SENATE

Tuesday, November 07, 2006

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence from today's sitting to Sen. Parvatee Anmolsingh-Mahabir who is out of the country. I have also granted leave of absence to Sen. The Hon. John Jeremie, S.C. from today's sitting due to illness.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards, T.C., C.M.T., Ph.D.:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. NILEUNG ROLAND HYPOLITE

WHEREAS Senator John Jeremie is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NILEUNG ROLAND HYPOLITE, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator John Jeremie.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 7th day of November, 2006."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MS. ALTHEA ROCKE

WHEREAS Senator Parvatee Anmolsingh-Mahabir is incapable of performing her duties as a Senator, by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALTHEA ROCKE, to be temporarily a member of the Senate, with effect from 6th November, 2006 and continuing during the absence from Trinidad and Tobago of the said Senator Parvatee Anmolsingh-Mahabir.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 3rd day of November, 2006."

OATH OF ALLEGIANCE

Senators Nileung Roland Hypolite and Althea Rocke took and subscribed the Oath of Allegiance as required by law.

JOINT SELECT COMMITTEE
(APPOINTMENT OF)

Madam President: Hon. Senators, I have received the following correspondence from the Deputy Speaker of the House of Representatives:

"November 06, 2006

Senator the Honourable Dr. Linda Baboolal

President of the Senate

Office of the President of the Senate

Parliament

The Red House

Abercromby Street

PORT OF SPAIN

Honourable Madam President,

Appointment of a Joint Select Committee

At a Sitting of the House of Representatives held on Friday November 03, 2006, the following Resolutions were approved:

1. 'RESOLVED that a Bill entitled "An Act to revise the law relating to bankruptcy and insolvency; to provide for the rehabilitation of the insolvent debtor and to create the office of Supervisor of Insolvency" be re-committed to a Joint Select Committee for consideration and report; and

   that this Committee be mandated:

   - to consider public comments received and report back to the Parliament upon completion of its deliberations.

2. RESOLVED that the following five (5) Members of the House of Representatives be appointed to serve with an equal number from the Senate on the Joint Select Committee established to consider and report on the Bankruptcy and Insolvency (No. 2) Bill, 2006:

   - Mr. Kenneth Valley
   - Mr. Colm Imbert
   - Mrs. Camille Robinson-Regis
   - Dr. Roodal Moonilal
   - Mr. Gerald Yetming'

I shall be grateful if the decisions of the House of Representatives are brought to the attention of the Senate.

Yours respectfully,

Mr. Hedwige Bereaux, MP

Deputy Speaker of the House"

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to inform the Senate that Motions to give effect to matters referred in the correspondence to the Hon. President will be dealt with later in the proceedings under Item No. 14 on the Order Paper.

PAPERS LAID

1. Annual report of the Public Service Commission for the period January 01, 2005 to December 31, 2005. [*The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith)*]

2. Annual report of the Police Service Commission for the period January 01, 2005 to December 31, 2005. [*Sen. The Hon. Dr. L. Saith*]

ORAL ANSWERS TO QUESTIONS

Alumina Smelter Plants
(Memoranda of Understanding)

2. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

(a) Could the hon. Minister provide the Senate with copies of the Memoranda of Understanding and/or Agreements entered into between the Government of Trinidad and Tobago and ALCOA, and the GORTT and ALUTRIN, regarding the establishment in Trinidad and Tobago of Alumina Smelter Plants; and

(b) Could the Minister also state the exact price that the Government intends to charge the companies for the use of the country's natural gas?

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I would like to ask for a deferral of this question for at least three weeks for two reasons; of course I was away and I just saw today the proposed answer and secondly, since it requires or requests an MOU between two parties, I have asked our lawyers to advise and I would also have to seek the concurrence of the other party. So it will take some time and I am asking for three weeks.

Question, by leave, deferred.

Desalination Company of Trinidad and Tobago
(Termination of Contract)

2. Sen. Wade Mark asked the hon. Minister of Public Utilities and the Environment to state:

(a) Whether the Government of the Republic of Trinidad and Tobago has terminated the contract entered into between itself and the Desalination Company of Trinidad and Tobago (DESALCOTT);

(b) The date such termination was effected;

(c) The precise reasons for the termination; and

(d) The effects of the termination of the contract with "DESALCOTT" on the ability of the Water and Sewerage Authority (WASA) to fulfil its mandate?

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I have been advised that the answer to this question is not yet ready and I am asking for two weeks' deferral.

Question, by leave, deferred.

STATEMENT BY MINISTER
New Revised Laws of Trinidad and Tobago
(Printing and Publication of)

The Minister of Legal Affairs (Sen. The Hon. Christine Kangaloo): Thank you very much, Madam President. In any free and democratic society, laws should be made readily accessible if they are to serve the needs of Parliament, the courts, the legal and judicial officers and the general public, especially attorneys-at-law. After every decade or so, there arises the need to produce a new revised edition of the laws of a country which will update the extant laws to a particular day by the incorporation in a methodical arrangement of the various amendments made to those laws and by the inclusion of all revised laws passed up to that date.

I wish to inform Members of this Chamber that in the last revision, the laws were revised up to December 31, 1977 and were published in 1980 by the authority of the Law Revision Order No. 1 of 1980. This last revised edition was updated by two supplements; the first which updated the laws up to December 31, 1980 was published under the authority of the Law Revision Order No. 1 of 1981 and the Second Supplement which updated the laws up to December 31, 1985 was published under the authority of the Law Revision Order No. 1 of 1990.

Madam President, the laws have now been revised up to December 31, 2004 and are to be published under the authority of the Law Revision Order No. 1 of 2006. This achievement is made all the more monumental given the many phases involved in the law revision process. This law revision project involved several phases, twelve to be more precise. The first stage in the revision process was the identification of all the existing laws: the laws contained in the 1980 revised edition; the laws omitted from the 1980 revised edition and all the laws, including the ordinances, Acts, and subsidiary legislation contained in the annual volumes from January 1986 to December 2004.

The second stage involved identifying the existing laws to be published as well as the omitted, repealed and spent laws. The third stage was to photocopy all the existing laws to be published that were not in an electronic format. A master copy of the laws and all the amendments to the laws was then created. The fifth stage encompassed the scanning of the photocopied laws and the creation of a database. The laws were then formatted. At the seventh stage were the consolidation and revision processes, which included incorporating the amendments made to the respective Acts and subsidiary legislation contained in the database and the compilation of hard copies. The eighth stage saw the revision of the laws on the database.

The ninth stage involved the proofreading of the laws after they had been revised. At this stage, the laws were proofread in two distinct phases. In the first phase, each piece of legislation was read at least three times; after each reading the law was sent to the desktop publishers for the changes to be made on the database. The law was then sent back to the legal officers to be checked and to see if any amendments should be made. The law was then returned to the desktop publishers for the changes to be made onto the database. The piece of legislation then entered the next proofreading phase and was read at least twice or until all errors were eliminated.

The tenth stage was the checking of the accuracy of the revision of the laws as well as the layout of the pages to ensure consistency in alignment, indentation and justification of the text. This included the final reading. The eleventh stage was the production of camera-ready copies of the revised laws for publication. The twelfth stage is the publication of the laws in both textual and electronic formats.
I have detailed the processes involved, Madam President, to highlight the precision and time required to ensure that every amendment made to a law after its enactment was incorporated in the revision process. It must, however, be noted

that during the course of the exercise the initiation of the tendering process for the publication of the new revised edition was undertaken. In fact, the tenderers have submitted the relevant documents and samples and the evaluation committee has started its deliberations. The selection of the successful tenderer is expected shortly. It is anticipated that the new Revised Edition of the Laws of Trinidad and Tobago will be available in CD-ROM format by June 2007 and in textual format by July 2007, if not before.

The Government of Trinidad and Tobago wishes to acknowledge the commitment of the staff at the Law Revision Commission who worked hard at this somewhat tedious and painstaking task, a task that was all the more difficult because of the nearly 20-year backlog of legislation that had not been incorporated into the substantive law. The Law Revision Commission, in keeping with Government's Vision 2020, intends to update the laws annually so that citizens will always have access to comprehensively assimilated and up-to-date legislation. It is envisaged that the Acts, the amendments to the Acts and subsidiary legislation for the period January 01, 2005 to December 31, 2006 will be updated and published in 2007. In fact, Madam President, the process of revising the laws from January 2005 has already commenced. To facilitate continuous revision of the laws in the future, the Ministry of Legal Affairs is currently streamlining the structure of the Law Revision Commission.

Madam President, the Government wishes to announce that as of today, the new Revised Edition of the Laws of Trinidad and Tobago was uploaded onto the Ministry of Legal Affairs' website and is available for public viewing at www.legalaffairs.gov.tt. The newly revised laws can now be accessed from homes, offices and as a matter of fact, from anywhere else in the world. This Government's vision for law administration and legal affairs, articulated in its Vision 2020 Draft National Strategic Plan, calls for a dynamic and technologically savvy legal system that provides legal services and information to all citizens and the wider world. The online version of the Laws of Trinidad and Tobago fits the bill.

This web page design for the Laws of Trinidad and Tobago will allow users to go to pages containing a list of laws in categories and chapter numbers. When a piece of legislation in a particular category or a chapter number is selected, users will go to the arrangement of sections page in the law. All the sections in the arrangement of sections are hyperlinked to the specific section as well as linked to the appendices, schedules, footnotes, notes and relevant subsidiary legislation. The appendices, schedules and subsidiary legislation are all in PDF or Portable Document Format. Users of this facility will also have a print option.

Madam President, if one were to compare the web page design of Trinidad and Tobago to those in some other countries, one would see that our facility is a combination of all the best practices of these systems which makes it altogether a more superior service in terms of how interactive and how user-friendly our version is. Jamaica's web page design allows users to go directly to the PDF files in the laws but provides no facility that enables users to go directly to a particular section in the law that they may be interested in perusing; the web page designs of Australia, England, and Hong Kong allow users to go to html pages with hyperlinks to various sections of the laws but have not made any accommodation for pieces of legislation which contain maps, drawings and the like. Users of the facility offered by China can only go to html pages of the laws but not to sections directly. All of these countries allow access to their facility free of charge. The Government of Trinidad and Tobago will offer our extremely user-friendly version, free of charge, to all.

Madam President, the Government of Trinidad and Tobago is quite proud at this moment to be able to bring this service to the citizens of Trinidad and Tobago, especially to members of the legal profession and to parliamentarians who have over the years lamented the state of revision of the laws. The Ministry of Legal Affairs will embark on a sensitization campaign to ensure that citizens of Trinidad and Tobago know how to access the new Revised Edition of the Laws of Trinidad and Tobago online. The online publication of the Revised Edition of the Laws of Trinidad and Tobago is another significant milestone achieved by the Government of Trinidad and Tobago as this country forges onward to Vision 2020 and beyond.

I thank you.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, in accordance with the Standing Orders I seek your leave and that of the hon. Senators to dispense with notice with respect to a Motion which I propose to move and which I referred to earlier in the proceedings.

Agreed to.

JOINT SELECT COMMITTEE
(APPOINTMENT OF)

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Thank you, Madam President, and thank you hon. Senators. I beg to move that this Senate agree with the following resolution passed in the House of Representatives on Friday, November 03, 2006:

Be it resolved that a Bill entitled the Bankruptcy and Insolvency (No. 2) Bill, 2006 be committed to a Joint Select Committee for consideration and report and that this Committee be mandated to consider public comments received and report back to Parliament for completion of its deliberations.

Question put and agreed to.

Sen. The Hon. Dr. L. Saith: Madam President;

Be it resolved that the following five Senators be appointed to serve with the five Members appointed by the House of Representatives on the Joint Select Committee established to consider and report on a Bill entitled, "The Bankruptcy and Insolvency (No. 2) Bill, 2006":

Mr. John Jeremie, S.C., Mr. Danny Montano, Ms. Christine Kangaloo, Mr. Wade Mark and Mrs. Mary King.

Question put and agreed to.

IMMIGRATION (ADVANCE PASSENGER INFORMATION) BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you, Madam President. I beg to move,

> That a Bill to make provision for the transmission of advance passenger information respecting persons travelling to Trinidad and Tobago and for matters related thereto, be now read a second time.

Madam President, Hon. Senators, in light of the growing international threat of terrorism, drug trafficking and the pivotal role that the Ministry of National Security has to play in securing its ports of entry, it has become necessary to implement more stringent security checks for the identity of visitors entering Trinidad and Tobago.

In addition, Madam President, to enhancing border security the need for advance passenger information has become even more critical in light of the anticipated influx of international and regional visitors for the upcoming ICC Cricket World Cup, 2007. By virtue of the Host Venue Agreement that was signed and the creation of a single domestic space it is now incumbent upon us to comply with the terms of the agreement by facilitating hassle-free travel.

The implementation of the advance passenger information system (APIS) via the enactment of the Immigration (Advance Passenger Information) Bill, 2006 is intended to expedite the processing of passengers to these shores whilst being vigilant to potential threats to our security. The benefits of the APIS include, but are not limited to:

1. The identification of passengers who are deemed to pose immigration and security risk;
2. The facilitation of pre-screening immigration and security checks before arrival of nationals and non-nationals to Trinidad and Tobago;
3. Establishment of the identity of passengers who may arrive undocumented; and
4. Identification of passengers travelling under lost or stolen documents.

Madam President, many other countries, including the United States of America, Canada and Britain have similar requirements in place to use these systems in conjunction with watch lists and criminal databases. In Trinidad and Tobago the legislation will be used in tandem with Caricom watch lists, intelligence information, local immigration watch lists and regional criminal databases. The model used by the Caricom Drafting Legislative Facility to prepare this Bill is based on existing laws in India, Canada, the United States, New Zealand, as well as the World Customs Association, International Civil Aviation Organization and International Air-transport Association guidelines on advance passenger information.

The information required to be provided—and before I say this may I also indicate that all of nine countries and Dominica that are participating in Cricket World Cup are required to have similar legislation. To date my understanding is that—and I may be corrected—both Barbados and Jamaica would have passed similar legislation. All other countries are also required to do so. When I say all others, the nine plus Dominica, bearing in mind, again, that in hosting Cricket World Cup the nine and Dominica are considered one single space.

2.00 p.m.

The information that is required to be provided, differs from jurisdiction to jurisdiction, but customarily includes the passport or applicable travel document number; name of country which issued the passport; passport expiry date; names as listed on the passport; gender; date of birth; nationality; and country of residence. I can assure hon. Members, that at this stage, it has been decided at the levels of the Council of Ministers of National Security and Law Enforcement of Caricom and Heads of Government of Caricom, that only the information found in the passenger's travel document will be required to be sent in advance.

Let me repeat that again, Madam President, hon. Members, that only the information found on the passenger's travel document will be required to be sent in advance. The legislation, which is very simple—what is before this honourable House this afternoon—is the Immigration (Advanced Passenger Information) Bill, 2006, which seeks to make provision for the transmission of advance passenger information with regard to persons travelling to Trinidad and Tobago.

By clause 3(1) of the Bill, the master of any vessel purporting to enter the jurisdiction, must provide to the Chief Immigration Officer such advance passenger information as may be prescribed by regulations, prior to departing his last port of call. In this Bill, vessel includes any aircraft, ship or other manner of airborne or floating conveyance; and master means any person exercising control over such vessels.

The application of the section is limited, so that under clause 3(2), it only applies to those ships that exceed 100 net tonnes, and therefore, it does not apply to fishing vessels or small boats and vessels of that nature. There, clause 3(4) of the Bill, the master is given the discretion to waive the requirement of sending the advance passenger information by order. Upon perusal—[*Interruption*]

Sen. Dr. Gopeesingh: [*Inaudible*]

Sen. The Hon. M. Joseph: The Minister, what did I say?

Sen. Dr. Gopeesingh: The master.

Sen. The Hon. M. Joseph: Sorry, correct. There, clause 3(4) of the Bill, the Minister is given the discretion to waive the requirement of sending the advance passenger information by order. Upon perusal of the current Immigration Regulations, Chap. 18:01, hon. Members will see that there are requirements of a

similar nature placed upon the master of the vessel. For example, Regulation 32(2) provides that, and I quote:

"The master of every ship arriving at any port of entry in Trinidad and Tobago from any foreign port shall forthwith after the arrival of the ship and before examination of the persons deliver to the immigration officer in charge…—

(a) a General Declaration … Form;

(b) crew list …;

(c) a stowaways list …;

(d) a passenger list in duplicate, showing ports of embarkation …; and

(e) an intransit passenger list ..."

Regulation 32(5) provides that, and I quote:

"The master of an aircraft arriving in Trinidad and Tobago airport from a foreign airport shall—

(b) deliver to the immigration officer a list of all the passengers on the flight; and

(c) deliver to the immigration officer a General Declaration in the form set out as Form 14."

Madam President, hon. Members, the essential distinction therefore, between the requirements made under the present Immigration Regulations, Chap. 18:01 and those proposed in the new Immigration (Advance Passenger Information) Bill, 2006 is, firstly, in the former information is only required to be provided after the vessel has reached the port of destination rather than prior to its departure from the port of embarkation.

Secondly, the API personal information that is to be sent is much less detailed as it would only be the information that is contained in the passenger's travel documents, that is to say: full name; date of birth; travel document number; country of issuance; nationality or citizenship; and gender.

Thirdly, whereas the current Immigration Regulations generally placed an obligation on the master to provide passenger information with no penalty for non-compliance, the present Bill makes non-compliance with the requirements an offence punishable by a fine of TT $600,000. A master will therefore be held liable for intentionally providing false information or negligently failing to provide the required information.

In the circumstances, the new Bill can be considered to be more proactive in the detection of unwanted entrants prior to their arrival, and will ensure the efficient inspection of passengers. It is therefore necessary for the effective implementation of the immigration laws and will play an important role in enhancing border security, especially during the particular period that we are speaking to.

Madam President, I want to underscore to hon. Members that once you enter into any one country on your first point of arrival, you are entitled to visit all other nine without any documents. So, it is absolutely important that your first point of entry, that the persons who are responsible for processing people at the first point of entry, do that within the particular requirements, because every other country is trusting the judgement of the immigration personnel at that first point of entry. That is the reason this information is considered essential. Again, bearing in mind that it is designed to facilitate as best as possible the processing of individuals who have been identified as a means of being required to have additional checks placed on, that that information would be used for processing; while the others would be allowed to move quickly because again of the number of persons who we anticipate that are likely to be involved during the period. At the latest figure, I understand we were talking about at least 100,000 persons. So that as I am saying in the circumstances, nevertheless—[*Interruption*]

Sen. Prof. Ramchand: Madam President, I wonder if the hon. Minister could explain one part of that before he goes on. If somebody is coming to Trinidad first, would the Trinidad immigration officers have a list of what all the other entire islands think? Suppose that person is a prohibited immigrant in Jamaica, would we have a list of prohibited immigrants in Trinidad so that our officers can say no?

Sen. The Hon. M. Joseph: Madam President, you would recall that I said earlier on that the information will be used to check against Caricom watch lists and the other Caricom database that one hopes would contain all of that information. Okay, so the short answer is yes.

Sen. Prof. Ramchand: [*Inaudible*]

Sen. The Hon. M. Joseph: One would hope that is how it is, otherwise it would not be able to be processed as quickly as we would like to. It is therefore necessary for the effective enforcement of the immigration laws and would play, as I said before, an important role in enhancing border security. Needless to say, as other countries implement security measures aimed at securing their borders,

Trinidad and Tobago will become more vulnerable to terrorist and other criminal activity if we do not seek to upgrade border security, both operationally and via the legislation framework.

In light of the foregoing, the Government proposes that the Immigration (Advance Passenger Information) Bill, 2006, be passed to make provision for the transmission of the information relating to the identity and origin of passengers destined for entry into the ports of Trinidad and Tobago. And, Madam President, hon. Members, what I need to add because it is not contained here, this Bill is expected to be effective during the period of Cricket World Cup and will have its sunset nature which would be effective up to June 30, 2007. With that, I beg to move. [*Desk thump*ing]

Question proposed.

Sen. Wade Mark: Thank you very much, Madam President. I listened very attentively to the hon. Minister's presentation. It was like a bikini presentation; it concealed more than it revealed. [*Laughter*]

Sen. Dr. Gopeesingh: Or, it revealed more than it concealed.

Sen. W. Mark: It revealed more than it concealed, my error. [*Laughter*] It revealed more than it concealed. Madam President, I do not know if the hon. Minister would probably assist us when he is concluding his remarks on this very important piece of legislation. My submission is that this document, this measure, I maintain conceals more than it reveals.

Madam President, I want to say from the very outset, that we on this side recognize the need for increased security in today's environment and would never stand in the way of legitimate measures to fight global transnational crime, organized crime and what is perceived by many as global terrorism. But, we need to ensure that whatever action we adopt is balanced against the fundamental human rights to privacy, and the individual right to control the collection, use, and disclosure of personal information. We know what new technology is doing and has the capacity to do, but I think that the hon. Minister, apart from indicating at the end of his statement, that this is legislation only for the World Cricket Series scheduled for 2007, which as you saw is not in the Bill, it appears to me that the Memorandum of Intent which he did not refer to and which I believe is the basis of the legislation before this honourable Parliament, did not square off with this latest intervention, which—

Sen. Montano: Madam President, on a point of order. Before he goes down that road, the Memorandum of Intent has nothing to do with this legislation and it is not before us, and therefore, the content of it as he indicated is speculative and therefore he cannot even go there.

Sen. W. Mark: No, no, you mad or something? You mad.

Madam President: Is that the Memorandum of Intent with—

Sen. W. Mark: The Americans—[*Inaudible*]

Madam President: That is what you were referring to? Well I have to agree with the Minister, it really has no relevance to this.

Sen. W. Mark: Madam President, you have to allow me on this one, I would explain to you.

Sen. Montano: No, it is not relevant.

Sen. W. Mark: Madam President, you cannot just take what he says.

Madam President: Let me make the decision. I am going to give you a minute to prove to me if it is relevant.

Sen. W. Mark: Madam President, I would like to first of all make a copy of this available to you. This contains provision for the advance passenger information system. This was signed between the Prime Minister and the Homeland secretary and further, I have information here where this same Memorandum of Intent was signed by the entire Heads of Caricom and the essence of this document deals with the advance passenger information system. It deals with World Cricket 2007 and not only that, it tells you that it is not confined only to World Cricket, but it goes beyond World Cricket. So this entire Memorandum of Intent is about the API.

Madam President: Senator, can I ask the Minister of National Security to clarify that matter?

Sen. Joseph: Thank you very much, Madam President. First of all, this legislation was before us long before any Memorandum of Intent was signed between the Prime Minister on behalf of Caricom and Chertoff, Homeland secretary—long before, it was before us. The Memorandum of Intent between Caricom and the United States is to deal with the operational aspect of APIS, and as a result, it is not before us, and the information and the Memorandum of Intent has nothing to do with the measures that are before us with this Bill here this afternoon. And the fact that it is also sunset legislation designed for only Cricket World Cup. [*Desk thumping*]

Madam President: Yes, I was about to ask that question because that is what I think I heard the Minister say. So if it is sunset legislation, then what you are referring to obviously has no relevance to this Bill.

Sen. W. Mark: Madam President, you have to see this thing to see; you do not take—

Madam President: I have to take—

Sen. W. Mark: Madam President, you cannot take the word of the Minister of National Security.

Madam President: Senator!

Sen. W. Mark: Madam President, you cannot take his word.

Madam President: Senator, are you telling me the Minister is telling me an untruth?

Sen. W. Mark: He is misleading you.

Madam President: No.

Sen. W. Mark: I am saying, have you looked at the legislation? I would pass a copy to you, Madam President, so that you can see and read for yourself.

Sen. Dr. Gopeesingh: Madam President, can I?

Madam President: No, I think I have accepted. You cannot tell me the Minister is telling me an untruth in this Senate. The Minister has said it is sunset legislation, that it refers to the cricket only and that this other thing you are telling me about—

Sen. W. Mark: He is misleading you.

Madam President: Well I would have to—please, Members, this legislation that is before us does not deal with the other matter that you are talking about. Could we stick to the legislation before us, please? [*Interruption*] I have made a ruling, you know?

Sen. Dr. Gopeesingh: Madam President, I just want to draw a reference. The hon. Minister of National Security has indicated that this Memorandum of Intent deals with the operations of this Bill, and therefore, if it deals with the operations of this Bill, it is a direct—

Sen. W. Mark: I just said that.

Sen. Dr. Gopeesingh: Yes, you mentioned that a while ago—it deals with the operations and if you look at what is involved in that Memorandum of Intent, it is in fact the operations of this Bill.

Madam President: All right. Okay. Thanks. Yes, Senator?

Sen. Prof. Ramchand: Madam President, if this piece of legislation is sunset legislation, could it not be so written?

Madam President: It should be.

Sen. King: Well, amend it before we start the debate.

Sen. Prof. Ramchand: Amend it—

Sen. King: Before we start the debate.

Madam President: Yes.

Sen. Prof. Ramchand: Okay.

Madam President: All right, so please Members, that is how it stands, stick to the Bill.

Sen. W. Mark: Madam President, I am saying that this is a very dangerous route and it is last-minute thinking on the part—just as how they brought the ICC World Cricket Bill last minute; the Minister of National Security, last minute, decided to tell this Parliament, it is sunset legislation. Why did you not incorporate that in the original Bill? [*Desk thumping*] Why did you come today to tell this country and this Parliament, it is sunset legislation? Do you know why? They knew what they were doing and we caught them today. I am saying that it is the United National Congress that has gotten this Government to make an amendment even before it is officially before us, because they know that we were going to deal with them in the most fierce way. They have brought that amendment simply to fool the country. But I am glad that this Memorandum of Intent has no value and we can just dump it in the waste paper basket and send it back to Washington. [*Desk thumping*] I am glad.

I am glad that this Memorandum of Agreement that they say has no value and it is not relevant; that this has no value for the people of the Republic of Trinidad and Tobago and it is really something for the United States of America and not for the people of Trinidad and Tobago. We got it from the Minister today that this Memorandum of Intent has no linkage whatsoever with the Bill.

Madam President: Senator, get back to the Bill please.

Sen. W. Mark: No, I have to tell you and tell the country. But I am glad that they have now dismissed that. They have dismissed it,—and we are very happy about it. Very, very happy. Madam President, you have it?

Sen. Dr. Saith: I hope you have nothing to say.

Sen. W. Mark: No, I have a lot to say. Madam President, what the Minister did not tell us, is that we have no privacy legislation in this country. We have no personal information, protection and electronic documents legislation in this country. The Minister of Foreign Affairs, who was the High Commissioner to Canada for a number of years, would be aware of the privacy legislation in Canada and also the personal information, protection and electronic documents legislation in that country.

Madam President, we would like the Minister to tell us and he must tell us—I am prepared to take my seat and allow him to rise—whether, when the information is transmitted—I want the Minister of National Security to pay attention—Madam President, through you—the information that you filled out before you came from Jamaica back to Trinidad, we would like the Minister to tell us, when that information is electronically transferred to Port of Spain to the Chief Immigration Officer, if that information is going to leave Port of Spain and be transmitted to the Homeland Security Department of Washington, United States for processing and reviewing? I will take my seat and allow the hon. Minister to tell us. [*Desk thumping*]

Sen. Joseph: The answer is no.

Sen. W. Mark: All right. So, Madam President, we are getting from the hon. Minister today, that the assurance is given to this honourable Parliament and to the people of Trinidad and Tobago that advance passenger information will not be transferred or transmitted to the Homeland Security Department, whether it is the Customs Department; the Federal Bureau of Investigation; or the 10 to 12 other agencies falling under the jurisdiction of the Homeland Security Department. So, we are getting an undertaking, a clear commitment, that no information will be transferred to the United States. Madam President, we got that from the Minister.

Sen. Dr. Mc Kenzie: Madam President, if I may? Sen. Mark, my understanding from the answer to the question is that the immigration officer will not transmit the information to the Homeland, whatever you call them. It does not say that the person to whom it goes would not transfer it. So the sort of resolve you have taken does not satisfy what I think.

Sen. W. Mark: Well, Madam President, to just only follow on my friend's submission, I would like to propose a specific amendment to the legislation, that it will not, we will frame the appropriate amendment to ensure that that data that is given to the Chief Immigration Officer is not transferred by any person to any third party in and out of Trinidad and Tobago. An appropriate amendment will be put by us in order to ensure that what the Minister is telling us is the truth and nothing but the truth. [*Desk thumping*]

I would like to also indicate—and let me deal specifically because a similar agreement that was signed by the European Union was declared illegal and unlawful by the European Court of Justice.

Sen. Dr. Gopeesingh: On behalf of Parliament.

Sen. W. Mark: That is why I am very happy that they could crow and say aloud that the Memorandum of Intent is null and void and of no effect and it has no linkage with the Bill that we have before us. Madam President, may I continue?

Sen. Dr. Saith: Madam President, on a point of order. I thought you had already ruled that that is not part of the debate; anymore than the Shiprider Agreement, which his Government signed with the US Government. We are not debating those things. There are times to debate them.

Sen. W. Mark: So what are you scared about?

Sen. Dr. Saith: I am not scared about anything.

Sen. W. Mark: Are you still suffering from jet lag?

Sen. Yuille-Williams: Oh, no!

Madam President: Please, Senator! Senator, I did rule and I have been very lenient with you; you are going on; and you are going on; and you are going on, now come back to the Bill, please. I have been very lenient; do not try my patience more than that.

Sen. Dr. Saith: Madam President, he asked the question, whether I am jet lagged. I have to tell him yes, I am jet lagged, but I am not that jet lagged that I do not understand wasting time, which is what he is doing. [*Desk thumping*]

Sen. W. Mark: You wasted a little time on the aircraft. All right. Madam President, we are not going to support any legislation in this Parliament without specific regulations being brought here. We do not want to give the Minister "no"

power to make any regulations. We want the regulations before this legislation is passed because it is too important a measure, and we do not trust the Minister of National Security and the PNM regime.

So we want an amendment that will enforce a particular measure where these regulations will be subject to an affirmative resolution of the Parliament of Trinidad and Tobago. [*Desk thumping*] So, we will make another amendment to ensure that he does not sneak in any way, measures that are going to harm the welfare and well-being of the people of this Republic.

Madam President, let me invite you to parts of this very offensive, obnoxious piece of legislation that is now before us. Force them to put in the sunset legislation clause; that is what they did today because of the UNC and I am happy about that. Because they knew where we were coming from and I am glad that the blimp was across Diego Martin taking in our meeting last night to report to the Minister of National Security. The blimp was hovering over Diego Martin, Sen. Dr. Saith. It was watching; spying electronically on our meeting, but anyway I am glad he got the information.

2.30 p.m.

Madam President, I want to go through clause 3(1) very slowly with you; it says:

"the master of every vessel…"

And you saw what the definition of a vessel was. The clause continues:

> "destined for Trinidad and Tobago, prior to departure of the vessel from the last port of call before Trinidad and Tobago, shall provide to the Chief Immigration Officer such advance passenger information as the Minister may, by Regulations, prescribe."

The hon. Minister, in his innocence, shared with us earlier some basic categories or fields that he considered necessary. We want those fields in the legislation, so that there would be no doubt, in the minds of people, that these are the specific fields. [*Crosstalk*] We do not want the hon. Minister to whimsically, capriciously and arbitrarily add to fields that he has not discussed with us here. We will like him to give us those fields today and we want them enshrined in law.

He talked about New Zealand, Australia, the United States of America and England; all those countries have clearly defined the categories of information that would be required to be filled out and submitted to a captain or pilot. I am not

too sure about that; he was very short on words in that area. I want to ask the hon. Minister: At what point in time will I be called upon to provide this information? When I am going on a flight at Piarco, I go to the commercial counter and I have a form to fill out. Is that the only form I am being called upon to fill out? Is it the same form that I would have filled out last week or last month? After this Bill is passed, is it still going to be the same form? These are things we need to know.

Madam President, the Constitution of the Republic of Trinidad and Tobago says in Part I, section 4, that you and the citizens of this country, every individual, has the right to privacy. It says:

"the right of the individual to respect for his private and family life".

There is no legislation in T&T dealing with privacy matters; there is no law dealing with personal information data, so we have to interpret this privacy in its broadest context. It would mean that personal information is part of my right to privacy and you cannot, without my consent and approval, pass on any information to a third party.

When I go to the airport and I fill out my form to travel, if I decide to sue the airline for some action that would have taken place, they have information on me; the private piece of information I would have filled out. If the plane crashes, there is information to say that the plane has crashed and so many people have died; they have information logged on. They cannot take that information and electronically transfer it to the Minister of National Security or his agent, who is the Chief Immigration Officer. That is an invasion of my privacy.

Unless I give consent to the Government through a special majority, it cannot transfer my information that is private, confidential and personal, to any party, including the Minister of National Security, because under the Constitution of the Republic of Trinidad and Tobago, I am protected. If you are coming to invade my privacy, you have to come with a special majority. I want to advise the Minister, if he has not been so advised, that he cannot transmit information without my consent. I do not want to know if it is 10 fields, 12 fields or 34 fields. Once I give that information to the airport or the commercial airline desk, it should remain there. If you want that information, you have to come to me and get consent.

Do you know what the Minister must tell us? The Minister must tell us if you, I or anyone refuses to fill out the form demanded by the captain, who is now going to be fined $600,000, whether we are entitled to travel. Would the pilot or captain allow me to board that flight, if I refuse to supply that information?

Minister, would I be able to fly? The pilot is going to be entitled to a fine of $600,000 if he does not provide you, through your Chief Immigration officer, with the information. The question here is: Would I be entitled to fly? Minister, could you answer me? I would like to know if I would be entitled to fly.

Sen. Joseph: When I am responding, I would reply to that.

Sen. W. Mark: If I refuse that information and they refuse me the right to travel, it is going to violate section 4(g), freedom of movement. It is going to infringe on my constitutional right enshrined under section 4 of the law. Therefore, the Minister must tell this Parliament today. [*Crosstalk*] These rights that I am entitled to: privacy, freedom of movement, freedom of conscience and religious belief and freedom of thought and expression in section 5 of the Constitution, cannot be abrogated or infringed or there cannot be authorized abrogation or infringement, unless it is passed with a specified majority in this Parliament.

So Minister Joseph, I want to advise you, seeing that the Government likes court clothes and every Monday "all yuh" like to be in court, this Bill requires a special majority to be passed in this Parliament. If you go ahead and pass it without a special majority, this matter would be settled in the highest court in the land, the Privy Council. [*Desk thumping*] I warn him, Madam President, because what he is doing is surreptitiously invading your right, your space and your privacy on the pretext of cricket.

He said that 100,000 people are expected to come to the region and they do not know "who is terrorist from who eh terrorist". If you are mandating the captain to provide you with that information, it is, therefore, clear to us that the Government of Trinidad and Tobago—[*Interruption*]

Sen. Dr. Saith: The captain could put you off a plane now.

Sen. W. Mark: Yes, but I want the regulations first, so "ah go know what he putting meh off for now". [*Crosstalk*] [*Laughter*] Right now he could put me off; I agree with you.

Madam President, I want to share with you and my colleagues what happens when you give a minister blanket powers to make regulations, as he and his regime sees fit. There are some of the fields or categories of information that they could add without your knowledge, unless we force this regime, through an amendment, to bring all regulations to this Parliament via an affirmative resolution. The Americans tried that with the Europeans; the same advance

passenger information system. Do you know what they wanted? They wanted 60 fields or categories of information on you, before you could board a flight from Europe to enter America.

Do you know what the Europeans did? They went into serious hardnosed negotiations with the Americans and they reduced it to 34; from 60 to 34. They wanted to store your personal information, your advance passenger information data, for 50 years. The Europeans were successful in forcing the American to reduce that to 3.5 years.

Let me share with you and this honourable Senate some of the fields that the Americans wanted to force down the throats of the Europeans, until the European Court of Justice decided to declare that whole advance passenger information system—[*Interruption*]

Madam President: Senator, just one minute. As far as I understand it, this Bill is dealing with the nine countries involved.

Sen. W. Mark: We are not alone in the world.

Madam President: This Bill does not include the US; the Minister has said that something else would be coming.

Sen. W. Mark: Did he say that?

Madam President: Yes. Did you not say so, Mr. Minister?

Sen. Joseph: No.

Madam President: No? Then I misunderstood. He did say that this Bill included nine countries and Dominica. It did not include the US. I think you are going outside the Bill. [*Sen. Mark rises*]

Sen. W. Mark: Madam President, the Opposition must have its say—

Madam President: Senator, I am on my feet. You are going outside the scope of the Bill when you say that you are going to try to show us what the fields that are going to be required are.

Sen. W. Mark: It is not here.

Madam President: I know that, Senator, this has nothing to do with—[*Interruption*]

Sen. W. Mark: The Government must have its way.

Madam President: You are bringing in irrelevancy. Talk about the Bill; you have a lot to talk about.

Sen. W. Mark: Madam President, the Opposition must have its say and the Government must have its way.

Madam President: You are having your say.

Sen. W. Mark: We are the minority here and we need your protection.

Madam President: You have my protection.

Sen. W. Mark: Every time they rise and object, what happens? They are taking advantage of us. [*Crosstalk*] I am bringing to your attention and the attention of the national community, in the absence of regulations, what can take place. It could affect you. Here we have this Bill, and the regulations are not before us.

Madam President: The regulations would come.

Sen. W. Mark: The Minister told us that there were about six areas which would be looked at. Madam President, with respect to this banana republic called Trinidad and Tobago, if big European countries were able to reduce from 60 to 34 fields, do you think we will be able to convince any other country that it should just stay with five? I am just bringing it to your attention.

Madam President: Senator, it is my understanding that the other Caricom countries included in this Bill are going to put forward the same legislation and regulations; so it is either you are not understanding what we are debating here today or you are having a problem.

Sen. W. Mark: We are not privy to that legislation. We are a sovereign Parliament. We have a right, when we speak in this Parliament, to protect the rights and freedom of the citizens. [*Desk thumping*] This Government has a history of coming before this Parliament and mamaguying the country. [*Crosstalk*]

For instance, if the Government had brought regulations today, do you think we would have been engaging in this matter? We have nothing before us. We are being asked to buy "cat-in-bag". [*Crosstalk*] How can you allow that? [*Desk thumping*] When I bring to your attention, Madam President, and the attention of the Parliament some of dangers with which we are faced, I am being told that they are not important. We are living in dangerous times. Our citizens were classified

on a no fly list; BWIA pilots left Trinidad and were harassed by US Homeland Security; persons who were working for 30 years. I am showing you that because of a lack of information, there could be misinterpretations.

It is our view that this is a whimsical approach to serious legislation. The provisions in clauses 3 and 4, are tantamount to what I would call an unsanctioned invasion of one's privacy and rights. [*Crosstalk*]

Listen, allow me, "nuh". I know you are tired; you just came from Malaysia and you have to report to us. You must give us a full report of your itinerary. We want to know where you, Calder Hart and Ken Julien went. [*Crosstalk*] I am going to pose a question to you. [*Crosstalk*]

We want to know what is the link between the public authorities, on the one hand, and the private sector firm on the other. Where is this data going to come from? Who is going to collect this information that we are debating here? Is the advance passenger information system not manned by private companies that operate airlines in Trinidad and Tobago? He has not told us. The pilot that he talked about, or the master, works for a private company, be it Caribbean Airlines; be it Caribbean Star; be it Liat, a State company; be it BWIA, or Caribbean Airlines, come January 01; be it American Airlines; Air Canada or Dutch Caribbean Airlines. These commercial airlines are private entities. You have a public authority, called the Ministry of National Security, under the Immigration Department, linking now with a commercial entity to pass on my private information and personal data to you. And you are saying that you do not understand what is happening?

The Minister of National Security will be collecting my personal information and he will be doing so without my consent. [*Crosstalk*] Right now he collects information via the blimp, which is illegal, but when he comes now to ask me to formally fill out a form to pass to him—I know the Minister of National Security cannot be trusted. [*Crosstalk*]

It is not only going to be airlines. If you go to Pier I and you jump on a boat to go to Venezuela, before you can leave Venezuela to come back here, the master of that vessel will be called upon to provide information to the Chief Immigration Officer. So Minister Danny Montano, who has a big yacht, and goes all over the world, when he goes to Grenada and comes back, he too would be called upon to make information available. [*Interruption*]

Sen. Joseph: Madam President, no, no. [*Crosstalk*] He is misleading the Parliament and, by extension, the national population. We clearly indicated the size of the vessel.

Madam President: Senator, this is one of the problems we face. It is either the Member did not read the Bill properly, did not accept the information in it and is now making erroneous statements in the Senate. It is 100 tonnes, as far as I saw. Please, Senator, be careful.

Sen. W. Mark: I understand that; he did say 100 tonnes. I sincerely apologize to my friend; so Danny, you would not qualify. [*Crosstalk*] To you my friend, my former teacher; I do not trust you for one minute, although you taught me.

Sen. Manning: Is that relevant?

Sen. W. Mark: Very relevant, my dear. You were following the debate? I am shocked. [*Laughter*] I saw you reading so seriously; I did not know I had your attention. [*Interruption*] No, I have a long way to go. Wind up? If you want to suspend the Standing Orders, I would love that as well. [*Laughter*]

Madam President, there is this false concept and viewpoint that more information is equal to more security. Do you understand what is happening? The authorities here in Trinidad and Tobago are also of the view that the more information they gather on individuals, the more they would be able to secure and protect their borders from terrorists; but we know for a fact that is not so. We would like to ask the hon. Minister whether he would be calling on us to provide him with our bag tag numbers in his regulations. Minister, we would like to know whether you would like us to provide you with our medical history? These are questions in your winding up you could deal with. [*Laughter*]

There is no information in the legislation that tells us about the categories of information in law that those people are supposed to command and demand from us. I am calling on the Minister of National Security to include in the legislation the categories of information that we would be called upon to supply. I am asking him to do that.

We are not opposing the improvement of security, but we must do it in such a way that it does not destroy the fundamental values of our society. [*Interruption*]

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. T. Gopeesingh*]

Question put and agreed to.

Sen. Dr. Saith: We abstain. [*Laughter*]

Sen. W. Mark: If you are sleeping, I have no problem with that.

Madam President, the Minister needs to tell us what the duration for the storage of the information is. When we provide the information to the airlines through the master of the aircraft, he in turn will electronically transfer the same to the Chief Immigration Officer. We would like to know how long this Chief Immigration Officer is going to keep our personal data and what the time frame is. Is it going to be two months; is it going to be two years or 50 years? I would like to know. This Opposition would like to know how long it is going to take.

Would my information be subject to abuse? Would the information provided to the Chief Immigration Officer be used for any other purpose than what it was intended for? We have a government saying that it wants to be in power for the next 30 years. If I travel to Venezuela or Jamaica, wherever I go, the Government of Trinidad and Tobago will now be privy to my travelling arrangement; whereas before I could go to the airport, book in and get on a flight to Jamaica. That was between the airline authorities, the commercial airline and myself. When I come back in, I go to the immigration authorities and they stamp my passport, so there is a record that I was out of the country for five days. Now, before I leave this country, at least, 15 minutes before I travel, the Government knows that I am going to Venezuela. That is my personal business. Why does the Government want to know why I am going to Venezuela or Jamaica? It does not go just for me. [*Interruption*]

Sen. Joseph: Madam President, on a point of clarification. It is advance passenger information for people coming to Trinidad and Tobago; it has nothing to do with people departing to the moon, Venezuela or wherever. It is advance passenger information, not departure passenger information.

Sen. W. Mark: My colleague is intolerant again, impatient. I do not know. Why are you so jittery? You were a teacher; one of the hallmarks of a teacher is patience.

Madam President: Senator; Senator.

Sen. W. Mark: Yes, Madam President; I am sorry. That was my former teacher.

Madam President: He was just clarifying.

Sen. W. Mark: I know. He understands the point I am making. [*Crosstalk*]

Madam President, listen carefully; I am leaving Venezuela to come back home. The Minister of National Security will get my information before I come here and he will know. [*Crosstalk*] Do you know what is even more alarming? I met you on the flight and they have you down travelling with me, [*Laughter*] so you are now in the database of the Minister of National Security; that is what is going on here. [*Laughter*]

Madam President: I might be travelling on the same airline with you, but it is very unlikely that I would be travelling with you. [*Laughter*]

Sen. W. Mark: That is exactly what I meant, Madam President; and you quickly corrected me on that one. It does not mean to say that I would not want to travel with you, but I understand what you mean. [*Laughter*]

We might laugh over this, but it is very serious business. Why would the Government want to know? I am a citizen of this country. I am no terrorist. I am not coming from any other country. If I go to Jamaica and I am returning to Trinidad and Tobago as a citizen, why would the Minister of National Security want to get information in advance, before I come back to Trinidad and Tobago? Why would he want to know that? [*Interruption*]

Sen. Joseph: Can I tell you?

Sen. W. Mark: No, when you are winding up. You want to "tief" my time; I am not allowing that.

This is a very serious piece of legislation. I am happy for one thing only: the UNC was very concerned with the fact that the World Cup Cricket ends on June 30, 2007 and we have a Bill before us that does not set June 30 as the sunset period. I am so happy; I think that is an area that the Government has given serious consideration to and really had some advance knowledge of where I would be coming from. They have, in fact, addressed a very important area.

I would like to ask the hon. minister to consider a number of amendments to this legislation before us. Information is power; knowledge is power, but the basis of knowledge is information. If you give persons like the Minister of National Security and his Government advance information over you, that is a dangerous

development, because the information would give them a certain kind of power over you as an individual, without your consent. I am arguing that the Government of Trinidad and Tobago must first seek my consent in order to transmit that information to the Chief Immigration Officer. If that is not provided by passengers, I am suggesting to the hon. Minister that he needs to put into this legislation the relevant provision in order for this to have effect.

Let me define for you what this advance passenger information systems (APIS) means; it is an electronic data base system that stores information about airline passengers. That is what this APIS is about. I do not know and the hon. Minister did not indicate, whether the Caribbean has this electronic database. He made a very serious point; that he was not too sure. There are nine territories plus Dominica; so if I land in Dominica to take in a warm up game and they do not have the technology to deal with this particular provision carefully in their legislation, and I am a terrorist and I get through that system, I could float into Trinidad and Tobago. Based on what the Minister said, once I get clearance in Dominica, I could go through Jamaica, Barbados or Trinidad and Tobago. The question that must be asked is whether these nine territories, and Dominica included, have the electronic database and the electronic system. [*Interruption*]

Sen. Joseph: Yes; they must have it.

Sen. W. Mark: Okay, I am very happy that they have it.

This system is operated by the US customs service in the United States and it provides searchable biological and security information on air travellers, particularly those entering the US from various foreign locations. We would like to know from the hon. Minister whether Trinidad and Tobago would be exchanging its watch list, its no fly list and its criminal intelligence with the United States of America? [*Interruption*] I am dealing with the Homeland department, not Interpol; that is a different ballgame. [*Crosstalk*] I am not nervous. I want to make sure that my rights and your rights are not compromised on the altar of expediency.

We want to ensure that whilst we support security measures to fight international criminals, organized crime and what we call "global terrorism", our democratic rights and human rights are not compromised. We keep saying that there must be a fine balance, on the one hand, between the security needs of a country and the human and fundamental rights of its citizens; that is what I am arguing. I am not against security. If you have to tighten, tighten, but make sure

you protect my human rights, my fundamental freedoms and my civil liberties and do not allow anyone from outside our borders to force you into a position where you would compromise the rights of the citizenry of this country. I hope the hon. Minister would see these submissions in the way they ought to be seen.

Madam President, there is an article written by Ricky Singh, a very prominent Caribbean journalist. [*Interruption*]

Madam President: You have two and a half minutes.

Sen. W. Mark: He was making the point that we have to be very careful in compromising our civil liberties in the name of Homeland Security, as it relates to the United States. It was a very important contribution that he made. I would like the hon. Minister to take a look at the particular article.

I would like the hon. Minister to indicate to us what is the purpose of the Memorandum of Intent that is not before us today; whether the Memorandum of Intent will be tabled in this Parliament for ratification and whether we are going to get legislation to properly reflect the provisions contained in that memorandum. I would like the hon. Minister to share this with us, because the UNC is very concerned as it relates to those provisions. I am not going into the details; I simply ask the hon. Minister to tell us what this thing is about and whether it would take legislative form in time to come. We will try to ensure that the Government meets us in terms of these amendments; if it does not, we will have some grave difficulties in giving support to this legislation.

Thank you.

Sen. Prof. Kenneth Ramchand: Madam President, I have a brief contribution. I have some concerns about clause 3(1) and (4). Before I go into those concerns, I would like to remind Senators about Chap. 18:01, section 12(5) of the Immigration Act which says:

> "An immigration officer shall not disclose directly or indirectly, to any person except—
>
> (a) the Minister or a person authorised by him to be privy to the information; or
>
> (b) a member of the immigration department, any information obtained by virtue of any provision of this Act."

I note that the present legislation is quite different from the Immigration Act. It is not the intention of the present legislation that this information should be passed on to anybody else. If that interpretation is correct, I would like to see embedded in the legislation that the information obtained under this Bill shall not be passed on by the Chief Immigration Officer to a third party including another country. [*Desk thumping*]

Looking at clause 3(1) of the present Bill specifically, it says that the master of every vessel shall provide certain information to the Chief Immigration Officer. As far as I know, the only information available to the master of any vessel is information contained in the travel documents, as the Minister explained. So the master of a vessel is not being appointed special detective, a member of the Central Intelligence Agency (CIA) or anything. He simply has to read those documents and say, "This is the information contained in those travel documents." Why, therefore, does the clause speak about:

> "such advance passenger information as the Minister may, by Regulations, prescribe."?

It is very clear that the only information the master of the vessel has is the information contained in the travel documents. Why can the legislation not say:

> "shall provide to the Chief Immigration Officer such information as is contained in the passenger travel documents, including passport and boarding card"?

Why do we not say that plainly and clearly? That is the only information the master of the vessel is entitled to have and the only information he can pass on. So is the Minister going to write him by regulation and ask for more? I do not see how we can authorize the Minister to ask for more information than is in the travel documents.

I also have reservations about another section, clause 3(4):

> "The Minister may by Order waive the requirement in subsection (1) to provide the information in advance"

I do not see any necessity for the Minister ever waiving the requirement that the information should be automatically passed on. Let it not be, "Don't bother to pass it on for Ramchand; he is an okay fellow." No; everybody's advance passenger information, as contained in the documents, should be automatically sent. I do not think the Minister needs the powers being granted under (4), for

this Bill. This is sunset legislation having to do with a very specific situation. [*Interruption*] I am glad to hear that an amendment is coming.

My third point is that I would like to see a new clause 4 put into the Bill which says:

"This Act expires on June 30, 2007."

Some amendments will be tabled covering the issues I have raised.

Thank you.

The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Madam President, before I get into the substance of my contribution, we are all wearing this afternoon a button to remind us of our soldiers who fell in the great war of 1914/1918 war as well as those who fell in the 1935 to 1945 war. On the south wall of the Chamber there is a list of nationals who fell in the 1914/1918 war. We should take a moment to remember them.

I remember my grandfather very well. He came from England and did take part in the first war. He was in France and, happily, he survived. My father's brother, my uncle Robert, also took part in the second war. He was a bomber/navigator in 1945. Of course, he is still alive, but I do think of my grandfather very fondly and my uncle Robert. I would just like to share that with Members of the Senate. [*Desk thumping*]

To get to the matter at hand, let me just deal, first of all, with the points that Sen. Prof. Ramchand raised. The first issue he raised was with regard to clause 3(1) and the fact that it was being done by regulation. I am sure we can deal with this later; perhaps, the Minister could deal with it more fully, and we would have the opportunity to do so at the committee stage. My understanding is that the flexibility is required because there are nine countries involved and issues may arise that may require certain changes; therefore, it is that flexibility which is being looked at. Do not forget that this is only for a very short period, but I am sure the Minister would deal with that a little more fully.

On the question of the words "the Minister may by Order waive", it would be customary to waive requirements like this to Heads of State and other senior officials of foreign government and they would be captured by this legislation as well. It would be customary to waive it. Again, the Minister can deal with that. [*Crosstalk*]

Let me try to deal with what Sen. Mark talked about, because he really was off the mark today. [*Laughter*] It was just astonishing that he spoke for an entire hour and, really, had very little to say and did not seem to understand the legislation. The first thing to understand is that this legislation applies to passengers who are coming from outside into Trinidad and Tobago. So it may impact nationals who are returning, but it specifically and particularly applies to non-nationals who are coming here and into the region as a whole.

Sen. Mark failed to understand that many other countries have the same legislation. Let me just read out some of them for you: of course, the USA, Canada, Mexico, China, United Arab Emirates, Thailand, South Africa, Pakistan, Jamaica, Kenya, Algeria, Iran, Syria, Morocco, Australia, India, New Zealand, Bahrain, South Korea, Japan, the United Kingdom and many others have the same legislation.

If anybody gets on an airline in Trinidad and goes to any one of those countries, their laws apply. The information that a passenger in Trinidad and Tobago presents to an airline in Trinidad and Tobago, is transmitted to the customs and immigration authorities at his destination point. That is not our law; that is their law. What they do with it, we have no control over; none whatever. So 99.9 per cent of what Sen. Mark was talking about just does not really make any sense.

The fact of the matter is that we as nationals, if we go anywhere, are subject to this legislation, because everybody else has it and they can do with the information whatever they want. When he talked about privacy, he ignored the fact that if he uses a credit card here, online or anywhere, similarly, very personal information is transmitted all over the planet. He does not want to talk about that; he wants to talk about a person's passport information. That is what we are talking about: the information contained in your passport.

He asked how secure that was, but you can look up information on Sen. Mark in a phone book. You can find out where he lives and what his phone number is. You can go to licensing office and find out what kind of car he drives and the licence number. You can go to the Registrar General's Office and find out his date of birth. The same information is available; it is already there. All the noise was just empty noise; it was noise for the sake of noise; it makes absolutely no sense. This is to regulate persons coming into the country. [*Crosstalk*]

It is important to remember that this business of advance passenger information began in 1989, first of all, with the United States. They had two objectives; one was to increase their border security, but the other thing and one of the primary objectives was to ease the traffic flow at the airport when large planes were arriving. If they could prescreen persons on airplanes, it would make the job of the immigration officers very much easier, instead of having long delays. It did work that way and, certainly, on the intercontinental flights it tended to shorten some of the delays from two hours to less than 45 minutes. In fact, it was a very effective thing.

In 1995, Australia was the second country to start doing the same thing. After 9/11, the US Congress then made it mandatory. Up until then it was voluntary information; after 2001, it became mandatory. The Congress said, "You must do this." Sen. Mark did ask certain questions. How was it done? Who do they give the information to?

When a passenger goes to an airline ticket counter, he presents his passport and immigration documents. Some passports, as you know, have a magnetic strip containing your data on it. For the passports which have that kind of data, the passport is simply swiped and that is it. It is as simple as that; that is all you do. For those who do not have that—we do not have that here—the information is taken off the passport, taken from the immigration slip by the airline that then puts it into a format and transmits it to your destination. You have nothing to do with that. That is the information which is sent.

Whether you are going to the US, the UK, Venezuela or wherever, it is the same information being sent in the same way. It is the same information that you would be asked to present at the point of entry by the customs officer; it is the same information. The only thing that is different is the point in your journey at which you are being asked to present it; that is the only change here. In other words, you must present the information before you get on the airplane, not when you get here, because we want to do a check on you first, from a security standpoint—and that takes a while; it takes several hours—as well as in order that we do not have huge, long lines at the immigration counters. It would make life a lot easier for you, because it is a simple stamp. You have already been pre-cleared; you are going to have your passport stamped and you walk in. It is as simple as that. It is not rocket science here; it is to make life simple and easy.

Sen. Mark went off into the stratosphere talking about trying to balance his need for privacy and all that sort of thing. This is the information in your passport that you disclose at the counter when you are going and to the immigration officer when you arrive; it is the same information; it is nothing new. The Minister of National Security clearly said that the information required is in your passport.

In the United States they ask you for a little more; for instance, they ask you where you are going to be staying and they want a US address. If you are in transit then you are required to say that you are in transit or else they want a US address. They want to know how they can find you. Of course, there is no way to verify that. You could say, "Well, I am going to stay in the White House," and they have no way of verifying whether that is true or not.

The fact of the matter is that you are required to give them that information when you go to the United States. They simply say, "If you do not want to provide us with that information, you cannot come here." Plain and simple; that is all. If you do not want to provide it, you do not have to, but, "You cannot come here." They have a right to do that. We have a right to tell anybody who wants to come here, "Identify yourself and let us verify that fact," whether you are a national or not. So when you come here, we will make sure that you are who you say you are. We have a right to do that. The Government has a right and a duty to protect its citizens.

We do that at the border, as matters now stand, but because of the volume of traffic we anticipate during the Cricket World Cup, we are saying that you should give us the information before you get on the plane, because that is just going to make the job of the customs and immigration here a whole lot easier; that is all there is to it.

Sen. Mark went on about the Memorandum of Intent which, of course, has absolutely nothing to do when this piece of legislation. He was waving around a document that I presume was a copy of the memorandum. I know that document has not been published anywhere and, therefore, I do not know how he got it. Clearly it was stolen by someone. [*Crosstalk*] [*Laughter*] If that is the case, he is in receipt of stolen property.

Sen. Dr. Gopeesingh: Madam President, I think we have to stand on a point of order. He is imputing improper motives. He said that he did not know how Sen. Mark got the document, that somebody stole it; those are improper motives. In other words, if somebody stole the document and Sen. Mark got it, it means he received stolen documents. That is improper motives. He should withdraw that. [*Crosstalk*]

Madam President: Minister, I think you should withdraw that and be more moderate in your language.

Sen. The Hon. D. Montano: Madam President, the Shiprider Agreement is not in front of us either. [*Crosstalk*]

Madam President: Just withdraw the word "stolen" for me, please.

Sen. The Hon. D. Montano: Misappropriated; it was misappropriated.

Madam President: Please withdraw the statement.

Sen. The Hon. D. Montano: Certainly, but it was misappropriated. [*Crosstalk*]

Sen. Dr. Gopeesingh: He got it from Michael Chertoff; he stole it. He signed the memorandum of understanding. [*Crosstalk*]

Sen. Mark: He stole it.

Sen. The Hon. D. Montano: Maybe he would bring the Shiprider Agreement when he stands to talk and tell us what that was about. [*Crosstalk*]

Madam President: Senator, you had your turn; one whole hour.

3.30 p.m.

Sen. The Hon. D. Montano: Madam President, you know one of the things for which you can count on Sen. Mark is a constant breach of the Standing Orders. He is the longest serving Senator, and yet, he does not understand Standing Order No. 42 which says that when the President is on her legs he must remain in silence, and when somebody else is on their legs, he must remain silent. He had his turn; I did not interrupt him at all. [*Interruption*]

Furthermore, Madam President, he calls me Danny in the Chamber. It is my name. But, Madam President, I am here not as Danny Montano, I am here because I am the Minister of Labour, Small and Micro Enterprise Development. That is why I am here, and in the Chamber, the Standing Order requires that I be addressed as the Minister of Labour, not as Senator Montano, or Danny. He is in constant breach of the Standing Order and we have young children listening and trying to learn proper manners and decorum—

Madam President: Members, there is a restlessness in the Senate today that is very disturbing, and what Minister Montano is saying is quite true. So please listen. Please continue.

Sen. Mark: He has nothing to say.

Sen. The Hon. D. Montano: Madam President, I have more to say than Sen. Mark, and you will notice that I always refer to him as Sen. Mark, and there are many other things I can think of, but always, he is Sen. Mark. [*Interruption*] No, I will not go there. Never! I will not go there, not from this Minister.

Madam President, allow me just to say again very simply what the issue is. This advance information is not only for security purposes, well it is primarily, but by providing that information to the airlines at the point of departure from wherever they are coming, when it is transmitted here, the authorities can do all the immigration checks that they would want in advance of the arrival of the passenger so that there are no unnecessary delays when the passengers actually deplane. That is the point of it all.

So Madam President, Sen. Mark is completely lost as to what the true intent of this is, and, as for the privacy of the information, it is your passport. Either you travel with it or you do not. Either you are going to present your information wherever it is necessary, or you are not, and if you are not going to do so, then you do not travel. It is as simple as that. It is not as if they are asking for your bank account, or any other information, or declaration of assets, or anything of the sort. It is just your passport information.

Madam President, you know if you go on the Internet and type the words Wade Mark, you will get more and better information than that. So this whole question of the privacy just does not hold water. It is simple information that is provided anyway for anybody.

Understand this; insofar as it relates to citizens, Sen. Mark says that this requires a two-thirds majority because it is an infringement of one's privacy and that sort of thing. Our nationals who left the country provided that information voluntarily at the point of departure here to the airlines. All we are asking is for the same information because when you come here, you have to show us that information anyway. So just send it to us before you leave so it can be checked. It is nothing new. We are asking for no information we were not asking for before, it is the same. The only difference is the point at which it is being requested and the legislation clarifies who must provide the information. That is all. It simply clarifies who must provide it. [*Interruption*]

Sen. Mark likes to make fun of my yacht. I have a very small boat and it does not qualify. It is 15,000 lbs which is about 7½ tonnes, if you want to put it that

way. It is a very small sailboat which can fit easily in this room. And on no stretch would I be requiring—and I am not bringing in any illegal immigrants. A hundred persons cannot fit on the boat, only about five or six.

Madam President, I think Sen. Mark has just gone way overboard and he is completely hysterical about this legislation which is doing nothing but getting our system better organized. And one thing I know about the Minister of National Security is that he is a person who is very organized, very efficient, and I am happy to have him where he is because he looks after us. [*Desk thumping*]

Sen. Mark: [*Inaudible*]

Sen. The Hon D. Montano: You hear how he calls him again—disrespectful! Madam President, I lament for my friend, Sen. Mark. He is so disrespectful, oh dear, oh dear, oh dear!

Sen. Mark: "As soon as Knowlson left, he campaigning for de man post, he only act for two days and he want to be Minister of Foreign Affairs."

Madam President: Sen. Mark!

Sen. Mark: Sorry Ma'am.

Madam President: Do you know what the meaning of sorry is? [*Laughter*]

Sen. Mark: Yes, I am sorry Ma'am.

Madam President: Please continue.

Sen. The Hon. D. Montano: Madam President, I am through. I do not know what else I could say about Wade Mark, the story speaks for itself.

Thank you very much.

Sen. Dr. Eastlyn Mc Kenzie: Thank you very much, Madam President. I have just a few points to make, and as you know, I am not a long-winded speaker.

Madam President, I know that presently, to leave the country you have to have your departure card and the landing form for your country of destination, and if that and your passport are all that would be used, then why do we have in clause 3 that the Minister may advance information, the Minister may, by Regulations prescribe? This gives me the impression that more information would be needed than what is on the passport and what you would have on the passenger or landing card. That is one.

The second thing I am asking is: Could we not have had today a sample form to say this is the kind of information that you will be requested to give? You will have to fill this form when you make your booking or when you are leaving the country, so that the country to which you are going would have this information.

Madam President, I have listened and I understand quite well what the hon. Minister said about the Memorandum of Intent with the United States of America having nothing to do with what we are discussing today, but I want to relate to this Senate an experience we had in Tobago in July/August this year. Permit me to make the point because I do not want you to think that I am irrelevant, but this may give some idea to some little things you did not cater for that could happen.

Normally in Tobago during the August holidays, the Government recognizes that there is an increase in travel and for some years now it has been leasing planes from other countries. In 2005, it leased from Simba Airlines out of the Scandinavian country—I cannot remember if it was Denmark or Holland—and it was very good. It augmented the number of seats we had between the Tobago Express and you could have gone to the airport and be sure you could get to Trinidad or Tobago.

This year, the Tobago Express Board leased a plane which was registered in the United States of America. Because of the United States of America's registration, there were different rules and it had to have this same advance passenger information, and wanted you to book in advance, have your ticket confirmed and you bought your ticket. So therefore, you could not do as Mr. Titus and I do on the Airbridge now.

For example, if you are inviting us to something on Thursday and we do not have a booking, if we turn up at the airport and there are seats they will put us on, so we could go on stand-by. You could not do that with the aircraft which was leased this year by the Tobago Express because they needed this advance passenger information which was sent to the United States of America, because you would have done your booking, confirmed, bought your ticket and then you would have been given the okay.

Many times we had the aircraft leaving Tobago with empty seats and there were people waiting and could not get on. What was worse, on one occasion when the list was sent to the United States of America they took off five names from it saying that the people were not given the okay to travel on the aircraft which is registered in the United States of America to come between Trinidad and

Tobago. They took those names off and those five passengers had to be accommodated on the Tobago Express normal flight.

I want to say that probably by looking at the names they found that they did not know them. It is not Thomas, it is not Joseph, it is not Mark, it is not Mc Kenzie—we do not know these names. They sound like Bakr, Ali, and Muhammad therefore, they were suspect and those five passengers were denied the opportunity from travelling on that special aircraft although they had bought their tickets.

I am saying this to the hon. Minister that yes, you do not have a link with your memorandum of understanding and the travel, but let us say Grenada charters one of these aircraft because they anticipate a number of persons coming to Trinidad and Tobago and they want to augment the number of seats and cash in on passengers wanting to travel, that is the same rule that will apply because it is a registered United States of America aircraft. So I want to say to the hon. Minister to use that experience to beware of what is happening so you are more aware of what could happen and just do not look at things on the surface.

Madam President, the other points I had were raised by others, and I gather from the hon. Minister that they would be discussed at the committee stage and amendments would be brought.

Thank you very much.

Sen. Raziah Ahmed: Madam President, in this debate on the Bill to make provision for the transmission of advance passenger information respecting persons travelling into Trinidad and Tobago, I rise with a number of questions and concerns, and in spite of the fact, and even though I am very glad for the fact that Senator, Minister the honourable Danny Montano—

Sen. Dr. Kernahan: Oooh full title.

Sen. R. Ahmed: Have I correctly addressed you, Sir? Minister Montano? Sorry, Sen. The Hon. Danny Montano, Minister of Labour, Small and Micro Enterprise Development. [*Interruption*] His Majesty too?

Sen. Montano: Minister of Labour.

Sen. R. Ahmed: Minister of Labour, okay.

Sen. Mark: "Danny, what yuh worry about, dey go fire him just now."

Sen. R. Ahmed: In spite of his efforts to make us feel that this is simple and straightforward legislation, I still continue to think that this is a particularly bothersome piece of legislation with respect to persons travelling to Trinidad and Tobago.

I want to take a historical perspective. My first awareness of this kind of legislation begun sometime in 2002 as a result of incidents arising from September 11; that tragic, unfortunate, untimely, stupid incident that has unleashed fear in the minds of many individuals and countries.

I was able to follow for a while the Patriot Act being implemented in the United States of America, the birth of the Department of Homeland Security, the National Security Strategy of the United States of America and the published guidelines which they have on advance passenger lists.

I was very glad to hear Sen. Montano speak to the fact that such legislation has been passed in a number of countries in the global arena, and I am wondering what is our role in the Caricom with respect to this larger legislative agenda in the global arena, and how exactly are we going to implement and fit in as a small Caricom region and part of a group of nine states that are hosting the World Cup Cricket. I am also comforted by the fact that the Minister has indicated that although omitted from the draft Bill, the legislation is sunset and will end in June 2007.

I listened to him saying specifically that it was designed to safeguard our borders against the international threat of terrorism and drug trafficking, and also to prevent persons using stolen documents from entering our borders.

I have several questions, Madam President. The first one is when exactly will these lists be compiled? Once the first list has been compiled, when is it going to be transmitted? Is it going to be transmitted simultaneously to the other nine Caricom states that are participating in the World Cup Cricket? I imagine that an advance passenger list is of absolutely no use with respect to persons entering Trinidad and Tobago if we do not have a reference list of persons suspected of terrorist activities, drug trafficking, or other types of illegal ventures. So our individual list in isolation appears to make no sense and, therefore, I am thinking that it must be in reference to other lists that exist elsewhere.

Sen. Joseph: Thank you very much for giving way, hon. Senator. You would recall that I said the information is going to be used in tandem with the Caricom watch list, intelligence information, local immigration watch list and regional criminal database. So it is going to be compared with these regional databases and watch lists.

Sen. R. Ahmed: Hon. Minister, I recognize that you did say that there was a Caricom watch list; the intelligence data that you speak of, is it purely Caricom intelligence? May I ask the Minister for a response?

Sen. Joseph: It is a Caricom watch list which will be generated on the basis of intelligence information and local immigration watch lists.

Sen. R. Ahmed: So am I correct in assuming that the intelligence information is international? Let me seek further clarification through you, Madam President. Let us assume that a passenger who used to be known as Cat Stevens who is now named Yusuf Islam, who, travelling between London and Washington in 2004 was pulled off the flight in Maine because he was on a Government watch list and barred from entering the country, should Mr. Yusuf Islam desire to come to Trinidad and Tobago for the World Cup, would we know that he had previously been on the watch list and denied entry into the United States of America? That is a question I would like to know about in your winding up. How are we going to know that? Does our intelligence extend to that arena so that we know the names of persons who are on the international watch lists?

I am also concerned about the whole idea of persons entering Trinidad and Tobago who are misidentified. Let me explain that by citing an example. Since this legislation is new to our jurisdiction, there are no examples locally. However, there is a civil action case in the United States of America that I would like to reference; it is one of misidentification of a passenger emanating from this same advance passenger list:

"Ibrahim v. DHS

Civil Action # DC 06-00545/AC 06-70574"

I just want to read the first paragraph of the overview in that case. It says:

> "On January 2, 2005, Rahinah Ibrahim, a mother of four children and a PhD student at Stanford University, was prohibited from boarding an aircraft departing from the San Francisco International Airport. She was told that she was on the No-Fly List and arrested. She is not a terrorist, nor does she have any link or relation to any terrorist. She was just a foreign student here in the United States trying to fly home.
>
> She was handcuffed in front of her child and transported by the San Francisco police to a holding cell where she was searched and detained until

> after her flight departed. Although she was later told that her name had been removed from the No-Fly List, and was able to return home to Malaysia the next day, Ibrahim has been subject to enhanced searches since the incident. Further, her visa to re-enter the United States to complete her doctorate degree at Stanford was revoked pursuant to Section 212(a)(3(B) of the Immigration and Nationality Act which is entitled 'Terrorist Activities'."

This is just an example of what could happen to an international visitor seeking to attend the World Cup final matches in Barbados who decides they are going to pass through Trinidad to visit me perhaps. What precautions, what references, what cross lists do we have to prevent our innocent Caricom people from becoming part of that kind of system that has misidentified hundreds and hundreds of passengers who have attempted to leave jurisdictions where such law has been in place, for example in the United States of America?

How do we deal with those misidentified cases? I understand that babies have been on the no-fly list. What is our reference point so that we do not perpetrate this kind of error upon our international visitors who want to come to this beautiful destination and enjoy the wonderful World Cup cricket matches and so on? I am not satisfied that we are getting all of the data with respect to what is going to happen to our passenger list.

How are we going to reference those international passengers who are coming into our country? As the Minister of Labour, Small and Micro Enterprise Development, Sen. The Hon. D. Montano pointed out, the system is that the passenger from his country's port of embarkation—whether it is in Malaysia, Pakistan, Sri Lanka or India—it is at that point before he boards the flight destined to Port of Spain, Trinidad that the list is transmitted and it is at that point, based on the first primary evidence that I have from persons who have experienced the no-fly restriction where the advance passenger information is put into the computer system when the ticket is bought that they are being told that they are on a no-fly list because of suspect activity. So these people will not even get to enter Trinidad and Tobago. It is at that point that the advance passenger list kicks in.

Madam President, furthermore, there was in the international arena a pilot programme called "Ensnares" that referred to a national security entry/exit registration system in all those international countries that have passed the legislation where, males born before November 15, 1986 and who are nationals of

designated countries were required to register at a local district immigration office and their movements, travel, et cetera were being tracked. How are these nine states of Caricom that are involved in the World Cup Cricket—even under the limited period of the sunset legislation—going to be referenced? How are we going to know who is good, who is bad, who is suspect, and how are we going to ensure that we have not misidentified people?

Madam President, apart from the fact that the Minister of Labour, Small and Micro Enterprise Development, Sen. The Hon. Danny Montano said that we have the right to identify persons coming into our country, what legislation do we have to protect the rights of a certain class of people who may very likely be misidentified based on the experience in the global arena? And, like the PhD student, be tied up in civil action upon civil action ongoing to date with no short-term solution, a suspension of her ability to continue her education in a First World country which boasts of the best education system in the world; something to which we all aspire.

Quite frankly, Madam President, the only thing I can give my children is the best education available in the world. There is nothing else I can give them and if this is the case of what is happening to PhD students at Stanford University, I believe top-of-the-line students, what about our people? How are we going to protect them? What legislation must accompany this one to protect the rights of people who have been misidentified?

4.00 p.m.

Madam President, my final point is this: We are talking about advance passenger lists and we are aware that such lists have been in existence for a number of years, certainly since the US enacted legislation. They have developed the computer systems, the software and the CPUs to manage their database. I am curious to find out where our central processing units are. Who are the experts that are managing these? What security measures do we have against hacking, against crashing? Where is the remote system located? These are important things because we need to be assured about the security of the data that is going to be stored.

Computers crash all the time. Software systems in sophisticated corporate organizations sometimes fail to do what they have to do and have to be continually updated and new types of systems continuously invented, and there has to be a continuous system of innovation. If we develop our lists and we have a list coming out of Jamaica, a list out of Barbados, out of Trinidad, out of Tobago,

how are we in the Caricom going to identify who is a suspect; who is a terrorist; who is a drug trafficker? Certainly, we are not only dealing with the culprits in the Caricom alone, we are dealing with the international market and, therefore, there are some technical considerations that I need to get clarity on before we could think about bringing that into law.

If we are depending on a computer database system, what pattern is the computer algorithm searching for? What facts in relation to passenger data will create somebody who is at risk? [*Crosstalk*]

Sen. Dumas: That is nonsense—

Sen. R. Ahmed: It is not nonsense.

Sen. Mark: That is a pattern: "Dotishness", foolishness—

Sen. R. Ahmed: How will our system—

Sen. Mark: That is nonsense he is saying—

Madam President: Senators, words like "nonsense" and "dotishness" and whatever, do not—

Sen. Dumas: That came from Sen. Mark. He is the one who said that.

Madam President: But I heard "nonsense" from you and "dotishness" from here, and they are all unparliamentary. So, please, let the Senator continue.

Sen. R. Ahmed: Thank you, Madam President, for bringing the Senator up to standard.

To continue with the technical considerations, how will the persons dealing with the database treat with false positives and negatives? Because that is bound to happen in a database system. What system do we have in place to correct the data errors in the computer system? A computer system is not really an intelligent system, is it? How are we going to correct the errors in the computer system? We need to know exactly what security mechanisms will be in place to protect the data from unauthorized access. From the technological point of view— [*Interruption*] That is hurting him, because they are key questions for which there are probably no answers.

How will the system's effectiveness be assessed? We are talking about the implementation of a sophisticated and complex computer network system. How often are we going to measure the effectiveness of the system? What about the legal and the policy considerations? When we are dealing with databases, there

are going to be searches of the various data that are proliferated all over the Internet and there is absolutely nothing to stop anybody from going into a database that is, perhaps, suspect or full of virus infections and that sort of thing. Since we have no privacy Act, how are we going to profile who is a suspect, a drug trafficker or a terrorist? We really have no reference point with respect to that and, therefore, it is implied that we are a reference in some other international legislation that is in existence or which we are following.

How long after the sunset expires, June 30, are we assured that on that date the database would be destroyed? Are we assured that prior to that date, the data would not have been transmitted elsewhere outside of Caricom? What other government agencies, apart from Border Control or customs and immigration, will have access to the database? Is the database only going to be restricted to passenger travel, ministries or national security, customs or are other government agencies or are other private entities going to have access to the data?

If a person, based on the database profiling, is flagged as a risk, how can that individual contest such a risk profile? These are very important and significant gaps in the legislation. The Minister has said clearly that this is to protect our borders and we are compiling these lists so that we could flag unwanted entries into Trinidad and Tobago and the larger Caricom. How could a person who gets a wrong profile—and it has been happening—be protected? Do we, as citizens of the Caricom who travel between the Caricom islands, ever have access to the information about ourselves that is on that database? That is an essential human right. If you are holding information on me, I have a right to know exactly what that information is. [*Desk thumping*] What is the process that I have to correct information that you may have which might be wrong?

In writing out an address or a zip code on a departure card, it is not inconceivable to make an error. Sometimes in the speed of going through customs you are filling out a card standing in a line and you could write something in the wrong box; leave too many spaces and it could read totally different. Therefore, if that information is being captured in the system, I deserve the right to be able to know what information you have on me and an opportunity to correct it on a timely basis.

Lastly, is this advance passenger list system good at catching terrorists and drug traffickers? Has it been tried, tested and proven? The large numbers of misidentified persons, including babies, pregnant mothers, young children, BWIA pilots—is it really a good system? If it is, as has been becoming apparent, that

persons in a certain age group with a certain type of name are going to be profiled as high risk—and that is becoming law in the global arena—is it not extremely easy to do a deed poll and change your name so that as a terrorist, a drug trafficker, you can move in and out freely under another name that is legal and legitimate? It seems to me that if your name is going to be used to profile you, then certainly there are a group of names that are being profiled now in the world and terrorists who have an agenda would find it very, very easy to get around this piece of advance passenger list legislation.

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

Sen. Mary King: Madam President, there are many concerns expressed about this very small Bill but it seems to have a lot of implications, and for those of us who are concerned about the governance of this country, I think if we refer to the Constitution, section 75(1), it tells us that in this country there shall be a Cabinet which will decide on the general direction for the country of Trinidad and Tobago and there shall be collective responsibility, therefore, to the Parliament. Now, there is such a link between the Memorandum of Intent and this Bill and even though we have been told the Memorandum of Intent is not before us and we cannot discuss it, I do not think that is something that we can take so lightly. I want to know why the Memorandum of Intent is not before this Parliament, because there are grave implications in that. [*Desk thumping*]

So, if we refer to the issues on the Bill which are of concern, perhaps we can, by collaboration and amendment, produce a Bill today—or an Act today—that will be acceptable to us. But I still believe that that MOI should be brought here with haste because there are implications for the advance passenger information after June 30, 2007. We had results yesterday of the CPI's perception of corruption and we see our country slipping. There may be no corruption, but the perception that there is not transparency in the operations of the Executive to the Parliament can lead people to believe that there is something behind it. [*Desk thumping*]

So let us look at the Bill. In clause 3(1), we see that all masters of vessels and aircraft "shall provide the Chief Immigration Officer such advance passenger information as the Minister may, by Regulations, prescribe". I think we should really circumscribe that and constrain it to the information that is contained in the passengers' official travel documents and an amendment will be proposed to that effect.

In clause 3(4) where it says: "The Minister may by Order waive the requirements of subsection (1)", an amendment will be proposed that we also have some constraints on the powers of the Minister. We are suggesting that after "subsection (1)," we delete the full-stop and insert: "with respect to the persons listed in the First Schedule of the ICC Cricket World Cup West Indies 2007 Bill", which is what we had approved last week in this Parliament. Those are the persons that will have any waivers that are to be given and these should be spelt out in the Bill.

We also have been told that there will be a sunset clause, so I will suggest that that amendment be a new subclause (4) which shall state: "This Act expires on June 30, 2007." [*Interruption*] Yes, but we want to see it. We probably should have had it in this Bill before it came so we would not have to make such amendments.

In the Immigration Act itself, it tells us in section 12(5) of that Act that an Immigration Officer shall not disclose directly or indirectly to any person except the Minister. Now we want to ensure that in this Bill we will constrain the Minister to passing on, or any person that the Minister may authorize to pass on, any of the information to third parties. That has nothing to do with just cricket; we have got to be sure that our own tourism business is not affected. Why should people travelling to this country as tourists have their information sent to other countries? It is certainly not in the best interest of Trinidad and Tobago.

Those are my main points, Madam President. Thank you. [*Desk thumping*]

Sen. Dana Seetahal, S.C.: Madam President, I have a couple of points and I literally mean a couple. One is that clause 3 of the Bill says that:

> "…the master of every vessel destined for Trinidad and Tobago, prior to departure of the vessel from the last port of call before Trinidad and Tobago, shall provide…"

the information, and subclause (2) deals with the penalty. Presumably, that ship, which includes plane, would be in another country. If your requirement is that you provide the advance passenger information, let us say, in Barbados, or in Guyana or Jamaica, or the United States, which is what this Bill is saying, your failure to do so will invoke a penalty. But my understanding of criminal law is that you are punishable for an offence that occurs in the country in which it is committed—or for the omission. Therefore, if it is that you are to provide that list before the last port of call, which means, let us say, in Barbados you are to provide that list

before you leave there, it means that the act is supposed to be done in Barbados, so, therefore, you are failing to transmit it which is breaching the law; you are failing to transmit it in Barbados. [*Interruption*] I am reading the Bill which says at clause 3(3):

"A master who intentionally or recklessly—

(a) fails to transmit the data required by subsection (1);"

And I think I am fairly familiar with interpreting law, and it is that if you are required to do that before you leave, it must be in a place other than Trinidad and Tobago and jurisdiction for an offence—unless, for instance, as we did in the Terrorism Act which says that a person can be prosecuted anywhere in the world for terrorism—then it means that you ought to be prosecuted in the country where you breached the law. I do not see anything in the clause which changes that.

So that is the question I want to ask the Minister, because I am reading it again. Even though I came in late, I have read it once and twice and I have looked to see if there is something. It says: if you fail to tranmit the data required by subsection (1), or if your transmission is incomplete, or the data is false. That transmission must be done prior to the departure of the vessel from the last port. If the master, meaning the pilot or whoever is in charge, is supposed to do that there, everything that needs to be done has to be done elsewhere. That is my point. So I would like to be enlightened as to how we are going to meet this jurisdictional problem.

The second point, I heard—and I came in late and I apologize for that; I was in another court, this being the highest court of the land—some questions about information to the Unites States, and so on. But the legislation here deals, of course, only with incoming information. I presume that that was based on a reciprocal understanding of what would happen, that other countries would have—everyone is having this legislation, so if you are going there, like Jamaica, Barbados, wherever, you would have to do the thing.

The problem is that if we do not pass a law like this, then we will not have the benefit of the information so we will suffer, in a way, from having this red flagging, whereas they will have our information, because we will have to act, whether it is in accordance with their conventions or agreements or requirements. So they can probably stop you from landing if you do not. And I imagine we can do that too.

So the point here is—the way it is phrased—it is a benefit to Trinidad and Tobago to have it. I think that is the point and that is what I am gathering because other countries can require us to do it and we have no say in it. They pass their

laws and if we do not comply, then they can prevent us from landing, I imagine. But it comes back to my original point. If other countries that are supposed to give us this data do not comply—their masters—how are we going to enforce the law?

Now, of course, if this is meant to be sunset legislation, I understand how it can work and possibly for a reasonable time, because as it is—and Sen. Dr. Mc Kenzie made the point—there will be no facility for standbys anymore, because if you are supposed to do it before you leave—now, of course, a standby person gets into the plane or boat before you leave, but the paperwork and everything would have had to be done sometime before—it would mean your planning and everything must be settled long before.

I just wanted to make another point. In terms of red flags—I think I heard Sen. Ahmed mention the question of red flags; I believe it was she—I think it would be useful to have the information, because I know of some instances from practice where persons have changed their names and have had other names before, so the name change might be reflected somewhere in our computerized system. There is that facility now, I understand, at the Registrar General's Department; so I am told.

Therefore, if you got the different names, then you could check that out if you had them in sufficient time. Or if there is a red flag in the immigration department in Port of Spain they might be able to do it. But, of course, this anticipates that we have a properly computerized system, which I do not know if we have it as we should, because too often people travel under different passports. I know of one case where an accused person had several passports, having declared different passports lost, and changed his name, and he had lodged one passport for bail and travelled merrily out of the country with another passport.

If we are ready to make this thing work, say you are leaving Barbados or Jamaica, that is however many hours, and you sent this advance information, are they really going to do anything useful if we do not have a computerized system to be able to check it? It sounds good and it ought to work and it ought to be of benefit, but the length of time it takes—I mean, to get a certified copy of a vehicle takes so long—just to see whether or not somebody has a passport or another passport by different names, is it really going to help? That is what I want to know.

The final point which is tangentially relevant is: Why is it that I have read or heard that US citizens are objecting to having to use a passport in the Caribbean and they have been granted it in some countries—I am not saying Trinidad and Tobago? They use a driver's permit. It seems to me that it kind of goes against the grain of this whole security idea when you are talking about people from certain

countries coming to the Caribbean, and I think that needs to be brought home. It is not necessarily relevant to this particular clause because we are talking about people coming here, but I am saying, in general, in the Caribbean, like to Bahamas and Jamaica, and so on, they go with a driving permit.

So this legislation, if it is there in Jamaica, Barbados and in St. Kitts where they are having matches, then it would be useful to them for persons from those countries who presently travel with a driving permit and no more.

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

Madam Chairman: You have four minutes before tea.

Sen. Dr. Tim Gopeesingh: Madam President, the essential issue on this Bill basically seems to be the transmission of advance passenger information of persons travelling to Trinidad and Tobago as opposed to information coming after the vessels have left, and so on. We want to determine, first of all, what is the rationale and the necessity for having this advance passenger information. What is it designed to do, as opposed to having the information come subsequently when the vessels have left?

Is it designed to keep out persons whom the Caribbean islands may feel are undesirable? And how will they determine that? It means then, that the nine countries that are bringing this piece of legislation will need to have some degree of collaboration with international agencies because, we, in the Caribbean do not have that capacity to deal with that by ourselves, but we will obviously have to be sharing information with international governments and international agencies because of the fear of terrorism and crime coming to our borders, and as the Minister said, for the cricket.

So we want to ask: How are these nine Caribbean governments, based on the legislation that we are going to pass, going to get the information and coordinate the information among the nine countries so that we will get the relevant information so the international terrorists will not come to these shores? I am proffering that undoubtedly and inevitably, the information that we will have to receive will have to come from other countries. Therefore, it means then that we will have to share our information from within the nine Caribbean islands to international countries. That is the point I want to make, and then I would elaborate on it a little more, later. So the main thing the Minister will have to answer is: When these nine countries get together and they have their protocols, and so on, working out for the passengers to these nine countries, how do they get the information for international terrorists? I think you have grasped the point, Madam President.

Madam President: Senators, we shall now suspend for tea and return at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed*.

Madam President: You spoke for four minutes; you have 41 minutes.

Sen. Dr. T. Gopeesingh: I would not be as long as the hour. This is important legislation which we need to discuss in its entirety because it has far-reaching consequences and implications from the issue of privacy. Before we took the tea break, I was indicating that it seems that the main objective of this legislation was to set out a framework for the initiation of a collaborative arrangement, to facilitate the review of advance passenger information data to be transferred to member states participants. If all nine countries are signing on to this type of legislation and having similar legislation particularly for Cricket World Cup to prevent terrorism, they obviously have to share this information amongst the nine countries.

I feel that this piece of legislation that is brought here today is a smokescreen couched in the context of Cricket World Cup, but it goes beyond the Cricket World Cup. It is only when it was discovered that we have advance information—that this is a collaborative effort between the United States government and the Caribbean islands—it seems as though our administration is changing its mind on the whole issue. I wonder why these nine countries within the Caribbean—I feel the 13 Caribbean countries will sign something similar to this because they are under pressure from the United States government.

The visit of Homeland Security Minister Michael Chertoff is significant. Why was he here under the guise of trying to sign an MOI for advance passenger information? Is it because the Caribbean governments want to satisfy the United States of America since they have signed an agreement with Chavez for PetroCaribe and the United States of America is now angry with the Caribbean governments that they seem to be aligning with Chavez? We want you to align with us and to consider signing this legislation. I believe in that context the whole issue of this legislation came into being. I am not convinced that this legislation was predetermined before the whole process of the visit of the Homeland Security Minister. If we are talking about security and the prevention of terrorism on our Caribbean shores, the United States of America is concerned obviously, that in their back door in the Caribbean terrorist organizations and terrorists from around the world can come into the Caribbean and move to the United States of America very easily.

It is the same way they were monitoring Cuba in the Cold War. Cuba was one of the Countries that the Soviet bloc used in the Cold War against the United States. The United States of America is not stupid to know that terrorists can come to the Caribbean and utilize the Caribbean's free movement to go back to the United States of America. They want to know who is coming to the Caribbean and are using it in the context of Cricket World Cup 2007 to say that now we must have a sunset clause. It would really go beyond that.

I asked how will these nine Caribbean countries—what sort of organizational structure and information systems do they have to facilitate prevention of terrorist groups and plots? We are incapable of solving a little crime situation in Trinidad when we know that there are gangs and over 1,400 murders in five years. How are we, as small countries in the Caribbean even pooling our best resources together in nine countries, going to manouvre so that we could get information of terrorists coming in the country and utilizing the Caribbean for terrorist activities in the United States of America? We do not have that ability and sophistication. Therefore, we have to collaborate with the government of the United States of America and the British, two of the countries that are in the midst of terrorist activities. Terrorists are now focusing their activities on Britain and the United States of America, not Canada, South America, Africa or Europe. Terrorists are moving around the world.

Recently, we had terrorists in Sri Lanka and cricketers from there will come in. We have Pakistan bordering Afghanistan. There will be people from Afghanistan going across to Pakistan and coming to the Caribbean. We may have terrorists from Afghanistan and Sri Lanka coming under the ruse of Cricket World Cup and the United States of America knows it. That is why the United States of America is anxious for us as Caricom countries to sign the advance passenger information. This is the most important fundamental point.

The other issue is that no terrorist around the world is interested in bombing or terrorizing the Caribbean countries. Do you think they want to terrorize the Caribbean countries? They may want to terrorize American interests here as the Atlantic Energy 1 to 4. The Unites States of America knows that they have to protect Trinidad because of American interests and the American citizens in Trinidad. They are no fools.

The United States of America and the European authorities are looking around the world for more tools to detect terrorist plots. We say that in our nine countries we are looking for more tools to prevent terrorists from coming to the Caribbean and that is why you want the advance passenger information. Those large

countries as Europe, the United States of America and Britain want to expand the screening of international airline passengers by digging deep into a vast repository of airline itineraries, personal information and payment data. They want us to help give some of that data because some of these terrorists may be coming to the Caribbean under the ruse of World Cup Cricket. The United States of America, Britain and the European countries want this information. I am not convinced when the Minister says that this information will not be shared. I will try to prove this shortly. This information would be shared inevitably with other international countries, as a result of the information we have been getting for the advance passenger information.

Prompted by the recent British bomb plot allegations, they inspired a new round of protests from civil libertarians and privacy experts around the world who had objected to the erosion of privacy and civil liberty. My colleague, Sen. Mark, mentioned the fact that we are not sure how far this information that is required will expand. I will deal with that a little later. The question of the type of information that is needed, we do not know how far it will go into the erosion of privacy, civil liberty and freedom of movement which are enshrined in sections 4 and 5 of our Constitution. I re-emphasize and agree with my colleague that this type of legislation seems to be eroding our constitutional rights and freedoms. Anything that interferes with our Constitution would need a majority support in the Senate.

Sen. Joseph: Would the Senator give way?

Madam President: Are you giving way?

Sen. Dr. T. Gopeesingh: Certainly, Minister Joseph.

Sen. Joseph: On a point of clarification. I am hearing the Senator talking about eroding our rights. We are talking about advance passenger information, persons outside the region coming into the region from whom we would require information. Where is the infringement of our constitutional rights? I cannot understand that.

Sen. Mark: "Yuh cyah see dat Joe? But you cyah see dat?"

Sen. Dr. T. Gopeesingh: Madam President, it is our rights. If I go to Jamaica or the United Kingdom and I am coming back—I have travelled extensively giving medical seminars around the world. I have been to Russia, Japan, Singapore, all over the world—to Trinidad and the United States of America finds that Gopeesingh has gone to a country, as you know we have terrorist cells in Trinidad that have gone to other countries, the United States of America would know that. It is a constitutional right and I would be deprived

from coming back into my country. When I make the statement, do you know what is happening here? Once you let the camel's nose under the tent it would take 10 minutes for them to start expanding these programmes in all different directions. [*Laughter*] Do you know where that comes under the Bill? It comes under, "the Minister may by regulations prescribe". The Minister may give the information that you need to fill these things on the passenger travel document. Subsequently, when you are pressured by the government of the United States of America you may need to expand that and your information might be one long list.

You may want to go to passenger information elements required from the United States of America and there are over 34 pieces of passenger information. When I said that you let the camel's nose under the tent, the camel's nose that is coming under the tent is the travel information on the passport and travel document, but give you 10 minutes and you would see what would happen. Now, you are not being pressured, but subsequently you would be pressured by the government of the United States and they would want all this included in it. Then, you may, by regulations, prescribe more for us to sign. This is where we fear what would happen subsequently in the erosion of fundamental rights and civil liberties. It is couched in the context and we are not being fooled.

What is different from the information that you want now that would not be filled out in the immigration forms which we sign when we are leaving the airport or coming back to Trinidad? How different is that information that this Bill is seeking from the information that we fill out when we are leaving or returning to the country? Why do we have to fill out additional forms? I am making the assertion that this is only a ruse to expand the information that is needed. No longer would they accept the information we are filling on the immigration forms when we go to check with the airline, but it would be expanded subsequently to over 34 of these because the Minister can do it by regulation prescribed. This is why we on this side are asking that any regulations that have to be made for us to pass this Bill, we must see them before we could determine that we would give you the okay. You cannot come subsequently and make ad hoc regulations in the context of this Bill and ask us to pass it when these regulations are not there. You are asking for 8 or 10 pieces of information but you may go to 34 pieces of information which erode our liberties and freedom and is against our constitutional right. You have to get a majority vote here. We are not agreeing to allow you to pass regulations when we do not see them. Any regulation that has to come must come by affirmative resolution in Parliament. We will not allow that to happen.

This whole question of privacy of information is such an important issue and we must not take it lightly. Developed countries, the European Union countries, the European Parliament—we are in a parliament and the European Parliament challenged successfully the legality of an agreement that the European Council made with the government of the United States and it resulted in a ruling in May 2006, by Europe's highest court prohibiting the use of the data, from the European Union in the travel advisories to the United States of America by September 30. That accord had to be renegotiated. I emphasize that. The European Parliament successfully challenged the legality of an agreement between the European Council and the United States of America as far as advance passenger information is concerned and the privacy of information. The European court ruled against the European Council and the United States of America had to sign a new agreement with the European community, giving more leeway to the privacy of information that has to be obtained on the advance passenger information system.

Do you know what the Homeland Secretary, Michael Chertoff said of the United States of America when we met? Mrs. Persad-Bissessar, Leader of the Opposition, Sen. Wade Mark and I met him. It is no secret. We indicated to him that we were not going to pass this information in this House. We indicated to Mr. Chertoff who was kind of rude. The Homeland Secretary for the United States of America came here, Third World country; we raised issues with him and he was a bit rude. When we told him that this legislation needs a two-thirds majority, he backed off. He realized that we are strong where we are and we made it quite clear to Mr. Chertoff that we are not going to take this lightly, to give away our privacy and freedom. We need a two-thirds majority on this.

"Ideally, I would like to know, did Muhammad Atar get his ticket paid on the same credit card," Mr. Chertoff said citing the lead hijacker of the 2001 plots. That would be a huge thing and I would really like to know that in advance because that would allow us to identify an unknown terrorist.

I am speaking in the context of us in the nine countries trying to prevent terrorists by this advance passenger information system, but the people we would be giving this information to want more than that. I ask the hon. Minister if is he aware that the government of the United States of America is asking for a new type of readable passport to be issued around the world. The readable passport we have now would not be applicable shortly. They are asking for a new type of readable passport which this Government would bring into effect from January next year. This new type of passport has more information than the present

passport. This is as a result of the government of the United States of America forcing countries around the world that want to come to the United States of America to have a readable passport with more detailed information. Once they have that information on their system—this is the type of passport that we would have, construction of the machine readable zone of passport data page. We have the diagrams here. You see how much information is necessary; construction of the machine readable zone or format and D, visa.

This thing is a ruse. They really want the information and they are going to try all means to force the Caribbean countries under the pretext of Cricket World Cup. They are saying that they want to have it as sunset legislation, but they want the information of people travelling around the world. Caricom is a small fry. They know that terrorists can come here and we can be a repository for terrorist activities. This is why they are seeking to ensure that we sign their agreement. We have qualms about making the statements that we are making. We are not anti that. We are not saying that we do not want to prevent terrorist activities in the Caribbean. We certainly do not want that. It must not be as a result of the deprivation of our fundamental human rights. [*Desk thumping*].

Permit me to make one statement. A guy called Paul Rosenvig, a senior policy advisor in the Homeland Security Department, said that the use of the passenger data would be negotiated with international countries. We are an international country. He said that we are handcuffed in what we can do with it now. It would be a big step forward if we could identify ways in which we could use this information to enhance our ability to detect and prevent terrorism, while at the same time remaining respectful and responsive to European concerns regarding privacy.

Madam President: What document are you reading?

Sen. Dr. T. Gopeesingh: The document is by Eric Lifton published on August 22, 2006, Official Seeks Broader Access to Airline Data, *New York Times*.

I would like to recommend to Ministers that when they come to debate Bills, to do some substantial research and provide the Senate with some degree of information so that people could be educated. What we are finding here is an absence of the capacity for research. [*Laughter and desk thumping*]

Sen. Mark: We have to do the research for them.

Sen. Dr. T. Gopeesingh: We have to do the research for them. But it is all right, we are going to form government pretty shortly and we would show them

what management is about. You know we are capable of research. I have 35 publications in International Referee Journalists and it is only because of politics that I am not a full professor as yet. My CV is 42 pages long.

Sen. Mark: Anybody could match that across there? Not a single person.

Sen. Dr. T. Gopeesingh: Probably Christine Sahadeo.

There was another gentleman, Mr. Stanley of the Civil Liberties Union—I am making these points to consolidate the whole question of the erosion of privacy by this advance passenger information. You have to forgive me for emphasizing this point from time to time. Mr. Stanley of the Civil Liberties Union said that if Mr. Chertoff continued in the direction they are headed the government would soon be maintaining and routinely searching giant databases loaded with personal information on tens of millions of law abiding Americans and foreigners.

We want advance passenger information. We do not have the capacity and capability of having any sort of high-level database system. What are we going to do with the advance passenger information? Do we have any screening mechanism or online data to screen for terrorists? We do not have that. If we have that the Minister must tell us that within the nine countries of the Caribbean, we have a strong database whereby we can seek out international terrorists. There must be some degree of collaboration with international countries with larger databases. If we have to get information from them we would have to share the information that we have with them. When the Minister says it would be kept sacrosanct here in Trinidad, I do not want to believe that.

This is almost similar to the Patriotic Act in the United States of America which was passed in 2001 following September 11.

Sen. Joseph: You are talking about your capacity for research and now you are saying that?

Sen. Dr. T. Gopeesingh: Yes. It seems as though the Minister does not know what the Patriotic Act was about. The Patriotic Act was designed to facilitate easier communication among law enforcement groups and less insight into searches and seizures where terrorism is involved. If they say that terrorism would be in the Caribbean or even suspected, it reminds us of the Terrorist Act that was passed in the United States of America. They said that unfortunately the FBI and law enforcement agencies can and occasionally do use the Patriotic Act on non-terrorist related activities. That Act was questioned tremendously over a period of time. There is no question that the Patriot Act eroded some of

America's civil liberties. The question is whether the American community is willing to give up certain civil liberties which is information sharing for the added security benefits of it. Within the nine countries of the Caribbean, are we giving up our freedom, civil liberties in the name of increased protection against terrorism and security which we do not have at the moment? When we have this information and sharing it, what are we getting for it?

Even recently, Mr. Manning said that the United States of America is not helping Trinidad and Tobago and the Caribbean with fighting terrorism. He alluded to it. Why are we signing this Advance Passenger Information Treaty with anybody? That is a question that this Parliament and the people of Trinidad and Tobago would have to understand in terms of giving up their civil liberties and freedom over a period of time.

It is not only in Trinidad that we are asking about the privacy aspect of it. There are big papers. This is about 15 pages long on European Union-United States Airline Passenger Data Disclosure. I will read the headlines: "Europeans Fail to Reach Accord on Passenger Data"—they do not want to have accord with the United States of America. "European airlines face lawsuits by European citizens for violating European privacy laws if the information is disclosed to the United States of America without a new agreement."

We would have visitors from Europe. The European Union involves 25 countries. Britain is one of the 25 countries of the European Union and for cricket they would come.

5.30 p.m.

Madam President, if these Europeans feel that their rights have been infringed by giving advance passenger information to the Caribbean countries, which is going to be used by the United States, they are going to be suing us in the Caribbean because they have sued the United States Government and the European Community for invasion of their privacy.

- "European and US Consumer Groups Urge Privacy Safeguards for Air Travel Information. The Trans Atlantic Consumer Dialogue has written to Homeland Security Secretary Michael Chertoff and European Commissioner Franco Frattini recommending the establishment of legal protections for passenger information collected by the US government."

These are people seeking protection.

- "Senate Subcommittee Holds hearings on Airline Passengers Screening."

We are screening airline passengers and the Senate of the United States' subcommittee was holding hearings on that on September 07, 2006.

- "…the Senate subcommittee on Terrorism, Technology, and Homeland Security will hold a hearing on pre-screening international travellers who are flying into the United States. A Homeland Security program that acquired European passenger name records for pre-screening was opposed for its privacy violations by the European Parliament and struck down by the European Court of Justice earlier this year."

This is what we are facing, Madam President. We are facing some serious issues here. Europeans will be coming into the Caribbean for cricket. They will have serious thoughts on their private information being released, not only to us, but to a third-party, the United States of America.

Sen. Mark: Watch that Joe, the European Convention.

Sen. Dr. T Gopeesingh: Yes, my colleague has just pointed to the European Convention on Human Rights, Article 8 which says that:

"Everyone has the right to respect for his private and family life."

This is similar to our Constitution.

- "European Court Rejects Data Transfer to the US.
- European Courts Top Advisor Recommends Annulment of EU/US Passenger Data Deal
- Italian Data Protection Authority Secretary General criticizes EU/US…agreement"

on advance passenger information.

- "European Commission Adopts Decision Recognizing Adequate Privacy Protection in EU/US Passenger Data Disclosure."

Madam President, we in Trinidad and Tobago do not have any privacy protection laws. We are embodied by the Constitution and if our privacy is eroded, we will have to go to the courts and fight it under a constitutional case. We do not have any protection by any privacy laws; these developed countries

have protection and the European Union citizens have indicated, in no uncertain terms, that they are going to protect their privacy not like in Trinidad and Tobago.

We have $60 million Israeli equipment that will tap into our telephone wherever we are. If we are at Rienzi having a meeting all our business is heard by everybody.

Sen. Mark: You are sending the Blimp over the Rienzi Complex!

Sen. Dr. T. Gopeesingh: Once someone's cell phone is on, Madam President, they will hear our conversations. [*Desk thumping*] Our Leader of the Opposition office is tapped on a regular basis and all our meetings and discussions are known by our opponents but yet they cannot catch a kidnapper. [*Laughter*] They have all our telephones information—from the time you begin to talk on your telephone, Madam President, you will be bugged. If they bugged the Chief Justice's home—In one day, less than 24 hours—they were able to get the telephone numbers that were called from the Chief Justice's home and TSTT said they did not give it, so from where did they get the information? That is invasion of privacy. This is the first step for us passing as a Parliament the invasion of our privacy rights, Madam President.

Sen. Dumas: Tim, did you say that the Government bugged the Chief Justice's home?

Sen. Dr. T. Gopeesingh: No, not they bugged—the Government got the information of the calls made from the Chief Justice's home.

Sen. Dumas: You said bugged a while ago.

Sen. Dr. T. Gopeesingh: Bugged? They must have bugged it as well. [*Interruption*] We have to do a search at the Leader of the Opposition's office and at Rienzi Complex on a regular basis to ensure that nobody bugs those offices. But, as you know, our information is getting out and do you know why? It is because the $60 million Israeli equipment is being used for ulterior motives. [*Crosstalk*] This is the whole question of privacy, the Chief Justice's telephone calls were not private; TSTT said they did not allow it, they did not give the numbers, so it came from somewhere else.

Madam President, the question of why they want this information before is quite clear to us. The United States is forcing the Caribbean Governments—make sure you have this information for us or else we are not going to support you in anything. The American Ambassador already said that they have given so many

things to the Trinidad and Tobago Government so why should the Prime Minister say that the United States is not doing anything for Trinidad and Tobago.

Madam President, subsection (1) says:

"applies only to ships exceeding 100 net tonnes."

What is the real rationale for that? Why can it not be 80,000 net tonnes or 120,000 net tonnes—Danny, what is your—how many—?

Sen. Mark: Fifteen. [*Interruption*]

Sen. Dr. T. Gopeesingh: Seven tonnes. Does your mini yacht not transport passengers?

Madam President: Speak to me, please.

Sen. Dr. T. Gopeesingh: Through you, Madam President, it will transport passengers.

Sen. Montano: I will answer.

Madam President: The Senator would like to answer.

Sen. Dr. T. Gopeesingh: Yes, Danny. Sorry, Senator The Hon. Minister Danny Montano. [*Laughter*]

Sen. Mark: Senator, Minister; give him everything.

Sen. Montano: Sen. Prof. Ramchand read from the Immigration Act the information that is required by anyone entering by a vessel that comes in on the sea. What he described is what every vessel is required to provide when it arrives here. This Bill deals with the information that you need to provide before you arrive here, and that is the only thing. [*Interruption*] I am not captured by it, but I still have to provide the information, and I do. [*Crosstalk*]

Sen. Dr. T. Gopeesingh: Madam President, I thank the hon. Minister for that contribution. The point is that any vessel, boat or ship less than 100 tonnes is not being included in this advance passenger information, so why are not vessels weighing 30 or 50 tonnes, which accommodate passengers—terrorists will not travel in 100 tonnes boats, they will come in a fast speed boat.

Sen. Joseph: Hon. Member, can I—

Sen. Dr. T. Gopeesingh: Do not erode into my time "nah".

Sen. Joseph: I want to answer your question.

Sen. Dr. T. Gopeesingh: Do not answer it now; answer it when you are winding up. Madam President, do you think I should give way to him?

Madam President: Yes.

Sen. Dr. T. Gopeesingh: All right. [*Laughter*]

Sen. Joseph: Thank you very much. The reason there is a cut off at a certain size; remember the whole purpose of the legislation is to facilitate advance processing of large numbers of persons who are coming. What will happen is that there are some numbers—out of that particular craft only five persons may be identified as persons from whom you may need to ask for some additional information. There may be 120-something and all of them would be allowed to pass. The other smaller vessels do not need any advance passenger information; they will be processed at the point of arrival.

Sen. Dr. T. Gopeesingh: Madam President, the question is that we are debating this Bill in the context of prevention of terrorist's activities and organizational terrorists. [*Desk thumping*] Everyone knows that terrorists do not move by bulk; three, four or five persons—[*Crosstalk*]—so therefore it is important for these people to give advance passenger information. I am saying that it should not be limited to just the 100 tonnes, but should spell out in more detail what is needed. [*Crosstalk*]

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

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

Question put and agreed to.

Sen. Dr. T. Gopeesingh: Madam President, I am very happy that they did not do the same thing that some of the students did in the debate recently. It was a very good debate where you saw the young ones coming up and they were really exemplary. We want to congratulate everybody. [*Interruption*] Yes, I am thinking very clearly this afternoon, Joan—

Sen. Mark: Joan is tired; she is like Lenny; she is very tired.

Sen. Dr. T. Gopeesingh: I know you want to go home.

The next issue, Madam President, is in 3(4):

"The Minister may by Order waive the requirements of subsection (1)."

I think that had been alluded to before—[*Interruption*] Well, subsection (1) really speaks about ships exceeding 100 net tonnes. Are you going to make an order to say now that includes 20, 30 or 40 tonnes? What would be the waiving of your requirements of subsection (1)? [*Interruption*] This is in the Bill:

"The Minister may by Order waive the requirements of subsection (1)."

Subsection (1) states:

"Applies only to ships exceeding 100 net tonnes."

So are you going to waive that?

Hon. Senators: Oh no.

Sen. Mark: So what are you going to do? [*Crosstalk*] Well, then withdraw the legislation!

Sen. Dr. T. Gopeesingh: Yes! This legislation is so bad that it really puts us to shame when we have to debate a Bill like this that is vague, ambiguous, is not specific. The Minister from time to time may do anything, so what prevents you today from waiving the requirements of subsection (1) and two weeks later you waive it again and somebody comes with a boat and have to give AIP—at one time when it was law and then he waives the requirements two weeks later, it is a new law, a new regulation, so what happens? It makes a mockery of the judicial system.

The next question is: With all the advance passenger information and all these people coming, and you have to give that data to a regulatory body or whatever, does the Customs and Excise Division have the capacity to deal with all this information coming very quickly? Do they have the human resource capacity for determining—remember this Bill is brought in the context of terrorism. Would they have the capacity for when they get this advance passenger information, to go through this data list that they say that they have to prevent terrorist from coming in, and to be able to deal with it properly? No, we are undoubtedly fooling ourselves. We do not have that capacity in Trinidad and Tobago.

Minister Conrad Enill will tell you that he has found difficulty in getting people to work in the Customs and Excise Division. He was woefully short of almost 200 people at one time. He is now finding difficulty in making sure that he comes up to starch. When we bring this legislation and we have to give advance passenger information to the Comptroller of Customs and Excise Division and the Immigration Department and so on, the question is whether we have the capacity to deal with it. If our intent is to prevent terrorists from coming in, I do not think we have the capacity to look online and deal with it.

Madam President, most of these developed countries have data protection supervisors. We do not have that in Trinidad and Tobago. We do not have any privacy law. They are taking part in advance passenger information exchange because they have data protection supervisors who intervene in support of the people from time to time. We do not have that in Trinidad and Tobago.

The hon. Minister indicated that we have nine countries taking part in the advance passenger information sharing system. We are going to be sharing information with the eight other countries. Is there going to be established any regional communication centre? Our information is that there is going to be a joint regional communication centre, which will meet and have operational requirements of the nine participants. It is our information that you are going to have a joint regional communication centre, but we do not know where it is going to be. If the Minister would tell us where it is going to be that would be nice.

Madam President, do you know who it will be staffed by? It will be staffed by customs, immigration or other competent officers and other law enforcement representatives from the government of the United States as well. Our understanding and information is that this joint regional communication centre for the nine countries participating in the World Cup will have a communication centre in one of these islands and they will be staffed—in addition to our immigration officers from the nine islands—with law enforcement representatives from the government of the United States of America. If that is not so the Minister must tell us. [*Interruption*] Well, I will be finishing shortly and he will wrap that up. Minister, make note of that question.

Where are the internal protocols for the nine participating countries? You cannot operate by "vaps" when you have advance passenger information being shared by nine countries. Where is the established protocol to deal with the information for these nine countries? How will they coordinate the information? There must be a regional centre. Our information is certain that this will be staffed by people from the United States law enforcement agencies.

Madam President, when the hon. Minister said that this information is not going to be shared by the United States Government—by no third party—that is a fallacy. I would not go into different things, but this is a fallacious statement that was made because this regional centre will be coordinated and staffed by United States people, so the advance passenger information that we are getting will obviously go to the United States of America.

Sen. Joseph: Madam President, on a point of information, he is misleading the Senate. In my winding up I will indicate how the information will be shared among the nine countries.

Sen. Mark: Is there going to be a communication centre.

Sen. Joseph: There is something called a CISNet, which is a Caricom Intelligence Sharing Network. The Senator is talking as if we do not have the capacity to process and deal with information. Madam President, for someone who—is it a 43-page resume?

Sen. Kangaloo: Yes.

Sen. Joseph: And bright as a bulb? I am certainly disappointed by the fact that the impression is being given that Caricom does not have the capacity to treat with the issues that will be before us. [*Desk thumping*]

Sen. Dr. T. Gopeesingh: Madam President, there is collaborative work and no individual country of the nine can work by itself to produce the capacity that is necessary for prevention of terrorism. We, in the Caribbean will not have that by ourselves. If you boast about the system that you have it is as a result of collaboration and cooperation with developed countries.

Sen. Mark: France, England and the United States; the three of them.

Sen. Dr. T. Gopeesingh: Madam President, on these issues, we want to summarize by indicating that we feel that our privacy is being eroded and invaded by this advance passenger information because we are not confident that the Minister may by regulations expand this from what he said is necessary at the moment for passport control and so on, but may extend it to the 34 or 36 areas where our privacy will be eroded.

We are not satisfied that based on what we have at the moment that we have the capacity to deal with the things that we would have to deal with. We have difficulties in terms of the information that is needed with respect to the weight of the ships, which ones are going to be giving the advance passenger information. We have difficulty in terms of the protocols that are needed to collaborate this and with the waiver and a number of other issues.

Madam President, in winding up, I must indicate that we on this side cannot support this. We believe it needs a majority support for this legislation to be passed and we cannot support it in the present context.

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

Sen. Angela Cropper: Madam President, I would like to make a few comments on the Bill before us. I start by saying that I very much appreciated the Minister's introduction of the Bill, which I found very helpful indeed. It was from his introduction that we learnt that the Bill has something to do with World Cup Cricket. It was from his introduction that we learnt that this Bill will have a sunset clause. I could not help observing, in the course of reading the Bill and also as the Minister was speaking, that up to that point in time there was nothing that would lead us to associate this Bill, exclusively and specifically, with the need for security arrangements to facilitate processing of entrants into the country during the period of the World Cup Cricket.

I would have thought that if that was the intention and purpose of the Bill that it might have been mentioned in the Explanatory Note, or perhaps it might have been included in the title of the Bill and we might have been debating instead: a Bill for advance passenger information respecting persons travelling to Trinidad and Tobago during the period of the World Cup Cricket 2007.

I was grateful that the Minister put the Bill in context. I think that was very helpful. I think it does change the outlook, if you wish, on the Bill as a whole. I would have thought though, that since we debated only last week in this Chamber the Cricket World Cup West Indies 2007 Bill, in which we were very careful to insert the specific date clause providing for sun-setting of the legislation; since this Bill would have been drafted simultaneously with that, and in the context of the same framework Caricom agreement, that one would expect the sunset clause to have been inserted as well. [*Desk thumping*] I find it passing strange that that is not the case here.

But I am relieved and reassured to learn in the course of the Minister's presentation and, perhaps, more so in the crosstalk that took place during the early stages of the debate, that a sunset clause is intended to be inserted. That is something which I would very much support.

The other thing that struck me is that the Minister in his presentation made it clear that this piece of legislation, like last week's, also flows from the Caricom hosting agreement for the ICC World Cup Cricket. It struck me that Parliament, in debating these pieces of legislation, would be so better enabled to consider those pieces of legislation in the context of that agreement, if it were made available to the Parliament.

I find it very difficult, indeed, for us to get a grasp of how comprehensively are we preparing for, either the security, operation or the arrangements relating to World Cup Cricket when we present the legislative requirements in such a

piecemeal way and when they are presented to the Parliament and we are expected to comment on them and debate them, but without having the context of the overall host country agreement. I would have thought that would have been a prerequisite for any sensible and rational, coherent debate of the legislative instruments that are to give effect to the intentions and the undertakings in such an agreement.

I comment on that in passing and perhaps it is not too late to make that agreement available. It is when such documents that are important to our purpose here and are important to the interests of the country as a whole, are not made available either to us in Parliament or to the country, that we are forced to seek ways to "appropriate" them from other sources and by other means.

With respect to the provisions of the Bill itself, I would like to make a comment on clause 3(1). The Minister in his introduction made it very clear to us; in fact, he emphasized this point, that it is only the information on a passenger's travel document that will be required to be sent in advance. I think I quoted you correctly, Mr. Minister? [*Minister Joseph responds in the affirmative with a nod*] Thank you. That is very reassuring because that information is, in a sense, already in the public domain and even though one might argue in a different situation that that information is provided in the course of the contractual relationship with your carrier as a passenger and so on, and explore whether there might be some legitimate and legal limits to the use and to the transferring of such information, I will accept, for the purposes of the Bill, that that is okay because that information is already in the public domain.

If that, indeed, is the purpose of the Bill or the scope of the information to be provided, it seems somewhat inconsistent to assert that that is the purpose and then to provide in clause 3(1) that information to be provided will be provided in keeping with the regulations that the Minister may make.

What struck me as I read this, and as the Minister made clear that this Bill, is limited in scope, purpose and in time, is that precisely because it is a Bill limited in scope, purpose and in time, one might be able to be clear about the nature of the information that is required and to be able to specify it in the Bill; at least to define it, specify it and to limit it in such a way, rather than having this open-ended provision, that regulations will be made by the Minister to prescribe the information that is required.

I think that is somewhat open-ended and if, in fact, as the Minister has assured us, the information to be provided is so limited, perhaps we might specify that and limit it in some way in the clause.

In clause 3(4); again this point has been made before and the question has been asked: Why would the Minister wish to waive these requirements in certain situations, but which situations are not specified? Sen. Montano tried to explain that provision for us by saying that such a provision would be applied in cases of dignitaries, heads of states, senior officials and so on. Well, it is somewhat ironic that they are precisely the group and the types of people—heads of states, dignitaries or any senior officials and their entourages—for whom advance passenger information is normally made available, given all the protocol and so on that is required for them. It could hardly be, it seems to me, that that clause providing for the waiver of such regulations would be applicable to groups, or levels of people for whom it would be normal and, indeed, imperative that advance passenger information is provided so that all the necessary security and protocol can be put in place. Again, that did not seem to be quite in sync to me. If the purpose of the Bill is for facilitating the processing of people arriving in the country during the course of the World Cricket Cup, then it would seem to me that one wants to be able to facilitate all of them; not to facilitate some of them by waiving the provisions of the advance passenger information. Somehow that did not seem to hang together in terms of provision vis-à-vis the purpose of the clause.

Those are the comments I wish to make on the clauses and the Bill itself. Madam President, you have already deemed that the Memorandum of Intent that has been referred to here many times during the course of the afternoon is irrelevant to the purpose of the debate so, therefore, I am not going to comment on any of its contents. I would, however, like to make a reference to it because I do happen to have a copy of that memorandum. Let me assure Sen. Montano that I did not steal or misappropriate it in any way. A copy of it has come to my attention and I could not help, naturally, reading that side by side with and in tandem with reading the Bill before us.

6.00 p.m.

As I looked at the two documents side by side, I could not help but wonder whether some of the omissions that I have noted in the Bill—a failure to reflect that this Bill is limited to the World Cup Cricket, a failure to specify and to make clear that the information to be provided is the information that is already contained in passenger's travel documents, a failure to say that this is sunset legislation and to specify a date by which it will no longer be applicable—when I looked at those omissions, viz-a-viz the provisions and the intentions that are stated in that Memorandum of Intent, it was a very disturbing read indeed and, perhaps, one could excuse that, rationalize it away as probably omissions,

negligence or oversight or something of the kind. But when those omissions read side by side with that Memorandum of Intent and in the context of those intentions specified therein, are accompanied also by such a determined effort on the part of the Government Bench to proscribe discussion of that Memorandum of Intent, then it becomes even more worrying. [*Desk thumping*]

Hon. Member: That is a strong word.

Sen. A. Cropper: It is not what I feel. That is what has happened. [*Desk thumping*]

Madam President: Members, with all the noise, I am being left out of this whole conversation, because I cannot hear what the Senator is saying.

Sen. A. Cropper: I was just about to conclude, Madam President, by saying that we are here to do a duty on behalf of the country and the citizens of the country and we can do that only as well as the information and in the context that is provided for us.

I feel myself very disadvantaged many times by the way in which the information is brought or not brought as the case might be. One cannot help but think that some of this is not just because of settled practice but some of it is also because of a determined effort or intention to withhold information that would allow us to really address the issues of the country and the business of the people in a more responsible way and certainly, in a more satisfying way. [*Desk thumping*]

I would like to think that as we try to put into practice much of the talk that is heard about good governance and so forth, that we would also see the need for having the kind of transparency and the kind of responsibility accompanying our actions and our approach to the business of the Senate and Parliament generally, so that we can do the best possible job on behalf of the country. And I do not think that having been told that the Memorandum of Intent has nothing to do with this Bill that we as a Senate have done the best possible job on behalf of the interests of the people of the country in debating this Bill this evening. Thank you.

Sen. Brother Noble S. A. Khan: Thank you, Madam President, for allowing me to share a few words on this Bill before us, "An Act to make provision for the transmission of advance passenger information respecting persons travelling to Trinidad and Tobago and for matters related thereto."

This Bill that is before us, I got the impression that it was part of a technique to take a bit of hustling out of travelling and to free up the system. But like

others, on reflection, some thoughts have entered my mind which I would like to share in this honourable Senate. Many of the thoughts have been dealt with by previous Senators so it may not be necessary to go over those.

One of the areas too, I think the hon. Minister for whom I have great respect, and wish him the best in his very onerous duties, he did mention the question of security and of terrorism. The whole question of terrorism has taken on greater scope in all our dealings within recent times, since September 11 and thereafter. But I would like to remind this Senate when first that most horrid incident took place on September 11, 2002 the Inter-religious Organization (IRO) of which I was President at the time had roundly condemned it and identified with possibly a substantial number of the people in our country, if not all, and throughout the world in that condemnation and the following day too, when the Muslim community through its Muslim Coordinated Council had met, they too had condemned it as far as terrorism is concerned. But we see that continues to persist and it may not be the place or time maybe under this Bill before us to make mention of some ways of dealing with terrorism which obviously one may have to touch on the question of poverty, injustices in other areas and inequality that give rise to this sort of phenomena on the face of the earth. Nevertheless, the need to address any threat one would think is a primary function of any government or any state for that matter, and here is this Bill before us, and also to the Minister, as I have indicated making quite a bit of what terrorism and security are.

On the question of security as far as this Bill is concerned, it does make mention of the type of craft as far as sea craft is concerned of a level of tonnage. But one wonders with our close proximity to the South American mainland where it is alleged that the majority of entrances into our country usually come through by a small craft which is referred to as a pirogue and this is well known.

I remember in the 1970s, the question similar as we have now of what takes place in our country, how we would address that. It was acknowledged and it was mentioned at that time the pirogue was one of the chief means of entering our country. The question arose of whether the monitoring agencies, particularly the radar system could have taken it up and the technicians said no. The question which came out after was how then would we deal with that if this is the way, the chief means of things coming into our country and one of the chief monitoring agencies is unable to pick up. They would have had to come up with something else. The suggestion was better monitoring on the ground when within the country but I leave that to rest at the moment. But it still persists and the question of what is before us obviously has not dealt with such a contingency.

I do not know if it was a lack of meeting the needs of proper monitoring system through this law, but the Minister as I have said before did mention the question of security. Whether at the time they preferred not to go with too ambitious a package, or whether what was before was atrophied and what appears before us is watered down matter, to leave it at that.

One could think too in terms—I have not travelled much, but I did within recent time pass through the United States, post-September 11. I was required to be fingerprinted and there was an eye scan and these were part of the techniques that were used. I do not know what is before us, if it is because of an apparent technological backwardness that we are about or pursuing, and we are really not on line in meeting these challenges before us but as I have said these are matters that one should consider.

The question of human rights has been raised so I would not go further into those areas. The question then: What is this whole thing about? Initially I mentioned that one would think it is a good piece of legislation in that it speeds up the whole matter when people are coming into Trinidad and Tobago but this appears to be something that should have been there before. To my simple mind, why has that never been done before and it brings me back to the question of monitoring our people, not in the sense that one is looking at everybody as a crook or a scamp and you want to track and label them as the case may be. I think we will resist that strenuously.

But, I do recall that one of the techniques way back as 1965/1966 if my memory serves me right, when there is a birth in one's country that birth is to be given a number, besides the name or the processes within the governmental system, and that number is to be used by that person throughout, be it in our identification cards, passports or what have you. The thinking here now of bringing it into the question of implementation and that may bear some influence of the system that has to go into place through this, which is a very important factor. Because when you look at it particularly—I think mention has been made of 3(4). I too would like to make reference to that to be leaving a sort of loophole, not a loophole in the sense for people to escape but to give the Minister some sort of power to meet contingencies that will obviously arise. Just think in terms of a boat or an airplane coming into Trinidad and nobody has that pre-list. It could happen. This is a possibility. How then could you deal with it?

Reference has been made to what Sen. The Hon. Danny Montano mentioned with respect to very important persons and so forth. But I am dealing with people other than very important persons, what would be our position? Would you not clear them? What would have to be done with them? Even if someone comes I do not know if in the parent legislation there is provision for those types of people, how they would be dealt with by order or what have you. I do not think this piece of legislation mentions this. One would think that an obvious contingency, an obvious happening that will occur, how shall we deal with that? I am sure the Minister may have anticipated that or even before that, he may have some way of dealing with that—maybe by regulations prescribed or what have you. But that to my mind is a very important aspect as far as this is concerned. Also, I would think that points have been made to the question of sunset legislation which I understand will exist for a certain time and after that it ceases to exist, but one would have to think in terms of the globalization of the world and the need to come on line with data that is relevant and applicable in a modern day state. But make no mistake of it, even as we are becoming linked with the other Caribbean territories some of our rights, some of our benefits will obviously be curtailed and we will have to get accustomed or to accept that there will be need to bring in certain aspects that will definitely have an impact on some of the so-called freedoms that we have now. But what I think should be done not as we have with this piece of legislation just coming within a short period of time, but more airing of the areas of our 'rights' that would obviously be compromised, be curtailed or be impacted upon because the first thing I think that anyone when legislation is brought to the Parliament, if it is perceived that their rights are being interfered with or benefits are being interfered with the question will arise, "what am I getting in exchange for that?"

And one would think in what we claim to be a democracy, it will be best to have the acquiescence of the persons involved or getting into an interactive way so that they will reach some form of consensus or agreement in things that will impact on our citizenry. This matter that is before us opens many doors and I just mention these few. There is an obvious vacuum in some of the relationships that exist when legislation is being brought and impacting on the citizenry and the Government, rightly so some may claim, and being foisted on people.

I see myself in that role and I would suspect the other Senators on the Independent Benches and even among all the Senators, that this is a sacred and sanctified right that whoever it is that should be bringing impacts, government or otherwise or what have you, Minister, rules, regulations or what have you, should

respect this and do it in a dignified way and not in a helter-skelter way which some people may claim.

Madam President, these are some of the thoughts I share with you, with the rest of the community and the rest of the Senate today.

Thank you and God bless.

Sen. Dr. Jennifer Kernahan: Madam President, thank you for the opportunity to join in on the debate on "An Act to make provision for the transmission of advance passenger information respecting persons travelling to Trinidad and Tobago and for matters related thereto."

Madam President, the Minister of National Security in his opening remarks indicated a number of critical and important reasons for the enactment of this piece of legislation before us today. The Minister spoke so passionately to the threats that we face as a country and as a nation. He spoke of the threat of terrorism; he spoke of the threat of drug trafficking; he spoke to the need for stringent security checks because of the single space which has been established among nine Caricom countries; he spoke to the need for increased and strict border security and the necessity for this legislation in order for us to be able to adequately protect the territorial integrity of our country.

Madam President, we were told that our national security is also threatened by those seeking to enter our territory with false or stolen documents. And, we were advised that there is need now in this scenario to ensure that we are aware of the identities of all persons wishing to enter Trinidad and Tobago. And we heard of the watch list and the criminal data which has been established in the region and in Caricom, and this would serve as the Minister said, to deal with the necessary cross referencing of information.

Madam President, the question arises after listening to all those points that the Minister made, none of which can be doubted or disputed—

PROCEDURAL MOTION

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate continues sitting until we have completed the debate on this Bill.

Question put and agreed to.

IMMIGRATION (ADVANCE PASSENGER INFORMATION) BILL

Sen. Dr. J. Kernahan: Madam President, the question which comes to mind after hearing all the reasons why we should enact this piece of legislation is: Are these problems specific only to the period of the World Cup Cricket which ends in July 2007? Are they not problems that we face now and, are they not problems that we will continue to face after July 2007? If these are the issues that he raised, terrorism, drugs and so on, and many Senators have expressed the same sentiment, why is it sunset legislation? And the answer is that it seems to me that the Minister has been left without a leg to stand on, without credibility because he has been forced by Sen. Mark to deny like Peter, three times before tea that this legislation has any connection to the Memorandum of Intent and to the need to be part of the Homeland Security Act. [*Desk thumping*] So, in that context, the Minister's explanation makes very little sense to me. How are you going to talk about fighting terrorism, drug traffickers, drug lords and border securities and then bring sunset legislation to Parliament? It seems to me the reason he has been forced at the eleventh hour to change the plan, to be able to deny it has any connection to the Memorandum of Intent, and to Chertoff's visit is to say well, you know, it is only for World Cup and it is sunset legislation. But that could not be the original intent of this legislation otherwise it will make absolutely no sense.

Madam President, after the sun has set on this legislation what would be the game plan of the Minister to deal with drugs, terrorism and to deal with all the other criminals and so forth that he says that are constantly trying to get into this country?

There is a situation in the country where criminal deportees are being dropped at Piarco with just the clothes on their backs and are being asked to find their way into this country and make out as they can, and we have not been able to deal with that, and that is a major security problem.

Madam President, does the API address this issue—and that is a major security issue for this country. What it shows is that this Bill before us has little to do with actual reality and the need for border security and our problems here in Trinidad. It means—

Sen. Joseph: Madam President, I was talking about the border within the context of Cricket World Cup 2007, and the question about the single space that the nine Caricom countries and Dominica are required to be during that particular period. So the question about the deportees and the other game plan, we have a game plan to deal with those other issues; we are talking about security specifically for Cricket World Cup 2007, and I think that needs to be put in that context.

Sen. Dr. J. Kernahan: Madam President, the fact is that the Minister has just put his foot in his mouth because what we have here is a national security crisis in this country. The murder rate for the year is over 300 and counting. The Minister apparently is unable to deal with the large number of drugs and guns that come into this country every day and the Minister has brought to this Parliament sunset legislation to deal with World Cup. So what is he thinking about? API is a system that is used internationally under the right conditions with the correct checks and balances to deal with additional security for countries that are under the kinds of threats that he has mentioned. So you are saying you had this option available to you all the time. Over 1,400 people have been murdered in this country; guns are more prevalent than food in this country; the communities are riddled with guns.

Madam President, I would not have thought it would be dangerous to party in Tabaquite, that country area in Trinidad and Tobago. But just over the weekend we saw where a man was gunned down because of an altercation with somebody else in Tabaquite. So guns are all over this country and people are using them to kill and murder each other and the Minister has brought legislation here which other countries use to protect their borders, to protect themselves against guns, terrorists, and criminals and he is bringing it here to this Parliament and he is getting up to explain that it is only for World Cup. Why has he not brought this legislation as an option to help strengthen and bolster our national security, because it can be done? It can be done with the checks and balances that we will outline.

I believe that this World Cup story as my colleagues have said, is a ruse, fig leaf and this issue of sunset legislation is not even in the Bill. It is a last minute afterthought to mask the fact that this is directly connected to what Sen. Mark had advised this Senate, is connected to the Memorandum of Intent and the agreement with Homeland Security. That is why he came to the Parliament today looking so weak, without having a leg to stand on, with his credibility seriously undermined and he gets up to explain to the country, "oh, it is just for World Cup Cricket." We are dying, but he is organizing to protect people who are coming here for World Cup Cricket. People are dying like flies in this country!

Madam President, the violation of the citizens of this country is a serious and ongoing problem and we have advanced the position that we have no problem with any legitimate, sovereign and independent legislation that is focused, authentic and deals with the border security issues that we experience in Trinidad and Tobago, such as the Minister had outlined.

Madam President, we also say that we denounce unequivocally any opportunistic, underhand and covert machinations of this Government to seduce us into facilitating the United States Homeland Security in its role as the "world police."

Madam President, I want to know when we were being advised that it is important to have this legislation to fight against terrorism if Mr. Chertoff advised the Minister that one of the biggest terrorists in the Western hemisphere is a free man walking about in Miami, and he is wanted for murder and terrorist acts in Venezuela. The Venezuelan Government has requested his extradition to Venezuela and up to now they cannot get their hands on one of the biggest terrorists in the Western Hemisphere. I wonder if Mr. Chertoff would have advised them on that, double standard, of that hypocrisy when we wanted to bring legislation to this Parliament that would facilitate the world police.

Madam President, this is why I agree with all the Senators who have advanced today that this Bill must specifically deny the Minister the authority to transmit passenger information that is not sanctioned by the World Customs Organization (WCO), by the International Air Transport Association (IATA) and the standard transmissions of data has been endorsed by the International Civil Aviation Organization (ICAO).

Madam President, there is a document I would like to bring to your attention, the Facilitation Division, 12th Session of the organizations I mentioned, the WCO, the ICAO and the IATA. In this document it is said that the Tenth Facilitation Division Meeting in 1998, New Zealand together with Australia and the United States promoted the use of advance passenger information system.

6.30 p.m.

So this is not a new concept and countries have been, since 1988, looking at the issues of facilitating legitimate passenger transit. Over the years, because of the increased levels of passenger travel, certain states have recognized the problems that this would pose to customs, immigration, quarantine and so on, and they thought it necessary to improve the system so that there would be less passenger delay in passing through customs, quarantine, immigration and so on.
This is basically the reason for the establishment of the Advance Passenger Information System (API). Different countries would have had different reasons because they have different problems. Continents are different to islands and they have different challenges and they would have structured their API systems to

meet their challenges. New Zealand would have been looking for invalid travel documents because maybe they would have had the problem of people coming in with invalid travel documents. They also looked at the question of managing their at-risk passengers and providing that sort of advance passenger information would allow them to control these issues.

Madam President, this system has been around since 1988 and it is sanctioned by the International Civil Aviation Organization (ICAO), International Air Transport Authority (IATA) and the WCO. It has been endorsed based on a standardized data collection system. This is why we have a problem with clause 3 of the Bill. Clause 3 of the Bill says:

> "(1) Subject to subsection 2, the master of every vessel destined for Trinidad and Tobago, prior to departure of the vessel from the last port of call before Trinidad and Tobago, shall provide to the Chief Immigration Officer such advance passenger information as the Minister may, by Regulations, prescribe."

Therein lies the problem. Even though API was endorsed by these major international travel organizations, they have established international data standards which will enhance people's border security while facilitating the genuine passengers.

If there is a clause where the regulations are not even before Parliament; where the Minister will prescribe the regulations as he sees—we do not know if this will come up again at some point in the future. We do not even know if it comes up now against the standard data that is prescribed by these international organizations. We are perturbed by the fact that this legislation has come before this Parliament with such little information and it was interesting to compare it with just three clauses. Clause 3(4) reads:

> "The Minister may by Order waive the requirements of subsection (1)."

That is the essence of the Bill. So they bring a bill and then they take the essence out in one fell swoop in the last clause. Very interesting!

We have a comparison and it is the Canadian legislation on API. This legislation comes complete with the schedules, which outline all the data that this country will allow to be transmitted to the other countries which require it. The Advance Passenger Information System (API) data is attached to a document called Fighting Illegal Immigration, Should Carriers Carry the Burden. It comes out of the *Canada Gazette*, Vol. 136, No. 9 dated April 24, 2002. It has the

definition, the Passenger Information Regulations (Preclearance) Act. So the Act and the regulations are right here. They have their definitions in clause 1. In clause 2, they have specified passenger information. Clause 3, coming into force, and the schedules outline all the information that will be required. They did not have to sit here and guess as we have been doing all afternoon.

In Canada, when they brought this bill to Parliament, they outlined the information that would be required. They brought the regulations at the same time. This speaks to Sen. Cropper's concern. We have to sit here and information is hidden and proscribed and we are not supposed to discuss this and that. We have to sit and keep our mouths shut because the gods have spoken and once the gods have spoken, no man barks. We find this unacceptable and we will not sit here quietly while the Minister tries to shield all the machinations that have been going on behind closed doors. It is out in the open. Everybody recognizes that.

The specified passenger information is given: the passenger's surname and first name and initials, if any; the passenger's date of birth; the passenger's nationality or citizenship, failing either of these the country which issued the travel documents; the passenger's gender; the passenger's passport number, if the passenger does not have a passport, the number of the travel document that identifies the passenger.

It states here very clearly the type of information that will be transmitted by these machine readable passports. What is interesting and why I take note of the second schedule is that it also provides for a number of other fields that they are prepared to offer and that is why we are so concerned about clause 3. We do not know if many of these fields will find their way into the regulations without our knowledge or consent—negative resolution of Parliament—and we practically have no power.

Canada has decided on this, but we are a sovereign nation and we might not be happy with the information that can be transmitted. The second schedule is called Passenger Name Record (PNR) Data and we are talking here about the notation that the passenger arrived at the departure gate with a ticket but without a reservation for the flight. We are talking about, if applicable, the names of the travel agency and the travel agent that made the arrangements; the date on which the passenger's ticket for the flight was issued; if applicable, a notation that the passenger exchanged their ticket for the flight; the date, if any, by which the ticket for the flight had to be paid for to avoid cancellation of the reservation.

Madam President, you can get pretty detailed with this type of information and I am sure by now you are becoming pretty uncomfortable with the kind of information that can be demanded and can be transmitted to databases that we know nothing about and we do not know how long they will be kept and for what purpose. They have here issues about the travel date for the flight; any seat assignment on the flight; the number of pieces of baggage checked; the baggage tag numbers; the class of service in respect to the flight. We can go on and on.

We do not want to drink bush tea for anybody's fever. People have this type of legislation. They allow the transmission of certain pieces of data based on their own experience, their problems and their susceptibility to certain threats. We have a different experience, history and susceptibility and our legislation must focus on what is applicable to us. We cannot give the Minister open-ended permission to do whatever he likes with regulations that can get very detailed and infringe on our rights to privacy. This is something of which we have to take note.

We object to clause 3 based on what can happen, what we have seen happening in other countries and the fact that we want to have control over the type of legislation and regulations that are brought in this context. It is interesting that in clause 3(4):

"The Minister may by Order waive the requirements…"

It is very subjective. So you will waive the requirements for people with a particular affiliation or association and then you will require full details on other classes of passengers with other types of affiliation or association? Is this what we will come to in this country? Will we be totally arbitrary in terms of how our people are treated and how information is treated from one person to another? I am certain that that is against the constitutional rights of the people of this country and we cannot allow this Bill to be passed in this form.

Other people have raised the point of the ships and the exclusion of the tonnage under 100 tonnes. It is interesting to look at that clause. It shows very clearly that this piece of legislation has nothing to do with our border security; has nothing to do with defending us against terrorism; against drug traffickers and so on because those are precisely the types of vessels that are in and out of our national waters practically at will. Those small, quick craft are exactly the type of vessels that bring in all the drugs and guns in this country.

In the absence of any other explanation—[*Interruption*] The big tonnage of cocaine and drugs do not come in on planes; they come in on these small boats. It seems to me that anybody with common sense would really have no hesitation in coming to the conclusion that the legislation makes absolutely no sense in the context of the types of challenges that we face.

It might make sense to the people who want the legislation passed in this Senate. If all over the world there are states having put in place the API package, it is easy for the world police to check you right around the door because they pick you up whenever you come into a country, therefore they know where you have come from and where you are going next, based on the data they are able to correlate.

This legislation has everything to do with people who want to control this world, who want to be totally powerful and who want to know everything about everybody, minus the terrorists, who are doing all the bombings and killings. They do not want to know about them and they walk about in Miami free, but they want to know about other people who are serious about national liberation, sovereignty and independence.

Madam President, the Senator spoke to the type of computer data systems we have. It is interesting that in this document, the Facilitation Section, Advance Passenger Information, they looked at the different aspects of the introduction of API. It is not something that you necessarily rush into. There are systems that you have to put in place; there are things you have to have ready, really, to make API function the way it should.

It says here, and I quote:

> "API involves the electronic interchange of a limited number of data elements (identification details from the passport and basic flight information) between the computer system of the airline or origin state and the computer system of the destination state. The new recommended practice does not contemplate the manual preparation of lists, teletype messages or documents containing additional information…"

They have made that clear—that only electronic information is supposed to be passed between the origin state and the destination state. You are not supposed to send any list, any faxes, any teletypes of additional information. That is totally illegal. I think that this is something that has to be clearly spelt out in our legislation because if we pass it, apart from the electronic transfer, it should specifically prohibit any other types of transfer of information between states.

Madam President, the second point that was made is:

"It is essential that the authorities have procedures and resources in place for examining this data and analyzing it to some extent before the flight arrives, so that the inspection time for the passengers after arrival may be reduced. If the authorities do not have the capacity for such pre-arrival screening of passenger information, API is not a viable proposal."

Knowing this Government as I do and the sort of elementary things that are disregarded in this country, this is a valid point they are making here and it might be directly applicable to us. We do not even have electronic systems in place in the hospital for the records of people who need medical attention, but we are going into a system where we will have all these electronic updates; sophisticated electronic equipment to deal with the sort of information that needs to be passed on a daily basis for hundreds of thousands of passengers over a period of time. I have my doubts about the ability of this Government to deal with that.

It also talks about the cost of the system. It says here:

"An electronic data interchange system requires a considerable investment in computer hardware, software, and training of personnel on the part of both the operators and the control authorities. An electronically accessible database is essential; if the State does not have one it must first establish one."

Madam President, this speaks directly to the ineptitude and incompetence for which this administration is famous.

"Operators and control authorities can expect to incur the costs of developing their respective computer systems and establishing communication links in order to enable the capture, transmission, receipt and processing of the requisite data. In some cases airport facilities may need to be modified in order to accommodate the API passengers separately from the others."

This is speaking directly to many of the problems we have seen in all the government departments in this country—their ability to handle and upgrade systems. We have seen in our investigations that, before 2001, Mount Hope was electronically updated; all the records were in electronic form and, because of people's short-sightedness and because they did not see that with an increased load system there would be the need to upgrade the system, it crashed. I am not surprised that the Government would embark on a project and, because of its total incompetence, shortsightedness and lack of vision, the whole thing would crash.

That is their history. Do not tell me it cannot happen. It has happened in this country; in an important field as medicine, so why would it not happen in the travel industry?

We talked about multiple inspection agencies. For this system to work you must have an integration of the systems of the inspection agencies that are found at your airports—quarantine, customs, immigration and so on—and you have to integrate their systems for the plan to make sense. It says here:

> "If the decision is made to pursue an API system, it is essential to involve all the inspection agencies in the planning and development of the system from the beginning. Customs, immigration, and agriculture authorities all have different information needs which must be accommodated in order to prevent the non-participation of one of the agencies from negating the productivity gains of the others."

They talked about the involvement of the industry. They said that:

> "It is not the intent of new systems that operators who do not participate or who make errors should be subject to punitive measures, although it is contemplated that passengers arriving on operators who do not participate may take longer to clear."

What they have said here is that you do not necessarily want to impose punitive measures on operators who do not participate in the system or who do not give correct information. It just means that their passengers might take longer to be cleared and you would have a freer flow of passengers who are part of the system. What is envisaged is to facilitate passenger travel to make the systems more amenable to a free flow of passengers while balancing that need with your need for security and the need to know who is coming into your country to be able to protect yourself against unwanted immigrants.

On all counts here—and I have not exhausted the list of issues that they have raised here—I know we will crash. We will fall flat on our faces because this Government, historically, has shown us that they are incapable of instituting or maintaining any system with any modicum of sophistication. They will not be able to deal with the challenges of the API system. Maybe they feel that they can and maybe they have confidence, as Sen. Mark says, that they will be there for another 30 years and that over that time they might develop some competence, but we are telling them that at most they are there for another year. Leave it to us, we will deal with it in the way it is supposed to be dealt with it.

To close my contribution, I will just look at another interesting document that—we try to do some research before we come to this Senate so as not to put our feet in our mouths—called Guidelines on Advance Passenger Information Systems produced by the three organizations I named before, WCO, IATA and ICAO, dated March 2003.

It is very interesting that they outlined certain guidelines when you are dealing with this whole question of API. It is a serious thing. It is an important system, which can enhance your border security, your fight against terrorists and drug traffickers, but it has to be done right. You have to put the systems in place. You have to know what you are doing. You have to make the necessary adjustments. You have to have your people trained and ready to deal with the system and you have to merge, in a sense, certain agencies and organizations. People have to be prepared psychologically to be able to do that. As always there is competition between organizations. There may be a question of people losing their jobs and you have to deal with all those issues. It is not something you just wash your feet and jump into and bring a bill with three clauses and say: "We are going API."

Madam President, this Government is mad. Do not tell me it is just for World Cup because it does not make any sense in that context. It would have had to be a long-term plan. It would have had to be permanent legislation. It would have had to be legislation designed for and with the infrastructure to deal with the problems that the Minister outlined, so do not come with the World Cup story. That is totally discredited.

First of all, you have to define your problems. Have we defined our problems? Clearly we have not because we are talking about small boats doing their own thing up and down the territorial waters. We exempt them at the first opportunity and we give the Minister the opportunity to waive whatever he wants to waive. "Get something and wave", as I heard one Senator say just now. But have we defined the problems?

The reason for the establishment of the API system, Madam President, is growth in passenger numbers over the years. They said here:

> "The rate of growth varies in the different regions of the world, between 5% and 7%. In a region with a 5% growth rate, passenger numbers will double in 14 years, while in regions with 7% growth rate, it will double in 10 years."

A good Minister of National Security who knows what he is doing and who has some level of credibility would have come to us and told us that we have a passenger growth rate of such-and-such and that they expect in the next X number of years passenger travel to this country would double and the reason they have to put this in is because of these figures. They should bring the numbers. Punch the numbers and bring them to us, so that we would see why we need the API system and we would have an understanding of the issues involved.

Madam President, the other issue is expanded airport facilities. With this increase in passenger transit we need expanded airport facilities. There is also the drug threat.

> "Over the past decade or more, Border Control Agencies have been faced with a number of threats which, if not entirely new, have been increasing in their intensity."

So we have identified our problems—the drug threat, international terrorism and security, manpower resources, inter-agency cooperation. In order to look at this whole thing, come to Parliament and identify the problems that we have in the context of these headings.

They looked at current passenger processing techniques. API is not a system by itself, up in the air, out of the blue because Chertoff came down here and talked with the Minister of National Security. This is a system that works in conjunction with other systems that you have. Remember the core proposition here is to facilitate legitimate passenger flow, so your core proposition would mean that you have put a number of other things in place so that legitimate passenger flow is totally facilitated while, as I said before, balancing your need for security.

Some of the things they dealt with were the red/green channels. We have that here where they have the green and red lines. Then there is pre-departure passenger clearance. There is inter-agency cooperation as one of the things you need to put in place, passenger streaming, electronic data exchange—a number of things, the details of which I will not go into. The fact is that there are other options which you can put in place to achieve your core objective, which is to facilitate passenger flow.

I would like the Minister to tell us some of the measures that have been taken at Piarco and Crown Point to facilitate passenger flow while dealing with the whole question of security and so on, so that we would know that API is not a

fluke; not something that somebody put in their heads for a reason they do not know. They tell us that this is a gradual transition from what we do now to where we expect to get in the next 10 or 15 years because of the growth in the industry.

The other issues they talked about and we must look at very carefully if we are serious, which this Government is not, is the cost and benefits of API. They said a very interesting thing, and I quote:

> "In deciding whether to adopt API, potential providers of the passenger data (the carriers) and potential users of the data (the Border Control Agencies), will need to examine if the benefits which this technique can provide can justify the costs involved both from a start-up viewpoint and for ongoing operation."

They have already said in the other document I quoted that tremendous costs are involved both in getting the system integrated and updated and the necessary sophistication and in the ongoing process. You have to do a cost benefit analysis. But we do not do that. We jump here one morning bright and early, API and nobody knows the cost benefit analysis; nobody has told us anything and we do not know if we will spend more than it costs. [*Desk thumping*] We in the Parliament are not privy to this sort of information. Our job is to come and say whatever the Government wants us to say.

7.00 p.m.

Madam President, this is another important point, which is very relevant to us:

> "Where no offender/suspect database currently exists, there will clearly be a substantial cost involved in establishing such a system. Ideally, in such a situation it would be desirable to establish a single inter-agency database for passenger clearance. This is not only a more efficient means of processing passenger list data received by API, it is also more economic since the development cost would be spread over a number of agencies which could contribute in accordance with their projected use of the system."

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. W. Mark*]

Question put and agreed to.

Sen. Dr. J. Kernahan: Thank you for not saying no. Madam President, it goes on to say:

> "Where such databases already exist but are currently only available to one single agency, there will be a cost incurred in merging these systems. It is feasible to have API data feeding one or more Border Control Agency systems. However, it seems prudent and cost efficient to adopt a co-ordinated approach to API amongst the Border Control Agencies, having the API data processed by one single system rather than simultaneously by several different systems."

These are some of the issues that we have to mull over and be au courant with. The Minister has to give us a sense of where his head is. I know his head is up there with Chertoff, but give us a little attention here. Give us a little respect.

It is so extensive; the sort of things you have to take into consideration when you are dealing with the API system.

> "In some instances, the Border Control Agencies in the country of arrival have provided Machine Readable Passport readers to the carriers in the airport of departure. Where this is done, there will be clearly a cost involved that can be quite substantial."

The other heading is National Passenger Processing Strategy. You must have strategies regarding the arrangements for the agencies. They must have a high degree or coordination to process their passengers.

They talked about the constraints—just as I was saying a while ago—under which the Border Agencies and the carriers operate.

> "The constraints under which the Border Control Agencies and carriers operate should be fully identified. Constraints can exist in the area of manpower or material resources. Many Governments around the world are experiencing severe constraints, particularly in the area of manpower resources. There may also be constraints on the operation of the Border Control Agencies due to inadequacies in the facilities provided at certain airports."

Sen. Dr. Saith: Madam President, on a point of order. Could the Senator tell us what document she is quoting from and who are the authors, because I want to know to whom I should attribute this contribution?

Sen. Dr. J. Kernahan: Madam President, I do not ever stand in this Senate and talk off the top of my head. I quote the authorities and sources that are most knowledgeable about the issues and I make my analysis around that. At the beginning of this contribution, I said that this document is called *Guidelines and Advance Passenger Information Systems* and it is produced by the WCO, the IATA, the ICAO and that it was published in March 2003. I have some idea of what I am supposed to do here and what my role here is.

Sen. Dr. Saith: I want to thank the Senator for letting us know. I did not realize that is the document and I want to thank them for their contribution to this debate.

Sen. Dr. J. Kernahan: Yes. That is a position of such ignorance. We are looking for 2020 and developed country status. We have to look at the most developed countries in the world and the organizations that are in charge of transport and passenger information. We have to look at their guidelines, what they are saying and what we need to do to meet these guidelines. He stands and makes a sarcastic comment about thanking them. Yes, thank them because this is what you need to do. Do some research, find out what the guidelines are and bring them to Parliament so that we would know what you are up to and stop listening to Chertoff. We not are not drinking bush tea for anybody's fever.

The Senator should know better than try to be sarcastic. These are things that are important to the country. They are always starting a project and crashing it. There was Project Pride, Labidco, this one and that one. They do not know what they are doing. They do not look for the relevant information, for the authorities and the experiences of other people. They feel that they know everything and could do everything by themselves and that is why they have crashed this country and everything that they have started—incompetence. They have no qualms about showing their incompetence. They get up in Parliament and are brazen about it—incredible.

These are the guidelines that these international agencies have advocated that we look at when we are jumping into things. We have a saying: "Yuh wash yuh foot and jump in. Dey doh even wash dey foot, but they jump into API because Chertoff tell dem to jump into API." There are important considerations—our money. They are monetizing our oil and gas resources and they are throwing it away. They are wasting billions of dollars. This will be another example, because they will set up systems without the required forethought, planning, manpower and systems for integration and they will crash and come to this Parliament smiling and nonchalant as usual—business as usual in this Senate. They have only one year again. Thank you.

Sen. Basharat Ali: Madam President, I did not intend to join this debate because I had prepared for this debate, not on the basis that it was a CWC Cricket matter, but a matter of security, overall, linked to the risk of terrorism.

I would like to pose a question, which relates not to aircraft movements but to a good part of what is critical to us and that is shipping of industrial goods. I know that all our port facilities come under a separate code from API, et cetera, called the International Shipping and Port Facilities Security Code, which is part of SOLAS, the Contracting Convention, Safety of Life at Sea Convention of the IMO.

I believe that most of our ports have been through the process of risk assessment. That code is basically a risk management process. They have been through an assessment process, whereby, like in the aircraft and airline industry, the ports are given rankings. You may be rank one, which is a low-risk port; rank two, medium and rank three, high. I am sure that the hon. Minister of Public Administration and Information and Minister of Energy and Energy Industries probably knows about it. I presume that the hon. Minister of National Security also knows about it because there have been assessing teams visiting.

I am wondering now, this has not been a matter which was touched and I do not know how Advance Passenger Information System would operate with respect to all the cargo ships that come in here—when we read of almost one per day of LNG and more than one per day of methanol or ammonia—when we have large amounts of potential security risks in that kind of transport.

I am even more concerned now that I have learnt that this Bill is all about cricket and that there is going to be sunset legislation. Sunset legislation certainly cannot apply to these things. Maybe, that is what the Minister was thinking about when he said that some of them will get a waiver. I do not know. I believe that it is a very serious matter that we must look into.

There are many systems being developed for handling. I believe the big tankers, for example, have automatic security systems, whereby they can pass information directly to the port authority and vice versa. The port authorities or the harbour authorities for single ports are supposed to keep ships in touch as regards possible threats that they may have. Suddenly a port may say that they have gone from level one to level two or level three and necessary steps must be taken. I think that is a very critical part. It has nothing to do with cricket and

sunset legislation does not apply. I would like to know, from the hon. Minister, what exactly is the position with respect to this most important part of our economy; more important than cricket or anything else.

Thank you.

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you very much, Madam President. Let me start by thanking all 12 Senators who made contributions to the debate on this Bill. Madam President, I think one of the unfortunate things about this evening is that, in some instances there seems to be such a misunderstanding, as it relates to what the Bill is intended to achieve. At the same time, there were a number of comments made relating to issues associated with the Bill for which, we on this side have agreed we need to address.

I intend to treat with the individual issues, as they have been made by the hon. Senators. At the same time, I believe it is necessary for me and my team to go back—on the basis of the contributions made and some of the issues raised—and address these in a comprehensive and detailed way. As a result, I propose, with the leave of the Senate, to continue my winding up at the next sitting and then be in a position to address all the issues raised by the 11 Senators on that side and my colleague, Sen. The Hon. Danny Montano on this side.

Madam President, with your leave, I so propose.

ADJOURNMENT

The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate do now adjourn to Tuesday, November 14, 2006 at 1.30 p.m., at which time we would complete the debate on this Bill and move to the next, the Bill to amend the National Library and Information System Act 1998.

Sen. Mark: Before you put the question, Madam President, I would like to ask the Minister of National Security, through you, whether the amendments that he would be advancing would come prior to the next sitting, or whether he would table those amendments on the day of the sitting, so that we can have an opportunity to look at the proposed amendments before the actual sitting? I would like that he submit them before.

Sen. Joseph: Madam President, I will table them at the committee stage.

Madam President: At the committee stage on Tuesday?

Sen. Joseph: Yes Ma'am.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.15 p.m.