

SENATE

Monday, August 29, 2005

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

SPECIAL SELECT COMMITTEE REPORT

ANTI-TERRORISM BILL

The Minister of Labour and Small and Micro Enterprise Development (Sen. the Hon. Danny Montano): [*Desk thumping*] Madam President, I beg to move the following Motion standing in my name:

Be it Resolved that the Senate adopt the Report of the Special Select Committee of the Senate appointed to consider and report on a Bill entitled, “An Act to criminalize terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists’ assets.”

[*Sen. The Hon. Montano sat*]

Madam President: I think at this point you can state the purpose of—

Sen. The Hon. D. Montano: I will introduce it.

Sen. Mark: May I, on a point of order, before you proceed—

Madam President: Yes; point of order?

Sen. Mark: Yes.

Madam President: What is the point of order?

Sen. Mark: I want to refer to Standing Order 74(4)(b).

Madam President: 74(4)?

Sen. Mark: (b).

Madam President: (b)? I do not have a 74(b) in my Standing Orders. I have a 74.

Sen. Mark: The Standing Orders that I have before me is 74, “Reports from Select Committees”, Madam President.

Madam President: No that is not 74. I have 75.

Sen. Mark: Well I “doh” know. I have my Standing Orders, it says 74, so if it is 75 I just have an old one and you have a new one.

Madam President: Okay.

Sen. Mark: Well if it is 75, Madam President, and this one is 75(4)—

Madam President: 75(4).

Sen. Mark: (b).

Madam President: 1, 2, 3, 4(b).

Sen. Mark: “The report”, is it the same, Madam President?

Madam President: Nope. Nope. I think—

Sen. Mark: It would be 75(4).

Madam President: 75.

Sen. Mark: 4(b).

Madam President: (4)b).

Sen. Mark: Got that?

Madam President: All right, okay, 75(4)(b).

“The report finally to be adopted...”

That is the one you are reading?

Sen. Mark: Yes.

Madam President: Yes, okay.

Sen. Mark: “shall...as is agreed to...”

And it goes on. Madam President, I bring to your attention the fact that every single Senator on this side of the Senate has a report which is unsigned and I ask you to suspend this sitting so that a proper report is circulated to all Senators. I do not know, Madam President, who has signed this report, who has not signed this report. All you have, Madam President, is a signed report by Robin Montano.

Madam President: Uh-huh.

Sen. Mark: That is what we do know.

Madam President: Let me enquire about this, Senator.

[Madam President confers with Clerk of the Senate]

Sen. Jeremie: Madam President, on a point of order, the report was signed.

Madam President: Yes.

Sen. Jeremie: Duly signed.

Madam President: I see that.

Sen. Jeremie: An original was duly signed by the members of the committee. Now, I do not know what was circulated—

Madam President: Right.

Sen. Jeremie:—by the Clerk of the Senate. Perhaps that has been explained to you.

Madam President: Yes.

Sen. Jeremie: But this is clearly not an illustration of the old cases where reports were submitted to the Senate, which might not have been duly signed.

Madam President: All right. Senators, I have before me, in fact, the original report which was signed by 1, 2, 3, 4, 5, 6, 7 members of the committee. What the Clerk has said to me is, when they were preparing the copies, they had not yet received the signed document, but this shows that the final document was signed. Mr. Clerk?

Sen. Mark: Madam President, may I? Madam President, with the greatest of respect, the Senate, which is this Senate, by resolution, appointed this select committee and not the President. It is therefore wrong for them to provide to you and you alone when it is the Senate, by resolution, that, in fact, gave effect to this select committee. Madam President, we cannot debate a report which is unsigned. We do not have a signed report before us and it is inconsistent with the Standing Orders of the Parliament, and you are here to uphold the Standing Orders.

Madam President: You do not have to remind me, Senator. I am aware of that.

Sen. Mark: Even though, Madam President, they have done it, and I am happy that you have a copy—

Madam President: I do not have a copy.

Sen. Mark:—not a single member of the Opposition, not a single member of the Independent Bench—

Madam President: Yeah, okay. All right.

Sen. Mark:—has one.

Madam President: Thank you. Let me hear what the Chairman of the Committee has to say.

Sen. The Hon. D. Montano: Madam Chairman, with all due respect to my colleague, there is no requirement in the Standing Orders that the signed version be circulated to Senators. It is a requirement that the members sign the report—

Madam President: Right.

Sen. The Hon. D. Montano:—the original report.

Madam President: Right.

Sen. The Hon. D. Montano: That is the report, Madam President—

Madam President: Right.

Sen. The Hon. D. Montano:—the version that you have, that is the report that we are debating here. For the convenience of Senators, a photocopy of the report has been circulated. That is a convenience, not a requirement.

[Madam President confers with Clerk of the Senate]

Madam President: All right; it has been verified for me that there is nothing in the Standing Orders to prevent a debate on the report that has been circulated, as long as the original has been signed, and that is what we have here. The original has been signed, you have copies of the report and there is no reason why the debate cannot continue.

Sen. Mark: Madam President, may I?

Madam President: Yes, certainly.

Sen. Mark: Madam President, if you go back to reports that had been brought before this honourable Senate, you would see that those reports are duly signed. We cannot debate a report, Madam President—

Madam President: Yes, but Senator, I say to you that the report is signed. You just did not get the signed sheet. We could—I could sign most of—we can have the signed sheet printed and circulated to everybody, you know, if that is what you wish.

Sen. Mark: That is what I am asking, Madam President.

Madam President: If that is what you wish—

Sen. Mark: Yes.

Madam President: And if that—I mean, if that is necessary; and I honestly do not think it is necessary because it is not going to change the report in any way. The report you have is the report that has been signed.

Sen. Mark: Madam President, I do not know who signed. That is what I am saying.

Sen. The Hon. D. Montano: Madam President, if I—

Sen. Seepersad-Bachan: Madam President—

Sen. The Hon. D. Montano: Madam President—

Sen. Mark: I do not know who signed.

Madam President: Wait, wait, wait, wait, wait. I did not call on anybody but I think Mrs. Bachan had her hand up first.

Sen. Seepersad-Bachan: Madam President, do you know why I would like to express my view on why I think it is important that the report must be signed?

Madam President: The report has been signed.

Sen. Seepersad-Bachan: No, Madam President, but the report that has been circulated to Members of this Parliament was not a copy of the signed report.

Madam President: It was a—

Sen. Seepersad-Bachan: And do you know why? Because, having sat on some of these committees, before you complete—when the report is sent around for signature, there are several times, as it is being signed, when amendments are made to this report. One cannot circulate a report before it is signed and that is my concern, Madam President.

Madam President: Senators, I think we are getting confused.

Sen. Mark: No, we are clear.

Madam President: This report is the same as that—except that you do not have the signed sheet. What the Clerk is saying is that usually, when the copies are being made—because they did not have the signed sheet at the time, the copies were circulated without the signed sheet. It does not mean that there is any difference in the report.

Sen. Mark: I know.

Madam President: I have seen the signed sheet and I know that the signed sheet is there and we could circulate that copy to you if you wish.

Sen. Mark: That is what I would like, Madam President.

Madam President: You would like that copy to pass round, then?

Sen. Mark: Yes. No.

Sen. Seepersad-Bachan: No, we want copies of it. We want copies of the signed report.

Sen. Mark: We want copies—a copy of the signed report.

Sen. R. Montano: Madam President, if I may? I was a member of this committee and the report was circulated before I was asked to sign it. As it happens, I refused to sign it.

Madam President: Uh-huh.

Sen. R. Montano: But the truth is that the report was circulated—

Madam President: Uh-huh.

Sen. R. Montano:—and was delivered to members—

Madam President: Right.

Sen. R. Montano:—before I was asked to sign it, and that is the point of the objection. In other words, the point of the objection is that the report that has been circulated was not the signed copy because, as I said, I know as a member of the committee I was asked to sign after it was circulated, not before.

Madam President: All right, let me hear what the Professor has to say, then we—

Sen. Prof. Ramchand: Madam President, could we save time?

Madam President: Yes.

Sen. Prof. Ramchand: Could Sen. Danny Montano give us an assurance that the signed copy is exactly the same as the copy on our desk?

Madam President: Yes.

Sen. Prof. Ramchand: Secondly, can Sen. Mark actually handle a copy of the signed copy and see that it is signed? Thirdly, let us start the debate, and, while the debate is going on—

Madam President: We can get copies of the—

Sen. Prof. Ramchand:—could the page be Xeroxed? [*Desk thumping*]

Madam President: Yes. Yes, Senators, I think that we could do that. We will get copies of the signed sheet circulated to Senators while the debate is going on. In the meantime, Sen. Mark, if you wish to look at the signed copy you can do so and let us go on with the debate.

Sen. The Hon. D. Montano: Thank you, Madam President.

Sen. Mark: Madam President, may I make a final submission to you?

Sen. The Hon. D. Montano: You have ruled, Madam President.

Sen. Mark: Madam, can I make a final submission?

Madam President: Yes.

Sen. Mark: Madam President, as I said, I have been in this Senate for a number of years, and, with the greatest of respect, you did not appoint this committee.

Madam President: Sen. Mark—

Sen. Mark: No, no, I say—I am not dealing with you personally, Madam President, it is just a point I am making. A resolution was put to this Senate.

Madam President: Okay, right. Okay.

Sen. Mark: It is the Senate—

Madam President: What is your point?

Sen. Mark: My point, Madam President, is, by resolution, the Senate appointed the committee.

Madam President: Okay.

Sen. Mark: So if the committee has to submit a report, Madam President, it must be signed. It must be circulated to the Senators here.

Madam President: Senator—

Sen. Mark: But why give you alone a copy—

Madam President: Senator—

Sen. Mark:—of the signed report?

Madam President: Senator, please? I have been advised by the Clerk that it is not necessarily the custom to circulate the signed report, and I have to go by the advice of the Clerk. [*Interruption*] Well, that is the advice I have. Sen. Montano.

Sen. The Hon. D. Montano: Thank you, Madam President. [*Desk thumping*] Madam President, as you know, the committee was established following the debate on the Anti-Terrorism Bill because members of the Senate had certain concerns about how the Bill might operate. There were concerns about whether, in fact, any constitutional rights would be breached and this sort of thing. Government felt that it would be appropriate to send the Bill to a select committee of the Senate so that we could all have the opportunity to discuss the issues.

Madam President, the first thing that we did at the committee stage was that we took the *Hansard* of all Senators who had spoken and we literally made a list of the issues that were of concern and we discussed them one by one. The most sensitive issues were those surrounding clause 23 of the Bill—I think it is clause 23 of the Bill, or 24—where it provides for the State to hold a suspected terrorist for 48 hours and then possibly, at the end of the 48 hours, extend it to a total of 14 days and the question there was whether, in fact, there might have been a breach of a person's constitutional rights under sections 4 and 5 of the Constitution.

In considering those issues, we, of course, took the—we listened to the advice of the Attorney General, we listened to the advice of Mr. Jolly who was the representative from Chief Parliamentary Counsel, there was a legal representative from the Ministry of National Security and we also invited Mr. Quamina. We had originally invited a Mr. Alexander to give us his opinion. He indicated that he was unable to attend and we were able to get Mr. Quamina to give us his view of the provisions. In short, Madam President, while the committee made a number of recommendations right through the Bill, we did not interfere with any of the provisions that seemed to give Senators any particular difficulties. I think that some of the changes that were made were very sensible and I think the Bill that we now have before us is a better Bill than that which we had at the end of the debate. We have made, I think, some very sensible suggestions and I think that we have done quite well.

Madam President, one of the issues that was raised during the closing stages of the meetings of the committee was the extent to which this Bill had received prior or even, at that point, public debate and consultation. I am assured that before this Bill was laid in this honourable Senate, before it was brought to the Parliament, there was extensive consultation with the Judiciary, with the legal profession, with a

number of religious organizations and with a number of NGOs, and comments were taken on board.

One of the issues that came up during the discussions at the committee stage was the question of whether or not we needed a definition of a “terrorist organization” and we decided that it was not necessary because the words “terrorist organization” were never used in the Bill that was presented to the Parliament. The fact of the matter is, however, in the original draft of the Bill, there were some provisions that related to terrorist organizations and a definition of “terrorist organization” was in the original draft or in one of the early drafts of the Bill. This was before it even was laid in Parliament. Those provisions, loosely described, would have given the authorities—and my memory fails me as to which authority—but it gave the authorities generally the ability to identify a terrorist organization and literally take preemptive action even before any terrorist act had been committed, and we had gotten this version from our counterparts in the UK and from some of the other countries and so on.

When that draft was sent out for consultation, it came back and the general feeling, even among members of the Government, was that that was too extreme, that was going much too far and that we could not really support that kind of approach and the Bill was, therefore, reduced to the substantive state in which we now have it. So I just wanted to clear the point that there was, in fact, very extensive consultation, Madam President, with a number of NGOs and with the Chief Justice of the day.

This Bill had its origination going back quite a long way. It did not just come up all of a sudden. It has been a work in progress for several years and the former Chief Justice had a hand in the discussions that were involved on this Bill. He provided his comments and, as I say, a number of religious organizations were formally consulted, written to, and I think a lot of the comments were, in fact, taken on board. That is why, Madam President, by the time it came here, the public and the watchdogs of the public who understand these things from a legal perspective had, I do not want to say lost interest in the Bill, but, they no longer had the concerns about it that they would have had, say, a year ago before the changes to which I refer had been made.

At this point, Madam President, I think that we had a very successful committee. I thank all members of the committee as they attended and took part in the discussions. I thank Mr. Jolly for his attendance and his invaluable help and I also thank Ms. Beckles from the Ministry of National Security. She was also of tremendous use.

[SEN. THE HON. D. MONTANO]

Madam President, I would just remind Senators that the debate, as we have it now, is really supposed to be confined to the changes that have been made to the Bill and is not, at this point, under the Standing Orders, intended to open it up again to the general merits and demerits of the Bill. We did that when we were at the committee stage so I would ask Senators to confine themselves to the report and the changes that were made.

Madam President, with those words I beg to move. [*Desk thumping*]

Question proposed.

Madam President: May I remind Senators or may I reiterate that we are debating the report and not the actual Bill. Sen. Robin Montano.

Sen. Robin Montano: Thank you, Madam President. [*Desk thumping*] Madam President, as this Senate is aware, I have put in a minority report to this Bill. You will recall that, during the debate on the substantive matter, the Senate expressed grave concerns over certain clauses of the Bill and, in particular, there was concern over clauses 9, 23, 24, 25 and 37, all of which it was felt infringed the Constitution and, if I might be allowed to read from a section of my minority report—

Sen. Abdul-Hamid: Signed?

Sen. R. Montano: Yes it is signed. Read it and weep.

“Section 4 of the Constitution declares (inter alia) that certain fundamental human rights and freedoms exist including: ‘the right of the individual to life, liberty, security of the person and enjoyment of property...’”

And I underlined:

““and the right not to be deprived thereof except by due process of law;’.Section 5...states that ‘no law may...’”

Again I have quoted:

“‘may abrogate, abridge or infringe...’ the rights and freedoms declared in section 4 unless it is supported by a vote of not less than two-thirds of all of the Members of each House. Further, section 5 states that without a constitutional majority Parliament may not authorise (inter alia) ‘the arbitrary detention, imprisonment or exile of any person’...”

Madam President: Excuse me, Senator, do you intend—are you going to be reading the whole of your minority report?

Sen. R. Montano: No.

Madam President: Because I want to remind you that it is the report that we are debating and not the minority report, right? So please discuss the report. Whatever you did not agree with in the report—but please, I think you have read enough from your report.

Sen. R. Montano: With the greatest of—

Sen. Mark: Madam President, I think that you need to get some guidance. We are debating a report—

Madam President: Right.

Sen. Mark:—and the report contains both a minority and a majority and every single Senator, under the Standing Orders, has a right to debate both the majority and the minority. There is no question about limitation. I can rise and concentrate—

Madam President: All right, Senator, I understand what you are saying.

Sen. Mark:—exclusively on the minority report.

Madam President: Yes, okay, fine.

Sen. Mark: I think you need to be advised on that.

Madam President: I did not say that he cannot discuss it. I say I do not want it read out.

Sen. Mark: No, he, he—

Sen. R. Montano: I have no intention of doing so, Madam President.

Madam President: I just want to quote something from May's which says, in fact, and I think maybe we should be guided by this:

“It is the opinion of the committee as a committee, not that of individual members, which is required by the House, and failing unanimity the conclusions agreed to by the majority are the conclusions of the committee.”

This is the report. Thus the report may not be accompanied by a counterstatement, memorandum of dissent, protest, et cetera. So that although we have a minority—

Sen. Mark: [*Inaudible*]

Madam President: Well this is May's, “eh”—

Sen. Mark: Yeah.

Madam President:—to which some of us swear; by which some of us swear.

Sen. Mark: This Standing Order governs. [*Interruption*] This Standing Order governs.

Madam President: All right, ladies and gentlemen. I have no problem with the minority report but I just say to Sen. Montano, please do not read the whole of the report, all right?

Sen. R. Montano: I have no intention of doing so.

Madam President: All right, okay.

Sen. R. Montano: But in answer to May's, may I refer you to section 75(4)(c) of the Standing Orders which says that:

“Any Member dissenting from the report of a majority of the Committee may put in a concise written statement of his reasons for such dissent, and such statement shall be appended to the report; or, if he so desires, he may submit a minority report.”

That is what I have done and I was quoting at the moment the Constitution in order to explain what I was going on. So if I might just finish?

“Further, section 5 states that without a constitutional majority Parliament may not authorise (inter alia) ‘the arbitrary detention, imprisonment or exile of any person’ or (inter alia)...”

Sen. Jeremie: Madam President—

Sen. R. Montano:—“the right ‘to be brought...”

Sen. Jeremie: Madam President—

Sen. R. Montano:—“promptly before”—

Madam President: I cannot have two people on the—

Sen. R. Montano:—“an appropriate judicial authority”—

Madam President: Is it a point of order?

Sen. R. Montano:—“or of the remedy of by way of...”

Madam President: Senators, please?

Sen. R. Montano: I am sorry.

Madam President: All right. I am on my feet now. Is it a point of order you said?

Sen. Jeremie: Yes it is. Madam President, I refer to the Senator's citation of Standing Order 75—

Madam President: I have not even found it yet.

Sen. Jeremie:—75(4)(c).

Madam President: (4)(c), yes, uh-huh, I remember, yes.

Sen. Jeremie: Are you with me?

Madam President: Yes.

Sen. Jeremie: It says, and I quote:

“Any Member dissenting from the report of a majority of the Committee may put in a concise written statement of his reason for such dissent, and such statement shall be appended to the report; or, if he so desires, he may submit a minority report.”

Madam President: Yes.

Sen. Jeremie: Madam President, when read together with May's *Parliamentary Practice*, what is quite clear is that a minority report is a part of the report.

Sen. Mark: Of course.

Sen. Jeremie: So that it is not before us, it is not for us to debate the minority report—

Madam President: All right. I am here—

Sen. Jeremie:—because the report is—

Madam President: All right.

Sen. Jeremie:—the report of the majority.

Madam President: All right.

Sen. Jeremie: It is one report.

Madam President: Yes, okay.

Sen. Jeremie: [*Interruption*] [*To Sen. Mark*] Why “don't” you shut up?

Sen. Mark: [*Inaudible*]

Madam President: Sen. Mark, I will not have you referring to another Member as being stupid.

Sen. Mark: [*Inaudible*] But he is misleading you. You should—

Madam President: He is not misleading me. I have already said to Sen. Montano that I understand his minority report is part of the larger report. I simply did not want him to read the whole of his minority report, but get on.

Sen. Mark: [*Inaudible*]

Madam President: Okay, fine, and I accepted that so please, please continue.

Sen. Mark: Madam President, we will not allow the Attorney General to try to stifle our debate in this Senate.

Sen. Jeremie: I am not stifling your debate.

Sen. Mark: That is what you are trying to do.

Madam President: I have just ruled on the Attorney General.

Sen. Jeremie: Get out “nah”?

Madam President: Sen. Montano, continue. [*Interruption*]

Sen. Mark: You are trying to stifle us.

Sen. Jeremie: Why “don’t” you leave? Shut up!

Sen. R. Montano: Thank you.

Sen. Mark: Stupid usual nonsense.

Madam President: Senator! Senator!

Sen. R. Montano: If I might—

Sen. Mark: Sorry Ma’am. Sorry Ma’am.

Madam President: Sen. Mark, if you call somebody stupid in this Senate—

Sen. Mark: Yes, I withdraw.

Madam President: But do not say it and then withdraw. That does not make it right.

Sen. Mark: But he is misleading us, this Attorney General. He should be fired.

Sen. D. Montano: Madam President, on a point of order, the behaviour of the Senator is completely unparliamentary. What we have been attempting to do here is to ensure that all of the practices of this Chamber conform to the standards of proper parliamentary practice and behaviour. That demonstration is completely unparliamentary and he needs to be put out of the Senate. [*Interruption*] He needs to be put out.

Madam President: All right, Senators, please can I have some absolute silence? Please!

Sen. Jeremie: You need a mother for some good treatment.

Sen. Mark: “What he say?” I hope you actually hear—

Madam President: I did not hear.

Sen. Mark: You did not hear?

Madam President: No.

Sen. Mark: If I respond to him—

Madam President: What did he say?

Sen. Mark:—you will hear? Okay. All right. He says I need a mother.

Madam President: A what? You need a what?

Sen. Mark: I do not know if you want to share the [*Inaudible*]

Madam President: I do not want to get in the middle between your personal affairs.

Sen. Mark: He is disrespectful.

Madam President: Both of you are being disrespectful. [*Interruption*] Hon. Senators—[*Interruption*] Senator Mark—

Sen. Mark: [*Inaudible*] and he must withdraw that statement. He is disrespecting my mother, this gentleman—

Madam President: All right. Okay.

Sen. Mark:—and I say that he must withdraw that statement. He says I need a mother to take care of me. What nonsense is the AG—

Madam President: All right.

Sen. Mark:—trying to tell me in this Parliament?

Madam President: Senator—

Sen. Mark: Withdraw that statement.

Madam President: Sen. Wade Mark, please, I am on my feet. Senator!

Sen. Mark: And my mother is alive, “eh”—

Madam President: Please. I am on my feet.

Sen. Mark: And he is disrespecting my mother.

Madam President: All right, Attorney General, please withdraw that remark.

Sen. Jeremie: Ma'am, there is nothing for me to withdraw. I was on my feet and I made no statement on the floor of the Senate; and if I said that he needed a mother, what I meant was that he needed a mother's love. That is all.

Sen. Mark: He is reiterating the point that he made.

Madam President: You know, we are all behaving here—

Sen. Mark: I do not need any mother's love.

Madam President: We are all behaving here like little kids, like little children. I can see Sen. Montano being totally fed up of this behaviour here today. Sen. Wade Mark, I will ask you to please behave yourself for the rest of this sitting.

Sen. Mark: Ask him to behave himself as well, that Attorney General.

Madam President: Sen. Montano, please continue.

Sen. Mark: No, not me alone; the Attorney General.

Madam President: Please continue.

Sen. R. Montano: “...‘to be brought promptly before an appropriate judicial authority’ or of the remedy of by way of habeas corpus, or to deprive a person of the right of self-incrimination. Section 5 also enshrines the right of a person to a lawyer.”

Now, I have referred to this section of the minority report deliberately and I have quoted the Constitution deliberately because sections 4 and 5 of the Constitution were the keystones, if you like, of the arguments against the Bill in the substantive debate. One would have hoped that the committee would have paid attention to these concerns that were expressed in the debate and would have dealt with the relevant clauses in the Bill, to which I had referred earlier,

concerning arbitrary detention, the relevant sections in the Bill concerning the right to a lawyer, the relevant clauses in the Bill concerning forfeiture of property and would have listened to the concerns of Senators and would have made appropriate changes.

Instead, when one reads the report, when one reads the minutes and when one reads the amendments to the Bill, one sees that, in fact, none of the concerns of this honourable Senate that were so eloquently expressed, especially by members of the Independent Bench, have been addressed. The concern against arbitrary detention has not been adequately addressed. I have read in the report certain things that Mr. Quamina has said. I disagree with them. In any event, in the report itself there is a report where Mr. Quamina himself said that, to make the thing safe, you ought to have a constitutional majority. [*Desk thumping*] He said it. So although I disagree with him on the substantive issues about which he was talking, he at least agreed with me that we need a constitutional majority.

The report does not address the very real concerns that we had on this side, both on the Opposition and on the Independent Bench, about forfeiture of property where a judge, on the balance of probabilities, not beyond reasonable doubt, but on the balance of probabilities, can forfeit somebody's property. One only has to look at it to see that that is wrong. Balance of probabilities means 50.1 against 49.9—cannot be right. A man should not be able to lose his property.

Concerns were expressed in this Senate in the debate about the question of the definition of terrorism being involved where somebody could be accused of committing a terrorist act overseas, comes running to Trinidad and can be extradited back to that country where that country is a dictatorship. Today, one man's terrorist is very often another man's freedom fighter and there is a situation where governments in power today—where the heads of those governments were at one time terrorists.

The head of the government of Cuba, for example, is Fidel Castro. Fidel Castro overthrew the Batista regime by force. Batista would have called Castro a terrorist. If we had this legislation in place at the time and Fidel Castro came to Trinidad, Batista could have demanded that he be brought back to face the Batista regime, which everybody at the time in 1959 agreed was a corrupt regime. Under this legislation, however, a corrupt regime can demand the extradition of, for example, a Fidel Castro. And that is right? Cannot be right. With the greatest of respect, the select committee did not—and I say this with respect—pay attention to the concerns

of Senators and the report, as it is done up, either papers over the very real concerns that Senators had in the substantive debate or ignores them completely.

When I put in my minority report, it was because I was one of those who was concerned; and I must say this, Madam President. Although I was a Member of the committee, with regret I will say that I was able to attend only one meeting of this committee. The reason for that was because my professional activities as a practising attorney at law, especially in the month of July and even in August, caused me to find myself involved in matters where I was required to attend the court. I did request of the committee that the meetings be put in the afternoon because there was no way I was going to be able to attend. The committee told me, very politely, and I understood it and I am not complaining, that the majority had decided that meeting at 10.00 or 10.30 in the morning was convenient to the majority, and therefore the minority could not dictate what time.

I understood that. I am not complaining about it; I say by way of explanation. I am sorry that I was not able to attend, because, the truth of the matter is, when I got the minutes and I read them with great consternation and when I eventually got this circulated report and I looked at it, there was no way—and I wish that I could have signed it, but there was no way that I could sign it because I felt, when I first saw the report, as I feel now, that the committee effectively betrayed and ignored the Senate. It did not deal—and I defy anybody to read this report and tell me where it deals with the concerns as expressed by Senators, where it deals with those concerns concerning clause 9, concerning clause 23, concerning clause 24, concerning clause 37 and concerning clause 25.

Where does this report effectively answer the concerns? The answer is, regrettably nowhere. What it does is it papers over the concerns and it says, “Well yes, this, that and the other, but counsel says we can do this and the lawyers say we can do that.” With the greatest respect to Mr. Jolly, I do not agree with him; simply; simply put. Mr. Jolly, I,—and I stand subject to correction but I have not seen in the report—and as I say I stand subject to correction—but I have not seen once in the report or in the minutes where Mr. Jolly advised the committee about the requirements of a special majority for this Bill. Now, the fact of the matter is that the Senate had concerns. The concerns are not addressed.

Now, Madam President, let me say this and let me say this for the Opposition party, the United National Congress, and for all of my colleagues. In principle, we, as I think every right-thinking citizen, support this Bill. We are anti-terrorist. We accept that some kind of legislation is required. In the substantive debate we

put forward our proposals. In the substantive debate we said what we wanted. I raised all this because I have been advised—and, Madam President, you can tell me if I am wrong. If I am wrong I am sorry but I have been advised that a way to save this report and a way to save this Bill is that we treat this report as a first report and, if we do so, my advice is that it will be saved for the next session. If that is not correct, then my advice is wrong, in which case I will urge hon. Senators to vote against it.

If, however, my advice is correct, then I would urge that we save the report and refer it back to the committee and we ask the committee to continue its work and this time to pay attention in particular to the issues that were raised in the original Senate debate. If we do so, Madam President, I believe that ultimately we will come out with something that will be acceptable to everybody. I have said it before and I will say it again, legislation exists not for the benefit or the convenience of the State; legislation exists for the benefit and convenience of the citizenry.

We do not want to be passing legislation that is unconstitutional. We do not want to be passing legislation that is potentially dictatorial. We do not want to be passing legislation that places tremendous powers in the hands of a police service which, as I said, on Thursday or Friday of last week in another debate, the majority of the population simply does not trust. We do not want that. We want to put legislation in place that is right for Trinidad and Tobago. We made it clear, when we were debating the substantive matter, what our position was. We would like to see something in place but, most certainly, Madam President, in a thousand years, we cannot support this Bill as drafted.

Now, Madam President, there is something else that I must point out. It is quite possible that today this Senate may pass the amended Bill, that is always possible, but, the amended Bill will have to go back to the Lower House and I promise you that in the Lower House it will not get a constitutional majority unless the changes for which we have asked come through. At the end of the day we are concerned about the welfare of the citizenry of Trinidad and Tobago. We are not going to allow a man's house to be taken away from him on the balance of probabilities. We are not going to allow a citizen to be detained for 14 days. We simply are not going to allow it, not just like that; not like that. We are not going to allow the things that are contained in here just like that.

We are not going to allow a Fidel Castro, for example, to be extradited by a Batista. We are not going to allow it. You can call us all kinds of names. You can go up and down the country, call us obstructionist; we will take the sticks and

stones. We will take them; but, at the end of the day, we will sleep well in our beds at night knowing that we have served the people of Trinidad and Tobago well. If you want this, then sit and let us do it again. If what you want is to say, “Okay, we have passed”, then that is all right, go ahead, but understand me and understand me well. We are only six up here but downstairs we are 16. You will not get the constitutional majority.

What will happen, when you do not do that, I promise you that—I also promise that after that happens a constitutional motion will be brought and I promise you that the courts will strike down the legislation; and all for what?

Sen. Mark: Because of the arrogance and the incompetence of the administration.

Sen. R. Montano: My friend has said it well. All for what? All for what? When we up here can fix it. So the question is not opposition for opposition sake. The question is opposition for the country’s sake. The question is making sure that the rights and privileges of the citizenry of this country are protected. I am not going to—I have tried very hard this afternoon to be as apolitical as possible. I do not want to try to make political mileage out of this. What I want is a Bill to be passed in which all the citizens, as I have said in another debate last week, can say, “This is just and this was necessary.” A form of this Bill may be necessary, Madam President, but this Bill in its present configuration is certainly not just. Thank you. [*Desk thumping*]

Sen. Angela Cropper: [*Desk thumping*] Madam President, thank you. In making these comments on the report of the subcommittee on the Anti-Terrorism Bill, the work it has done and the amendments it has made, the extent to which it has or has not responded to the points that had been raised in the initial debate in the Senate, I must preface my comment by saying and reminding you, Madam President, and this Chamber, that this was my very first experience on a Senate subcommittee and, as such, it was a learning experience, a considerable learning one for me.

I have to say, contrary to the dismay that I have often felt in this Chamber as the debate, so-called, evolves and presents itself, I was very encouraged, as the newest member on the block, by the apparent openness of all the members of the subcommittee in examining the issues that had been raised in the Senate debate. I was very encouraged by the willingness on all sides to offer and to receive opinion and reasoning and to arrive at conclusions without the usual pattern of obfuscation on one side and opposition on the other. So I thought it was a very

salutary experience and a considerable learning one for me and I appreciated the opportunity to serve on the committee.

In doing so, let me say that, if you will recall, Madam President, I myself had expressed some reservations on the Bill in the course of my contribution to the first debate. Especially I was concerned about the extent of which, if any, the provisions of the Bill infringed the provisions of the Constitution that deal with the enshrinement of the fundamental rights of individual citizens, and so I took it upon myself, for my own satisfaction as a citizen and as an Independent Senator, having offered that observation, to keep my eyes on that ball, as it were, throughout the course of the subcommittee's meeting.

Now I should say that one of the things that happened in the subcommittee was that every Member not only recognized the complexity but also the fundamental importance of this Bill for the regulation and the maintenance of peace and order in the society. We recognized its complexity because it had a task of very finely balancing the establishment and maintenance of order in the society and the protection of all citizens on the one hand and protecting the fundamental rights of each of us as individual citizens on the other. We recognized its complexity because the Bill seeks to give effect to provisions of many international treaties to which Trinidad and Tobago is a state party.

We recognized its complexity especially because it calls forth some constitutional issues, to which Sen. Robin Montano has been speaking and to which he has drawn our attention. Therefore, we need to be and needed to be, in the committee, satisfied that we had dealt with those constitutional issues and we recognized its complexity given the scope of the opinion and the points of view and the various interpretations advanced by Members here in the initial debate.

I have some regrets, however, about the committee and its work—nothing radical—but the regrets I have are that we really did not have a longer period of time over which the committee could work. I would have personally liked to be less rushed and have a bit more time for personal reflection, research, consultation with citizens and so on, privately or publicly.

I was considerably disappointed that one Member did not attend but for one meeting. Sen. Montano has just admitted to that, and explained why he could not do so. Nevertheless, I was particularly disappointed in that because of the points he and his colleagues on the Opposition Bench had raised in the initial debate and, therefore, I expected and would have welcomed his participation in the committee to be able to hear his exposition of his interpretation of some of the points that

were at issue in the debate. So perhaps in that sense we did not have the benefit of his opinion and his interpretation and his legal and constitutional analyses; so I regret that.

I regret also that every Member could not be present at every meeting. I missed one meeting. I regret that. There were other Members who missed meetings and so there was a bit of discontinuity, perhaps, in the positions we might have enquired about or advanced or followed through. We all received the verbatim notes, however, so, if there was an issue, we could raise it in the subsequent meeting or perhaps send in a note to the chairman if we ourselves could not be there.

I regret especially that the public of Trinidad and Tobago is so apathetic about its own safety, its own welfare and its own fundamental rights that it did not see fit to take hold of the opportunity presented to it and engage on the issues inherent in this Bill in the one public engagement that the committee secured in the interest of the public. I regret that very much and it only goes to show how much we have to do in this society to educate and to motivate ourselves as citizens to take an interest in our own welfare. If I may say, Madam President, I think that there is a huge responsibility on Parliament also to do that motivation and that education so that we can be sure that not just the handful of people in the House of Representatives or in the Senate are actually making the character, determining the character of this civilization rather than we operating in our capacity as individual citizens.

I must say, given that, I am disappointed that Sen. Montano did not attend the committee meetings to debate the points that he has now raised in the minority report. I was a little surprised at the minority report as well, let me say, because, when we came to the end of the committee process, I was not aware that there was any outstanding issue about which any Member of the committee was not satisfied. Certainly if there were it was not aired, publicly or privately. So I was a little surprised to see the advent of a minority report in these issues and I am especially surprised to see a minority report penned by Sen. Montano who did not attend the committee meetings and, as it happens, I noticed that Sen. Augustus, who did attend and who seemed to have had no reservations at the end of the process, is, by accident, not here this afternoon.

Having said that, Madam President, I consider to the best of my knowledge, understanding, capacity to reason, analyze, listen as well as speak, that the committee did its work as best as it could within these constraints, and I am

satisfied, despite what I hear from Sen. Robin Montano, that a genuine attempt was made by the committee to address the major concerns raised in the Senate debate. Now it may well be, Madam President, and I would readily concede, that all Senators here do not see or may not see in the amended Bill the conclusions on any subclause that they may themselves have raised or that they would wish to see. However, I think we have tried, in a systematic way, to look at the major issues and I think if we give ourselves the time to go through carefully the amended Bill, in relation to the issues, we might be able to satisfy ourselves that that was done.

Now let me say, Madam President, I make no claim to being a lawyer but I have read the Bill, I have read the Constitution repeatedly over the course of my own civic and professional life, and also more recently in the context of this debate, the relevant parts anyway, and in the context of subcommittee's work, but I come at it as an ordinary, average citizen, a lay person, a layman, and I think, therefore, I am prepared to give the reasons for my own satisfaction about one of the major points that Sen. Montano raises in the minority report and that was also an issue in the initial debate in the Senate.

I recognize that there are more issues that were raised in the minority report. I have to say that some of them are impressing themselves on me for the first time and I wonder whether they are, in fact, new issues that were not raised in the debate. I cannot make a judgment on that. I will need to look at those in the context of the verbatim of the initial debate to make a definitive conclusion that this was raised or was not raised and is now a new issue and so on. The main thing that I would like to do is to comment on this aspect of the Bill that it is claimed infringes the entrenched constitutional rights of citizens.

Now, as I say, I am not a lawyer, I make no claims to being that, so please bear with me if my exposition, as I understand it, is not correct. I am sure there are many people who would rise to correct me as I go along, and I would welcome any greater understanding that any Member of the Senate would wish to share. It seems to me, Madam President, that section 53 of the Constitution says that Parliament may make laws for the peace, order and good government of Trinidad and Tobago and that is my starting point and, indeed, I think it is the starting point for this Bill, the rationale for which begins by recognizing the need for us to make provisions to contribute to the good order and to the maintenance of that good order for peace and security of the body politic of this country.

This is the basis for the Bill. And that is one part of the equation in this fine balancing act which this Bill seeks to do.

2:30 p.m.

At the same time, section 4 of the Constitution specifies fundamental rights and freedoms and establishes the right for a citizen not to be deprived of them, except by due process of law.

So that it seems to me there is not an absolute bar on deprivation of those rights, but they may be deprived if there is due process of law. That is the other part of the equation that needs to be balanced here. The collective peace, security and protection, these are the individual rights that are enshrined in the Constitution and the parliamentary responsibility to make laws for the peace, order and good government of the country.

Now, there are provisions in the Bill that provide for due process. In fact, it is one of the points that we extensively examined in the context of the subcommittee. What would constitute due process so that one might say that if a citizen is being deprived of rights that that deprivation would have taken place according to due process? What constitutes due process? And did we sufficiently provide for that due process in the Bill?

I would like to say that I was satisfied with the respective contributions to that concept of due process that we had in the subcommittee. And I am also satisfied that there are various clauses in the Bill which provide for the prior consent of the DPP, for example, where a police officer applies for and makes an ex parte application to seek information, or to investigate, it can only be granted if there is a prior consent of the DPP. The application has to be made to a judge in Chambers and the person found.

So those are two levels of provision there that seem to contribute to due process, both of which are included in the Bill. And it seems to be that by those two measures, to my lay mind and as an average citizen, I would have thought that my individual fundamental right would have been secured through that legal process.

Now, section 5 of the Constitution protects those rights and freedoms, insofar as they may not be abridged, et cetera. It says:

“(1) Except as is otherwise expressly provided in this Chapter...”

That is, it seems to me, as is provided in section 4, which is by due process of law. So it seems to me that section 5 is saying that these rights and freedoms can only be abridged if there is due process of law. And so given that line of reasoning, I

do not find that the provisions of the Bill, especially as they have come to the Senate now after the Committee's work, are inconsistent with sections 4 and 5 of the Constitution. That is my judgment and my opinion.

Now, section 54 of the Constitution says that:

“(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution...”

And subsection (2) of that says:

“In so far as it alters—b)...any provisions of this Constitution...”

A series of sections are specified there; the Bill seeking to do so needs to be passed with a special prescribed majority.

So then that led me to ask the question, what is meant to alter the rights? And so I went to look at section 54(6), which defines and gives us a meaning of altering in that context. What does it mean to alter these rights? And, yes, "alter" there means paraphrase, repealing or substituting or modifying or suspending for any period. So, of course, that made me pause, "suspending for any period" according to that section is an alteration of the rights. And I presume, suspending here, that this could contemplate a temporary or permanent period.

And so it may be argued, that such a suspension of rights, that is, an alteration of rights according to section 54, would constitute a deprivation. But once this deprivation is achieved according to due process of law as required in section 4, according to my way of thinking, I considered that it would be acceptable, bearing in mind section 53, which is the requirement for the Parliament to make laws for the peace, order and good government of Trinidad and Tobago.

Bearing in mind that at the heart of this Bill, the quintessential challenge in it is to find a correct balance between the rights of the society as a whole for peace and good order and security and the rights of the individual to liberty and life and enjoyment of property and so on, I can understand that in trying to achieve that balance there are different perspectives and points of view, depending on the value placed on one or the other.

Now, the Bill in seeking to balance those rights, the rights of individuals with the responsibility of Parliament under section 53 to make laws for peace, order and good government, seeks to provide for the temporary or permanent deprivation of the rights of the individual, as allowed under section 4 under due process of law.

I am, therefore, satisfied, Madam President, that the Bill, insofar as it draws into question those fundamental rights of sections 4 and 5 and the basis on which they may be altered, that it is reasonably justifiable in this society at the present time and for the foreseeable future. And I would also offer my own judgment that I think that in the course of the committee we were satisfied that the reason and basis for this Bill was also reasonably justified.

Thank you.

Sen. Brother. Noble S. A. Khan: Madam President, thank you for allowing me to share some thoughts on this, what is before us—this report. And I shall try to be very short.

For once I would think that much work has been done by the committee and also by Minister Montano in his minority report, though he admitted that he was, for reasons as he has indicated, unable to attend all the sessions. It did occupy my mind too that while he was saying so and he was unable to attend all the sessions why there was no change in having someone to fill in for him, so to speak. But that is just by the way.

My own feeling on this is that perhaps out of an abundance of caution, I myself am a layman and I like to think in terms of looking at law from a layman's point too, I understand that law is meant for the layman to understand and to be guided by. With due respect, in my own work experience, whenever I came in contact with the law in my job, I cannot recall having gone against the law in my own experience—as a layman.

I know too that the whole nation has expressed some concern about what is before us, and rightly so. But I must admit that although Minister Danny Montano had given us an indication that many of the religious bodies were consulted or made representation, I must say that I do not know if you had approached them or not. But as far as I know the IRO, per se, had not a pronouncement on this.

The important thing to my mind is this, that I feel an undercurrent still, both at the outside level and even inside here, that what is before us, there is a need for some element of addressing this question of terrorism and what passes for terrorism. But also, too, there is a great concern, an uneasiness of how we are going about it and even what is before us.

And like so many laws that have come before us—and perhaps that is part of our culture—there appears to be a disdain or keeping away, of not being highly participative in what is before us. And I strongly suspect that this is one. This is a

case of that, though we have had, as I have said before, part of the parliamentary process inside of here addressing questions of it. And that is what we are talking about.

I too have had my apprehensions with respect to the question of the saving clauses within our Constitution and I feel that it is one that we should have those elements before it is passed, that is, that we should have the special majority.

This is something that touches at the very fundamental foundation of our existence. We know law and order is the first law. But if you are going to take by law and order what takes place in our country, questions of law and order will arise in our own minds.

Coming back to that point of if there is not that element of pulling together in something which I am sure all of us are aware there is a need of, and there are substantial questions as to the respect of people's rights. And if the Constitution which forms part of the saving grace for that has anticipated elements such as that—and I think that even the people's representatives in the Lower House particularly, and what we have up here, is one that they should bring to bear and at least seek out that support. If we do not go that way I think we will not be acting as a cohesive force, as much as there is need for it, because this is something where there is a general feeling of a need for something like this. And if there is not that feeling of having a say of reaching out into it, particularly through our representatives in the House, I do not think it will go a long way in pulling us together and more so seeing that so much support will have to be had on the ground if this law has to be successful.

I do not think that we should go forward without this, without having that special—it may be too that they may have to have negotiations outside and linkages and all of that before we arrive at that conclusion.

So with respect to the question of what is before us, I would like to add what I have said here on what is on the minority report.

Thank you, Madam.

Sen. Dana Seetahal: Thank you, Madam President. Madam President, the report before us, in my view, is defective in several aspects.

Now, in my opinion, there may be very good reasons why the Government wishes to pass the Bill as is, but the reasons have not been put forward in this report. In my view, the report does not address some of the concerns expressed by Senators when we gave our contributions on the last occasion. And I will point out

in particular one of those concerns that I made and which is contained in the minority report.

On June 07, I said, Madam President, that:

"... it is generally accepted that a citizen does not have to answer questions posed by a police officer or a prosecuting authority. The only time you can be required is if you are called to give evidence in a Court of Law..."

I said this in the Senate.

"or at a hearing where the court or tribunal has powers..."

to order that you do so.

I said:

"...other than that, a police officer cannot. He can stop you on the streets and ask you questions but he cannot make you or require that you answer those questions."

In other words, while he can stop you he cannot order you to answer those questions. You have that right and that is the right to remain silent. This will be changed, Madam President, by clause 24(3) of the Bill.

The point is there may be reasons why the Government might want this to happen. It may be that they want to bring it in consonance with other laws internationally. I do not know. The point is, this report does not address it. This report, if I want it to be so extreme, I might say is an insult to some of us who made these comments and serious criticisms of this Bill. [*Desk thumping*]

If clause 24 subclauses (3) and (4)(b) now give a court the power to order a person to give information and that the court can order the examination on oath of persons named in an order, then it means that right which we have constitutionally, freedom of expression and with it a freedom not to express is taken away, this should have been addressed in the report. It was repeated by Sen. R. Montano in his contribution during the debate. I am not dealing with his minority report now. He has made that point in his minority report. I am saying during the debate these were concerns expressed at large and I see no mention of that in this report.

At sections 2.9 and 2.10 there is reference to clauses 23 and 24 and we are told that the committee examined those clauses. But really, the overwhelming concern, Madam President, appears to be with the 48-hour period of detention.

That is one concern that I had. But that is not the main concern. So that is the first point.

Secondly, Madam President, to call the question of the existing 48-hour period of detention a mere convention is not consistent with the law as we know. Convention is a source of law. And that is a convention that has been followed for decades in this country. And it is, therefore, generally accepted to be the law. Because right now, if you are arrested for an offence and you are kept beyond 36 going on to 48 hours your attorney can move to have a writ of habeas corpus. And it will invariably be granted. So that report again does not address that issue.

Of course, there are other areas which I commented on in the substance of the Bill. And I see the proposed amended Bill still does not take that into consideration.

The point is, Madam President, one wonders when we are making these contributions—and for instance I point out like “Order”. In one section it is a capital “O”. There is an Order made by a court, and in another section it is small “o”, and you see that this Bill went through a committee but it comes back with the same thing, you wonder what is your purpose here. At least, I wonder whether I am wasting my time talking, if it goes to a special select committee and then you come back with the same thing. Well, it is a select committee, which is special in my view.

We are talking about clause 24(7), (9) and (10). I made the comment, Madam President, that having demanded of you the breach of your right to silence, this legislation now says that you will not be excused on the basis of self-incrimination and that if you give evidence, which you are forced to give, you can be charged with perjury. Again, these are not issues addressed here. These are serious issues, to my mind, and they are not addressed in the report.

Now, one would say that a report cannot, I expect, address everything. But a report at least ought to confront the salient issues. I have read through some of the minutes of the meetings; at page 34 of the report there is reference from page 34 to page 36, Madam President, to certain suggestions made by an attorney at law, one Michael Quamina. For instance at 4.9 he suggested that clause 23(1) should be amended by inserting how an application is to be made to a judge for the extension to 14 days.

He also said that an insertion should be made regarding the means by which an extension is to be obtained. This is his view, of course. He also said at page 37 that he thought clause 25(b)(iii) was too strong. Clause—that is 37 at paragraph 4.21

addressing clause 25. He said that he thought that the deeming provision was too strong. Now, the purpose of calling Mr. Quamina there, in my view, would have been that he has experience in constitutional law, and no doubt the Attorney General has that experience. I am sure he does. The point, however, is that you wanted an outside person to give that. And if, in fact, his advice was not heeded, at least in this report there should have been some reference to it and to why it was.

I note that in another meeting the Attorney General gave his views. And I would like him to explain to us and share with us why these matters were not addressed, why the concerns raised by myself and Sen. R. Montano in our contributions in the debate—I am not only talking about Sen. R. Montano’s minority report, I am talking about in the debate why these concerns have not been addressed. Why is this committee appearing to treat what we say with scant courtesy?

Finally, Madam President, the question of jurisdiction. I note that the report makes a summary comment on that issue. In my contribution, Madam President, I pointed out that unlike any other offence, terrorism committed anywhere in the world will be triable in Trinidad and Tobago. The response to that in the report is at 2.10. It says:

“In respect of clause 25(1)(b)(iii) on the issue of jurisdiction as it relates to extraterritorial acts, your Committee noted that at common law it is possible to state that the Courts shall have jurisdiction.”

Which means nothing really. I do not know what that means. Of course it is possible to state that a court shall have jurisdiction. What does that mean? It begs a question—and? The next sentence is:

“Your Committee also learned that English Common Law which was adopted by the Caribbean allows the conspiracy to be tried in multiple jurisdictions.”

The law is, Madam President, that conspiracy could be tried in a jurisdiction where the complete act is to be committed. That is the law and that is what happened in the Small case where Small was always in Trinidad and Tobago but because his actions were to be committed—the full thing—in the United States, then he was triable there and he was, in fact, extradited to the United States. This is the law as accepted in Trinidad and Tobago, in the US and in England. And that is in relation to conspiracy. So it is not all over the world.

What this section 25 is now saying, Madam President, is that an act of terrorism wherever committed—this is at 25(1)(b)(iii):

“The Courts of Trinidad and Tobago shall have jurisdiction in respect of any offence referred to in this Act if—

(b) the offence was committed—

And I go down to (iii):

“outside of Trinidad and Tobago, and the person who has committed the act is, after the commission of the act, present in Trinidad and Tobago;”

So you can commit this in Timbuktu and once you are found in Trinidad you can be tried in Trinidad. Previously, you would have to be extradited. And that is the normal—seeing that you are triable in the country where you committed the act, except for conspiracy where you would have committed the act.

So I am not saying, Madam President, that having regard to the nature of terrorism—do not misunderstand what I am saying. The nature of terrorism is such, Madam President, that it has replaced war in the world. In fact, there have been many studies done and it is that terrorism is fast replacing war. We do not need to actually fight fist to fist, or gun to gun, but you can do it that way. So there may be reasons and they are good reasons.

Look at what happened in London recently. We saw that and we saw, of course, a quick response by London police. But, it required that you lock down an area, that you do certain things with immediacy. There may be need.

The point is, if we have a report, we have a committee, I expect there to be recognition of that. It should be pointed out, I would think, in this report, it would show that the committee recognized the need for extreme legislation and why it is doing it and how it is dealing with our concerns and whether or not the committee has actually confronted the question of constitutionality.

I am not satisfied with the report. I would like to hear from those other than Sen. Cropper. I heard her express views, but I would like to hear—I am sure the Attorney General had some specific reason, some specific legal perspectives on why he would reject Mr. Quamina’s views. And could they tell us in specific terms why this legislation as is should be legislation that we would support, or let us know.

Thank you very much, Madam President.

Sen. Wade Mark: Thank you very much, Madam President. Madam President, it has been said that hasty law is bad law. And what we are seeing in this report before this honourable Senate today, is a manifestation of a rush job.

This report is designed to meet a deadline, Madam President. And that has to do with the prorogation of this session of the Parliament of Trinidad and Tobago.

I hasten to add that even in Sen. Angela Cropper's contribution, she did, in fact, allude to the fact that if it was possible, Madam President, she would have liked the committee to have some more time to contemplate on the seriousness of the report that is currently before this honourable Senate.

Madam President, I want to thank the Members who participated, because I am a person who had experience, or some experiences at the level of committees. I know it is hard work. Madam President, I want to associate with the views expressed by Sen. Dana Seetahal in terms of the report and the weaknesses I have discerned in this report.

I have a report which was provided to me by another goodly Senator who had it downloaded from the Internet, and it dealt with "Anti-Terrorism Crime and Security Act, 2001, a Review". It is a report coming out from the British Parliament, Madam President. And when you look at this report and you see the content and the depth that went into this anti-terrorism report, what we have here is a joke. This is not serious.

Madam President, where your liberty and your freedoms and your rights are involved you do not handle a report in this wishy-washy manner. This is fundamental rights at stake. You know, here it is we are informed in the report that an attorney at law, one Mr. Michael Quamina, was invited. I would not go into Mr. Michael Quamina and his association with the ruling party and that sort of thing. I have a personal letter, Madam President, from him on behalf of the Prime Minister. So I know he has a personal relationship with the party. But I am not getting into that. What I am concerned about is that the gentleman in his objective approach in trying to help this committee, Madam President, all his recommendations on the instructions of the committee on page 37 of this report, all the recommendations, the Chairman of this committee advised the Clerk or the Secretary to this committee to omit all the recommendations on page—you want me to read it?

Sen. D. Montano: Madam President, that is a complete distortion, a complete distortion. I do not think there is any Member of the committee that would

support that view. And the Member was not there. I said no such thing. I said no such thing—to delete what? The contribution of a Member? That is absurd.

Sen. W. Mark: Madam President, may I quote?

Madam President: No. Just one second. You have made an accusation. The Chairman of the committee has denied it.

Sen. W. Mark: I am quoting it.

Madam President: Quoting from where?

Sen. W. Mark: From the report. He is denying the report. But I want to—

Madam President: You are quoting it from this report?

Sen. W. Mark: Yes, yes, of course.

Madam President: Let me see where you are quoting from.

Sen. W. Mark: Madam President, go to page 37 of the report. You are on page 37, Ma'am? Go to 5.3—paragraph 5.3. Could you tell me what you interpret by this paragraph in this report? Tell me what you interpret. I can tell you what I interpret.

“The Chairman requested that the Deputy Chief Parliamentary Counsel circulate a corrected version of the Bill inclusive of all amendments made in the House, by the Committee and typos adjusted, omitting the recommendation put forward by Mr. Quamina.”

What does that mean, Madam President?

Sen. D. Montano: Madam President, it was very simple. The committee at that point had not agreed on the recommendations that Mr. Quamina had made and, therefore, we in the committee, we, not the Chairman, we did not want them included in the changes, because we had not accepted them. It was nothing sinister. It just made sense.

Sen. W. Mark: Well, Madam President, he is now clearing the air. I was just referring to a section of the report in which the Chairman instructed that the recommendations of Mr. Quamina be excluded.

Madam President: He has clarified it, so we can move on.

Sen. W. Mark: Okay—omitted, omitted. This is what you have here—omitted, Madam President.

So, Madam President, why did you bring Mr. Quamina in the first instance? But you know what, Madam President, the Attorney General of this country who sat in this Chamber, who represents the ruling party, who is a Senator appointed, like myself, he made all his contributions here. We did not agree with him. You know what, all his recommendations, all his advice that we rejected up here, it was accepted and incorporated.

If you look at this report, every time the Attorney General speaks and makes his contribution it is along the lines of trying to persuade the Committee to go a particular course and, of course, at the end of the day, Madam President, you have a situation where—

Madam President: Sen. Mark, will you give way to Sen. Cropper?

Sen. Cropper: If Sen. Mark will give way. Thank you, Sen. Mark.

Madam President, I think I can provide a simple objective explanation of that. On the first occasion when—I hope this helps Sen. Mark. On the first occasion that Mr. Quamina visited with us we did listen to him and many of the points of view that he had and had a good exchange with him, all of which were recorded. Unfortunately, the Attorney General and I think one other Member were not present at that meeting. And the conclusion of the committee was that since we were trying to track the changes that we had agreed to at that time in a working copy of the Bill as we went along, we would hold those in reserve until we had an opportunity to hear also an explanation and a response and an engagement between the Attorney General and Mr. Quamina, which did take place on the second occasion that Mr. Quamina met with the committee. And thereafter the opinions of Mr. Quamina that were accepted by the committee found reflection in the Bill.

Thank you.

Sen. W. Mark: So, Madam President, here it is and so on the Government is seeking, through this particular piece of legislation, as the report outlined, to infringe on the fundamental rights and freedoms of the citizens of this country. And, Madam President, in the House of Commons in London, it took the select committee of the Parliament of the House of Commons, Madam President, two years, two years, Madam President, to deliver it on this Anti-Terrorism Bill.

This particular committee was appointed as you would recall, some time in June, late June—June, July, Madam President. We are now in August. Madam President, you know what happened, this committee in its haste could only muster one public consultation, only one public consultation in the National Library.

Madam President, I understand an ad was placed in the newspaper. I want to disagree with Sen. Cropper on the issue of the public. I blame the committee for not being able, Madam President, to attract the public. And I will tell you why. This is a Bill that requires the intervention of organizations—the Law Association. Can I ask the Chairman of this committee when he is winding up to tell us whether the committee wrote to the Law Association inviting them to that public consultation that took place at the National Library? Did the committee, Madam President, write to the Bankers Association? Because in this report there are provisions that are going to call on the bankers to do certain things. And, Madam President, if they do not they face jail sentences. This is a serious matter.

And you know what, Madam President, the Bankers Association was not invited. The Law Association was not invited to the consultation. The National Trade Union Movement, the Federation of Independent Trade Unions, TTUTA, the PSA, they were not written to. They were not invited formally to this consultation. Madam President, you know what they did? An ad in the newspaper. And that was sufficient. And, therefore, I am not surprised half a dozen or less members of the public attended the consultation

But you know what, Madam President, nowhere in this report did you see, or did the Senate see what took place, what came out of the consultation. This was a secret consultation, Madam President. You know how I have to go and get information on the consultation? Not from the report. I have to rifle through newspapers, to listen, and to bring to your attention what the public said at the National Library. Why must I go through that? If we have a public consultation and you bring a report to this Senate for adoption, why is there not a section in this report on the outcome of the public consultation?

Madam President, they have short-changed the Parliament—this committee. I want to know if it is a deliberate plan to hide information. Why did the committee not incorporate into the report the outcome of the consultation that took place at the National Library?

Madam President, I want to share with you what were some of the things said, given the fact that the committee failed miserably in its duty to this Parliament to let us know what the masses were saying, even though they were few in number. Madam President, I refer to the *Trinidad Guardian* dated Thursday August 25 on page 12. The headline in the *Guardian*: "Big Concerns Still Voiced". Imagine, a small number of people expressing deep concern. Madam President, nowhere in this report do we get any evidence of the concerns expressed by the small turnout of persons at that consultation.

Madam President, hear what one of the persons who turned out at this consultation said on page 12:

"A member of the public, Usas Daniel expressed concern that the bill contained draconian measures and require more airing with the public."

This is a concern being expressed by a member of the public at a consultation, that the Bill contains draconian provisions, Madam President. And the lady was begging this committee to give the public more time. But, Madam President, these are ordinary people. This committee seems to be above the ordinary masses. They did not even consider the views expressed by the ordinary lady. They dismissed that, because it is not contained in the report, Madam President. So the ordinary people do not matter to this committee.

This committee wants to get a report adopted so they could bring their Bill into being. Is this Bill for the al Qaeda organization? I do not know. Is it an Abu Bakr bill? I do not know. I do not know what this Bill is about. But why the haste, Madam President? Why the haste? And you are talking about infringing people's fundamental rights and freedoms.

Madam President, I want to continue. Since the committee failed in its responsibility to inform this honourable Senate what the consultation was all about, I will bring to your attention what the people said on this matter.

Madam President, one leader of the Orisha Movement, Eddie Dumarie, called on the Government in this statement, Madam President, to circulate more copies of the Bill. His group, which is an Orisha group, had not seen it. So here it is and so on this group came to the consultation, Madam President. They did not have a copy of the Bill. They called on the committee and its Chairman to circulate the Bill so that more NGOs would be aware of its content. Madam President, nowhere in this report is that contained. So the poor people and the Orisha community do not matter to this committee. This Orisha committee, who are they? They do not exist as far as this committee is concerned, Madam President.

Another member of this same Orisha organization, Madam President, Mr. Oranfe said he did not want to be part of a minority group trying to force the Bill on the public. That is what he said at the consultation. He does not want to be part of a minority, which is what this report is about. This report is not reflecting the views of the majority of people. Because what has the Law Association said on this Bill? What has the Criminal Bar Association said on this Bill? What has the IRO said on this Bill? What has the Trade Union Movement said on this Bill, Madam President, and the Bankers Association, as well as others?

Madam President, we have no evidence of anything that has been said. This Bill in the hands of an oppressive and repressive and vindictive administration can be used against its opponents. Madam President, they can detain Wade Mark for more than 48 hours and 14 days without Wade Mark having access to his lawyer. This is an infringement of my rights under the Constitution of Trinidad and Tobago.

Today the police cannot hold Wade Mark for more than 48 hours. But you want to give the police the power to detain Wade Mark for more than 48 hours, up to 14 days. That infringes my rights to personal liberty and freedom, which I am entitled to enjoy under sections 4 and 5 of the Constitution. You cannot take away my liberty just so, Madam President.

Madam President, this Government has an agenda. I want you to know this “eh”. Since this Bill was sent to this select committee, two bombs went off in Port of Spain—two bombs. Up to now no arrest. Who planted the bombs? Some people are saying it could be officialdom who planted the bombs to put pressure on us in the Parliament to pass the Bill. That is what some people are saying. I am not saying so, Madam President. But I know how these totalitarians and fascists and Nazi-oriented politicians operate. ‘So you bomb the town to force we to pass Bill.’ That is what, for instance, some people are saying. I am not saying so. I dare not say so. But, Madam President, why blame the masses when the incompetence of the Committee is manifest?

Madam President, I have sat on several select committees and joint select committees and you know how we invite members of the public to attend our public consultation? The Clerk or the Secretary of the committee is instructed to provide hundreds of organizations and their names and their addresses to the members of the committee and we so direct the secretary to write to every organization and provide them with a copy of the bill, Madam President, not to put a notice in the newspaper. You think people have time to read notices? Madam President, you yourself, when you open a newspaper sometimes you do not think about notices. You are a busy lady. I am a busy person. The Law Association is busy, they are in court every day. The proper thing to do is to write to the secretary of the Law Association inviting the organization to attend a public consultation on so and so day, at so and so time and so and so venue. That is the proper approach. But this Government, Madam President, they want to pass an oppressive Act, because they have an agenda.

But I could tell you, Madam President, I promise you one thing, they may be able to pass it today. We will not support it in the Opposition. But as my good

friend Robin Montano indicated, they will not get the constitutional majority when they go in the other place. And as soon as this Bill is assented to by the President of this Republic we will file a constitutional motion asking the High Court to strike down this oppressive piece of legislation, Madam President. I am giving the assurance today the courts of this country, up to the Privy Council will strike this oppressive and repressive piece of legislation that they are seeking to impose on this Parliament and this nation. We will not allow that to take place. They could say what they want, that the Opposition is obstructionist. That is their business. But we are opposing in the interest of the masses of people in Trinidad and Tobago. [*Desk thumping*]

We will not allow the PNM to impose this wicked piece of legislation on people. And, Madam President, you know what hurts me? I spent a whole hour contributing to this Bill. I made many vital contributions. None of it is reflected in the recommendations that have come forward, not to mention, for instance, the attorneys that we have here, Sen. Dana Seetahal, also my good friend Sen. Robin Montano. Madam President, they made incisive interventions.

They told the Attorney General and the Minister of National Security how these laws are going to infringe the rights of people. They went through in detail certain provisions. Madam President, nothing is told to us in the report about these provisions that infringe on people's rights and freedoms. But they come here, because Parliament is supposed to prorogue on or before the 9th September to hastily get this Senate to approve a watery, oppressive, flawed report. How can you expect to use us like that, Madam President?

And you know what surprises me all the time, the guardian of the Constitution, the upholder of the Constitution, seems to be the biggest violator of the Constitution in this country, Madam President.

Madam President, hasty law is bad law. Hasty law is bad law. They were rushed, Madam President. And I sympathize with the Chairman and his members. They had a deadline, Madam President, a train to catch. The train is leaving its station no later than midnight of September 09 and they have to be on that train, midnight, September 09 otherwise, Madam President, they will be left behind. And the committee in its haste, because they were operating under political pressure to bring this report to this honourable House, they faltered and they fell; they stumbled. They fell; they bruised themselves. We want to help you up. That is why we are proposing in our minority report, Madam President, we save this report. We save the deliberations of the committee for the next session of Parliament. If

you want to put this Bill right, this is a very reasonable recommendation. Save the work of the committee, go back to your committee, go back to the public, go back to your consultation, make this Bill available to all and sundry in the country. Take another year if it is necessary to complete its deliberations, but bring a bill here that is, in fact, acceptable to the Parliament and to people and their rights and their liberties in this country. Bring a bill like that, as Sen. Robin Montano said, Madam President.

We are opposed to terrorism. But the terrorists today might be the revolutionary tomorrow. We have an oppressive regime here—and I will say more about that on another occasion—which is using legalism to oppress people. So when people cannot take it any more and they decide to demonstrate and to take action against this regime, organizations are going to be classified as terrorist organizations, Madam President, because they are taking action against an oppressive regime.

This is something, Madam President, that can come to haunt us at the end of the process. We can today be terrorists of tomorrow because of how this Bill is couched and the language of this legislation, Madam President. And this is why, Madam President, this committee is so rushed to get this Bill assented by the President of this Republic, that they even drafted without your consent. Madam President, the mandate of this committee did not call on this committee to draft the final Bill for you and for the Senate. Nowhere in their remit did this Senate tell this committee to give us a draft bill.

But you know what, Madam President, they hastily put it together, because you know why? They want the President to assent to it because as far as they are concerned, they have the majority across there. They say the Independents will abstain on this Bill, only the Opposition will oppose it and then it will go to the other place, and they have the majority. It will pass, Madam President. The President will assent to it, it will become law.

So, Madam President, when we speak here it does not make any sense. But we have to speak because the masses and the citizens and history will condemn us if we do not. But, Madam President, when we speak and we make incisive contributions and we are able to logically and objectively show to the Government some of the weaknesses in the legislation and we are able to persuade the Government to refer this matter to a select committee, Madam President, this is not a jokey, Mickey Mouse arrangement. When we refer something to a select committee they must take their work seriously.

So all the contributions made by the hon. Senators concerning these measures that were contained in the legislation, Madam President, are not incorporated in the final—and, I must tell you, you, Madam President, and I can debate any provision in the legislation in this debate, because in this report I have a draft bill. And nobody could tell me, this is not part of the report.

So here it is the Government has appended Appendix III as the amended Bill. So, Madam President, any Senator could go to any provision in this Bill in order to seek clarification from the Government. So the Government has given the Senate an opportunity to virtually look at the Bill a second time. Why did you incorporate this Bill here? Nobody asked you to incorporate the Bill. But you have put the Bill into this report so that if I want, Madam President, to seek clarification from the Attorney General or from the Chairman, I can do so, because it constitutes part of this report which you are seeking to have this Senate adopt. So you are shooting yourself in the foot. That is what the Government is doing

But you know, Madam President, haste, haste, haste, the Government wants to pass the Bill, so they do not care. People's rights are infringed in this Bill, Madam President. Freedom of expression, Madam President!

I go to page 16 of the draft Bill. This is a bill that is before this House. It is a draft bill for our consideration and our adoption. Otherwise I call on the Chairman to have this Bill excised from the report, Madam President. So if I go to clause 14 of this draft Bill that they wish us to adopt and/or consider, Madam President, it says that:

"A person who knowingly incites or promotes the commission of a terrorist act..."

Madam President, when they say "incite", what do they mean? What do they mean by "incite"? By speaking? So I am a trade unionist. I am a trade unionist and I am speaking out—

3.30 p.m.

Sen. Jeremie: Can I just assist you? I know that you are not a lawyer. You say you want to do law and come to my class at the University of the West Indies.

Sen. W. Mark: I will not come to your class.

Sen. Jeremie: This is what you said on the last occasion.

Sen. W. Mark: You cannot teach me! I will go to someone else's class.

Sen. Jeremie: "Incite", Madam President, is a term which is commonly known to criminal lawyers and it means to procure someone to commit an offence. That is all that it means.

Sen. W. Mark: Thank you very much.

Sen. Jeremie: That is lesson number one.

Sen. W. Mark: Okay, my friend.

Madam President, may I invite you to go to page 31 of this draft? And if you go to 29(2), this is a most frightening provision. On page 31 of the draft Bill—the amended Bill, rather. Madam President, hear what it says:

“(2) Where Trinidad and Tobago becomes a party to a treaty and there is no extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to...”

Madam President: You read that wrong. Go back.

Sen. W. Mark: “Where Trinidad and Tobago becomes...”

—I don't know if I have the right one.

Madam President: “—becomes a party to a treaty and there is in force—“

Sen. W. Mark: No, it says: "and there is no—"

Madam President: I have "in force". Which one are you reading? Oh, (2). I thought you were reading (1). I am sorry.

Sen. W. Mark: Subclause (2), Madam President.

“Where Trinidad and Tobago becomes a party to a treaty and there is no extradition arrangement between the Government of Trinidad and Tobago and another State which is a party to that treaty, the Attorney General—“

A politician; a politician from a ruling party who always displays his balisier tie.

“—may, by Order—“

Madam President, subject not to affirmative resolution but—

“subject to a negative resolution of Parliament treat the treaty, for the purposes of the Extradition Act, as an extradition arrangement between the Government of Trinidad and Tobago and that State, providing for extradition in respect of offences falling within the scope of that treaty.”

Sen. Jeremie: Would you like me to assist you here as well?

Sen. W. Mark: I do not want you to assist me.

Madam President: If you are not giving way to the Attorney General, he will have to take his seat.

Sen. Mark: Will you be brief, John? I do not want you to be too long.

Madam President: I cannot have both of you standing.

Sen. Jeremie: I will be very brief.

Sen. W. Mark: Okay.

Sen. Jeremie: The reason for the Attorney General's intervention here is that some States do not have a Director of Public Prosecutions. Most States have an Attorney General. And the relation between States, as far as it relates to the conduit of criminal information, is done through the Attorney General. So that is the short answer. Lesson number two.

Sen. W. Mark: Madam President, that is known. You are not teaching me anything. Because I do not accept your teaching on that one. That is no problem; but thanks, anyway. I am a very gracious person. I say thank you, Attorney General. But I do not accept your advice.

Sen. Abdul-Hamid: You refuse to learn. You are stubborn.

Sen. W. Mark: I don not accept your advice.

Sen. Abdul-Hamid: You see why Martin fail?

Sen. W. Mark: Madam President, the attorney at law, that is Mr. Michael Quamina, in his presentation which I do not want to refer to extensively, I do not want to burden the Parliament too much. He was dealing with clause 32 of the amended draft law that is before us, where, Madam President, it is being said that:

"Every person who has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another person for an offence under this Act, or an offence under any other law and which also constitutes a terrorist act,

shall forthwith disclose the information to a police officer not below the rank of Sergeant."

Madam President, this is not "may". They are compelling you. So the journalists—I want to tell the media here today, who have been very silent on this oppressive and repressive piece of legislation.

Madam President, under 32(1) of the law re-drafted and amended and brought before you and this honourable Senate, it is saying, Madam President, that if you have any information which will assist in the prevention of the commission by another person of a terrorist act, and in securing the arrest or prosecution of another person, you are compelled under clause 32(1) to disclose this information to a police officer, not below the rank of sergeant.

And, Madam President, any person who fails—including a journalist—to comply with this particular clause, commits an offence and is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for two years, Madam President.

And the media has remained quiet on this provision. This is a direct attack on the freedom of the press. Madam President, there is a lady, a journalist, right now serving a jail term in the United States because when she went before a Senate committee, they were trying to get her at the Senate committee to disclose her sources. She said that is privileged. That is what the media is run by, because we have private sources and we cannot disclose those sources. Madam President, they sent that lady, under the Anti-Terrorism Bill in the United States, to jail. She is in jail right now because that journalist refused, Madam President, to disclose her sources.

And you are telling me, you are imposing clause 32(1) on the country and it does not require a special majority? Who is the Attorney General and the Minister of National Security fooling? They are not fooling us here. And I will tell you one thing, Madam President, they will not fool the judges of the High Court and the Court of Appeal and the Privy Council in London. They will not fool them.

So I want to warn the journalists in this country and all the media houses, whether they be print, broadcast or electronic media, Madam President, that clause 32(1) is coming at you. So all you journalists who feel that you all can hide, the PNM is coming for you under 32(1), 32(2), 32(3) and 32(4);

Madam President, section 5 protects me and you from self-incrimination. That is a provision in the Constitution that you cannot tamper with unless you have a specified majority. My right to self-incrimination: I have that protection under the Constitution of the Republic of Trinidad and Tobago, not to incriminate myself. And the law says, Madam President, and the Constitution says that if you are going to incriminate yourself or you are seeking to have me incriminate myself, you must have a specified majority.

How can the Attorney General of this country sit in a committee and allow this to pass and bring it to the Parliament? I can understand Sen. Danny Montano; he is not a lawyer.

Hon. Senator: He is not a lawyer?

Sen. W. Mark: No, I do not think so. How can he be a lawyer and allow this to pass? He must be a bush lawyer. He cannot be a real lawyer. I am no lawyer, Madam President, and—okay, I withdraw it. He must be a lawyer for bush. I do not know which bush.

Anyway, Madam President, the point I am making is a simple one. I am no lawyer and I can tell you and this honourable Senate, if you go to section 5 of the Constitution now you will see where you are protected from self-incrimination and if the Government is seeking to incriminate and allow me to incriminate myself, they must do it with a specified majority. That is elementary. Any Standard 1, 2, 3, 4 or 5 child knows that. How come the Government is seeking to peddle this particular provision on the population?

Madam President: Hon. Senators, the speaking time of the Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes.
[*Sen. S. Baksh*]

Question put and agreed to.

Sen. W. Mark: Madam President, I am being told that the Government has amended this and I have the wrong report. Madam President, you understand the point I was making earlier. I have a report unsigned. Is it a fact that the Government has excised this clause? Has it removed clause 32(1) or is 32(1) in the Bill?

Madam President, the Attorney General is not listening to me conveniently. All I am asking the Attorney General, Madam President, through you, is whether clause 32 subclauses (1) (a) and (b) and 32 subclauses (2), and (3) and (4), whether they have been excised or removed from the Bill. I want the Attorney General to tell me if that has been done.

Sen. Dumas: Read the appendix.

Sen. W. Mark: It seems, Madam President, that it is still here. Madam President, I am not seeing it, “eh”. What I have before me is very clear and I have seen no withdrawal.

Madam President: The amendments are somewhere here.

Sen. W. Mark: Madam President, I have all the provisions in the Bill. I am looking at appendix—Madam President, I will just go to the particular section so at least if there is any doubt in the minds of any one of my colleagues we can go to—Madam President, "insert in the subclause the word"—just now. Let me see if I get this thing right.

Oho! Madam President, I see, for instance, if you go to page 3 of the list of amendments, you will see in clause 32 they say "Insert in subclause (3)", so if you go to subclause (3)—"civil or criminal proceedings shall not". So they say insert the word "not" after "shall". "Insert in subclause (2)", Madam President, notwithstanding subsection (1), " person referred to in subsection (1) shall not be required to disclose any information which is protected by privilege".

Madam President, it still violates the rights of ordinary citizens of this country. This provision does not help, because I have a right not to incriminate myself. So if you have a provision in the Bill that is saying that you confine it now to the ordinary citizens, because where something exists as privilege, you say okay, that can pass, but where it comes to you, where you do not have the privilege—and the ordinary man does not have privilege—the Government is coming for you. So the jackboots of the State—I am being told by a lawyer that the only person in the law who has privilege is an attorney and his client.

I do not know what "privilege" means here, Madam President. They did not exclude the journalists. Why did you not put in this amendment that this provision does not apply to members of the media and to reporters? That is left open, Madam President. And if I am being told that privilege means an attorney and his client, then it does not incorporate the journalists.

So, members of the media, I hope you are listening and reading clause 32 of this draconian, repressive piece of legislation that is before this honourable Parliament.

Yes, Madam President, I am going on. I see they did some cosmetic changes in clause 33(1) but the essence remains the same. Rather than going to the Attorney General or Minister of National Security, they say you must go to a designated authority, a police officer or some other persons they will assign that responsibility as currently obtains.

But, Madam President, as we know, this is an infringement of the people's rights and we shall not give the Government any passage in terms of support. A

constitutional motion will be filed the day Professor Max Richards, the President of this Republic, gives assent to this legislation. I give you the assurance here today. It will not come into law until the Privy Council determines otherwise.

Sen. Dumas: You are threatening the President now?

Sen. W. Mark: Madam President, could you go to page 33 now? If you look at clause 33(3), hear what it says. And I am shocked that Larry Howai, President of the Bankers Association, a very good friend of mine from university days—I am shocked that the banks of this country have not said a word on this matter. They are silent.

Madam President, hear what it says.

"Every financial institution shall report, every three months, to the Designated Authority—"

This did not exist before. This is a new provision. Madam President, this did not exist before.

So hear what is happening, Madam President. A banker, who has your money, Local Government Minister, limited as it may be. I am a poor person too, I have limited—so they could come. But I am talking about if you have a big, big account.

"Every financial institution shall report, every three months, to the Designated Authority—"

- (a) if it is not in possession or control of terrorist property, that it is not in possession or control of such property ";

Madam President, how could a bank be able to determine what criteria have been identified, to guide the banker that this is a terrorist property that this person has just purchased, Madam President? They put the onus on the banker to determine what is a terrorist property.

It goes on further to say that the bank has to indicate to this so-called designated authority, Madam President:

"if it is in possession or control of terrorist property, that it is in possession or control of such property, and the particulars relating to the persons, accounts and transactions involved and the total value of the property."

Madam President, go to subclause (6). Every banker—

"...who fails to comply with subsections (1), (3) or (4) commits an offence and shall on conviction on indictment, be liable to imprisonment for five years."

So, Madam President, the banks of this country and the bankers of this country—I am not saying, Madam President, that you do not have transactions of a nature as being described in the legislation. But does this particular measure not infringe on your rights?

I am supposed to have confidentiality when I put my money in the bank. No policeman can come and ask how much money Wade Mark has in the bank. He has no right under the law to do so. Otherwise, Madam President, we have a police state. But we live in a democratic, civilized nation. So if you are coming to investigate into my bank accounts because you suspect that Wade Mark is a terrorist—

Sen. Dumas: That is long time.

Sen. W. Mark: Madam President, what is going to happen there—

Madam President: You have five minutes.

Sen. W. Mark: Yes. You go to the banker, Madam President, and if the banker does not know, he says, "Look, Wade Mark is a decent fellow, he does not—" but the Attorney General says to them Wade Mark is a terrorist because they want to put me away.

So, Madam President, if you, as a banker, fail to disclose to the designated authority that Wade Mark is a terrorist, you are going down to the chambers; not this chamber; the one at Golden Grove—five years.

Madam President, is that not an infringement of the rights of the citizens of this country? [*By order of the Chair, remarks withdrawn*].

Sen. D. Montano: Madam President, he is imputing, clearly, highly improper motives. Deceit and deception is a highly improper motive.

Sen. W. Mark: It is a statement I am making. I did not imply anybody, Madam President.

Madam President: Yes, but you are referring to the Attorney General.

Sen. W. Mark: No, I did not. If you go to the record now, you would never see I said so.

Madam President: Will you give me a chance?

Sen. W. Mark: Yes, Madam.

Madam President: I heard you say that the Attorney General sits there and agrees, in so many words.

Sen. W. Mark: But I did not say what you are going to say now.

Madam President: You can even foretell what I am going to say? But please do not impute improper motives.

Sen. D. Montano: Madam President, that should be struck from the record.

Madam President: I cannot remember the exact words.

Sen. W. Mark: Madam President, if I say—Madam President, you cannot take, because the Minister says—

Madam President: You did say something about the Attorney General.

Sen. W. Mark: But I did not imply improper motives.

Madam President: All right. Withdraw it for me, please. Withdraw it. Withdraw anything that may have imputed improper motives.

Sen. W. Mark: I am not imputing improper motives, Madam President, and I am simply saying—

Sen. D. Montano: The *Hansard* Reporter is here.

Sen. W. Mark: I did not impute an improper motive.

Madam President: Withdraw anything that imputes an improper motive.

Sen. W. Mark: I did not impute improper motives. Madam President, if I say to you, since I have been here for 14 years—

Sen. D. Montano: Madam President, he—

Madam President: One second. No, he is not debating. I just want to hear him.

Sen. W. Mark: If I say, Madam President, to you, in my 14 years as a Senator I have never seen such clever deception and deceit in legislation, how am I imputing improper motives?

Madam President: Senator, but you did say, "the Attorney General".

Sen. W. Mark: I did not say so. And I would ask you to go to the *Hansard* record.

Madam President: I am going to get the record.

Sen. W. Mark: Yes, I think so, and then you will guide me. I never called the Attorney General's name in this particular context.

Sen. Dumas: Madam President, I would say that if the Senator was not imputing improper motives to the Attorney General, then he certainly was imputing improper motives to the committee, because the legislation he refers to now as being deceitful—

[*Sen. Dumas' cell phone rings*]

Sen. W. Mark: Boy, take off your cell and sit down and let me continue my business! You are in the wrong place. You should be in the Local Government Ministry.

Sen. W. Mark: Madam President, may I continue? He got stopped before he started. He tried to interrupt me and he had to take a seat!

Madam President: All right. I understand what you are saying.

Sen. Dumas: You cannot say the committee—

Sen. W. Mark: “Boy, take your seat, nuh”. I only have two more minutes.

Madam President: I will get the copy and then we will make the decision. You have less than two minutes left.

Sen. W. Mark: Madam President, all I am saying to you is that if you go to page 36 of the amended Bill, in my two minutes I just want to refer you to clause 37 where—

"The Attorney General may make an application to a Judge of the High Court for an order for forfeiture in respect of terrorist property."

Madam President, I have a right to the enjoyment of my property and if the Attorney General is going to the court to seize my property, you must have a specified majority in this legislation.

Madam President, I want to wind down because I know I do not have much time.

Madam President: You do not have time.

Sen. W. Mark: Madam President, I would like to appeal to the hon. Attorney General and to that side, that this Bill is repressive, oppressive, and it does require a specified majority.

Madam President, we are advising that this be referred, the work of the committee be saved, so it can continue in the next session.

If the Government fails to do that, Madam President, we will have no choice but to file a constitutional motion once this Bill is assented to in law.

I thank you very much, Madam President.

The Attorney General (Sen. The Hon. John Jeremie): Mr. Vice-President—

Madam President: I do not look like the Vice-President.

Sen. The Hon. J. Jeremie: I am sorry, but you have not been here for so long—

Madam President: For how long?

Sen. Mark: Everybody makes that mistake.

Sen. The Hon. J. Jeremie: Madam President, I should just like to draw to the attention of my colleagues that the work of the committee—your committee, I might add; your select committee—is in part reflected in the report which is presented to the House, but what is more instructive would be the notes, the verbatim notes which were taken at each meeting of the select committee, and if those notes were before us today, Madam President, many of the misconceptions which have arisen in relation to us not taking the committee's work—your committee's work—and the fact that your committee did not take on board all of the suggestions of Senators would have been dispelled.

I think it was my colleague, Sen. Montano, in his opening presentation, who pointed out to the Senate that we took account in meticulous fashion of each and every contribution which was made in the Senate at the select committee. And what transpired there, Madam President, if I might read from the minutes taken of the meeting in which—

Sen. R. Montano: You cannot read a lot, eh, because I was not allowed to read a lot.

Sen. The Hon. J. Jeremie: —in which Mr. Quamina was present.

Sen. Mark: What page is that?

Sen. The Hon. J. Jeremie: This is not the report before you. This is the verbatim report.

Sen. Mark: Madam President, that is out of order. I want to raise a point of order. If we do not have the minutes before us, how can the Attorney General refer to these minutes? We do not have those things before us. He has to stay within the ambit of the report. If he wants to refer to minutes of the meeting or to go to the verbatim notes and it is not before us, it is not proper; he is out of order.

Madam President: I am afraid I have to agree with that.

Sen. The Hon. J. Jeremie: Madam, I can summarise what transpired. Mr. Quamina came on the invitation of the committee and presented a number of views with respect to the constitutionality of provisions of the Bill. He was on his own so that he came as an independent person, an independent professional, in the same way that we had extended an invitation to Mr. Allan Alexander to attend. Mr. Quamina came. Mr. Quamina pointed out to the committee that he felt that there were problems with clause 23 of the Anti-Terrorism law. He also pointed out to the committee that he felt that there were difficulties with respect to the power to detain in excess of 48 hours and the extra-territorial reach of the legislation.

Madam President, he also pointed out that he perceived a difficulty, which was raised by Sen. Seetahal, in terms of the way the application for the ex parte order was made in respect of persons who were detained for 48 hours and for the more lengthy period of 14 days.

Now, I was not present at that meeting and I absented myself on purpose because I did not wish to engage in a debate with Mr. Quamina on the floor of the committee. I wanted Mr. Quamina to express his views to the committee without me being present.

Mr. Quamina, however, and the committee felt—the committee endorsed this view—that they wished to hear from the Attorney General on these points and I came to the second meeting at which Mr. Quamina was present. And in relation to each of the points raised by Mr. Quamina, I presented arguments as to why we felt those provisions met constitutional muster. And I speak here in particular of the provision which allows for an ex parte order to be made in relation to detention.

Madam President, terrorism, as my colleague Sen. Seetahal pointed out, is a new form of warfare and the State is balancing difficult interests. It is balancing the rights of the many, on the one hand, to be protected from the consequences of a potentially disastrous terrorist strike, against the right of the individual. But the committee recognized, at the end of its deliberations, that the balance was properly struck. Your committee recognized that.

In relation to the ex parte order, the point—and it is a point which Mr. Quamina agreed with—was that in any event, these applications had to be made ex parte because public interest immunity in the context of terrorism would forbid the State from disclosing sources of information, in the context of terrorism. So why have the State come to court on a defined procedure, which is said to be on

affidavit, to say simply that we are unable to say anything about this matter and to use a well-established basis at common law to justify its position—public interest immunity?

Mr. Quamina accepted that point in relation to section 23 and in relation to section 24, because—and I want to say this: nowhere in this legislation is any right given to the police which is over and above a right which the police possess today.

As a matter of fact, great care was taken to subject even the right to detain for 48 hours to judicial scrutiny. That right at present allows the police officer to go and arrest a person, put him in jail and interrogate him for 48 hours. That is the normal position.

But this Bill, contrary to what has been said today, has been in the making for two years. It is not a rush job. It has been in the making for two years.

And during that time—I would not have gone as far as Sen. D Montano, who was the chairman of the committee, in terms of letting on exactly how many persons we have consulted with, to make sure that we have struck a balance between the constitutional rights of the individual and the rights of the many.

But extensive consultations were held and what we decided in relation to that 48-hour common law right, the right which exists right now for police officers to go and hold the potential bombers, the suspected bombers on George Street for 48 hours, what we decided to do in this Bill was to subject that right to judicial scrutiny. So there is absolutely no way in which one can say that that legislation is draconian. The legislation, as a matter of fact, gives that power which the police have on their own, the legislation gives that power, the right to detain for 48 hours, to the judge. And that model has been followed throughout, including in relation to the right of self-incrimination. So that that right too is subject to a judge saying, "You have to answer this question."

It is not the police officer who goes in Guantanamo Bay or Gitmo and beats the living daylights out of a suspect. We are not in that sort of society and we are not dealing with that sort of context.

Unlike our colleagues in the United States, unlike our colleagues in the United Kingdom, we have subjected this legislation to the rigours of our constitutional rights under section 4.

So that I ask any of my friends to point out—they speak glibly about the Constitution and about the fact that the Constitution is being infringed. But each

of the members of the committee, including Sen. Augustus—each of the members of the committee recognized that this legislation was legislation which the Government was required to pass to meet a contemporary and particular threat, one which was not conceived of at the time that the Independence Constitution or the Republican Constitution was drafted.

Those Constitutions provided for extensive powers to the Executive in the context of states of emergency. We are not dealing with that type of situation today. We are dealing with the ability of one individual, or a group of individuals, to hold this society to ransom. And we have sought scrupulously at every stage to strike a balance between—we have removed the Executive and the police officers. So that it cannot be that—my friend on the other side says now that this is draconian legislation or this is police legislation or this is legislation which will allow us to become a police state. That too is lesson number three for my friend on the other side.

And that point about the court deciding, Madam President; it is commonly said on that side, whenever they disagree with legislation, that they will run to the court and have the court strike down pieces of legislation. Not one piece.

Sen. Mark: This one will be.

Sen. The Hon. J. Jeremie: The Caricom Single Market and Economy, when we debated that in this House, the refrain from the other side was that they would go and have a court strike it down. Not up to now!

Sen. Mark: I will make you a promise. This one!

Sen. The Hon. J. Jeremie: The Caribbean Court of Justice legislation which provided in its original jurisdiction some fairly innocuous powers, they ran to say that they would get the court to strike it down. Not one up to now! So I view with a degree of skepticism these threats which are thrown out every day that "we will strike down this legislation; the courts of this country will strike down this legislation." And I predict, Madam President, that any judge—

Sen. Mark: This one! We are taking you to court.

Sen. The Hon. J. Jeremie : You cannot take me to court.

Madam President: Sen. Wade Mark, I listened to you for 45 minutes and I listened carefully. I would like to listen to the Attorney General now as carefully. Please. Thank you.

Sen. Mark: I bow.

Madam President: Please, Mr. Attorney General, continue.

Sen. Mark: That is my friend, you know.

Madam President: I know.

Sen. The Hon. J. Jeremie: He is my friend but he is my greatest enemy. He has said that he wants to destroy me and he has also said that he wants to kill me.

Sen. Mark: Oh good! I never said that!

Sen. The Hon. J. Jeremie: With friends like that, I need no enemies.

Sen. Mark: That is not so.

Sen. The Hon. J. Jeremie: When I die, Madam President, he will not be invited to my funeral.

Sen. Mark: I am coming! “Ah storming your funeral!”

Sen. The Hon. J. Jeremie: Madam President, with respect to Mr. Quamina's point with respect to the *inter partes* hearing—because the first hearing is *ex parte*; the 48 hour hearing. The second hearing, he had made a suggestion with respect to an *inter partes* hearing. That, too, was answered in the verbatim notes which I am not allowed to read but which were presented before the committee and which your committee felt satisfied with. Mr. Quamina, on each of these points, agreed that public interest immunity in the context of the anti-kidnapping legislation was important and paramount and he agreed with the Government's position that it was not necessary at the end of the day.

As a matter of fact, my friends have—well, they say that they were not provided with verbatim copies of the reports. I do not know what the procedure is, if these reports are placed in the library and they could then access the reports. If that is so, they would have seen that Mr. Quamina made the point, even when he was there on the first occasion, that all of his arguments were subject to the public interest immunity point. And that was the point. And he said he would like to hear the Attorney General on it.

Madam President, I came and I reiterated that point and it was plain sailing with respect to the legislation. We looked at section 23. We looked at the right to self-incrimination and we looked at the extra-territoriality provision. We felt that in relation to terrorism, because we live in a world now increasingly without borders, that a terrorist act might be committed in one territory and that the extradition laws might not suffice to bring the person to justice.

What we felt—and this is borne out by the common law offence of conspiracy—we have not gone very far. The common law offence of conspiracy is that if what was done was a crime in Trinidad and Tobago, we would punish the person here so that that person would not escape. There would be no safe haven for terrorists.

That is an obligation which all states in the United Nations have signed on to and we saw no difficulty with it in terms of our Constitution.

So, Madam President, I would just like to say that our committee has been castigated. The committee—your committee—has been castigated this afternoon for a rush job. But the committee met over eight weeks and I feel proud of the work of your committee.

[Desk thumping]

Sen. Prof. Ramchand: Madam President, I think the Attorney General is winding up and I would like to ask him a question before he does.

Sen. The Hon. J. Jeremie: I am not winding up but I will take the question.

Your committee met over eight weeks during what would normally be considered to be the recess of this House. So in effect the hard-working Members of the committee, Sen. Augustus included—I am sorry that Sen. R. Montano did not find the time out of his professional practise to attend any of the meetings, but had he attended these meetings—he attended one—had he found the time to attend these meetings, Madam President, I am certain he would have been educated because I, too, was educated by the level of the discussion and the level of the debate. And I was strengthened in my belief, my confidence in the select committee as a tool for the discussion of difficult issues and the involvement of the wider community.

The Bill was published, with a preamble; there was a public meeting held. The participation—my friend read from some of the comments made at that public meeting. But Sen. Cropper, as I recall, had to make the point that in spite of the advertisements, in spite of the fact that we were going live on the radio, I counted how many people came to this public meeting. And apart from the press—because I have a sense of who would be members of the press—there were three persons. There were 15 persons in all but 12 persons were members of the press. And those three persons who were there had the temerity to tell us that we should have had the meeting in the Grand Stand.

Sen. Mark: They are right! I support them.

Sen. The Hon. J. Jeremie: If we had that meeting in the Grand Stand, Madam President, I would not have been able to see—because I do not see very well—I would not have been able to see these persons. It is impossible.

I commend the chairman, the hard-working members of the committee, and I too, was surprised to see a minority report from Sen. Augustus.

Hon. Senator: Not Augustus; Sen. Montano.

Sen. The Hon. J. Jeremie: Sen. Augustus and Montano.

Hon. Senator: No, Sen. Montano signed it.

Sen. The Hon. J. Jeremie: I see. Because Sen. Augustus was present, participated in all of the discussions, asked difficult questions, because this is a difficult issue. This is not namby-pamby legislation we are passing here today.

Sen. Abdul-Hamid: “What yuh setting up your face so for? Yuh smelling something stink?”

Sen. The Hon. J. Jeremie: He asked difficult issues, he challenged persons to think, and the challenges were met in select committee.

So, Madam President, I am proud of the work of the select committee and it is not because the select committee was unable to agree to everything which was proposed in terms of amending the law that it did a poor job. Mr. Vice-President—

Sen. Mark: I knew you were going to say that!

Sen. The Hon. J. Jeremie: Madam President, the work of your committee—Madam President, you look lovely this afternoon!

Madam President: You are not seeing very well!

Sen. The Hon. J. Jeremie: It is my difficulty. I am confusing you with the Vice-President. Madam President, the work of your committee was worthy of this Senate and I urge the Senate to adopt the report of your committee.

Thank you very much.

Madam President: You had a question to ask, Sen. Prof. Ramchand?

Sen. Prof. Ramchand: Yes, Madam President. The Attorney General's elucidation of principles and philosophy is much more satisfactory than the

Explanatory Note which purports to do that. In fact, a lot of things have become clearer. But I might have missed his argument against Mr. Quamina's suggestion that clause 25(b)(iii) should be deleted; that is:

"The Courts of Trinidad and Tobago shall have jurisdiction in respect of any offence referred to in this Act if—

(b) the offence was committed

(iii) outside of Trinidad and Tobago and the person who has committed the act is... present in Trinidad and Tobago;"

after commission.

Sen. The Hon. J. Jeremie: Thank you for that question. I skimmed across the answer. But what the committee is seeking to do is to ensure that there is no haven for terrorists because of the very nature of the terrorist act.

In some territories, in our international relations, we do not have formal extradition treaties in relation to certain territories, so that we felt that if someone had committed a terrorist act—we are behaving like a super power because the United States has legislated for this and conspiracy is an offence at common law which allows for this type of claw-back.

So what we are saying is, if we find you here and you are a terrorist and we cannot extradite you, you are not going to be safe in Trinidad. We are going to put you to the criminal process.

We are not taking away any rights. The two rights which are possibly infringed in this legislation or which come close to dealing with it, which pose challenges to us, are the protection under the law, the right under—if you want me to refer to it—is the right under 4(b): the right of the individual to equality before the law and the protection of the law, and the due process right, which is contained in section 4 as well: the right of the individual to life, liberty, et cetera, and the right not to be deprived thereof except by due process of law.

Those are the two rights. And once you have the court, which we have scrupulously maintained as the arbiter of everything, including the right of the police to detain for 48 hours—once you have the right of the court in the intermediary stage, determining questions, you can have no—the High Court is the court you go to in relation to constitutional redress, so it stands to reason that the High Court cannot breach your constitutional rights.

Sen. Prof. Ramchand: Thank you very much.

Madam President, would it have been a little more circumspect to add to clause 25(b)(iii) "in cases where there are no extradition arrangements".

Sen. The Hon. J. Jeremie: The entire clause read as a whole—25, I think it is—the entire clause read as a whole seeks to do that. "Where the offence was committed..." (i), (ii), (iii). So that (ii) speaks to on board a vessel. Are you with me?

Sen. Prof. Ramchand: Yes.

Sen. The Hon. J. Jeremie: (i) speaks to "in Trinidad and Tobago, or... elsewhere: if the act is punishable in terms of the domestic laws of Trinidad and Tobago, including this Act or in terms of the obligations of Trinidad and Tobago under international law;" The vested right is a common right—outside of Trinidad and Tobago and the person who has committed the act is present in Trinidad and Tobago.

Sen. Prof. Ramchand: But if we had extradition arrangements with the country from which he came, he would be extradited?

Sen. The Hon. J. Jeremie: Yes. But if you look at (2), I am reminded, clause 25(2), says:

"An act or omission committed outside Trinidad and Tobago which would if committed in Trinidad and Tobago constitute an offence under this Act shall be deemed to have been committed in Trinidad and Tobago if the person committing the act or omission is present in Trinidad and Tobago..."

Similar.

"...and cannot be extradited to a foreign State having jurisdiction over the offence constituted by such act or omission."

Sen. Prof. Ramchand: All right.

Sen. The Hon. J. Jeremie: Thank you, Madam President.

[*Desk thumping*]

Madam President: If there is nobody else, I will call on the Minister.

[*Desk thumping*]

Madam President: That is overdoing it.

The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Madam President, I do not think that I could have dealt with the legal issues any better than the Attorney General has just done. He has been very clear and very articulate. Therefore, with the leave of Senators, I will not do that.

Really, there is very little else I need say and while I would certainly want to challenge some of the things that Sen. Mark said, you know, I do not think I will; I do not think I am going to bother. I will not make any comment at all.

But in closing, what I would just like to say, Madam President—I would just like to say this: As the chairman of the committee, I would like to thank all of the Members of the committee, especially Sen. Prof. Deosaran and Sen. Cropper—*[Desk thumping]* who clearly did a tremendous amount of work, to go back and read all of the *Hansard* reports all over again, to make detailed notes on what the issues were by all of the Senators who spoke, because we dealt with every single issue that had been raised.

While I am there, Madam President, in the minority report it deals with clause 3. Clause 3 was never an issue in the original debate. We had gone through it. We never found that. It just came out of nowhere. Therefore, it was never discussed.

But in any event, I would like to thank and to congratulate Senators Deosaran and Cropper for the invaluable contribution that they made to the work of the committee. Also Mr. Quamina, who had gone through the entire Bill, and in fact, as a result of his contribution, Senators on the committee would know, we made a lot of changes. Some of them were editorial. In fact there was one subclause that we actually removed because he advised that it was not necessary at all and eventually we agreed and we actually deleted a subclause. So most of the recommendations that he had, we in fact took on board and went with them.

Madam President, I think that we have a good piece of legislation. It is the result of a long process. So I would like to thank all of the Senators who worked on the committee, including the Opposition Senators, because, to be frank, Sen. Augustus made an invaluable contribution. *[Desk thumping]* He made very pointed remarks. He asked good questions and was an integral part of the process and it would be wrong of me to say anything else. He made a valuable contribution and was a valuable member of the team. He made good points.

I would certainly like to thank all of the public servants who were involved to be able to bring the piece of legislation to where it is. It is an important piece of legislation. Everybody has had a hand in it and I would like to thank and to congratulate everybody.

With those few words, Madam President, I beg to move.

Question put and agreed to.

Report adopted.

Madam President: Let me thank the committee too for their work.

Now we will take the tea break and come back at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

ADJOURNMENT

The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Madam President, I beg to move that the Senate do now adjourn to a date to be fixed.

Madam President: Hon. Senators, there are some matters to be raised on the Motion for the Adjournment, but I was informed by the Government that they are ready to take one of those matters.

Sen. Mark: Madam President?

Madam President: Yes.

Sen. Mark: Madam President, I would like to seek your advice and your direction. Madam President, you gave approval to three motions since the month of July and even before, for these motions to be heard in the Senate. We have cooperated with the Government by allowing these motions not to be taken at the periods that you had directed or suggested, all in the interest of camaraderie and cooperation. And we are shocked that in light of the fact, Madam President, that we have three motions pending, which this Senate has approved, and you have signed off on, that we are told by the Government this afternoon, that out of our three motions which you have approved, they are only prepared to deal with one.

Madam President, I approached the acting Leader of Government Business last week. I asked her if she could take the necessary steps to inform the relevant Ministers about these motions. I am really surprised, and I am disappointed, Madam President, that we cooperated, and this is the kind of result that we are getting for our cooperation. We would have thought at the last sitting the Government would have made every effort, Madam President, like to get your guidance and your ruling on this matter, Madam President. It is unfair to us.

Sen. D. Montano: Madam President, I understand what the Senator is trying to say, but this Senate is not going to be adjourned forever. We are going to come back, and there will be other, I think, several years left, many years, where the Senator will have his opportunity to deal with these issues. You do not have to deal with it all today, Madam President.

Adjournment

Monday, August 29, 2005

Madam President: I understand Sen. Mark's concern. However, I understand one of the Ministers is out of the country, and in fact, only one Minister was going to be here, and I think it is the Minister of National Security—no, Minister Kangaloo who is going to be doing the Motion; the only Minister, unfortunately, who is here. I did make enquiries about that. Under those circumstances, I do not think there is any way we could wring anybody's hands to bring the answers. All I could suggest to you, Sen. Mark, is that you bring back those Motions at the earliest opportunity in the new term. There is not anything we can do at this moment.

Sen. Mark: Madam, may I just engage you for one moment?

Madam President: Yes.

Sen. Mark: Madam President, I would like you to guide us on this side. In the future when you sign off and you give approval to these Motions, we will take them immediately after you sign off. We are not going to allow them to lag any more in the future, Madam President.

Madam President: Once we have accepted a motion, it really comes down to between you and the Government to come with the answer to answer your question. There is little that the Presiding Officer could do. We can encourage, we cannot force.

Okay, so let us go with the one that is available. Sen. Dr. Kernahan. [*Desk thumping*]

Street Children (Government Policy and Provision)

Sen. Dr. Jennifer Kernahan: Thank you, Madam President. I rise to raise this matter on the Motion for the Adjournment of the Senate: Government's policy and provision for street children, and other children at risk in Trinidad and Tobago.

Madam President, according to a newspaper article in the *Express* of Sunday, January 02, 2005, A Special Report by Hayden Mills, headline being: "Help needed for street children in T&T" the article defines street children, Madam President, and I quote:

"Street children, according to University of the West Indies (UWI) sociologist Dr Ronald Marshall, are 'children who leave their homes or are forced to leave their homes and sleep in abandoned buildings'."

It went on to say that:

"A survey in October by director of the Social Investigations Unit at the Ministry of Social Development, Dr Russell Foote, identifies at least 154 street children in Port of Spain and 57 street children at institutions in the capital city."

This article also went on to say, Madam President:

"All the stakeholders—social welfare services, the non-governmental organisations (NGOs), the police and social scientists—admit these facts about street children—but the problem persists.

Criminal gangs use them as servile agents, drug lords as surreptitious couriers and pervers as their personal sex objects."

Madam President, this is 2005 in Trinidad and Tobago, where we are passing \$27 billion budgets, 30-something billion-dollar budgets, by all reports, Madam President. And this is the situation in our country with respect to the most vulnerable among us: That is our children.

Madam President, the *Sunday Guardian* of November 28, 2004 had another article which detailed the problem of street children in Trinidad and Tobago, under the headline: "Gang bosses lead children astray" By Gizelle Morris." Madam President, this article said:

"Street children are being trained by criminal gangs to commit crimes on Charlotte Street and other parts of Port-of-Spain...

Men calling themselves community leaders have these youths working for them, knowing that no one is looking out for them,'...

Small, willing, bright and above all, expendable, street children had become a valuable and profitable resource for adult criminals. Specialising in such skills as pickpocketing, snatching (purses/jewelry) or shoplifting, the youths are paid a percentage of the value of items they deliver to their employers."

One police officer, an undercover police detective, Madam President, went on to say:...

"the process of criminalisation begins with an offer of friendship and assistance.

Unwilling candidates are persuaded with beatings, threats or a combination of both.

In the case of pick-pockets, 'experts' conduct training sessions at secret locations in Laventille and east Port-of-Spain.

After intense practice sessions, the children are sent into Port-of-Spain to work with groups of experienced pick-pockets.

'If caught (by police) the children will be charged and put before the court...depending on their age, their parents would be called in, or they will be put in homes.'

Madam President, one social worker, as reported in this article, said that:

"...certain religious sects have been aggressively recruiting street children for less than godly purposes.

Displaced children, some of whom are very disgruntled, are being roped into the fold,'...

However these 'religious movements,' he said, are not doing anything progressive for the youths.

'There is no upward mobility, it's a gang thing,' the social worker said. Many street children who choose to join, he said, are taken in by promises of easy money, brands and glamour.

A lot of young people, when they get caught up in community-based gangs, find it very hard to get out,'...

It's about survival.'

Madam President, this is a very, very alarming, very depressing situation that we face in this country. And although much has been written about it, NGOs and other concerned persons are actively intervening in the lives of these children, the problem persists because of a lack of commitment to these children. That is the only way we can say this, Madam President. There is a definite lack of commitment to tackling this problem head-on, dealing with it, and eradicating this scourge from our society.

Madam President, I have been in contact—I have visited the YMCA where young people are doing a lot of work with street children, and one of the major complaints is that they do not get enough support from the relevant agencies, to deal with these problems. They operate with very limited resources and they do what they can. But the support is not there in the political circles.

Madam President, Jeffery Sloane-Seale who is the National Youth Outreach Director of the YMCA, said about street children:

“They don't have any legitimate ways about getting things, not being inculcated with a work ethic, so if they could get easy money they will take it,’...

Madam President, he continued:

“At the (YMCA) we are overwhelmed and stretched because of the magnitude of the situation, and there is a great need for research into what is going on,’...

Children...are falling through the cracks because their needs are not being effectively dealt with.

‘A lot of homeless kids at some point were taken by their parents to school or a centre for assistance,’...

Others...are runaways from State or privately-run homes.

‘We have to move beyond the mindset that everything all right and they just need a job or a trade,’...”

Madam President, Mr. Sloane-Seale had a number of recommendations for change. He spoke about taking a human development approach. He spoke about creating alternative spaces, where the displaced youths are welcomed; about providing community-based services for children; providing community facilities; counselling for couples and families; open child guidance clinics, with on-staff psychologists and psychiatrists and so on.

Madam President, these are initiatives that are relatively simple, that are relatively easy to implement. But where is the commitment? Over the years this problem has been growing; this problem has been multiplying because of the social situation we have in this country; also, because of the economic situation. We have, as we know, parents taking up in droves and leaving this country. A lot of them are leaving their children alone in houses or homes. Madam President, I definitely know a number of young people, 14 years, 15 years, who live alone, without any sort of parental guidance. And this is a serious, serious development in our society, and nobody is looking at it. I do not know who is minding the store when it comes to the protection of the rights of our young people, and protecting the future of this country; because these young people are the future of this country.

Madam President, I mentioned a few moments ago that perhaps there is not enough political will to deal with this problem. And in spite of the fact that our

Government has signed several international conventions on the Rights of the Child and other conventions to protect children, and has produced reports which purport to show that this Government is conforming to these conventions with respect to protecting our children, I have here a document which makes some criticisms of the Government's commitment to protecting the rights of the child, and to complying with the international conventions which this Government has signed.

Madam President, this document is called: "*NGO Comments on Trinidad and Tobago Second Periodic report under the CRC*" (Convention on the Rights of the Child). It was presented by The Trinidad and Tobago Coalition on the Rights of the Child—April 2005.

Under "Overview", Madam President, I would like to quote, because when we speak on this side, it seems that we are overly critical of the Government; that we nit-pick; that we are unfair. But this is an NGO, Madam President; this is a relatively unbiased commentary on what is actually happening with respect to protection of the rights of children in the country. I quote, Madam President, from the Overview of this document.

"The situation of the protection and achievement of rights of particularly vulnerable and disadvantaged children in Trinidad and Tobago is still one that warrants immediate attention and the commitment of financial and human resources. Children in need of special protection from all forms of abuses and neglect as well as children in institutions of care are most adversely affected by a lack of government commitment and political will."

Madam President, that is part of the Overview of this document. Now, there are several aspects of the Convention on the Rights of the Child that were looked at in this document and analyzed to see to what extent they are being dealt with efficiently by this Government; and I would just like to point out a few. The first one, Madam President: "Mechanisms at national, regional and local levels for ensuring implementation of the Convention". I quote:

"In spite of the implementation of the National plan of action committee and appointment of a coordinator for the National Plan of Action on children, there remains a general lack of coordination of activities related to promoting and protecting the rights of children amongst government ministries. Resources allocated to both inter-ministerial coordination of activities related to the NPA on children and to the integration of the NPA into separate ministerial programmes remain inadequate."

Madam President, it goes on to say—

Madam President: You have two minutes.

Sen. Dr. J. Kernahan: This article goes on to quote with respect to the Children's Authority, which was supposed to be established—the United National Congress purported to establish a Children's Authority, Madam President, which will take into consideration an overview, an overhaul, an inter-ministerial mechanism for the protection of the rights of the child. And although this Children's Authority, Madam President, is quoted in the Government's Report on the Convention of the Rights of the Child, this Children's Authority is yet to be established in this country. So any relief due to this Children's Authority, is irrelevant.

Madam President, this document under “Mechanisms developed for data collection” indicates here that:

“The development of efficient monitoring mechanisms that could provide a systematic and comprehensive compilation of disaggregated data and indicators on all areas covered by the convention is dependent upon governments' prioritization of the need for such mechanisms.”

Madam President, it says that:

“Since submission of the periodic report on the CRC in 1997 however, little progress has been made in this regard.”

What this means, Madam President, is that you cannot attack a problem if you do not have the data; if you do not know what is happening; if you do not collect the data and send the data to the relevant ministries and so on.

“Special protection Measures”, Madam President, “Abandoned Children, children living and working on the streets, institutionalized children and the system of administration of Juvenile Justice”. They quoted deficiencies in budgetary allocation, in certifying institutions and so on.

Madam President, this document on the whole pointed to serious deficiencies in the commitment of the Government to the convention it signed internationally on the Rights of the Child, and the reports we have in the newspapers attest to this: That too many children are living outside the protection of the laws of this land.
[Desk thumping]

Madam President: Minister?

The Minister of Legal Affairs (Sen. The Hon. Christine Kangaloo): Thank you very much, Madam President. I rise to respond to the motion that was just put forward by Sen. Dr. Kernahan. At the very outset, I must say that I find it unfortunate that in speaking about children at risk, and in speaking about socially displaced children, she would want to suggest that there is an easy solution to this problem. Because for any sort of problem that involves the social fabric of our country, Madam President, there is no easy solution.

And then, of course, in typical style, she went on to accuse the Government of a lack of commitment. I just want to set the record straight for Senators who are here, to just show what the Government has been doing with respect to children at risk.

One of the many things that Sen. Dr. Kernahan said was that there was no data; there was a lack of data on this issue. I want to say at the very outset that the Government of Trinidad and Tobago, in collaboration with UNICEF, having recognized that there is a need for proper data in relation to the status of children, is in the process of setting up two databases, Madam President. The first is the Child's Indicators Monitoring System. This system will allow for the monitoring of the progress of children. It will be able to update all the indicators that are relevant to the World Summit Goals and have a standardized system to allow for the constant reviewing and updating of the World Summit for Children Goals. It was envisaged, Madam President, that this database will be managed by the Central Statistical Office after the pilot stage.

Another database that is being set up is the Children in Need of Special Protection Monitoring System. This database will initially apply to four groups of children: Abused and neglected children; institutionalized children; children with disabilities and children in conflict with the law. The data will be collected from government agencies and NGOs that already collect data on children, and the information generated will be translated into legislative, preventative and remedial action, and will also guide advocacy and public education activities.

So, Madam President, at the very outset, this is a recent initiative of the Government, which is working in tandem with UNICEF to set up these two very important databases.

Madam President, I also wish to point out, with respect to NGOs, that the Government of Trinidad and Tobago is working with NGOs, through NGOs, to deliver services to children at risk. I just want to point out that the Government is giving subventions to YMCA, to CREDO Foundation, to Rainbow Rescue, to

Families in Action. These are some of the NGOs that the Government provides subventions to. I understand from what Sen. Dr. Kernahan is saying, some of the NGOs are saying that they do not get enough funding. Madam President, that is something that is being addressed at this time by the Government.

I know when I was the Minister with responsibility for Social Services Delivery, I would invite NGOs to even submit proposals for a project. You get a subvention; you still find the subvention might not be enough, but submit proposals for particular projects and the Government would fund it.

Madam President, I also want to point out that the four larger homes in Trinidad: St. Michael's, St. Jude's, St. Dominic's, St. Mary's, each of these homes receives currently, a subvention of about \$5 million annually from the Government of Trinidad and Tobago. In addition, this year, this year alone, this fiscal year, the Government announced its intentions to do extensive renovations to St. Jude's and St. Dominic's. Last year, extensive renovations were done to St. Jude's. St. Michael's has been renovated and refurbished. Trade shops have been introduced; because we recognize that these homes cater for at risk children, and you need also in these homes to provide the facilities that will help these children to be rehabilitated, so that they can then become successful citizens of Trinidad and Tobago.

So, Madam President, it is unfair to say that the Government is not committed to helping the children at risk.

Madam President, in addition, I wish to point out that there are other programmes being conducted by the Government. You have the Adolescent Mothers Programme. We heard recently, right in this Chamber, we passed the legislation to transform the Child Welfare League. The Adolescent Mothers Programme is conducted by the Child Welfare League. That programme is an important programme, which seeks to assist mothers to rehabilitate and teach mothers, young mothers, and to help and show them what are proper parenting practices to be adopted with respect to children.

Madam President, it is not an easy solution to this problem. It is one that you have to tackle on several fronts. The issue of children at risk, the factors that are connected are: Poor parenting practices; there is poverty; there is abuse; there is the drug culture; there is a lack of education, and the Government, therefore, through its various ministries, is working to put these things right.

You have, as well, Madam President, all of the programmes of the Ministry of Education: You have the School Nutrition Programme; you have the School Book Grant Programme of the Ministry of Education; you have the hearing and sight testing that is being done by the Ministry of Health.

Madam President, in addition to this, recently, in the year 2002, all of the social welfare grants were raised. I am not just talking about old-age pension, disability grant, public assistance. We know those were raised, and those have been raised at least twice in the last few years. But remember that other social welfare grants were also raised—and I am talking about the poverty issue, where we raised all the other grants coming under the Social Welfare Division to assist families; to assist children in need, Madam President.

Madam President, I also wish to just point out that Sen. Dr. Kernahan spoke about a survey that was done by the Ministry of Social Development, and she cited some figures. My information, with respect to the report, is that there were 61 socially displaced children who that survey picked up. And I just want to point out something to the Members of this Chamber about street children, because we hear a lot about street children.

Recently, in the Office of the Prime Minister, Social Services Delivery (as it then was) there was an initiative where the children who were found on the streets were being taken to the Family Court, and when they were placed before the Family Court, what you would find happening is that the parents were turning up, because they were not street children in the sense. They were not without homes. What happened is that sometimes they are from dysfunctional homes. That is why I say we have to focus on parenting as well, because the parents promptly turned up at the Family Court, and therefore the children were not placed in institutions of the State.

Madam President, this is information that I hope Senators will understand. It is not an easy problem. It is not something that can be solved overnight, and there are many factors involved in the issue of children at risk. But to say that the Government is not committed is a stretch, Madam President.

I just want to point out, with respect to the Children's Authority: The Children's Authority Act was passed in the year 2000. And, Madam President, it may surprise you that last year the Office of the Prime Minister, Social Services Delivery hosted a retreat where we invited several stakeholders, the main stakeholders, who would be involved in the process of the Children's Authority; who would be affected by the Children's Authority. Madam President, it would

surprise you to know that they did not know enough about the Act. They did not understand how that Act was going to affect them. They did not understand what they would have to implement. They did not understand that this Act was going to fundamentally change how all the homes would be operating. Those were the key stakeholders. That is the problem sometimes with legislation when it is passed, Madam President: That you do not do the necessary consultations at the time, or before you pass the legislation.

So, Madam President, I am aware that efforts are being made, concentrated efforts, to bring the Children's Authority Act to fruition. There are amendments to be made to the legislation, and they are all being worked on at present, Madam President.

So, Madam President, with these few words, I thank you.

Clarification of matter re: Sen. Wade Mark

Madam President: All right. Hon. Senators, there are two matters I need to deal with. You remember I wanted the *Hansard* to clarify a matter. This is what I got of Sen. Mark saying:

“...if you, as a banker, fail to disclose to the designated authority, that Wade Mark is a terrorist, you are going down to the chambers, not this chamber; the one at Golden Grove—five years.

Madam President, is that not an infringement of the rights of the citizens of this country? And the Attorney General sits there and says that it is ‘no big thing’.

Madam President, I have never seen such clever deceit and deception since I have sat in this Parliament in the last 14 years.”

Well, I would say that it is imputing improper motive in a roundabout way. Senator, you did it very cleverly. So I will ask that it be removed from the records. I want to move on to another matter.

Clarification of Ruling re: Written Answers to Questions

Madam President: Hon. Senators, it has been brought to my attention that at the last sitting of the Senate, that was on August 26, the Senate was advised that I, as President of this honourable House, had made a ruling in which I indicated that the time frame for response to written questions is 28 days. Hon. Senators, early in my tenure as President of the Senate, clarification was sought on the provisions contained in Standing Order 16(3), which states:

“A Senator who desires an oral answer to a question shall mark his notice with an asterisk and such a question shall be put down for a day to be named by the Senator being a day not earlier than twenty-one clear days after the question had appeared on the Notice of Questions Paper. A question not so marked may be put down for the next sitting day of the Senate and the answer, when received, shall be circulated.”

At the time, I did indicate that notwithstanding the part of the Standing Order, which states:

“A question not so marked may be put down for the next sitting day of the Senate and the answer, when received,

“...should be provided within twenty-eight days from the day the question first appears on the Order Paper.”

Nevertheless, I wish to reiterate, that I have always said, and provided on three or four written rulings in respect of answers by Ministers to questions, whether written or oral:

- (1) Questions are an important means by which Ministers are accountable to the Senate. For a Minister to respond in an irrelevant manner, is to act contrary to the spirit of the question process. Therefore, it is incumbent on Ministers to treat questions in a manner that is consistent with their constitutional responsibilities.
- (2) Our question system is based on the assumption that Ministers will try to get informative replies to the questions they are asked. But I loathe to think that a Minister must be guided as to the manner, or the information to answer any question. That must be a matter at the discretion of the Minister.
- (3) A Minister must attempt to give a reasonable answer to a question. However, this does not mean that a Minister's reply would be satisfactory to the questioner. The Minister is ultimately responsible for the reply given, not the President, and the President cannot force the Minister to reply in a particular way, even if the reply is not fully satisfactory.

Hon. Senators, I must emphasize that the President has no jurisdiction to determine whether the answer to a question is correct. Moreover, the President cannot force a Minister to give an answer to a question, and has no responsibility for the quality of the answer that is given, nor its content. Having said that,

however, the Government is reminded that accountability to Parliament is a cornerstone of our parliamentary democracy.

Independence Greetings

The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Thank you, Madam President. Before you proceed to the question, in two days' time we are going to have our 43rd celebration of Independence, and it is on that occasion I just wanted to rise and wish Members of this honourable Senate a very happy day. And I would hope and pray, Madam President, that we have a safe day. And I hope that we would all pray that the members of the public who are going to celebrate the national occasion will take a special care not to be reckless or to do dangerous things or to cause any hurt to any member of the population, or their families.

Madam President, Independence is a very important issue to many of us. I know, speaking for my family, my father was part of the administration that brought this country to Independence, and it was a very significant thing for the family as it is for all of us. And I am extremely proud to be here to be able to say that on behalf of my family, and of course, to share this with Members of this honourable House.

So, Madam President, without any further ado, I wish you all a very happy and safe Independence Day. Thank you. [*Desk thumping*]

Sen. Wade Mark: You know, sometimes, Madam President, we do not always think on the same wavelength, and I thought I was going to ambush him this afternoon, but he seemed to have caught me before. Because I was now about to rise and ask him, on behalf of the Government, for us to engage. Nevertheless, I am glad that he was able to take the initiative.

May I, on behalf of the Opposition, United National Congress, the alternative government; let me, on behalf of the UNC, Madam President, extend to all of the citizens of this Republic, a happy 43rd anniversary of our Independence. We are certainly not living in the best of times, but certainly, I do not think we are living in the worst of times. We have some major challenges and difficulties confronting our nation, and I hope, Madam President, with collective wisdom, collective will and cooperation, we would be able to rise above all the difficulties and challenges, so that as we push towards the 50th anniversary, we will have a very strong, vibrant, more democratic nation.

I would like to wish all members of staff; I would like to wish the police officers who are here; all the Hansard Reporters; every Member of the Senate, including my colleagues on the opposite side, and their respective families, and your good self, Madam President, I would like to wish you all and your respective families a very peaceful, a very wonderful, a very happy 43rd anniversary of Independence. And I hope that on Wednesday when we have the celebrations at the Queen's Park Savannah that many of us would be present to commemorate the occasion. And, therefore, on behalf of the United National Congress, I wish to extend to you, personally, and your family, a wonderful, happy, peaceful and safe 43rd anniversary of Independence. I thank you.

Sen. Dr. Eastlyn Mc Kenzie: Madam President, on behalf of all of us on the Independent Bench, I would like to also join with those before me in wishing the nation a very happy anniversary in the celebration of Independence. It seems as though it was just yesterday, when as a young teacher, we had our primary school children in that show of patriotism, singing all our national songs: God Bless our Nation; Boca Chimes; A Nation's Dawning, the National Anthem, and we had all the explanations as to what the colours of the flag meant, the national birds, the motto, the pledge and everything. And I am a bit concerned that nowadays our children do not know the songs; they do not know the history; they do not know what Sen. D. Montano was talking about his father and the movement towards Independence, and the people who have gone before and who actually mapped the path for Independence, and what it meant to us and all the struggles that as young people we went through, and the fiery blood that ran through our veins when we thought of Independence. And I wish that some of this could come back into our primary schools, and I am sure that the patriotism we are yearning for will manifest itself as these children grow older.

And so, with that type of concern, Madam President, I would like to just say as the words of one of our songs: May God bless our nation; may God bless our islands; and may God bless our leaders. And I take this opportunity, on behalf of all of us here, and all of us on the Independent Bench in particular, to wish the nation, especially our children and young people, to wish the Parliament and its staff—all members of staff—to wish the members of the protective services, especially those who are called upon to display that patriotism and that nationalistic fever as they march and stand in the sun, and show the resilience of a people, strong and willing and able; and I hope that the story that they show, and as people look on at them as they march—and I know I see many faces where tears stream down their cheeks as they are moved and touched by the display that we see. And I

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hope, Madam President, that all of us would take this year, this anniversary in particular, as we struggle—and as we struggled just a while ago, unheard of before, that we were fighting with an Anti-Terrorism Bill—that peace and harmony and love from the heart will pervade this nation and make all of us a proud people, not wishing to flee to other people's lands, but wanting to stay here and build the country that we could surely become.

And so, Madam President, I say on behalf of all of us again, happy anniversary Trinidad and Tobago. Thank you.

Madam President: I too want to join with all the Senators in wishing each and every one of you, your family and the nation a happy Independence Day. Forty-three years have gone by. I still get a lump in my throat when I remember the first Independence Day. Young people at the time, as has been so beautifully put by Sen. Dr. Mc Kenzie, it was an emotional time. It was a feeling of freedom.

A lot has changed in that time, but I think that one thing that is important, and I agree with Sen. Dr. McKenzie, is that we have to restore that feeling of patriotism which we felt at that time. Maybe we need to restore that in our young people today and maybe we can call on the Government to see what they can do about that. We have got to start them singing all the songs again; honouring the flag; what is the meaning of the flag. I still think we should put our hands over our hearts when we sing the Anthem, because it means so much.

So maybe there is a lot to think about, and maybe by doing these simple little things, we could help to solve some of the problems which we face. So let me wish each and every one of you a very happy and peaceful day. I look forward to seeing you at the celebrations, and I do hope that your family, wherever they go on that day, will also be safe.

You now go on a little three-week break, Senators; maybe two to three weeks, I think. I am kind of averaging about what we will be going on, and give you time to charge your batteries, Sen. Mark.

I want to thank you for your participation and your attendance during the last session, and for the very often invigorating debates which we have had. I look forward to seeing you in the new session.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.45 p.m.