

HOUSE OF REPRESENTATIVES

Friday, February 08, 2019

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

JOINT SELECT COMMITTEE**(APPOINTMENT OF)**

Madam Speaker: Hon. Members, correspondence has been received from the President of the Senate dated February 05, 2019, which states as follows:

“Dear Honourable Speaker,

Establishment of Joint Select Committee

Your letter dated February 04, 2019 on the subject at caption.

I wish to advise that at a sitting held on Tuesday February 05, 2019, the Senate concurred with the House on the establishment of a Joint Select Committee to consider and report by March 31, 2019 on the National Statistical Institute of Trinidad and Tobago Bill, 2018; and the following six Members were appointed to serve on the Committee:

1. Mr. Clarence Rambharat
2. Ms. Paula Gopee-Scoon
3. Dr. Lester Henry
4. Mr. Taharqa Obika
5. Ms. Amrita Deonarine
6. Ms. Charrise Seepersad

UNREVISED

Accordingly, I respectfully request that the House of Representatives be informed of this decision at the earliest convenience please.

Respectfully,

Sen. The Hon. Christine Kangaloo

President of the Senate”

PAPERS LAID

1. Audited Financial Statements of the National Information and Communication Technology Company Limited for the financial year ended September 30, 2018. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]
To be referred to the Public Accounts (Enterprises) Committee.
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2011. [*Hon. C. Robinson-Regis*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2012. [*Hon. C. Robinson-Regis*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2011. [*Hon. C. Robinson-Regis*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the San Juan/Laventille Regional Corporation for the year ended September 30, 2012. [*Hon. C. Robinson-Regis*]
Papers 2 to 5 to be referred to the Public Accounts Committee.
6. Ministerial Response of the Ministry of Health to the Sixth Report of the Joint Select Committee on Social Services and Public Administration on an

- Inquiry into Mental Health and Wellness Services and Facilities in Trinidad and Tobago. [*Hon. C. Robinson-Regis*]
7. Ministerial Response of the Ministry of National Security to the Sixth Report of the Joint Select Committee on Social Services and Public Administration on an Inquiry into Mental Health and Wellness Services and Facilities in Trinidad and Tobago. [*Hon. C. Robinson-Regis*]
 8. Response of the Personnel Department to the Fifteenth Report of the Public Accounts (Enterprises) Committee on the examination of the Audited Accounts, Balance Sheets and other Financial Statements of the Youth Training and Employment Partnership Programme for the financial years 2008 to 2014. [*Hon. C. Robinson-Regis*]

PRIME MINISTER'S QUESTIONS

Central Block of POS General Hospital (Construction Programme by Chinese Company)

Dr. Fuad Khan (*Barataria/San Juan*): Did the Prime Minister deliberately shut down the Central Block of the Port of Spain General Hospital in order to facilitate another Chinese company takeover of our construction programme?

Madam Speaker: Prime Minister.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. That question is ridiculous. As a former Minister of Health, the hon. Member for Barataria/San Juan will know that since 2009 there was a report from the Pan American Health Organization on the impact of a seismic event on the Central Block at Port of Spain General Hospital where it was indicated that if the Central Block suffered a seismic event of the order of 7.0 on the Richter scale, there could be a catastrophic collapse. There is also the Aron

Bush report that supports that view. All of this is well known to the hon. Member for Barataria/San Juan, therefore the question is ridiculous.

Madam Speaker: Supplemental? Member for Barataria/San Juan.

Dr. Khan: Prime Minister, I notice you did not answer the other part of the question. Is it not suspicious that the Central Block tender was changed from a PPP model to a Government-funding model without re-tendering?

Madam Speaker: Member for Barataria/San Juan, one, this is not part of the question, but I also rule that this is not supplemental. Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. Would the Acting Prime Minister indicate the process whereby the Chinese company was procured? And, Madam Speaker, can the Acting Prime Minister say that the question is ridiculous, having been approved by the Chair? That is contempt of the Chair. [*Desk thumping*] We should not allow that.

Madam Speaker: Member for Oropouche East, I do not rule that as a supplemental question. Member for Barataria/San Juan.

Central Block of POS Hospital (Hurry to Decant)

Dr. Fuad Khan (*Barataria/San Juan*): Could the Prime Minister indicate why the hurry to decant the Central Block of the Port of Spain General Hospital, after it withstood a 6.9 magnitude earthquake on the Richter scale?

Madam Speaker: Prime Minister.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Similarly, Madam Speaker, the hon. Member for Barataria/San Juan, being a former Minister of Health, is well aware of the technical and engineering reports on the Central Block of the Port of Spain General Hospital, and during his tenure would have received many communications on this matter and have viewed the

Aron Bush Report and the PAHO Report and be intimately familiar with same. The fact of the matter is, Madam Speaker, which I am sure the Member for Barataria/San Juan is well aware since it has been widely publicized, after the earthquake last year, the staff and the patients who occupied the Central Block and their families indicated their complete unwillingness to continue to occupy the building.

This view was also expressed by the Trinidad and Tobago Medical Association and the Trinidad and Tobago Registered Nurses Association. In fact, Madam Speaker, only within the last few days was there an article in the newspapers indicating the anxiety of the staff with respect to the occupation of the Central Block. It is, therefore, in my view, absurd to suggest that this Government was in any hurry to decant the Central Block. In fact, we acted wisely, safely, professionally, efficiently, in the interest of the people of Trinidad and Tobago.
[Desk thumping]

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Dr. Khan: Prime Minister, are you aware that those reports have said that the Central Block will not withstand a major earthquake, and it did?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Madam Speaker, the reports, as I indicated, have said that the Central Block at Port of Spain—and this is a report done in 2009. The hon. Member for Barataria/San Juan became the Minister of Health in 2010 and, therefore, he would have had sight of this report. The PAHO Report indicated that the Central Block is seismically unsafe if there is an earthquake of 7.0 magnitude or above. Everybody knows that.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Dr. Khan: Prime Minister, are you aware that the premature decanting of the Central Block has sent the Port of Spain General Hospital patients into total disarray; surgeries are cancelled and nothing is being done; doctors are twiddling their thumbs and patients are being sent all over the place in an ad hoc manner?
[Desk thumping]

Madam Speaker: I do not allow that as a supplemental question. Member for Caroni East, supplemental?

Dr. Gopeesingh: Yes.

Madam Speaker: Member for Caroni East.

Dr. Gopeesingh: On the decanting of the Port of Spain Block, Acting Prime Minister, what satisfying arrangements were made for the 500 patients who were in beds, occupying the hospital? What satisfying arrangements were made on the decanting?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Madam Speaker, yesterday at the post-Cabinet conference, the Minister of Health—[Interruption]

Madam Speaker: There is some Member whose device is disturbing the proceedings. Could you kindly just go out, secure your device in the proper way and one could return? Prime Minister.

Hon. C. Imbert: Caroni Central as usual. Madam Speaker, just yesterday the Minister of Health at the post-Cabinet press conference answered that question. Appropriate arrangements have been made to deal with the patients that were decanted from the Central Block which I am told was of the order of 300 and not 500.

Madam Speaker: Member for Caroni East.

Dr. Gopeesingh: Supplemental?

Madam Speaker: Supplemental.

Dr. Gopeesingh: Are you aware then that those arrangements are not satisfying the health needs of the population and the mortality and morbidity has increased subsequent to that?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Thank you, Madam Speaker. As I indicated, appropriate arrangements were made. I am sorry, based on the information given to me by the Minister of Health, I reject all of the assertions made by the Member for Caroni Central. [*Desk thumping*] I do not believe a word he just said.

**Construction of Central Block of POS Hospital
(Change of Rules of Tender)**

Dr. Tim Gopeesingh (Caroni East): Could the Prime Minister indicate why were the rules of tender changed during the tendering process for the construction of the Central Block of the Port of Spain General Hospital, from a financing model to a pricing model?

Madam Speaker: Prime Minister.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Madam Speaker, I am advised that the rules of tendering were not changed.

Madam Speaker: Supplemental. Member for Caroni East.

Dr. Gopeesingh: Could the Prime Minister indicate whether a financing model or a pricing model was used for the tender rules, or both?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Madam Speaker, as far as I know, contractors were invited to tender and submitted bids for the cost of construction.

Madam Speaker: Supplemental, Member for Caroni East.

Dr. Gopeesingh: Would the Acting Prime Minister take responsibility for his first answer to this question?

Madam Speaker: I will not allow that as a question. Member for Princes Town.

**Humanitarian Crisis in Venezuela
(Trinidad and Tobago's Position)**

Mr. Barry Padarath (*Princes Town*): Madam Speaker, through you to the hon. Acting Prime Minister: Could the Prime Minister state what is Trinidad and Tobago's position on the Nicholas Maduro regime's refusal and blockage of aid to the people of Venezuela in this humanitarian crisis?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. Trinidad and Tobago's position is the same as the rest of Caricom and many other countries, which is a position of non-intervention and non-interference. As is public knowledge, the substantive hon. Prime Minister is with other Caricom leaders in Uruguay dealing with an approach to the Venezuelan situation. There has been dialogue between a number of countries. There has been dialogue between the parties in Venezuela and we, in Trinidad and Tobago, hope that this matter will be resolved peacefully and quickly in the interest of people of Venezuela. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Princes Town.

Mr. Padarath: Thank you, Madam Speaker. To the hon. Acting Prime Minister: Can the hon. Acting Prime Minister indicate whether or not the Government of Trinidad and Tobago now recognizes that there is a humanitarian crisis in Venezuela or do they hold to their original position that there is no humanitarian crisis in Venezuela?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Thank you, Madam Speaker. As I indicated, Trinidad and Tobago's position is one of non-intervention and non-interference, but we hope and pray for a speedy and peaceful resolution to the situation in Venezuela. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Princes Town.

Mr. Padarath: Madam Speaker, and I want to confirm with the hon. Acting Prime Minister that the Government of Trinidad and Tobago is saying that they not recognize that there is a humanitarian crisis in Venezuela. That is what he said.

Madam Speaker: That question was asked and I believe the Prime Minister answered. Member for Princes Town.

**Public Condemnation by Ambassador Mondello
(Communication of Displeasure by Prime Minister)**

Mr. Barry Padarath (*Princes Town*): In light of his public condemnation of statements made by United States Ambassador Mondello on the position that Trinidad and Tobago has taken in the Venezuelan crisis, could the Prime Minister indicate whether he has formally communicated his displeasure of Ambassador Mondello's statements to the Secretary of State and the President of the United States through official diplomatic channels?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank

you, Madam Speaker. Trinidad and Tobago and the United States have a very rich history. Diplomatic relations were first established on the 31st of August, 1962, when the United States of America recognized the independent country of Trinidad and Tobago. On that same day in 1962, the United States established the American Embassy in Port of Spain with Mr. Williams Christensen as the first Charge D'Affaires ad interim. The first US Ambassador to Trinidad and Tobago was

Robert Miner who presented his credentials on December the 1st, 1962. The United States remains a very important and very strategic partner of Trinidad and Tobago. It is one of our allies and friends. We have not made any formal complaint to the authorities in the United States. [*Desk thumping*]

Madam Speaker: Member for Couva South, your voice is reaching the Chair. I will just ask you to please check your volume. Member for Princes Town, supplemental.

Mr. Padarath: Thank you, Madam Speaker. Madam Speaker, to the hon. Acting Prime Minister: Could the hon. Acting Prime Minister say whether or not the Government intends to formally complain similarly, the way in which they did about the United Nations representative, Richard Blewitt to the UN? Do they similarly intend to make a formal complaint through diplomatic channels?

Madam Speaker: Prime Minister.

Hon. C. Imbert: Thank you, Madam Speaker. As I indicated, there has been a long and rich partnership between the United States of America and the Republic of Trinidad and Tobago. We are partners and we are allies and we have made no complaint to the US authorities about Ambassador Mondello. They are our allies and our partner. [*Desk thumping*]

Madam Speaker: Supplemental, Member for Princes Town.

Mr. Padarath: Thank you, Madam Speaker. Madam Speaker, to the hon. Acting Prime Minister: Could the hon. Acting Prime Minister indicate whether the US has formally expressed its displeasure with the continued support of Nicholas Maduro as President of Venezuela through official diplomatic channels to the Government of Trinidad and Tobago?

Madam Speaker: Prime Minister.

Hon. C. Imbert: I am in no position to answer that question, Madam Speaker, but I wish to reiterate that the United States is one of our strongest allies and partners.

[Desk thumping]

**Finance Mechanism
(Construction of Central Block)**

Dr. Roodal Moonilal (Oropouche East): Could the Prime Minister indicate what financing mechanism is in place to fund the construction of the \$1 billion Central Block wing for the Port of Spain General Hospital?

Madam Speaker: Prime Minister.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. And, Madam Speaker, I omitted to say with respect to questions 1 and 2 to the Prime Minister, that the Government in its ongoing effort to cut out waste, corruption and mismanagement, has saved this country \$600 million with respect to the Central Block. *[Desk thumping]* And having saved \$600 million in the construction of the Central Block, the Government of Trinidad and Tobago will finance the construction through loan financing. *[Desk thumping]*

Madam Speaker: Supplemental, Member for Oropouche East.

Dr. Moonilal: Could I ask the hon. Prime Minister, if you built nothing so far at the Central Block, how you save \$650 million? *[Desk thumping]*

Hon. C. Imbert: Madam Speaker, it is quite likely that if the UNC was in power, they would have paid \$1.6 billion for the Central Block. We have saved \$600 million in terms of the procurement process. We could have spent 1.6, but we chose to save the people of this country \$600 million. *[Desk thumping]*

1.50 p.m.

Dr. Moonilal: Thank you very much for the Imbert economics. Could the Minister indicate for us where the Government intends to seek loan financing for this

project from?

Hon. C. Imbert: Locally.

Dr. Khan: Prime Minister, could you tell me exactly where you got that \$1.6 billion figure from? Where did you get that from? [*Crosstalk*]

Madam Speaker: One question at a time please, Members.

Hon. C. Imbert: Madam Speaker, as I indicated, the second bid was \$1.6 billion. We are going with the first bid of a billion dollars, [*Laughter*] which is clearly bothering Members opposite. [*Crosstalk*]

Madam Speaker: Order! Order!

Hon. C. Imbert: Madam Speaker, if I did not know any better—[*Interruption*]

Dr. Khan: Sorry.

Madam Speaker: Member for Barataria/San Juan, I am sure if you want to ask a supplemental—

Dr. Khan: Can I get a next one?

Madam Speaker: I am sure if you want and you catch my eye, you will be allowed.

Dr. Khan: Can I get another supplemental?

Madam Speaker: But in the meantime—and I am sorry, you know much better than to speak to me from that position, but I think we all need to give the Prime Minister an opportunity to answer the question. Prime Minister.

Hon. C. Imbert: Madam Speaker, I am getting the impression that the Members opposite would want us to give the contract to the highest bidder at \$1.6 billion. This appears to be the line of questioning. You want us to award the contract to the highest bid at 1.6. We are awarding the contract at \$1 billion, saving \$600 million. You can lobby all you want.

Dr. Rambachan: Thank you, Madam Speaker. Prime Minister, are you willing to

make available the bill of quantities for the project so that an independent assessment of the bill of quantities can be done in light of the Government's view for transparency and accountability?

Hon. C. Imbert: We in the Government are satisfied that the state enterprise that has managed this procurement, the Urban Development Corporation of Trinidad and Tobago, has engaged and applied all the necessary technical expertise and analysis in terms of costing, in terms of technical capability, in terms of value for money, in terms of efficacy, in terms of transparency, and we are satisfied that we should award the contract to the lowest bidder at \$1 billion. If the other side wants to award the contract at \$1.6 billion, I am afraid that is outside of your purview.

[Desk thumping]

**Meeting in Uruguay
(Outcome of)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Could the Prime Minister indicate what was the outcome of the recent meeting in Uruguay?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. The substantive hon. Prime Minister, Dr. Keith Rowley, together with the Prime Minister of Barbados and the Prime Minister of St. Kitts, together with officials from Caricom and our Minister of Foreign and Caricom Affairs, among others, met with the Governments of Mexico and Uruguay, and out of that has come a position called the Montevideo Mechanism which starts with dialogue and ends up with a peaceful resolution of the Venezuela situation.

In addition, Madam Speaker, the Prime Minister of Trinidad and Tobago, together with his Caricom colleagues, also met with a representative of the European Union with respect to coming up with a solution to the Venezuela

situation, and from our information the member states in the European Union are now moving more to the middle in terms of moderation with respect to this position. Again, we hope for a peaceful and speedy solution to the Venezuelan situation. [*Desk thumping*]

Mr. Charles: Thank you, Madam Speaker. To the Acting Prime Minister: As you say, the Montevideo understanding, how could it imply that they are facilitating dialogue when one of the main parties, Juan Guaidó, says he is not, under no circumstances, prepared to engage in discussions?

Hon. C. Imbert: Madam Speaker, it is in fact the mechanism for Montevideo, not the understanding, and Uruguay and Mexico have come together with Caricom, and also with the European Union to fashion a solution to the Venezuela situation. We pray and hope for a speedy and peaceful solution to the Venezuela situation.

Mrs. Gayadeen-Gopeesingh: Hon. Prime Minister, is it that the heads of Caricom are really trying hard to remain relevant?

Madam Speaker: I will not allow that as a supplemental question. Member for Oropouche East.

Dr. Moonilal: Thank you very much. [*Crosstalk*] To the hon. Prime Minister, if his colleagues would keep quiet. Is the Prime Minister aware that neither former President Maduro nor interim President Guaidó has signed on or support any decision in Uruguay?

Hon. C. Imbert: Madam Speaker, I am not aware of anything of which the Member has just spoken.

**Mission in the UAE Rather Than Guyana
(Prioritizing of)**

Mr. Rodney Charles (*Naparima*): Could the Prime Minister give reasons for prioritizing the opening of a mission in the UAE, United Arab Emirates, rather than in Guyana?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Madam Speaker, the question is based on a false premise; not surprising. The Government of Trinidad and Tobago has taken a decision to open an embassy in Guyana.

Mr. Charles: Well, the question was prioritizing. What was the reasoning—because in this year's budget there is no allocation for a Guyana mission [*Desk thumping*] but there is an allocation for one in the United Arab Emirates. What is the reason for the prioritization and the late development of a mission in Guyana?

Hon. C. Imbert: Madam Speaker, again, the supplementary question is based on a false premise. The Government is moving with dispatch and with all possible speed to open an embassy in Guyana.

Mr. Charles: Could the Acting Prime Minister tell us what policies and with what accompanying action plans are in place to deepen our relations with Guyana?—our energy relations.

Madam Speaker: I am not going to allow that as a supplemental question. Member for Naparima.

**Senior Officials at Caracas Embassy
(Details of)**

Mr. Rodney Charles (Naparima): Thank you, Madam Speaker. Could the Prime Minister indicate the positions held by the three most senior officials of our country's embassy in Caracas, and whether he is satisfied that they are capable of keeping his Government abreast of the changing dynamics on the ground?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you, Madam Speaker. The positions held by the three most senior officials at the Embassy of the Republic of Trinidad and Tobago in Caracas are as follows: Chargé d'Affaires, acting; Foreign Servicer II, acting; Immigration Attaché;

Immigration Officer IV; Foreign Service Executive Officer II.

The Ministry continues to receive daily updates on the situation in Venezuela in a timely fashion. The updates have been accurate and are often provided several times a day based on changes in the situation on the ground in Venezuela.

Mr. Charles: Thank you, Madam Speaker. Given the significance and the importance of our relations with Venezuela, is the Acting Prime Minister satisfied that the FSO II level is sufficiently skilled and competent and experienced to keep us informed of the developments in Caracas?

Hon. C. Imbert: Thank you, Madam Speaker. Just let me repeat. The three most senior positions are Chargé d'Affaires, Immigration Attaché, Financial Attaché, and we are satisfied that these three individuals are suitable, adequate, competent, and are providing us with all of the necessary information that we require and are doing all that is necessary at this time to keep the Government of the Trinidad and Tobago informed and aware of developments in Venezuela.

Mr. Charles: Could the Acting Prime Minister apprise this House of some of the changing dynamics on the ground on which we have been alerted to by the embassy staff; and have they in any way impacted on our efforts, our mediation efforts, with Venezuela?

Hon. C. Imbert: Madam Speaker, it would be difficult with any degree of specificity to indicate exactly what information we get from the three officers on a daily basis. Suffice it to say, we get information on a daily basis. It is timely, it is accurate, and it is helpful.

Mr. Charles: Did the Prime Minister get any information of the dynamics of the relationships between the people on the ground in Venezuela and their perceptions of the way we are treating Venezuelans in Trinidad and Tobago?

Madam Speaker: Member for Naparima, I am not going to allow that as a supplemental question.

**Government's Stance
(Issuing of Visas)**

Mr. Rodney Charles (*Naparima*): To the Acting Prime Minister: Given that Haitians, who are fellow Caricom citizens, have to obtain visas to visit our country and Venezuelans do not, is the Prime Minister reviewing the Government's stance on this matter given recent developments?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): This matter is under constant review and an appointment will be made at an appropriate time.

Hon Member: Wrong answer to the question.

Madam Speaker: Member for Naparima, you have a supplemental question?

Mr. Charles: Yes.

Madam Speaker: Supplemental.

Mr. Charles: Which appointment?—we are talking about a policy shift—*[Crosstalk]*—well, I would like to hear the apology.

Hon. C. Imbert: My apologies. My understanding, this is question 10.

Mr. Charles: Yes.

Hon. C. Imbert: My understanding that the position with respect to visas for Haitian citizens has been in place for decades. It is an established position that has been there for a very, very long time. However, Trinidad and Tobago granted visa-free access to holders of Venezuelan, diplomatic, official and service passports in May 1989, and following that there was a visa waiver agreement between the

Republic of Trinidad and Tobago and the Government of the Republic of Venezuela in August 2002.

So the question of Venezuelans being allowed to enter Trinidad and Tobago without visas has been in force for the last 16 years, and the question of diplomatic, official and service passport holders from Venezuela has been in force since 1989 when the UNC was in government. And with respect to the Haitians—I am also advised there has been an update in 2008. Visa requirements for Haitian citizens are administrative entry restrictions by the immigration authority of other States placed on citizens of Haiti. It is considered the weakest passport in Latin America for travelling. In 2008, bearers of Haitian diplomatic, official or service passports do not require visas.

**Ambassador to Venezuela
(Appointment of)**

Dr. Tim Gopeesingh (*Caroni East*): With respect to the continuing vacancy of a Trinidad and Tobago Ambassador to Venezuela, could the Prime Minister state when such appointment would be made in light of the worsening economic and political crisis in that country?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): As I indicated, this matter is under constant review and an appointment will be made at the appropriate time.

Dr. Gopeesingh: Based on the general answer that most people give, when would you consider it appropriate time?

Hon. C. Imbert: I do not think I could say any more. The matter is under constant review. The situation in Venezuela as your colleagues indicate is very dynamic and an appointment would be made at an appropriate time.

**Intensifying of Water Crisis
(Government Action)**

Dr. Bhoendradatt Tewarie (*Caroni Central*): Could the Acting Prime Minister indicate what his Government is doing to ensure that the crisis situation in water sufficiency and distribution does not intensify as the dry season progresses?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert): Thank you. I am advised that a number of activities are in place to deal with the water situation in 2019, Madam Speaker. This would include well development in Tobago by the drilling of seven production wells which would add two million gallons per day for Tobago. In addition, well development generally, drilling of five production wells at various locations; well rehabilitation, rehabilitation of six wells to add a further two million gallons per day in Trinidad; increased leak repairs; arrangements with Desalcott to minimize disruptions and increase production in emergency cases of approximately two million gallons per day which can be brought into the system by Desalcott if required; a water conservation awareness programme which is on the way; water tank assistance programme for the provision of water tanks for low-income persons; water trucking; water schedule; and increased effort in terms of reducing the loss of water and the conservation of water generally.

Madam Speaker: Hon. Members, the question time allotted is now spent.

URGENT QUESTIONS

**Nineteen Spanish-speaking Females
(Treatment of)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Madam Speaker, to the Minister of National Security: In light of the Minister's statement on the treatment of the 19 Spanish-speaking females, could the Minister state the mechanisms in place to ensure their humane treatment?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, I would like to start by commending both the Trinidad and Tobago Police Service as well as the CTU Unit from the Ministry of the National Security, the Counter Trafficking Unit, for the remarkable work that they have done in the last 48 hours. [*Desk thumping*] Currently, these Venezuelan nationals are being housed at a safe house. They have received a visit from social workers. They have also received visits from medical doctors. They have received as well—we are in the process of recording statements from them and, Madam Speaker, we are currently doing necessary investigations with respect to the circumstances surrounding these girls.

Of course, what needs to happen is their safety and welfare, and that is being given, the maximum level of priority by the Ministry of National Security. And again, I would like to commend Ms. Wheeler and her team at the CTU unit. [*Desk thumping*]

Mrs. Gayadeen-Gopeesingh: Thank you. Hon. Minister, has section 37(1) of the Trafficking in Persons Act been adhered to, in that legal aid is provided for these young girls?

Hon. S. Young: Madam Speaker, what I would permit myself to say at this stage is they were cautioned. Under the Immigration Act, the Minister of National Security has the discretion as to what happens in certain circumstances, and I have indicated that I do not want these young girls to be put into the Immigration Detention Centre. We are currently communicating with them through a translator and trying to find out the circumstances surrounding them being here, and we are not prejudging anything or making any decisions until we have all of the facts before us with their welfare and well-being being at the top of the priority for us.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, are there any other more reports of young girls being harboured in other parts of the country?

Hon. S. Young: As I had indicated at yesterday's post-Cabinet press conference, as a result of these ongoing operations, and persons would have seen the operations start from 2.00 a.m. and continue throughout the rest of the day into the early afternoon, and these are intelligence-driven operations, I do not want to jeopardize the continuing operations that are taking place by notifying anyone as to what is going on in national security with respect to this.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you Madam Speaker. Madam Speaker, there are five questions for oral answer, we will be answering four. We are asking for a deferral of question No. 47. And there are two questions for written answer, we are asking for a deferral of both of them. Two weeks please.

Madam Speaker: On both?

Hon. C. Robinson-Regis: All of them.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Mr. Rodney Charles (Naparima):

OAS Vote Issue (Preventing Reoccurrence)

47. Could the hon. Minister of Foreign and Caricom Affairs state the measures the Ministry intends to adopt to prevent a reoccurrence of the issues that emanated from Trinidad and Tobago's vote at the Organization of American States with respect to the fee waiver from Dominica?

Question, by leave, deferred.

**Petrotrin Restructuring/New Oil Companies
(Details of Executive Management Team)**

33. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

With regard to Petrotrin's restructuring and the launch of three new oil companies, could the Minister state:

- a) the list of names and positions of the executive management team hired to date; and
- b) the total compensation package inclusive of salary, housing, travelling and any other allowances?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam Speaker. Madam Speaker, arising out of the restructuring of Petrotrin, several new corporate entities have been established as part of a Trinidad Petroleum Holding Limited Group. In addition to TPHL, three new subsidiaries—Guaracara Refining Company Limited, Paria Fuel Trading Limited and Heritage Petroleum Company Limited—have been incorporated. In this regard, two subsidiaries, Heritage Petroleum Company Limited and Paria Fuel Trading Company Limited, are currently in the midst of a recruitment exercise. Guaracara Refining Company Limited has no employees and is currently managed under a third-party contract for services arrangement.

All the executive management positions successfully filled to date have been in respect of Heritage Petroleum Company Limited and are as follows:

1. Chief Executive Officer, Mr. Mike Wiley;
2. Business Leader - Offshore Central, Mr. Roger Burgess;
3. Chief Financial Officer, Mr. Nigel Campbell;
4. Human Resources Leader, Koreen Brown;

5. Business Unit Leader - Midstream, Mr. Kerrie Rampersad; and
6. Business Unit Leader - Land, Mr. Derrick Lall.

Executive management positions still to be filled at Heritage include unit leaders in HSSE, Business Development, Offshore Southwest Soldado and Joint Ventures.

Madam Speaker, as we speak, both Heritage Petroleum and Paria Fuel Trading are continuing with the process of recruitment for executive management and other leadership position in their respective companies. This is a sensitive process and any perceived lack of confidentiality and/or interference could undermine its credibility. In the interim, the executive management hired to date is supported by a pool of contract employees. On completion of the recruitment process a full listing of names and positions of the respective executive management team can be and will be provided to this Parliament. Both Heritage Petroleum and Paria fuels have confirmed that in addition to the base salary, the compensation package includes provisions for medical, pension, car allowance and housing allowance. All benefits and/or allowances are benchmarked to the local energy sector.

The companies have advised that further details are however restricted at this time in order to preserve confidentiality and the integrity of the recruitment process which is ongoing. On completion of the recruitment exercise, details of the total compensation package will be made available and can be provided.

**Arima and Point Fortin Hospitals
(Details of)**

66. Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of Health:

With regard to the Arima and Point Fortin hospitals, could the Minister provide:

- a) the status of completion of each hospital; and
- b) the construction commencement date of each hospital?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker, and thank you to my colleague for the question. Answer to question 66, part (a): the Arima Hospital is 64 per cent completed—6-4—with a projected completion date of July 31, 2019—that is this year—for construction; and September 30, 2019 for commissioning and training. For the Point Fortin Hospital, it is 57 per cent completed with a projected project completion of May 31, 2019 for construction; and September 30, 2019 for commissioning and training.

Answer to part (b): the Arima Hospital, commencement of construction was on June 15, 2015; and for the Point Fortin Hospital commencement of construction was on June 08, 2015.

Thank you very much, Madam Speaker.

**Carenage Health Centre
(Details of)**

67. Dr. Fuad Khan (Barataria/San Juan) asked the hon. Minister of Health:

With regard to the Carenage Health Centre, could the Minister state:

- a) the services available; and
- b) the hours of operation?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you again, Madam Speaker, and thank you to my colleague again. The answer to part (a): the services available at the Carenage Health Centre include immunization, antenatal care, postnatal clinic, catheter care, child welfare clinics, chronic disease, dental, dietary care, dressings, family planning clinic, health office, home visits, medical social worker, pap smears, phlebotomy services, social welfare, voluntary counselling

and testing, walk-in clinics, X-ray services.

The answer to part (b): the hours of operation are as follows:

Monday to Friday from 8.00 a.m. to 4.00 p.m.;

Monday to Friday from 4.00 p.m. to 9.00 p.m. for extended hours; and

Saturday from 8.00 a.m. to 4.00 p.m. for extended hours.

Thank you very much, Madam Speaker.

Madam Speaker: Supplemental? Member for Barataria/San Juan.

Dr. Khan: Minister, when will the Accident and Emergency Department begin if at all?

Hon. T. Deyalsingh: We are currently working on that, and as soon as I have that I will certainly pass that on to you, Sir.

Dr. Khan: The north-west peninsula is teeming with activities during the weekends usually, especially around Carnival times. This is the reason why I asked about it.

Hon. T. Deyalsingh: Thank you. It is a valid question. As I said, we are looking into it and as soon as I have the information I will make it available.

Couva Children and Adult Hospital (Details of)

68. Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of Health:

With regard to the Couva Children and Adult Hospital, could the Minister state:

- a) the current status on the opening;
- b) the commencement date for services; and
- c) the commissioning timeline/plan for services?

The Minister of Health (Hon. Terrence Deyalsingh): Again, thank you very much, Madam Speaker, and thanks to my colleague again. The answer to part (a): a

special purpose company was established in mid-2018 between the University of the West Indies and the Government of the Republic of Trinidad and Tobago, where the University of the West Indies being the major shareholder. Consideration is being given to engaging an operator for a phased operationalization of the hospital.

Answer to part (b): services will commence on a phased basis upon successful engagement of an operator later in the year. And the answer to part (c): subsequent to the commencement of services in a phased basis, the commissioning timeline plan for services will be determined.

Thank you very much, Madam Speaker.

Dr. Khan: To the Minister of Health: Would you like my assistance to help you open the hospital?

Hon. T. Deyalsingh: Sorry.

Dr. Khan: Would you like my assistance to help you open the hospital?

Madam Speaker: And I am not allowing that as a supplemental question. I think that was to bring us some light. Member for Caroni East.

Dr. Gopeesingh: Hon. Minister, would you indicate the reason why a \$2 billion hospital was given to the University of the West Indies because you owe them \$200 million, can you proffer an answer to that?

Hon. T. Deyalsingh: The arrangement with the University of the West Indies was both financial as you currently said, and there are certain factual inconsistencies. The hospital is not \$2 billion. It is about \$1.5 billion or \$1.6 billion, and the reason it was given to the university, as the Prime Minister had said, was partially to liquidate the debt, yes, that is in the public domain.

But more specifically, Madam Speaker, the two questions I always ask about Couva, and to date I cannot get an answer, and whenever the media asks me, I

always ask the media, “Ask the Government, one, why was Couva built at the expense of Central Block in Port of Spain; and, two, why did the former Government open it on August the 14th, 2015 and close it on the same day? We could never get answers to those two questions: one, why was Couva built and not Central Block; and two, why was it opened and closed on the same day?

Thank you very much, Madam Speaker. [*Desk thumping*]

TRESPASS (AMDT.) BILL, 2019

Order for second reading read.

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you, Madam Speaker. Madam Speaker, I beg to move:

That a Bill to amend the Trespass Act, Chap. 11:07, be now read a second time.

Madam Speaker, I am pleased to present for the consideration of hon. Members of this House the Trespass (Amdt.) Bill, 2019, which seeks to amend the Trespass Act, Chap. 11:07, to bring it in line with the 21st Century by doing two things: one, plugging an existing loophole in the Act and, two, modernizing the penalties thereunder. The Bill contains nine clauses and requires a simple majority vote.

Madam Speaker, the Trespass Act was enacted in 1852, some 167 years ago. It had its origin in the Trespass Ordinance of 1852 and was last amended in 1936. This Act generally criminalizes trespass on enclosed lands upon which there is stuck in some conspicuous place a notice prohibiting trespass and on any private wharf or landing.

But it does not specifically, Madam Speaker, address the situation where persons are terrorizing and bullying law-abiding citizens, forcing them out of their homes. These rogue elements in our society go unpunished.

2.20 p.m.

The main purpose of this Bill, therefore, is to plug this loophole in the law and to modernize the penalties as I indicated earlier. This problem has been going on in this country for many years and is far more widespread than most people might imagine. From Carenage to Toco, Chaguanas to Cedros, the criminals are distressing often defenceless people. Law as a tool of social engineering must reflect the realities of the society it is intended to serve. The law must be enforceable and it must meet the hopes and aspirations and the needs of this society. We use law to fix certain social problems. Crime is indeed a social problem and this is the Government's attempt to resolve at least a part of it.

This Bill seeks to protect criminally one of the most important rights enshrined in the Constitution of this Republic written in section 4(a) of the Constitution, and it reads as follows:

“the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;”

Unfortunately, within the recent and perhaps not-so-recent past, criminal elements have been employing tactics of intimidation to chase law-abiding citizens and even rent-paying tenants of the Housing Development Corporation and private homeowners out of their homes, depriving them of their constitutionally protected right to peaceful enjoyment of their property. No constitutional action is available though since it is only the State that could infringe an individual's constitutional right. So if the State wants property or if it uses a person's property, it must follow due process resulting in the person being compensated or paid. But not so for the criminals. As it now stands, this type of practice and behaviour goes wholly or

largely unpunished in Trinidad and Tobago.

Madam Speaker, I will demonstrate very briefly a few “deficients” in the existing criminal law which led me to making the comments that I have just made. Section 3 of the Trespass Act, speaks to persons found in, and I quote:

“...any enclosed yard, garden, or ground, or in any cultivated lands, or in or about the works of any plantation, oilfield, refinery or oil tank farm...”

This makes no reference to any premises used as a dwelling. It also limits the provision by making the offence applicable only at night-time. Mere presence on land at night-time does not treat with the mischief currently being faced by citizens who are at risk of losing their residential homes to criminal conduct.

The offence of burglary under section 27 of the Larceny Act makes reference to entering a dwelling house with intent to commit an arrestable offence. This offence appears to refer to acts of entering, stealing and leaving the premises. It does not connote any intention on the part of the offender to take up occupation of the dwelling house. This offence is also limited because burglary could only, in current circumstances, be committed in the night.

The offence of “harassment” under section 30A of the Offences Against the Person Act is possibly the closest offence to forcible entry in terms of the elements of the offence of harassment of the person since it speaks to entering property or interfering with property in the possession of another person. However, Madam Speaker, it does not treat with a person trying unlawfully to gain and to keep possession. Thus, these three major pieces of criminal legislation do not provide a solution to the very serious problem that I have adumbrated.

In recent years the Government has taken note of several instances where ordinary law-abiding citizens were illegally chased from their homes by criminals

and has taken this initiative to put a stop to what is obviously a most disturbing trend. Madam Speaker, let me give you a couple of examples of matters that have come to my own personal knowledge, largely in my own constituency. Individual living in “ah” house. He has children. They did not live there with him. He died. “Couple days later”, one of the children came, a daughter, to clean the premises and to prepare it for future use. She was threatened by criminals in the neighbourhood. She had to flee, never to go back, and now that house is bringing some criminal rent in the community.

There is a case that I am familiar with where three houses on one street taken over by criminals and people in the neighbourhood worried like crazy about it but could do nothing. In one case, one house was rented to a tenant, obviously, and as the tenant took occupation, the criminals bombed the apartment—fire bombed it—and the resident had to flee and so the homeowner nor tenant would go there. It is now occupied by criminals. A woman came to my constituency office about a year and a half ago to complain she went to the United States for three months, locked up her apartment, her house. When she came back, it was occupied by others who refused to move. And I know of, finally, in this regard, a family, two sons murdered, the family had to flee for fear of losing their own lives and the criminals have taken possession of their house as well.

I have a report in my hand, Madam Speaker, from the Crime and Problem Analysis Branch, CAPA, of the Trinidad and Tobago Police Service highlighting 11 cases of recent reports to the police of threats which led people to abandon their homes under fear and intimidation. Very sadly, all of these, every one—this is largely from the Port of Spain division—has taken place in East Port of Spain. But as I said, this is a widespread problem and we have had reports from around the

country in this regard.

Madam Speaker, sometimes arson is used. They burn down the poor people's houses to chase them away and then take the land for their own criminal use. In some instances, poor and defenceless people have even been killed, burnt to death and this is very widespread as I indicated, but there is underreporting of this crime out of fear and of course, the absence of criminal law made the police, in a sense, incapable of dealing with this situation the way this law will permit them to deal with it. A reference was therefore given to the Law Reform Commission to develop a policy and draft legislation to treat with this issue and this is what is before us today.

The review exercise revealed loopholes in the existing Act, Trespass Act, and involved examination of legislation from other jurisdictions including the United Kingdom, Canada, Barbados, Jamaica, Guyana and the Cayman Islands, demonstrating at the very least that other societies have had to deal with this problem and therefore in that sense, it is not novel.

The outcome of this exercise from the Law Reform Commission of the Office of the Attorney General was the drafting of the Trespass (Amdt.) Bill, 2019, which is intended to equip law enforcement with the necessary legal framework to effectively deal with these criminals who chose to disregard the constitutionally protected right of citizens to the peaceful use and enjoyment of their homes by creating two new offences, namely "forcible entry" and secondly, "forcible detainer".

Might I approach, Madam Speaker, with your leave, a clause by clause analysis of this Bill? Clause 1 provides the short title of the Act and clause 2 would provide for the interpretation section. Clause 3 would amend the long title of the

Act to include the word “premises”, a new term which will feature throughout the Act when amended. Clause 4 would amend section 2 of the Act to provide the interpretation of certain words and phrases used in the Act and to delete the definition of “night-time”. More specifically, some of new terms and definitions to be inserted in the Act include:

“‘dwelling house’”—which—“means any structure or part of a structure whether permanent or temporary and whether fixed or capable of being moved which is designed or adapted for use as a dwelling or residence;”

This definition will be relevant to the two new offences that this Bill seeks to introduce.

“‘enclosed yard’ means land that—

(a) is surrounded by a fence, a natural boundary or a combination of a fence and natural boundary;”

Or (b):

“is enclosed in a manner that indicates the occupier’s intention to keep persons off the occupier’s premises or to keep animals on the occupier’s premises;

‘Occupier’ includes a person who—

(a) is lawfully in physical possession of the premises; or

(b) has responsibility for and control of the premises or the activities there carried on, or control over persons allowed to enter the premises...

‘owner’”—as a definition—“includes the tenant, the occupier, or other person having...” —lawful—“possession of any...” —premises.

“‘Premises’ includes—

(a) any lands;

- (b) any building or structure whether permanent or temporary...whether fixed or capable of being moved;
- (c) a dwelling house;
- (d) ...garden, ground, cultivated lands, plantation, oilfield, refinery or oil tank farm;
- (e) any ship, boat or other vessel; or
- (f) vehicles and aircraft, except while in operation.”

Because as we know, Madam Speaker, some people actually take up residence in these vehicles, if I can call it that in the generality.

Additionally, Madam Speaker, it is proposed that the definition of “night-time” which is defined in the Act as:

“...any time between seven o’clock in the evening of one day and six o’clock in the morning of the next day;”

—be deleted since we are all aware that a trespass can occur at any time. So this terminology, when used in legislation, is not only archaic but severely limiting.

Clause 5 of the Bill seeks to make two amendments to section 3 of the Act. Section 3 of the Act criminalizes trespass in the night-time:

“...in any enclosed yard, garden or ground or in any cultivated lands, or in or about the works of any plantation...

The offence carries a penalty of imprisonment for a mere three months. Firstly, clause 5 seeks to delete the words “in the night-time” from the section so that perpetrators could be prosecuted whenever it is committed, day or night. In addition, this clause also seeks to increase the current penalty for the offence from a term of three months’ imprisonment to a fine of \$50,000 and to imprisonment for 10 years reflecting the outrage that this conduct properly deserves. And I might

add en passant that a magistrate—so if this is done summarily, a magistrate can issue a sentence of up to 10 years.

Clause 6 seeks to amend section 4 of the Act to increase the penalty in order to reflect modern realities. Section 4 of the Act criminalizes trespass on land which there is notice prohibiting trespass. The offence currently carries a penalty of only \$200 upon summary conviction. While this offence itself is still relevant today, the penalty it carries cannot be regarded as sufficient or a sufficient deterrent or punishment. Clause 6 of the Bill therefore seeks to increase the penalty to a fine of \$50,000 and to imprisonment for 10 years, again, reflecting the seriousness of these crimes.

Madam Speaker, clause 7 of the Bill would amend section 5 of the Act which provides that where a person:

“...fastens a vessel, boat or craft to any private wharf or landing place...on which...there is notice...forbidding...persons to trespass” that person will be “...liable...to a fine of two hundred dollars”—on summary conviction.

This penalty is not suited to modern times and thus clause 7 seeks to increase the penalty to a fine of \$50,000.

Clause 8 would amend the Act by inserting, after section 5, two new sections, and this is where we could get critical with this Act, Madam Speaker, sections 5A and 5B. These two sections create two new offences to deal with the on-going problem as I have described it. This problem existed well before 2015 when this Government took office. In fact, in an article published in the *Trinidad Guardian* on Thursday the 15th of August, 2013, under the rubric and I quote:

“Moonilal to gangs who take over HDC homes: Police coming for you soon”

The former Minister of Housing warned gang members saying that they will soon:

“...feel the...‘brunt of the law’ very soon.”

According to the article and I quote, Madam Speaker:

“...Moonilal addressed the recent issue of thugs forcing HDC homeowners out of their properties in East Port-of-Spain. He said people who thought that they had the right to invade homes and intimidate owners to move out because of gang-related fights had a ‘rude lesson’ to learn without hours, and possibly days.”

I am talking about 2015 eh—2013 actually.

“He said the ministry would not condone such activity and the government was committed to addressing the issue. The problem came to light when Port-of-Spain resident...reported...that he was forced to flee his Duncan Street, Port-of-Spain, home two weeks ago, after gang members in the community threatened him, saying he had to move out.

Last Saturday, Moonilal called an emergency meeting...”—of the—“Deputy Commissioner of Police Mervyn Richardson, officials from the...HDC...”—and the Housing Ministry—“and law enforcement agencies, to develop a plan to address the forcible eviction of five families from apartment buildings in east Port-of-Spain.”

Madam Speaker, 2013 eh.

“When asked for an update on the ministry’s way forward and what had come out of the Saturday meeting, Moonilal said a report was handed over to the police during the session, and the police were investigating.

‘My information is that police have undertaken their own inquiry, and they are prepared now to act on these matters...There is a limit to what I would

want to say, but the police has assured...that action is imminent on that.”

Madam Speaker, in another article entitled:

“\$200 fine for illegally occupying HDC house”

Published in the *Trinidad Guardian* on Wednesday the 28th of August, 2013.

“Speaking at a news conference after crime talks with the Opposition members last Thursday, Prime Minister Kamla Persad-Bissessar announced Government’s intention to bring legislation specifically geared towards illegal home invasions, saying the current law did not significantly punished offenders.”

Madam Speaker, we had submitted at that time a 10-point plan to the then Government in respect of the crime situation in Trinidad and Tobago. One of those bore a recommendation for this legislation. Rather than do that, notwithstanding the promise of the Prime Minister and the promise of a Housing Minister, what we got was section 34 among other things.

Dr. Moonilal: Ohhh, finally.

Hon. F. Hinds: More recently, Madam Speaker, between 2017 and 2018, several attempts had been made by police officers and soldiers to remove illegal occupants from HDC buildings in Port of Spain. Police officers and soldiers went to a number of HDC apartments where they broke the locks of 14 apartments and detained 15 people who were illegally occupying apartments there. I am certain, Madam Speaker, based on my knowledge as a lawyer and the law in this country, that all 15 of them would have been promptly released because there was no law to treat with the problem.

Another article entitled:

“Evicted illegal tenants return to HDC apartments”

And published in the *Guardian* of Thursday the 25th of January, 2018, noted the hon. Prime Minister's recognition of the serious nature of this problem and I quote from that article:

“Prime Minister Dr Keith Rowley, during an address to the nation on November 24 2017, said some homeowners were being chased out of their homes while others faced...invasion by people who had no respect for law and order at Clifton Towers.”

Madam Speaker, I can tell you, following those comments and that observation, the Prime Minister gave instructions to us at the Office of the Attorney General and here we are with this Bill to deal with the problem today. [*Desk thumping*] “Is Bill”, debate, law, police and lock up. That is the way this Government does it, Madam Speaker, the dealing with the issue. The Government has, therefore, taken the initiative to put an end to this problem by criminalizing such conduct and this conduct will now attract severe penalties to adequately deter would-be offenders and to provide a fitting punishment to persons found guilty by the courts of Trinidad and Tobago. A man's home, Madam Speaker, however small, however humble, is his castle. It may not have been built by SIS, [*Crosstalk*] it may not have an elevator. The owner may not have been able to adjoin it to surrounding properties but it is his castle nonetheless.

Section 5 would provide for the offence of forcible entry where:

“A person who uses force, threats or intimidation to enter land or a dwelling house which is in the lawful possession of another person in order to expel that person and take possession of the land or dwelling house.”

And therefore section 5A provides and I quote from the Bill:

“A person who uses force, threats or intimidation to enter land or a dwelling

house which is in the lawful possession of another person in order to expel that person and take possession of the land or dwelling house and does so otherwise than in pursuance of...a court...”—order—“or other lawful authority commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and imprisonment for fifteen years.”

Up to 15 years. Madam Speaker, in coursing through that definition, it is obviously limited to dwelling house and land and we are open to discussions on that because there are circumstances where other types of structures may have fallen into consideration.

Section 5B would provide for the offence of forcible detainer where a person:

“...being unlawfully...upon...land or dwelling house, maintains or attempts to maintain possession or occupation thereof ...”—through the use of force.”

The proposed section 5B reads and I quote:

“Any person who, being unlawfully in or upon any land or dwelling house, maintains or attempts to maintain his possession or occupation thereof and does so by force or in a manner that would render the use of force as the only reasonable or practicable means of recovering lawful possession of the land or dwelling house, commits an offence and is liable on summary conviction to a fine of one hundred thousand and to imprisonment for...”—up to—“fifteen years.”

Forcible entry, Madam Speaker, and forcible detainer; those are the two new offences. It should be noted that these two offences are not new.

In fact, they already exist in the other jurisdictions, some within the Caribbean. The Cayman Islands, in section 84 of their Penal Code has a similar

offence which reads:

“A person who, in order to take possession thereof, enters any lands or tenements in a violent manner, whether such violence consists in actual force applied to any person or in threats or in breaking open any house or in collecting an unusual number of people, commits a forcible entry.”

Section 85 talks of “Forcible detainer”. That is in the Cayman Islands.

In Guyana, Madam Speaker, section 312 of the Criminal Law (Offences) Act, Ch. 8:01 deals with “Forcible entry” and provides:

“Everyone who with violence makes an entry into any land of building, whether he is entitled to possession thereof or not, unless he does so in pursuance of a warrant or any lawful authority to use violence, shall be guilty of a misdemeanour and liable to imprisonment for two years.”

And section 313 deals with the question of unlawful detainer.

In the United Kingdom, sections 6 and 7 of the Criminal Law Act of 1977— an Act that I had to look at when I was a law student there—treat with the issue of illegal occupation of premises in great detail, and section 7 criminalizes occupation of residential premises, that is, where a person enters premise as a trespasser and fails to leave when required to do so.

Madam Speaker, in Canada, the Criminal Code makes the provision for the offences of forcible entry and forcible detainer. Section 72 deals with forcible entry and 72(2) deals with forcible detainer.

Finally, Madam Speaker, clause 9 of this Bill amends the Trespass Act by inserting after section 9, a new section 9A which would enable the Minister to make regulations as may be necessary or expedient for the purpose of carrying out or giving effect to the provisions of the Act. Two points should be noted. This

power is subject to parliamentary oversight and allows for the imposition of fines for any breach of such regulations. And this section 9A(1) reads:

“The Minister may, subject to the negative resolution of Parliament, make such Regulations as may be necessary or expedient for the purpose of carrying out or giving effect to this Act.”

Madam Speaker, this Bill seeks not only to modernize and strengthen the provisions of the Trespass Act but it also is designed to address the unfortunate situation that now exists where peaceful law-abiding citizens are forced to suffer some of the gravest injustices that you can contemplate. Madam Speaker, a man spends his life, he builds his home. In one island of the Caribbean, I read only about two weeks ago, persons who live outside of that island send their money home after 30, 40 years of work outside in the cold, build a house and upon returning to the island, they are told you cannot stay here, threatened, flee. That is a grave injustice indeed and this is the kind of thing that this Bill seeks to address where they suffer fear and terror at the hands of criminal elements who show utmost disregard to their right to peacefully reside therein.

This Bill, Madam Speaker, is another example of this Government's prompt commitment to doing all within our governmental and parliamentary power to protect our citizens and to empower both the citizens and Trinidad and Tobago Police Service to deal with those who trade and live by fear and intimidation. It will move us closer towards achieving the Government's goal to have Trinidad and Tobago—to cause us to be become a modern legal, regulatory, law enforcement environment as put forward in our Vision 2020/30 plan.

Madam Speaker, without more, I beg to move. [*Desk thumping*]

Question proposed.

2.50 p.m.

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much for recognizing me. Madam Speaker, I rise to offer some comments on the matter before us, A Bill to amend the Trespass Act, Chap. 11:07. Madam Speaker, the Government in its fourth year in office, and on the verge of their final lap, so to speak, brings an amendment Bill before us, which seeks to implement a commitment made by the Government in their manifesto documents of three and a half years ago. Madam Speaker, I was a bit taken aback today, that the very proud Attorney General, did not offer himself to pilot this amendment Bill. But, after listening to the Member for Laventille West, it was very clear that the substantive Attorney General would not want to embarrass himself.

Madam Speaker, I can understand why the Member for Laventille West would identify himself with this, because I believe he has had in the past some type of engagement or connection with the issue of trespassing, not being a victim. Madam Speaker, the matter before us is a matter that has really been around for a long time, but it really gained traction or national recognition as a major issue a few years back. And I will just begin by looking at some of the issues that occupied our attention since 2011. Madam Speaker, the Member for Laventille West made several references, of course, to our administration, the former administration and indeed quoted from articles, quoting myself and the Member for Siparia, then Prime Minister.

Madam Speaker, when we came into office in 2010, I was appointed Minister of Housing and I can never forget, so long as I live and thereafter, I saw on the front page of the newspaper, someone—an infamous someone—from the Chaguanas area I believe, who is now deceased, on the front page, handing out

what he purported to be some document to give some type of title for land. And I looked at him, and I then asked the Ministry's staff whether he was employed by the Ministry as a land officer of some kind, only to be told that he was not and he was indeed some infamous character in Central Trinidad doing that. But was on the front page newspaper.

Madam Speaker, as soon as we came into office in 2011, we had this problem of land grabbing to deal with, where persons in the Sangre Grande, Point Fortin area, in Central Trinidad and so on, went on to state lands, and sought to occupy those lands; and it was a major crisis, because I will just say very briefly, I do not want to spend too much time here, the administration before 2010 had a difficulty dealing with land grabbing, and it was actually cases in the court led, driven, and inspired by the Member for Siparia that brought that to national attention, [*Desk thumping*]

where the former administration in 2010 and before had illegally removed persons from land. And therefore we had to follow a process using the office of Commissioner of State Lands and the President of the Republic of Trinidad and Tobago to properly remove persons from land, and that was a challenge at that time. [*Desk thumping*]

Madam Speaker, as we went along and I do not want to quote again the same articles, I have them in my hand, the same articles the Member for Laventille West used. We had this problem of persons going into property, and I want to categorize that quickly. I think what the Member for Laventille West, the Prime Minister and others want to say—and they are saying it, but not saying it—is that there is a problem in the Port of Spain area, the crime hot spots, so to speak, and the HDC apartments and houses. That is really what they are trying to say without

saying it. That that is the problem, and it is real problem. It is a problem we faced in 2013, Madam Speaker. HDC and police crackdown on criminals—we had a situation, Madam Speaker, and it was in the newspaper. I am reading Friday, August 9, 2013, Madam Speaker, the *Trinidad Guardian*, someone, Noland Sandy of Duncan Street, Port of Spain claimed to have had to forcefully—to be forced to flee his apartment last week after gang members took it over. It was in the HDC context. And when the Member for Laventille West read the police data that he brought to the House earlier, he was really speaking about Port of Spain east again, and said we have had 11 cases and so on. So, this problem really is a problem that you are trying to deal with in certain situations linked to crime hot spots, linked to gang behaviour and linked generally, but not all the time, to HDC estates.

And we recognize that. So when we met the police and the Member quoted from that article, we met the police, what did we do? Because if you look at the data, the data that the Member for Laventille West did not bring, is that after 2013 when we had that problem, unless I am mistaken, you would have had these issues far and few between, not at the expansive and frequent level that you would find. And what did we do? Madam Speaker, we expanded the security department of the Housing Development Corporation. We expanded that department, we brought a partnership between private security and government police. Because we recognized that we could not be using everyday State Trinidad and Tobago Police Service (TTPS), to go into every HDC estate to police, to monitor, to supervise—we recognized that. We built a partnership with the HDC and the police to monitor this issue of—and I will use the term and come to it later, “home invasion”, and taking people’s apartments or homes and so on, Madam Speaker, forcefully taking it and staying by the use of threat, intimidation and force; that was the issue. And

the HDC was able to deal with that, because the security department was expanded to deal with that problem and work in harmony with other law enforcement agencies.

Madam Speaker, upon 2015, demitting office the new Government came in, they immediately moved to reduce, to downsize the HDC security department.

Hon. Member: Wicked.

Dr. R. Moonilal: Madam Speaker, even I think the deputy head of the security department at HDC lost his job and was somewhere else in Port of Spain working. And they removed security companies believing that those companies were linked to the UNC and so on. So they fire everybody, and lo and behold you come today to complain more about persons, you know, going into HDC apartments and homes and so on, and taking control by the use of force.

So, Madam Speaker, this problem if you locate it probably is really—properly—is really a problem relating to HDC assets and infrastructure. Because the Member said as well, his example was, of course, Clifton Towers, one example, Duncan Street another example and so on. And if you had just kept or even expanded the in-house security of the HDC and probably professionalize it a bit more, you would minimize the risk of this problem. [*Desk thumping*] But we recognized that, in fact, this is why the former Prime Minister and Member for Siparia spoke of this issue, and spoke of the issue of home invasion which is really a bigger issue that this Government is not prepared to touch.

You see, Madam Speaker, I want to indicate without necessarily pouring cold water on the presentation of the person before me—but the passage of this will do absolutely nothing or little or nothing. [*Desk thumping*] You see, there is in this country a law and the law say you “cah” murder anybody. You know what is

the penalty for murder in this country? Death by—

Hon. Members: Hanging.

Dr. R. Moonilal:—hanging. But will that stop somebody from being killed in Rousillac this morning in a bar?

Mr. Indarsingh: Five overnight.

Dr. R. Moonilal: Five overnight. That stops somebody that—we have law in this country, “doh” kill anybody, you will be hanged. They have Anti-Gang legislation. Does it appear that it is reducing the amount of gangs and so on? So passing law is one thing—and I will come to the law in a few minutes—but if you do not have the environment, the police resources, if you do not have resources at the DPP’s Office, if you do not have the infrastructure to implement law, passing law is really standing up in quicksand. You are doing nothing. So the constituents of Laventille West and we must admit there are constituents of Laventille West affected by this problem, more so, I imagine than elsewhere, they will not get redress by this legislation.

They will not because the same people who cannot at this time, because of the way things are, complain about gang members, go to the police station and report gang members for activity, if you put this penalty or not, they will still not do it. They will still not do it. [*Desk thumping*] Having the law does not mean that the person who will be thrown out will necessarily go in the police station and say, “Ah ha, you have a law for jail and fines so now I could report these gang leaders, they took my apartment.” No. No, Madam Speaker, it will not work that way.

So, I just want to pick up that point from the Member who spoke earlier that having this law or not, does not—that is not the only thing that is required now. You have to look at witness protection. When someone makes a report against

gang members and so on that they took their homes and so on, they have to be protected. And you must have a proper witness protection programme in place, so that persons making these reports are protected. They do not go back into the same area and then be killed because they had the courage to go and report a matter to the police. So, this notion today that this will end all that issue of taking over and invading homes and so on, Madam Speaker, it cannot fly, it just cannot fly, you know.

Madam Speaker, the Member also—I just want to take up a few points, but not all, because I have my own business to get to. Madam Speaker, the Member began by talking about, you know, loopholes and increasing penalties and so on and I put it to you that the only thing this amendment Bill is doing, really, is taking out this notion of night time. [*Desk thumping*] So you could commit the offence day and night. It is day and night offence because I will raise some questions that in the law as it now, persons can and persons I imagine can still be prosecuted for offences already on the book.

You see, Madam Speaker, this approach, characteristic of the Member for Laventille West, is really a patch-up form of law. It is patch-up law to demonstrate to people that we are doing something; we care. [*Desk thumping*] It is patch-up law. Now, what you should have done and you have had the time, you cannot say you do not have the time, is to completely repeal the Trespass Act and bring a trespass and home invasion Act and deal in a comprehensive way with all the problems that you face, rather than trying this kind of shot, you know, to patch up here, patch up there, put in here, take out here and you have not taken out enough and you have not put in enough. So it is a serious problem.

Now, could I ask the Minister to tell us because he clearly can get statistics

from the TTPS, how many—you are saying how many reports have been made over a period of time, 11 and so on. Over how long? Could you tell us between 2010 and 2019 how many reports have been made concerning this matter of persons moving into your home, home invasion, trespass? [*Interruption*] He said 11 in a particular area over a period of time, he did not say the time but only in one area.

The second thing is under the Trespass Act of 1852 last amended in 1936, how many persons have been charged and prosecuted under that Act, I would just love to know from the TTPS. That is an interesting—how many people. You go around this country and you see “no trespassing by law”, or put up a sign, I am coming back to the sign now in a little while, how many persons have been arrested and prosecuted under the 1852, amended 1936 Act, Madam Speaker. Because I put it to you that it will not be much if any in the last few years, Madam Speaker. And the Member acknowledged the point I am making, he said that there is an under-reporting out of fear. So, you think that if you pass a law, if this is passed today everybody will be bold and brave and courageous tonight, because in Parliament they just passed law for 15 years, so that make them brave. But the penalty for murder is death.

Madam Speaker, and then my friend, of course, could not—opening a debate on this very rare occasion could not resist the temptation to attack this side of the bench although nobody spoke before. But you know it is a default position he has, you know, and suggesting about who build house, and who connect to house and so on. And, Madam Speaker, I could understand his deep concern with this and why the Member for San Fernando West would have allowed him the opportunity to take paternity of this Bill. Because, Madam Speaker, I am reading from a

Trespass (Amdt.) Bill, 2019
Dr. Moonilal (cont'd)

2019.02.08

Trinidad Guardian newspaper article of Tuesday July 13, 2010. Yes, and Madam Speaker; PNM Senator sued for trespass—

Hon. Member: What!?

Dr. R. Moonilal: Opposition Senator, Fitzgerald Hinds has been sued by his next door neighbour for trespass. [*Desk thumping and laughter*] So now we know why the Member really took ownership of this and attempt to do that, you know, and this a newspaper I am not—I am just reading from the newspaper;

Marlon McPherson who lives in St. James filed this civil claim in Port of Spain asking for damage for trespass seeking an injunction to order—no disrespect but this is how it is written—Hinds to restore his land to its original condition.

You know, the writ was filed, et cetera, et cetera.

McPherson accused Hinds of constructing a very impressive four-storey house together with a swimming pool, upon lands which the claimant estimates to be in the value of at least \$7million.

And he said his property—

this man took his property to build swimming pool, and his residential land and they had, of course, a dispute and so on. So, I imagine the Member knows a little bit about this business and you know you pointing finger and these—he knows about trespass and so on and the claimant said, he entered into the lands without a license or his consent and constructed a retaining wall and other business and so on.

Mr. Al-Rawi: Madam Speaker, I rise on 48(6) for your consideration.

Madam Speaker: Overruled.

Dr. R. Moonilal: Thank you, Madam Speaker, I will appease the Member for San

Fernando West and move away from this matter now.

Dr. Gopeesingh: Take care you trespass too, you know.

Dr. R. Moonilal: No, I have no article on the Member for San Fernando West with me today. Madam Speaker, let me get back to this matter now. Now, I am saying that an approach that could have been used was a repeal of the Trespass Act and a comprehensive trespass and home invasion Bill, which they could have easily done. I just want to make a couple points with the Trespass Act, apart from the time it has been in effect, so to speak.

You see, Madam Speaker, section 4 which they are not amending and so on, they still have the concept of “master and servant”. Now, you would think that a Government today when they come will amend “master and servant” from the law, which we did in 2013 or thereabout, former Minister Errol Mc Leod, brought legislation to this House. The legislation did two things, it increased the maternity benefit from 13 to 14 weeks but also amended the “master and servant” law, so that we did away with those archaic anachronistic colonial concepts. [*Desk thumping*] With all the amendment they coming with today, you know, they left in place this concept of “master and servant” in the trespass parent Act.

Madam Speaker, the issue, Madam Speaker, I just want to look at section 5 of the Trespass Act and it says:

“Any person who fastens any vessel, boat...”—and so on.

You know, Madam Speaker, but first, section 4. Do you know in section 4 of the Trespass Act:

“Any person found at any time in any lands on which, or near to which, there is stuck up in some conspicuous place a notice in legible letters forbidding all persons to trespass...”

So it is the law that you have to take a stick now in 2019, you put a stick on the ground with a piece of plywood and you say “No trespassing according to the law, you will be punished” or whatever. Now, you would think in 2019 there is a more modern way that, Madam Speaker, was for when we did not even have copybook. Today you would think with the technology with the awareness and so on that persons would be aware of the law and fundamentals of the law in a way that when you have a piece of land somewhere you “doh” have to pound into the ground a piece of wood, with a piece of ply board and say no trespassing. Madam Speaker, that is still—when we are finished today, if this Bill flies or collapse, that is still the law, put up in a conspicuous place a notice and so on.

Madam Speaker, in the amendment Bill—now a couple points I would just make here, Madam Speaker. We delete, of course, night-time and as I said before that is the big, big amendment we are making today to take away night-time from the law and, you have, of course, issues of definition of “owner”. But a fundamental issue that has been raised, Madam Speaker, when you read this is: Whereas in the parent Act, it deals with possession when you are in possession of land, house, gallery, veranda, enclosed place and so on, we are now hearing in this matter before us the issue, Madam Speaker, of being in lawful possession. And we would want the Attorney General or someone who speaks in the debate later to really explain to us this concept of lawful possession for the purposes of the matters before us.

Because you see, the Bill makes a fundamental departure from certain common law principles, Madam Speaker, protection is normally afforded to persons who are not owners of land, but who may occupy, Madam Speaker. So that there are many thousands of such persons throughout Trinidad and in particular in

Tobago, Madam Speaker, who have no legal title to land but whose possession the law gives protection. And, Madam Speaker, that is a protection against the entire world except probably the real owner. You have a protection of the law if you are in possession. But today Madam Speaker, in this Bill before us, we are hearing about the definition of owner by deleting words “possession of land” and substitution the words “lawful possession of any premises”. So we need to have some type of discussion as to what is this “lawful possession”. Now, they have also introduced this “premises”, the concept of “premises”, I believe it is from the occupiers’ liability legislation of elsewhere, Madam Speaker, but they explain premises.

So persons now are in possession, what happens now, Madam Speaker, you have to be deemed to be in lawful possession. What is this lawful possession, Madam Speaker, that you may have? And possession generally means generally the occupation or physical control of land and so on., I think most people would be aware of that. So, Madam Speaker, if someone—and we can use anecdotes to discuss this as well because there are some real life cases. If someone is on is in an HDC apartment, but for five years they have not paid their HDC rent, are they in lawful possession? And if you go and you snatch that place from them and throw them out. Are they in lawful possession in the first place when they may be in violation of an agreement with the HDC? So could they get the protection of this amendment, if they are deemed not to be in lawful possession?

Madam Speaker, there may be cases as well, as I think Members opposite may know, where you may have one or two persons in lawful possession and one person may give consent to the offender to come on the property. What happens then? What happens then? What are the issues that come to the fore at that time,

Madam Speaker? Are we looking at that as well? There is another area I believe that requires what we will call clarification. It requires clarification.

Madam Speaker, lawful possession, does it require a deed, a certificate of title, a lease? What does it require to claim lawful possession? And as I said, someone fail to pay rent, are they in lawful possession of the property? I went on to premises already, and there is also a definition of “dwelling houses” and so on— “dwelling place” that they bring here as well, Madam Speaker.

But, Madam Speaker, where now we have some uncertainty, and before I get to the real uncertainty, I will just make another point. There is also this kind contradiction here now because the Minister in piloting this Bill, made a song and dance out of penalties. Is this a revenue making Bill as so much things in law enforcement is today? You know, you ticket people for speeding, you raise their money. You ticket someone for parking two inch on a pavement, you raise money. You know, again this thing, is it a revenue raising measure? That is the issue, Madam Speaker. And you have cases, Madam Speaker, in other pieces of the law which I will touch one or two, you know.

And, Madam Speaker, stealing under the Larceny Act, do you know stealing, simple larceny is punishable with five years. So simple larceny, five years. You actually take property from someone, but going and put your foot into somebody else property is now being penalized with 15 years, Madam Speaker. You have other offences, assault and battery and occasioning bodily harm and so on but the penalties are much less. And you can look, there is a scale you can look at for sentencing and fines, to see whether this fits snugly into that category; whether it fits. Because you see, it is not a case of saying we have a serious problem in this particular part of the country and “we go show them who is boss”.

We will put the penalty for 50 years in jail so everybody will know that you know it is serious matters; we are dealing with serious business here.

So when they introduce 5A and B, they are talking about \$100,000 fine and 15 years in jail, as the penalty for the new forcibly entering and detainer. So you are putting now these penalties, you use force and threat and intimidation and so on. You go in, you stay, \$100,000, Madam Speaker, and 15 years in jail. That is what they are proposing now. But is that commensurate with other criminal offences across the board that you jump on this, because you think, well, this will mean something or it will frighten someone, necessarily frighten someone into obeying the law and we have recognized that, Madam Speaker. We pass Anti-Gang legislation, this Government came kicking and screaming, they went and attempted to criminalize and demonize the Opposition for not supporting anti-gang. Anti-gang legislation pass, gone. What I think the last time we asked was seven—I think seven persons have been arrested under that—

Mr. Charles: Less than that.

Dr. R. Moonilal: So the Government says there are 500 members of gangs in this country but seven have been arrested—[*Interruption*]*—*they knew who they were and they know the number. We passed anti-gang, because someone stand up and say if we do not do that we letting down the country and crime continue. Madam Speaker, if a child lost, at that time a candy stick, they blame the Opposition, and they say you did not pass the anti-gang. That pass, we gave the support for that. What happened? So you pass today, necessarily do not need our support, what will happen?

Madam Speaker, in terms of penalties and so on, you also look at the Firearms Act, I think, 13A a person who while—13A of the Firearms Act says,

Madam Speaker:

“A person who while he has a firearm with him, enters or is in any building or part of a building or any land as a trespasser without reasonable excuse, commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for five years.”

Five years, under the Firearms Act, 15 years that you go in and you stay, Madam Speaker. So it is a question that one has to take seriously.

But you know, I also wanted to raise a related matter to that apart from the offences and the penalties being in a way out of sync, Madam Speaker. There are other offences and I think the Member touched the other offences, where similar actions can lead to charges and criminal conviction and in the summary offences legislation, I draw your attention to 46(d) and 46(d) refers to Laventille West, it refers to rogues and vagabonds. And I am drawing his attention to it, Madam Speaker, 46(d) refers to rogues and vagabonds and in this legislation someone is deemed a rogue and vagabond:

“any person found in any veranda, gallery, passage, gateway, dwelling house, warehouse, store, stable, outhouse, or other building, or in any yard, garden, or other enclosed land, for any unlawful purpose;”

So this remains on the book, so you are putting in the law that police officers shall charge, they have to take action. Now, the police officer confronted with a situation, who is he going to charge? What is he going to charge? Under the summary offences, under the trespass, is there a discretion we are leaving with the police officer now to charge under one piece of legislation as opposed to another piece of legislation and that is very dangerous, uncertainty in the law. [*Desk thumping*] Because you are telling the police officer you have a discretion to

charge for this one or that one. So if the person himself or herself the officer driven by any, you know, ignoble motives may decide look in this circumstances we give you the lesser one, in another circumstance, I threaten you with the bigger penalty. You understand what happen there? Because you are not amending the rogues and vagabonds matter in the summary offences, so it is still an offence under the law, and it will be an offence the rogue officers, Madam Speaker, they will have to decide how to charge because they have to take action in this case.

You know, Madam Speaker, a related matter and this is what we were trying to do as well. When the police officers went to HDC apartments and someone complained—

Madam Speaker: Member for Oropouche East, your original 30 minutes are now spent. You are entitled to 15 more minutes to wind up your contribution. Please continue.

Dr. R. Moonilal: Thank you very much, Madam Speaker. When the police officers go to HDC apartments and again, I want to relate it to HDC. The police officers told us, when we go to an apartment someone complains that look this person came and forcibly threatening my life, took possession of this apartment. You know what the police said, how do we know you are an HDC tenant? How do we know that?

3.20 p.m.

So we were even considering, at that time, in certain estates—not throughout the whole Trinidad and Tobago—in certain estates that are likely to be affected by this problem, issuing HDC ID cards, putting ID cards for persons to identify themselves—and a technologically driven type of card, not something you could just go around the store corner and make up. You put ID cards, so the police

officer or any law enforcement can look at that and say, “This person, according to the record, they are legitimate bona fide tenants of the HDC, so we know, at least, we are here to protect your rights”, because the police sometimes take a hands-off approach. They say, “Listen, you are saying this is your apartment, but we do not know this”. “You might be the last gang member using it and another gang member come now to displace you.” And that takes days and days. They have to check with HDC, they have to go and find the records, they have to properly be informed and so on. In that time, violence is threatened; persons gone into hiding. When you are looking for the original tenant who complained, you cannot find him because he is hiding, and that is the real situation that we face. So the HDC ID cards were being contemplated to assist in those areas where we had that problem.

So, Madam Speaker, I would ask the hon. Minister of Housing and Urban Development, I think from Point Fortin now—the Member for San Fernando East was there for a weekend. I will ask the Member for Point Fortin to take note whether or not HDC identification cards can be used in those circumstances to identify your tenants or your occupiers who are there legitimately. Madam Speaker, that was the summary offences piece of legislation.

You also have, Madam Speaker, in the Summary Offences Act, section 41 as well:

“Any person found on cultivated lands, or on any lands on which livestock or farm animal are reared....”

—and you are there without permission of the occupier, \$2,000 and not more than five years in jail. So, you see the type of penalties that go for those types of actions.

Madam Speaker, the proposal before us, as I said, is a proposal that is here

just to change daylight, move away daylight, and put some stiff penalties to describe taking an action, which is already provided in the criminal law to charge and to arrest and so on.

And, you know, I want to tell the Member, one must be a little cautious when police officers tell you, “Well, we do not have charge to deal with that”, because sometimes that is an easy escape route. Officers come sometimes and say, “Well, we do not have criminal offences”, as if every single situation in the world, every action, you can fashion a criminal offence, and when you look there are offences for which people can be held accountable, they can be charged and so on, existing offences that they can be charged for.

Madam Speaker, as I said before, this is a real problem in the real world and it is a problem that countries in the world have faced, not just Trinidad and Tobago. We are not special in that regard of facing this problem. But what happens elsewhere, Madam Speaker—and I just want to draw your attention to two or three places around the globe and, particularly, Commonwealth jurisdictions. I am looking at Victoria in Australia, I am looking at Canada, Madam Speaker, and I believe Auckland, New Zealand, they have dealt with this matter. And it would have been useful for the Government to say, “Look, this is a real problem, it is linked to gang violence, to hot spot areas, either we repeal the Trespass Act and bring a comprehensive piece of legislation”—you have had four years to do that, you could not do that—or you devise the legislation as they did in Australia, New Zealand and elsewhere—Canada as well—to deal with the criminal conduct associated with home invasion.

Madam Speaker, home invasion, “Being unlawfully in dwelling-house”, and just to quote from the Canadian legislation:

“Every person who, without lawful excuse, enters or is in a dwelling-house with intent to commit an indictable offence in it is guilty of an indictable offence and liable to imprisonment for...10 years...”

So you could have come to the Parliament, go through your processes, of course, and come with a Bill that deals with home invasion and then define homes and so on to include, to capture HDC and rental and even hotels for example. There are persons who go into these hotels in the country, Madam Speaker, and they take possession of room or rooms and so on, and when the time comes they say, “Well, you did not pay your bill for two months, or something like, you are there, you have to go”. [*Interruption*] Well, I do not know. The Member for Naparima may speak more on this matter, later. I do not have all the facts. But, Madam Speaker, when they do not pay their bill for a period of time, more than two hours I imagine, they then have a firefight or of some kind and they threaten, they intimidate, they use show of force, brandishing weapons and so on, and the person, the hotel owner, cannot do anything. They say, “Look, I do not want to get in any trouble”. “If I report this, is trouble. Leave the person let them stay there until they are ready to leave.” So hotels are also like that as well.

So, Madam Speaker, this issue of home invasion is a wider issue that the Government should have considered rather than this narrow amendment to an 1852 Act, [*Desk thumping*] where you have kept things like master and servant. You have kept the need to pound on the ground, a trespassing sign and so on. The colonial legislation remains. After four years or so, colonial legislation remains.

Madam Speaker, the New Zealand Crimes Act, section 17(a) also dealt with this matter of home invasion, and they went into more detail, unlike this Bill, to define dwelling house and they have about 20 elements of what constitutes

“dwelling house” because, again, they were matching it to the problems they were facing in that jurisdiction.

There is as well in Auckland, a Crimes (Home Invasion) Bill that gives a policy statement—the policy issues involved—and then a proposed legal framework for dealing with home invasion, but home invasion involving both forcibly entering but staying as well, because home invasion is not getting in, putting the family at gunpoint in a room, robbing them and leaving. They extend that to actually taking up some type of residence there, and using force as the means to maintain a presence. In the Auckland Bill as well, Madam Speaker, they saw the need there because of some gruesome murders associated with home invasion, to introduce this type of legislation and they spoke as well of temporary buildings.

Now, in this legislation, we do not have a sense of what is the status of temporary buildings—buildings that are not, you know, permanent buildings or structures that have been erected by an occupier, erected by a resident or even the State, as the case may be, but there are also temporary buildings. And in those countries, and I imagine here as well, you have persons who would have caravans and houseboats and mobile units and so on that they use for that as well.

So, Madam Speaker, the issue really is that a more comprehensive approach was needed to the crime of home invasion to removing the archaic colonial anachronistic elements of the Trespass Act. And, again, I ask the question, the Government is in a position, Madam Speaker, to have data: How many persons really have been arrested under this archaic colonial legislation that we are here not to repeal, but to amend?

The issue also relates to other areas, Madam Speaker, and I will just bring

this to mind now. Now, while they are providing for offences to deal with these hot spot gangland violence and so on, throughout the State we have had problems of persons throwing people out, Madam Speaker, from their place of abode. And, as I said before, I am very, very strong on the point of this lawful possession, because sometimes people go to court, they file a case in court, and they are not in lawful possession. There was a case recently, I think Ballantyne, before Justice Boodoosingh, that was sent to me, where two persons are before the court and none in lawful possession of anything, but one wants to throw out the next, Madam Speaker, and this amendment deals with lawful possession.

Madam Speaker, in the few minutes left, really, the proposal from this side is to review this matter, is to look at some of the legislation elsewhere—I am not condemning, of course, the staff of the Ministry or anybody else for any other purpose—but to look at this in a more holistic way to contemplate whether 5A or 5B is not already encapsulated in the law, and you could have probably amended elsewhere and increase the penalty for the offence as well, Madam Speaker.

Madam Speaker, I just want to return to the statement made by the Minister in piloting this measure in the beginning. The Minister was clear that this matter was raised before by the Prime Minister, but this matter was raised a long time ago in the public domain not recently, and action had been taken on a more fundamental reform, both in law but in administration. Sometimes in these problems it is not just a legal solution that is required, but administrative solution. [*Desk thumping*] And the Member for San Fernando East, regrettably, did not stay in the housing sector for too long to understand this problem, and I am sure he will give his customary strength to tourism now—

Mr. Mitchell: I will. [*Laughter*]

Dr. R. Moonilal: But I am sure the tourism sector will do well, Madam Speaker, but he was not there long enough to understand this problem, and this problem you can zero in on it. So it is not a question of telling gang members that we just increased the penalty in Parliament to 15 years. That will mean nothing and say nothing, because the people who are under the biggest threat are people who will not likely report these matters. Right? [*Desk thumping*]

And, Madam Speaker, the final point I want to make before anything, is that there are incidents—and I want to draw to the attention of the—well, the Minister of Housing and Urban Development, because this really deals with housing, that we have also had complaints there in the Ministry of Housing and Urban Development where, regrettably—and we know there are some bad apples in the protective services and so on, where police officers have been involved or have been accused of being involved in facilitating this type of home invasion, and allowing persons to stay unlawfully, illegally, in premises, particularly of the HDC, which I speak about, because I know that more than elsewhere. When we take reports and statements and so on, you have serious accusations of officers—a few, not much, one or two—who permit this to happen, turn a blind eye for whatever benefit and so on, and it is a matter I believe that has to be treated with by the Commissioner, by other law enforcement agencies entrusted with the work of monitoring the conduct of officers. Because when you go to report this—in fact, in one case I remember vividly, without calling anybody's name, where someone came to the HDC, made a report. We took it seriously. We called in the police and between the time the police coming to the HDC which would have been a few hours I believe, the person got a phone call from someone saying—well, I do not want to use the language—“Is that what you do”? “You think police could help you? You think police could help you?” That was something that was a real issue

and on further investigation and enquiry by senior members—so that nature of police.

And police officers now, it is something that the new commissioner would need to look at, whether or not they are also being manipulated by other forces, criminal forces in the society—whether they are gangs, whether they are persons who are in aristocratic society, elites of one kind or another, because this is big business—whether they are elites or whether they are the political elite.

Madam Speaker, I have heard a situation where I am told that senior police officers are now being induced to act in certain ways with the inducement being to hold political office. Could you imagine that, to hold political office? And this is why we can propose that in the future police officers on retirement when they leave the service should be debarred from holding elected political office in this country [*Desk thumping*] if that is to be used as an inducement to commit wrong.

Mr. Singh: What about army personnel?

Dr. R. Moonilal: It may be the entire protective services, but where you have police officers, rogue officers who have some link to the political elite, it is a diabolical and deadly cocktail. [*Desk thumping*] It is a deadly cocktail in this society when police officers are linked to the political elite. And, you see, my friend, the Member for Laventille West is smiling. I think he is aware of this, Madam Speaker, and that is a matter that we will have to deal with in the coming days. Thank you. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I had no intention of contributing today, because I have full faith and confidence in my colleague, the Member for Laventille West, in his zeal to ensure that the people of our country are protected from a real and present danger

which the hon. Members opposite, in the entire time that they sat in office, failed to address. [*Desk thumping*] But having heard the contribution from the Member for Oropouche East, I am compelled to make a short contribution, and I do so because the hon. Member, if I can put it this way, he is persuasive. Unlike the Member for Naparima, there is a degree of research and depth in his contribution, and he has a particular talent in being able to sway in the manner in which his delivery comes, and I compliment him for that. I will say that openly. [*Desk thumping*] But like any good advocate to a cause, there is a slant in the argument and the slant in the argument is beguiling. The slant in the argument may have the tendency to ask you to accept what the Member is saying until the contrary is put forward, and I do so now.

So, Madam Speaker, I will say this. First of all, by way of reputation, I wish to point out yes—because the hon. Member raised it—there was a case against the Member for Laventille West which he won in a court of law [*Desk thumping*] relative to an allegation of trespass against him, and he is standing as victor and vindicated in claim. I say to him that he should have no trouble to answer that point as I set the record straight. [*Desk thumping*] You see, this is an example of how one aspect of a contribution can take you to a point of view unless contradicted that can be beguiling. [*Desk thumping and crosstalk*]

Mrs. Persad-Bissessar SC: Arrogance.

Hon. F. Al-Rawi: The Member for Siparia is talking about arrogance. I know she knows it well, the hon. Member, but I would put it down this way.

Mrs. Persad-Bissessar SC: I am telling you the truth, mere records.

Hon. F. Al-Rawi: I welcome the Member for Siparia back to the Parliament. I have not seen her for a long time, hopefully she will contribute.

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Mrs. Persad-Bissessar SC: Did you miss me?

Hon. F. Al-Rawi: I did. I missed you.

Mrs. Persad-Bissessar SC: Thank you so much.

Hon. F. Al-Rawi: So, Madam Speaker, that is the first thing that I will put onto the record.

The second thing, in terms of framing the argument that the hon. Member put forward, was to say that this Bill is to treat with crime hot spots and ganglands and HDC. No, Madam Speaker. This is to treat with all of Trinidad and Tobago [*Desk thumping*] and I will tell you why. Standing in Trinidad and Tobago's news today, and coming in days ahead, this country will learn that drugs, prostitution and criminality happen in upscale areas, they happen in commercial enterprises, they happen in dwelling places atop commercial enterprises. And what has been certified in this country now, is that crime has no distinction for hot spot, or poor people, or HDC. That is not where crime resides. [*Desk thumping*] Crime is everywhere, and the hon. Members opposite know this because in dismantling the protection services as happened under the capable watch of the Member for Siparia as Prime Minister of this country in removing the Special Anti-Crime Unit, in removing the mechanisms, Madam Speaker, [*Desk thumping*] we saw our country head along a dangerous path.

Mrs. Persad-Bissessar SC: And where is it now?

Hon. F. Al-Rawi: Now, in answer to the hon. Member, the Member for Siparia has just said, "Where is it now?" I am glad that she has put that across the floor. I want to point out something, Madam Speaker. It ought not to be lost upon the good people of this country—

Mr. Charles: And 59 died.

Hon. F. Al-Rawi: It ought not to be lost upon the good people of this country that the Special Operations Response Team put into gear by Commissioner Gary Griffith, appointed by this Government, with the Opposition refusing to support his appointment, with the Opposition saying bring back Dulalchan and refusing to support the appointment of Commissioner Gary Griffith, that the Special Operations Response Team, SORT as it is called, is a very good-looking replication of the Special Anti-Crime Unit of Trinidad and Tobago.

Mr. Charles: Standing Order 48(1), relevance.

Madam Speaker: Attorney General, I would just give you a lil leeway to develop the point in the context.

Hon. F. Al-Rawi: What was the Standing Order?

Madam Speaker: Relevance. So I will give you a little leeway, but please put it quickly in the context of the Bill that is before us.

Hon. F. Al-Rawi: Thank you, Madam Speaker. I will put it squarely within relevance because I am answering the hon. Member for Oropouche East. I took careful note of his contribution—left column and right column—and I am answering the hon. Member, so I am within the relevance of a reply, Madam Speaker, if it may assist you.

So, Madam Speaker, I am saying, because the hon. Member for Oropouche East said, “They came and they talk about anti-gang law and they talk about if people doh get lock up and anti-gang this and anti-gang that”. The hon. Member went on to say it is the operationalization of other structures—the DPP, the Trinidad and Tobago Police Service—so I am answering that, just to remind the Member for Naparima, who perhaps was not paying attention to his learned colleague. I am answering the hon. Member. So Madam Speaker, as I say now, the Special Operations Response Team, the SORT team, that [*Crosstalk*—Madam

Speaker, the babbling that is coming across is disturbing me.

Madam Speaker: Okay. Hon. Members, remember, again, that we have low ceilings and, therefore, Members are reminded of Standing Order 53 and please to control their volumes.

Hon. F. Al-Rawi: Thank you. Running commentary from the Member for Siparia. Madam Speaker, I am saying the Special Operations Response Team, the SORT team, is a very good replication of the Special Anti-Crime Unit, the SAUTT as it was called [*Desk thumping*] and I am showing the country now that with this Government having appointed a Commissioner of Police in keeping with a manifesto promise, in this Government coming with this Bill in keeping with a manifesto promise, in this Commissioner of Police operationalizing the Trinidad and Tobago Police [*Desk thumping*] via the Special Operations Response Team, I am saying that we are now addressing the scourge of crime. And, Madam Speaker, this is to be done by those with lawful authority to conduct police enforcement.

Madam Speaker, the hon. Members opposite, in speaking about the failure of anti-gang, as the hon. Member put, the hon. Member said, "Anti-gang has been passed and only seven people been caught". I recalled there was a time well, when Members opposite said, "Not one person will be caught under anti-gang". And, Madam Speaker, in answering the point on anti-gang, as I do now, I will say, Madam Speaker, the population noticed raids in high-scale areas, raids this week in the newspapers where children are the victims of trafficking in persons. That came by way of surveillance under anti-gang and other provisions.

Mr. Lee: Point of order, Madam Speaker, 48(1), please

Madam Speaker: Please continue.

Hon. F. Al-Rawi: Madam Speaker, and the relevance of the anti-gang legislation,

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in answering the Member for Oropouche East, is that its preventative aspect is by far more important than the seven people who are in jail, even though they say that there would have been none. [*Crosstalk*] So, Madam Speaker, it does not go far off from the fact that the Opposition refuses to support a sex offender registry.

Mrs. Persad-Bissessar SC: That is not true.

Hon. F. Al-Rawi: It does not go far off of that fact, Madam Speaker. So, Madam Speaker, in looking at this particular provision, in demonstrating that the operationalization of a Commissioner of Police, the anti-gang law, there is one more point in reply to the laws mentioned by the hon. Member for Oropouche East. Madam Speaker, the hon. Member started off his contribution by saying, the Government has come “in the last lap”, because he is saying that we have a short bit of time before a general election to bring a piece of small law to fool people. Those are his exact words. [*Crosstalk*] The hon. Member—Siparia hush. If the hon. Member would allow me to speak.

Hon. Members: “Ohhh!”

Madam Speaker: Okay.

Mr. Charles: “Doh talk to my leader so.” [*Crosstalk*]

Mrs. Robinson-Regis: “Eh, eh.” [*Crosstalk*]

Hon. F. Al-Rawi: Stupid.

Mr. Charles: “Who you calling stupid?”

Madam Speaker: Hon. Members. [*Crosstalk*]

Mr. Padarath: “Who you calling stupid?” This is not Rowley, you know. Let him withdraw that. [*Crosstalk*]

Madam Speaker: Order. Order. [*Crosstalk*] Order! A number of things have been said by a number of Members, and I am going to ask each Member in turn, because

each Member knows—everybody here is seasoned enough, because both sides of the well, things have been said and I would ask each Member to stand up in turn and withdraw it. So starting with the Attorney General. Okay? I heard the “hush”. I think that that is really unparliamentary.

Hon. F. Al-Rawi: I withdraw, Madam Speaker.

Madam Speaker: Thank you very much. Member for Naparima, I believe you said something too, please stand up and withdraw it.

Mr. Charles: I withdraw.

Madam Speaker: Member for Arouca/Maloney, I also believe you said something.

Mrs. Robinson-Regis: Ma’am, if I might just indicate, what I said was the Speaker is on her legs. [*Crosstalk*] That is all I said.

Hon. Member: Withdraw, withdraw.

Madam Speaker: Just withdraw that for me please.

Mrs. Robinson-Regis: Okay. I withdraw that.

Madam Speaker: Thank you very much. Member for Princes Town.

Mr. Padarath: I withdraw, Ma’am.

Madam Speaker: All right. Now, Members, while it is we might all be passionate, I think the Chamber calls for also a balance of temperance and I will ask all Members to try and exercise that today. Attorney General.

Hon. F. Al-Rawi: Thank you, Madam Speaker. Madam Speaker, as I was saying, the hon. Member for Oropouche East said that we had brought, and I quote, “patch-up law to fool people” and he was saying that what was required was a complete repeal of the trespass law. He then went on a little bit later to talk about the old colonial law, and as he put it, the maintenance of the master and servant

principles, et cetera, which I will come to and explain. In answer to that, that came on the back of his submission that the law in relation to hanging exists in Trinidad and Tobago and that nobody is being hanged. What the hon. Member did not say, is that nobody was hanged under the UNC and, therefore, the root cause to be put on the record is the fact that the appellate process in the Privy Council now takes several years beyond the nine months it used to take when the last hangings happened in the Dole Chadee batch. It was nine months at the Privy Council then, it is now several years and, therefore, the Privy Council ruling in *Pratt & Morgan* applies. In the hon. Member then going on to talk about the patch work and functions—

Madam Speaker: Member for Caroni East, if you wish to make an intervention, I am sure you know how to do it.

Hon. F. Al-Rawi: Madam Speaker, in going on to the operationalization of laws, and the Member for Oropouche East talking about the TTPS and the fact that the anti-gang law and other laws are just passed and have no effect, I would like to remind the hon. Members, through you, and the listening public, Madam Speaker, we heard song and dance in Opposition to the introduction of judge only trials. The Members opposite ridiculed the Government and said nobody will take a judge only trial.

Mr. Lee: Madam Speaker, on a point of order, relevance.

Hon. F. Al-Rawi: Oh good Lord!

Mr. Lee: Madam Speaker, 48(1).

Madam Speaker: Attorney General, while I appreciate that this is in answer, I am not going to allow this debate to open into other areas and I uphold—

Hon. F. Al-Rawi: Sure.

Madam Speaker:—the point of order made by the Member for Pointe-a-Pierre.

Hon. F. Al-Rawi: Thank you, Madam Speaker. I will end by saying that has started. It is well in train. Their protestations equal the same song, dance and gallery for nothing. Opposition, opposition, opposition for opposition sake. [*Desk thumping*]

Madam Speaker, let us get to the Bill. You see, the hon. Members opposite do not like to hear the truth, you know, Madam Speaker. Sell it, spin it, work it, but do not listen to the truth. So, Madam Speaker, let us get to answering the issue as to why this Trespass Act was amended in the way it was. Madam Speaker, there are many laws in Trinidad and Tobago that can treat with the issue of certain aspects leading to the home invasion categorization as put by the Member for Oropouche East. [*Crosstalk*] Madam Speaker, could you control Siparia for me please?

Mr. Charles: The Member for Siparia.

Madam Speaker: Okay.

Mrs. Persad-Bissessar SC: I will take a walk. I think he just does not like me in here—

Madam Speaker: Okay, good.

Mrs. Persad-Bissessar SC: And I really prefer not to listen to him.

Madam Speaker: Just one minute, just one minute. Again, I keep telling everyone, okay, we know the limits of the space and we have to understand volumes can be distracting. All right. [*Crosstalk*] Member for Princes Town, if every time I stand up you are going to speak, I am not going to tolerate it. All right? We all have to practise some tolerance in here. It is out of control. So we move on from here. Attorney General.

Hon. F. Al-Rawi: Thank you. Madam Speaker, in treating with the issue as to why this law, I am making the submission, yes, it is true to say that there are many laws that treat with this issue. We have the common law and we have statutory aspects of the law that can treat with part of the issue, the entry, the intention, within the concept of the Larceny Act, as the Member for Laventille West put it; other aspects of the Offences Against the Person Act, if we are looking to the issue and crime of harassment. There are elements of the civil law that can apply when we are looking to the tortious elements of the law. But, Madam Speaker, in treating with this in the Trespass Act in the manner that we have, we have, in fact, achieved the best vehicle for the application of the law, and I want to explain why.

Number one, the very name of the Act, the Trespass Act, Madam Speaker, is determinative of the type of action that we pour scorn upon. When you are looking to house the offence, it really does not fall under the Offences Against the Person Act or the Summary Offences Act, as the hon. Member for Oropouche East is inviting us to do. It is in the wrong place in those laws. It fits, from a legislative framework, within the Trespass Act. That is the first point.

3.50 p.m.

Secondly, because the Trespass Act involves a trespasser, an owner, an occupier, and land or premises, in the widest sense, it is therefore best suited to capture the elements of this crime that we are looking at. The hon. Member for Oropouche East, as he is reputed to be an attorney-at-law, ought to know that. Madam Speaker, the next point is this. The hon. Member went on to say, "Why not treat with home invasion? This law falls short and we should go and look at another Commonwealth jurisdiction and treat with home invasion." Let us deal with what this Bill actually says. Madam Speaker, in clause 8 of the Bill we are introducing a 5A and 5B as new proposed sections into the Trespass Act. And, yes,

this Trespass Act was last amended in 1936; yes, it is saved law, but, Madam Speaker, our Exchequer and Audit Act is saved law, our Customs Act is saved law, our Immigration Act is saved law. There are many laws on the books of Trinidad and Tobago that still stand as good law, and that is just a fact of life. So because there are some rootings and elements of our colonial time indicated in the original language of this Act, does not mean that it is not an appropriate law for amendment as we treat with now, the mischief being, can we catch the elements of home invasion. I would borrow from the Member for Oropouche East.

So, Madam Speaker, what does home invasion imply? Home invasion implies that somebody has invaded your home. You may not own your home, you may rent it. You may not be a renter, you may be somebody who is given a licence to occupy. You may be an occupier by way of permission other than by way of licence or lease or ownership. So, does this Bill treat with that? Yes, Madam Speaker, this Bill treats with that. We are ensuring that there is a definition for a dwelling house in clause 4. A:

“‘dwelling house’ means any structure or part of a structure whether permanent or temporary and whether fixed or capable of being moved which is designed or adapted for use as a dwelling or residence;”

You cannot get broader than that. It includes the concepts of law made famous in *Mitchell v Cowie*. It includes a chattel house. It includes a converted container. It includes a shack. It includes a mansion. It includes something which is converted, condominiums or townhouses. It captures the broadest definition of “home” and it is appropriate to be included in the purview of section 2 of the Act.

Secondly, we go in to define what is an “enclosed yard” because it was a term used in the original Act, and we have said, an:

“‘enclosed yard’ means land that—

- (a) is surrounded by a fence, a natural boundary or a combination of a fence and a natural boundary;
- (b) is enclosed in a manner that indicates the occupier’s intention to keep persons off the occupier’s premises or to keep animals”—and—
“occupier’s”—out—to keep people out of—“occupier’s premises;”

Now, the Member for Oropouche East goes on, recognizing something which is true, yes, the law for trespass employs a methodology of putting up a notice to persons who enter upon lands that they should not trespass. But, Madam Speaker, that is in the modern law of New Zealand, Australia, Canada, England. In fact, what they do is to modify that. They say you should put it at the four corners of the land or you should put it at the boundary and entrances of land, but they still all require the notice. So when one makes a triviality to say, “Yuh ponging ah piece ah wood and ah sign to say, trespassers keep out”, that is the law.

Mr. Hinds: “Why yuh eh do it by WhatsApp?”

Hon. F. Al-Rawi: You cannot do it, as the hon. Member chimes in quite comically now to say, but truthfully, you “cyar” do it by WhatsApp. There must be an act of bringing the notice [*Desk thumping*] to the attention of the person who can violate the provisions—[*Interruption*]

Mr. Hinds: Notice to the world.

Hon. F. Al-Rawi:—and therefore it is entirely appropriate—

Madam Speaker: Member for Laventille West, I know you have invested in this but you will have a second opportunity, I am certain.

Mr. Hinds: Thank you, Madam Speaker.

Madam Speaker: Attorney General.

Hon. F. Al-Rawi: Madam Speaker, it is therefore entirely appropriate in the context of this law for us to avoid the advocacy of the Member for Oropouche East in making a triviality of method by which notice is brought to people's attention.

As for the issue of the master and servant, Madam Speaker, that is to be found in the context of the original Act, and, of course, the Bill does seek to amend that very section. Because when we are talking about trespass on lands where notice is placed, or refusing to quit within the meaning of section 4 of the Act, or if we are looking at the meaning in section 5 of the Act, we must recognize the employer and employee. And yes, we do have, in the body of section 4, the following words:

“However, every labourer or other servant having or occupying any house or cottage, or any room in any house or cottage, on any lands, and the members of his family actually residing there...shall not”—effectively be trespassing. There is nothing archaic, Madam Speaker, about the use of the words “labourer”, “servant”. These are well-defined terms in the industrial relations of Trinidad and Tobago, in the common law of Trinidad and Tobago, in the jurisprudence of Trinidad and Tobago, and in the statutes of Trinidad and Tobago. So I think, most respectfully, the Member for Oropouche East should avoid the advocacy that he has taken today.

Madam Speaker, I was on the definition of “home”. I have now dealt how a home is captured within the definition section, but let us go on to what 5A and 5B—*[Interruption]* And I am hearing something which I will come to in a moment, the disaggregation between state land and private land, because there is a debate as to whether this Act applies to state land because of the long title aspects. *[Interruption]* Yes. So, Madam Speaker, let me deal with the home and invasion aspect and to say why we are satisfied that the new sections 5A and 5B as new

terms capture that. We are saying, first of all, we are going to criminalize two things, 5A:

“A person who uses force, threats or intimidation to enter land...”

because we have defined “land”.

“or a dwelling house...”

We have defined “dwelling house”.

“which is in the lawful possession of another person in order to expel that person and take possession of the land or the dwelling house and does so otherwise than in pursuance of an order of a court or other lawful authority commits an offence and is liable on summary conviction...”

Now, I want to say I recognize a bona fide point coming from the Member for Oropouche East. What is this lawful possession issue? Are we in treating with lawful possession, managing the law in a different way than it was? And I would like to answer that point. That is a very useful submission coming from the Member for Oropouche East, I will say. We intend “lawful possession” because it is a matter for interpretation of the court. We do so specifically to disaggregate the criminal law from the civil law, and we intend, Madam Speaker, to separate out the circumstances where if you have a lawful dispute, you really ought to be in the court. So number one, we have specifically not defined what “lawful possession” is. Lawful possession will be for the master, magistrate or judge to consider. It is something which is well known in the law, but there is a qualification in the clause, 5A. We are separating out the person who enters and uses force in the circumstances where they are doing so in pursuance of a court order or other lawful authority. In other words, whilst the courts frown upon the right of self-help as is permitted in the law, one can evict one’s own tenant or a trespasser using

force. The courts frown upon self-help but self-help is still the law, and therefore this caveat to 5A allows for a very careful and proportionate balance as to what is permitted and what is not permitted.

Home invasion. We have dealt with “home”, we are now in the act of invading. 5A treats with invading by the use of multiple techniques: threat, intimidation, or otherwise. Let us look at forcible detainer, which is 5B.

“Any person who, being unlawfully in or upon any land or dwelling house, maintains or attempts to maintain...possession or occupation...”

Madam Speaker, that, most respectfully, is exactly what the Auckland experience that the hon. Member gave us a little while ago treats with, the act of staying in continuous possession. That is what maintaining possession involves. So we have, most respectfully, from the Government’s submission, treated with unlawful, treated with home and treated with invasion in the multiple mechanisms, painted, quite capably, by the contribution of the Member for Oropouche East. You see, Madam Speaker, I have often told the Member for Oropouche East when we are in committees that I value his contribution because in committees we get to a level of intelligence that is extremely useful. So I want to be balanced in my contribution today to recognize that which is of merit and that which I pour scorn upon. I do not pour scorn upon the Members, I am dealing with the argument on the floor.

Now, Madam Speaker, the aspects further traversed included a very important point. The Member for Oropouche East made a point, he is right. Who is stepping forward to give evidence? The next door neighbour, the fella upstairs? The Member is correct. If we are looking at an HDC community and we are looking at forceful entry and the owner gives a bid, who corroborates? Did the next door neighbour witness? Who is going to step forward and tell a gang member, “I

saw you forcefully enter this premise and occupy it”? Surely somebody has got to give that evidence, and that is exactly why we waited until now to bring this law, Madam Speaker, because we have operationalized the system behind this law. We could not bring it in the early days of the law and of our term, because, Madam Speaker, we dedicated our effort to treating with the criminal justice system. And without breaching the rules of anticipation, albeit in a different House, we have the Evidence (Amdt.) Bill before the Senate right now which treats with the use of anonymous witness evidence. For the first time in the history of Trinidad and Tobago anonymous witness evidence and special procedures for witnesses are being brought to modified, improved, robust criminal justice system that this Government has birthed, Madam Speaker, and that is why we bring the law now. And I accept the point that the Member for Oropouche East makes, but I am saying it has already been dealt with by this Government because we drafted that law.

Madam Speaker, the Member for Oropouche East raised a point, he made a statement, and I would like to correct my version of what I understood the contribution to be. The Member for Oropouche East said that in the HDC experience in the Ministry of Housing that there was a joint aspect of patrolling for the communities, that there was a private aspect using private security and that there was a public aspect using the TTPS, and that they did so because of the resource allocation of the TTPS. I dare say, because the Member went on to say that they removed them thinking they are politically connected, et cetera, I want to say this, the Office of the Attorney General and the 19 divisions that fall under it, including the Office of the DPP fall under my management as the person in the Office of the Attorney General at present. The same security company that we inherited is working there, as are the same people. My personal secretary was the

previous AG's personal secretary. The members of staff are the same people. There has been, under this Government, no throw out because we inherited new perspective. We have maintained the dignity of the public service by allowing people to continue doing what they ought to be doing, because politics has no place in a Ministry when you are running it, Madam Speaker. So I refute the argument put forward by the Member for Oropouche East and I demonstrated with the facts of what I can attest to at the Attorney General's office in what we have done.

Madam Speaker, the hon. Member asked for statistics between the period 2010—2019. There was a little chorus going on with the Member for Naparima. Madam Speaker, one can hardly find—

Madam Speaker: Hon. Attorney General, your original speaking time is now spent. You are entitled to 15 more minutes to wrap up your contribution. Please proceed.

Hon. F. Al-Rawi: One can hardly demonstrate statistics for home invasion in Trinidad and Tobago because it is not a crime within that which we now produced in the new 5A and 5B, as we have set it out in the clauses of this Bill. So we expect this to be a feature of the law going forward, Madam Speaker, but it is enough for us each, and I am sure all of us as Members of Parliament can attest to people who have been victims of home invasion. In San Fernando West that is a phenomenon that I am familiar with in the many developments and areas that we have and which we intend to treat with via other areas of the law going to work, for instance the Anti-Gang legislation and the Trinidad and Tobago Police Service, and witness anonymity, and evidence management, and sped up court trials in a magisterial and High Court perspective with no preliminary enquiries, Madam Speaker. I have said that in one line, but as any Member in this House will know, that is a whole lot of

work and performance.

Madam Speaker, I did not understand the reference made by the Member for Oropouche East to rogue political connection of people from the TTPS and a ban on them. What I can say, as a Member of this Government, is that we are strangers to any of that. If the hon. Member is speaking about something that he is aware of, I do not associate myself with that at all, and no Member on these Benches here associate themselves with that. Madam Speaker, there was one final point which I heard in crosstalk from the Member for Tabaquite and from the Member for Chaguanas West, a very sensible observation, I heard the Members sotto voce speak to it, whether this thing treats with state land.

In our view the law is not expressed as to whether state land is involved or not, but it does not expressly deny it either, and insofar as we are talking about any land and the type of occupation or ownership and the use of dwelling house includes dwelling houses that could be on state land. In other words, squatters have the benefit of this law as well. It is clear to say, if you look to the interpretation in the law as a whole, that a dwelling home is anybody's home regardless of the tenure, regardless of whether it is squatting land, whether it is on state land it is your home, Madam Speaker. So I think it is properly covered in that perspective.

Madam Speaker, we propose, in the new introduction of a 9A, by clause 9 of the Bill, to make an important modification to the law which is to allow for regulations to be promulgated, subject to negative resolution of the Parliament. And, very importantly, we make an exception to the application of section 63 of the Interpretation Act, which is the section that says, "If you breach a regulation the fine is \$500". So we have upped that ante as we must, otherwise it would be a ridiculous suggestion, by causing an amendment to the application of the usual

provisions for the Interpretation Act. Madam Speaker, this is good law. It is proportionate. It is well positioned in the Trespass Act. It has been properly thought out, but it has been brought to the Parliament knowing that we must operationalize the law, and one cannot operationalize the law without a head of a police service installed, without units that are functioning, without divisions that are supported, without a criminal justice system that allows for judge-only trials, that allows for criminal proceedings rules, that allows a public defenders system to have been secured, as we have secured, and now rented accommodation for them right there on Stanmore Avenue, as we build out the public defenders system, as the DPP has received the benefit of the Park Street offices, brand new accommodation in the north of Trinidad, the Tobago Lowlands premises, brand new accommodation in Tobago, and as we will deal with the south accommodation at Gulf City, San Fernando, Madam Speaker, we are pumping resources and the wheels are turning. [*Desk thumping*] So I most respectfully urge citizens, urge hon. Members not to accept the advocacy brought to the table by the Member for Oropouche East. I thank you for this opportunity to set the record straight. [*Desk thumping*]

Madam Speaker: Member for St. Augustine. [*Desk thumping*]

Mr. Prakash Ramadhar (*St. Augustine*): Thank you very much, Madam Speaker. I heard my friend, the learned Attorney General, speak to pouring scorn, not on colleagues but on arguments. I really hope that he would pour attention rather than scorn, because in the elocution of my learned friend from Oropouche East there was not just one but several very important points, matters that the Attorney General, and, of course, his colleague should take on board. Because we too agree that there is a major problem with total lawlessness in the country, not just in

relation to murder, rape, human trafficking, but certainly to the very essence of what we deal with here today of literally what is property stealing. But before I go into that, I think it is important to set the record a little bit right. My learned friend, young in the politics clearly, spoke of SAUTT as if it was this panacea of solving all of crime in Trinidad and Tobago. What many have forgotten is this, that SAUTT was a specialized unit created to deal with crime. But what happened there is that select officers were chosen, and tell me if I am wrong, Attorney General, that those officers were given far better packages in terms of their income, in terms of other facilities, and what that did more than anything else was to create a rift in those who are required to protect us all. It created a low morale of those who were not chosen as if they were second-class citizens, as if they were second-class officers, and therefore you saw a decline in the morale of the police service of Trinidad and Tobago.

Whilst others ate and drank well, and drove in the best of vehicles, and had all of the facilities available to them, police stations were rotting apart without toilets. There were no cars on the roads. You had police stations manned by three persons with a rule that no less than two should go on a patrol, and equally no less than two should be in the station. So, effectively, you had three persons who could neither patrol, and at best they could do is to stay in the stations. And when they were in the stations, Mr. Attorney General, you may not recall, there were very little or no electronic communication facilities available. In fact, police officers had to use their cell phones to do what they should in terms of protecting our citizens. Many would have also forgotten of the times, apart from there being not enough police vehicles on the road—and I am proud to say I was part of an administration that put 800 police vehicles on the streets of Trinidad and Tobago to protect our

citizens. [*Desk thumping*] A lot of what is now manifesting in terms of the delivery are issues and things that had been started under the Kamla Persad-Bissessar administration. [*Desk thumping*]

I do recall, on many occasions, there would be accidents on the highways and as you pass by, particularly at night-time, I had to give up at least two torchlights to police officers because they were on the scene and at that time they did not even give the people flashlights. The Member for Toco/Sangre Grande would be very much aware of the difficulties that had faced the police service pre-2010. So to come here and regale us about creating SAUTT and so, and that we did not support the present Commissioner of Police—to repeat, “How could the Opposition support a demonizing and a wretched twisting of the constitutional authority to select a Commissioner of Police?” [*Desk thumping*] You manipulated the system and made it impossible for us to support a person we wished to, but he had been relegated by the process to such a position that we could not in good conscience support the process, because to do otherwise [*Desk thumping*] it would have been to support a flawed, an intentionally twisted approach. That is the truth. [*Desk thumping*]

We celebrate Gary Griffith and his work that he has been doing, and rest assured that many of the things that are now being manifested, as I repeat, were things that were started under the People’s Partnership Government. [*Desk thumping*] So do not hold it today and suggest it is you who are dealing with crime, because it is just the opposite is true. I am reminded that notwithstanding there being no “hangings”, under the Partnership Government, I pause, crime had reached the lowest level in 31 years in this country. [*Desk thumping*] So that if it is—

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Ms. Olivierre: Madam Speaker, 48(1).

Madam Speaker: Please continue.

Mr. P. Ramadhar: There you are, yes. [*Crosstalk*] So crime had gone to the lowest level—

Madam Speaker: Member for Oropouche East, you are so well versed in the Standing Orders, you have demonstrated that oftentimes. I should not be reminding you, so just withdraw that.

Dr. Moonilal: I withdraw that.

Madam Speaker: Thank you very much. Member for St. Augustine.

Mr. P. Ramadhar: Thank you so much. Madam Speaker, I am easily remained with pain and a sense of hurt that the year 2018, in the midterm of this PNM Government, I think we had the highest—the second highest—murder rate in the history of this nation. So whilst we hear of all the legislative changes that have come, and we congratulate at the very end in terms of the Anti-Gang legislation, and we remember with some disdain what happened, where we were so close to an agreement here, but the Prime Minister, in some fit of arrogance, said, “Two years or nothing”, and crashed the entire proceedings. That is really what happened. With the grace of the Leader of the Opposition, wrote and said, “Look, bring this thing back and we could work it out”, because they were screaming every day, every murder, every drop of blood fell on the People’s Partnership and on the Opposition, and we brought it back and we gave support. But because of the strength we had a better location with a short enough sunset clause, because the powers that were given were so incredibly powerful that we did not believe that it should be given for an unknown period of time, and we have that law. [*Desk thumping*] But if my friends do not appreciate—and it fell from the lips from my

friend from Laventille West, and I know he means well, contrary to how he elucidates things, I think deep down he means well because this is a real life issue.

Contrary to what the Attorney General is saying, yes, of course, it is law for all of Trinidad and Tobago, but the Member for Oropouche East put it in good context. These are incidences—and the Member for Laventille West, I had the great favour of working with him on the joint select on National Security. These were issues that came before us where persons were literally thrown out of their homes out of fear of death or being maimed, and a host of other evil things, and there was almost no recourse, but unless we come to a position where there is a respect for law and order in the country, no written word in any book anywhere is going to deal with those things. The truth is that we need to restore a point—to a point—where if there is an act such as that, there would be an immediate response. And, yes, bringing the law is important, but you must do it right, because it is really not going to help us as much as we hope it would, and the reason for that is for those who implement these things do not understand, and they need to be educated, that to take a person's home—like, for instance, if a person should steal from you your wallet, the police would take immediate action, but when they should steal your home, which is the most sacred of places, there is almost no response.

Milady, I really should not bring it here, but personal experience is the most powerful learning tool. A year ago, and before that, one year before that or more, an agent approached us where we lived—when I say, us, my entire family—and indicated that the home next to where we lived had been seized by the bank and it was up for sale. I missed my neighbour; we had tried to find out where she had been. We had gone away from the country, when we returned we did not see her.

Called the numbers we had, no response, and then this agent having come and said, “Look, there are at least four persons who are interested in purchasing this property”. We learnt that two of them would not had been the best for the neighbourhood, if I may put it as mildly as that.

4.20 p.m.

We took a decision to purchase that home, which we did. One year ago, a Saturday evening around five o'clock, my wife says, “Look something is happening next door.” When we looked out there is this group of men with a bolt cutter cutting the chain onto the premises. I called out to them, we called the police, and to be fair to the police at St. Joseph, they appeared within minutes, by which time of course—and then I saw my former neighbour come up the steps. The police says, “What are you all doing here?”—because we made the report. The woman said, “Well, this is my home. This is my property.” So I said, “No, it was, it no longer is. This has been purchased.” She said, “No.” The police asked, “When were you last here?” “A year ago,” and “If this is your home, why are you breaking into it?” No response. She then says—and I am to blame for this—“Well, I have personal items there.” The police says, “You have any objection for her going in to get it?” I said, “But there is nothing.” He said, “Well, let her go and if there is anything take it.” Sent for the keys and as we came, they grabbed it out of my wife's hand, went into the building and proceeded to change the locks in my presence. I am saying, “Officer, you cannot do this, you cannot allow this. This is criminal trespass.” So he says, “Where is your deed?” I said, “Well, we do not have the deed at home, it is at the lawyer's, but we have a copy of the sales agreement.” These things really happened, you know.

So, we went and got it. It was late in the evening, a Saturday evening. He

said, “This is just an agreement for sale,” a total change from the approach when they first arrived—I do not know what caused it—after the woman identified who she was. So I said let me try my luck. I called the bank officer who we had dealt with. He said, okay, he is willing to speak to the police, put him on speaker. The man gave an account of what transpired, when the mortgage had been seised upon, and the bank—the order of the court to sell, and everything else. Having hung up that phone, the officer says, “Well, I cannot believe him.” So I said, “What are you talking about?” “I am not boasting in any way, but I am the Member of Parliament for the area. I have been a lawyer for 30-odd years, I am telling you here there is an agreement for sale. I do not have the original deed, it is with the lawyers, we can have it brought.”

The long and short of it is, they put that woman back in possession of a property that belonged to someone else—judge, jury and executioner. And you know what we learned after? The woman was related to an Assistant Commissioner of Police. So do not tell me about rogue officers not being involved in the politics. [*Desk thumping*] Do not tell me about that.

We thank God, and I thank my wife Jay for having the patience and she said, “Listen, the last thing you want to do is to appear in any way to give the police any opportunity to lock you up, because they are here to lock you up.” I said, “No way, I mean, I have done nothing wrong.” The long and short, they left, she remained. That night men with guns were patrolling right outside of my bedroom. I went to the police the next day with the deed. You know what we were told? [*Interruption*]

Hon. Member: Shameless!

Mr. Indarsingh: What language I am hearing about shameless? What is that?

Madam Speaker: Member for St. Augustine, please continue. Address your

contribution here.

Mr. P. Ramadhar: I will put this on sworn affidavit if there is any doubt. We went to the police station, having then shown them the deed the response was, “Oh well, this is a civil matter.” So there they were, having stolen my property or the family’s property, and the police refused to act. Fast forward one week, for whatever, the woman left the premises. We secured it. Eleven o’clock on a Saturday night before Carnival, several police vehicles pulled up there with at least 10 to 15 police officers with machine guns outside my home asking for me, to put her back in possession. I am just giving live examples of the lawlessness that applies in this country.

We went to the court, waited for the period that we had to; normal process, and in the first day there was no defence that could have been put forward properly, and the order was made. So, I know what the law provides for, but I know what the police can do and this is where some of the problems will arise.

So, Madam Speaker, and I repeat, sometimes it is the personalities that attend to these matters that will determine the outcome of the thing. Thank God we still have a Judiciary that is functioning. [*Desk thumping*] As long as it took, we took the lawful, the law-abiding course and we were able to have succeeded.

But to hear my learned friend, the Attorney General, speak of hangings and all those sorts of things. There is a matter where there was a conviction in the First Assize Court in San Fernando, two years ago. A jury returned a verdict of guilty on two fellas, and the family came to see us to do the appeal. I am just giving once again a live example. To this day, after several applications, the notes of evidence are not yet ready. Two years after a conviction for murder. Unless we deal with the nuts and bolts, the nitty-gritty, you could do what you want, all the hifalutin

legislative change, but if you do not fix the foundation, nothing moves. [*Desk thumping*] So, Attorney General, I applaud you for all of the efforts, I know they are meant to do good.

This week you may not be aware—you will be aware—that there was a docketing system that basically shut down all the courts, the High Courts. Allow me to just say this, because we are dealing now with the efficiency of the legal system, because a lot of this here will go into the courts for ultimate determination. You go to court, there is a murder set for trial. We were prepared to go forward with it, only to be told that the new docketing system, that the judge who is presiding has no jurisdiction to deal with anything before it. The judge did not even know who was the new judge to whom the matter had been docketed. We did not know. We do not know the timetable as to when that judge will be available to come now and say when it is that a matter had been set for trial—everybody ready—can be placed on their schedule to go forward.

And you will have a situation arising where in jury trials—and you made mention to a judge alone, and I will come to that in a moment—jury trials, where you have a Judge probably now located in Tobago, but they have a docketed case for San Fernando. How is that going to work in practical terms? I would spend a lot more time as we proceed, not in this debate, but in others, to show that that was short-sighted. It sounds good, it appears good on paper, but in the real world it will be dysfunctional—judge alone trial. I will not go into it much more, except to say that that matter is now proceeding before the court, and we should not raise that here.

The judge alone trial for murder, in particular, I have spoken about that, that is a choice that that lawyer and that client made, depending on the Judge they are

before. I will tell you that there is a reason I have said that, but let us move forward now in relation to this issue of land, homes and invasion.

Attorney General, you more than anybody else would know, being in charge of Legal Affairs, that there are many fraudulent deeds out there. There are many persons who believe that they own land and they own property, but legally under the Registry they do not. I know a lot of work had gone forward when we were there, and I expect that you would have moved forward with some of it, to deal with the issue of fraudulent deeds, of wrongful ownership. In fact, I do not know if you still have—we had had four investigators within the Ministry to pursue a lot of the allegations and some of the uncertainties there, because the Fraud Squad, as overburdened as they would be, did not have sufficient time or urgency to deal with some of these issues. Therefore, a lot of the cases that will come, Member for Laventille West, will be those where you have a person with a legitimate deed and another one who has an apparent legitimate deed. How are the police to act in those circumstances?

As quickly as the cases could be proceeded with, you are looking at a year; two, three or four, and then there is the appellate process that can take you to seven and eight. So a person, legitimate owner of a home or premises could be kept out of the home because they take the legal route. You said something very interesting and important for the country to know. The common law resort to self-help is always available, but we saw a case in San Fernando a year ago where three persons were charged for murder because a person went to bully them out of their home. You remember that one?

Mr. Al-Rawi: Yes.

Mr. P. Ramadhar: Whatever happened, as awful as it is, kerosene was poured on

that person by self-help and lit, he died. That matter has been dealt with by the court. So you would have that sort of thing, because when you play with a person's home and property, you really touch them where it matters the most.

So this law the effort is laudable, but I think the nuts and bolts need to be worked out, as the Member for Oropouche East has indicated, and we will help you with that.

Madam Speaker: Hon. Member for St. Augustine, it is now 4.30. I think now is a convenient time. We will take the suspension now, we will return at 5.00 p.m. This House is now suspended.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker: As we resume after tea, I recognize the Member for St. Augustine. You have an additional nine minutes, 20 seconds to complete. Would you like to avail yourself of the 15 "one time"? If you so desire, you have my wish.

Mr. P. Ramadhar: Thank you very much. Maybe I will be optimistic to suggest I will take in the other 15 minutes, but one never knows, I am grateful to you.

Mr. Deputy Speaker, I was making the point that the real crunch issue in this entire proceeding will be the amendment now to read "lawful possession". I had given the example where I had been personally affected by the issue of persons who trespassed illegally, but we had to go through the process of the courts to vindicate the right to take back possession.

For the sake of completeness, my former neighbour had produced a court order dealing with some matter in relation to herself and the bank, and produced that as some form of stay in the mind of herself, and the police, either deliberately

or mistakenly, held on to that as authority to say it was a civil issue. For the record also I want to say, because I saw my learned friends on the Back Bench rose in anger in some form or fashion for my exercising, not just my right, but my duty to do what is the right thing.

This property was put on the open market for sale by the bank having had the order of the court. [*Interruption*] I need to, because of some misunderstanding. There was no abuse in any form or fashion, and I make no apologies, except to say how very sorry that our neighbour had that issue, and we paid a lot for that premises, of course, and all moneys have been accounted for. Let us be quite clear on that.

But that takes me to the point I really rose to speak to in this debate. Many years ago when the property tax had come—I will say since 10 years now, 2009, it was read into the budget, the property tax and we had lead, together with the Member for Chaguanas West and others, the “Axe the Tax” programme throughout the length and breadth of this nation. It was about protecting people’s homes. There was a fear, a legitimate one, that the taxes that could have been imposed then would have been so onerous that persons, especially the elderly, may not have been able to pay, and then the subject of the house or the home could have ended up in the ownership of the State.

The subtext of “Axe the Tax” was “Leave my home alone”. Mr. Deputy Speaker, there is an infection going through this nation that is worse than any flu, it is worse than a lot of diseases. It is this: there are many of our citizens who did all the things that a classic society requires. Having gone to school, educated themselves, trained themselves, worked diligently in industry, or in wherever they worked, and through no fault of their own—and a classic example has been the

Petrotrin closing, and many others who have lost their jobs, from ArcelorMittal and a host of other places—who have mortgages that they took in good faith to own homes. And now, through no fault of their own, having lost their income, many are at the point of losing their homes, just like my neighbour. Those who have not reached that point are living in mortal fear of losing their homes.

Now, home ownership in a nation is crucial for what we call the centre of the society to hold. The moment you start interfering with the right to own a home and the fear of losing it, and for those who unfortunately may have lost it, it is a horrifying experience. Children who would have been born into a house, know nothing else as their home, and for whatever reason the banks exercise their right to mortgage and they are put out lawfully—and very often you hear that these homes may be sold for far less than their true value. I implore the Attorney General and the Government of the day, let us really look at that, and create a fund or some mechanism—America did it under the Great Depression—during the Great Depression, Fannie Mae was created—so that TTMF as an example, I just give that example, can take up the loans or mortgages from commercial banks, because they have a business to run and they cannot just write off things, and for those who truly have no alternative and who cannot pay their loans, their mortgage, for the State to bear that for a time period until things can get better. [*Desk thumping*]

Because if it is that we leave things as they are going, then not only will families be destroyed in the process—we have heard our Sen. Dr. Deyalsingh speak of the—what shall I say—the anxiety problems, the mental health issues that attend the stress. It is relevant to what we are dealing with, eh; I will tell you how. It is just like a person can come with a gun or a knife and take the home, and throw you out, equally under the gun or knife of the law it could happen, like it happened

to my neighbour. Due process, yes, and the point being that the process can crush those who have no choice. Therefore, there is no comparison in terms of the method of doing it, but the effect can be the same. Therefore, I am calling upon this Government, please—*[Interruption]*

Mr. Deyalsingh: Mr. Deputy Speaker, Standing Order 48(1) please. We are not debating the re-possession of homes by banks. *[Desk thumping]* We are debating a criminal Bill for a criminal activity. We are not debating who cannot pay a mortgage. Please, Mr. Deputy Speaker.

Mr. Deputy Speaker: Member again, tie it in. Tie it in quickly and move on to your next point, please.

Mr. P. Ramadhar: We are dealing, at the end of the day, with dispossession of property. Persons who are occupying property to be dispossessed by forcible entry. *[Interruption]*

Mr. Deyalsingh: Mr. Deputy Speaker, Standing Order 48(1). We are speaking about dispossession by criminal activity, not by banks, not by people not being able to pay their mortgage via due process. This is a criminal piece of legislation about dispossession by criminal activity. *[Desk thumping]*

Mr. Hinds: Yes. *[Crosstalk]*

Mr. Deputy Speaker: Again, Member, I do not want to overrule clearly, but I would like you to tie in the point. Tie it in with regard to the criminal intent, and move on please.

Mr. P. Ramadhar: I am most grateful. My learned friend from St. Joseph does not wish to hear about the plight of those who can lose their home, the relevance, right? *[Desk thumping]* Not surprising—not surprising. We shall have to take other action outside of the Parliament possibly, to create a movement to get this to

protect the homes. [*Desk thumping*]

So back to where we are all on the foundation of homes and the protection of them. If my friends do not see the relevance of that, not surprising either.

Mr. Charles: They are not bright enough!

Mr. P. Ramadhar: This issue of the law—

Mr. Deputy Speaker: Hold on. Member for Naparima, based on how the day has been progressing I am abiding by Standing Order 53, as we are continuing. Proceed.

Mr. P. Ramadhar: I will direct then my contribution to the learned Attorney General who understands these things.

In terms of adverse possession, Attorney General, you will have a problem in terms of the owner of the premises who is, as you put it, the “lawful owner”, the adverse possessor—and these are things I need some clarity on it—they having not got, for instance, a declaration from the court or anything like that. Who then exercises the right? Because there could be a right in the adverse possessor against the owner, but the owner has the legal right. Therefore, would the lawful owner with title deed be able to go to the police and then say this person is a trespasser? I mean, you are talking about 14, 16 years may have passed.

These are things that we need to look at, because you could create mayhem. In particular in the squatting communities and—my learned friend from Oropouche East kind of glanced at it—that is where there will be a lot of violence, Member for Laventille West, where persons who are bigger and stronger can say, “Look, this is mine”, and we have real life examples of that. [*Interruption*] I know, but in the implementation of it, when you speak to lawful possession which is the amendment, in the interim can the police get involved in those matters?

So that is why when I opened I said we really do need to pay—we want to help, we want this thing to work. We do know it is a real problem, and we require serious consideration. Legislative change yes, but practical implementation for it to work. I do not wish for you to pass this law as it is, and then you end up creating unforeseen consequences.

Mr. Hinds: Tell us specifically what is the difficulty.

Mr. Deputy Speaker: Laventille West, please.

Mr. P. Ramadhar: The difficulty you will have is by the interpretation of the lawful possession. There is uncertainty as to what that could mean. You have “occupier” already, but now you reinterpret it as those who are in lawful possession.

So, Mr. Deputy Speaker, I really do hope that we could work this thing through, and come up with a more than just cosmetic approach to it. The Attorney General has recognized the contribution of Oropouche East, when he spoke about the need for witness protection and all of those things. And, yes, effort has been made legislatively to protect those things, but unless we have a robust return to respect for law and order, the protection of property rights, and an understanding by the police service and those who are there to enforce our laws, then the best of laws will not be properly implemented.

So I look forward to the next contributor, and to see if we could really work this thing out today. I am most grateful for the opportunity to contribute in this debate. Thank you very much.

Mr. Deputy Speaker: I recognize the Member for San Fernando East.

The Minister of Tourism (Hon. Randall Mitchell): Thank you, Mr. Deputy Speaker, and I thank you for the opportunity to contribute to this, a Bill to amend

the Trespass Act, Chap. 11:07. Before I begin, let me commend the Member for Laventille West for piloting this Bill, [*Desk thumping*] as well as taking the process to where we are today.

Mr. Deputy Speaker, the Member for St. Augustine made a few points, but he was otherwise largely irrelevant. I cannot address the matters the Member raised with respect to his neighbour because we only have his side, and we do not have his neighbour's side of the story.

Hon. Member: You have the court's side.

Hon. R. Mitchell: Mr. Deputy Speaker, this is not about taxes. This Bill is about the protection of a constitutional right to enjoyment of property. [*Desk thumping*] That is what the Government is seeking to protect. The Member is right, homeownership is crucial to a democratic society, and that is the reason why we are amending this Bill today.

To address very quickly the Member's point about lawful possession—lawful possession is possession that is lawful. [*Interruption*]

Mr. Deputy Speaker: Members, one second. Please, mobile devices are either to be switched off or on silent. Members; proceed.

Hon. R. Mitchell: Thank you very much, Mr. Deputy Speaker. Lawful possession as compared to actual possession that an adverse occupier or possessor may have, actual possession. [*Desk thumping*] In any event, lawful possession is a matter that can be dealt with through the courts of Trinidad and Tobago. Mr. Deputy Speaker, let me just put some background into this, as I always like to do.

This Bill deals with trespass. Trespass is usually a tort that is actionable at common law. It involves the unjustifiable interference with land in the immediate and exclusive possession of another. Trespass to land is not criminal, unless there

is a specific statute that creates criminal offences and criminalizes certain action. That is what we are here to deal with, Mr. Deputy Speaker, the Trespass Act, 1852. This Trespass Act criminalizes three offences. In section 3, being found without reasonable excuse:

“...in any enclosed yard, garden, or ground...cultivated lands, or in or about the works of any plantation, oilfield, refinery or oil tank farm...”

Section 4, being on lands where a notice is placed without reasonable cause or excuse for being there. Section 5, fastening any boat or vessel to a wharf or marina where a notice is placed, without reasonable cause or excuse.

The amendments that we propose today, Mr. Deputy Speaker, are relevant. The Act itself, despite being over 160 years old, is relevant today. The amendments that we propose are, one, to update the language to create more modern language, to increase existing penalties, therefore offering a greater deterrent to the acts of trespass, and as well to create new offences criminalizing new types of trespass where lawful residents or occupiers are being displaced.

So, Mr. Deputy Speaker, let me just get to the meat of the matter. It is with respect to the new offences being proposed, in clause 8, proposes a new 5A and 5B that deal with forcible entry and forcible detainer. Before I get there, let me explain one of the problems that motivated the solution that we are proposing here today. That problem took place while I was Housing Minister for two years. Late in 2017, the HDC started receiving complaints about persons being displaced and dispossessed of the lawful occupation of their apartments by the criminal element in Clifton Towers by threat, intimidation.

Another complaint was that vacant apartments were being broken into and occupied by the criminal element. This was not a new problem. This problem

occurred, as the Member for Oropouche East admitted, since 2011. The Member for Laventille West read out an article where the Member for Oropouche East, as he then was the Housing Minister, gave a comment with a lot of bravado. But the HDC, under the Member for Oropouche East, did absolutely nothing—absolutely nothing.

Mr. Singh: How did you arrive at that conclusion?

Hon. R. Mitchell: I was the Housing Minister. [*Laughter and desk thumping*]

5.20 p.m.

Mr. Deputy Speaker, the Member for Oropouche East responded in two ways—one he admitted today. The other way was arbitrarily when they received these complaints, they would simply just shuffle people around, take them out of Clifton Towers and put them somewhere else, all over the country they would play that shuffling game; or they would increase the security by giving contracts to their friends and family; and let me just give an example. It was simply too costly to the HDC to maintain the cost, the running cost of these facilities, it was unsustainable; it was unsustainable.

This Government, in the situation we found ourselves in, we could not kick the can down the road, we had to deal with it frontally, and I gave the instruction at the time that we will engage the police, we will engage the police with the joint army patrols, and we would evict these unlawful occupiers; but I could admit to you here, Mr. Deputy Speaker, that response failed. It failed because when these unlawful occupiers were evicted and they were arrested, the only charge that was available to the police was the same charge that the Member for Oropouche East raised under the Summary Offences Act, which is an Act that deals with rogues and vagabonds sleeping in, and the penalty for sleeping in is a fine of \$200; \$200.

Mr. Deputy Speaker, I speculated at this time because when these unlawful occupiers, the criminal element, were evicted, arrested, I do not even know if they were charged. I suspect that the police may have found that the time and effort it would take to process these persons who were charged were simply too much for the paltry \$200 that they would be fined with. So they were arrested in the morning and in a few hours they would return to Clifton Towers to continue terrorizing and breaking into the very same apartments that we took them out of.

So, Mr. Deputy Speaker, there was no deterrent and there was little or no protection offered. And, Mr. Deputy Speaker, when you compare the consequences, or the consequence rather, of someone who is a displaced residential occupier with the paltry sums that these persons are charged with, this Government and the Member for Laventille West, the one pushing this matter to the point where we are today, we simply had no choice but protect the people of Trinidad and Tobago. [*Desk thumping*]

So, Mr. Deputy Speaker, two new offences of “forcible entry”, offences that were not previously found in our jurisdiction of Trinidad and Tobago, but as the Member for Laventille West would have alluded to, are found in other jurisdictions; so “forcible entry”.

The new 5A criminalizes where:

“A person who uses forces, threats or intimidation to enter land or a dwelling house which is in the lawful possession of another in order to expel that person and take possession of the land and does so otherwise than in pursuance of an order of court or other lawful authority...”

And from the proposed section, it is clear that “force, threats or intimidation to enter land or a dwelling house” can be used against a person and that act is

criminalized.

But, Mr. Deputy Speaker, when you take the word “force”, I respectfully submit that the force can also be used against the property, that is, break open the locks, break open the windows and enter into the property and take possession of the land so as to expel the person in lawful possession of that land or dwelling house. So it is immaterial whether force is used against the person or the property.

And there are examples, Mr. Deputy Speaker, why I am saying that this interpretation has to apply because in other housing developments, criminal activity we have found may have chased persons in lawful possession of apartments to reside elsewhere temporarily, or a person may actually go abroad for a period of time, and in these housing estates they pay their rent on time, every month, so they are in lawful possession and the criminal element in those properties—and this a phenomenon that the HDC has to deal with—the criminal element breaks into those properties and takes possession of the properties and continues to live there.

Mr. Singh: For free.

Hon. R. Mitchell: For free. In fact, some of those persons and the Member for Point Fortin will tell you, some of those persons actually come to the HDC and ask you to regularize them because the person who was in lawful possession, they are nowhere to be found, they left the premises.

Mr. Hinds: “Is bold dey bold so?”

Hon. R. Mitchell: So that, Mr. Deputy Speaker, will also be caught by this Bill.
[*Desk thumping*]

Mr. Deputy Speaker, there is one—to the Member for Laventille West and for the hon. Attorney General—there is one amendment that I would like to be

considered, and I apologize for raising it now. It was only in refreshing my memory with respect to the Clifton Towers situation that it came to mind; this matter was already laid in Parliament.

In the Clifton Towers experience, the criminal element had also taken exclusive possession and expelled workers of the HDC from the office that was on the compound at Clifton Towers. Additionally, the criminal element had also taken possession of the washroom facilities to the exclusion of all the residents at Clifton Towers. And the amendment I would ask to be considered is whether we can include “premises” instead of “land or dwelling house” because premises captures all, or perhaps it can be addressed later down when we do the Regulations.

So, Mr. Deputy Speaker, moving on to 5B, “forcible detainer”. Forcible detainer applies to:

“Any person who...unlawfully in or upon any land or dwelling house, maintains or attempts to maintain his possession or occupation thereof and does so by force...”

And the “force” here, Mr. Deputy Speaker, would apply in cases where, for example, they enter into the premises and they change the locks; that can be interpreted as “force”, or in the case of land where they barricade the land using a fence and they place a gate and they place locks, that is the “force”. Or even, as the Member for Laventille West—“dey put two pitbull in de yard”; that can also be “force”.

And in both instances we have placed a penalty of \$100,000 and imprisonment to 15 years, “forcible entry” and “forcible detainer”. And, Mr. Deputy Speaker, that reflects the seriousness of the crime and the breaches of persons in lawful possession of land or dwelling houses, the breaches to the

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Constitution of their constitutional right to the enjoyment of their property. [*Desk thumping*]

With this, Mr. Deputy Speaker, it is not a revenue-raising matter, as the Member for Oropouche East suggested. It is to provide a very serious deterrent to these types of activities and these types of actions by the criminal element in society.

Hon. Member: Serious revenue for serious crime.

Mr. Hinds: Correct.

Hon. R. Mitchell: Serious. Mr. Deputy Speaker, and I would also propose that the same amendment, for consideration, that the same amendment be looked at 5B “forcible detainer”.

Mr. Deputy Speaker, with respect to clause 5 where an amendment to section 3 is proposed, we have deleted “night-time” because we have accepted that our present-day circumstances and with respect to the scourge of crime, we need to outlaw the trespass that occurs in enclosed yards, gardens, et cetera; we need to outlaw those things at any time during the day or night. And with respect to the penalties, we have increased the penalties from a mere imprisonment for three months to a fine of \$50,000 and to imprisonment for 10 years.

With respect to clause 6, we propose a section 4 amendment, where— section 4 deals with trespass on any lands where there is a sign posted. And the hon. Attorney General dealt with the matter of the sign posted, it is prevalent in modern-day legislation, attaching to these types of criminal trespass, so I will not go there. And we have increased the fine to \$50,000 and to imprisonment for 10 years, and we have increased it from a fine of \$200.

And, Mr. Deputy Speaker, it is my hope that this new section 4 as proposed

could and will offer landowners some sort of protection, some sort of protection, added protection, added comfort, from the scourge of squatting that goes on in this country on private lands where persons enter onto lands, put up their properties, enclose their properties, and dispossess landowners from the right to the enjoyment of their properties.

So, Mr. Deputy Speaker, the fine of \$50,000 and to imprisonment for 10 years, that also seeks to deter this type of activity where persons in society, and some of them know the law better than the landowners, where they come onto lands with the intention of adversely possessing and taking possession of lands.

So, with respect to clause 7, section 5, this deals with marinas, and the increased penalties; we ought to also deter this type of activity and we have a lot of marinas on the west coast of Trinidad, south-west coast, and this should deal with any sort of illegal activity, smuggling, where our borders are found to be porous.

So, Mr. Deputy Speaker, let me just touch on the home invasion point that the Member for Oropouche East made. The Member for Oropouche East harped on this home invasion point, and I think he—his misinterpretation of the whole situation came from the Member for Siparia, Senior Counsel, Prime Minister as she then was. But this matter does not—the new section 5, the new section B, does not deal home invasion. Home invasion is more akin to burglary. The “forcible entry” and “forcible detainer” are two very different things in the matter of home invasion. [*Desk thumping*] Home invasion deals with, where you enter premises with the intention to create an indictable offence, enter into a home with the intention to commit an indictable offence, and it is totally different from what we are dealing with here.

So, Mr. Deputy Speaker, in conclusion, I want to continue to commend the

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Member for Laventille West, to the hon. Prime Minister and to those on this side for seeking to protect those who are most in need of protection, for seeking to protect those who are most in need of shelter and most vulnerable in society. And I commend those on the other side to support this Bill in its entirety. And with those few words, Mr. Deputy Speaker, I thank you. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Mayaro. [*Desk thumping*]

Mr. Singh: Now a man from the east.

Mr. Rushton Paray (*Mayaro*): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, thank you very much for acknowledging me as I enter this debate, to debate a Bill to amend the Trespass Act, Chap. 11:07.

Mr. Deputy Speaker, let me first congratulate my colleagues from Oropouche East and St. Augustine [*Desk thumping*] for the very thoughtful, well-articulated delivery this evening in this House.

I want to agree with my colleague from Oropouche East when he suggested that this Bill should have been repealed in its entirety, and a new piece of legislation come before this House this evening. [*Interruption*] The Act. Sorry. Thank you. The Act should have been repealed and a new Act been placed before this House—

Hon. Member: A new Bill.

Mr. R. Paray: Thank you. There is so much of colonial and archaic thought processes in this, I think we would have been better served with something new coming here before this House.

Mr. Deputy Speaker, one of the things that I would like to explore in my short contribution today is, why the police have failed or why have they been hesitant to act using the old trespassing law. Because I am of the view that the law

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has been in existence since 1837, it was amended in 1937, somewhere I think as well—[*Interruption*]—'36, sorry, but yet the police clearly fail to act when these reports are made. And I decided to reach out to a few police officers, to some retired senior officers as well, to get a feeling from them as to why more charges have been laid when these issues come before the police, so, I will explore a bit of that as my contribution proceeds.

Mr. Deputy Speaker, I think this Bill is a very important Bill, I think it is absolutely important for basically two reasons. One, this Bill in a functioning form, a well-oiled and well-greased form, will allow for the protection of homeowners. And two, it will allow the HDC in that respective area to have more homes available for legal applicants, because I do know and I know I would have conversed with the former Minister of Housing and Urban Development on many occasions for assistance in getting homes cleared that had been vandalized, had been broken into by criminal elements, and they were depriving citizens who would have had legitimate applications from these homes. So, I really think the Bill is very, very important providing it is landed in a good format to go forward.

The hon. Member for Laventille West when he first, when the hon. Member first read this Bill, he reminded us of the Constitution section 4(a) concerning “the right of the individual to life, liberty, security...” et cetera. The enshrined rights of property owners, Mr. Deputy Speaker, are just not here for the protection of homeowners from violent gangs and thugs with the specific reference that we have been focusing a bit on the HDC housing developments and so on, but it is really to protect all citizens, and even to protect citizens from the State. And I am not saying that this Government will use this Act to do anything untoward, but it is really that we have to make sure that no Government now or in the future can use law to

oppress people in any format [*Desk thumping*] so I want to touch a bit on that.

Mr. Deputy Speaker, I have a concern with clause 4 of the Bill and I know several speakers spoke about this issue around lawful possession of any premises. And if you would allow me a couple of minutes to stick to that point, I do not know if the Government has thought about this in any particular way or perhaps they have thought about it, but there are people who have a legitimate expectation who have been on land for close to 16 years who may have a legitimate expectation of adverse possession, and they are there for 14, 15 years, not necessarily 16, when the law gives them some right to it, but this law comes into effect, this trespassing law, and then they can be treated as criminals after 15 years of possession, but they do not have lawful possession.

So, Mr. Deputy Speaker, at that point in time the State may have the ability to toss people out because of that at the end of the day, based on this piece of legislation. So, I am wondering if that may be an oversight or if that is a purposeful move to deal with matters like that.

Mr. Deputy Speaker, there are countless people in this country who could suddenly lose whatever little rights they may have if this Bill was passed as it is with that insertion of this lawful possession. We have seen most recently where road construction, in highway construction and so on, there has been a bit of pulling and tugging with citizens concerning their land and their property and so on, and I am wary that there may be instances where the trespassing law that is being formed here can be used to really move people out in a way that, you know, deprives them of a legitimate expectation if they were to make their 16 years on the property.

Mr. Deputy Speaker, another area of the Bill in reviewing it that I had some

concerns with, and I raise this matter, so in the winding-up the Minister could, you know, address it to clear it up in my mind, is at clause 5 and clause 6 of the Bill as it pertains to the amendment of sections 3 and 4, where they are increasing the existing penalties.

I have an example, Mr. Deputy Speaker, where in accordance with section 3 of Act, just suppose one of my constituents in Mayaro has a garden that they tend to, but in order to access where he is planting, he needs to pass through someone else's land which is very likely in a lot of cases where you have farming happening. Under this particular amendment he is now legally guilty of trespassing and could be open to a fine of \$50,000. Right? I am just asking, perhaps you can clear it up. All right?

Take for example, Mr. Deputy Speaker, you may have hunters as well and, again, these are things when I was discussing it with a few folks within my office and a few of the constituents, they raised some of these matters. The Attorney General or the Minister could clear it up for me. But you have hunters who sometimes accidentally cross into people's land; in fact, they may set up their tents and so on, and they too can be guilty of trespassing and, you know, the fine of \$50,000 if there is a complaint and a charge and so on.

But, Mr. Deputy Speaker, I mention those two areas to contrast it with a case of someone who is trespassing into your property and they do it so with a bit of threatening words, violence, possession of a cutlass, of firearms, but yet the law or the charge, or he will be liable to the same fine of \$50,000 as well.

So, I am thinking, Mr. Deputy Speaker, that the proportionality in all three cases, you know, I think that the case where you have people using threatening language, violence which the forceful part, that the fines could be a lot higher to

deter that sort of behaviour, because you want the punishment to fit the crime at the end of the day too, Mr. Deputy Speaker. Because there is a difference between a man going to work in his garden and someone trying to get into your property and injure and harm somebody.

So the law seems, as it stands, it does not make that difference to make a distinction between those two persons at the end of day. So I am hoping that some attention can be paid to that.

And I know the query about whether the penalties were designed to be a revenue-generation opportunity, but I would hope that having stiffer penalties and higher penalties it is really designed for behaviour changes, because I want to agree with a lot of speakers, we live in a society where, I mean, people take the law into their own hands, you know, we claim to be a lawless society, you know. So, I am hoping these higher fines really work towards behavioural changes. [*Desk thumping*]

Mr. Deputy Speaker, I just want to raise the matter of clause 8 where in the Bill it proposes to amend the Act by inserting after section 5 two new sections, 5A and 5B. While I do not have a problem with those two insertions into the section, I want to agree with the Member for San Fernando East by making an adjustment by changing the word “dwelling house”, and perhaps using the word “premises” as well. I want to agree with that, because if you can amend “dwelling house” to reflect either a room or an apartment, it can give that section a little wider meaning in terms of the law, or perhaps you can change “dwelling house”, it could be removed and replaced with “premises” for this particular area, so it gives the widest possible meaning in terms of the law.

Mr. Deputy Speaker, and the reason why I made that suggestion as well is

because, under the Liquor Licences Act, Chap. 84:10, it sees “premises” as “every room and place under the same roof or within the same curtilage occupied” without belonging to “any house, premises, room or a place”. So at such, “premises” in section 2 of the Act, should be amended to include that definition if possible.

Mr. Deputy Speaker, and I just want to turn to the issue that I referred to: Why is the police not acting, or why have they not acted using the law as it is? And I know when the hon. Minister, the Member for Laventille West, spoke he did make reference to this matter of the police and the army having go into HDC developments some time in 2018 and had cause to break doors and locks and so on to remove people. The hon. Minister suggested that while that may have been so, he was unsure whether people got charged or not, and that speaks to the point that I am making. Why, after that effort, no charges have been laid? Mr. Deputy Speaker, I have a particular case in Rio Claro where a young lady was—

Mr. Hinds: Thank you very warmly for giving way. My friend the Member for San Fernando East as he spoke a moment ago, explained that the only criminal charge that the police had available to them in those circumstances was under the Summary Courts Act, some rogues and— *[Interruption]*—Summary Offences Act, sorry, “sleeping in”. And that carried a sentence of \$200, and having paid it in the morning, they are back in afternoon, no real deterrent; he explained that. Thank you very much.

5.50 p.m.

Mr. R. Paray: Thank you, hon. Member. And I want to take what the Member has said and just expand it a bit, by using this example from this constituent of mine. She was granted, I think, an apartment in one of the complexes in Couva in 2016. She was the victim of two break-ins, and at one point in time, in fear for her life,

she stayed for a while by a relative in Arima for about a month or two. When she returned, the house was occupied by someone. Tried to get in, made reports to the police and up to today in 2019, there has been no action in Couva. I had cause to both send copies of her letter, her request, both to the Minister of Housing, to HDC and I forwarded a copy to the Commissioner of Police as well, and to date the police has taken no action. She has been advised to take civil litigation against the people who occupied her home, and as far as she is concerned she has all her documentation, her lease agreements, her papers, and although she has been out of the apartment for about two years, she is paying her monthly instalment because she believes that at some point in time she is going to get her home back.

Mr. Hinds: This would help.

Mr. R. Paray: And I have no doubt that this would help. But I want to bring a point where I feel would hamper her from getting help, and I will get to that, Mr. Deputy Speaker. When the hon. Member laid this Bill when he had the first reading, the hon. Member made a very important statement, and if you will allow me just to read it. He said:

“There are many instances of these incidents across Trinidad and Tobago, Madam Speaker. The police often, when invited to take note and to get involved, see these as civil matters and have expressed feelings of powerlessness to treat with these matters in the way good sense and justice demands.”

And the Minister brought up a very important point with that, that the police feel powerless. The Minister is saying that this amendment will fix that problem.

Having spoken to several police officers, I am of the view and I stand corrected—perhaps the Minister in wind-up would correct me on that—that the

stumbling block for the police seems to be in section 9 of the Act, and if you allow me just to read what section 9 says. It has been amended. There are two amendments to it, but the Act itself reads like this:

“Nothing contained in this Act shall authorise any Magistrate or Justice...”
—which is a Justice of the Peace I believe—

“...to determine any case of trespass in which any question arises as to the right of title to any lands or any interest therein or accruing therefrom.”

So I am asking, and maybe the AG or the Minister may seek to comment as to why there is no amendment to deal with the issue of the powers of the magistrate in section 9 itself. Because the police are saying why, when they go to deal with this matter, the person says “Well, I have rights to it.” The police are saying, “Well look, we either have to find another way to get around that, either under the Summary Offences, loitering, larceny, rather than using the trespassing Act.” Because the minute it goes before the magistrate and there is a claim of rights, then the magistrate kicks it down to the civil court. The police officer says, well sometimes you go and you get involved at the point in time and there is aggression, and sometimes you may have to forcefully arrest someone, and then you open the police to wrongful arrest and so on. So they have always been very hesitant to take action using the old law as it stands because of the issue of the magistrate and the magistrate’s power, Mr. Deputy Speaker. Because, it was a widely held view, from the police officers that I spoke to, that in most, if not all of these cases, the defendant—all the defendant has to do is, as soon as he lawyers up, the lawyer gets a piece of paper showing that he has some sort of title, a deed of gift from a grandfather, a great grandfather, something that is 50 or 60 years old, and the claim of right. Because of the claim of right, the case goes into limbo. So

that is one of the reasons why a lot of the time the police fail to take action, and they tell you look, “Go, take legal action, put them in court.” And yet, the person who is the rightful owner, they are left to decide “How I am going to proceed with a civil matter?”

Mr. Deputy Speaker, the issue, I believe in section 9, if it is not dealt with, with the issue with the magistrate, it will continue to make this amendment very weak because the police here is the engine to carry out the work that is required for the benefit that the State is looking for, and if we do not get the police to use it, well then we have a problem. Mr. Deputy Speaker, I have a question as to perhaps why the magistrate, who is sitting in the summary court, he, by virtue of the law, is not allowed to deal with a matter of title or rights when it comes before him, but if the same magistrate is sitting in the civil court as a judge he has the competency to deal with it. So, one piece of the law saying, “No, he cannot deal with it”, for whatever reason, I do not know, there may be a legitimate reason for it. But I am looking at the magistrate, as a person, in another court, he has the competency to deal with it. Why do not we allow the magistrate by virtue of legislation to have the power to deal with the matter right there, so it is not kicked to the High Court or to a civil court? Because when these matters have to go to a civil court, Mr. Deputy Speaker, you would know that, lawyer fees, legal fees, from the time you mention High Court it just goes out of proportion, and a lot of people cannot afford to hire attorneys to get these matters before a civil court and it remains in abeyance for years.

So, Mr. Deputy Speaker, I have no issue with the inclusion of 5A and 5B, to make summary offences which the magistrate can hear in the lower court. Because, the police that I spoke to were of the view that if there are issues of rights and title,

that part may be kicked to the civil court, but issues where you have criminal behaviour in terms of force, use of force and so on, the magistrate in the summary court will be able to deal with that matter there. But, again, we come back to the point of you have unscrupulous attorneys outside there who can fabricate a document for you in the morning. By the time the police charges a man on Friday, by the time he gets to court on Monday morning, the attorney turns up with a document saying that he have some sort of legal right to the property, and we are not speaking specifically in terms of HDC homes, but in any premises, any piece of land and so on, so it really becomes the bugbear for the police in executing their duty.

Mr. Deputy Speaker, there are a couple comments that I have with issues with the amendment to clause 9, that with your permission I would like to just briefly take a look at. The issue concerning the magistrates. Why it is the magistrates cannot hear those cases?—and you have, you know, under some new laws that this Parliament has passed, magistrates are now sitting as judges in several matters, and I think the competency issue of the magistrate may have been something 60, 70, 80 years ago, but today, they may be well poised and competent to deal with matters of titles, and rights, and land and so on. So I am hoping that perhaps regulation—that we are allowing the Minister to have that power to do, could perhaps, give magistrates that power to deal with matters of title and rights in the lower court. Again, litigation will be a lot cheaper, because of higher attorney fees and so on, and then, if you have a number of these matters having to go to High Court, it is just going to be adding to the burden that is already there in the High Court. Mr. Deputy Speaker, I am also suggesting that perhaps via regulation if it is possible that the magistrate's power can be expanded to include the granting

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of injunctive reliefs in certain cases as well. As such, it is my humble view, that the above suggestions I feel would make the administration of justice convenient and advantageous to the litigants at the end of the day, because we should not be passing legislation here and there are a lot of grey areas where the police will not have the power and authority to act, and when it reaches before magistrate he too is compelled and forced to toss it somewhere else. So we will end up back to square one again.

So, Mr. Deputy Speaker, with these few comments that I have made, I have done it with the best of intentions, based on my understanding. I want to see good law. This is good law to pass if it is done correctly. I think it is going to bring relief to the citizens, I think it is important for our constituents to have this trespass, this Bill, this amendment Bill, be done right to really give the police the power to act on their behalf. So, Mr. Deputy Speaker, I trust that the AG would take some of these suggestions and go forward in strengthening the Bill and bring relief to the thousands of citizens who face these challenges on a daily basis. With these few words, I want to thank you, Mr. Deputy Speaker. [*Desk thumping*]

The Parliamentary Secretary in the Ministry of National Security (Mrs. Glenda Jennings-Smith): Thank you, Mr. Deputy Speaker. I feel I am compelled to stand this afternoon to take part in this debate, an Act to amend the Trespass Act, Chap. 11:07.

Mr. Deputy Speaker, a lot has been said this afternoon about the police and where they belong, about the police and being rogue elements, about the police and policing, about persons asking for police advice. But this afternoon, being a past police officer and a proud one of that, a person who puts country first, [*Desk thumping*] a person who has given 34 years of my life to serve Trinidad and

Tobago, and I continue to serve Trinidad and Tobago in a higher level, I feel proud to stand here this afternoon representing the constituents of Toco/Sangre Grande [*Desk thumping*] and to speak about this particular Bill. Mr. Deputy Speaker, trespassing is a legal term for the situation in which one person enters into the land of another without permission and the legal right to be there. Depending on the circumstances and the law in place when the act occurs, trespassing may be considered a crime, a civil wrong called a tort, if the trespass is with an illegal intent it is crime. But in Trinidad and Tobago, trespass has tended to be treated as a civil matter, and the Act has not be amended since 1936. However, the upsurge in the new antisocial and criminal behaviour in our society which concerns persons preying specifically on vulnerable senior citizens, and I dare say in my time in the police service, especially during 2013 when we had a lot of uprising by gang members and people spoke only about houses, but I could speak to places like Carapo where we had a notorious gang leader, where they had senior citizens living in those areas where they were given land and they were threatened to move out, and if they did not move out they were burnt out, so they “burn them out” in order to create a whole community of people engaging in gang activities.

So, this afternoon I sat here and I listened to many of the contribution of those on the other side and they tend to take this discussion to a different level, when I think the intent of this legislation was really to address what was happening in 2013. [*Desk thumping*] And, Mr. Deputy Speaker, these things happened in 2013, I was a police officer then and I was wondering: What is the Government of the day doing to help us? What is the Government of the day doing to bring good legislation to make my job easier in that time? Because at that time I was then senior superintendent of the Northern Division where we had a lot of gang

activities taking place. [*Desk thumping*] But lo and behold this afternoon I have to belong to a good Government, a Government which sees the importance in bringing good legislation to make the job easier for the police officers to engage in. [*Desk thumping*] So I feel compelled. I feel compelled, Mr. Naparima. I feel compelled to stand here this afternoon to thank my colleague Laventille West and my dear Attorney General, San Fernando West [*Desk thumping*] for bringing good legislation which I know could be used even up to today.

Mr. Deputy Speaker, we speak again about police not taking action. There are two situations: you have criminal law and civil law. When a person comes to a station and bring a report—[*Interruption*] Leave him let him talk. I could deal with that.

Dr. Francis: He has nothing sensible to say.

Mrs. G. Jennings-Smith: When a person comes to a station and brings a report, which is a civic matter, a civil matter, a police officer does not have the authority to engage in that particular matter. The advice would be given to the person to go to the court and bring up the person.

When these things happen, Mr. Deputy Speaker, what you think happens after that? They are burnt down, arguments take place, a poor unsuspecting elderly person comes to the station and make a report. Okay? They are sent to the court to make a report and get a lawyer. Mr. Deputy Speaker, these are the gaps in the system, and these are the gaps which this piece of legislation seeks to correct. And I am to sit here this afternoon and listen to all sorts of explanation about police officers not doing their jobs, being rogue elements. This Government understands. This Government understands the job that we have to do, and this Government is ensuring that we bring the legislation in place to get the job done, not sit here and

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condemn officers. [*Desk thumping*] We sit here and we condemn officers and we call them rogue officers, bring our personal matters, St. Augustine, bringing a personal matter, a personal matter, and the poor unsuspecting police officers responding and seeing a lady in despair, having lost her husband, and now having lost her home, taking action—[*Interruption*]

Mr. Deputy Speaker: Members! [*Interruption*] Members!

Mrs. G. Jennings-Smith: And St. Augustine—

Mr. Deputy Speaker: Member, one second. One second. Please, not across the Chamber? Right. Please, not across the Chamber, on both sides. Go ahead Member. [*Desk thumping*]

Mrs. G. Jennings-Smith: Thank you, Mr. Deputy Speaker. I sat here in dismay listening to the explanations, listening to the story given, just to end up saying that police officers are rogue officers when the law has a gap. The law has a gap. And if you all cannot understand that—because you want to go to a difficult level and bring it to a different spin, I feel very sorry for you all on that side. [*Desk thumping*] And I can tell you, I sit here, I sit on this side and I have all the blood of a police officer. And I have all the information of every one of you sitting on that side.

Hon. Members: Oh no. “Ay, ay, ay”. [*Desk thumping and laughter*]

Mrs. G. Jennings-Smith: And I could understand why you all do not support good legislation, because just three years ago you all were saying the same things.

Mr. Charles: I hear information there. I feel threatened. I have no information. I am an honest citizen. I am 70 years old and I am proud—[*Continuous crosstalk*]

Mr. Deputy Speaker: Members! Members! [*Interruption*]

Mrs. G. Jennings-Smith: I will stand.

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Mr. Deputy Speaker: Members, overruled!

Mrs. G. Jennings-Smith: Yes, I have said enough on that.

Mr. Hinds: Yes, yes. [*Desk thumping*]

Mr. Indarsingh: Mr. Deputy Speaker, I never tear out any diary from that page.

Hon. Member: What page? [*Crosstalk*]

Mr. Deputy Speaker: Members! Members! Members!

Mr. Indarsingh: I never tear out any diary page.

Mr. Deputy Speaker: Member for Couva South, I think—

Mr. Hinds: With your raspy voice.

Mr. Deputy Speaker: Member for Laventille West. Member for Couva South, again you have been constantly making your comments, but I think now is the time that I need to make a comment with regard to the constant repetition of making various comments at every particular thing that goes on. So please Member for Couva South. And again, other Members, I am not tolerating the shouting across the Chamber, please. Proceed.

Mrs. G. Jennings-Smith: Thank you, Mr. Deputy Speaker. [*Desk thumping*] I also want to speak about the increase in the fines with respect to this piece of legislation, and to let us all know that prior to this law coming into play—
[*Interruption*] Mr. Deputy Speaker, I seek your assistance. [*Laughter*]

Mr. Deputy Speaker: Chaguanas East.

Hon. Member: West. West.

Mr. Deputy Speaker: Chaguanas West. [*Laughter*]

Mr. Singh: My apologies.

Mr. Deputy Speaker: Right, Chaguanas West. Proceed.

Mrs. G. Jennings-Smith: Yes, Mr. Deputy Speaker, so that we see—we now have

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a fine of \$100,000 and imprisonment for 15 years. That in itself should now act as a deterrent to persons who are thinking of engaging in this particular act. And I want to remind us, that, yes, these acts have been happening in Port of Spain, in Sangre Grande, Couva, San Fernando, Carapo, Siparia, and to name all these areas around Trinidad and Tobago. But the Government that preceded this Government did not see it fit to bring this legislation in place. [*Desk thumping*]

I saw the Member for Mayaro, he was really between and betwixt. He was saying yes and he was saying no. He said yes it is a good legislation, but then he was bringing some points about some police telling him certain things. So I do not know what is his stance, but the things he said yes to, I think he was on point, because he understood that there is a need for this particular legislation, and I want to compliment him for seeing that. At least he saw part of the picture.

Dr. Francis: The PNM half.

Mrs. G. Jennings-Smith: Mr. Deputy Speaker, I want to remind you, and I want to bring to the House that, you know, this Government is concerned about increasing and improving the quality of life of all our citizens. [*Desk thumping*]
When a citizen feels that they are protected by a Government, their quality of life is improved. The fear of crime reduces. And, Mr. Deputy Speaker, this Act is one that is going to create that opportunity for many of our citizenry, young and old, rich and poor, and our elderly. And with these few words, Mr. Deputy Speaker, I thank you. [*Desk thumping*]

Dr. Bhoendradatt Tewarie (*Caroni Central*): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I do not think I want to respond to many things said by the Member for Toco/Sangre Grande. All I would ask her though is that if she has any file on me if she could simply tear that page out. [*Laughter*] But that is the

limit of what I would say about that.

Hon. Member: How many pages?

Dr. B. Tewarie: You might have to throw out the book I guess. But, Mr. Deputy Speaker, in all seriousness, I want to re-enforce, I think, what most colleagues have said on our side, which is that, we recognize the good intention behind the Bill, and we understand what was the thinking that went into it. But, most of us feel that by addressing that problem in the way that it has been addressed more problems have been created. And because of that, we are cautious, and we are making suggestions that we think will improve and enhance the Bill, and give us a better Bill on this issue of trespassing.

So, it is not that we are against the Bill or the intention of the Bill. It is that we feel that the Bill is quite limited, and that is the real issue because we have no problem with property rights and recognizing it that something that must not be violated. We agree with that. That is an important principle. But, one of the points that the Member for Oropouche East made was that he located the Bill in 1852, and he mentioned some of the things in the Bill which really showed that it really was a Bill rooted in colonial times, and if you wanted to modify it and modernize it, as in fact the Member for Laventille West indicated that he wanted to do, you could not just tinker with it to address what was essentially an urban problem that has now begun to spread, and which was an HDC problem that is national. So it is not limited to HDC. It is not limited to urban settings. It is a national problem, and it involves more than just house, and it involves more than just land. And when you talk about house and land in Trinidad and Tobago it is bound to be controversial, because this is the basis on which people build their lives in countries such as ours.

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I just want to show the significance of this, the fact that this Bill was in 1852, just for a minute. Emancipation, Mr. Deputy Speaker, was in 1838. So if this Bill was 1852—

Mr. Hinds: Not “the Bill”, “the Act”.

Dr. B. Tewarie: This Act I mean. If this Act was 1852, the original Act, think of that in relation to 1838. Indenture started in 1845. This Act is 1852. Indenture finished in 1917. The last amendment on this one was in 1936. So, you are talking about a context here where “you bound” to have problems if you are trying to bring the law into 2019. And this is the real issue, and we do not have a problem with the intention of the Bill. We have a problem with how the transition to the current time has been managed. At that time you had the State. The State was the owner of a lot of land in the country, but at that time also you would have had big parcels of private ownership. Okay. They were plantations basically. It was a plantation economy. You had a planter class. You had state ownership, you had private ownership. The state ownership was then known as Crown lands; that is what it was known as. Look at the transition. Look at the years. And agriculture was the big product. People were planting cocoa, and that was the nature of the society. What we have had since then, and I am fast-tracking now to the contemporary period, is that squatting is an issue in Trinidad and Tobago. State housing is a phenomenon of national life.

[MADAM SPEAKER *in the Chair*]

Private development is organized business in Trinidad and Tobago, real estate development is a major business, and you have international players in it in Trinidad and Tobago. The spread of property ownership is quite significant in this country over that period and in the contemporary time, and properties change

hands all the time. And, you have, as I mentioned, before, the growing phenomenon of squatting. In our time private ownership is under assault though, and you have home invasions which has been mentioned here by several of my colleagues who spoke so well: the Member for Mayaro, the Member for St. Augustine and the Member for Oropouche East.

So, private ownership is under so much assault that several years ago the concept of gated communities became a reality and has now evolved as the preferred form of development in the country. Squatting has grown on both state and private lands. Some squatter communities have become sustainable communities. I have one in my own constituency which has evolved into something like that. Some have become problem areas. They have become, some of them, breeding grounds for crime itself. State housing has evolved since in 1950s, early '60s, and we have a situation where you have state housing which has turned out to be excellent, as in the Diego Martin area, the Diamond Vale area, one of the first ones that was ever done in this country, where you have serious organized residential communities. But you have other state housing that is a problem. They have—not only are they a problem but they were created under conditions in which problems that were bound to happen. So, in that kind of situation, as we deal with the Bill, we have to be cognizant of these kinds of issues.

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Now, most private developments have generally done well, although there have been problem with some, because sometimes the developers themselves do not follow Town and Country Planning Regulations to the letter, they do not follow what the local government tells them, et cetera, but by and large, the majority of them are pretty well done with reasonable standards. The gated

communities as I said had become a way to go. There has been runaway expropriation of state lands in the country. You know people just walk into a place—you mentioned it just now, Member for Toco/Sangre Grande, the fact that you had people just walking on lands and taking them over; sometimes with violence. And the State has not been able to cope with the claims being made by people for legalization for ownership of lands in which the State is the owner and they are or have been entrenched on the lands for some time.

So there are many land tenure and land regularization issues and this has been a particular nightmare in the agricultural sector, Madam Speaker, and my constituency has a lot of people involved in agriculture in it. Praedial larceny is a persistent problem. This is a violation—

Mr. Hinds: Pr-ae-dial.

Dr. B. Tewarie: Let me use my own pronunciation. So this is a problem and this of course is a violation of property, home invasion, land invasion and the growth of violence have become a factor almost everywhere. So as you have private homeownership, private landownership, the rental market, all of these things growing; lease market, all of these growing, but threats to legitimate ownership and legitimate claims to ownership have also grown. That is to say, people seeking to have legitimacy bestowed by the State, but threats also to this, both on private and people occupying state lands, that has also become an issue.

Now, the limitation I feel with this Bill, in the presentation of the Minister, both when he introduced the Bill for the first reading and now that he spoke to the Bill here in this session is that, he speaks of the general problem touching on some of the things I am mentioning here, but he particularizes the issue as an HDC problem. And I do not know if it is right to have a Bill that simply addresses that

problem when we have all of these attendant and related problems in the country that also need addressing, and I say that in good faith.

The issue may have pertinence to the HDC, but the issue of trespass is a much bigger problem. It is a problem of property rights and of human security on the one hand. So the problem is property rights and human security on the one hand, but on the other hand, Madam Speaker, and you would remember I started by saying that it was a colonial Bill in colonial times, 1850s, and what we had there, and therefore the whole issue of property ownership and how it has evolved. It also raises the problem of social inequities in the society and the need for social justice to provide property ownership opportunities and access to this for all who would want or desire it.

So these are the twin sides of that inherited problem, Madam Speaker, from the history that we have had and the way the society has evolved. On the one hand, you want to root the capitalist elements of your society in property ownership. In fact, capitalism rests on that. Land, labour, capital, homeownership is fundamental to the capitalist idea. But at the same time you want to address the question of justice in a society that has really been formed by colonial and imperial extensions and the end result of that is that you have an evolution of a society that has been rooted in a number of inequities in the society.

So the attendant issue now is the growth of violence and the forceful overpowering of others and predatory behaviour towards the weak, the vulnerable and the unsuspecting. And the Minister was good enough, the Member for Laventille West, to raise that particular issue and some Members on the other side did raise it as well and our Members on this side acknowledged that as a critical issue. So the Bill seeks to make amendments to the Trespass Act but it is really

about three things and I want to reinforce this; property rights and property ownership rights, and human and property protection and security; social and economic justice and the need to provide legitimate and legal roots to land and homeownership in the society. But thirdly, it wants to introduce laws or elements of the law, that is to say, clauses in the law which make enforcement of laws to deal with violence against the person and against property in the context of predatory behaviour possible. And these are the three pins so to speak on which the law hangs. And we have no problem with the three of those, except that, how it has evolved, and the limitations of the Bill because of the few clauses in it and a small amendment, really two major—well, a few amendments.

Now, this issue of land and property and the home invasion, and I do not want you to think that I am being sensational here, Madam Speaker, I just want to mention a couple of things. We had a situation some weeks ago in which a 64-year-old farmer; her name is Angela McKenzie. She is a land owner; she had a nice piece of land, I do not know how much it might be; 10, 12 acres or something like. She is a gardener, she is a farmer, somebody passed up and down the place, I do not know, they had some altercation and the next thing you know, this woman who lives by herself, simply eliminated from the face of the earth. And what recourse does this lady have, you know?

You had a situation where some years ago and this is not in your time, so you need not be defensive about it. John Cropper who was my good friend. Angela and John were good friends of mine. And John Cropper, somebody walked into his house and eliminated, you know, in his own property, in his own household. You had a situation where a doubles vendor in Balmain, Couva, two o'clock in the morning, Nishad Radhay, eliminated in his house. In October of 2018, Kenneth

Audain, age 67 years old, invasion in the home, murdered. And finally, and this is the last one, Nizam Mohammed, 60 years old. Again, home invasion and murder.

I mean, [*Crosstalk*] it is relevant to what I am saying, because I am saying that the law is limited. You cannot come and tell me that what you are doing here is protecting a tenant in an HDC home in Duncan Street [*Desk thumping*] and that you are bringing a law to do that and you are not doing it for all of these people and all of these things. You cannot tell me that that is good law. And that is the whole point of my argument, Madam Speaker. And I think the Minister understands that. He may understand what he is trying to do and I think he understands that he is trying to do something that is worthwhile which I concede, but I think he also understands that, look, maybe something is amiss here and we could make it better. And this is what I am appealing to do; that is the point of Parliament.

So my point therefore is that the Bill has an—addresses an immediate problem, but it does not go far enough and it creates loopholes, I think. [*Desk thumping*] And secondly, it does not address the issue of how sustainable enforcement will be achieved. [*Desk thumping*] Madam Speaker, this is a very important thing. My colleague, the Member for Oropouche East said, you know, you passed the law and you have the big fines, but how do you get this? And I think this is an important consideration if we are going to pass a law on something like this, which we are acknowledging, all right, the Government is acknowledging that it is a real issue. They are saying it emerged in 2013, the Member for Oropouche East said it emerged in 2013, but this is the law that has come now to address it. So, how do you make the enforcement sustainable? How do you make sure that it does not turn out to be a nightmare which is what it is promising to be?

And, of course, the Bill does not address the issue of social and economic justice that I mentioned which is the other side of the equation.

So let us take a look at the text of the Bill, all right? Now, it changes in clause 4, I believe, from—it changes from “possession of any land” and substituting the words, “lawful possession of any premises”. I want to deal with this issue of lawful possession of any premises. Again, it talks about in this same clause the issue of “enclosed yard”. I want to deal with that particular issue. It talks about the issue of occupier, all of these are in clause 4. I also want to address some issues that arise in clause 8 and I might comment on the penalties.

Now, many of the issues in clause 8 from my point of view—I am going to raise some questions, the Minister can answer them and I raise it on behalf of the farmers and people in the agricultural sector. What is the significance of value of deeds of comfort for them? Does that give them lawful possession of their land? Because the word “lawful” is now inserted in the Bill. And I do not know, I need that clarified for me here today, because I am talking—[*Desk thumping*] on behalf of thousands of farmers in my Constituency, and the last thing by NAMDEVCO was that they had about 13,000 farmers in this country and many of them unregistered. So, do deeds of comfort constitute lawful possession?

The second thing is, what happens to me if I am a farmer and I am in the process of an application for regularization of a lease and it is not yet—

Mr. Hinds: Consummated.

Dr. B. Tewarie: That is right. Am I a legal owner of the land? Do you know that there are farmers on state lands, Member for Laventille West, and because they are not in possession, so to speak, they cannot fence their land, it is against the law. [*Crosstalk*] Well, you have to give me that—

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Mr. Hinds: If they are farming they are—please. If they are farming they are in possession.

Dr. B. Tewarie: Yeah. You are being cute with me.

Mr. Hinds: No, that is the law.

Dr. B. Tewarie: Eh?

Mr. Hinds: That is the law. If they are farming the land they are in possession.

Dr. Rambachan: But are they trespassing?

Dr. B. Tewarie: But are they in lawful possession of any premises? [*Desk thumping*] Because you see this goes on to say you could fence your land and you could build this and so on. “You cyah fence yuh land.” Do you know that there are farmers who have been waiting as long as 30 years for a lease? [*Crosstalk*] Do you know that new farmers on state lands are regarded as squatters on the land?

Mr. Hinds: 48(1).

Dr. B. Tewarie: “No, dis is important, man, doh tell meh 48(1).” [*Laughter and Crosstalk*]

Mr. Hinds: Madam Speaker, I rise on 48(1). It might be important, but none of it is relevant.

Mr. Singh: No, no, no. Do not edit. Do not edit.

Mr. Hinds: I seek your ruling, Madam Speaker, as to whether the submissions of my friend the Member for Caroni Central, important as they might be, are they relevant in the context of this debate? [*Crosstalk*] That is what I said.

Madam Speaker: And I rule in accordance with the point he is developing now as what constitutes lawful possession; that is relevant. Please continue.

Dr. B. Tewarie: Thank you very much, Madam Speaker. So the issue here is what rights do they have pending lawful conveyance of the land in the form of a lease?

Now, you yourself said, Minister, that the police would not intervene because it is a civil matter and you are now making it law so that it becomes a criminal matter. But ask yourself the question, if you had the problem before of it being a civil matter, whether police will now intervene on farm lands without lawful ownership, if the law is now that you have lawful ownership. A farmer, even if he has been on his land for 30 years, waiting on the authorities to look at his file, need permission to construct a fence or a building even if it is wooden or temporary. So the question here, and this is the fundamental one, does this Bill at all address any of the issues faced by farmers or is it ignoring them completely?

The other issue in the agricultural sector is the issue of registered farmers and non-registered farmers. Of the 13,000 farmers a large number of them are not registered. Now the other issue, this clause talks about an “enclosed yard”—I said I would raise this—

- “4. (c) (a) is surrounded by a fence, a natural boundary or a combination of a fence and a natural boundary;
- (b) is enclosed in a manner that indicates the occupier’s intention to keep persons off the occupier’s premises or to keep animals on the occupier’s premises;”

Now, a gated community, Madam Speaker, has a fence around the contour, the perimeter of the property. Trespass therefore involves any violation of that gate or the fence of the whole property. I want to ask how this particular Bill addresses this issue of gated communities and the trespass issue in relation to a gated community. And I do not have to tell you about gated communities, they are all over the country now.

Now—then the issue of property and firearms possession when criminals

have more guns than law-abiding citizens, and any criminal can buy a gun on the street for a few hundred dollars or rent one for less. And the reason I raise that is this, if you are talking about an issue in the country—now, you presented part of this Bill as a kind of crime prevention Bill, eh, and you are preventing this as a crime prevention Bill in which you do not want criminals to take advantage of ordinary people for no reason whatsoever; to violate them, to take away their property, to run them out, et cetera. If you have a situation like that which is emerging in the country where you need the legal basis to deal with it, you now come to make an amendment to do that, does that raise the serious question of how people protect their property rights in the country and how they are treated in the law, in the disbursements of firearms and all of those issues to protect their property.

Madam Speaker: Member, I would say, I would rise on 48(1) in respect to this point. Okay, I will ask you to move on.

Dr. B. Tewarie: Okay. I will leave that, Madam Speaker. Now, the other issue since you are dealing with violation of property, is the violation to places of worship, how would this work in relation to that? In my own constituency, within recent times, we have had three such events: at the Lakshmi Narayan temple; at the Hare Krishna temple; at the Faith Assembly International temple and in the country itself we have had violation at Trinity Cathedral, in Sangre Grande, on the Toco/Manzanilla Road we had the breaking in of a mosque and the interfering with the prayer room and taking of money and so on. How does this Bill address that?

Mr. Hinds: You mean sacrilege?

Dr. B. Tewarie: Does this Bill address the issue of the protection of property rights and the criminalizing of that in relation to this.

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Mr. Hinds: You mean sacrilege?

Dr. B. Tewarie: Now the issue, Madam Speaker, also of squatter regularization, land tenure issues, landownership and property ownership I mentioned. The other issue that I mentioned, the social justice side—now, there are 450,000 households in this country according to the 2011 census or there about. But there is an HDC waiting list of 140,000. How to solve this problem? And this is the issue, the balance of property rights of the 450 and the route to opportunity of the 140,000, or I do not know how many, who live below the poverty line and own no property.

Madam Speaker: Hon. Member for Caroni Central, your original 30 minutes are now spent. You have 15 more minutes to complete your contribution if you wish.

Dr. B. Tewarie: I will take a few minutes. Thank you, Madam Speaker.

Madam Speaker: You may proceed.

Dr. B. Tewarie: Now, in terms of the justice issue, I will not raise everything in relation, I will raise just one point. For instance, I raise the agricultural issue, there are about 1,000 jobless graduates in agriculture at the tertiary level. And we have an agricultural production and food import problem in the country.

Madam Speaker: So, Member for Caroni Central, while I understood your earlier context setting, remember we are dealing with a particular Bill.

Dr. B. Tewarie: Yes.

Madam Speaker: So unless what you are saying, you could tie that back to this Bill. The other things I understood you to be tying it back to, what is lawful possession.

Dr. B. Tewarie: Yes.

Madam Speaker: I am not sure now with employment, where we are going. All right? So I remind you, I am standing on 48(1) and I am asking you unless you can

very quickly tie that to this Bill, I will ask you to move on.

Dr. B. Tewarie: Would you give me an opportunity to explain it in just 30 seconds?

Madam Speaker: “Mm hmm.”

Dr. B. Tewarie: And it was that, for instance, a route to land possession could be created for agricultural graduates in a way that would make them legal owners of property. That is the point.

Madam Speaker: So I ask you to move on to your next point. Thank you very much.

Dr. B. Tewarie: I will move. I will ask just one more question before I close. There is a section in clause 9(2) which reads, it is section 9A(2):

“Regulations made under this section may provide that the contravention of any Regulation constitutes an offence and may prescribe penalties for any offence not exceeding a fine of twenty–five thousand dollars and imprisonment for five years.”

Now, the reason I raise it is because I do not know what the Regulations would say. I mean, the Minister would get up one morning and make a regulation, I have no doubt that it would be related to some reality in the society. But immediately that regulation is made without coming to Parliament or anything, that matter becomes an issue that I have to deal with as a citizen. So the uncertainty of it and the arbitrariness that it seems to suggest, all right, notwithstanding that you expect a Minister to be responsible and look after his office properly, is an issue that I want to raise. The question is very simple. Why would you want to make a regulation like this? So I find it kind of odd, Madam Speaker, and I simply want to ask the question.

So, Madam Speaker, in summary and in closing what I would say is that we recognize on this side, I certainly do, the good intentions of the Bill. We also understand the legitimacy of the issue having to do with the violation of ownership of HDC properties, homes, apartments, in the urban sector and the fact that something has to be done to take care of that. But I want to raise the wider issue, if we are going to pass a law to deal with what is essentially the violent trespassing on property and sometimes assault on the person; if we are going to deal with the whole business of trespass on land and homes and property; and if we are going to deal with this properly on behalf of the law abiding citizen; and if we are going to deal with it anchoring it on the principle that property and the ownership of property should involve inviolable rights; if we are going to take that position, then this Bill is too limited, Madam Speaker, and what we need is a Bill that comprehensively takes into account home and landownership in a much more meaningful way as it exists today in 2019 in Trinidad and Tobago. Thank you very much. [*Desk thumping*]

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*]

Thank you very much, Madam Speaker. Madam Speaker, I am pleased to join and enter this debate and hopefully not take up too much time because I think the points have been made, they have been beaten and certainly from the other side we are hearing a lot of tedious repetition.

The first thing I would like to say, it is quite misleading to suggest that this Bill was brought here to address all of the issues by the Member for Caroni Central. For the Member for Caroni Central to get into a discussion and try to say home invasion and lead to the heinous murders of law abiding citizens over the years and

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that this particular Bill should address those situations, is a complete attempt to mislead the public. You do not charge a person who has entered a home and murdered someone, with trespass. So that suggestion is completely ridiculous. You charge them with murder. To hear what my friend, the Member for Oropouche East said earlier, that “why are you bringing this legislation?—because this legislation, you know, everyone knows the sentence for murder when you are found guilty on murder is death by hanging and it does not play a deterrent role”. “So what are you worrying to bring any piece of legislation to deal with issues such as home invasion”—completely ridiculous as well.

Our purpose—and the public is quite aware of it, Madam Speaker—as legislators, is to bring law to the Parliament’s floor, to debate it and to put in place the tools. This is a tool and I have also sat here and asked permission to enter this debate because I find it quite distasteful to suggest and to reduce this piece of legislation in the most derogatory terms and manners I have heard from those on the other side today by suggesting it is for HDC and it is for persons who live in HDC houses and to talk about Duncan Street and to talk about East Port of Spain in the most derogatory of manners.

So as the Member for Port of Spain North/St. Ann’s West and a representative for a large part of East Port of Spain, I rise for the people that I represent [*Desk thumping*] and point them out for being the racists that they are here today. [*Crosstalk*]

Hon. Members: What!

Hon. S. Young: For being those who have come here to attack those who sit— [*Continuous crosstalk and shouting*] in the HDC houses. [*Mr. Charles, Dr. Moonilal, Mr. Indarsingh and Mr. Singh all stand up*] I am not withdrawing it.

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Mr. Indarsingh: Madam Speaker—

Hon. S. Young: Sit down! Sit down!

Mr. Indarsingh: No, no, no—

Hon. S. Young: On what point of order?

Mr. Indarsingh: He cannot be misbehaving so, man. [*Crosstalk*]

Madam Speaker: Order! Order! [*Crosstalk*]

Hon. Member: Racist—

Hon. S. Young: Order! Order! Order! [*Crosstalk*]

Hon. Member: And you are a money launderer.

Hon. Member: You are wicked. [*Crosstalk*]

Mrs. Robinson-Regis: You keep quiet.

Dr. Moonilal: What is wrong with you? He “gone” crazy?

Madam Speaker: Okay. Hon. Member for Port of Spain North/St. Ann’s West, I would ask you to withdraw that statement that you just made. Member for Naparima, there is a statement that you made that I would ask you to withdraw. Oropouche East, there is a statement you have made I would ask you to withdraw. Couva South, two wrongs do not make a right. Okay? And from here forward, tolerance needs to be a guiding principle. We start again.

Hon. S. Young: I withdraw—

Dr. Tewarie: Madam Speaker—

Hon. S. Young: I am speaking. I withdraw the reference to the term, racist.

Hon. Member: You cannot withdraw that, boy.

Mr. Charles: I withdraw the reference to anything having to do with drugs.

Dr. Moonilal: Madam Speaker, I withdraw whatever I said about it and I am

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withdrawing from this Chamber as well.

Madam Speaker: That is okay.

[Dr. Moonilal exits Chamber]

Madam Speaker: Please continue, Member for Port of Spain North/St. Ann's West.

Hon. S. Young: Thank you very much. So, Madam Speaker, again, I would like to put on the record, as the representative for Port of Spain North/St. Ann's West, where there are a number of HDC housing projects that fall within my constituency, that I take great offence to the derogatory manner that the Member for Oropouche East, and others, have referred to persons who reside in East Port of Spain, Port of Spain South, Laventille, *[Desk thumping]* Maloney and all of the other HDC housing. But let the population take note today that on the 8th of February, 2019, those on the other side have come to Parliament and attacked persons who reside in these HDC housing projects in the most derogatory of manner.

Mr. Charles: Madam Speaker, 48(4). We have not attacked people living in houses in his constituency.

Hon. Member: You did. You did.

Mr. Indarsingh: Madam Speaker, 48(6)—

Madam Speaker: Member for Couva South, I have not as yet recognized you. All right? The Member for Naparima has just raised an issue and let me rule on that. Member for Port of Spain North/St. Ann's West, could you find another way to say what you wish to say? Just one minute. Member for Couva South, you also have a point of order to raise?

Mr. Indarsingh: Well, Madam Speaker, you have ruled so—

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Mrs. Robinson-Regis: You cannot talk to the Speaker and sit down.

Madam Speaker: Just one minute. Member for Couva South, you have demonstrated time and time before how well familiar you are with the Standing Orders, and therefore—and also have, in here, articulated about respect. I expect that you will do things in the proper way. So I have addressed you. I will sit and then you can answer me.

Mr. Indarsingh: Thank you, Madam Speaker. You have addressed the issue based on what my colleague from Naparima has raised.

Madam Speaker: Member for Port of Spain North/St. Ann's West, if you could just find another way to say what you wish to say, please, that would be parliamentary.

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker—

Dr. Tewarie: Madam Speaker, 47(1).

Hon. S. Young: Madam Speaker—

Madam Speaker: You wish to make an intervention?

Dr. Tewarie: Yes.

Madam Speaker: It is an interruption. You are asking him to give way?

Hon. S. Young: I am not giving way. 47(1) is not giving way.

Dr. Tewarie: On a point of order, Madam Speaker.

Madam Speaker: Okay.

Dr. Tewarie: And the point of order is that by—

Mrs. Robinson-Regis: You said 47(1).

Dr. Tewarie: No. By suggesting—

Madam Speaker: One minute. So, it is either you are on—you have to be on 1(a).

Dr. Tewarie: Yes.

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Madam Speaker: Right? You are on 47(1)((a) or (1)(b)?

Dr. Tewarie: 1(a).

Madam Speaker: Okay. So you are rising on a point of order.

Dr. Tewarie: Yes. I am rising on a point of order which is that he is—

Madam Speaker: And which is the—

Dr. Tewarie: He is misleading the House by indicating, Madam Speaker, that anyone, or several Members on this side, spoke in a derogatory manner about East Port of Spain and the housing. All we did was—

Madam Speaker: All right. So, Member for Caroni Central, I think it is the same point that the Member for Naparima raised and the Member for Port of Spain North/St. Ann's West is about to address that. Okay? [*Desk thumping*]

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, the *Hansard* will reflect in the clearest possible terms the contributions that were made by those on the other side prior to me rising to contribute to this debate. Those who were looking, those who were listening, including all of us on this side, heard what they had to say. [*Desk thumping*]

Hon. Member: Yep. Yep.

Hon. S. Young: They suggested, Madam Speaker, that this Bill—the suggestion was that this Bill was being brought to deal with HDC tenants and persons living in the HDC and the repeated use of Duncan Street, et cetera.

So, Madam Speaker, moving on from that point. This Bill was brought to answer specific ills that are facing our society now. This Bill was brought to widen the scope of trespass in Trinidad and Tobago and, in particular, clause 8 that was referred to quite expansively by my friends on the other side, treats with something known as home invasion. And I think those before me, in particular the mover of

the Bill, have said enough about what home invasion is; what it entails and the truth is that in our constituencies it is a reality. And I even recall now what the Member for Oropouche East was saying in the most derogatory of terms about those crime hotspots—the crime hotspots of East Port of Spain and this Bill is being brought to deal with the crime hotspots of East Port of Spain. This is not something that is confined to any HDC development. This is not something that is confined, as far as I am aware, as the Minister of National Security, to any specific area in the north of Trinidad. It happens throughout the whole of Trinidad.

I heard my friend for Moruga/Tableland talking about it; my friend for Toco/Sangre Grande talking about it. [*Desk thumping*] I know for a fact it happens in central, it happens in Enterprise; it does happen in San Fernando; it happens across the country, Madam Speaker. [*Desk thumping*] So to come here today and suggest to the public that this Bill is too limited and it is being done for specific areas of Trinidad and Tobago, is completely false.

What I would like to add is, my friend for Caroni Central took a lot of time talking about farmers and how farmers cannot fence their lands, et cetera, and getting into a whole discussion about possession of agricultural lands. That is a completely different concept. And I have suggested to the mover of the Bill a simple amendment to clause 8 where they say:

“A person who uses force, threats or intimidation to enter land or a dwelling house...”

You just add the word or “premises”. Because premises is defined as including:

- “(a) any lands;
- (d) any garden, ground, cultivated lands, plantation, oilfield, refinery or oil tank farm;”

That simple amendment immediately addresses all that the Member for Caroni Central was saying. And saying that this is not good law; it is not expansive enough, simple solution: add the word “premises” in that section, clause 8, and the new sections 5A and 5B. It completely captures all of that.

But this is about trespass. This is about invasion. A lot of conversation was had about, well, what does this do to address the issues of crime in Trinidad and Tobago? And one of the things that was talked about, again, quite disingenuously, was: does this address places of worship? Madam Speaker, I have stood here, I believe in the other place, and answered questions at a particular period of time, week after week, as to how the Trinidad and Tobago Police Service is addressing the issues of criminal attacks on places of worship. They have increased their patrols. They are focusing on it, particularly. They are intervening with all places of worship. And, in fact—knock on wood, and I hope it stays that way—there has been a remarkable decrease in it since the Trinidad and Tobago Police Service has focused on it.

A trespass Act is not to deal with crimes on places of worship. As my learned friend for Laventille West was quite rightly suggesting, there are specific offences—criminal offences—dealing with any crimes committed at places of worship: sacrilege, also when you enter places of worship, there are specific Acts that deal with the protection of places of worship. So, again, I have to put that on the record [*Desk thumping*] lest people believe that the Government is not doing anything to protect places of worship.

The point is, Madam Speaker, this Bill is not meant to be something that captures all criminal activity in Trinidad and Tobago, and that is how they were trying to sell it on the other side, that there is this crime going on, and there is that

crime going on, and this Bill does not deal with persons who enter a home and murder people. This Bill does not deal with people who enter and commit acts of praedial larceny—

Mr. Hinds: Who “cyar” pay mortgage.

Hon. S. Young:—people who cannot pay mortgages, et cetera. Madam Speaker, I think it is a sign of embarrassment that when this began to arise, nothing was done, even though the leader, the hon. Member for Siparia and the then line Minister for HDC and other issues, did nothing—

Hon. Members: Nothing. Nothing. [*Desk thumping*]

Hon. S. Young:—and now this Government has bravely taken a decision to give the Trinidad and Tobago Police Service yet another asset, another tool in their arsenal to deal with specific incidents of crime.

I also heard it mentioned by the Member for Oropouche East that nothing was being—we passed Anti-Gang legislation and nothing had become of it. Again, I tell the population of Trinidad and Tobago that is completely false. There have been a number of charges under the Anti-Gang legislation, [*Desk thumping*] specific offences created. I congratulate the Trinidad and Tobago Police Service and, in particular, the OCIU, for the remarkable and tremendous work that they are doing in tackling gangs. We are not going to be failed like the state of emergency, where you lock up a whole set of people; you had to release them; hundreds of cases in court right now as a result, and we are still paying out millions of dollars in damages. Proper work is being done.

I have said in the past few months, operations now are being intelligence-driven. The Trinidad and Tobago Police Service is working with the intelligence agencies, and that includes, in the area of anti-gang legislation charges

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have been laid. Specific charges created by the anti-gang legislation, including harbouring gang members, including persons who are trying to intimidate people from reporting gang activity, charges have been laid. Those are before the court. And I give the population here, Madam Speaker, through you, the assurance here today on the 8th of February, 2019, that there are more charges that will soon come. And I congratulate the Trinidad and Tobago Police Service for their new way of policing. [*Desk thumping*]

So, Madam Speaker, I just wanted to intervene, and I thank you for the opportunity to do so, to say that it is a complete fallacy and, once again, an attempt to mislead the population of Trinidad, to say that this Bill is not good legislation and it is not addressing a very serious set of criminal activity taking place throughout Trinidad and Tobago, not only on Duncan Street, not only in East Port of Spain, but throughout Trinidad and Tobago. And I thank the Minister in the Ministry of the Attorney General for taking the lead and the charge on this, [*Desk thumping*] along with the technocrats and the drafts people from the Attorney General's Office. And I stand here proud to be part of an administration that has finally tackled something we all knew was going on, and we can say we did it because we were not—I will leave that part out because the Member for Oropouche East is not here to defend himself and I do not want to speak Spanish.

So, Madam Speaker, with those few words, I thank you for the opportunity to contribute. [*Desk thumping*]

Hon. Member: Very good.

Madam Speaker: Member for Couva South. [*Desk thumping*]

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker, as I join this debate on a Bill to amend the Trespass Act, Chap. 11:07. Madam Speaker,

when legislation is brought to the Parliament of Trinidad and Tobago, the Members of this Opposition have always demonstrated a sense of responsibility to country [*Desk thumping*] and a sense of responsibility to all citizens of Trinidad and Tobago, executing our responsibilities inside this Parliament and also engaging [*Desk thumping*] the stakeholders and national community outside of this Parliament. And I have listened attentively to all the speakers during this debate and it was rather sad that a Bill that is designed to address something that is affecting the law-abiding citizens of this country, that the Member for Port of Spain North/St. Ann's West and the Minister of National Security, who is committed to upholding law and order, and so on in this society, will allow the debate to degenerate to one on the basis of ethnic lines, and so on, in Trinidad. And Tobago. [*Desk thumping*]

Madam Speaker, I want to remind the Member for Laventille West, during his contribution here this evening—because at no point in time my colleague spoke about any constituency or any group of citizens, [*Desk thumping*] or any geographic part of Trinidad and Tobago in any derogatory manner. And, Madam Speaker, I want to tell the Member for Laventille West that I listened to him very attentively, and whilst he may try to side-track me, I will possess the necessary mettle to underscore his narrow approach to this debate here today. [*Desk thumping*] Madam Speaker, because when he rose to pilot this particular legislation, he focused on the issue—

Madam Speaker: “Member”, “Member”.

Mr. R. Indarsingh: When the Member rose to pilot this particular piece of legislation, he focused on the problem and indicated that it was something that was affecting his constituency and this legislation would deal with, not only in his

constituency, but throughout Trinidad and Tobago where the whole issue of trespassing was affecting all citizens. And if he cannot remember, and all of his colleagues who contributed to this debate and who may contribute at some point in time tonight—if they cannot remember, I want to remind them where the Member for Laventille West also focused on the issue of someone who had migrated to the United States of America, and when he returned he found that his property was occupied by criminal elements and undesirable elements for a period of, I think, in excess of three months.

Hon. Member: From his constituency?

Mr. R. Indarsingh: Yes, from the constituency of Laventille West. And also, he indicated to this Chamber this afternoon, and for the benefit of the national community, that there were approximately 11 reports from people who had to abandon their homes, and their families were destabilized, and so on, as a result of, as I said, 11 incidents in East Port of Spain. [*Interruption*] East Port of Spain, Madam Speaker. And in that context, I think that I have a responsibility to rise here [*Desk thumping*] and set the record straight in the context of this debate.

Member for Laventille West, you will have the opportunity to wind up during this debate so you will have a second bite of the cherry, Member. And at the end of the day, Madam Speaker, the Minister of National Security indicated during his debate that my colleague, the Member for Oropouche East, did nothing to address the security issues that were confronting the Partnership Government and during his tenure as the Minister of Housing and Urban Development and so on, and even went to castigate the then Prime Minister, Kamla Persad-Bissessar, for allowing chaos, and so on, to reign in the society, to just paraphrase his words. And that is in keeping with their mantra for the last three-and-a-half, going into their

fourth year, to continue to mask their incompetence [*Desk thumping*] and lack of delivery to the citizens of Trinidad and Tobago by blaming the former Prime Minister, blaming the former government and not understanding their role and responsibility from a manifesto point of view, and their successive budget presentations and so on, and the lack of implementation.

I just want to remind this House that my colleague from Oropouche East did utilize the opportunity to hire private security firms, and so on, within the operations of HDC with a view to stamping out and reducing the presence of criminal elements and what was taking place in the respective HDC communities, and so on, within the operation of Trinidad and Tobago.

So, Madam Speaker, I hope that the Member for Laventille West who has the responsibility of piloting this debate, piloting this particular piece of legislation, will respond to the concerns of the Opposition in the context of our wider responsibility. At the end of the day, whilst you may say that this particular piece of legislation may not have to do, or have no bearings on persons losing their homes, and so on, from the point of view of mortgage payments or their inability to deal with their mortgage payments, any responsible government and any government worth their salt, will be concerned when law-abiding citizens lose their homes and when families are destabilized in any form and fashion, and if you are not prepared to listen to that, then you must go down in history as the most incompetent government and the most uncaring government in the history of Trinidad and Tobago. [*Desk thumping*]

So, Madam Speaker, with these few words, I want to say that the Opposition will continue to fulfil its responsibilities and be an Opposition that will continue to bring to the fore the shortcomings and the lack of, what I would call, compassion

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and caring on behalf of the citizens of this country based on the propaganda that is being peddled in this particular House here this evening by the Members of the Government. I thank you. [*Desk thumping*]

Madam Speaker: Member for Laventille West.

The Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam Speaker. Madam Speaker, as I rise to wind up this debate, when I listened to my friend, the Member for Couva South, I imagined him sucking a whole pile of sugarcane and getting an excess of energy.

Hon. Member: Sugar rush.

Hon. F. Hinds: A sugar rush. The man went from zero to about 150, just so, Madam Speaker. But, more importantly, I would usually speak extemporaneously from this floor and otherwise, but it is only fortuitous and for which I thank God, that I decided on this occasion, since I was presenting this important measure, to write and to read my speech here today. I thank God for that. Because these twister and “turn-abouters” on the other side, they try to twist that which I said. You will recall, Madam Speaker—[*Crosstalk*] You are a twister. You could “twist ah socks”. [*Laughter*]

Mrs. Newallo-Hosein: Standing Order 48(4) and 48(6), Madam Speaker.

Madam Speaker: Please continue, Member for Laventille West.

Hon. F. Hinds: Thank you very warmly, Madam Speaker. It was just a metaphor. Some people twist shoes. They could “twist ah socks”—nylon. [*Laughter*]

Madam Speaker, I said in my presentation today, within the first eight minutes or thereabout, and I quote, hence:

“The main purpose of the Bill...is to plug this loophole in the law”—as I

mentioned—“to modernize the penalties...This problem has been going on in”—our—“country for many years and is far more widespread than most people would imagine. From Carenage to Toco, from Chaguanas to Cedros, the criminals are distressing often defenceless people.”

That is what I said. [*Desk thumping*] In the name of God, why are they so?

Hon. Member: They are the fake news congress.

Hon. F. Hinds: Fake news congress. It was the Member for Oropouche East who got up here—and the *Hansard* will bear reflection of this, and if I am wrong I will walk proudly to the Privileges Committee. But it is the Member for Oropouche East who got up here and said after me that what the Government does not really want to say, he would say it, and he went on to tell us, this is really about a certain community. The Member for Oropouche East said that. And yet my friends, ignoble as they are on the other side, try to put that on me. That is a national problem [*Desk thumping*] and we “doh” make ad hominem law for no one group. We make it for all. [*Desk thumping*]

Hon. Member: That is right.

Hon. F. Hinds: With that said, might I proceed, in true PNM and this Government’s style, to wind up this important measure and bring some clarity where darkness and dumb might have prevailed.

The Member for Oropouche East told us that this law will not work. It is a patch-up thing and we should have completely repealed the entire Trespass Act, and so said the Member for Caroni Central. I simply want to say to my friends that I heard the Member for Caroni Central say in plain terms today that the offence of trespass, old as it might be, established in a law of 1852 as it was, is still very relevant today. All we have done today is twofold, if I might repeat myself. It is to

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create two new criminal offences to meet certain social circumstances from Carenage to Toco, from Chaguanas to Cedros—two new offences in 5A and 5B, and in addition to that, to modernize the sentences in the existing Trespass Act so that it will reflect today's reality. That is all we did.

Dr. Khan: Would the Member please give way?

Hon. F. Hinds: I give way to my friend.

Dr. Khan: Thank you. I wanted you to explain 5B more for me please, because it says about:

“...unlawfully upon any land or dwelling house...”

And then you come afterwards, using force as the only reasonable method to get back a lawful possession. It is basically a dichotomy, and then you are fined. It just does not make any sense.

Hon. F. Hinds: It appears as though you joined my friend and you had some extra sugarcane too. But take it easy; take it easy. You are manifesting a sugar rush too. Take it easy. I am coming to that.

The Government took a policy decision, as being properly elected we are entitled to do, that we should amend the Trespass Act as distinct from repealing and coming with something else. And we did that with one purpose, and that is to criminalize the brutality of people's constitutional rights. That is our decision. That is what we have done, and nothing more.

Home invasion, I want to say for the benefit of all my friends on the other side—and before I do that I want to remind my friends on the other side that it was the Member for Mayaro speaking here today who gave us one example from his constituency in Mayaro.

Hon. Member: That is right. He gave it.

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Dr. Francis: Happening in Moruga.

Hon. Member: And “it” happening in Mayaro too.

Hon. F. Hinds: And my friend from Moruga/Tableland says he has had reports of that in his own constituency, Toco/Sangre Grande, and I rather suspect all of us. But the deception that characterizes the conduct of some of our political opponents is always manifest. That is why we have to pray and “gih dem Psalm 91 by de day”.

Madam Speaker, for the benefit of my friends, home invasion is quite a different thing. I am sure I heard the Member for Port of Spain North/St. Ann’s West; I have heard the Attorney General here today, explain the fundamental difference between home invasion and what we are dealing with, called forcible entry and forcible detainer. Home invasion is where, typically, persons enter unlawfully, enter a home and commit all manners of offences therein, from wounding to larceny, to rape, to robbery; all manners of things. But the significant difference is, in a home invasion, they demonstrate no intention to remain in occupation of the premises for the foreseeable future. That is the difference.

With forcible entry and forcible detainer, it is completely different to home invasion because the home invader does not intend to expel the lawful occupant of the premises or the home. He intends to commit a number of arrestable offences and go about his business with his loot, leaving them in a state of devastation. That is the difference. [*Desk thumping*]

7.20 p.m.

They took objection to the use of the term “servant”. The Member for Oropouche East say, “master servant”; well, there is no mention of “master” in

here. It spoke to “servant”. And if they want to change the word “servant” to “worker”, or “employee”, we have no difficulty with that because the meaning and the essence remains the same. But you see when you are nitpicking, when you are looking for things like peg to hang your hat on, that is the condition they found themselves in today. Good law, living law as my old tutor Dr. Roger Cotterrell from the University of London taught us, in his book *The Sociology of Law*, he had a dichotomy between the law; some was lawyers’ law and some was living law which directly affected the lives of the people. This is living law, and it is so good, and so useful, and so timely, they could find nothing seriously about it, so they start to nitpick about “servant” and such matters.

The Member for Oropouche East and, I think, other Members on the other side, spoke in very derogatory terms that the Trespass Act, old as it is, speaks to putting up a notice on a board with a stick. Well, Madam Speaker, I want to let you know, as we speak today, in Canada, in Barbados, in Guyana, in Australia, everywhere there is land and you want to inform a trespasser that this land is owned and he ought not to trespass, it is done by putting up a notice in a conspicuous place. And as my friend for Port of Spain North/St. Ann’s West, I think it was, and the AG said, you cannot send it by email, you cannot send it by text or WhatsApp. The notice in the conspicuous place on the land is notice to the whole world, and as you know when you are about to purchase land or occupy land you have a duty as a buyer, on the principle of caveat emptor, to see and let the buyer beware. So if you were planning to purchase, or planning to occupy illegally, the notice tells you somebody owns this. So let me move on from that. But again, Madam Speaker, that was an example of their vain thinness in trying to find fault with good law.

The question of lawful possession, let me deal with that. They gave the example of someone who might have entered premises as a tenant and stopped paying the rent at some point—is such a person, they asked, a lawful or unlawful user? Might I let them know, according to ordinary and basic principles of landlord and tenant and other aspects of the law, if a person went into premises as a tenant and at some point stopped paying, that person is a defaulting tenant. That does not make them a trespasser. And as against the landlord, there are several remedies—distress is one of them—where you could seize their goods for non-payment of rent. You could file a claim in the court for non-payment of rent, a number of remedies, ejectment proceedings, the old section 94. I cannot tell you what it is now. We have been out of the business for a little while doing public business.

So the defaulting tenant is not a trespasser, and there are various remedies available to the landlord in those circumstances and that is quite different from forcible entry which is what we are creating in section 5A today, and worse still forcible detainer. Again, I must move on from that. And “lawful possession”, just by way of further clarity, means or implies at the very least “where possession is prescribed by law”. So let me now respond to a matter that the Member for Caroni Central would have raised. He questioned us as to whether the farmer, who is on state lands for an example, cultivating the land, whether he could be a victim of this. The answer to that is a plain and simple no. For one thing, there is no evidence on your hypothesis that he entered by force, and both these offences require the element of entering or retaining or detaining the land by using force or threat or intimidation. It does not apply. [*Clears throat*]

Let me take a drink for that. Plain, clean, cool, unadulterated water.

Dr. Tewarie: I doubt you would give way?

Hon. F. Hinds: No, no, no, you had your fill.

Dr. Tewarie: I just want to ask you a simple question.

Hon. F. Hinds: You had your fill, let me continue. So, Madam Speaker, it does not apply, and the question of lawful occupation, we have heard it said many times this evening, could be had on the basis of a license, it could be had on the basis of a lease, it could be had on the basis of a deed, it could be had on the basis of a certificate of comfort, which in the case of the certificate of comfort is a statement simply telling the occupier of the land that the State will not act against you and dispossess you. That is what the certificate of comfort essentially says.

So this law really seeks to return or to give back actual possession to persons who had lawful possession, as I have defined it, as against persons who use force to enter into occupation or possession, and to detain, to hold it. Now, there is a difference between occupation and possession in a sense, but essentially it is based in authority. And as you know, planting land can be evidence of occupation even if you do not live there, cleaning land is evidence of occupation even if you do not live there and possession. And as the law says, just for the benefit of those outside of this Chamber—and certainly my friends on the other side who put a very pathetic response to these measures today—just for your benefit, if you are in occupation of private lands for 16 years unchallenged or undisturbed by the owner of those lands, the paper owner that is, then you can make a claim under the Real Property Ordinance and you ask in that claim the court to insert your name on the records at the registrar's office as owner thereof upon proof of certain things; and in the case of state lands that 16 years climbs to 30 years.

The Member for Oropouche East, he made mention of other pieces of criminal law, the Larceny Act, the Firearms Act and the Summary Courts Act, and he talked about rogues and vagabonds. All of those, as I said in relation to home

invasion, have to do criminal offences. A man has a firearm, but he goes into the premises, he does something, he comes back out, and as the Member for Port of Spain North/St. Ann's West pointed out painfully today, is that these are separate and stand-alone offences and the police could deal with those quite apart from this. This has to do with forcible entry and forcible detainer, and we are here, as I have said repeatedly, but must say again, to protect the constitutionally enshrined rights of the people of Trinidad and Tobago, who against the State would have action in the constitutional court for taking their property, but would have none against criminals for two reasons, as I said earlier, because one, only the State could infringe your constitutional rights and, two, the—[*Pauses*]

Hon. Member: You forget.

Hon. F. Hinds: No, "I doh forget; you doh worry bout dat". So only the State could infringe your constitutional rights. I will come to the other one shortly. I will come to that.

So mere entry in the case of the Larceny Act of which section 26 is burglary and, of course, as the Member for Port of Spain North/St. Ann's West had to clarify to Caroni Central, the question of "sacrilege" which yields 10 years under section 26, I think it is, of the very Larceny Act, those are not going to be affected by this. Squatters are not going to be affected by this because these two new offences require evidence that you enter using force or threats and intimidation, and the other offence, 5B, where you stay in the property on the basis of such force, threats or intimidation. So squatters in the generality are not affected by this. And as it relates to the Ballantyne case that he made passing reference was to which I must tell you I did not immediately know about, but I just gathered from what he said and I take it at its face value, he raised the question of two people—

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Madam Speaker: The hon. Member.

Hon. F. Hinds: The hon. Member, he raised the spectre of two persons neither of whom had title to the land and they were fighting for possession. Well in which case, both are subject to sanction by the paper owner. Both!

Madam Speaker, state lands. Section 6 of the Interpretation Act tells us that the State may take advantage of the provisions of private law, all of the laws touching and concerning land. The State may take advantage of those provisions, and this Bill, which is before us, makes that very and pellucidly clear. So whatever rights a private person would have had against another individual, the State can enjoy the benefits of those rights under section 6 of the Interpretation Act. So that answers questions that my friend raised. And just for the purposes of another example, if the person went into unlawful possession of an HDC property—and by the way, HDC is a corporate entity, private and apart from the State, eh.

Hon. Member: A statutory body.

Hon. F. Hinds: So if a person—yes, a statutory body—went into occupation of an HDC property, the HDC has its own remedies as against that person. But if the person was an intruder and used force to go in, and force to stay, then he or she would have committed the offences as described herein in the new section 5A and section 5B.

I hope that I am answering all of the little trifling issues that my friends conjured up today.

Hon. Member: Yes, you are.

Hon. F. Hinds: Yes, conjured up today as big, big, big reasons why they should find objections. Thank God this Bill does not require a special majority, otherwise the people of this country will not have gotten the protection that this Government

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 Hon. F. Hinds (cont'd)

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has come to provide. [*Desk thumping*] They do not get it, [*Desk thumping*] especially since I pointed out in my opening comments that they were fully aware of the problem. They promised to do something about it. They did nothing about it and coming to tell us we should repeal the whole thing today. Just keep quiet.

And as for the question of anti-gang, I had made a note but the Member for Port of Spain North/St. Ann's West dealt adequately with that and I need say no more.

Madam Speaker: Member for Laventille West, your 30 minutes have expired. I think—Leader of the House.

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you very much, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that this House do sit until the conclusion of the matter before it. Thank you very kindly.

Question put and agreed to.

TRESPASS (AMDT.) BILL, 2019

Hon. F. Hinds: Thank you very much, Madam Speaker. Time has gone so quickly. I heard a Member on the other side—Oropouche East made a submission that he would like to see law that is to stop police officers—imagine that—from becoming servants in public life like we are. Well, I was a police officer [*Desk thumping*] and had I not been here, they would not have gotten the wonderful lecture that they are now getting in the business of land law. [*Desk thumping*] They would have remained in their ignorance. And the Member for Toco/Sangre Grande was a senior—I was just a constable, but she was a senior police officer. Left the service proudly at the rank of an Assistant Commissioner. [*Desk thumping*] So

today we benefited. The House and the country benefited from a view of the law in front of us today, through the eyes of a senior police officer with experience, and I want to congratulate her and thank her. [*Desk thumping*] On the other hand, with all of his warts, they had a former police officer called Jack Warner in their Cabinet. He was a hero. Well, they could have done without him.

Madam Speaker, let me go very quickly. I said this is not going to affect squatters and I dealt with the question of this repeal. Madam Speaker, I want to treat with a very important issue before I go. We indicated that trespass, the offence of trespass is still relevant today. So the law as it now stands in section 4 of the Trespass Act, 11:07, says and I quote very quickly:

“Any person found at any time in any lands on which, or near...which, there is stuck up in some conspicuous place a notice in legible letters forbidding all persons to trespass, not having some reasonable cause or excuse for being in the place where he is found, or, in the absence of such notice, any person found in any lands, who refuses to quit the same upon request by the owner of the lands, or his servant”—meaning employee—“is liable on summary conviction...”

Well, the law now is “to a fine of two hundred dollars” and we just amending that and saying “to a fine of fifty thousand dollars” or to 10 years imprisonment. England has criminalized that, and because the Trespass Act and squatting is still relevant today, this provision is just a simple amendment to increase the fine.

Hon. Member: Tell us about the labour now.

Hon. F. Hinds: And, of course—I have dealt with that already. I “doh business”. Right?—and of course that compares with the new offence we are writing in, which says and I quote again:

“A person who uses force,”—this is 5A—“threats or intimidation to enter land or a dwelling house which is in the lawful possession”—and I dealt with lawful possession already—“of another person in order to expel that person and take possession of the land or the dwelling house and does so”—and hear this, Madam Speaker—“otherwise than in pursuance of an order of a court or other lawful authority commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for fifteen years.”

Madam Speaker, I want to bring your attention to the words “and does so otherwise than in pursuance of an order of a court or other lawful authority”. In other words, if a person knows that he has lawful title to the land, he does not have to go and try to toss off the person to be possibly considered under 5A or 5B. He goes to court, he gets an order of the court and then he shows up. Now, that is the sequence.

Hon. Member: How long it takes?

Hon. F. Hinds: It matters not how long it takes. It matters not. It is his land, so he “doh” have to go and expose himself. We have the defence of self-help where you can escort somebody off your land, put them off using physical terms, but that is frowned upon by the court as the Attorney General reminded us and all lawyers will know and, therefore, you get an order of the court and all will be well. *[Interruption]* Thank you very much. Time, time. Time is the master.

Madam Speaker, so I think I have covered sufficiently, adequately, all of the very trifling issues that our friends have raised, and it falls to me now as I conclude in my winding-up to remind the people of Trinidad and Tobago that this Government, recognizing this serious lacuna as we call it, loophole in the law, a

loophole that has allowed persons without the possibility of criminal sanction. You have heard from my friend, the Member for Toco/Sangre Grande that even as a senior police officer they felt helpless because they did not have, as the Member for Port of Spain North/St. Ann's West described it, the tool, the equipment to do the business. This Government, recognizing that, not acting in any tardy manner, or in lack of concern, or having preferred to let people off the hook with section 34, we want to bring people in the loop to protect the citizens and their constitutional rights, and this is the difference between this Government and that—*[Desk thumping]*—one.

As strenuously as we try to protect the rights and the constitutional rights and freedoms of the people of this country, it appears as though others before us were equally strenuous in doing that which was wrong, and protecting wrongdoing, and clause 34 is the high point of that. We had to come here a Saturday—just very quickly as I close—we had to come here a Saturday to repeal that.

Mr. Lee: Madam Speaker, 48(1).

Madam Speaker: Hon. Member for Laventille West, I will ask you to move on please.

Hon. F. Hinds: I thank you, Madam Speaker, and with that I beg to truthfully move. *[Desk thumping]*

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Madam Chairman: Hon. Minister and Whip, can we take clauses 1 to 7?

Mr. Hinds: Yes, Madam Speaker.

Mr. Lee: No, Madam Speaker. Madam Speaker, a few Members would like some clarification to the clauses.

Madam Chairman: All right. Sure. Okay, we will do them clause by clause.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Mr. Hinds: Madam Speaker, we propose an amendment if you would permit us? We propose that in clause 4 in the definition of “premises”, the insertion of the words “or any part thereof” after the word “structure” in (b) to take into account, Madam Speaker, “any part thereof” as the words themselves explain as opposed to the structuring on a whole. And therefore, we propose that it now reads:

“any building or structure or part thereof whether permanent or temporary and whether fixed or capable of being moved;”

Madam Chairman: Could you read that again, please?

Mr. Hinds: It should now read:

“(b) any building or structure or part thereof whether permanent or temporary and whether fixed or capable of being moved;”

Question, on amendment, proposed.

Mrs. Newallo-Hosein: Thank you, Chair. Concerning section 2 of the Act, (b), where it reads in the definition of owner by deleting the words “possession of any land” and substituting the words “lawful possession of any premises”, I just want to ask how does the Minister intend to assist persons; how does this impact upon persons who are currently awaiting either deeds, or licences or leases or certificates of comfort, that that is the only way you can prove to any court of law or to any police that you are in lawful possession of any premises? So in the absence of these certificates or deeds or licences, how does this law, how will it impact upon

persons who currently do not possess it?

Mr. Hinds: Could the Member explain further what you are talking about? As against who?

Mrs. Newallo-Hosein: We have an acting Commissioner of Police right now with over 350 files—[*Interruption*—a Commissioner of State Lands, sorry. A Commissioner of State Lands with over 350-plus files on the desk that persons are awaiting leases, or deeds, or licenses, or so forth—[*Interruption*]

Mrs. Robinson-Regis: The Commissioner of Police?

Mrs. Newallo-Hosein: The Commissioner of State Lands, yes. My error. The Commissioner of State Lands—and as such, we have persons currently are not in possession of any title to their premises or lands.

Mr. Hinds: It would not be correct to say they do not have title. They may not have a deed or a lease, but that does not mean they do not have title. And are you wondering whether this will act against them?

Mrs. Newallo-Hosein: Yes, I am asking.

Mr. Hinds: No. These two new offences speak specifically about force, using force to take possession.

Mrs. Newallo-Hosein: Absolutely, Member, Chair, this is how it will impact. I am just using me as an example. I am in a dwelling place, I do not have anything as yet, my file is in the Commissioner of State Lands, and someone comes and forcibly removes me from my premises and, therefore, I go to the police for protection. The police is going to ask, “Show me ownership”, but I do not have anything.

Mr. Al-Rawi: Madam Chair, if I may assist? It is important to read the amendment in the context of the Act.

7.50 p.m.

So when you go to section 2 of the Act, we are amending the definition of “owner” and this is what it reads now:

“‘owner’ includes the tenant, occupier, or other person having lawful possession of any premises;”

Let me repeat that.

Dr. Tewarie: What clause is that?

Mr. Al-Rawi: Okay, so the clause is clause 4. Clause 4 amends section 2 of the Act. In the definition of “owner”, they are deleting “possession of any land” and they are putting “lawful possession of any premises”. So, Madam Chair, I am assisting in the interpretation by saying “owner” now means—the law will now stand—“the tenant, occupier, or any other person having lawful possession of any premises”. Therefore, all of the variables are included there. Lawful does not mean in the context of an occupier. An occupier could never have a deed to the premises. The tenant does not have the title or deed to the premises either. So when you look to the law as it is cast, as revised now, as amended now, it is never going to be that one has to be a legal-deeded owner of property to have the benefit of this law. It takes care of persons in the temporary license or occupational positions as well. So I understand what the Member’s concern was and it is taken care of when you read law as amended.

Dr. Tewarie: Okay, and the second part to that, which is that if as an occupier, without any title, without any documents, et cetera, the person is violated, a trespass takes place on the occupier’s property, does that occupier have any legal rights under the law in dealing with the criminal element?

Mr. Al-Rawi: Yes.

Dr. Tewarie: And how is that?

Mr. Al-Rawi: Sure. I will answer that. It is by the interpretation of the definition of a “dwelling house”. So the:

“‘dwelling house’ means any structure or any part of a structure whether permanent or temporary and whether fixed or capable of being moved, which is designed or adapted for use as a dwelling or residence;”

That does not mean that it has to be on property that is titled. It could include squatting, and therefore, any tenant, occupier or owner of that structure deemed to be a dwelling house has the advantage of being the virtual complainant in the matters.

Dr. Tewarie: So a squatter, not necessarily a land tenant—right—

Mr. Al-Rawi: Yes.

Dr. Tewarie:—also has the same rights under the law if violated?

Mr. Al-Rawi: Yes.

Dr. Tewarie: So somebody cannot come because I am a squatter and try to take away my land?

Mr. Al-Rawi: Correct—no, somebody cannot come under forcible entry or forcible detainer to invade your home. The issue of somebody coming under their rights to challenge you for adverse possession, somebody coming with a competing right of claim for your land, that is a different matter, which is a civil law matter taken up in the civil courts. So under the criminal law, the person who alleges you forcibly entered or forcibly detained in the context of home invasion, that person, in the criminal law, has the locus standi to take this claim. The civil law, I need my title to land, I have a competing interest to you, that is a different matter.

Mr. Hinds: Which I might just add on the basis of the principle enunciated in *Hinds v The Queen* can only be resolved in a court of superior record and not

before the magistrate who will be dealing with this criminal offence.

Mr. Al-Rawi: Madam Chair, just for the record to amplify what my colleague has very correctly said, it is only the superior courts of record that could hear claims of equity. So in the inferior court, which is the Magistracy where we are treating with this, we are only dealing with the criminal law aspects. So just to put on the record that my colleague is 100 per cent correct in that position.

Madam Chairman: Okay, so the question is that clause 4 be amended as follows. That is to say under the definition “premises” includes at (b):

Any building or structure or part thereof whether permanent or temporary and whether fixed or capable of being moved.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: Member for Cumuto/Manzanilla.

Mrs. Newallo-Hosein: Thank you, Chair. Hon. Minister, clause 5, I see that in (b), you are:

“deleting the words ‘to imprisonment for three months’ and substituting the words ‘to a fine of fifty thousand dollars and to imprisonment for ten years’.”

In your opening statement, you indicated that there were only 11 cases really reported and there was, in fact, an under-reporting of this type of crime. How do you intend to increase the reporting by this fine?—the increase of this fine.

Mr. Hinds: Well, I do not think the fine or the sentence has any bearing on the question of reporting, those will have bearing on the actor, the criminal. But the question of impacting the person complaining, those are matters that as the

Member for Port of Spain North/St Ann's West would have explained, by making the police service more efficient, by providing all of the supporting instruments to quicken, as the AG pointed out, the criminal justice system and all of those things will give the citizens the confidence—the witness protection, the justice protection programme—the confidence that they could stand up and defend their rights to their home and not just run away.

And in respect of the 11, I had given you statistics during my presentation on Port of Spain division which I gathered because I was speaking in part as Member of Parliament for Laventille. But as we established, this is widespread and nationwide. We could always get the statistics for the entire country thereafter.

Mrs. Newallo-Hosein: Will the Minister, has indicated therefore that you will be providing witness protection for persons who would be willing to report?

Mr. Hinds: The question of witness protection is a matter for the Ministry of National Security. When the police get engaged in investigating a matter, it is they, as technocrats, who will decide what action they should take in relation to which witness or witnesses. The AG wants to comment.

Mr. Al-Rawi: Madam Chair, the Witness Protection Programme is pursuant to the Justice Protection Act. The Justice Protection Act is invoked in provide witness protection on the recommendation of certain players, including the DPP in participation and the execution of a witness protection agreement. So it is not that everybody is entitled to witness protection and there are certain circumstances around it. What will be a motivating and driving force in this kind of law is the Evidence Act and the accessibility of anonymous witness evidence and sequestration procedures, special procedures.

So this is intended to treat with the fact that our law at present has no known offence of home invasion if I put it in a simple way. This creates this matrix for

this offence. It would not have qualified as larceny, as an offence against the person, as harassment, per se. This is the fundamental right rooted to the Constitution, section 4(a) of depriving someone of their property and therefore this is a very unique position.

Statistically, I can tell you there are thousands of cases. I have referred to them in the preliminary enquiry debate where I gave the statistics for the number of preliminary enquiries, including offences against the person and trespass and other factors. So it is not correct to say that there are only 11 matters. But in any event, right now, there are zero matters of this kind because this law does not exist.

Mrs. Newallo-Hosein: Hon. Attorney General, this really, the law, is being brought about to close the gap, according to the Minister's piloting of the Bill, indicating that it was really to close the gap. How do you see this closing the gap?

Mr. Al-Rawi: Well, first of all, the gap is that there is no known law to treat with home invasion and that is where you enter forcefully and you actually take possession of somebody else's property with the intention to put them out. That is not just a mere trespass. That is evidenced by the extent of the fine. If you look to 5A where we put:

“...on summary conviction to a fine of one hundred thousand dollars and to imprisonment for fifteen years.”

So this is something to treat with the creation of an offence of the first of its kind in our books and this is to deal with a problem which has in fact manifested itself as has been reported in our newspapers in the recent years in particular, starting with the period 2011.

Mrs. Newallo-Hosein: I do not think it answers my question, Chair, because at the end of the day, you have—

Mr. Al-Rawi: Well, you asked how it closes the gap.

Mrs. Newallo-Hosein: I know. It does not close the gap as far as I am aware because you have persons who will be required to come in to make this report and their lives are going to be in danger. The reason why they did not come is because their lives would have been in danger and that is what I thought was closing the gap and I do not see it. Thank you.

Madam Chairman: Member for Port of Spain North/St Ann's West, you wanted to make a contribution?

Mr. Young: Yes. Ma'am, the only thing I would add to what the Attorney General said, I was going to point out there is a specific piece of legislation that governs the Witness Protection Programme; is despite the best efforts of certain people to discredit it. There has never been a loss of anyone within the Witness Protection Programme and that is something that they should be commended for, and the programme itself is only as successful as the confidentiality surrounding the programme and the safe houses provided.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Mr. Hinds: Madam Chair, we propose a minor amendment to clause 6 where to propose to change the word "servant" in lines 6 and line 8. We propose to change the use of the word "servant" to the word "worker" in keeping with existing law, i.e. the Industrial Relations Act of Trinidad and Tobago and therefore, Madam Chair, we propose that it should now read:

"Any person found at any time in any lands on which, or near to which, there is stuck up in some conspicuous place a notice in legible letters forbidding all persons to trespass, not having some reasonable cause or

excuse for being in the place where he is found, or, in the absence of such notice, any person found in any lands, who refuses to quit the same upon request by the owner of the lands, or his”—worker—“is liable on summary conviction to a fine...”

And we propose of \$50,000 and to imprisonment for 10 years.

“However, every labourer or other”—worker in line 8—“having or occupying any house or cottage, or any room in any house or cottage, on any lands, and the members of his family actually residing there with him, shall not be liable to any punishment under this Act by reason of his or their passing along or upon any road, path, or way leading from any public high road to such house or cottage.”

Madam Chairman: One minute. I think the difficulty we have is that it has not been circulated. So may I ask if it would be better that you delete the clause—the section and replace it entirely?

Mr. Al-Rawi: No, no, no. Madam Chair, it is actually quite simply. The amendment that we propose to clause 6 would be very simple. If you look at clause 6, Madam Chair, after the word “amended”, we will insert a dash and we create a (i) and (ii). What is there, the words “by” to “years” will be (i). So section 4 is amended, dash, insert (i) and then the wording “by” straight down to “years” forms the (i). And then the (ii) will simply be:

by deleting the word “servant” and replacing with “worker”;

So, Madam Chair, the technocrats are saying that we would just put the deletion of “servant” first and then the other one second. So we would go section 4 is amended, dash, (i) by deleting the word “servant” which will be in quotations and substituting the words, even though it is in plural, “worker”. That is in inverted commas. And the rest of that wording that appears there would become (ii).

Madam Chairman: All right, so it is not the words. You will be deleting the word “servant” and replacing it with the word “worker”.

Mr. Al-Rawi: Yeah, yeah.

Madam Chairman: So let me put the question for the amended clause and then we will have the discussion. Okay? So the question is that clause 6 be amended as follows:

- (i) by deleting the word “servant” and replacing it with the word “worker” wherever it occurs in that section; and
- (ii) by deleting the words “to a fine of two hundred dollars” and substituting the words “to a fine of fifty thousand dollars and to imprisonment for ten years”.

Mr. Hinds: That is correct.

Question, on amendment, proposed.

Madam Chairman: Whip.

Mr. Lee: Madam Chair, just for clarity, how many changes, Minister, that we had the word from “servant” to “worker”?

Mr. Hinds: In this amendment?

Mr. Lee: Yeah.

Mr. Hinds: Two.

Mr. Lee: I do not have the Act in front of me.

Mrs. Robinson-Regis: Madam Chair, may I make a suggestion please just for completeness? In clause 6, it should really read, for the further purpose of the record:

Section 4 is amended:

- (i) by deleting the word “servant”—and we said—wherever it occurs and substituting the word “worker; and

(ii) by deleting the words—

[*Crosstalk*] Yes. Just for completeness. Yes? Just to put it.

Madam Chairman: Do I have to put it again so that we are all on the same page?

Mrs. Robinson-Regis: I just think just for the record so that it reads accurately but I do not think we have to put it again.

Mr. Al-Rawi: As put, it was correct, it was just reconfirmed.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

In the proposed sections 5A and 5B delete the words “land or a dwelling house” and “land or the dwelling house” wherever they occur and substitute the word “premises”, respectively.

Madam Chairman: Member for Port of Spain North/St Ann’s West.

Mr. Young: As I would like to suggest to the Minister piloting the Bill and as I had told my friend from Caroni Central during my contribution, to cover the issues that he raised in his contribution, I would like to suggest the addition of the word “premises” at 5A. We are not deleting anything. So where we say “intimidation to enter land” or premises “or a dwelling house”. So we add the words after “land or” we add the words “premises or”. [*Interruption*] Or you could say—yes, correct. As the AG has said: “land”, comma, premises and then it flows “or a dwelling house”.

Dr. Gopeesingh: Madam Chair, we were just circulated with the amendment here, Minister.

Madam Chairman: Thank you, Member for Caroni East, because I am now watching whether what we are being told is consistent with the amendment as

circulated.

Dr. Gopeesingh: Yes, I want to draw this to your attention. What was circulated, Minister Young is the—what you are saying is different from what has been circulated. So you need to clarify it.

Mr. Hinds: Madam Chair, we propose to delete the words “land or a dwelling house” and replace that with the word “premises”.

Madam Chairman: And are we also deleting “land or the dwelling house”?

Mr. Hinds: Yes, Madam Chair.

Madam Chairman: All right. So an amendment has been circulated. Is what being proposed now consistent with what has been circulated?

Mr. Hinds: Yes.

Madam Chairman: Yes? Member for Caroni Central.

Dr. Tewarie: I would like to engage the Member for Diego Martin North/East and I feel that—[*Interruption*]

Mrs. Robinson-Regis: Diego Martin North/East?

Dr. Tewarie: No, Laventille West, sorry. [*Crosstalk and laughter*] If you would agree not to delete anything and simply add the word “or premises”.

Mrs. Robinson-Regis: “Premises” has a definition.

Mr. Hinds: “Premises”—although “land” is not defined, it will be given its ordinary meaning. But “dwelling house” and “premises” are being defined and added to the Act. “Premises” would include lands and dwelling house. As a result, your submission is not necessary.

Dr. Tewarie: Where you have the definition?

Mr. Hinds: Page 3 of the Bill.

Mr. Al-Rawi: Madam Chair, if we ask the Member to look at page 3 to the definition of “premises”. I will read it out if I may:

“‘premises’ includes—

- (a) any lands;
- (b) any building or structure whether permanent or temporary, whether fixed or capable of being moved;
- (c) a dwelling house;”

Et cetera. So there is a very comprehensive definition. I think it captures the point that you have raised.

Dr. Tewarie: Okay, fine.

Madam Chairman: Member for Barataria/San Juan, you wanted to raise something?

Dr. Khan: Yes, on 5B, if you read it slowly, how could somebody be unlawfully in possession of a dwelling—well, a premises and therefore, using force as the only reasonable or practical method or recovering a lawful possession? It does not make sense to me; if you could explain it. You are unlawfully in possession of a house and then you come at the third or fourth line and said you are using force:

“...in a manner that would render the use of force as the only reasonable or...”—practical method—“of recovering lawful possession...”

You are committing an offence.

Mr. Hinds: Well, in which case, since one person is holding on to it by force.

Dr. Khan: Unlawfully.

Mr. Hinds: Unlawfully. What this says here is—let me just go it over slowly.

Dr. Khan: Go it over slowly.

Mr. Hinds: “Any person who, being unlawfully in or upon any land...”—well any premises—“maintains or attempts to maintain his possession or occupation thereof and does so by force or in a manner that would render the use of force...”

—to displace him.

Dr. Khan: No, no, as the only reasonable—

Mr. Hinds: No, to displace him.

Dr. Khan: “Where it says that?”

Mr. Hinds: That is it.

Dr. Khan: No, it does not say that?

Mr. Hinds: “...as the only reasonable or practicable means of recovering lawful possession of the land...”—well, of the premises.

Dr. Khan: So you are saying that you could use reasonable force upon—

Mr. Hinds: Yes, yes, thank you very much.

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Madam Chairman: Member for Cumuto/Manzanilla.

Mrs. Newallo-Hosein: Thank you, Chair. Could the Minister indicate in section 9A what is the basis for the Minister being in this clause and why does it have to have such an impact in terms of bringing a subject to negative resolution of Parliament and what necessary regulation that you may feel may need to be done or brought to expediently? What is the reason behind putting in this section 9A? What is your reasoning for putting this in this Act?

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, because there may be need prescriptively to lend some assistance to this, it is reasonably contemplated that we could, if needed, improve the law by the use of subsidiary legislation. So in the event of any ambiguity or in event of a recommendation that the parent law ought to include

something, the usual mechanism that we use in legislative drafting is to provide for this type of position for regulations to be made. So it would allow for a smoother operation, let us say by the introduction of regulations which prescribe forms or a particular procedure, the manner in which you ought to approach the court. All of those things—the notices, the period of notice, all of these things can be done by way of subsidiary legislation which is a less cumbersome process than a full debate in Parliament.

Mrs. Newallo-Hosein: I understand what you are saying but it also impacts upon (2) of 9. I believe that Caroni Central had raised concerns with it.

Dr. Tewarie: No, I had just raised the question of—I mean, I was not clear on it.

“Regulations made under this section may provide...”

Mr. Al-Rawi: So section 63 of the Interpretation Act provides that where a law does not say what the breach of the regulation penalty is, it is just \$500.

Dr. Tewarie: Okay.

Mr. Al-Rawi: So this is to allow for a penalty higher than \$500 to be applied and it is something which we have done consistently in most laws because what really ought to happen is we ought to amend the Interpretation Act to move that unduly low sum of \$500.

Mr. Hinds: Madam Chair, I would like to propose a minor amendment or two rather to 9A(1)—in clause 9, sorry—and I would like to remove the word “the” in line 1. Yes, the second use after the word “the”.

Madam Chairman: So, “The Minister may, subject to negative resolution”?

Mr. Hinds: Yes, I would like to delete the word “the”, and in line 2, I propose to delete the word “such” in line 3.

Madam Chairman: Make Regulations. Yes?

Mr. Hinds: Yes, indeed.

Madam Chairman: All right. Member for Caroni East.

Dr. Gopeesingh: Colleagues, I was just looking at the question of negative resolution in the context of 9A(2) where there is an imprisonment issue. Well, the fine is \$25,000. But where imprisonment issue for five years is concerned, do you not think that it might be more appropriate to—I know you always find difficulty in saying affirmative resolution but can we get your thoughts on that?—if we ask for affirmative resolution since it impacts upon an imprisonment issue.

8.20 p.m.

Mr. Al-Rawi: Madam Chair, the type of regulations envisaged here, mirror this approach of negative resolution, mirrors the very procedures that we have for the judicial rules. So the Civil Proceeding Rules, the Criminal Procedure Rules, which attract by far more attention and sanction, they are also done by way of negative resolution. So for consistency sake, we had proposed that this happen. I just want to remind that the statement of 25,000 is a statement of maximum law, it is the maximum extent, and it means any amount below that can be applied. Similarly the statement for five years, it is not that it is a mandatory five years, any amount below that could be applied as well.

Dr. Gopeesingh: Well, I think you have answered it in the case of where, you said, there are other pieces of legislation which carry the penalties—

Mr. Al-Rawi: And very importantly negative resolution stand for 42 days, not just calendar days. So there is an adequate opportunity, it is published by legal notice and laid on the Parliament's floor.

Dr. Gopeesingh: For us to debate.

Mr. Al-Rawi: Yeah.

Dr. Gopeesingh: But sometimes, you know, it slips us.

Mr. Al-Rawi: Of course, I do appreciate that.

Madam Chairman: Okay, so the question is that clause 9 be amended as follows: in clause 9A(1):

The Minister may, subject to negative resolution of Parliament, make Regulations as may be necessary or expedient for the purpose of carrying out or giving effect to this Act.

Question put and agreed to.

Mr. Hinds: Madam Chair, I would like to propose in light of our agreement with the comments of my colleagues of this Parliament that we should change the word “servant” to “worker”. That word appears in sections 6, 7 and 8.

Madam Chairman: All right, just before we go there, we are in clause 9.

Mr. Hinds: Yes.

Madam Chairman: And I have just put that the amendment—that the proposed amendment be accepted. I now have to put that the amendment now stand part of the bill.

Clause 9, as amended, ordered to stand part of the Bill.

New clause 10.

Mr. Hinds: Thank you very much, Madam Chair. As I was indicating and for the reasons that I have stated, since we accepted that we should change the word wherever it appears “servant” to “worker”. I propose a new clause 10, Madam Chair, which should read:

In sections 6, 7 and 8 delete the word “servant” wherever it appears or occurs and substitute the word “worker”.

Where it appears again, yes. So a new clause 10 will deal with that.

New clause 10 read the first time.

Question proposed: That the new clause 10 be read a second time.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 10 added to the Bill.

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

House resumed.

Bill reported, with amendment, read the third time and passed.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to Friday the 15th day of February, 2019, at 1.30 p.m. Madam Speaker, at that time we will do Bill No. 4 on the Order Paper which is an Act to amend the Magistrates Protection Act, 2018, Chap. 6:03. Thank you very kindly.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 8.27 p.m.