Construction, which was entirely unrelated to this particular piece of legislation.

Now, I flag those two things by way of initial response to the hon. Attorney General because as lawful as this legislative aim is—and that is the first ground that a Parliament looks at in achieving the test, in crossing the test of proportionality or reasonableness of a Bill. There must be a legitimate aim, you must intrude upon rights only to the extent as is necessary and that intrusion should be at, what they call the minimum level. You should only go so far as you want to do, as should be reasonable in the circumstances. In other words, then, it is the proverbial sledge-hammer-to-the-ant approach which is frowned upon.

So when we look at the legitimate aim here, the existing law in the Dangerous Drugs Act makes it an offence for precursor chemicals to be imported, or dealt with, or manufactured, or in possession, without a licence. It also allows by way of inclusion in the Dangerous Drugs Act for a reversal of the burden of proof of

offences because, Mr. President, when we remove this precursor chemicals law from the Dangerous Drugs Act, we are plucking it out of, specifically, Part IIA of the Dangerous Drugs Act. What does that mean? It means that we no longer have a burden of proof and presumption which is reversed.

The hon. Attorney General said a little while ago that we would be reversing the burden of proof. We are doing, potentially, the opposite. [*Desk thumping*] We are removing it from the seat of existing legislation in the Dangerous Drugs Act, which specifically reverses the burden of proof in section 29(a) and deals with presumptions in section 29(b), and we are removing it from there and putting it into a Bill which says nothing about the burden of proof. And if it says nothing, specifically, then the golden rule of law that you are innocent until proven guilty—that golden thread of law, since 1935 appeal cases in England, set down the golden principle that you are innocent until proven guilty, and so the burden of proof is not reversed.

So are we, unwittingly, in our haste to do something, dealing with this appropriately? Let me explain what I mean by that. We are six Ministers of National Security away from May 2010. We had Brig. John Sandy; we had Jack Warner, hon. Member of the House of Representatives; we have had Emmanuel George, hon. Senator that he is; we have the hon. Sen. Gary Griffith; we have had Mr. Collin Partap, Member of Parliament as he is; and we also have the hon. Sen. Embau Moheni—six Ministers of National Security. Do you know where the origin of this particular recommendation for consideration arises? It comes out of a publication by one Nigel Clement, fired by this Government.

Nigel Clement, as the head of the SSA and acting in capacity at the SIA, was fired by this Government, and the hon. Attorney General said something a little while ago. He said he does not understand why people are reckless and make these conclusions and statements as to discrimination, and he gave the example of the deportees out of the African continent. I agree with the hon. Attorney General that the facts need to be put forward in the public domain, and I agree that there was a distortion of facts, but the hon. Sen. Mohini can assist him out of that, having the type of role and function. This is what the Partnership is for, for the left hand to speak to the right hand.

Mr. President, you know what struck me as a little bit odd about that particular position? What I was struck about, because this Bill proposes that the head of this particular unit, the Precursor Chemicals Unit and, in fact, the director of the SSA, that they be essentially creatures of the Minister, and I have no objection to that.

3.15 p.m.

But this population was given an understanding that we should trust the Government, but I want to say that regrettably, five years later nearly, we do not trust this Government. [*Desk thumping*] And we do not, Mr. President, because when everybody was looking for a reason as to how Resmi Ramnarine was appointed in the capacity that she was, everyone seemed to have forgotten that due process, a consideration in this Bill, should always be followed.

I recall distinctly in the public domain, Security Intelligence Agency from Senior Superintendent Acting Surajdeen Persad to the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, in a note dated October 15, 2010—and this is to deal with the Attorney General’s statement that he does not know why people fear this allegation of discrimination, we must be careful. Well, I want to remind the hon. Attorney General why. Under the comments section at page 3:

The situation at the SIA warrants immediate attention if sensitive information from that unit is allowed to be clandestinely sent to the leading members of the PNM. It would undermine the legitimate constituted Government of Trinidad and Tobago and ultimately lead to its downfall.

Recommendation:

The Director of the SIA, as well as persons mentioned above, should all be removed from their positions immediately in order to safeguard the flow of sensitive information to the PNM.

An interim management committee headed by Resmi Ramnarine (Technical Operator), Carlton Dennie, Surveillance Operator; Special Branch Acting Inspector, Doolam Rekha, former Co-ordinator, Joint Intelligence Group, et cetera, should be appointed immediately to protect the assets of the State.

And so, Mr. President, this goes down and down.

Steps should be taken to merge SIA, SSA, SAUTT, intelligence agency into a new intelligence agency.

This note was the one that spoke about two Israeli nationals staying at the Hilton. Their names were given, their passport numbers were given and yet this was a same Government that came, under Mr. Volney, and said, “Two unidentified Israelis made off with all the files”.

And, Mr. President, when you have a track record like that, the hon. Attorney General, right as he was today to put into context the deportation issue of Africans back to the continent of Africa, against persons, for instance, Guyanese deported

to the continent of South America where Guyana is, he was right to do that but he must remember why people fear this Government, [*Desk thumping*] why people find some degree of concern when hundreds of people are fired because they are perceived by one person improperly reporting to the Prime Minister, breaking a chain of command, why they are perceived to be discriminated against; why there is a perception of discrimination.

That is an example of appointment People's Partnership style. [*Desk thumping*] That is how Resmi Ramnarine could have become the head of the SIA which, by this note, was to be merged with the SSA which we are merging today. And everybody says, "They cyah remember", it is right there in black and white in the Prime Minister's office. She is the one who appointed this lady but nobody knows what happened.

Mr. President, when we look to the existing laws of Trinidad and Tobago as I come back to finding a reason why we should be moving to create a new unit of the SSA, I ask myself: why is it good in the United Kingdom, as a Member of the EU, in Canada, in the United States, in New Zealand, why is it good for all of this to happen by way of regulations and in Trinidad and Tobago, we have to legislate for a unit to be created in the SSA? Why? The existing Part IIA of the Dangerous Drugs Act allows for the issuance of regulations. Surely, regulations could reside, could be created, to deal with the creation of this unit; the change and exchange of information between governmental departments, et cetera, because when you look to the powers and functions under the SSA Act, section 6 in particular, you will see that you are allowed in subsection (2)(a), (g), (h).

Look at some of the powers in the SSA:

"...functions of the Agency..."—include giving—

"(a) ...assistance to the Services..."

And that is customs, police, all agencies.

"...particularly serious or complex...drug related..."

Look at (h):

"maintain a database on manufacturers and suppliers of precursor chemicals...other substances and articles used..."—for—"production of drugs in Trinidad and Tobago..."

Look at:

"(i) facilitate the exchange of personnel and other experts..."

(j) co-operate with corresponding..."

All of the powers exist in the existing legislation.

The Dangerous Drugs Act says that you are to promulgate regulations but this Bill on its second iteration—this is the Precursor Chemicals (No. 2) Bill, you know, there is a number one. The number one Bill was introduced into this Parliament by Sen. The Hon. Gary Griffith in the House of Representatives. That number one Bill was introduced as Bill No. 17 in the House of Representatives of 2014, June 25, 2014, lapsed July 30, 2014. This is the second Bill, second iteration.

It has passed through Law Revision Committee, came out of the Ministry of National Security first, went to LRC; from LRC, it would have gone to Cabinet; from Cabinet, it would have gone probably to the F&GP and then back to Cabinet; from Cabinet, it would have been laid on this Parliament's table. This is work began in 2009 as the communiques originating out of the EU's support for this particular legislation demonstrate.

When you see that, Mr. President, and you look—precursor Bill number one, 2014, when you look to project document United Nations Development Programme, Expected Country Programme Outcome for Trinidad and Tobago; Executing Agency: SSA, Ministry of National Security; PAC meeting dated September 14, 2009, signed by Jennifer Boucaud-Blake, PS for the Ministry of National Security, Mr. Nigel Clement, Director of SSA, you see, Mr. President, that the draft Bill was prepared some time ago.

Let us look at how the quality of this Bill works. Let us look by way of example to clause 28 of the Bill, but before getting there, permit me. “Regulations”—clause 27:

“The Minister may make regulations for the purpose of giving effect to provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, such regulations may contain provisions in relation to the following:

- (a) the monitoring, control...
- (b) the taking of samples...
- (c) any other matter...”

That is the end of clause 27.

Let us look to the Dangerous Drugs Act, Part IIA, section 6 going onward which we are repealing. What are we giving up here? Let us look at 6C, subsections (2) and (3).

“(2) Regulations”—may be—“made...

(3) Regulations made under this section may make different provision in relation to the substances specified in the Fourth Schedule...”

Section 6 continues to say that if you have a breach in subsection (4):

“Any person who fails to comply with any requirement imposed by the Regulations...is guilty of an offence and is liable—

(a) on summary conviction...fine of five thousand...imprisonment...two years;

(b) on conviction on indictment...fine of ten thousand...imprisonment...not less than two years...”

So the new better Bill, two iterations later, five years later, has a provision for regulations. The old Bill, where we are repealing the law, has a provision for regulations. The new Bill relies upon the operationality of the interpretation laws of Trinidad and Tobago which says if you do not prescribe an offence for a breach of the regulations, you are going to have to be liable if you are convicted to a whole, whopping large sum of TT \$500. The old law says three years, two years, \$10,000, \$5,000; five years later—that is good drafting.

Let us look to some other conditions in the Bill. Let us look at “Offences” because I have a lot to say in the committee stage so I want to flag a few issues. Let us look at the offences. So, we know that the production of—this is in Part VI of the Bill, begin with clauses 21, 22, 23, 24, 25 of the Bill. Listen to this, Mr. President, clause 21(1):

“A person who uses or causes another person to use a specified chemical equipment...”

Listen to that language.

“...causes another person to use a specified chemical equipment or a specified chemical substance for the purposes of manufacturing narcotic drugs, psychotropic substances or other substances having a similar effect commits an offence and is liable—

(a) upon summary conviction...one million dollars...imprisonment...three years; or

(b) upon conviction on indictment...three million dollars...imprisonment for five years.”

Mr. President, look at that language again:

“...specified chemical equipment...”

“A person who...causes another person to use specified chemical equipment...”

Well, that is fine because if you look in the definition section, you will see that “specified chemical equipment” is defined as meaning if you use it illegally or illicitly. But “specified chemical substance”, if you cause:

“...another person to use...specified chemical substance”—which is any precursor chemical—“for the purposes of manufacturing narcotic drugs, psychotropic substances or other substances having similar effect commits an offence.

Every single manufacturer in Trinidad and Tobago who imports, who creates, who deals with any aspect of precursor chemicals automatically is guilty of an offence under this law because it does not say that you must do so unlawfully. If the person engages in the production of narcotics, “yuh guilty”. You see, the word “unlawful” is critically important because it is only then that the issue of having a licence to do it enters the equation. So this clause 21(1) is ridiculous as drafted.

Let us look to clause 22 of the Bill:

“(1) A person who—

(a) engages in any act in relation to a specified chemical substance knowing or having reasonable grounds to suspect that the specified chemical substance is to be used in the manufacture of narcotic drugs, psychotropic substances or other substances having similar effect; or

(b) knowingly organises, manages or finances any act...”—in reference—
“to in paragraph (a),
commits an offence.”

What does that mean? It means, any banker, any shipper, anybody involved in the process who knows that there is a consignment cargo going to Sacha Cosmetics, for example, or Berger Paints, for example, is going to be guilty of an offence, liable to summary conviction of \$1 million and three years, conviction to a fine of \$3 million and imprisonment for five years if on indictment. Again, absent is the expression unlawful; absent is the expression to qualify it [*Desk thumping*] to be an offence at law.

Mr. President, clause 23:

“(1) A person who engages in any prescribed activity without a licence commits an offence...”

Listen to this one, clause 23(2):

“A person who has a licence to engage in any prescribed activity and who breaches any condition of the licence commits an offence...”

What is the penalty?

“(a) ...one hundred thousand dollars...imprisonment for one year;...”

—on summary conviction.

“(b) ...on indictment...two hundred and fifty thousand dollars...imprisonment for one year...”

Mr. President, every comparative law that I have looked at—and they include, for the record: Precursor Chemicals Act, Jamaica 2005; St. Christopher and Nevis Act, No. 20 of 2007; Precursor Chemicals Chap. 228A of the Laws of the Bahamas, 2007; Precursor Chemicals Act, 2010, Act No. 10 of 2010 of Antigua and Barbuda.

Customs Tariff Act, 1995 of the United Kingdom; Precursor Controls Regulations SOR 2002, 359 of Canada; Control Drugs and Substances Act of Canada, current to November 25, 2014; Statutory Instruments, 2008; Dangerous Drugs Act, and it goes on and on. Customs Prohibited Goods Regulations 1958; Criminal Code 1995 both of the laws of Australia.

3.30 p.m.

In every one of those pieces of law, Mr. President, a breach of a licence for any condition is given a whole lot of the assistance, and the assistance is you must put the person upon notice of the breach; you must allow them the opportunity to remedy the breach; if they fail to remedy the breach then they are liable to be punished. It certainly is not, Mr. President, the case as we have it here, clause 23(2):

“A person who has a licence...and who breaches any condition of the licence commits an offence and is liable—

...and the licence shall be revoked.”

What is that inviting, Mr. President? Is that inviting due process? Is that inviting the test of proportionality to prevail? Is this a minimal intrusion only so far as is necessary upon the rights enshrined in the Constitution of Trinidad and Tobago? No, it is not. It is bad homework.

I want to make this abundantly clear, I support all the members who have drafted the legislation coming from the Ministry's staff, but I make complaint of the LRC, of the Cabinet, of the line Minister, my good friend, Sen. Gary Griffith. He is my good friend. The problem is, and the Attorney General has substituted for him today. I know the Attorney General's ability and the hon. Attorney General as a champion for rights prior as he was, he would, wearing a different hat, have the same problem I have with this. I am sure of that. He has done a "lil pull out" today helping out the Minister of National Security, but I do not think that this passes muster. It is the Yuletide Season. I want to be a "lil" charitable.

Mr. President, let us look at clause 24, and I want to put the qualification in clause 23(1). I humbly suggest that it is only a person who knowingly and willingly engages in prescribed activity without a licence, who should be guilty of committing an offence. I think that the animus, the mental intention to break the law is critical as a qualifying element of this offence. I think the law is significantly weaker without it, and disproportionate without it. I make the similar observation in respect of clause 24(1)(a) and (c). Mr. President, let us look now—clause 25.

"If, in any prosecution for an offence against this Act, it is proved that a sample which was taken from any specified chemical substance possesses particular properties, it shall be presumed, until the contrary is proven, that the whole of such substance possesses the same properties."

Do you know what is absent from this legislation? What is absent from this legislation, but which is contained in other laws of Trinidad and Tobago, and if I am not mistaken, it is, in fact, the Pesticides and Toxic Chemicals Act, is the fact that you must at least keep the sample. You should not destroy the sample. There is a positive obligation put upon the prosecutors and persons in possession of the evidence, to keep the sample for comparison, because there are dire consequences of loss of property, jail term, penalties or fines of up to a million dollars and \$3 million included in this law, but the due process is being left behind. Because this standalone body dealing with precursor chemicals, lifting it out of the Dangerous Drugs Act, and leaving behind all of the ancillary provisions there which assist it to work well, lifting it out of the Pesticides and Toxic Chemicals Act, and leaving behind the safeguard provisions there, makes it disproportionate, Mr. President.

So I would hope that if we are serious about passing good law, that we would engage upon fixing this Bill. We would like to support this Bill. We in the PNM have supported on this Bench, 94 per cent of the work brought to this Parliament's table after we spent hours upon hours fixing it. I think we have demonstrated to the people of Trinidad and Tobago, that we wish to come up with the best laws, and we do not complain for complaining sake. These are legitimate observations that I am putting forward today.

Mr. President, I dealt with offences. I dealt with regulations. I dealt with the fact that you should maintain the sample. Let us start back at the beginning, because I was forced to go there in dealing with the hon. Attorney General's submissions. We have inside of here functions prescribing the Competent Authority in Part III of the Bill to be the Chief Medical Officer. The hon. Attorney General said, and he is quite right, in Canada, for instance, the Attorney General plays a certain role in their legislation, and in other jurisdiction. And he said, "I am not pleading a case for me, ah have enough work as it is".

Well, I would say, my humble submission is that the CMO has a lot of work himself. He sits ex-officio and officio on almost every single board falling under the purview of the Ministry of Health, but the CMO is required in clause 12 of this Bill, to provide assistance to conduct investigations. He is required—listen to this one—12(d), he is required to:

- (d) input data relating to specified chemical substances on the National Drug Control System and the Pre-Export Notification System...
- (e) report to the International Narcotic Control Board..."

How is he going to do that, Mr. President? We have dedicated authorities in Trinidad and Tobago. We have an SSA in operation dealing with this. We have an SIA supposedly meant by Mr. Surajdeen Persad, who is now an Assistant Commissioner of Police today. [*Desk thumping*] He is seconded to the SSA. We are intended by his recommendation to have accepted Resmi Ramnarine, telephone operator. [*Desk thumping*]

Now, we know that the SSA has not yet told us where the near \$1 billion in drugs found in juice cans happily on their way to the United States of America, where the state of prosecution of that case is. We have not been told about the state of prosecution and interception of the very well-seasoned chicken parts, in which marijuana was found all throughout the container, which was intercepted

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before it was taken to its destination. We are not told whether it is true that a chairman of a certain state board is the owner of the company to whom that container was consigned. We are not told about the state of prosecution against Raldon Construction, Gopaul and Company, in respect of offences including potential larceny of state goods from the National Quarries Limited. You see, there is one standard in Trinidad and Tobago for some, and another standard for others. [*Desk thumping*]

The citizens of this country, as we are talking about narcotics and psychotropic substances, call this Government “ah two-pull Government”. [*Desk thumping*]

Mr. President: Hon. Senators, the speaking time of Sen. Al-Rawi has expired.

Motion made: That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Mr. President. [*Desk thumping*] I do not mean to be pejorative. I do not mean—as I get the caution of really in a deep humble tone behind me. [*Laughter*] But I think that there is a lot of merit in Sen. Dr. Balgobin’s style of being frank in discussion. I am saying what I have heard in San Fernando West, as I walk the streets in the depressed communities there. [*Desk thumping*] I am hearing the words of people who are being invited to accept certificates of comfort which are worthless in law.

Sen. G. Singh: Why did you do it when you were in Government?

Sen. Robinson-Regis: Because they were not worthless at the time.

Sen. F. Al-Rawi: Mr. President, I sat as a member of the Board of Directors of the LSA, and I could tell you, the LSA whilst I was there, never issued a certificate of comfort, because we have legal authority [*Desk thumping*] and opinion to say it is unlawful. It is worthless. We do not perpetuate frauds on the people of Trinidad and Tobago.

But, Mr. President, here is what we have. We have here a provision of enforcement, Part IV of the Bill. Clause 15 is bifurcated, it is split in two. Essentially, you can have any designated officer entering premises with a warrant; that is good. But clause 2, Part II, 15 Part II says:

“A police officer or Customs officer”—may enter and do certain things by entering—“by day or night, without a warrant...”

That situation of the customs and police, allows an officer in exercise of his duty to do and take anything:

“seize and detain any electronic device register, book, record, other document or information, however stored, electronically or otherwise, and kept for the purpose of...this Act;”—interview suspects.

What I do know is, that the Laws of Trinidad and Tobago and the comparative laws in Caricom in particular, all say that you may enter certain premises during reasonable working hours without a warrant. They do say that if you are entering a dwelling home, that you must go and get a warrant. They do say by way of proportional balance, that you should, if you are entering, with or without a warrant, you must submit a report of your search and seizure to a magistrate or judicial officer. That is borrowing from the law of Anton Piller, as my friend Sen. Lalla is well aware, where there is a balance where a supervising officer of the court, makes sure that the search and seizure is not excessive.

We have Mr. Persad, Surajdeen Persad, Assistant Commissioner of Police today, seconded to the SSA, who wrote to the Prime Minister, breaking his line of authority. And we are giving him the power [*Desk thumping*] to enter any place, by day or night, [*Continuous desk thumping*] and seize and take anything. So my red flag is waving. My white flag is waving for the citizens of Trinidad and Tobago as well, hundreds of people losing their jobs because they supposedly linked to the PNM.

Mr. President, what are we doing here in clause 15 of the Bill? Are we being proportionate? Are we being balanced? Should we qualify the excessive powers and privileges available to a police officer or a customs officer, by giving some degree of balance and making the recommendation that they ought to report to the court, that they should make sure that if it is a dwelling home, they go and get a warrant? A warrant is an easy thing to get ex parte before a magistrate or justice of the peace.

The reason why you have a warrant is to clothe the officers with protection of the law, but to give the citizens the right to say that the warrant may or may not have been unlawfully obtained and, therefore, provide balance. It is why warrants are also balanced in terms of the life span of a warrant, which other bits of legislation comparative in nature tell us, warrants last for six months. In the Bahamas, I believe it is one month that the life of a warrant is for, after that go and get another warrant. It cannot exist by way of judicial direction or judicial rules only where it is debateable. Let us prescribe the laws carefully and balance the laws, Mr. President.

Let us look to clause 18 of the Bill. Clause 18 of the Bill allows for analysis. Look at 18(3):

“Where the results of the analysis show specified chemical substances, the sample and certificate or report shall be taken to the Magistrate by the officer.”

Well, what happens if it does not show that?

Does it go to the magistrate? The law does not say that. The law says only if it is positive do you take it to the magistrate; not if it is negative. How are you balancing the rights of the citizens to at least champion and prosecute the defences at law? We should have balancing provisions in the legislation.

3.45 p.m.

Look at that same 18(3), where is there a disclosure to the defendant, Mr. President? It is true that one can have disclosure coming during their course of a criminal prosecution and that you must have disclosure, but what about the uninformed person, the person who is on legal aid or not yet on legal aid?

Sen. Lalla: There are good legal aid lawyers.

Sen. F. Al-Rawi: Yes, there are good legal aid lawyers, but we cannot rely upon the exceptions in terms of—they are good lawyers, but they are drowning with volume—accessibility. We are paying our legal aid lawyers peanuts to represent citizens. [*Desk thumping*] The quality of arms is not equal when defence attorneys can roll up, sometimes represented by legal aid, sometimes represented by million-dollar attorneys.

What about clause 19? Is it that you should come before the magistrate just generally or should it be as soon as is practicable? I have dealt with clause 20, but look at clause 19(2).

“Notwithstanding any other written law, unless the Court otherwise directs, any device, apparatus...which is a specified chemical equipment”—I am not very happy with the use of ‘a specified chemical equipment’ linguistically, but anyway ‘a specified chemical equipment’—“...at the expiration of six months”—it may—“be forfeited to the State...”

And look now, as I jump from 19 across to the provisions on forfeiture. Look at clause 20(4), where the prosecutor of an offence under this Act applies for forfeiture, he must give certain notice, but he is not required to give notice if the seizure was made in the presence of the owner or any employee or agent of the owner.

Are we really satisfied with that? The policeman gets to roll up and says, “Listen to me, we did not need to serve you with any notice because you had an employee four years ago when this thing was seized. We took his name. The employee witnessing the employee cannot be found. The employee has run for cover. The employee migrated.” Property just so disappears?

Why are we diluting this provision? Now, I have seen this in the laws of Barbados. I have seen it in the laws of Jamaica, but there is an essential difference between the architecture of their laws and the architecture of our laws. In every comparative law that we seek to use today, the licensing aspect and the regulation of precursor chemicals is in one unified piece of law. We are far from the Attorney General’s submission. We are not bringing everything under one roof.

We have the Minister of Health, supervising the CMO, the Chief Medical Officer. The Ministry of Agriculture, now Ministry of Food Production, dealing with the Chief Technical Officer of that Ministry. We have the SSA falling under the Ministry of National Security. We have the Proceeds of Crime falling under the National Security and the Ministry of the Attorney General. We have the FIU under the Ministry of the Attorney General or Ministry of Finance and the Economy—it used to be Attorney General, now finance—and all of these laws have to operate in one position.

Mr. President, what we have done is to confuse the Laws of Trinidad and Tobago. What we should really be doing is to take the things which are capable of being dealt with by regulations, we should be putting those in regulations made under the SSA Act as it is.

We should also be amending the Dangerous Drugs Act as it is. We should be leaving the precursor chemicals provision in Part IIA, beginning with section 6 of the Dangerous Drugs Act, and we should be ameliorating that provision where, under that law, we have a reversal of burden of proof. We have certain presumptions. We have forfeiture of assets in certain circumstances.

We should be immediately amending Act No. 15 of 2014, the Proceeds of Crime Act, which was just assented to in October and we should be delinking the predicate offence of needing a conviction under clause 20 of this Bill to cause forfeiture of property, delink it so that if there is a commission of an offence, if you are charged with the offence, you can be treated in the same way as money laundering is treated under this legislation.

You cannot just come here and make it up as you go along. There has to be some degree of architectural coordination. The laws must flow together with each other. The SSA has the ability to make its own provisions by way of regulations,

but do we really need to take some of the merit of the Dangerous Drugs Act and put it into an orphan piece of legislation, leaving behind offences for regulations, leaving behind due process?

Why is it this messy? How are you going to figure out the laws of Trinidad and Tobago? I wish to God Almighty I could know how many of us read all the laws that we were supposed to read to make sense out of this Bill. I would love to know because this requires a three-fifths majority and if we do not appreciate the Dangerous Drugs Act, the Proceeds of Crime Act, the Financial Intelligence Unit, the Pesticides and Toxic Chemicals Act, the Food and Drugs Act, what are we doing? Are we being irresponsible?

Mr. President, I have serious concerns. Look at this one. You can amend Schedule 1, Schedule 2 by order. Those are the precursor chemicals listed from time to time by the international agencies. Schedule 4 prescribes Consequential Amendments. Schedule 4 has not dealt with consequential amendments, for instance, the amendment of “definitions” in the Food and Drugs Act and the Pesticides and Toxic Chemicals Act.

After all, the definition of “precursor chemicals” stands alone as it does. “Drug”, as identified under the Pesticides and Toxic Chemicals Act, is not amended. What is amended under the Pesticides and Toxic Chemicals Act is only to include the head of the Precursor Chemicals Unit as a member of the board. So you have one definition for drug under the Pesticides and Toxic Chemicals Act. You have another definition in the Dangerous Drugs Act, which we have amended consequentially by this Bill and you have another definition inside of this Bill. Have we really looked at all of the laws to make sure they are in harmony with each other? You know the answer to that is no.

I was on the schedules. You can amend Schedule 1, Schedule 2. There is no mechanism to amend Schedule 3. Schedule 3 is with us for time immemorial unless we come back to Parliament and move this entire Senate to amend Schedule 3. And what is Schedule 3? Schedule 3 is the data set. It is the data which must be shared with other members of agencies in Trinidad and Tobago—the police, customs, food and drugs, Ministry of Food Production.

Why are we not giving the privilege of flexibility to amend Schedule 3? Did the LRC spot that? Did Cabinet spot that? And I know my good friend, the hon. Attorney General, will come here and say I was criticizing the people that drafted this Bill, the draftsmen who work for the Ministry. I am not doing that, Mr. President.

This Bill has been in iterations since 2009, 2010, 2011, 2012, 2013, at the cusp of 2015. This is Precursor Chemicals Bill (No. 2), not No. 1. So, Mr. President, as legitimate as the aim of this Bill is, I do not think that we are in a position, if we genuinely reflect upon the content of the Bill, to pass this law today. I do not know what the Government's position will be, respectfully. I pray that the Independent position will be as it always is, which is robust, independent and with an open mind.

We would like to support the legislation. The aim is good, but unfortunately it falls a little short of where we ought to be as a Parliament and as a people and I think we need to have better explanation from the Government.

There is one thing that I would humbly request before I take my seat, and that is, the hon. Attorney General referred to the existence of a report. He said that there was a report put together by a precursor committee. I think that that would be a very useful report for this Parliament to see, so that we know that we are finding the right medicine for the ailment because that medicine is a controlled substance, same way these laws are controlled laws by requiring a three-fifths majority of this Parliament. [*Desk thumping*]

We have got to make sure that we do good work for the citizens of this country. The PNM support is guaranteed if we get it right. Let us get there together, not apart. Thank you. Mr. President. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. President. Thank you colleagues. It might be a bit surprising that I would be the first on the Independent Bench to speak on this very sensitive topic, but I assure you there is a lot of economics in here though one may not be aware of it.

As a prelude, I think first it is very good that the Government has brought this Bill and I am hoping this would be an introduction and not the first of our general view of the narcotics industry. Across the world, we know that there is a rethinking about cannabis—marijuana—and its uses in various jurisdictions.

I was reliably advised that in this country there is no possibility of a medical doctor prescribing cannabis—marijuana—for asthma or for the various types of cancer for which it is used simply because there is no pharmacy that is going to sell it or no pharmacy that is licensed to sell this as a medicine. So I think we need to be looking at this and other subjects in more detail to see exactly what can be the best laws in the interest of Trinidad and Tobago.

In relation specifically to precursor chemicals, one understands the need for the legislation. These chemicals can and have been used in large countries, like the United States, to produce large quantities of the undesirable narcotic substances which can have serious medical side effects and which can cause harm to the society.

These chemicals, sold in large quantities, can be used by large-scale laboratories to produce these items for sale and we know that if there are laws in one country to prevent the diversion of these chemicals, then other countries without such legislation can be open to be used as production facilities, which can then be transported to countries for which these laws are in existence. So one understands the need for Trinidad and Tobago to have this precursor chemical law so that legitimate chemicals used in legitimate operations to produce legitimate products like paint and perfume and plastics do not find themselves in uses for which they were not originally intended.

I think there are few of us who can have an issue with the intent of the legislation, but the problem, Mr. President—as established by the hon. Attorney General in piloting the Bill—really is the ability of the producers of these substances to circumvent the law and to find ways to get around legislation or to get around customs.

4.00 p.m.

So, we were advised by the hon. Attorney General that no longer are smugglers filling the ceramic containers with the powdered cocaine, they are simply making the containers not out of ceramics, but out of the cocaine itself, and there is a good reason for that. The reason for that is that the profit margins happen to be very high.

Mr. President, I would like to read from a particular article with respect to profit margins to emphasize my point. It is from a PBS document, pbs.org, from Oriana Zill and Lowell Bergman. It says:

“What keeps the drug industry going is its huge profit margins. Producing drugs is a very cheap process. Like any commodities business the closer you are to the source the cheaper the product. Processed cocaine is available in Colombia for \$1500”—US—“dollars per kilo and sold on the streets of America for as much as \$66,000 a kilo... Heroin costs \$2,600/kilo in Pakistan, but can be sold on the streets of America for \$130,000/kilo...And synthetics”—and I want to focus on this one, Mr. President—“like methamphetamine are often even cheaper to manufacture costing approximately \$300 to \$500 per kilo to produce in clandestine labs in the US and abroad and sold on US streets for up to \$60,000/kilo...”

I would like to repeat the last sentence:

“And synthetics like methamphetamine are often even cheaper to manufacture costing approximately \$300 to \$500 per kilo to produce in clandestine labs in the US and abroad and sold on US streets for up to \$60,000/kilo.”

The economics there is very simple, Mr. President. The production cost of a kilo of methamphetamine—what we know as crystal meth—is 1 per cent at most of the retail value of the drug.

Mr. President, when I look at the Schedule, I see some drugs here that would immediately cause—that is Schedule 1 of the Bill—some eyebrows to be raised. If someone were simply to ask for some anthranilic acid and ergotamine and ethylamine you would look—and he is a regular guy with no knowledge of Chemistry—at him rather suspiciously. But suppose that one observes an individual going to a hardware store, and he picks up a container of paint thinners and a can of Drano or liquid lye drain cleaner—and I see Sen. Ramnarine looking at me very curiously because he knows exactly where I am going—this has nothing to do with the chemicals on the list, but we have someone, because Sen. Ramnarine is an eminently qualified chemist [*Laughter*]

So, Senator, he buys a container of paint thinners, some liquid lye or drain cleaner and comes out with it—that is not in any way a controlled substance—he goes to the nearest scrapyard and asks for an old battery and gets some battery acid—sulphuric acid or whatever acid is contained in there—and on the way he passes by the agricultural shop and he gets a pound of dry ammonia to fertilize, anhydrous ammonia, and he walks to the supermarket and he gets a box of matches, and he then goes to the pharmacy and he buys three bottles of a cough syrup—[*Pretends to cough*] “I need three bottles, Mr. Pharmacist, of Sudafed”. What is he going to do with this collection of paint thinners [*Crosstalk*] drain cleaners? No, it is already on the Internet. It is already on the Internet and it is already widely available, and it is already made—battery acid, dry ammonia, a box of matches and bottles of Sudafed—what is he going to make? All of these are not the precursor chemicals we are talking about.

You see, Mr. President, given what the hon. Attorney General indicated, the individuals in the trade—and when the production cost is 1 per cent of the selling cost, you could understand why the first instinct of an operator in this business is to circumvent the law. Once we pass this law, which is a law we need to have on the books, which will make it difficult to operate large labs, we are going to find it

difficult to control the operations of smaller laboratories, where in a large laboratory the production cost may be 1 per cent of the selling price and in a small laboratory, the production cost may be 2 per cent and 3 per cent of the selling price.

Precursor chemicals: well with these compounds, you see, in Sudafed and many of these generic names—and I was advised do not say it, but I tell you all you have to do is go on the Net and type in: “How to make crystal meth” and it is there. Now, they will tell you the ingredients, but you need to have some chemistry training. The first thing we know in chemistry when we are diluting acids is that we never ever add water to acid. You do not do that. [*Laughter*] That happened in Presentation College, Chaguanas. A colleague of mine—I told the boy—he think he was smart and so on—I said: “Look fella, we are diluting sulphuric acid”—he wanted to put water in the container of acid—that acid behaved rather badly. What you do is you take a small drop of acid, and you put it in the prescribed amount of water and step back, and then the water will engulf the acid, because these chemicals are dangerous.

I am raising this to protect the health and welfare of our citizens, because there are people out there—wherever money is to be made, Mr. President—who will be drawn to highly dangerous activities. There are people who will ingest cocaine in the hope that they can then have it extracted in a foreign country. It is highly dangerous.

Sen. Dr. Henry: We know of one.

Sen. Dr. D. Mahabir: And Sen. Henry says: “We know of one” where the process, of course, did not go too right. And the problem with this what I am talking about is that the process will frequently go wrong. And, in particular, let us focus on the list of ingredients that I am speaking about; ingredients that you will find in a hardware store, you will find in an agricultural shop and in a scrapyard in a supermarket. It is not possible to ban the sale or even to regulate the sale. It is not possible to regulate the sale.

An over-the-counter drug is something that you are able to get simply to facilitate your cough and cold. There is something call Robitussin which is again on the Net. Again, I am not badmouthing any chemical, but these things, if you really want to get apparently one of those narcotic highs, you can use it because it contains a chemical called dextromethorphan, and as Sen. Ramnarine would know it, it has a formula $C_{18}H_{25}NO$, and taken in certain quantities it can do some things for you, and I would recommend to people do not go in that direction, use the thing for cough, and when the cough is done stop using it. Right?

But with these chemicals that I indicated—the matches, the ammonia, the battery acid, the drain cleaner, the paint thinners and the stuff you get from the pharmacy which contains ephedrine, which contains no ephedrine or the pseudoephedrine—all of these ephedrine compounds are then in those cough syrups, which can be used for legitimate purposes, but the problem is that in the hands of a trained operator, you can buy these chemicals, these goods, which contain the chemicals and then you can, via certain processes, go about extracting them, and you can produce crystal meth for them. It is the way to produce the methamphetamines in the United States, and it is highly dangerous because there are individuals who do not understand the chemical properties and the individuals who are recruiting people to produce in small quantities.

So while the law, Mr. President, is aimed at the large laboratory, it does not protect us from the following: it does not protect us from a bona fide chemist who is working in a bona fide laboratory which makes paint or perfume or plastics. All of these companies would have their laboratories, and I will not be surprised if you would have chemists who would love to work overtime. They love to do research, and when everyone leaves the compound they get on with some of these activities and they can make the methamphetamines; they can make the crystal meth. So you could use a legitimate laboratory, a legitimate chemist, on a private job because there is a lot of profit in the air, and we need to regulate the laboratories and to monitor the established ones.

I am sure the directors of the firms, recognizing that their bona fide labs can be used to make these illicit substances will keep a check on them and ensure that they are used only for the purpose of producing the legitimate plastics and not for crystal meth or any of the compounds which can be produced using these readily available compounds. Compounds are readily available products, legitimate products, which contain these products. Again, we are focusing on the fact that given the huge profit margin, and given the fact that it is going to really be cost effective to extract the raw materials from finished legitimate products, we need to be very much aware of this particular process.

What we have to be particularly careful about is the fact that once the larger laboratories have been closed because the larger labs no longer can obtain the huge amount of ephedrine as the AG indicated—he said from India someone imported I think a few hundred thousand tablets of this ephedrine thing. Well, ephedrine is the basic raw material in the crystal meth manufacture. So, someone somewhere out there in Trinidad and Tobago imported these tablets for uses other than cough and cold, and they were going to extract the ephedrine from the tablets

to use it with other easily available chemicals. We need to be cognizant of this, and be careful that in this particular law that the Government seeks to have passed, we do not create a diversion so that the production of these illicit substances are then undertaken by amateurs out there in the hope of making a quick profit.

I can see, for example, Mr. President, the possibility. I am thinking if I were in this business, and I cannot operate a large lab because I cannot get the chemicals easily, how do I still produce my meth? Well, I will simply subcontract smaller operators—young guys with some knowledge of chemistry—use the stove in your kitchen and a few pieces of equipment I will supply, produce it at the back of your house, and if I can get 100 guys to do that—if I can get 100 guys to go and buy the paint thinners and so on, and I then get their output on a weekly basis—you see, I am thinking like a drug cartel person here. This is what I would do.

4.15 p.m.

I would then get all that on a weekly basis—it may not be of the highest quality—and then I could have a facility to refine it. Given the possibility of circumventing the law, given the ease with which it is possible to make crystal meth and these items, given the technical capability of extracting these precursor chemicals from finished products, Mr. President, I am proposing an amendment to the law.

I am proposing as a solution that we give consideration—and Sen. Al-Rawi did allude under clause 21—he did indicate that he was not particularly happy with clause 21, with the way in which it was written. It says:

“A person who uses or causes another person to use a specified chemical equipment”—a “specified chemical equipment” could be a Bunsen burner or something like that—“or a specified chemical substance...”.

“Chemical substance”—it does not say that any chemical—I do not know if ammonia is a chemical substance or if Sudafed or Robitussin is a chemical substance. I know those are products, but suppose we are having someone using these products to make the illicit substances, how are we going to make it an offence?

What I have in mind is that it should be an offence for any individual to produce these items using store-bought products or readily available products as well, not only producing the products using precursor chemicals. You see, using the products making precursor chemicals as the base chemicals, is clearly against the law. But what we are doing here is that we are leaving it very vague as to someone who in a little part of his house makes some crystal meth using legitimate, bona fide products.

Mr. President, I am proposing for the hon. Attorney General's consideration, for the consideration of this honourable House, the following amendment to clause 21(a):

A person who uses a laboratory or operates a production facility or causes another person to use a laboratory or operate a production facility for the purpose of manufacturing narcotic drugs, psychotropic substances or other substances having a similar effect, commits an offence.

The reason for this amendment is this: I indicated "a person who uses a laboratory" and I have in mind a bona fide laboratory, a laboratory in existence in a school lab, a laboratory in a manufacturing facility, a laboratory in a paint factory. He may be a student at an education institution or an employee in a factory who is working after hours, unknown to the directors, unknown to the boss. That person is committing an offence, using the laboratory that ought to be used to make plastic bottles, to use paint thinners to make something else. I want to make that into an illegal act.

Then if the law says it is difficult to define what a laboratory is, someone who uses his kitchen, I am saying "or operates a production facility". By a production facility I mean any collection of equipment which can be used to extract these items to make the narcotics, using a bona fide laboratory or using something that de facto is as a laboratory, but cannot be considered by the chemist to be a laboratory, to make these offensive substances, is an offence—similar to the offence of distilling alcohol, bush rum or "babash" as we call it. It is supposed to be a crime to make bush rum using any collection of equipment; whether you are making it home or in a still somewhere in a backyard.

I am saying that it also should be in this law a crime to use a legitimate laboratory, because the law is very silent on laboratories or production facilities. We are very open on the chemicals, but the actual use of the chemicals, the combination of the chemicals in these labs is a very silent matter. Since we now know that there will be circumvention, and it is possible for a number of small operators out there to produce in small quantities, I am hoping that the Government will consider this particular amendment. So that, at least, while we cannot always be ahead of the game, at least we can make it a little more difficult for the operators to subcontract the work of crystal meth to small operators.

These small operators will earn minimum profits for what they produce, but they will be putting themselves to grave risk, because working with battery acid and working with ammonia and combining them can be a very explosive activity.

Precursor Chemicals (NO. 2) Bill, 2014
[SEN. DR. MAHABIR]

Tuesday, December 09, 2014

Many people have died and injured themselves, untrained people in these at-home labs. So I am hoping that we can look at the production facilities, the laboratory facilities to ensure that we can at least close this loophole in the law.

Mr. President, I thank you.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President. By agreement we had indicated that we would start this Bill and we would allow one speaker from each of the Benches and then we would adjourn. So in accordance with that agreement, I beg to move that this Senate do now adjourn to Tuesday, December 16, at 11.00a.m.

The Bill that we will deal with on that day is the procurement legislation. Mr. President, as you are aware nothing was changed, not a full stop, not a comma, not an exclamation mark. It is the same legislation we passed in this House previously.

Thank you, Mr. President.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.21 p.m.

Invitation by Mr. Speaker

Mr. President: Hon. Senators, before you depart, I am told that there are some arrangements made in the Members' Lounge by the Speaker that you might want to participate in. I therefore extend that invitation from the Speaker, if you wish to join in at this time. Thank you.