

*Leave of Absence**Tuesday, June 17, 2008***SENATE***Tuesday, June 17, 2008*

The Senate met at 1.30 p.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. Vice-President: Hon. Senators, I have granted leave of absence for the period June 17 to 24, 2008 to Sen. Helen Drayton who is out of the country.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Sen. The Hon. Danny Montano:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency DANNY MONTANO, LLB.,
BComm., C.A., Acting President and
Commander-in-Chief of the Republic of
Trinidad and Tobago.

/s/ Danny Montano
Acting President.

TO: PROFESSOR: DAVID PICOU

WHEREAS Senator Helen Drayton is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, DANNY MONTANO, Acting 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, DAVID PICOU, to be temporarily a member of the Senate, with effect from 16th June, 2008 and continuing during the absence from Trinidad and Tobago of the said Senator Helen Drayton.

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 6th day of June,
2008.”

Oath of Allegiance

Tuesday, June 17, 2008

OATH OF ALLEGIANCE

Sen. Prof. David Picou took and subscribed the Oath of Allegiance as required by law.

CHILDREN'S AUTHORITY (AMDT.) BILL

Bill to amend the Children's Authority Act, 2000, brought from the House of Representatives [*The Minister of Social Development*]; read the first time.

PAPERS LAID

1. Annual administrative report of the Siparia Regional Corporation for the period October 2006 to September 2007. [*The Minister of Local Government (Sen. The Hon. Hazel Manning)*]
2. Annual audited financial statements of the Vehicle Maintenance Corporation of Trinidad and Tobago Limited for the financial year ended September 30, 2006. [*The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]

ORAL ANSWERS TO QUESTIONS

Tertiary Education

(Grant of Financial Assistance/Scholarships)

11. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister inform the Senate whether her Ministry has provided financial assistance or awarded scholarships to persons desirous of pursuing studies at universities in Trinidad and Tobago, the Caribbean region and/or internationally?
- B. If the answer is in the affirmative, will the Minister provide the Senate with the following information:
 - i) a list of the names of persons who have benefited from such assistance for the period 2002 to December 2007;
 - ii) the amount of financial assistance provided to each person; and
 - iii) the names of the institutions involved?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I wish to advise that the answer to this question is not yet ready. I would seek a deferral for at least two weeks.

Question, by leave, deferred.

Sen. Mark: May I remind you, 14 weeks. On the last rounds, Mr. Vice-President, you were advised one week; now we are being told two weeks. Total contempt for you and this honourable Parliament. What do you have to hide? Shortly, I would get information to expose this.

**Official Residence
(Details of Payments)**

26. Sen. Wade Mark asked the hon. Minister of Finance:

- A. Could the Minister provide the Senate with the details of the final cost of the construction of the Prime Minister's residence and Diplomatic Centre?
- B. Could the Minister also provide the Senate with the details of payments of value added tax, income and corporation taxes, and all other corporate taxes by the Shanghai Construction Corporation of China during the period of construction of the said Prime Minister's residence and Diplomatic Centre?

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I had initially indicated that we would have been in a position to answer this question by today's date; I must, however, ask for a deferment for another two weeks as there is additional information that has come to light, which requires reformulation.

Thank you.

Sen. Mark: Mr. Vice-President, again it is a joke; it is a joke. They told you and the country; it came in within budget and within time, yet they cannot find the time to answer this question. So they are actually misleading and misinforming the country. I will get mail in my mailbox shortly on this one.

Hon. Senator: The postal workers are back on the job.

Sen. Mark: Yes, the postal workers are back on the job.

Question, by leave, deferred.

**Conduct of the Chief Justice
(Legal Advice Offered on)**

28. Sen. Wade Mark asked the hon. Prime Minister:

- A. Could the Prime Minister make available the official legal advice offered to him by Dr. Lloyd Barnett QC and Mr. Mark Strachan QC from Jamaica and the United Kingdom respectively on which his decision to have the President of the Republic establish a tribunal to investigate the conduct of the Chief Justice?

- B. Could the Prime Minister also provide the Senate with details of the legal costs and fees paid to both Dr. Lloyd Barnett QC and Mr. Mark Strachan QC for the said advice?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Vice-President, again, the response to this question is not yet ready. I have spoken with the hon. Senator on the other side and explained my difficulties. I had indicated on the last occasion it would have been ready in two weeks. Regrettably, I am unable to do so and I am unable to give a time frame, but do give the undertaking to give the response as soon as the information is available.

Sen. Mark: The hon. Attorney General did speak to me, Sir, on the previous question. *[Laughter]* I am not happy with the length of time, but I will take her word that she will attempt in the next two weeks to provide us.

Question, by leave, deferred.

Sen. Mark: I now go to hon. Minister of Agriculture, Land and Marine Resources.

Todd's Road
(Status of Land Distribution)

34. Sen. Wade Mark asked the hon. Minister of Agriculture, Land and Marine Resources:

- A. Could the Minister provide the Senate with the rationale, if any, for the allocation and distribution of the 3,000 acres of land cultivated with citrus located at Todd's Road?
- B. Could the Minister also state whether these lands were subdivided and if so, by whom?
- C. Could the Minister further inform the Senate whether the final distribution and allocation exercise was approved by Cabinet and if so, when?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. Vice-President, I would have been happy to present the answer to that question today, but unfortunately, the answer is not yet fully ready, so I would like a deferment of the time to present it.

Sen. Mark: Mr. Vice-President, I did not hear him. What did he say, Sir? Could you repeat? I did not hear you. Could I ask, through you, to the hon. Minister of Agriculture, Land and Marine Resources—who seems to have lost his voice; you seem to have lost your voice; you have a very powerful and booming one, I know—to tell this honourable Parliament when you would be in a position to answer question No. 34? Is it one week or two weeks, Sir?

Sen. The Hon. A. Piggot: Mr. Vice-President, I would like a deferment for three weeks on this matter.

Question, by leave, deferred.

**Ongoing United Nations Development Project
(Computerization of the Licensing Office)**

45. Sen. Wade Mark asked the hon. Minister of Works and Transport:

With respect to the ongoing United Nations Development Project for the computerization of the Licensing Office, could the Minister advise the Senate:

- (i) what is the status of this project;
- (ii) what was the sum of money allocated for this project;
- (iii) how much money, if any, has been spent on this project so far; and
- (iv) whether the project has been abandoned or is there a new completion date?

Sen. Mark: He is not here, so I certainly imagine that he has treated us with contempt again, Sir.

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Question No. 45 as posed by Sen. Wade Mark is not now ready. I have asked and the Minister has undertaken that he would attempt to have this answer prepared and ready for us in three weeks. It is creating some issues with the research that is required to answer this particular question. I crave your indulgence, Mr. Vice-President for a deferral on this particular question for a period of three weeks.

Question, by leave, deferred.

Sen. Mark: Mr. Vice-President, I think we have a two-day seminar coming up, next week Tuesday and Wednesday. It would be an appropriate forum to deal with these matters. As well as when we go to these CPA conferences, we must expose this regime.

I now put question No. 47 to the only lady who will respond today, that is the hon. Minister of Planning, Housing and the Environment.

**United Nations Development Programme
(Status Report of Funding)**

47. Sen. Wade Mark asked the hon. Minister of Planning, Housing and the Environment:

- (a) Could the Minister inform the Senate whether the Government of the Republic of Trinidad and Tobago has been able to access funding from the UNDP's programme for critical development and technical projects?
- (b) If the answer to (a) is in the affirmative, could the Minister provide the Senate with a status report on the funding accessed from the programme during the last three (3) years?
- (c) If the answer to (a) is in the negative, could the Minister inform the Senate:
 - (i) whether Trinidad and Tobago has graduated out of the programme; and
 - (ii) whether projects that could have been funded by the UNDP must now be financed by the Government?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Gaynor Dick-Forde): Thank you, Mr. Vice-President. Thank you for that nice introduction, Senator.

The Government of the Republic of Trinidad and Tobago has accessed funding from the United Nations Development Programme (UNDP), but only in respect of completely funded or partially funded technical assistance projects.

Between 1965 and 1979 projects under the country programme were fully funded with grant resources provided by the UNDP. Thereafter and up to December 31, 2007, as a result of astute economic management of the economy by this administration, which resulted in rising per capita GDP, the Government was required to increase its share of the cost of the country programme. From January 01, 2008, the country was no longer eligible for grant funding.

The status report on projects: 24 projects have benefited from technical assistance provided by the UNDP over the last three years. Nine of these projects have been completed and 15 are ongoing. The total cost of all these projects is US \$12,599,520, of which the Government's contribution is US \$11,163,451.06, which represents 89 per cent, and the UNDP's contribution is US \$1,436,068.94, which is 11 per cent.

Thank you.

Sen. Mark: Mr. Vice-President, supplemental.

Mr. Vice-President: Go ahead.

Sen. Mark: Could the hon. Minister provide us with a list of the names of those 24 projects, and could the hon. Minister indicate to you and this Parliament

whether these projects have delivered the kinds of benefits that were envisaged when they were first entered into?

Sen. The Hon. Dr. E. Gaynor Dick-Forde: Sounds like another question to me, Mr. Vice-President and if posed properly we will provide the answer. Thank you.

Sen. Mark: The hon. Minister indicated to us that 24 projects were involved. I am just asking her, could she identify the 24 projects. This is what she indicated.

Mr. Vice-President: Yes, but that is not part of the question. If you pose it in another question—

Sen. Mark: Another supplemental?

Mr. Vice-President: Not another supplemental, another question.

Sen. Mark: No, a supplemental to this question. Could the hon. Minister, through you, Mr. Vice-President, indicate to this Parliament what are some of consequences or implications of the Government or the country being graduated out of the UNDP, as she had indicated a short while ago? She did indicate to us that we no longer would benefit from this particular arrangement that we had before, because of our high per capita income. All I am asking her is what would be the impact of that on the country. What are the consequences?

1.45 p.m.

Mr. Vice-President: Again, Senator, I believe that is—

Sen. Mark: No, it flows from what she has answered.

Mr. Vice-President: Well, I do not now know if she has that information but—

Sen. Mark: Well, give her a chance.

Mr. Vice-President:—I will give her a chance to respond.

Sen. The Hon. Dr. E. G. Dick-Forde: You are terribly kind, Senator. Thank you, Mr. Vice-President. The question requires a little more research. However, what I can tell you is just basically that by graduating it means just what we said, that we now have to fund projects in the country and I think we have to actually make a contribution as well to the UNDP's presence here. I do not have the details and I do not want to therefore say much more. So if you give us a nice little written question we can do the research and answer. Thank you.

**Public Health Institutions
(Access of Psychiatric Treatment)**

74. Sen. Mohammed Faisal Rahman asked the hon. Minister of Health:

Could the Minister advise whether there exists any facility for traumatized individuals to access psychiatric treatment (mental health services) at any of our public health institutions?

If not, would the Government urgently consider providing such services?

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you, Mr. Vice-President. You may recall I asked for four weeks on the last occasion. The answer is in draft and should be ready in another two weeks.

Sen. Rahman: I take it that the record is incorrect, Sir?

Mr. Vice-President: What?

Sen. Rahman: I take it that the record at the bottom of the page is incorrect?

Sen. Mark: I think Minister Jerry Narace is misleading you and the Senate, he had asked for two weeks, Sir, and this was recorded under—if you look at the Order Paper.

Mr. Vice-President: Yes, it was recorded, Sen. Narace, as two weeks.

Sen. Mark: I mean to say, do not try these things here, please. [*Inaudible*]

Sen. The Hon. J. Narace: Mr. Vice-President, I require another two weeks, the answer is in draft. Thank you very much.

Sen. Mark: But you must apologize for misleading the Senate.

Question, by leave, deferred.

**Private Banking Sector
(TT Dollar Slide Against US Dollar)**

75. Sen. Mohammed Faisal Rahman asked the hon. Minister of Finance:

- (i) Could the Minister state what role the private banking sector played in the slide of the TT dollar against the US dollar from \$5.75 to \$6.30 in the period 1991 to 2007?
- (ii) Could the Minister also state how did the private banking sector as well as the working population of Trinidad and Tobago benefit from the scenario at (i) above?

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Regrettably, Mr. Vice-President, the answer is not in the required form and it will be in the next two weeks. Thank you. [*Interruption*]

Question, by leave, deferred.

**Sea Lots Area
(Location of Airstrip)**

78. Sen. Mohammed Faisal Rahman asked the hon. Minister of Works and Transport:

Could the Minister state whether the Government intends to locate an airstrip in the Sea Lots area for small aircraft?

Sen. Rahman: This question is now properly directed to the Minister of Works and Transport.

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the answer is no, but the Minister is not here to answer it, so we would have him come and answer it.

Question, by leave, deferred.

GENEVA CONVENTIONS BILL

Order for second reading read.

The Minister of Foreign Affairs (Hon. Paula Gopee-Scoon): Mr. Vice-President, I beg to move,

That a Bill to enable effect to be given to certain Conventions done at Geneva on 12th August, 1949 and to the Protocols additional to those Conventions done at Geneva on 8th June, 1977 and for related purposes, be now read a second time.

Mr. Vice-President, the Geneva Conventions and additional Protocols I and II owe their genesis to a Swiss citizen name Henri Dunant who in 1859 witnessed the aftermath of the Battle of Solferino and was horrified by the sight of thousands of wounded soldiers lying helpless and abandoned with no one to care for them. Mr. Dunant suggested the setting up of voluntary relief societies with personnel who could be trained during peacetime to care for the wounded in time of war and further called for an international agreement to be drawn up to protect the wounded and those who looked after them from further attack.

In 1864 governments were invited to send representatives to a diplomatic conference and as a result 12 European nations signed a treaty stating that in future wars they would care for all sick and wounded military personnel

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regardless of nationality. They would also recognize the neutrality of medical personnel, hospitals and ambulances identified by the emblem of a red cross on a white background and this treaty was called the Geneva Convention.

This Convention was concerned, however, only with soldiers wounded on the battlefield. Over the years, however, the Convention has been revised to cover everyone caught up in conflicts, but not actually taking part in the fighting. So, there are now four Geneva Conventions which were drawn up in 1949 and two additional protocols done in 1977. These instruments together form a major source of international humanitarian law or as is commonly called “Law of Armed Conflict”, and have now be accepted by virtually every state in the world.

The primary purpose of the conventions and protocols is to protect persons who are not or no longer taking part in an armed conflict, specifically wounded and sick combatants, whether on land or on sea, prisoners of war and civilians. The Conventions and Protocols achieved their purpose by prohibiting certain activities, including grave breaches of the Four Conventions and Protocol I, by granting to protected persons fundamental guarantees and by regulating the use of the emblems of the Red Cross, Red Crescent and other protected emblems.

Trinidad and Tobago has been a contracting party to the four Geneva Conventions since 1963, and additional Protocols I and II since 2001. As a contracting party the State has assumed an undertaking to enact the necessary legislation to provide effective penal sanctions for persons committing or ordering to be committed any of the grave breaches of the Conventions and additional Protocols.

The Bill before this honourable Senate is entitled “An Act to enable effect to be given to certain Conventions done at Geneva on 12th August, 1949 and to the Protocols additional to those Conventions done at Geneva on 8th June, 1977 and for related purposes.”

In fulfilment, therefore, of our international commitment, this Bill seeks to give domestic legal effect to the relevant provisions of the four Geneva Conventions and the additional Protocols I and II. That is just the relevant provisions and other related matters.

The Bill contains five parts and a Schedule which contains the text of all four Conventions and the two additional Protocols. Part I contains the short title and interpretation section. Clause 1 states that: “This Act may be cited as the Geneva Conventions Act.” Clause 2 defines the following terms used in the Bill:

“court’ includes a Court-martial convened pursuant to the Defence Act;

‘the Conventions’ means the First Convention, the Second Convention, the Third Convention and the Fourth Convention;

‘the First Convention’ means the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field”—and that was—“adopted at Geneva on 12th August, 1949;

‘the Second Convention’ means the Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, adopted at Geneva on 12th August, 1949...

‘the Third Convention’ means the Geneva Convention relative to the Treatment of Prisoners of War, adopted at Geneva on 12th August, 1949...

‘the Fourth Convention’ means the Geneva Convention relative to the Protection of Civilian Persons in Time of War”— and this was—“adopted at Geneva on 12th August, 1949...

‘Prisoners’ representative’ means the person who exercised the functions of prisoners’ representative within the meaning of Article 79 of the Third Convention.

‘protected internee’ means a person protected by the Fourth Convention or Protocol I, and interned in Trinidad and Tobago;

‘protected prisoner of war’ means a person protected by the Third Convention or a person who is protected as a prisoner of war under Protocol I;

‘the protecting power’...means the power or organization which is carrying out, the duties...assigned to protecting powers under the Third Convention, the Fourth Convention and Protocol I;

‘Protocol I’ means the Protocol Additional to the Geneva Conventions of 12th August, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts done at Geneva on 8th June , 1977.”

Mr. Vice-President, Protocol II which was done at Geneva on June 10, 1977 and to which Trinidad and Tobago became a party in 2001 is not defined here, and this is because there is no obligation on contracting parties to enact legislation to give effect to these provisions.

Part II provides for the punishment of grave breaches of the Conventions and Protocol I. What is a grave breach? It includes the following acts if committed against persons or property protected by the respective Conventions and Protocol I. It includes wilful killing, torture or inhumane treatment including biological

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experiments, wilfully causing great suffering or serious injury to the body or health; extensive destruction and appropriation of property not justified by military necessity; compelling protecting persons to serve in the armed forces of an enemy state; wilfully depriving a protected person of their right to a fair trial; unlawful deportation, transfer or confinement of a protected person and also the taking of hostages.

Clause 3 creates an indictable offence, a grave breach of any of the Conventions or of Protocol I. It defines a grave breach of the Convention as an— and this is referred to in Article 50 of the First Convention; Article 51 of the Second Convention; Article 130 of the Third Convention and Article 147 of the Fourth Convention. A grave breach is defined as an act which is committed against persons or property protected by the applicable convention and anything defined as a grave breach under paragraph 4 of Article 2 or paragraph 234 of Article 85 of additional Protocol I.

Persons found guilty of committing a grave breach would be sentenced to death, if the offence involves wilful killing. In any case not involving wilful killing the penalty for committing a grave breach would be imprisonment for life.

Nothing contained in clause 3 of this Bill is intended to restrict or affect the operation of section 2 of the International Criminal Court Act. While the provisions of the Geneva Conventions and Protocol I only require a state party to enact penal legislation for persons committing grave breaches of these instruments, the Rome Statute of the ICC (International Criminal Court), has broadened the reach of international humanitarian law by requiring states to enact penal legislation to punish, not only the grave breaches, but all violations of the four Geneva Conventions and the two additional Protocols.

Section 2 of the International Criminal Court Act provides for the punishment of war crimes. A war crime is defined therein to include grave breaches of the Geneva Conventions and additional Protocol I; other violations of the conventions and Protocol I, not amounting to a grave breach and other offences occurring during non-international armed conflict which are listed in Article 3 of each convention and in Protocol II.

2.00 p.m.

Clause 3 grants to the domestic courts, universal jurisdiction over a grave breach. What does it mean? Universal jurisdiction means that the courts may exercise jurisdiction regardless of the nationality of the offender or whether the offence is committed within or outside of Trinidad and Tobago. By providing for

universal jurisdiction in the Bill, Trinidad and Tobago will be fulfilling an international commitment contained in all four Geneva Conventions and in Protocol I. These instruments impose on Trinidad and Tobago an obligation to search for persons alleged to have committed, or to have ordered to be committed, any grave breaches and to bring such persons regardless of their nationality before the courts.

Clause 4 requires that the consent of the Attorney General be obtained prior to the institution of any court proceedings. Mr. Vice-President, on account of the international character of the offence created in clause 3 of the Bill, the Government believes that any decision to prosecute or not to prosecute is the responsibility of the hon. Attorney General. The Attorney General, who has lead responsibility for mutual legal assistance in criminal matters, is in the best position to make arrangements for international judicial cooperation which is required to effectively prosecute international crimes. Additionally, this approach is consistent with the prosecution of other international crimes under the ICC Act, 2006.

Clause 5 identifies the Minister of Foreign Affairs as the competent authority to certify to the court, any matter relevant to a question concerning the circumstances in which the conventions and the protocols apply. In any proceedings for the prosecution of a grave breach, a question may arise under Article 2 of the Conventions and Article 1 or 3 of Protocol I as to whether there is in fact an international armed conflict to which these instruments apply. And any answer to this question will require an assessment of international events in the light of international humanitarian law, a matter which is the remit of the Minister of Foreign Affairs, the Minister with the responsibility for foreign affairs.

We intend to circulate an amendment to clause 5 and this alters the chapeau to clause 5, as well as paragraph (c). This chapeau refers to either of the protocols, but the proceedings under Part II of the Bill can only pertain to a grave breach of the four Conventions and Protocol I. We accordingly propose with the agreement of this honourable Senate, to insert the word "grave" before the word "breach" in line two of the chapeau—and you will follow this when it is circulated—and the reference to either of the protocols to be deleted and replaced with a reference to Protocol I; and then paragraph (c) is to be deleted.

Mr. Vice-President, the title of Part II currently reads "Punishment of Offenders under the Conventions and Protocols" and for the reasons stated in relation to clause 5, this title should also be suitably amended to read, the "Punishment of Offenders under the Conventions and Protocol I", only.

Part III of the Bill relates to legal proceedings in respect of protected persons. What it ensures, is that certain safeguards apply to prisoners of war and civilian internees in the context of any trial and sentencing.

Under the Third Convention dealing with the treatment of prisoners of war, the definition of a prisoner of war includes a person who has fallen into the power of the enemy, and who is a member of the armed forces of a State engaged in an armed conflict or a member of a militia belonging to a party engaged in an armed conflict.

The Fourth Convention concerning the protection of civilian persons defines an internee as a civilian, who at any given moment and in any manner, finds himself in the case of an armed conflict or territorial occupation in the hands of a foreign State, engaged in the conflict.

A protecting power refers to a neutral State which looks after the interest of a party to the conflict by ensuring that its nationals enjoy the protection afforded under the Convention. The Convention also provides for an organization offering guarantees of impartiality and efficacy to perform the duties of a protecting power.

Clause 6 places an obligation on the court not to proceed with a trial, unless the court is satisfied that a notice of a trial was served on the protecting power, as well as any prisoner of war and his personal representative at least three weeks prior to the trial date. The contents of this notice include the full name, date of birth and description of the accused, including his profession or trade; and where the accused is a protected prisoner of war, the rank of the accused and his army, regimental, personal and serial number.

Additionally, the place of detention, internment or residence of the accused; the offence with which the accused is charged; and the court before which the trial is to take place and the time and place appointed for the trial.

Clause 7 grants the prisoner of war or a civilian internee the right to appeal; and in those instances where he has been sentenced by a court to death or to imprisonment for two years or more, the right of appeal or leave to appeal runs from the time the protecting power is notified of the conviction and sentence, either by an officer of the Defence Force or the Minister with responsibility for foreign affairs.

Clause 7 further provides that any sentence against the protected prisoner of war or an internee should not be executed before six months from date of notification of an appeal.

Clause 8 applies to the provisions of the Defence Act, that is of Trinidad and Tobago relating to discipline, to every prisoner of war who is alleged to have committed an offence under the Bill, at the time the alleged offence was committed and places the prisoner of war under the command of the commanding officer of the unit of the defence force which is holding that prisoner in custody.

Part IV of the Bill regulates the use of the emblems protected under the conventions and additional protocols. These emblems are symbols of protection for persons and facilities during times of conflict. In order to retain their protective status in wartime, these emblems may not be used either in peace or war, except to indicate or to protect the medical personnel, establishments and material protected by the Conventions.

Clause 9 prohibits any person from using or displaying without the consent of the Minister with responsibility for national security, the emblem of the Red Cross, the Red Crescent, Red Lion and moon and other emblems protected under the Conventions. This prohibition also extends to the use of the protected emblems by Trinidad and Tobago vessels and aircraft outside of Trinidad and Tobago. In other words, it is extraterritorial.

Clause 10 establishes as a summary offence, the contravention of clause 9. Any person found guilty of using or displaying a protected emblem without the required consent, shall be fined \$10,000 or sentenced to imprisonment for a term of six months or both.

Part V of the Bill contains general provisions.

Clause 2 gives the Minister with responsibility for national security, the discretion to make regulations subject to negative resolution of Parliament, prescribing the forms of flags and emblems which may be used in keeping with the Conventions and Protocols; regulating the use of these flags and emblems for the protection of prisoners of war, pursuant to the provisions of the Third Convention and providing for other matters to give effect to the Act.

Clause 12 protects the use of emblems which were not registered as a trademark prior to the passing of the Bill and establishes as the defence, the lawful use of the emblem as a sign or design prior to the passing of the Bill; or in a case where the person is charged with using a protected emblem on goods or articles that the emblems were on such goods or articles before it came into his possession.

Clause 13 repeals the Geneva Conventions Acts 1911, 1937 and 1957 (United Kingdom Acts), insofar as they have any effect in Trinidad and Tobago and the Geneva Conventions (Supplementary Provisions) Act, 1960.

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Mr. Vice-President, I am unaware that there have in fact been any prosecutions in Trinidad and Tobago under the existing legislation that will be repealed by this Act, that is clause 13. Nevertheless, what the Bill seeks to do, is to update and to consolidate our legislation on the Geneva Conventions so that if the occasion arises, Trinidad and Tobago would be in a position to fulfil its international obligations by punishing grave breaches of the four Geneva Conventions and Protocol I, as well as abuse of the emblems of the Red Cross.

We have chosen to give effect at this time to the obligations falling on Trinidad and Tobago, in accordance with the Conventions and Protocols to which we have become a contracting party. There is a view though that customary international law has developed to the point where States can give or should give legislative effect to Protocol II, even though the Protocol itself does not require it and this view, of course, is not unchallenged.

States do not easily allow the widening of international law into areas that hereto have been considered to be under national jurisdiction and national laws. We have chosen in this case to give legislative effect to our obligations as laid down under the four Conventions and Protocol I.

I wish to conclude by reminding this honourable Senate, that Trinidad and Tobago has an international obligation to enact criminal legislation and exercise jurisdiction over grave breaches of the Geneva Conventions and Protocol I. The Geneva Conventions Bill does not only fulfil this international commitment, but from a practical standpoint, its enactment would deter offenders from seeking safe haven or refuge in this territory.

As I had indicated from the outset, these four Geneva Conventions and the two Protocols form a major source of international humanitarian law or as is commonly called the law of armed conflict. They have now been accepted as I said before, virtually in every State, in every part of the world. They have as their primary purpose the protection of persons who are not or are no longer taking part in an armed conflict, specifically the wounded and sick combatants, whether on land or at sea, prisoners of war and civilians. I am sure that we will all agree that this is a purpose we can all support.

I, therefore, recommend that hon. Members of this Senate support this Bill for an Act to enable effect to be given to certain Conventions done at Geneva on August 12, 1949 and to the Protocols additional to those Conventions done at Geneva, actually on June 10, 1977 and for related purposes.

Mr. Vice-President, I beg to move. [*Desk thumping*]

2.15 p.m.

Sen. Wade Mark: Mr. Vice-President, let me, from the outset, welcome the hon. Minister of Foreign Affairs to the Senate of the Republic of Trinidad and Tobago. It is the first opportunity we are having to, at least, see her here and to follow her presentation on a matter that we would have more to say on later on.

I also take this opportunity to seek your indulgence as I direct and ask your good self, not now, but in your leisurely time, to go to Erskine May's *Parliamentary Practice*, 23rd Edition, and examine pages 441 to 443, as it deals with the citing of documents not before the House, so you would not get yourself confused by Sen. Dr. Saith the next rounds. It is stated very clearly. I would not want to go into details, but I did my research and brought the information.

Mr. Vice-President, we on this side were not sufficiently moved by the Minister's rationale for this Bill in the Parliament and in the Senate, at this particular time, or what factors may have prompted the hon. Minister and, by extension the Government, to bring this legislation at this time.

I must let you know that a Bill of this magnitude and volume in terms of size—as you know it is over 170 pages, as is the original that we had—five Schedules, two Protocols and over 550 Articles. I do not think that any serious Parliament and government would want to burden its members, in the period that we have been asked to look at these provisions, to expect us to do justice to this measure that is before us today.

In a civilized Parliament where the Legislature has power, it would have required that a matter like this be sent to a joint select committee (JSC) of the Parliament. The reason is that we would want to ensure that while we adhere to and support our international obligations under these Geneva Conventions, along with the additional Protocols—I understand that the Minister in her statement said that we were only addressing one Protocol. Minister, am I correct, and not two?

Hon. Gopee-Scoon: Yes.

Sen. W. Mark: There are some matters that we on this side believe require some greater deliberation and discussion at the level of a joint select committee; not a special select committee, but a JSC.

I would like to ask the hon. Minister of Foreign Affairs what impact these Conventions and Protocols would or may have on domestic legislation and, particularly, the Republican Constitution. There are fine prints in these 550 Articles that cover these Schedules and Protocols that I do not believe we would

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have had sufficient time to really go through them in detail. We want to ensure that whatever we are doing is consistent with the Republican Constitution and domestic legislation, as far as is practically possible.

We are conscious of the fact that when Trinidad and Tobago or any country enters into these kinds of arrangements, where we enter and sign treaties or conventions, there is an obligation for us to enact legislation in order to give effect to these conventions and protocols that we have signed off in whatever period. But, as we were told, these Conventions were formulated since 1949.

Trinidad and Tobago, according to the Minister, ratified or signed off on these particular conventions in 1963, which is almost 45 years, and the additional protocol was signed off in 2001. We are in 2008, and we are now addressing these particular matters. What is the urgency for this particular matter before us today? How is the Government treating with its priority as it relates to other critical matters that are affecting the Trinidad and Tobago society?

Mr. Vice-President, 34 hours from now we would be celebrating the 71st anniversary of the labour uprising of 1937, the Butler Revolution, when the working class confronted the colonial administration in 1937. That lay the basis for internal self-government as well as independence. One would have thought that we, having ratified 20 conventions, and yet to effect into legislation several of them—I could just tell you about one, Convention 144, that deals with tripartism—that the Government might have come here today and given the labour movement a gift.

Mr. Vice-President, "not Knowlson, he gone." I think hon. Gopee-Scoon has now replaced him. Foreign ministers do not last long; I want you to know that. [Laughter]

I thought that the Government would have been able to come to this Parliament today and, at least, give to working persons, at least, some present for Labour Day, and we would have gotten legislation enacting Convention 144 that we have ratified, Sen. Dr. Saith, on tripartism. We have not seen that, but we are seeing that on the verge of the 71st anniversary of the labour movement's struggle in this country, there is a war Bill; as if this Government is preparing for war against the working class. [Laughter] You bring a Bill 36 hours before the Labour Day celebrations in this country, and it is about armed conflict, war and prisoners of war. I am trying to make sense out of what we are dealing with here today. Why this moment to bring this Bill 36 hours before Labour Day celebrations? I do not understand it. [Laughter]

I would have liked to ask the Minister of Foreign Affairs and the Hon. Dr. Lenny Saith—Minister—[*Interruption*] Sen. The Hon. Dr. Lenny Saith—you all like titles; you would not be in office long and you would not have any titles; "yuh see allyuh like title." [*Laughter*]

Mr. Vice-President, I thought that these were some of the things that the Government would have wanted to bring here today; for instance, bring a new Trade Union Act; bring a comprehensive review of the Industrial Relations Act; bring a new Workmen's Injuries and Disability Benefits Act; bring a Basic Conditions of Work Act. These are things that would strengthen the working class on the eve of Labour Day; not a war Bill. [*Laughter*]

What is the significance of this? We are debating in Parliament today the implementation and to give effect to four Conventions and one Protocol dealing with the dos and don'ts of warfare. Sen. The Hon. Browne, the dos and don'ts involved in warfare; how we would deal with prisoners of war? I know that you would like the Opposition to become prisoners of war. I know that you would like to take us as prisoners; not so, hon. Minister of Health?

Sen. Narace: You doing it all by yourself.

Sen. W. Mark: The hon. Minister of Foreign Affairs needs to convince us some more as to the rationale for this. How many citizens in this country are aware of these Conventions? Listen, we are talking about governance, Sir. Proper governance demands that persons are exposed to information. I keep saying that information is the currency of our democracy or any democracy. How many persons in this nation are aware of these conventions? I do not think the citizens are aware of it.

The Minister gets up, presents a Bill and gives us no indication of a programme that would be embarked upon by the Government to raise workers' and other persons' consciousness as to the significance of the provisions contained in the four Conventions and the Protocol that was mentioned.

What is happening here is that this is a "pappy-show"; you are "pappy-showing" the country. How would persons know the benefits of this particular measure before us?

2.30 p.m.

We know that Trinidad and Tobago is at war, the criminals are at war with the people of this country and many prisoners are not—people are dying and Madam Minister we cannot even catch them, but I see in clause 4 of the Bill you will

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search for those persons who would have committed acts in contradiction and in breach of the provisions contained in the legislation before us. Mr. Vice-President, may I inform you that the Government will also track down persons who are outside the Republic of Trinidad and Tobago and bring them to stand trial here. They cannot even track down criminals in this country; they will track down criminals outside?

My heart goes out to the soldier, Corporal Wallace who was murdered on Farm Road, somewhere in Richplain Road two nights ago celebrating the christening of his four-month old daughter or son. I feel for him. I can understand because Trinidad and Tobago is in a state of war, but what I do not understand is as we deal with a state of war and armed conflict, I would like the Minister of National Security to tell this country whether the rule of law has broken down here.

How can soldiers invade without a state of emergency in this country? How can the army invade a community and lock it down without the police being in charge of the army? Who is in charge of this country? The army has staged a coup in this country, what is going on here? I am shocked at the behaviour of the army. They are not a law unto themselves; the army cannot go into a village and beat people and lock down the place looking for criminals. That is not their function. Their function is to fight external aggressors, but we are seeing the army going into Richplain Road, Diego Martin, locking down the place, beating up people in the hills and then the police come in afterwards. No, no, no. I love the army, I support the army but I condemn their behaviour in this particular matter.

Sen. Joseph: I thank the hon. Senator for giving way. On what basis is he making these accusations? On the basis of what he heard and what he read? All of that is speculation on the part of the Senator.

Sen. W. Mark: I am simply saying what I have read, and I have to go by what I have read until it is disproved, I am saying that the army has no place to invade any community in our country and lock it down. That is not their role. I agree that a soldier was murdered, I condemn the murder of the soldier and I say bring the hooligan and the criminal who has done that dastardly act to justice, but there is a rule of law here. No army can come into a community, take it over and lock it down and beat people. What is going on here? Who is in charge, the Government or the army? "Dillon take over this country?" Is there a coup? Tell us what is going on here. "The army don't have that authority and you better call in the army before dey take yuh work eh."

Mr. Vice-President, this is a dangerous situation and if you allow the army to get away with that, then they will go into any other community and do that same thing. So if a soldier is killed in Maloney, what is the army going to do? Invade Maloney, lock down the community and beat people? Did the army get the authority from the Minister of National Security to do so? Did the Prime Minister who is the head of the National Security Council give the army the authority to beat people in Diego Martin? You must tell the country.

Mr. Vice-President, that is why I am saying that I find the timing of this Bill to be curious. It is like if the Government has declared war on the people of this country and the army seems to be in collusion with the Government in beating people and trampling upon their rights. We have a Republican Constitution here and we have entrenched rights and fundamental freedom, and no army should be allowed to do that, Sir.

I was making the point that there is need for public education and I would like to ask the hon. Minister of Foreign Affairs that if this measure before us is to have any effect, and if the people are to understand what these provisions are all about, then it is incumbent upon the Government to embark on a programme of public education, public awareness and sensitivity as it relates to this issue that is before us.

People must know the rules of international humanitarian law because this is what this measure is about, but it also contains human rights provisions. So it is not only international humanitarian law, it is also the implementation of human rights and nobody has that authority to snatch away our rights like that unless there is a public state of emergency and the Constitution is suspended. The Government is playing with fire; it is allowing a situation to get out of hand and there are consequences to be derived when you allow things to go out of hand.

Mr. Vice-President, you know Trinidad and Tobago as I indicated to you earlier is in a state of war with criminal elements and nobody in this country appears to be at least free, or is able to escape the aggression on the part of these elements. A labour leader of the Butler period called Mr. Gokool from Fyzabad was brutalized. This elderly man, 87 years, made a rich contribution to his country and the development of this nation and somebody wanted to steal his personal belongings and he confronted them and they stuck a knife in his eye after they bludgeoned him to death, they left their mark. They put a knife in the man's eye. That is the extent of the criminality that we have in our country today.

A man is having a christening and cars are parked on either side, or one side and some members of a gang believe that there is too much traffic congestion in the area and had some quarrel, and the next thing you know, two men die just so. I think the time has come for the Government to enter into discussion with the

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official Opposition with the view of establishing and forming a Government of National Unity and let us just deal with crime because it is clear to me that the Government is unable to deal with the crime scourge in this country. It probably needs to bring all the stakeholders, political organizations, churches, trade unions and business communities together and form a National Front Government with only one objective in mind; that is returning this country to a state of safety and security for the people. That is an offer we would like to throw out for the Government's consideration. We cannot continue the way we are going.

Mr. Vice-President, I would like to ask the hon. Minister of Foreign Affairs of the protocol which was signed in 2005 which she did not mention. I did some research and this protocol came into being in 2005 and this Government was in office then. It is either it has signed on to this protocol or it has not. But there is a protocol that I have seen on the Internet that deals with the issue of additional distinctive emblem and it is called Protocol No. III which was signed and agreed upon on September 08, 2005. I do not know if that particular protocol is of any relevance to what is before this Senate today. Because if you are dealing with protocols in 2008, I would imagine that the Government would want to take into account this latest one which was signed off in 2005. Therefore, what is the Government's position on this latest protocol which contains about 17 articles?

I would like the hon. Minister to tell us whether they are going to make an amendment to the Act or whether they have signed on. I am not too sure, Sir, whether Trinidad and Tobago has signed off on this Protocol No. III that deals with distinctive emblem. The hon. Minister would have to provide us with some clarification on this.

So here we are, Mr. Vice-President, dealing with these four Conventions. We are told that the First Convention deals with the amelioration of the condition of the wounded and sick in the armed forces, particularly those who are in the field of battle. So we are being told by this Convention that there are certain dos and don'ts that are allowed when you are engaged in combat in the battlefield and soldiers are wounded, or fall ill, or give up their arms, how you treat with them. That is one of the purposes I would suggest and it is stated here as it relates to the First Convention.

This was, as I said, signed off since August 12, 1949. We do not know what has been the experience of our soldiers. I know some went to Haiti. I know police officers went to Barbados, Grenada and St. Vincent. I have met police officers—and I address this to the hon. Minister of National Security—who have indicated to me that they are crying out for their overtime payments since they went to

Grenada, Barbados and St. Vincent doing yeoman service for the World Cup Cricket 2007. They are still awaiting their overtime payment, so I would like you to take steps to pay your soldiers because they are your commanders on the ground, and I am talking at the level of the police. They are the ones who are fighting the criminals, not SAUTT “eh”, they are a waste of time and money. You are giving them the best equipment, but they are shaming you and failing you.

Is Brigadier Peter Joseph your cousin? If he were, I would tell you to disown him. He is a total waste of time.

Mr. Vice-President, we go to “the Second Convention” means the Geneva Convention for the Amelioration of the Conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

2.45 p.m.

This too was adopted on August 12, 1949 and of course, the Government is now seeking to embark on its implementation. I do not know what the Government is anticipating with these OPVs that are expected to come here in 2012. One will be coming in 2010; the next one in 2011 and the next one in 2012. I do not know if they expect some shipwreck or battle to take place and therefore, they are taking steps to protect the wounded and sick shipwrecked members of the coast guard.

The Third Convention deals with the treatment of prisoners of war adopted at Geneva on August 12, 1949. I believe if you take out “war” and “of”, we in Trinidad and Tobago, the citizens of this country have now become prisoners in this war that is being waged by criminal elements in this country. The Government is clueless. I sympathize with the hon. Minister of National Security. I think that he has reached his limit. I do not think that he could do any more. The hon. Minister has appealed to the Prime Minister, “Let me go; I want to go home.” Yet still, the hon. Prime Minister will not let loose the hon. Minister. He wants to go. I understand that a year and a half ago a letter was written, where he said that he wants to go and the Prime Minister has not accepted his resignation.

Sen. Browne: Irrelevance.

Sen. W. Mark: “Yeah.” I am dealing with the war. [*Laughter*] We are dealing with prisoners of war. I do not know if the hon. Minister of National Security has now become a prisoner, because he wants to go and they will not set him free.

It is really sad what our country is experiencing today. The latest count I got today is 237 dead. It was 137 for the same period last year. It is over 100 more murders in the same period when compared to the period last year. People are not only becoming prisoners in their homes, but also being murdered, kidnapped and raped.

I do not know if this measure before us could not have been tweaked somewhat to reflect not only the armed forces but also the civilian population of the country. We know that there is one convention that deals with civilians to which I will come. The people who are experiencing the worst forms of brutality in this country are civilians. They are under attack more than anyone else.

The Fourth Convention deals with the Geneva Convention relative to the protection of civilian persons in times of war. It was adopted on August 12, 1949 and that is Schedule IV. I do not believe that Government is doing anything, hon. Minister Mariano Browne to protect the civilian population from aggression and criminal elements who are waging war against the poor in this country. I am not seeing any effort being made by the Government on this. Civilians are being murdered, kidnapped and raped, as if they are fighting a war and there is no protection. When you go to Schedule IV on the Fourth Convention you see all the rights to which civilians are entitled. It is better we end up in a real war because the civilians would have better protection under this Convention, than they have under this present arrangement.

They are coming for you in your home. It is not on the road again. It is in your home. This Government has all the money at its disposal and what is this Government doing? They defined a prisoner of war. We talked how we go about protecting internees and dealing with prisoners of war.

As I said earlier, the Government is saying under clause 2 that if somebody wilfully commits murder, the person would suffer the penalty and it would be murder. In all other cases it would be imprisonment for life.

It goes on in clause 2(4) to say in the case of an offence committed outside Trinidad and Tobago, "a person may be proceeded against, indicted, tried and punished in any place in Trinidad and Tobago, as if the offence had been committed in Trinidad and Tobago". Nothing in this clause limits or affects the operation of section 2 of the ICC Act, 2006. I ask the Minister of Foreign Affairs if she is aware that less than 10 per cent of the serious crimes being committed in this country cannot and are not detected. There is less than 1 per cent conviction. For every 1,000 murderers in this country, 999 might just go free and only one may be convicted in the courts of this country.

Madam Attorney General, do you know that from 2002 to the end of 2007, police statistics reveal that we had over 106,680 serious crimes and all that was detected from 2002 to 2007 was 26,400 or thereabouts and 80,000 serious crimes have gone undetected in this country? You are telling me in this particular piece of legislation, that you are going to proceed against persons whom you perceive as committing offences in accordance with clause 2(4). In Trinidad and Tobago, if you cannot catch the criminals of 2,000 persons murdered from 2002 to the end of 2007—how many of these criminals have been convicted? You cannot bring legislation to mamaguy and pappy-show the country because everyone knows that this legislation will not impact in a positive way on what is taking place in our country.

I want to let the Minister of Foreign Affairs know and tell Dr. Lenny Saith that when a minister comes here and presents a Bill, the minister must know that his or her first responsibility in a government is to account. I was shocked when I read the Auditor General's Report that all the government ministries have not submitted their appropriation accounts to the Auditor General. The Auditor General gave these ministries until the end of September 2007 and an extra period to January 31, 2008. When the Auditor General's Report came here, this Minister of Foreign Affairs—and the ministry—up to this time as we speak has not submitted to the Auditor General, the appropriation accounts of the Ministry of Foreign Affairs for 2007. How can the hon. Minister come here and give us the impression that—You have to be accountable.

Mr. Vice-President: Sen. Mark, I think that you are being irrelevant. This is not the place for that.

Sen. W. Mark: Okay Sir. I was just saying that we have to deal with accountability because when you kill people in war you have to be accountable. *[Laughter]* That is why they tell you in this Bill, hon. Sen. Hazel Manning, that if you commit wilful acts of killing, the charge would be murder. If you go below murder it is imprisonment for life. Do you see how accountability is important? If you do the crime you must do the time. "Tell yuh dat." In this context I sought to link this absence of accountability from the Ministry of Foreign Affairs to this murderous situation that can take place. I think their first obligation is to account. *[Interruption]* As we proceed, I know that you are a person who should be home long time. In your last days, I know. "I know after de next election, you gone." You have to go. You will go because in any event, Dr. Saith, you wanted to go, but Manning will not let you go. *[Interruption]* The hon. Prime Minister, Sir. *[Laughter]* "Ah know yuh go get up because ah know what go happen. If yuh eh do dat yuh go be in trouble."

I was enquiring about you in Arima. “Dey say yuh is ah good fella in Arima. Good man! Dey doh know why yuh behavin’ so bad. Dey say yuh is ah good man from Arima. Ah doin’ some background check on yuh, yuh know. Yuh is an Arimian.” The hon. George Hadeed is an Arimian by birth and he is a well-known person in that community. You know we have our little chat and so on.

When I go to clause 7(1), it talks about the defence force. It says:

“Where a protected prisoner of war or a protected internee has been sentenced by a court to death or to imprisonment for two years or more, the time allowed for an appeal or leave to appeal against the conviction or sentence runs from the day on which the protecting power was notified of the conviction and sentence by—

- (a) an officer of the defence force, in the case of a protected prisoner of war; or
- (b) the Minister with responsibility for foreign affairs, in the case of a protected internee.”

3.00 p.m.

Mr. Vice-President: The hon. Senator's speaking time has expired.

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

Question put and agreed to.

Sen. W. Mark: Mr. Vice-President, under clause 8(1), it says, as it continues with the defence force:

“The provisions of the Defence Act relating to discipline apply to every prisoner of war who is alleged to have committed an offence under section 3 and those provisions are deemed to have applied to him at the time the alleged offence was committed.”

It goes on:

“(2) A prisoner of war referred to in subsection (1) is deemed for the purposes of discipline to be under the command of the commanding officer of the unit of Defence Force that is holding that prisoner in custody.”

I do not know if the Minister of Foreign Affairs can help us, but we understand that the former Justice Ulric Cross is now doing a review of the Defence Act, which is referred to in this clause. We do not know the extent of the

revision, but this is why I am raising the point that the matter should be referred to a joint select committee. It is my understanding from the Minister of National Security that the Act is under review and that Justice Ulric Cross is carrying out that particular review. If that is the case, then clause 8(1), which refers to the Defence Act, might conflict ultimately with the review of the Act to come. We understand it is an ongoing exercise.

I understand further that it is the intention of the Government to put certain new provisions into that Act to give the soldiers the power of arrest. This, I understand, is one of the provisions they are thinking of pursuing. I understand they would like to take the Riot Squad or the Guard and Emergency Branch out of the police service and lodge it in the hands of the defence force. That is another aspect they are seeking to pursue.

This particular clause, clause 8(1), as it refers to the provisions of the Defence Act, we need to take into account what is taking place at the moment. That is why I would say that after everyone makes his or her contribution, that the hon. Minister of Foreign Affairs agrees that the matter be sent to a joint select committee of both Houses to go through this matter in a clinical way to ensure that what we do is in the interest of domestic legislation and does not conflict with the Republican Constitution. That is an area that we would like to address.

Then, of course, you go to clause 9, which deals with emblems, signs, signals, identity cards, uniforms, et cetera. I do not know how ordinary people in this country would know that it is an offence. Listen to this clause very carefully:

“(1) No person shall without the consent in writing of the Minister with responsibility for national security use or display for any purpose whatsoever—

- (a) the emblem of a red cross with vertical and horizontal arms of the same length on, and completely surrounded by a white ground or the designation ‘Red Cross’ or ‘Geneva Cross’;”

Let us be serious. You are going to pass legislation without the knowledge of the population and tell them in the legislation that it is an offence and they need to seek the permission, in writing, of the Minister of National Security to use or display for any purpose the emblem of a red cross; tell them what it is about.

The second area that you are not allowed to use without the consent in writing of the Minister of National Security is:

- “(b) the emblem of a red crescent moon on, and completely surrounded by, a white ground or the designation ‘Red Crescent’;”

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What is that? I am reading this and I do not know what they are talking about. Hon. Jerry Narace, Minister of Health, I think we need some props here to see what these things are about. As a Member of Parliament, I do not know what the emblem entails. I do not know if Sen. Dr. Saith is aware. If he is aware because he is an old veteran, I do not know. [*Laughter*] So I am saying that the citizens need to be educated; that is why I appeal to the hon. Minister of Education to embark on a campaign of workers education and citizens awareness.

“(c) the following emblem in red on, and completely surrounded by a white ground that is to say, a lion passing from right to left of, and with its face turned towards the observer, holding erect...”

What is this? I see they have put the Rising Sun here; the designation of “red lion” and “sun” and all kinds of things. We need to see examples of what they are talking about. I do not know what they are talking about in this legislation.

It goes on. You are prohibited from using:

- “(d) the emblem of a white or silver cross with vertical and horizontal arms of the same length on, and completely surrounded by, a red ground, being the heraldic emblem of the Swiss Confederation;
- (e) the sign of an equilateral blue triangle...”

What is this about?

“(g) the sign consisting of a group of three bright orange circles of equal size...”

What is this about?

“(i) such other flags...”

It goes on to say:

“(2) This section extends to the use in or outside of Trinidad and Tobago of an emblem, designation, sign, signal, design, wording, identity card, identification cards, insignia or uniform referred to in subsection (1) on any ship”—so it goes to ship now—“or aircraft registered in Trinidad and Tobago.”

Is the shipping line aware of this? Are shipping organizations aware of this?

“10(1) Any person who contravenes section 9(1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of six months or both.”

How can they be serious with this measure? They cannot do these things without informing the population.

It goes further:

- “(2) Where a court convicts a person of an offence under section 9(1), the court may order the forfeiture to the State of:
- (a) any goods or other article or in connection with which an emblem, designation, sign, signal...
 - (b) any identity cards...
- (3) Where a body corporate commits an offence under section 9(1) with the consent or connivance of a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, the officer and the body corporate, are liable to be proceeded against and punished in accordance with subsection (1).”

So, Mr. Vice-President, you must be careful. If you have a business and are unaware of this legislation, you, your directors, officers and managers can be fined. How can they introduce such draconian measures without informing the population? We need to “back-back” on this. I think that the Government, before it can proclaim this as legislation, should send it to a joint select committee and engage in a public education campaign so that people can be aware. [*Interruption*]

Why is Sen. Dr. Saith humming? Is he tired, Sir? I think the Prime Minister is in the country. Is he missing acting as Prime Minister?

Sen. Dr. Saith: [*Inaudible*]

Sen. W. Mark: Conduct yourself worthy of your status, "nah"!

Mr. Vice-President, I would like to appeal to the Government that there are some serious provisions in this legislation that we need to build some awareness around so that the population will be conscious of the do's and don'ts of the legislation. If the hon. Minister could take this challenge in the manner I have read it and the Minister, with the advice of the Leader of Government Business and—Sen. Dr. Saith, could refer the matter to a joint select committee, at the end of the day we would have better legislation, rather than rushing it through the next couple hours to pass it.

I appeal to the Government to review its position; allow everyone to make his or her contribution and allow it finally to be referred to a joint select committee of the Parliament.

I thank you.

Sen. Basharat Ali: I rise to make a contribution to this debate and I welcome the hon. Minister of Foreign Affairs, who is also the hon. Member for Point Fortin, a constituency in which I lived for about 20 years.

I have two words at the beginning of my notes. Why now? Why does this have to come to us now? In my view, there are so many other pressing matters that need legislation. [*Desk thumping*] Last week, a question by Sen. Faisal Rahman showed how many Bills need proclamation. I spoke on one last week, the Metrology Act. The reason given is that there are amendments to be made. That is a Bill passed four years ago and there are amendments on that before it is proclaimed?

3.15 p.m.

I may have been mistaken, but there are amendments to be made on that before it is proclaimed. I believe, I may have been mistaken, the hon. Minister in the Ministry of Finance mentioned that those amendments are affecting the Breathalyzer Act from being proclaimed. That is a critical Act. How many people are killing themselves because of the lack of the Breathalyzer Act? Those are much more important.

I do not know what the hon. Attorney General's legislative agenda is. We would be happy to see what that looks like, but I am sure this voluminous document is certainly not of high priority. We are a peaceful developing nation. I do not think we are planning to go to war any time soon, so what is the necessity to have this Bill before us seeking to enact legislation to give effect to Conventions that were there with us from pre-Independence and which have been adopted by us as a state party since 1963. What is the urgency?

I am looking at the Geneva Convention in a more global way and I am of the view that the Geneva Convention is observed more in the breach than in compliance. I refer particularly to the major conflict event of this century so far, the Iraq War. The Iraq War has gone on for five years. We may not realize it, but from March 2003 to now is five years. That conflict which was supposed to be finished quickly is still with us.

I am not clear, and perhaps the experts like the hon. Minister of Foreign Affairs can tell me, and I am sure the Senate would like to know, whether that conflict comes under the Geneva Convention. I am not sure. I could not determine it because it is not only one party against another. In fact, the country in question is not the combatant, if one may say so. The United States is the leading party. Great Britain is the second party. They handled the war in South Iraq. There are a

number of other states which are coalition partners such as Spain, Australia and Poland. It is interesting that a lot of heads of those states are no longer in power. The only one still there and not for very long, is the President of the United States. He will not be there in six months.

I would like to address certain matters relating to the Geneva Convention, particularly the Iraq War. The Iraq War was based on false premises. It was based on information intelligence which said that Iraq had weapons of mass destruction. We know they had no nuclear weapons. We know they had no biological weapons. We know they did not have any chemical plants associated with the production of things like ricin and mind drugs. In fact, what was identified as a chemical plant was a milk pasteurization plant at the time. Those are the false premises which led to a big war. Part of it was prompted by Al Qaeda. Al Qaeda, now they know, was not in Iraq at that time. A five-year war has caused a lot of pain for many people all over the world, including people from the United States and other states.

A website called Iraq Body Count Project, a British group has given the statistics for the war to date. The casualties/death to start with, let us take the military, for the US, 4,100; United Kingdom, 176; and other coalition partners, 137. That comes up to 4,413. The question of civilians, who are Iraqis, would frighten you when you hear the numbers. The numbers quoted on this website is civilian body count 48,000—92,000. That, of course, includes some of the people who do suicide bombing and other forms of bombing. The fact of the matter is a large part of the civilian population has been exposed to war, in all their innocence and it continues. Nobody knows when it will stop.

Where are we going by rushing through with this today? I do not see the need for a joint select committee, Sen. Mark. I would have to disagree with you because we are still waiting for the three joint select committees to be appointed. That would have to be approved in the other place before we start with the three joint select committees. Why should we bring another one now? They may say that this is more important than the other ones. Let us forget the joint select committee for this particular Bill. There is no urgency on this Bill, as far as I can see.

In terms of the Geneva Conventions, there are a lot of practices from some of the major states from the leader, the United States, which appeared to be contrary to the Geneva Conventions and the principles of human rights. I would give a few examples of this. The first I would like to talk about is something called waterboarding. I do not know whether members of this Senate know what

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waterboarding is. It is when they take a person, a detainee, strap him or her in place, cover the face with a cloth and open water on the person. The person feels that he or she is drowning. That is now recognized as torture, but not everybody agrees that it is torture.

In fact, I have here the Vice-President of the United States on February 2008, in a CBS news report, defending the use of waterboarding. He said:

“It’s a good thing we had them in custody, and it’s a good thing we found out what they knew,”

How they found out? It was by torture. Torture is not acceptable when it comes to evidence. I would come back to that in a while. I would not read all that it says except what waterboarding is. I think we should know these things. I did not know what waterboarding was until I started to look at matters like this. This is one item we know is happening and we do not know—I believe they are accepting that it is against the law. Torture is against international law. Now they are backing from it. Notwithstanding that, they still say that waterboarding can be done in the United States by Presidential decree. That is an action against a human being. That is a crime against humanity when you do that. I would come back to that in a while.

That is why the United States will not accede to the International Criminal Court, which we have gone right through. I would come to that at the end of this because in this Bill we speak about the ICC still being in service or intact, notwithstanding the Geneva Conventions punishment, et cetera. I will, indeed, come back to that.

The second kind of torture or human rights breach is what is called rendition, which is secret detention by a party. They take people and have them secretly moved to countries where nobody knows where they are and they are tortured there and made to give up information. Some of them end up in places like Guantanamo Bay. That is a practice in the most developed of country in the world, the United States. It is a serious matter because the British came under fire. It was thought they had a protocol. According to those protocols you cannot fly over their country to go to wherever they want to take them. It happened that there were two British citizens to whom this happened and this became a matter right up to the top in the United Kingdom. Those are matters which have been in practice. We would like to see such practice removed, because it does not do anything to our human dignity.

If someone has committed an act, which you suspect he has done, then you must do it in a way that is humane. Get your evidence, but be humane. In any other country now in civil law or national law, if you torture someone or take evidence by force, then it is not acceptable in a court of law. I see the hon. Attorney General looking at me, but this is how I understand it in our law. That is what justice is all about.

On this question of what they call torture and waterboarding, a Senate panel in the United States—this is from a report of June 10 in Voice of America—had a hearing on this subject of detainee interrogation policies. Let me read a paragraph out of this.

“The scandal sparked a debate in the U.S. about controversial interrogations at Guantanamo Bay, Cuba, including the use of waterboarding, or simulated drowning, and other techniques that critics say amount torture.”

The Judicial Hearing Committee was headed by Sen. Dianne Feinstein. She said:

“I believe it is wrong to use coercive interrogation and torture to try to accomplish that goal. I believe we must stop it.”

Even the Republican person, Sen. Arlen, the top Republican on the committee said:

“It seems to me it is not sufficient not to participate in improper or illegal conduct. But if they see it, they ought to blow the whistle and do what is necessary to stop it,”

This is a situation in which the United States is getting around to— notwithstanding all that is said about terrorism, et cetera, even in the United States now, as we all know, there have been a lot of detainees at Guantanamo Bay and these are people without any rights, foreigners who are in Guantanamo Bay. There are about 270 detainees in Guantanamo Bay who have been there, detained without any recourse of the law.

Last week, in the United States Supreme Court, a decision came out five/four, against detention, in which they are saying that these suspects have a right to challenge their detention in a US civilian court. This is the latest ruling and, of course, the US Government is looking to see how this can be bypassed. They might find a difficulty. Someone said that is a narrow margin, five/four, for it to be passed, but a rejoinder to that is that Mr. Bush was elected President on a five/four Supreme Court basis. We, of course, had even better than that. We had 17/17, when we had the election of one of our governments.

3.30 p.m

So, this is where the United States of America stands now. This is affecting their plan to prosecute a number of their detainees in a military court. They claimed that these are bad people; they are not prisoners of war; and they do not come under the Geneva Conventions, but this latest ruling means that they do have a way of going. I believe this is called the writ of habeas corpus. This is what it says. They have these 270 prisoners and they could take this route if they want to.

We have got our laws out from the United Kingdom—that was the seat of our law before—but it seems that they are retrogressing in terms of human rights. Unlike us and any other country, they have now passed a Bill for a 42-day detention without charge—from 28 days it has now gone to 42 days. This Bill was passed on Wednesday, June 11, 2008 in the British Parliament to increase this detention period to 42 days. This has caused many people to stand and say that this is really not what they should be doing. This Bill still has to go to the Upper House, so it is still awaiting the passage there, if it will go at all.

In fact, the Labour Party barely got through. Unlike what we have here, they have rebels, and the rebels voted against their government. In fact, they were saved by some little party which is called the Democratic Unionist Party. They gave their votes to the Labour Party to win by a majority by 315 to 306. So, here we have a situation where we would not like to get.

Mr. Vice-President, I said that I was going to return to the International Criminal Court (ICC) of which we are a major proponent. We have enacted legislation since 2006. We have Act No. 4, which is referred to in this Bill, and this is a very interesting Bill. I was saying earlier that the United States of America is one country that would not accede to it. Strange enough, the United States of America signed it in the first instance, and then they said that they intend not to ratify the statute. They have nullified the United States of America's signature of the treaty. Nullification means that they have no obligations whatsoever.

Their partner in crime in this is Israel. This came from Wikipedia, and I would like to acknowledge that all this information on the ICC came out from Wikipedia. The other party to that—it is interesting to read it—is Israel. Israel did the very same thing. It is word for word. It says that Israel voted against the adoption of the statute, but later signed the statute. In 2002, it submitted a letter to the United Nations declaring that it did not intend to ratify the treaty using the same wording as a similar letter from the United States of America. So, here it is, two states really getting together to put pressure on the ICC.

The more interesting one is Iraq. The new government of Iraq, the Iraqi Transitional Government as it is called, in February 2005, decided to ratify the ICC. However, two weeks later, they reversed this decision, a move that the coalition for the ICC claimed was due to pressure from the United States of America. So, there is a Big Brother calling the shot and saying that they should not go that way.

In looking at the relevant section which deals with the regulations—I did download that part of it—that section reiterated the conviction and penalty for war crimes, similar to what the Geneva Conventions give us.

If we go back to section 10 of the International Criminal Court Act, we would see what a crime against humanity is. Remember, that a crime against humanity has the same penalty as the penalty for murder in Geneva Conventions. If we look at section 10(2) of the International Criminal Court Act, we see what are considered crimes against humanity. I am just going to call a few: murder, extermination, enslavement, torture, rapes, sexual slavery, persecution against any identifiable group or collectively on political, racial, national and ethnic grounds, enforced disappearance of persons—that is what rendition is all about—the crime of apartheid, et cetera. The penalty for a crime against humanity is if the offence involves the wilful killing of a person, the same as the penalty for murder or in any other case imprisonment for life or a lesser term.

So, here is where we are, and this is what the United States of America has said that it does not intend to ratify. They said that they believe that the ICC could be manipulated. Whether that is so or not, I believe what they fear is that many of their actions over the last few years might be considered crimes against humanity, and they could be brought to the ICC, but they are making sure that not only them, but other parties do not join in this matter.

This same document speaks of what the United States of America does in terms of bilateral agreements. They conclude bilateral agreements with other parties. So, once you decide that you are acceding to the ICC, you get no military aid from them, except for a few states. I know that. I think that matter came up, and we were one of the parties that were caught up in that. How that matter is being resolved, I do not know, but this is a matter where the United States of America applies its pressure. Who wants military aid from them except for the poorer states? These Bilateral Immunity Agreements (BIAs) as they are called, the United States of America has 101 of these agreements in place. And, who are they? They are the small states that depend on them for military aid, et cetera. So, we are in this situation where we have to look carefully as to who our friends are in this business.

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I have to confess that I did not study this big document in any great detail. I read the Bill itself, but not all those Conventions and the Protocols.

Sen. Wade Mark raised a matter with respect to clause 9(1), and I think he raised a matter which needs to be looked at. As you know, we are a flag waving nation. If there is a Carnival band and they have Red Cross flags or Red Crescent flags, which is the Islamic version of the Red Cross for those who do not know, they would be in breach if they did not get prior permission from the Minister of National Security for doing so. From the way this is stated here, it is not related to any war activity; it says “for any purpose whosoever”.

I would like the hon. Minister of Foreign Affairs and the hon. Attorney General to react to this. If it is retained, then we have to make sure that the people know that, especially with Carnival coming around the road and everybody who is waving flags may end up on summary conviction to a fine of a good bit of money.

Mr. Vice-President, that is what I would like to say on this matter. As I said, I do not agree that we should be going to a joint select committee on this. I would like to emphasize and to impress upon the Government that we need to get those Bills here which are more critical to what we are doing as a people.

Mr. Vice-President, thank you. [*Desk thumping*]

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Vice-President, thank you for allowing me the opportunity to contribute to this debate on the Bill entitled “An Act to enable effect to be given to certain Conventions done at Geneva on 12th August, 1949 and to the Protocols additional to those Conventions done at Geneva on 8th June, 1977 and for related purposes”.

Mr. Vice-President, to this date, Trinidad and Tobago has not enacted legislation to implement these international treaties. As a consequence, the country is not in a position to fully comply with their provisions. That is why this Bill is before us today. [*Desk thumping*]

It is a legal obligation and a moral duty of states to ensure that this protection is effective at all times. Indispensable and crucial steps into that direction consist of securing a legal framework that guarantees that the international norms designed to alleviate human suffering caused by armed conflict are being applied.

Failure to have national law reflect these requirements has resulted in denial of basic safeguards to protected persons with most dramatic consequences. This concerns, in particular, prisoners of war and civilian internees who are protected by the Third and Fourth Geneva Conventions, respectively.

Mr. Vice-President, the hon. Minister of Foreign Affairs comprehensively introduced this Bill to hon. Members of this Chamber, defined its purpose and highlighted our nation's obligations on the international playing field. I, therefore, rise to support this Bill, and further to guide all hon. Senators and the population at large as to its applicability here in Trinidad and Tobago, and also why we ought to give effect to the mentioned conventions and their protocols.

In 1949, the conventions were revised and expanded. The First Convention speaks to the protection of wounded soldiers on the battlefield; the Second Convention, protection of wounded and shipwrecked at sea; the Third Convention, protection for prisoners of war; and the Fourth Convention, protection of civilians under enemy control.

The Geneva Conventions and their additional Protocols are part of international humanitarian law. A system of legal safeguards that cover the way wars may be fought and the protection of individuals. They specifically protect people who do not take part in the fighting: civilians, medics, chaplains, aid workers and those who can no longer fight such as the wounded and the shipwrecked.

3.45 p.m.

Although ours is not a region of armed conflict, it is incumbent upon us as the Government of the Republic to act responsibly. Most of the states the world over have implemented the Geneva Conventions. We are mindful of our responsibilities in the face of globalization; further, we are mindful of the repercussions of war. It is our duty to be the Caricom leader that we are known to be; to be the first Caricom state responding to the call of being an international legal person. We will be setting an example and we will be leading Caricom in a right and proper direction.

The Geneva Conventions are the hallmark conventions of the International Committee of the Red Cross (ICRC), an impartial, independent and neutral organization. The ICRC is resident here as Trinidad and Tobago is the seat of the ICRC for Caricom. The ICRC head office is located in Trinidad and Tobago and therefore, it is important for us to ensure that we bring this Bill and have it approved.

There is also an operational delegation existing in Haiti, where there exists internal conflict. It is important to note that it was the Government of Trinidad and Tobago that brought the concept of an International Criminal Court (ICC) to the world stage in 1989. The Geneva Conventions which preceded the ICC statute

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seek to complement the ICC in protecting persons involved in war and war crimes. We have ratified the latter one and the onus is now upon us to do the same for the Geneva Conventions.

Trinidad and Tobago has signed other treaties which speak to similar issues such as the Ottawa Land Mines Treaty, which is also humanitarian in nature and amongst other things, provide for the development of prosthetics for land mine victims. Land mines, like civil war are not common, if at all in occurrence in Trinidad and Tobago, yet, we are party to it, because we need to protect our people and the citizens of the world. This is an obligation that goes beyond Trinidad and Tobago.

Our visionary and caring Prime Minister recently spoke of the army helping the police. The ICRC, which is resident in Trinidad and Tobago can work with and train members of the police and army, both in an operational and doctrinal capacity, as it speaks to the Geneva Conventions. So, there are real benefits even to our local forces.

I am sure you will know, Mr. Vice-President, that the ICRC is the only organization in the world with access to Guantanamo Bay and to those 10 persons guilty of the coup in Grenada. You may also be aware of the role the ICRC played in Colombia with regard to the FARC rebel group. This is because its hallmark is confidentiality, allowing the organization access not available to too many organizations in critical events.

I know that this subject is close to the heart of Independent Sen. Drayton—of course, she is not here today—as she served up until her appointment as Senator, as an executive committee member of the Red Cross National Committee; that is the Trinidad and Tobago Red Cross Society. This Red Cross National Committee, which deals with disaster relief and first aid training along with the International Federation of the Red Cross and the ICRC, make up the Red Cross movement, which is an auxiliary to the public authorities acting for the benefit of civilian population and with which this caring and humanitarian Government is pleased to work.

Mr. Vice-President, being caring and humanitarian comes naturally to this side, you know. [*Desk thumping*] This is what we are all about. And walking the talk with stakeholders in discussions with the head of the ICRC sub-regional delegation in Port of Spain, it becomes abundantly clear that the regional delegation is in support of efforts to introduce the provisions of international humanitarian law into domestic legislation.

This Convention is two-fold in that it seeks to implement into domestic law, protection for those involved in war and also it seeks to protect the use of the symbol of the Red Cross, the Red Lion, and the Red Crescent and prohibits the use of force against any party or object bearing such signal.

I heard Sen. Mark ask about these symbols and Mr. Vice-President, the symbol is a key identifier of humanitarian personnel and equipment in battle scenarios. When you have all these wars going on and when in those very dangerous zones, it is these pieces of equipment, vehicles and people and that symbol becomes very critical to them being able to go in unharmed and bring the kind of humanitarian relief that is so sadly required. Part IV, clauses 9 and 10 speaks to that very comprehensively, and in the absence of the distinguished Senator, I am sure Sen. Dr. Charles will convey the information.

The responsibility for authorizing the use of the Red Cross or Red Crescent emblem rests with the State, which must regulate their use consistent with the terms of the Conventions and Protocols. The provisions of the Geneva Conventions and the additional Protocols establish that the Red Cross and the Red Crescent are symbols protected by international law.

These provisions define the individuals and services entitled to use the emblems and the purposes for which they may be employed. Their use is regulated at all times during periods of peace, as well as during times of armed conflict. Any unauthorized use of the emblem is prohibited. Generally the use of the emblem can be authorized to protect the medical services of the armed forces and in wartimes, civilian hospitals. It is also used by the National Red Cross or Red Crescent societies, the International Federation and the International Committee of the Red Cross.

So, Mr. Vice-President, this is a very critical part of this whole exercise in that where you have people's lives at risk, where you have these warring factions, where you have conflict, this piece of legislation allows for a state to protect citizens on a humanitarian basis.

We must work hand-in-hand with the Red Cross movement and all of its organs if we are to survive globally. I think it is time that the Opposition start recognizing that we function in a region and we function in a global village and it is no longer an insular arrangement. Therefore, if you start to appreciate that you are part of a region and part of a globe, and that there is a global village, you will then understand that your role, your functions, your responsibilities become far more important and you can no longer look at things in a myopic kind of way, but you have to recognize that internationally you are being viewed.

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It does not just work for this piece of legislation, it works how the world will look at you, because if you are devoid of being humanitarian, the world will have a different view of you, and therefore it is important that we understand how we should approach our behaviour when it comes to international relations and recognizing international treaties, conventions and protocols. I am sure my good friend, Sen. Dr. Carson Charles will share that information with Sen. Mark; I know you understand it very well, Sir.

In July, 2007—you know, we come back to this whole question of humanitarianism, this social conscience, this caring of this administration—the Ministry of Education and the International Committee of the Red Cross agreed to implement a humanitarian law programme in the nation's secondary schools. This is important because we ought to ensure that the nation's youth acquire a basic understanding of humanitarian rules and principles—and may I congratulate the former Minister of Education publicly on that matter. [*Desk thumping*] I do not want to talk about the kind of classrooms they organized for the children in the past. We will place our youths in environments conducive to learning, growth and development, such as one of the early childhood centres we have developed, or maybe one of the de-shifted junior secondary schools. We could even send them to the University of Trinidad and Tobago if they qualify for entry.

What about our social programmes? Again, a demonstration of the caring and the humanitarianism of this Government, which continues to be at the service of the nation; this Government which accepts its duties as an international legal personality; this Government which understands the concept of globalization; this PNM Government which is committed to meeting the needs of the older generation to those of the war veterans; the needs of the baby boomers to those of the i-generation. This all-inclusive Government has put in place and will continue to establish social programmes that will positively impact on the lives of all of our citizens bar none. All of this through our Vision 2020 policy and its fundamental pillars of developing innovative people; nurturing a caring society; governing effectively; enabling a competitive business and investing in sound infrastructure and environment.

Mr. Vice-President, we are not about bad talking the people in Laventille or Caroni, for that matter. Our social policy, a part of Vision 2020 is driven by our commitment to build a more socially cohesive society and to provide adequately for the indigent, the infirm and those at risk. It comes naturally to Members on this side. [*Desk thumping*] When you join the PNM you start by saying we care. I am sorry that the Senator missed, but I will give him a copy of it after. [*Laughter*]

Our social policy, as I said, is to build a solid society. We have established a Division of Ageing to educate and sensitize the public and to improve the quality of life of older persons. We have launched an Older Persons Information Centre. We launched four senior activities centres intended to foster independence. This caring Government has established a Probation Services Division to assist courts in criminal and family matters. It is this PNM administration which established a Social Displacement Unit to assist with rehabilitation including drug counselling, medical and psychosocial support.

Mr. Vice-President, this is what a humanitarian government does. This is what you do when you care. [*Desk thumping*] [*Interruption*] I am trying to explain to him the importance of what we are doing here and if you naturally do not care, if you do not have that humanitarian element in you, if it is not in your ethos, you will miss the whole thing. [*Laughter*] I can understand what happened and I am merely trying to bring him in line and probably get him in that, because after all, we are all citizens of Trinidad and Tobago and we would like all of our citizens to go in that field.

Let me continue, Mr. Vice-President. We have introduced the community-based telecentre project to promote computer literacy, so that all our citizens can be a part of this cyber village in which we live. We established a micro-loan facility to promote entrepreneurship; we created a disability assistance fund to meet the needs of disabled persons who do not qualify for existing programmes. This Government has disbursed social assistance grants including old age pensions, public assistance, disability assistance and—[*Desk thumping*] It is humanitarianism of this administration. I will expose you, Sen. Mark.

Sen. Mark: Mr. Vice-President, on a point of order! Let me expose him one time. On a point of order! On a point of order; 35(1), Sir. Could I ask you to look at 35(1)? I think he is totally irrelevant, Sir. Totally irrelevant.

Mr. Vice-President: Minister Narace, please continue.

4.00 p.m.

Sen. The Hon. J. Narace: The audacity and effrontery of Sen. Mark to talk about irrelevant. [*Crosstalk*] We established the Community Development Fund to provide grants to assist with project development in impoverished areas. This Government constructed and refurbished regional complexes and community centres throughout the country.

As we speak of humanitarianism and community centres, permit me to delve into a little history of the Geneva Convention. [*Interruption*] I just needed to make that point. [*Laughter*] As I said, if you are not humanitarian, if you do not know what it is to care, this Bill will elude you.

Sen. Mark: Tell Rowley that.

Sen. The Hon. J. Narace: I should mention that in 1864 the First Geneva Convention—

Sen. Rahman: Point of order, Sir; Standing Order 32(6).

Mr. Vice-President: Please continue, Sen. Narace.

Sen. The Hon. J. Narace: Thank you very much. [*Laughter*] Mr. Vice-President, I will have to make the Minister of Planning, Housing and the Environment available to them on Saturdays from 10 to 12 to help them to step up.

Sen. Dr. Dick-Forde: Comprehension.

Sen. The Hon. J. Narace: To step up! I should mention that in 1864 the First Geneva Convention dealt exclusively with care for wounded soldiers. The law was later adapted to cover warfare at sea and prisoners of war.

Coincidentally, I want this Senate to note that it was just about the same time Florence Nightingale, the lady with the lamp, [*Interruption*] the ministering angel was sent to Turkey during the Crimean War to treat wounded soldiers in the British camp suffering in horrific conditions.

This Government was elected in 2002 with the theme, “We deliver because we care”. [*Desk thumping*] And only last year, once again we were re-elected, this time with the theme, “We continue to deliver because we continue to care”. [*Desk thumping*] We continue to deliver because we continue to care and that is why Trinidad and Tobago continues to be governed by a party and people who put the needs of the population first. So, by reinforcing the importance of enacting this Convention into domestic law, the fact is, it is the bedrock for the International Committee of the Red Cross. This piece of legislation seeks to reduce the effect on victims that allow this legislation, International Humanitarian Law. It still complements the International Human Rights Law to which we subscribe.

Let me thank in advance on behalf of our citizens and those of the world at large who suffer unnecessarily as a result of war, all of those persons in this Senate who understand the importance of giving effect to certain conventions done at Geneva and the additional protocols; those noble and humanitarian people who support this Bill. I wish to state once again my support for this Bill.

I thank you very much.

Sen. Mohammed Faisal Rahman: Thank you, Mr. Vice-President. I rise to make my contribution to a Bill entitled “An Act to enable effect to be given to certain Conventions done at Geneva on 12th August, 1949 and to the Protocols additional to those Conventions done on 08th June, 1977 and for related purposes.”

In the course of the development of civilization we have seen certain refinements given to our societies and I will say that this Bill before us today represents a very landmark development in the relations of nations between themselves. Having been brought up in a period when I have heard mention made of these Geneva Conventions as a young man growing up and never having known the details of them, I have considered it to be a great privilege indeed to have been exposed to this set of documents which so seek to refine human nature that even in the heat of battle we can bring ourselves to extend such courtesies to each other.

I really am quite impressed by the Geneva Conventions, and I must say that I cannot charge the Government with rushing into this matter, because it has taken them nearly 50 years to come to it. What we can ask today, and it is a shared concern with so many Senators on this side, what has caused the prioritizing of this particular Bill at this particular time? This Bill today seems to have given the Government a grand opportunity to window dress and to do public relations.

I must at this stage congratulate the Minister of Health for what appears to have been his maiden speech in this Senate. *[Laughter]* I could not help but observe even though, you, Mr. Vice-President, did not notice but for 90 per cent of his speech he appeared to be suspiciously reading from a document, and perhaps that is why he made mention of so many things that were not really relevant to the issue today because he had to stick to the script that must have been given to him by those who had prepared the speech for him. I found this very interesting indeed and it struck me very forcibly, because I regard the Minister of Health with a certain amount of friendship and reverence. He is a senior Member of the Government and I really found it—I had to indulge in some crosstalk which seems to have affected the hon. Minister of Foreign Affairs at the time when I was doing this, but I was really astonished at the delivery that we were treated to by the good Minister of Health.

Now to come back to this matter of the Bill before us today—*[Interruption]* I shall not digress as much as you did, Sir—

Sen. Browne: Thank you.

Sen. M. F. Rahman: I must say something else here regarding the Minister of Health's contribution. He has clarified one very important matter which was raised by my colleague, Sen. Mark this afternoon. Sen. Mark, like myself, is astonished at the actions of the regiment at this stage in the affairs of this country, taking into their own hands the exercise of law, and despite the remonstrance of the Minister of National Security who has not offered any explanation for this, who has not sought to clarify the matter, we have now got clarification through the Minister of Health.

This may have missed everyone; this may have gone past everyone, because the Minister of Health explained to us that the very wonderful Prime Minister to whom he has given fealty and I would like to quote almost his words, "has asked the army to help the police". I think you said that, did you not, Sir? That the Prime Minister, who is a very caring Prime Minister, has asked the army to help the police. Clearly, we have a rationale, a reason and a justification now for the army to have gone unilaterally without police endorsement, or without police supervision, or without the cognizance of the Minister of National Security to enter into Richplain—

Sen. Narace: Point of clarification. Mr. Vice-President, what I said was that the visionary and caring Prime Minister recently spoke about it. I did not say that he asked. I did not say that. And I said the ICRC which is resident in Trinidad and Tobago can work with—this is one of the benefits that we can get from the ICRC. It is completely out of context.

Sen. M. F. Rahman: I think you have confirmed what I just said. I do not think there is a big difference. We are not going to quibble or split hairs. The caring Prime Minister, somehow indicated that the assistance of the army in the direction of the police was a good thing, and clearly the army has understood this and interpreted this to result in what is taking place today in Richplain, Diego Martin. We are having television reports of people complaining of the brutality and this is what brings us back to the Geneva Conventions.

I find that if these Geneva Conventions which have been prioritized to be brought at this point in the history of our country—and I might say that from all evidence the nations of the world, and according to the Minister of Foreign Affairs, we are not obliged to bring laws to come into conformance. There are not many nations of the world that have in fact done this, contrary to what the good Minister of Health has said. The point here is this, that the urgency that has now been attached to this matter becomes quite puzzling, because we are in a situation here where the nation that we have here today is not enjoying at a national level

the protection that these Conventions are seeking to grant to foreign troops that may enter our soil and commit atrocities and foreign troops that may come into our soil with bad intentions and on an aggressive basis.

I cannot see how we can divorce the national situation from what we are trying to accomplish with this Bill. Sen. Melville had made it clear the last time that this Government seeks to implement legislation and bring about legislation so that we may appear in a good light to the nations of the world. This is a continuing factor here, because the good Minister of Health was saying that we should be in the vanguard in the Caricom Community in establishing laws so that we would look good. But the whole question is this, that admirable as this set of Conventions undoubtedly are, when they were finalized in 1949 that was a time when the world had come as that very wonderful soul whom the Minister of Foreign Affairs named, and I do not know if I got the name right—Mr. Dunant—I am not too sure if that is the name of the person who in 1859 recognized the need for—

Sen. Narace: Just to correct the goodly Senator. I did not say that we should support it so we would look good. I said—[*Sen. Rahman stands*]

Just let me finish if you do not mind, you gave way already—

Sen. M. F. Rahman: Yes, I mind.

Mr. Vice-President: Sen. Rahman, you did sit down and give way—

Sen. M. F. Rahman: I am now on my feet.

Mr. Vice-President:—so he is on his feet.

Sen. Narace: Mr. Vice-President, I said that we live in a region and we live in a global village, and I said that it is no longer a myopic arrangement. I said that we are the leaders in the Caribbean and the ICRC is resident here in Trinidad and that it would look very bad for us as leaders to be negligent in our duties. That is the point I was trying to make. Not that we would look good, but that we had a duty and it all had to do with international arrangements and so on.

Sen. M. F. Rahman: [*Sighs*] Thank you. [*Laughter*] I do not know what that clarifies. I just do not know what that clarifies, but I want to take up what he has just said. The good Minister of Health—and I do not know, this seems to be a debate between him and us—realizes that we are now in a global village, and this is the point I was just embarking upon.

4.15 p.m.

In 1949, there was an urgency to this matter—for a moment I thought I was being challenged again there—for the world to produce this sort of Convention because we had just come out of the carnage of World War II. As Sen. Ali has pointed out—and these are my words—a lot of water has passed under the bridge since that time. And the global village, to which the good Minister alludes, must be taken into account. He is charging us with myopia, but the reality is that the global village is staring at us right here as a totally changed tapestry. The rules of engagement have changed completely. Nothing in the world today resembles 1949. Nothing!

Mr. Vice-President, the greatest nation that this world has ever seen militarily, today has virtually repudiated these conventions, and where it has not repudiated, it has sought to circumvent. I believe my colleague had tried to make this point and he did very clearly, but I wish to dilate upon this. I wish to make the point clear, what was relevant in 1949 has ceased to be relevant. We have now awakened to the middle of the 20th Century. I would like to say to my friends that we are now in the 21st Century, post 9/11, when most ironically in 2001, certain conventions were brought into effect that almost immediately have had to be thrown into the wastebasket by the United States of America.

Today, you have just heard about waterboarding. I do not know when I stepped out of the Chamber whether Sen. Ali mentioned Abu Garaib prison. I know we have had mentioned here today Guantánamo, but these are realities and maybe the Government is not being myopic, it is being blindfolded because it is not aware of these developments of the world. We are coming along—here we picked up this beautiful Convention where people are going to take care of their enemies who are trying to kill them and we are going to treat them very nicely. This is a wonderful ethical, moral, humanitarian way to go. But you know what, Mr. Vice-President, on the Internet, I pulled this out, the American Civil Liberties Union (ACLU) wrote this:

"There is no justice at Guantánamo Bay.

What I witnessed today in a Guantánamo courtroom made that clearer than ever.

At their arraignment before a military commission on terrorism-related charges, the detainees accused of participating in the 9/11 attacks refused legal representation by military and civilian defense attorneys.

Every day, the Bush Administration's un-American system of injustice continues to make a mockery of due process and the rule of law.

It's time to bring it to an end."

Mr. Vice-President, we are seeking to adopt conventions and to make law to accommodate these conventions when the realities of the 21st Century—and I am not saying that the United States of America is wrong to change its direction. There is a law; self-preservation is the first law of nature. The United States of America has come to realize that the brutality that is practised in some parts of the world may have a cause. What you are driven out of necessity and not out of desire, is permissible in my faith, and while it is wrong to take life, it is permissible to take life in self-defence or in defence.

Now, what I am trying to get across here is this, that we have had a very passionate presentation by the Minister of Health, but it is irrelevant to the realities of today. Totally irrelevant to the realities of today. We are now going to adopt a convention, when the people that we are trying to impress and follow are saying: "Well, do not be little stupid fools, that does not matter anymore. Do you know that you have to waterboard and you have to practise torture? It is the only way to get the truth out of these people."

Mr. Vice-President, I am not advocating for one minute that we endorse barbarity. Not at all. All I would like for us to do is to embrace common sense. Common sense tells us that this is the most inappropriate time to bring this set of legislation into being. And it seems as if with a lack of a legislative programme, the Government has been seeking to bring compliance legislation one after the other to keep the Chambers busy. It seems as though it is the only thing that they can find to do. They have not been able for seven years to bring to this Senate—only recently has started—laws that are extremely important for the welfare of the children of the nation and on the flimsiest of excuses.

We now have legislation being brought here as if—according to my colleague, Sen. Mark—we are preparing for war. Is it that Barbados, applying for some marine extension, is a threatening thing for us and we have to decide how we are going to react? I cannot believe—I am fishing around for some justification for this piece of legislation being here today. I simply cannot understand what is the benefit of bringing this bit of legislation today, when the rest of the world is in flagrant breach of the principles that are enunciated in this set of Conventions which are being presented to us today.

There is one great benefit and virtue that I see in this piece of legislation being brought here today. In my view, it affords us a tremendous window into what our priorities should be, as—I am sorry I am phrasing this as if I am part of the Government. I am not part of the Government—it informs the Government of what its priorities ought to be with regard to governance. These Conventions

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actually enunciate in terms of principles and practices, civil rights and human rights and the humanitarian aspect of governance. Here you have Conventions that are telling us how to treat with people who come to kill us, or who have been killing us or have been bombing us. Unfortunately, with one of its personnel murdered very wrongly of course, a couple days ago, with utter disregard for humanitarian and legal process, the regiment has moved into Richplain. This Convention tells us, no, no, no, no, this is not the way to respond. You have to have not only the rule of law, but the application of humanitarian principles. You have to deal with even criminals in a civilized way. This is what I love about the set of Conventions; it recites without any modification what is expected of somebody who has power over somebody else.

The Government has a lot to learn from these Conventions. The Conventions do not permit for the detaining power to even expose prisoners of war who were trying to kill its own civilians, to contagion; it speaks about maintaining the environment. In this country, we have people consistently being exposed to dangers like lead poisoning sometime ago and all sorts of toxic things, and we are bringing in industries that are going to destroy the environment, while this Convention is telling us, preserve your environment. You cannot destroy your environment. These Conventions are telling us how the country should be governed.

It is quite amazing when you look at what the Government is presenting to this Senate to ratify with a total disregard, and to use the expression, myopia, that it looks towards its own citizens and its responsibilities and fails to discharge. Here we have, not only are we not giving—these Conventions demand justice for murderers who are coming to murder you. It demands prompt repatriation in certain circumstances. It demands that you look after their health. It demands that you provide them with defence attorneys and counsel. The number of things that these Conventions demand of the nation, I would love for these Conventions to be used as a prism, through which the Government can look at its duties towards the people whom they govern.

Concern must be given to your citizens and not only your citizens, but all of the people that make up your nation and even—one of the very interesting things about this Convention too, it deals with how you treat with people who are not belonging to you—who are supposed to be even going to jail. It deals with a parallel circumstance where we are now taking people who are incarcerated here, illegal immigrants like the Ghanaian case, where we have people in jail and not doing anything about them and keeping them jailed for years. This is not allowed

in the Convention. The demands of the Convention are very expansive and I would strongly recommend that the Government takes a look at these Conventions with a view to implementing some of the requirements that it seeks to impose upon itself for strangers and invaders; that it seek to apply some of these principles to the citizens of this country who deserve and are entitled to the protection of the State.

There are also aspects to this Convention that seem to be contradictory to the way things are developing. One of the things I see in the Convention is that the death sentence can be passed upon people. Now, we know—and this is another aspect of its anachronism—that many States of the world—and we have been having this problem with the Privy Council in our country here, in relation to our country's laws—are moving away from capital punishment.

Here we have a situation where we are importing into new legislation, provision for capital punishment that is now being eschewed by most nations of the world. Of course, notably excepting the United States of America where the death penalty is still alive and well. But the question is this, in Europe, in Britain, in many of the countries of the world that have subscribed to this Geneva Convention, we have a situation where—just to wind up Sir. When I say wind up, it is for the moment—we are importing a death penalty in contravention of the global village practice. I should resume later, Sir?

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m. It is a good time to take the tea break. This Senate is suspended until 5 o'clock.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. M. F. Rahman: Sir, may I ask how much more time I have left?

Mr. Vice-President: You have 19 minutes more in the normal speaking time.
[Laughter]

Sen. M. F. Rahman: I do not know whether I shall be able to utilize all the time that would normally be allocated to me, but I may be inspired with help from the other side and some of the promptings that I usually get impromptu.

I was trying to show that the Conventions we have before us have become, virtual anachronisms, in the reality of the present circumstances. For those of the Government who do not seem to be aware, because they speak of our myopia, but they are blinkered, in my view, and sometimes blindfolded. Concern for civilian

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welfare has been discarded and a new term has been established when nations go to war today. The new term is "collateral"; so whatever happens, whether you are carpet bombing, you are cluster bombing, "you are shocking and awing", whatever goes on with that, whatever takes place, is casually classified as "collateral".

Here we are trying to safeguard enemy combatants who fall into our hands. I am speaking a little in the air here, because I really do not know what sort of circumstance would make us an armed power. It is so far-fetched to think that this little country could become embroiled in any sort of conflict that would not end in half a day. I do not know where we are going to get all these prisoners of war to take such zealous care with. But we are looking at cosmetic legislation—I must return to that term—that is being embraced and that is designed only to make us—

You know, it has suddenly come to my mind that the Government's vision is a 2020 vision with a First World status. I believe that all these pieces of compliance legislation that have been brought to us for this year all seemed to be geared towards creating a backdrop of a developed nation.

If this was 1949 or 1955 and we were adopting this, signing up and passing law, we would be in the avant-garde of political development. We would have shown that we were a First World nation, even in those days. But now we have to contrive a First World nation veneer by taking anachronisms and reinventing them, even though those Conventions and legislations that we are seeking to pass have become, not only outdated, but because of the circumstance, their objectives have become changed.

The circumstances have so completely changed that the world has, virtually, morphed into a totally different sort of village, where what was frowned upon 50 years ago appears to be blasé today. The world has degenerated, along with our society, from Victorian days sort of principles and morality, to gutter morality, so that today anything goes. It seems as though reaching back into the past, plucking this set of Conventions and bringing it to this House may contribute, in the Government's view, to giving it some semblance of modernity and First World veneer. I really do not see it.

There is this whole matter of prioritizing. There is a little lesson here that you prioritize according to urgency and importance. There are two factors: If something is urgent and important, it is number one. If it is urgent, but not important, you do not do it, because it is not important, so the urgency could be

something that is ephemeral. If something is important but not urgent, you still get it pigeon-holed and get it done, because it is important; but when it is neither important nor—[*Sen. Rahman pauses*] urgent, you put it aside. [*Laughter*] I am getting brain tired dealing with all these repetitious bits of legislation that are being presented to us without an objective.

Sen. Browne: Senior moment!

Sen. M. F. Rahman: We are being snowed under with non-essentials, non-priorities, non-urgent and non-important. It is time for persons to get very, very tired and say, "What are we really doing in this Chamber; we have important legislation to look after."

Recently the hon. Attorney General confessed that one of the pieces of legislation we were looking at when we were seeking to conform to the Caricom qualification thing that would allow persons to come and work here in certain circumstances, had defects in the law, but to do an omnibus review and reappraisal was too much, so "Let us just get this little piece of nonsensical legislation into the books, and one of these good days, maybe seven or 10 years from now..."—Well, I do not think that they are going to have a chance, because I do not think that they are going to go further than the present term of office, or even before that, perhaps. The Government is continuing on its course of making a lot of sound and fury, and accomplishing nothing to the benefit of the citizens of this country.

How does building skyscrapers reduce the cost of living? Because of the way the Government is spending, they are adding to inflation. All the additional factors that cause prices to rise, with food and all these things, are exacerbated when the Government is pouring money into the economy at the rate that it does. It is always seeking to solve problems that do not exist by adding more problems that we do not need. This is a very peculiar sort of operating Government.

All the protestations about being a caring and prudent government seem to be just like words in the wind; they do not convince anybody. Right now we have embarked upon all sorts of different legislation and programmes, and the rule of law has been breached at the most crucial level.

The Minister of National Security is not here right now. I would like an assurance that the present action of the regiment in Diego Martin would be addressed for what it clearly means: it was a total breakdown of authority. When the people in Macaulay brought in private guards to protect them from the murder

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and mayhem, a lot of criticism came from the Government side. Now we have an institution of this country taking upon itself to—[*Interruption*] The point I am making, Sir—[*Interruption*]

Mr. Vice-President: Sen. Rahman, you are going very good so far; do not stray; remain on the Bill.

Sen. M. F. Rahman: I am trying very hard to remain, [*Laughter*] but there are pinpricks at the side that are nudging me in a direction. We are talking about securing the safety of persons who are trying to bomb and kill us. The Conventions here speak about the civilian and human rights. Do you understand, Mr. Vice-President?

By the way, thank you very much, Sir, for the compliment that I was going well so far. [*Laughter*] I nearly missed that. I shall try to continue in the same vein.

Let me try to relate this matter. All I want is an assurance—forget all the antecedents—that this current breach in the nation's structure of law enforcement would be investigated and addressed. We have a plan to put regiment men in—[*Interruption*] I will not make the mistake a second time, Sir. I am not going to sit. [*Laughter*]

We have a plan to put regiment members in every police station in this country to beef up the police service; this has been said. [*Interruption*] We might be taking information from the press, but the Government has not denied it. It has not issued a statement saying that was not its plan. We have had joint patrols with the army and the police. Do not tell me that we have not had joint patrols. If we could have a whole regiment come into a district, it is not very far—because we had a 1970 incident here, Sir, with some rebels. [*Crosstalk*] Everybody knows the story; I think everybody was born at the time. I do not know, really. [*Interruption*] Maybe we should go into a little history.

We had a situation where certain army officers took it upon themselves to seek to overthrow the government. The present situation is that the nation is at risk, Sir. The nation is at severe risk, because we have no assurance that this breach of authority would be taken up and corrected.

Part of the Convention states that anybody, whether military or civilian, performing violence upon persons, upon prisoners of war, anybody who commits violence against them, has to be severely punished. Walking around with loaded

guns in a community and exercising a lot of muscle, somebody is going to get shot in that area. We have a case where a poor fisherman, Shazard Mohammed, was shot to death by a coastguard and for some reason the case was dropped.

We have situations where non-police officers are walking with arms and using them; not to mention the fact that police arms are finding themselves in all kinds of hands, and we have an ongoing situation where we believe that guns are coming in with drugs; but we had police guns used against civilians. The point, Sir, is that the Conventions here jealously safeguard civilian rights. We want to sign up to something, when we are in total breach of the same thing in our social environment. Our civilian environment is in violation of all the Conventions that are being sought to be established in this Bill. I hope I have made the relevance clear, Sir. We are in a very desperate situation. If we allow this decay to continue we are in for serious trouble.

I thought with the Government provoking the people in the way they have been, that the people would rise up, sooner or later. All of a sudden we have another uprising, the police have been set aside and somebody else is in charge with guns. If the Convention seeks to protect persons against violation, we have to stop the violations that are taking place right now. This is a wake up call to the Government.

Do not tell me that this matter does not concern the Government. I may be sounding irrelevant and a little harsh, but this is a matter that should be panicking the Government: how do we contain this monster that has suddenly come out of Pandora's box. We have a problem, Sir, and I really want to appeal to the Government to look into that.

5.15 p.m.

One of the interesting things is this; the hon. Minister of Health has taken great pains to educate us as to the importance of the Red Cross symbol. Well said, Sir, but we are in for a little trouble. The Red Cross symbol has become an international first-aid sign which you can stick on any little box, cupboard or caravan that you have at a trade fair. "This is where you get medical service."

The purpose of the restrictions on the Red Cross insignia is so that it cannot be used by enemies and hostiles as a device to escape detection under the umbrella and cover of the Red Cross symbol. He has completely misunderstood the purpose of including this as a protective symbol. If you are going to criminalize everybody who uses a Red Cross symbol in peacetime to show that this is the office from which you get your first aid, or this is the ambulance that is equipped

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for taking care of the sick on this location, do you know what he will be doing? He will be making serious trouble because he will be criminalizing all the people from all over the world who produce medicine boxes to ship to different parts of the world.

You must not become so enthusiastic with idiotic legislation to trammel our own self and make you look “dotish”. For all your big printed and prepared speech which you read, that is what you delivered: that we have to recognize the significance of the Red Cross insignia. For God’s sake, you are on the wrong track. This is to protect the abuse of these symbols, not the use of them at non-aggression time. So I would like the Government to understand that while they do not think, other people think about what they are not thinking about and they have to pay attention. If they do not, they are going to take us all down the tubes and with a majority like that, we do not have the hope of a snowball in—you know where—to survive, because we are going to go through the tubes with this Government and its ineptness.

Mr. Vice-President, something very interesting is that another part of the metamorphosed world situation today, we have this global village where nations subscribe to certain conventions and flagrantly violate them. You know the United States of America wants no proliferation of nuclear weapons but it has never stopped its own development of these weapons, neither have they allowed Israel to stop its development. These nations are in total breach and they want us to sign up every convention that comes along to toe the line, play like big boys—we are really less than boy scouts here you know—and they want us to conform to everything they bring out whether it makes sense or not.

But there are ongoing breaches of the very conventions that somebody is trying to impose on this little nation. Today the United States of America does not allow its citizens to be prosecuted outside of continental USA. If you are a citizen of the United States of America and you are going to be prosecuted in a Middle East country or anywhere, they say no, no, that is our citizen, you cannot prosecute him, bring him back home.

This is a convention that is seeking—

Mr. Vice-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. M. F. Rahman: Thank you, Mr. Vice-President. With the encouragement of the Government's side, I think I have found some more material to present you.

Sen. Browne: [*Inaudible*]

Sen. M. F. Rahman: I know that America objects strenuously, and when "Uncle Sam" objects, he has his way. He is having his way with us right now; we are toeing a line that is totally uninspired from within the ranks of this Government.

Sen. Browne: What is that?

Sen. M. F. Rahman: Anyway, one of the very interesting things about this set of Conventions apart from the death penalty being reintroduced to the contrary of world development, I notice that there is a safeguard in here that prisoners of war must be given food, clothes, recreation and tobacco. Now, we have a Tobacco Bill—which I got notification of just now—coming soon where we are going to discourage the use of tobacco, and in most countries of the world it is a very restricted substance, yet in this Convention, prisoners of war must be provided with tobacco. We are going backwards. [*Interruption*] Oh, you want to torture them with the tobacco. Do you know that torture is also not allowed? The funny thing is these people have not been looking at the fine print.

Mr. Vice-President, it was a very daunting task, but I am happy to say that I went through every page of this document.

Sen. Browne: Did you understand it?

Sen. M. F. Rahman: Maybe I did not understand it the way you did, because you see, there is a certain dyslexia in the Government ranks.

Hon. Senators: Ooooooh!

Sen. M. F. Rahman: They read, and do not understand. I have a habit of reading fine print, that is why when I am posing my questions, I read the fine print at the bottom of the page and I can tell you how many weeks the questions have been deferred for. Reading fine print is very useful. "I get meh glasses yuh know, so ah could read fine print now. Funny, I cyar read the names of de Senators on the other side." Very often, I have to ask my colleague what is the name of that one or—

Sen. Annisette-George: You mean you cannot pronounce it.

Sen. M. F. Rahman: Oh, talking about pronunciation, you are talking about "arrestes" and "breakfastes" and so forth right? No, no, the pronunciation is very

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easy for us on this side. We do not have a problem with pronunciation you know; sometimes we lapse into dialect and these things to make a point.

Hon. Senator: Vernacular.

Sen. M. F. Rahman: Vernacular, I stand corrected. You see the *mot juste* is not always there at the tip of my tongue and I can always depend on the other side to tell me the right word to use when I am in such a position. I am very grateful. Coming back to the matter, we are seeking to enact legislation that has outstripped itself, legislation that has been overtaken by events, legislation that has become an anachronism in the present time. I trust that everybody here knows what an anachronism is. It no longer applies; we cannot go back to 1949 and embrace everything. We have to look, sift out and apply reason for the adoption of what we are going to introduce as legislation.

Mr. Vice-President, it is extremely important that the Government pays heed, not only to proper prioritizing but to relevance, the changing of the times, the passage of water under the bridge. Where we are at now, what are we seeking to do? What is it we should really be concerned about?

There is a saying that when Rome was burning, Nero was fiddling. Let me tell you dear colleagues, we have a burning condition in this country right now and they are trying to put out the flames with blood. This is a terrible situation. We have murder seeking to douse the flames. The Government is hoping that the criminals will kill out themselves in three years—that is the timetable I think. It is hoping that the criminals will kill out themselves in three years by attrition, but let me tell you, there is a new crop coming up out of the people who are disadvantaged and are being downtrodden and not given the bare essentials that this set of Conventions seek to confer upon prisoners of war.

One of the very interesting things is even if a prisoner of war was guilty of the most terrible crime, you still have to treat him well, and you cannot even beat him, not to mention take advantage or threaten him. Yet we have a situation here where we were not observing the things this Convention is promoting.

I am trying to see this Convention, like I said, like a prism through which we can examine the direction and performance of the Government insofar as its responsibility is concerned. I will strongly recommend that the Government, using this set of Conventions as a model and with the help of us, prepares a convention between itself and the population as to how governance should be undertaken on behalf of the people whom they have been elected to represent and serve.

If they use this set of Conventions as a model to see what they should do, how they should look after feeding the people and paying them—you are supposed to pay the prisoners of war and not even let them work overtime. It is amazing, you really have to read this document in detail to see how deprived the citizens of this country are, vis-à-vis the very happy-go-lucky prisoners of war who will end up on our shores, if they ever do.

There is a situation where we have a golden opportunity—again, we seem to be getting many golden opportunities—to review our performance as a Government. Again, I am using the word “our”, I do not know why I keep on saying that as if I am on the other side, but the Government is getting an additional opportunity every time to review its performance and what direction it should take.

Mr. Vice-President, not only is the United States of America violating—and I hope the United States of America is big enough to take criticism—but we have a situation where recently in the last Israel/Lebanon war, the Israeli army, after being told half a dozen times that there was a UN post at a particular point and to be careful, accidentally the Israeli forces blew up the UN post and killed half dozen UN officials and some of the people who might have been taking refuge in the place. There is an ongoing situation where violence, which this Convention condemns, is becoming endemic and the norm on the global scene. Are we such innocent ingénues that we cannot understand what is happening? We are bringing a Bill that has lost its purpose and relevance.

I want to join with all the Speakers before me who have pointed out this fact because it shows us not as an aspiring nation to 2020 First World status you know, but as—do you know the word “coo-noo-moo-noo”? We are a nation of “coo-noo-moo-noos” really trying to look good and big up ourselves on the world stage.

I notice there is one serious matter lacking in this set of Conventions. While you have penalties attached to infringements by civilians and army personnel, there is absolutely no provision that I was able to see or remember that deals with bringing a nation to book which has violated any convention of any sort. Because in war, there are violations taking place all the time, you have massacres and so forth, and remember the Convention also does not realize what it is saying. People have been committing atrocities and there is a very vivid picture of a Vietnamese colonel or somebody putting a bullet through a Vietcong’s head on the front page of the *Time Magazine* and that gentleman is a protected citizen in the United States of America today.

5.30 p.m.

The Convention is seeking to outlaw things that the big nations of the world have glossed over and said, “No big deal. Come and live in America.” I ask this Government to wake up and try to do things that are necessary and beneficial to the nation. There is a tremendous amount of work to be done. You want to keep on putting up buildings, do it parallel to looking after the interest of the people who have been so beaten into submission, that they have supported you election after election after election. It is a simple thing. Do good for the people and when you are returned to office, you could say that you deserve to be put there.

My comrade, Sen. Mark wanted to know whether the Government is going to war. Very recently we had a question answered. We were given the interesting figure of \$5,610,227.48 which this Government for no apparent reason has invested in bringing riot gear and crowd control gear to use against the civilians of this nation. We have a situation where the Government seems to be preparing for war because the Government is reading the writing on the wall. It knows that its policies are going to incite riots and civil commotion. The Government has taken in front and during the period 2002—2007 spent \$5.6 million on the purchase of crowd control items that relate to the people of this country.

The answer was with respect to the specific details of the purchase, hon. Members should note that the resources assigned are based on strategic decisions. The Government is afraid to say that it “fraid de people.” It is a strategic thing. “Dey fraid de people.” They have bought crowd control equipment to control the people whom they know would raise up against the government. They are provoking the people. They are coming with cosmetic legislation. They are disregarding the contents of the legislation. They are continuing to violate the people at every turn. Now, the army is helping the police according to the Minister of Health. Where are we heading? We are heading for anarchy.

What is very serious is that next year we will have two huge conventions in this country when the Government would have the necessity to lock down the nation, in order to host these people from all over the world who will come at a middle point in the city to hold meetings. If the lid can be kept on the population to the end of 2009, I would say praise God, we get away, at least for a little while. Without inflicting more on the other side, thank you very much. [*Laughter and desk thumping*]

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Vice-President, I enter this debate to correct some of the misinformation provided to this honourable Senate by both Sen. Wade Mark and Sen. Rahman.

I read verbatim the information provided to me in my capacity as Minister of National Security. The status of investigations into the shooting deaths of Corporal Ancil Wallace of the Trinidad and Tobago Regiment and his friend, Mr. Noel Charles which occurred in Richplain, Diego Martin.

Assistant Commissioner of Police for Crime, Mr. Gilbert Reyes said today that following the killings of Corporal Wallace and Mr. Charles, the homicide bureau is conducting investigations. He said as a result two persons are now detained and being questioned in connection with the two murders.

On Monday 16, a meeting was held between the Executive of the Trinidad and Tobago Police Service and senior officers of the Defence Force. Following the meeting, a joint police and army contingent was deployed to the Diego Martin area with a view to arresting the perpetrators in connection with these crimes and other murders that have been committed in the area.

Acting Chief of Defence Staff, Colonel Roland Maundy and Mr. Reyes have confirmed that it is a joint operation involving officers from the police and defence force. Colonel Maundy has indicated that no reports of brutality on the part of the Defence Force has been brought to his attention. He however wants to assure residents that any allegation brought against any member of the defence force would be thoroughly investigated.

The police team is being led by Inspector Dan of the West End Division and comprises members of the West End Division Task Force, the Crime Suppression Unit from San Fernando, one platoon and incidentally, a platoon comprises 30 persons and three special forces team and each team comprises four persons—from the defence force—30 plus 12 equal 42—as well as officers from the Guard and Emergency Branch.

I thought that I should read it into the records to correct some of the misinformation being provided.

Thank you. [*Desk thumping*]

Sen. Gail Merhair: Mr. Vice-President, I rise in support of the legislation before us, a Bill to enable effect to be given to certain conventions done at Geneva on August 12, 1949 and to the Protocols additional to those Conventions done at Geneva on June 08, 1977 and for related purposes. I assure this honourable Senate that as large as the legislation before us which we had to read, I will not deviate from the Bill before us and I will be very short.

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I support this legislation but there is room for extensive debate on the issue and on the moral responsibility of the Government and people of Trinidad and Tobago to advocate on the international stage for clarity and enforcement of these treaties and accompanying Protocols. Like all laws, the Geneva Conventions can be ambiguous, complex and reflect historical origins. Most of the controversy surrounding indefinite detentions by the United States, for example, revolve around the scope of the Third and Fourth Conventions being considered here today.

On one hand the Third Convention defines “prisoners of war” largely in state centric terms, as members of a recognized state’s armed forces who are entitled to special protection. This definition excludes suspected terrorists captured in Afghanistan or Iraq. This led to former United States official Donald Rumsfeld and Alberto Gonzales describing the 1949 Convention as anachronistic and vague.

On the other hand, the Fourth Geneva Convention extends basic human rights protection including that for a fair regular trial to all civilians in an armed conflict, whether or not they are engaged in hostilities.

Some have argued the usefulness of this Convention. Let us look historically at the various issues. Attempts to put limits on wartime behaviour have been recorded since the beginning of history and have had numerous attempts to codify the rules of appropriate military conduct. In the sixth century BC, Chinese warrior, Sun Tzu suggested putting limits on the way that wars were conducted. Around 200 BC the notion of war crimes as such appeared in the Hindu code of Manu.

In 1305, the Scottish national hero, Sir William Wallace was tried for the wartime murder of civilians.

In 1965, confederate officer Henry Wirz was executed for murdering federal prisoners of war at Andersonville prisoner of war camp. He was one of the several persons tried for similar offences.

In the past century and a half, we have seen a qualitative jump in the degree of constraints that have been placed on warring parties. It was not until the 20th Century an international body was formed to police the nations of the world. The first Geneva Convention as we were told was signed in 1864. This was done to protect sick and wounded people during wartime. In 1899, treaties were signed concerning asphyxiating gases and expanding bullets. When we look at all sorts of war movies, we hear all these terms.

In 1907, 13 separate treaties were signed followed in 1925 by the Geneva Gas Protocol which prohibited the use of poison gas and the practice of biological warfare.

In 1929, two more Geneva Conventions dealt with the treatment of the wounded prisoners of war. In 1949 Geneva Conventions which we are giving effect to today through legislation was divided into four treaties. The Minister of Foreign Affairs has outlined this in the Bill. This together with the two Protocols signed in 1977 give rise to the foundation of law with regard to humane treatment of prisoners of war.

Some may enquire and I know many people have done that today, as to the relevance of this Bill given the rise of a new dynamic in international terrorism that is taking place in our global village.

As for Articles 49, 50, 129 and 146 of the Geneva Conventions I, II, III and IV respectively, 194 signatory states are required to enact sufficient national laws that make grave violations of the Geneva Convention a punishable criminal offence.

We in Trinidad and Tobago as a progressive nation should protect our citizens. It has become even more essential for us to look at this piece of legislation since soldiers of Trinidad and Tobago have indeed participated in United Nations' peacekeeping missions and around the globe, the way the global climate is going, a Trinidad and Tobago national could be held for suspected terrorism. I think that that has been done already. The individual may have no recourse through the Government of Trinidad and Tobago. No ambiguity must remain as to the status of our soldiers when they have to protect and serve the interest of humanity.

We must also note that in Article 2 of the Third and Fourth Conventions and Article 4 of the Fourth Convention, that citizens and soldiers of nations which have not signed the Fourth Convention are not protected by it. Basically, the Geneva Convention has much relevance in terms of what we are dealing with today. For all the lofty goals outlined in the Geneva Convention we must beg the answer for some very important international questions that have plagued the international community.

In 1994, with the genocide that took place in Rwanda where millions of people were massacred by the rival gangs, where was the international community then? Where was the international community when Saddam Hussain used prisoners of war as human shields in the 1999 Gulf War or when he used the

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biological weapons on his people in 1988? Where was the will of the international community when the atrocities happened in Darfur? The people of Israel admitted to using cluster bombs on the Palestinians on the Gaza Strip. Even today, the people of Zimbabwe and Burma have untold miseries being undertaken at their hands. All this is in terms of undeclared war on people. We have to ask as much as the Geneva Convention is applicable to us now—I agree that it has to be passed.

There are many different atrocities happening in all parts of the global village, as the hon. Minister Jerry Narace told us. We need to ask: Where is the international community? As we sign the Geneva Conventions that represent a legal basis for international law with regard to the conduct of warfare, we must always bear in mind that not all nations are signatories to the Geneva Conventions and as such retain different codes and values in terms of wartime and conduct themselves differently. Some signatories violate the Geneva Conventions in a way which uses the ambiguities of law for political maneuvering whenever it pleases them.

5.45 p.m.

The definition of "state of war" as usual will come up for debate and war crime is used differently at different times as international law and military law suggest. It is also suggested that it has some degree of application outside of what some may consider the state of war, but only in areas where conflict persists enough to constitute social instability.

The legalities of war are sometimes accused of containing favouritism towards the winners of certain controversies and have often not been ruled as war crimes. Despite the loopholes in the Geneva Conventions, they still intend to mitigate the evils of war by protecting both combatants and non-combatants from unnecessary suffering; to safeguard certain fundamental human rights of persons who fall in the hands of the enemy, particularly prisoners of war and those wounded among the sick and the civilians; and, lastly, to facilitate the restoration of peace.

The Geneva Conventions, in my view, are by no means obsolete and its provisions make sense when war involves nation states. If Trinidad and Tobago and Barbados fight over territorial demarcation, which is something we have been hearing a lot about, to pretend however that the Geneva Conventions apply to things like Al Qaeda, a non-state actor that target civilians and disregard other laws of war, denies the reality of the dramatic changes in our international system.

I ask today that not only do we look at the laws of the Geneva Convention, as I support it, but we must look at what is happening globally and must realize that multinational terrorist groups have joined nations on the stage of war and operate without regard to borders. They observe no distinction between combatants and civilians and our weapons to control hostile states do not work well. They are decentralized networks of suicidal operatives with no citizens or borders to defend. The problem of terrorist groups has been compounded by the fact that we now have the rise of a lot of pseudostates which often neither have the will nor the means to obey the Convention.

Somalia and Afghanistan are arguably pseudostates and multinational terrorist groups and pseudostates pose a deep problem for treaty-based warfare. Terrorist tribes are killing civilians and flouting conventions and rules of war. A treaty like the Geneva Convention makes perfect sense when it binds genuine nations that can reciprocate human treatment of prisoners. It makes little sense, however, when applied to terrorist groups or pseudostates. If we must fight these kinds of scenarios and these enemies, we must create a new set of rules based on the Geneva Convention, but cognizant of the changing realities of war.

I thank you.

Sen. Cindy Devika Sharma: Thank you, Mr. Vice-President. It is an honour to participate in the debate, considering that we are finally giving ratification to this legislation, which is of great prestige internationally, even though we have been party to it since 1963. I welcome the debate and my ability to make a contribution.

In looking at the Bill, I find there is nothing to object to that in principle. The principles that the Geneva Conventions uphold are ones that any civil society would wish to ensure are promulgated throughout the society. In essence, the debate will not be about whether the Conventions are good or bad because that has long been established internationally.

If we are to utilize the legislation in a realistic fashion, to me relates strongly to the situation that occurred with our soldiers recently. We need to make sure that there is a system in place to ensure that our military forces are informed about what the Geneva Conventions mean, not only in terms of their obligation, but their rights as well, if they are to engage in international duty.

I refer to Schedule I, Article 47, which provides for the dissemination of texts, the information of the Convention, to military forces as well as civilians. My question to the Government is: What is in place currently for that dissemination to

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take place? Is it going to be formalized in the education system of the military itself? I know there is an educational element in the military itself and I think that this should be something that is pursued vigorously. It would not only inform them about their own rights, if they are taken prisoner in a future hostile situation, but how they are to treat with persons they come into contact with during conflict. It may not be that far off.

Trinidad and Tobago may not be at war with another nation, but our troops may be asked to be part of a UN peace-keeping force. If that is the case and they have to leave our own island territory and establish themselves for a temporary period in a warring zone, they need to be cognizant of all the elements of the Geneva Conventions and what it would mean for them, how to act and how they are supposed to react if they are taken prisoner by a nation they are engaging action against, or even in a peace-keeping mission. That is one of the concerns I had while looking at the Conventions.

While the debate was going on, Sen. Ali made mention of the US having currently served through the British administration. They are currently trying to undermine the main principles of the Geneva Conventions because of the new war and terror they are waging against these nebulous combatants, these pseudostates as they are referred to, such as Afghanistan.

My concern with that is that they are pursuing that agenda for two reasons. One is that the Geneva Convention was created in an age where the combatants were known: this country against another; this section against another. Lines were clear, so if a person was taken as a prisoner of war by another nation, if you treated that prisoner in the way you would want yours to be treated, these Conventions would be adhered to by both warring parties. So when hostilities came to a close, prisoners of war would be sent back to their nation and would not have experienced severe atrocities or had their rights violated. Of course, we know that there are breaches; that man being the brutal creature that he is, there will be breaches. So the Conventions are there to ensure that for those who do not adhere to these principles, there is an avenue for people to answer for what they have done.

The second thing that the US is saying is that it can pursue terrorists without reference to the Geneva Conventions because terrorists themselves do not care if they live or die. Because of that, the US is saying, through the British administration, that because there is no longer this fear when a prisoner is taken hostage, they will give their lives because we now live in an age when we have these kamikaze people, the suicide bombers. They are willing to give their lives

for the cause. The Bush administration decided to create legislation that would undermine the Geneva Conventions so that they could pursue these types of terrorists, who are not the typical warring combatants you would meet in a war situation.

These are the two reasons that they wanted to pursue the type of legislation they did and say that the Geneva Conventions do not apply to those persons they have taken into custody. What, however, has transpired is that there is a lot of resistance to that line within the US military as well as the US society, which means that the Conventions are not relevant today. We need to ensure that while we question always the legislation that is brought to us, the main principles in something like this for me should not be something that we should have any very long quarrel over. That is one of my concerns.

I would like to see that we establish this even though we have taken so many years to do it. That is another concern my colleagues have. Why did we have to wait so long for the legislation to be ratified finally and brought into effect at this time, when we have more pressing concerns? While I support fully the legislation, there are concerns that there are more pressing issues that our nation is facing and this legislation will not really help and will not bring relief to the many prisoners of the crime situation in Trinidad and Tobago.

I would like to close my contribution by suggesting that the real principles adhered to in the humanitarian law that this Convention is seeking to advance, the principles that this nation upholds and should be adhering to are the principles that we need to educate our citizens and our military forces on.

Sen. Dr. Carson Charles: Thank you very much, Mr. Vice-President. I rise to make a few comments on the matter before us. Human civilization as we know it today has come about because of the efforts of men and women over the centuries to improve the way in which human beings conduct their engagement of each other in peace and war, seeking always to be better than our base selves, to live our lives in a way that demonstrates a certain level of human dignity. By the conduct of men and women, especially leaders, we have been able to advance from the days when we solved our problems with simple brutish conduct to the current environment, in which we have all manner of sophisticated techniques and procedures to follow, to determine guilt and innocence, the extent of punishment, providing for appeals of all kinds and for clemency and even for people to be considered innocent until proven guilty even when we believe with all our hearts that they are. All this is part of the march of human civilization.

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I support the legislation. I believe it is good. I do not think that we oppose the convention or the Government's attempts to implement it now, although we may ask the same question over and over. I have my own opinion. I would like the Government to answer some of these questions asked today. Perhaps if I promise to be brief, someone from the Government side may be tempted to answer the question we are asking over and over, which is: Why do you think you should do it now? Is it because you are under the leadership of your Prime Minister, who believes that to become a First World nation you have to pass all these bits and pieces of paper? Is that the reason?

6.00 p.m.

Is it that you are trying to pass an exam? This is not the first one. We have had several of them. We have asked the question over and over and you have not answered. You should not snigger if you cannot answer the question. The question has been asked by many Members of the Opposition and Independent Benches on several occasions. Why this particular legislation now? You have brought some conventions which were gathering dust. You decided to bring it now, when there are so many things to do. Do not tell me that you do not have pressing things to do. Do not tell me that you want to spend all your evening here. As great as the exchange is in the Chamber, I am sure that you have other things you would like to do in your Ministries and elsewhere. You must have a reason why you want to pass this nice, big thing and all the others that have come that were gathering dust. It is that you suddenly discovered that you have international obligations? Have you now discovered that after many years?

Maybe the Minister in the Ministry of Finance, who is a great defender of the Government, would be the one to give us the explanation. He is always willing to stand and defend his side. That is an important point, but that is not the point I want to dwell on.

It is not good enough to come and utter all the wonderful words that the Minister of Health uttered about the great PNM. That is really not good enough. I know that Members on the other side may think that they are working hard doing many things and we are opposing and criticizing them. If they do something, we would ask why they did not do this, or if they did 10 things we would ask why they did not do 11. That is exactly how it should be, because we must hold you to higher standards than you have demonstrated your ability to maintain so far. We must try to encourage you to lift the bar and your standards. It is not good enough to tell us that you are a caring Government and that you were elected on the basis of being caring. I cannot remember the expression you used, but basically it was "we care". [*Interruption*]

Hon. Gopee-Scoon: We deliver because we continue to care.

Sen. Dr. C. Charles: That is a nice slogan. The Minister of Health is your public relations officer. I expect him to be doing all that stuff somewhere, but it is not good enough. You cannot tell us that you believe in this humanitarian leap. You suddenly want to implement all these Conventions because you believe and you care, when the most elementary items are not attended to and there is no evidence that you care about how people are treated in the prisons.

You forgot the visit that was made to our local prisons by the Law Association? You forgot we had other visitors to our shores? You forgot the comments made by many of our leading citizens about the condition of our prisons? Sen. Prof. Deosaran and Sen. Dana Seetahal SC were the persons, among others. You forgot these things? You are a humanitarian administration that cares about people. Even the Minister was given the responsibility to attend to prison conditions. I think it was then Minister Hinds, who is no longer with us. He went before Dr. Rowley did. I have no particular reason to trumpet his cause. If you had to get rid of him, should you not have appointed somebody else? [Interruption]

Sen. Manning: Irrelevant.

Sen. Dr. C. Charles: Is it irrelevant to humanitarian gestures? Your Minister of Health gets up and speaks volumes about how much you care. He put it in the context of a caring government. That is what he did. I pleaded with him: Do you really want to open this debate to debate the entire run of government? Do you really want to do that? He wanted to do it. He cannot get away with it. The Minister of Health cannot get up and do that and no one responds to him. Do not come here and tell us you deliver because you care and you would not attend to glaring evidence of a lack of caring in the way people who are your own local prisoners are treated, far less talk about prisoners of war, otherwise this is just an exercise in paper.

You have brought a document just to tell somebody somewhere that you have passed it and that you are leaders in the Caribbean. That is what you have said: You want to be leaders of Caricom by passing some paper. Do you think that makes you leaders? You are leaders by your actions, not by this piece of paper. Do something about it. I am asking the Government to answer. Do not forget about it. The population cannot follow you with all these things all the time. People cannot remember to constantly ask you what you have done about the prisoners' situation. You have to remember when these matters were raised. They were raised in an international context about the treatment that we give to our own prisoners even though we are not at war. Do not simply forget about it or hope

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that it goes away. If you want to demonstrate that you too believe in human dignity and you want to promote the highest ideals and standards of civilized conduct, demonstrate it, not only by passing the Geneva Conventions of how many years old. Demonstrate it by your own actions of the things that you control. Do not let it slip away and fade away. That is what happens.

When we complain about the behaviour of members of our military, we know what an army is. An army really represents the assassins of the state. This is a state's arm. That is not my definition. Do not look at me like that hon. Attorney General. That is not my definition. That is what the army is. The army has the task to carry out action on behalf of the state. Those are the kinds of actions that the army carries out. An army, by definition, is something that you have to treat very carefully. You cannot have them out of a disciplined environment for too long. When we complain about you having your army deployed throughout the country, that is where discipline would break down and other acts would take place; those of which we were speaking about earlier. Take some note of these things. It is simply not good enough to make a statement. You must do something about it. The population cannot constantly remember to raise these matters or remind you of them. It is my duty to remind you of these things and to tell you that if you want us to take you seriously when you come to introduce provisions for proper international conduct, then let us see some proper conduct within our own borders in Trinidad and Tobago.

I am not going to turn this into a major debate, although provoked by the Minister of Health. I would not turn it into a major debate on Government's policy on caring and social concerns. I will not go in that direction. I am sure we would have an opportunity for that later. We are in an international environment which is very challenging now. I do not think that because the United States does not wish to support the International Criminal Court or does not wish to support certain provisions of the Convention, we should throw it away. I do not believe that. I think that is all we have.

Those are the only instruments we have to contain excesses by that same superpower that is now the lone superpower. To contain the excesses of a country like that, you have to stick to your Conventions and hold fast to your treaties. That is how you contain them. You should seek to encourage the proper conduct by a nation that is so powerful that it may be tempted to go to excess because of its power. This is the nature of man. Power tempts man to go to excess.

The fact that the United States and other countries that are the nuclear clubs, do not condone the proliferation of nuclear technology, not just nuclear weapons, might seem to be, perhaps, evidence of doublespeak. What benefit would we have if we have more nuclear nations in the world? There is no real benefit to that. I do not think we can answer it by saying that because you are not allowing other countries to become nuclear and you are nuclear, you should go in the opposite direction and say that we should allow nuclear proliferation. We have to accept that it is an imperfect world and, therefore, we support nuclear proliferation in the same way we do not support all the various conventions that seek to keep some level of civilized conduct in the world in the face of Guantanamo Bay and the hypocrisy demonstrated in terms of the conduct of senior politicians in powerful countries. Nonetheless, we seek to, in face of that, still support civilized conduct internationally. We, however, must face the challenges of the day.

How do you deal with the reality of terrorism and the reality of people who operate on the edge of the law, appearing to be legitimate, presenting a legitimate front, even hiding behind the guise of a religious community, but nonetheless having political intent and the desire to declare war, whether active or passive on the State? How do you deal with that? We had our own little experience here. The conflicts may be within nations. We have had our own experience of conflict within this nation not too long ago. There are many, many things that flow from that. I do not want to blame this particular Government alone because we have had changes over the years. That experience has not been addressed. It has simply been left by the sideline. Perhaps, someday people would reach the level of maturity that these matters can be addressed.

We have had our experiences in the country; enough experiences to know that some of these matters may concern us. Some said: "Why did you have to respect the amnesty, could we have not simply shot them down?" That is how crude some of the comments were. We have had the experience, in this country, of observing civilized conduct in times of war. It is not something which is so farfetched, really, that when we look at the contents of it and our own experiences, to think that we may have to contend with similar matters sometime in the future, as we have had in the past, it is not something that is so foreign to our soils.

Just at the time when the United States was involved in its first engagement because of Kuwait, we were involved in internal engagements. It was almost exactly the same time. We have our own story to tell and we should pay attention to these things. That is why I support it. I simply ask the Government to do more

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than the usual talk and more than beating your chest. Do not feel that because you have wonderful programmes and various projects, you should be satisfied. Measure your success by the results. If you have 10 programmes and you do not have the right results, then maybe you need one programme of a different kind or maybe you need 20, but do not tell us that you are doing all these great things, because you have so many programmes, when the results do not say that you are getting what I assume you intend. I believe you would like to see great results. It would make you look good. Do not “chinks”. That is the word I always use to describe the Government, “chinksin”, not going far enough, just starting something and not going the full distance. Go the full distance, take the challenge and actually try to attend to matters in the country that make us look like a civilized society.

Do not treat human life as though it is so insignificant. That is why we have these things. It is because of the value of human life, in the face of warfare. In the midst of warfare we value human life and human dignity. We say this is how you treat a man or a woman, as the case may be, in the circumstances, even if we know that there may be 5 per cent of cases in which people actually observe these things. In the heat of battle, who would not fall for the temptation of torturing the prisoner to get some information to save the skins of his soldiers who are outside there?

6.15 p.m.

We have established rules and we say that these are the standards, and we would like you to conduct yourselves by these rules and to try to aspire to reach these standards. This is what human beings do. They try to uplift society and try to elevate themselves. That has to do with the value of life and what value we place on human life. So, it is not a small thing when we see human life so easily, not just taken, but discarded and ignored in our society. This is not something that we could be divorced from. It is about the value of life.

A young man lost his life over the weekend, because he was too close to the border. He was not over the border; he was not a member of a gang; but he was too close to the border. He was looking for work and he was too close to the border and he was shot. I do not think anybody, except the family and those of us who know the family, would remember that particular incident next week. I do not know how many persons remember it now.

Some of the things that take place in our country on a daily basis would cause blood to crawl in the most violent cities of the world. In violent places, people would sit and actually reflect on it. In big cities which are accustomed to crime,

like the United States of America, some of the things that are happening here would cause people to sit and reflect. At least, for a week, they would reflect and the news media would carry it, and they would talk about this particular incident, but in Trinidad and Tobago today we have reached the stage where we do not even reflect. The story makes the newspapers one day and by the next day there is so much more to talk about. These things are important because they have to do with how we value human life. Because we are not placing sufficient value on human life now, we are not feeling. That is what I hold the Government responsible for. I do not get any evidence that they are feeling what is actually happening in the country. [*Desk thumping*] I do not get the evidence of it. There is no evidence that you are in touch with it or that you take it as your personal responsibility.

It is leadership that has brought about this. Leadership! Men and women lead their societies and take a personal responsibility for the people in their charge. [*Desk thumping*] Even the heads of armies and senior officers in armies take personal responsibility for what happens to their men or what happens to the bodies of their men. Even the bodies of fallen soldiers are to be protected, and they are not allowed to be despoiled. Opportunities are given for people to retrieve the wounded from the fields. All of that is provided for because we are trying to aspire to standards that say that you must treat the human being in a certain way. You must value the human being even when life is lost.

All I can do is really plead with the Government, on behalf of those of us here and on behalf of the people at large in the country today who are suffering not because you might not be working hard; but who are suffering nonetheless and, therefore, it is not enough to be working hard. It is not enough for you to tell us all these great things that you have done and it is just not enough to come and beat your chests about your wonderful PNM caring and campaign slogans, et cetera. That is not enough. Let us talk about the campaign slogan here. We are in the Opposition. You are really in the Government. You have the responsibility and you have to feel the pain of the people who have put you in charge. You have to demonstrate that you feel this sufficiently to do more than you are currently doing, and not to boast about what you are doing. I do not see that at all.

Mr. Vice-President, I only rise to comment on this matter from that angle. The Minister talks about meeting the needs of older and younger generations and so forth, but I would not even be tempted.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until 7.30 p.m.

Question put and agreed to.

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Sen. Dr. C. Charles: Mr. Vice-President, thank you. It has to start at the top. You cannot expect it to start anywhere else. You cannot expect young people to start behaving in a civilized fashion if you do not do something about it at the top. Leaders must take responsibility for changing the society because nobody else can.

If anything is wrong with us today, it is that we have lost the way to engage in civil conduct with each other. If two guys “get away”, they do not know how to exchange a few punches and then forget about it tomorrow, and they do not even know how to accept apologies. You cannot even tell them that you are sorry. Somebody has to go and get the gun or go and get the boys with the guns. That is what we have come to. Do you think that the Minister of National Security would ever be successful in dealing with crime if the Government does not change that? Do you think that you could kill out the criminals? You would have to kill out a generation.

I do not know if police officers have lost every other mechanism for attending to the matter at hand, except for taking actions into their own hands. I heard a senior officer advising his officers to attack a particular matter with vengeance. I was amazed. How can you tell your officers to attack a particular matter with “vengeance”? As a senior officer, you cannot use that word. You cannot! If a senior officer tells his officers to attack a matter with “vengeance”, you must pull him up. That is not the way. That is not the function of the police force. You have to lead.

The persons who are in leadership cannot escape the society that they are in. They have to lead by changing it. You have to change it by demonstrating in the way business is conducted, that you really value and care for human life and try to encourage and teach people to value human life. If you have to revolutionize the entire education system to teach young people to value human life and how to engage in conduct with each other, civil conduct; how to resolve differences and disputes; and how to get away today and make up tomorrow; if you have to teach

them that; if you have to spend half of your time teaching them that, then it is worth it. It is more important than whatever else you are doing for them to learn that. If parents cannot teach them that—parents are caught up themselves—then the leaders of the society must do it.

As I said, leadership is what led to this. In the face of hostile engagement and in the face of combat, we still have these high ideals that this is the way we would treat our fellow man. Even if we do not do it more than 5 per cent of the time, we would never cease to strive to conduct ourselves in that manner. That is why I support it, and that is why I urge Members on the Government side to do more than present us with the words, and do something about the country that we have today and the country that we live in. Do not come here and forget what is out there when we sit together here. Remember the state of affairs as you leave this Chamber.

Mr. Vice-President, I would like to raise one more point because if I get into the subject, I am going to speak for my entire hour and I do not want to do that to my colleagues this evening. There are so many opportunities to speak on these matters, but I would say one more thing and that is several Members complained bitterly about the use of the term “ghetto” on the last occasion. I could not let that pass.

I think people do not understand that if you go in the ghetto they are going to tell you that they live in the ghetto. Anybody who thinks that there is some feeling of insult by that, they do not engage the same ghettos themselves. Nobody tells you that it is a gentle and wonderful life, and they are happy in those places. Those people who say that do not have the slightest idea or the slightest clue of what is happening today and what has become of everyday life in those communities.

Mr. Vice-President, because of my associations, past and present, I have had the privilege, even though sometimes the discomfort, of spending a fair amount of time in some of these places. It is not pleasant at all today. It is not like it was yesterday. It is different now, and it would overrun the entire society. There is no place here to hide because we are too small and the haves and the have-nots live too close to each other, so there is no place to hide.

It is a responsibility for everybody to attend to the conditions that our brothers and sisters are living in, in this country, and to the brutish conduct which now takes place on an everyday basis, which is a far cry from these high and lofty ideals that we have set ourselves in the footprints of others who after the brutality of World War II decided to do this, to regulate the conduct of men and women at war.

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Mr. Vice-President, it is my pleasure to support the measure before us and to urge the Government to go beyond the letter and the word to the deed. Thank you.
[*Desk thumping*]

Sen. Corinne Baptiste-Mc Knight: Mr. Vice-President, thank you. I rise to place on record my support for this Bill for two reasons; the first is that recognizing that we are contracting parties to these Conventions, I applaud the fact that we are finally putting in place the legislative framework to honour our commitment.

The second reason is, quite simply, that having thought about this carefully, I have come to the conclusion that this will be one piece of legislation that even the dyslexic and the illiterate among us will have great difficulty in violating, and we need a couple of these on the books.

I thank you. [*Desk thumping*]

Sen. Dr. Jennifer Kernahan: Mr. Vice-President, thank you for the opportunity to contribute to this Bill before us, the Geneva Conventions Bill, 2008.

Mr. Vice-President, warfare was described by Mao Tse Tung, as “politics by other means.” The use of military force to achieve political objectives is as old as the history of mankind. What are these political objectives? Seizure of land, of territory, of resources—human and material resources—of raw materials and, ultimately, the consolidation of political power by carving out nation states and so forth. This has been ongoing from ever since.

Mr. Vice-President, the Geneva Conventions attempt to ameliorate the barbarism—the very dreadful consequences of the activities—and the weaponry involved in military activity. So that the First Convention seeks to protect the wounded and sick combatants on the battlefield; the Second Convention seeks to extend protection to shipwrecked combatants; the Third Convention protects prisoners of war; and the Fourth Convention protects the civilian population.

6.30 p.m.

Protocol I, to which this Bills speaks, governs international armed conflict and extends the protection given to civilians under the Fourth Convention. It imposes further constraints on the conduct of military operations.

The levels of barbarity and inhumanity involved in military conflict have evolved over the years as technology has evolved. The use of technology has implied that weapons of war and so on, have become evermore sophisticated and with a greater power to kill and maim, not only the combatants, but civilian

populations at great distances from the actual field of battle and civilian populations involving women, children and the defenceless sectors of our society.

But even more, this technology that has evolved over the years has the power to kill and maim on a mass scale, without actually confronting the enemy. So, the level of technology involved in military enterprises now means that for instance, as I saw on a BBC report recently, that from the United States, at present, you have the use of a plane operated by remote control, which is actually being used to bomb military targets in Iraq, as we speak. So, the level of military sophistication and technology means that the combatants do not even have to face their opponent, they can do it on a mass scale from a distance.

I think this is what my colleague, Sen. Mohammed Faisal Rahman was referring to in his contribution, where he spoke about the fact that we are debating a Convention that is practically outdated, because technology has evolved to the extent where this Convention envisaged armies on the battlefield and so on and all the measures you would take to ameliorate the suffering of soldiers on the battlefield, although some of it might be relevant; but the technology has taken the whole issue of military warfare far beyond that. That is why the Fourth Protocol is important to civilians, because more and more civilians are being embroiled in, and being victims of this new sophisticated type of warfare.

The establishment of the Geneva Conventions and the Fourth Protocol, especially, was agreed to by world leaders, after an unprecedented act of aggression and barbarism against millions of unarmed and defenceless civilians in 1945. I am referring here to the dropping of two atom bombs on Hiroshima and Nagasaki on August 06 and 09, 1945. These, to date, are the only attacks with nuclear weapons in the history of warfare. We do not know, as we speak, with the proliferation of nuclear warfare, arms and so on, if they will be the last.

It is frightening because when you look at the experience that the world has had to undergo through the events in Japan in 1945, you have a situation where we have not even—in spite of these Geneva Conventions—reached to the point in the 21st Century where we are unequivocal in our ban against the use of nuclear weapons against unarmed citizens in this world. Just to give us an idea of the horror of nuclear warfare, which although it was banned in many treaties, including the—as you would have thought—Geneva Conventions, I want to give the Senate an idea of some of the fallouts from that war. After the dropping of the bomb in Hiroshima and Nagasaki, I have a document here:

“Fogonazos, Hiroshima, the pictures they do not want us to see.”—they said—“within seconds where 5,000 were killed or fatally injured with 65 per

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cent of the casualties nine years of age or under, and 400,000 died subsequently as a result of radiation exposure.”

Those who had argued against the decision to drop the bombs, characterized that action as inherently immoral, as a war crime, as a crime against humanity and as state terrorism. People have also argued that militarily it was unnecessary.

While the Geneva Convention is touted as the most important instrument for ameliorating the most inhumane and brutal aspect of war and military warfare, this Convention came into force after the most criminal and brutal assault on an innocent civilian population and nobody talks about bringing those perpetrators to justice.

The Nuremburg principles signed on August 08, 1945, soon after the events of Nagasaki and Hiroshima and the charter of the International Military Tribunal and War Crimes, these characterized this type of activity as “war crimes and crimes against humanity”.

Even before the Geneva Convention, which purports to protect civilians, as does the Fourth Convention, there were a number of conventions, which would have prohibited the activities of the United States in Hiroshima and Nagasaki. You had the “Convention with respect to the Laws and Customs of War on Land, The Hague, July 29”, since 1899, and this was ratified by the US Senate on March 14, 1902.

This Convention prohibited the employment of arms, projectiles and material of a nature to cause superfluous injury. It prohibited the attack or bombardment of towns, villages, habitations or buildings, which are not defended and it also prohibited the commander of an attacking force before commencing a bombardment, except in case of an assault that he should do all he can to warn the authorities. So, clearly, this Convention with respect to the Laws and Customs of War on Land, The Hague in 1899 prohibited what happened in Hiroshima and Nagasaki and it was not respected although it was ratified by the US Senate in 1908.

There was another Convention, Laws and Customs of War on Land in The Hague, October 18, 1907 and this prohibited among other things, to employ arms and projectiles or materials calculated to cause unnecessary suffering; to attack or bombard by whatever means of towns, villages, dwellings or buildings, which are undefended. Then, there was another Convention, Draft Rules of Aerial Warfare, The Hague, February 1923. It also said here that it prohibited the aerial bombardment for the purpose of terrorizing the civilian population; of destroying or damaging private property, not of a military character; of injuring non-combatants.

The Geneva Conventions were preceded by a number of other conventions, which specifically prohibited the bombing of civilian populations. Another one is "Protection of Civilian Populations Against Bombing From the Air in Case of War; the League of Nations", September 30, 1938 and it had pretty much the same prohibitions. It said that the intentional bombing of civilian populations is illegal. The objective aimed at from the air must be legitimate military objectives and must be identifiable. Any attack on legitimate military objectives must be carried out in such a way that civilian populations in the neighbourhood are not bombed through negligence. It was clear.

It was interesting also in this document, "International Law on the Bombing of Civilians" that Franklin Roosevelt of the United States, made an appeal in September 1939, and I want to quote him because it is very relevant to what is happening, what happened subsequently and what continues to happen today, and the hypocrisy, the double talk and the double think that we get at the level of developed countries at the international level. When we come here in this Parliament and we say, oh, yes, this is a good thing; we need to do this; we need to pass it and it is so important and so on. These people, as I would show in my contribution, do things very self-serving at the point in time when it is convenient to them, and when it is not convenient to them, they ditch all these protocols; they have no use for them when they are not interested in it; when it does not serve their interest. This is what the President of the United States said in September 1939 to the Governments of France, Germany, Italy, Poland and His Britannic Majesty and I quote:

"The ruthless bombing from the air of civilians in unfortified centers of population during the course of the hostilities which have raged in various quarters of the earth during the past few years, which has resulted in the maiming and in the death of thousands of defenseless men, women, and children, has sickened the hearts of every civilized man and woman, and has profoundly shocked the conscience of humanity.

If resort is had to this form of inhuman barbarism during the period of the tragic conflagration with which the world is now confronted, hundreds of thousands of innocent human beings who have no responsibility for, and who are not even remotely participating in, the hostilities which have now broken out, will lose their lives. I am therefore addressing this urgent appeal to every government which may be engaged in hostilities publicly to affirm its determination that its armed forces shall in no event, and under no circumstances, undertake the bombardment from the air of civilian

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populations or of unfortified cities, upon the understanding that these same rules of warfare will be scrupulously observed by all of their opponents. I request an immediate reply."

This was Franklin Roosevelt in 1939, Mr. Vice-President.

Then you have on August 6th and 9th the bombing of Hiroshima and Nagasaki by the very same United States Government. Clearly, by all the conventions that we have outlined here, these interventions in Hiroshima and Nagasaki were clearly war crimes, were crimes against humanity, with no statute of limitation and punishable under the Geneva Conventions.

I believe that the reason the world has been so laid back, is that many people in Third World countries and so on, have not had the opportunity to have the information on the real horrors that have been perpetrated in many different parts of the world by military activity, especially of the type of nuclear activity that the first additional protocol to the Geneva Conventions proscribes.

6.45 p.m.

The right of states to choose the methods and means of warfare is not unlimited. Mr. Vice-President, that is a very important concept because it says that although you might be part of a war, that you have the right to defend yourself, you have the right to attack, the methods which you choose are not unlimited; there are certain proscribed methods, there are methods which are prohibited. We have seen that some of the methods which are proscribed, which are prohibited are methods which have to do with the indiscriminate use of weaponry which goes beyond the targeting of what are properly military targets and are properly targets of the military forces. It has to do with the fact that these methods that should not be used, that are prohibited, are methods that will precisely involve the wider civilian unarmed and defenceless population.

It is interesting that in December 1994, the UN General Assembly requested that the International Court of Justice offer an advisory opinion on the question of, is the threat or use of nuclear weapons in any circumstance permitted under international law? So the International Court of Justice, to which other speakers spoke here this afternoon, they actually were asked by the UN General Assembly to give a ruling on whether the use of nuclear weapons is prohibited in international law. The ruling that was made by the International Court of Justice represented a very ambiguous position and it represented, I would suspect, the

dominant view of the major superpowers on the world stage and their reluctance to forego in any circumstance the use, again, in some future time of a nuclear weapon to subdue an opposing force. This is frightening to us as civilians, because we have seen in Hiroshima and we have seen in Nagasaki, the tremendous damage that is inflicted on civilian populations when nuclear weapons are used.

Mr. Vice-President, I just want to give you an idea. It is said that on August 06, when the uranium atom bomb exploded above the city of Hiroshima it exploded with a blinding flash, creating a giant fireball and sending surface temperatures to 4,000 degrees centigrade, fierce heat rays and radiation burst out in every direction, unleashing a high pressure shock wave, vapourizing tens of thousands of people and animals, melting buildings and street cars and reducing a 400-year-old city to dust. Housewives and children were incinerated instantly or paralyzed in their daily routine, their internal organs boiled and their bones charred into brittle charcoal. Beneath the centre of the explosion temperatures were hot enough to melt concrete and steel. This is the power of the nuclear armament that is so widespread in the world that we live in, because of nuclear proliferation and this is the power that even the International Court of Justice has refused, unequivocally, to outlaw and to ban from use against an opposing force in a conflict. This is what the judges ruled. They said that:

“The judges agreed that the existing rules of international law neither universally prohibited nor authorized the use of nuclear weapons.”

So they refused to make a statement either way.

The judges ruled by a vote of seven to seven that:

“the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict and in particular the principles and rules of humanitarian law. However, in view of the current state of international law and of the elements of fact at its disposal, the court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence in which the very survival of a state would be at stake.”

Clearly, that was a cop-out, because in any case the example that we have had of the use of a nuclear weapon—the uranium nuclear bomb—it was not a question of self-defence or your survival at stake; it was a very powerful country using this bomb against a country that was less powerful.

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I was appalled to see this, because I understood that in spite of this Geneva Convention there is nothing to protect ordinary citizens, civilian populations from the ravages of another nuclear attack with the millions of tons of nuclear weapons available to the major developed countries which are involved in conflict. And it is even more frightening when you hear the war noises that are being made by the United States with respect to Iran, threatening to invade Iran and so on, and I do not know what they are going to use. Will it be a definitive move as dropping some nuclear warhead on Iran? Then there is the whole question of the proliferation of nuclear weapons after the fall of the Soviet Union and the Balkanization of the Soviet Union and so on.

Many small, former Soviet countries have access to nuclear weapons and there are a lot of terrorists out there who could be running around with nuclear weapons. It is a very frightening world scenario, and even the International Court of Justice has not expressly forbidden the use of nuclear weapons in conflicts. It was so disheartening to read and to see the extent to which powerful developed countries try to wiggle around the issue and make all kinds of spurious excuses. In fact, the UK was one of those who argued against treating nuclear weapons, per se, as incompatible with the principles of humanitarian law. They said the reality is, that nuclear weapons might be used in a wide variety of circumstances with very different results in terms of likely civilian casualties. Now what does that mean?

They are saying that it is okay to use it, if you feel that you could minimize the number of civilian casualties. In the first place, we are talking about radiation; we are talking about the dispersion of radiation for miles and so on according to the winds, according to the tides and all of these things. So this is totally disingenuous to make that kind of argument. Responsible countries, developed countries should come outright and say that this is totally unacceptable, solely on a humanitarian basis.

The UK said that it is by no means the case that every use of nuclear weapons against a military objective would inevitably cause very great collateral civilian casualties. I think somebody here mentioned the word “collateral”. These developed countries are prepared in their own political interest as I said, more oil, more gas, more resources, more slaves; they are prepared to use nuclear weapons and they would tolerate collateral damage—and it is a word that our Prime Minister likes too, the issue of collateral damage; they do not mind the collateral damage.

So, Mr. Vice-President, it is a very frightening world that we live in. When we have the experience of the holocaust of a nuclear war, when we have seen millions of Japanese suffer from the after-effects from radiation, from burns, from genetic deformities—up to now babies in Japan are still being born with genetic deformities and so on. And this world—developed countries—can sit down and talk and sign Geneva Conventions and so on, and come here to get us to sign it, and get us all excited as if we are doing something so great and important that will safeguard the world and safeguard our children; it is so humanitarian and it is so important because it is important to safeguard the men on the field, the shipwrecked men and all the talk about symbols and the Red Cross.

When they are ready to drop that nuclear weapon, Red Cross going, civilians going, combatants going, children, babies and everybody is going. They do not care about these things, it is a hoax; it is a pretence to get us on board, to make us feel that we are a part of some big international agreement. And they had all the agreements, they had all the conventions that would have prevented them from dropping the atom bomb on Hiroshima and Nagasaki, and they breached all. They signed them and they breached every single one, because as I said, war is a continuation of politics by other means and the politics of the super nations and the developed nations is about resources, it is about despoiling other nations, it is about raping the resources of other nations, it is about using as much gas and oil as they can consume. They are consumeristic societies and they need all the resources of developing countries to continue to do that.

Mr. Vice-President, it would not surprise you to note that the Geneva Conventions that we are being asked to sign on to and so on, it was not until in the 1970s that the United States signed the Geneva Protocol when it was accused of violating the international customary norm set up by the protocol because of the US use of gas, napalm and herbicides in Vietnam.

That brings us to the other issue that we are concerned about as civilians in developing countries, the issue of chemical warfare. Chemical warfare is prohibited in the Geneva Protocol. The Geneva Protocol in 1925 prohibits the use of—in war—asphyxiating poisonous or other gases and of bacteriological methods of warfare—that is biological warfare. Although 16 major nations signed on to the protocol, there has been widespread use of chemical warfare by developing nations in their various theatres of war when they are occupying people's countries and so on. For example, in 1930 chemical warfare was used by the British to repress the uprising when they were occupying Iraq, they used chemical warfare.

There was a Hague declaration before that which prohibited the use of chemical warfare by a number of nations. But although a number of developed nations would have signed on to the Hague declaration on prohibiting chemical warfare, do you know what they said? They said, we would not use chemical warfare against the people who actually signed the declaration. So, everybody else was up for grabs. That is how they operate. It is only those of us who have signed the declaration, we will not use chemical warfare against them, but those who did not we can use chemical warfare against them.

Mr. Vice-President, in addition, the use of chemical warfare as prohibited in the Geneva Protocol was not always condemned, even by the people who actually signed the Protocol. I will give you an example: When the Italian forces in 1935 invaded Ethiopia—Italy had signed the Geneva Convention against chemical warfare just seven years before—they used mustard gas, a very deadly gas against the population. Mustard gas is one of those gases which penetrates clothing, it penetrates; the skin; it penetrates gas masks; you are not protected against mustard gas, even with the use of a gas mask and so on. It is a very potent, very deadly gas. Even though Italy had signed the Protocol and Ethiopia had signed the Protocol, they used it against Ethiopia; they dropped it in bombs, they sprayed it from airplanes, they spread it in powdered form on the ground and over 15,000 casualties of mustard gas were recorded in that war.

7.00 p.m.

Signing a protocol like we have done, ratifying it and putting it into law, clearly as the Ethiopians had done, did not protect them. It did not protect them from Mussolini. It did not protect them from the fascist forces who wanted to invade their country and control their country and control their resources. It does not protect you because these people do what they have to do, when they have to do it in their own interest and they do not care about developing countries. That is a classic example. Even though Ethiopia and Italy were both part of signing that protocol and so on, Italy invaded them and they used chemical warfare against them, the mustard gas, and there was very little international outcry against that at the time because of the hypocrisy among the big players on the international stage.

Mr. Vice-President, the hypocrisy comes into play and you always hear them talking that the use of chemical warfare is totally outside the sphere of civilized nations. I want to quote from another US President on the question of chemical warfare. In 1943, US President Roosevelt said of chemical weapons and I quote:

"Use of such weapons has been outlawed by the general opinion of civilized mankind."

This is what he said.

Mr. Vice-President, do you remember that between 1961—1971, the US government made extensive use of chemical warfare in Vietnam. They used napalm, and they used Agent Orange as a defoliant with tremendous damage to the soil, tremendous damage to the agricultural economy, tremendous damage to the civilian population because Agent Orange contains dioxin which is a carcinogenic, so generations of Vietnamese up to today are suffering from different kinds of cancers. The US President had said that the use of such weapons has been outlawed by the general opinion of civilized mankind. So what was he saying there; that the US military forces are not civilized? That is what he was saying. He condemned subsequently his own country, because of the fact—and these things are happening—that this was expressly prohibited in the Geneva Protocol.

In 1993, the Chemical Weapons Convention placed a wide-ranging prohibition on the use of these weapons among 185 States, but what is the reality? In spite of all these protocols, all the chemical weapons and conventions, what is the reality? What is happening? There are documents here which show that between the 1930s, up to 1990s and continuing, tremendous research and development has been taking place in the area of chemical warfare. Evermore sophisticated chemical substances are being developed to affect the nerves, for asphyxiation, and they have done it in four areas; four areas in the whole research and development of chemical warfare;

- (1) new and more deadly agents;
- (2) more efficient methods of delivery to the target—to the target meaning, the combatants, because one of the things about chemical warfare, why it is being described as outside the pale of civilized activity and so on, is because there is no control.

I think in the early days, the Germans were the first persons to use it in the First World War. They would just put the canisters with these chemicals, I think they used chlorine in the first instance, upwind of the enemy and allowed the wind to just disperse the gas. And from then on, the research and development was geared towards more sophisticated means of disseminating the gas in such a way as to maximize the exposure of the enemy to the gas and, minimize your own exposure. But it is impossible because most of the time it has to go by the air, whether it is in canisters, whether it is in bombs, whether it is from the air, and a lot of the time your own troops are affected, the aggressor's troops are affected by these chemical agents.

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In fact, in 1984, I think it was—[*Interruption*]

Sen. Lezama: Mr. Vice-President, on a point of order, please. May I please refer you to Standing Order 35(1)? My understanding is that this is a debate on the Geneva Conventions and not a class on biological warfare.

Sen. Dr. J. Kernahan: Mr. Vice-President, I expressly said that the ban on chemical weapons is part of the Geneva Conventions, part of the Geneva Protocol, so I am going into this because this is part of the Protocol. If the Senator is not listening or she wants to go home, she is free to do so.

The Geneva [*Interruption*] Protocol which prohibits the use of chemical warfare—and I am saying the reality now for civilians in developing countries, is that the thrust between the 1930s and 1990s and up to the present, is to produce new and more deadly agents; to produce more efficient methods of delivering the agents; to produce a more efficient defence against the enemy's agents; and is to develop more sensitive means of detecting the presence of chemical warfare. For example, a gas such as phosgene is odourless, colourless and you do not know it is in the air until you are actually affected by it. So therefore, a lot of the research now is going towards reliable sensitive instruments to detect chemicals in the air.

As I was saying, these aggressors and these military warlords and so on, who use these indiscriminately against defenceless civilian populations like they did in Vietnam, in Iraq and so on, what they actually did was to affect and contaminate their own troops. So in 1984, as I was saying—before I was so unnecessarily interrupted—the war veterans of the United States filed a suit against the makers of these chemicals, Monsanto and Dow chemicals and so on and they actually won a multimillion dollar suit which they were able to use to help to ameliorate their physical conditions and so on. But what of the people of Vietnam who suffer from the use of these chemicals in spite of the Geneva Convention; in spite of all the Protocols we are being asked to sign on to?

Mr. Vice-President, it is said that over 4.8 million Vietnamese people are thought to be victims of Agent Orange and they are affected with many genetic diseases and so it is appalling to me that we can sign these Protocols, with these big developed countries which refuse to honour them. They honour these Protocols more in the breach than the observance and that is what we have to

understand when we come to this Parliament to debate these Bills. I would advise my young colleagues to sit and listen and learn because that is what you are here to do. [*Desk thumping*] You are not here to interrupt your elders and your betters, [*Desk thumping and laughter*] you are here to sit and listen and learn and I would like you to do that.

I am saying that the Geneva Protocol did not protect us; it did not protect the people of Vietnam; it did not protect the people of Iraq; it did not protect the people of Afghanistan; and if we think we are signing this and it is going to protect us, it is not going to protect us.

Mr. Vice-President, the other major issue on the international agenda, is the issue of cluster bombs. Very recently, a number of agents, a number of countries signed a Protocol against the use of cluster bombs, a most deadly form of military activity which affects, again, civilian population in the main. What happens, is that a number of these cluster bombs are dropped in people's countries; in Laos, there are millions of cluster bombs, since after the 60s when those wars were being waged against Vietnam, Laos, Cambodia and so on. Millions of cluster bombs are still to be found in these, countries and they are detonated still by civilians, by children, by women who go out to their gardens to do their agricultural activity and so on, and it is the civilian population which is affected in these countries by cluster bombs.

All over Africa you have the same problem when combatants are given the use of all these lethal weapons and so on by the advanced countries, by the developed countries because it is an economic activity. They do not care who they sell to; they do not care how it will hurt civilian populations; they do not care about the aftermath, they just care about getting the money, about the bottom line. So millions of these cluster bombs are in several different continents and it is affecting the civilian populations.

So how are we going to look at the Fourth Geneva Protocol in terms of protection, in terms of protection of those civilians who everyday are dying from cluster bombs? One of the sad things is that, in spite of that, you have a refusal on the part of the United States at this point in time to sign the Convention against cluster bombs. I want to read from a document, "Campaign Development" and the headline is, "Senators and Congressmen call on the US to Sign Cluster Bomb Ban Treaty" and I quote:

"A few days after most of the world's nations agreed to stop producing and using cluster munitions, Senators Daphne Feinstein (CA) and Patrick Leahy

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(VT), and the Representative James P. McGovern (MA) introduced a joint resolution calling on the United States to sign on to the Convention on Cluster Munitions when it become open for signature in December 2008."

Mr. Vice-President, these are the issues that they have named in the resolution, that the cluster munitions cause unacceptable harm to civilians and this is what the Geneva Convention is about.

"Whereas cluster munitions are bombs, rockets, or artillery shells that contain up to hundreds of small submunitions, or individual 'bomblets' intended for attacking the enemy troop formations and amor;"—but instead they—"threaten the safety of civilians, particularly children, when used in populated areas because they are scattered over a wide area, and up to 40 percent failed to explode as designed, remaining as duds that can be detonated accidentally by whoever comes into contact with them."

This is the reality of a number of countries—

Mr. Vice-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. C. D. Sharma*]

Question put and agreed to.

Sen. Dr. J. Kernahan: Mr. Vice-President, these are issues that civilians face in their country as we speak because of the refusal of the developed countries to actually observe all the protocols that they sign, all the conventions that they sign, all the agreements that they sign and breach because it does not suit their interest at any point in time. We are here this afternoon, merrily strung along by this administration which feels that they are doing such a good thing, so important for us to sign this. It is not worth the paper it is written on because the people who have all the bombs, who have all the cluster bombs, who have all the munitions, they do not observe these protocols. They do not. We wish that they would.

We wish that we could live a life of peace and tranquility. We wish that the developed nations would respect the sovereignty of less developed nations. We wish that these warmongers would not sell these types of munitions to underdeveloped countries to foment wars and counter revolutions and disturbances in these countries which makes it easier for them to grab the resources from the countries which are embroiled in war; which is exactly what is happening to us here.

7.15 p.m.

While we are concerned about all the crime and killing, all our oil and gas resources are being shipped out of the country as fast as they come out of the ground. The strategy of these warmongers is to embroil you in war and violence, so you cannot even think of what is happening to your economy or your patrimony for the future generations. We are seeing that in Trinidad and Tobago. Other countries are seeing it in a more brutal way, in a more military fashion, because they actually have cluster bombs, the effects of Agent Orange and chemical warfare in their countries; but we are not immune from anything.

We have seen that serious threats of aggression are being made against the Bolivarian Republic of Venezuela and Cuba. What if they decide to use nuclear warheads in the Caribbean, in the pretext that it could be contained and there would be very little collateral damage? We would be part of that. It is not airy-fairy; it is not something that could not happen, because it has happened. We have seen the invasion of Grenada by US troops. The Grenadian revolution was squashed partly by the invasion of US troops. We have seen the invasion of US troops as close as in the Dominican Republic; so we are not immune from the whole question of invasion if the interests of these powers dictate.

This Resolution says that the United States maintains an arsenal of an estimated 5,500,000 cluster bombs containing 728,500 submunitions, which have an estimated failure rate of 5 to 15 per cent. It says that in February 2007, 46 nations signed a declaration in Oslo, Norway, calling for an international convention to prohibit the production, transfer and stockpiling of cluster munitions that cause unacceptable harm. On May 30, 2008, 111 nations agreed to the Convention on cluster munitions, which will be signed at Oslo in December 2008 requiring parties to stop producing and using cluster bombs and to eliminate their stockpiles within eight years. The same administration which had signed the Geneva Convention but did not ratify until 1970, is now refusing to participate in the Oslo process. Therefore, their own Senators are calling on the President to ratify and to take part in the Oslo process to eliminate the stockpiling, use, sale and proliferation of cluster bombs, which is causing so much harm and maiming of children, women, non-combatants and ordinary civilians in so many countries all over the world.

What the representative McGovern said was very interesting in the context of politics in the US today; they have some hope. Even though the present administration is refusing to sign this Convention, listen to what one representative said:

Geneva Conventions Bill
[SEN. DR. KERNAHAN]

Tuesday, June 17, 2008

“The United States should be leading the way in eliminating these weapons, instead, the Bush Administration is dragging its feet...I commend the dozens of nations that have signed the treaty, and look forward to working with my colleagues and the next Administration to add the United States to that list.”—
of countries which have signed.

So there is hope in the US that there would be another administration, a new dispensation which would have a different view of the warmongering, the sale of arms and bombs and the proliferation of nuclear weapons to less developed countries especially, fomenting wars and destruction in those countries.

I would like us this afternoon not to lose sight of the reality. The reality is that the warmongering of developed countries will continue into the foreseeable future; that research and development of chemical warfare continues in the search for ever more sophisticated chemicals, substances to cause forever more destruction of human life, including innocent civilian lives, because the problem with chemical warfare is that it affects combatants as well as non-combatants. The reality is that in our world nuclear armament continues, nuclear proliferation continues among a selected few who are friends of the imperialist powers.

Our reality, in spite of the Geneva Convention which we have before us, is that the aggression against Cuba continues; the illegal occupation of Guantanamo continues, with the illegal detention of Iraqi and other citizens there. It is interesting that even recently we have seen a turnaround in the political climate in the States where the Supreme Court has ruled that the detainees of Guantanamo have a right to appeal to the US Supreme Court with respect to their detention. This is something that the Bush administration is very much against. We are seeing a slight shift in the climate of that country.

Mr. Vice-President, the reality is that the aggression against the Bolivarian Republic of Venezuela continues. We had a case just last year where a leading so-called pastor or religious figure openly called for the assassination of the President of that country with impunity. He was able to get away with that, and that was a crime. These major aggressions continue in the Caribbean region, in our region, and, therefore, we can expect anything. Our people have to understand that signing of protocols does not protect you.

What protects you is the unification of oppressed peoples; ordinary peoples coming together under a regime of genuine internationalism, of genuine solidarity to fight for the sovereignty of each and every one, whether you are big or small,

whether you are powerful or not so powerful; where resources are not taken from smaller developing countries for the aggrandizement and development of the bigger countries, but are used in each country for the development of the people of that country. Unless we could have that sort of vision, that sort of reality, these Conventions would not be worth the paper they are written on. The big powers, the warmongers will continue to rape and exploit the developing countries.

I said before that war is a continuation of politics by other means, the politics of the powerful countries, as long as it continues to be about more power, more markets, acquiring more oil, more gas to fuel their ever-expanding consumerism, and although these Conventions may be laudable and might look good on paper, they are worthless really, because the politics of those countries would always dictate war and there would never be justice and sovereignty for oppressed people.

I thank you.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I beg to move that the Senate do now adjourn to Monday, June 23, at 1.30 p.m. As you know, the Parliament is having a seminar on Tuesday and Wednesday to which all Members are invited. Next week would normally be Private Members' Day; the Government has agreed, and Sen. Mark has indicated that on Monday we will debate Motion No. 1 under Private Business which reads:

"Whereas section 4 of the Constitution of the Republic of Trinidad and Tobago provides for all citizens the right to equality of treatment from any public authority in the exercise of any function and the right to equality before the law and the protection of the law;

And whereas both Houses of Parliament have already passed into law the Equal Opportunity Act;

Be it resolved that the Government takes immediate steps to have the Equal Opportunity legislation proclaimed and fully effected in the Republic of Trinidad and Tobago."

I beg to move.

Mr. Vice-President: Hon. Senators, leave has been granted for a matter to be raised on the Motion for Adjournment of the Senate by Sen. Mark.

**Solicitor General
(Non-appointment of)**

Sen. Wade Mark: Mr. Vice-President, this Motion deals with the failure of the Government to effect measures that would ensure the appointment of a Solicitor General, and the negative impact or implications that non-appointment is having on the lives of several hundred citizens.

The non-appointment for over three years of a Solicitor General is having very devastating consequences on citizens of this country. We are all aware that the Judicial and Legal Service Commission is charged with the responsibility of appointing a Solicitor General. Quite apart from what I would explain to this honourable Senate, what the Solicitor General would be responsible for doing in assisting several citizens, this office holder has several other crucial responsibilities, including appending his or her signature to several critical international contracts and agreements.

Could you imagine in a democracy, for three years and a few months, we have not had a Solicitor General functioning? We understand the Attorney General's Office, under John Jeremie SC, set up a small cabal of young attorneys and they virtually hijacked the role and functions of the Solicitor General. It appears that the Government is in league with forces to delay the appointment of a Solicitor General in this country.

It is unexplainable; it is almost incomprehensible for a country not to have a Solicitor General functioning for so many years. Do you know what has been the result? Hundreds of citizens who were entitled to widow and orphan funds have been denied such for the last three and a half years. I am referring to the wives of police officers, firefighters, prison officers and civil servants, among others. Those persons have been knocking on the door of the Comptroller of Accounts for the last three and a half years and they have not been successful in obtaining their widow and orphan cheques that they are entitled to.

There is a committee that is responsible for approving cheques for those persons. This committee is made up of the President of the PSA, the Comptroller of Accounts and the Solicitor General. If you do not have a Solicitor General as we have not had for the last three years and a few months, those applications made by these persons who have lost their husbands and need the grant, cannot be approved, or those cheques cannot be issued simply because the Solicitor General's signature and approval is required. So you have the approval of the PSA President, the Comptroller of Accounts but because we do not have a Solicitor

General those applications cannot be finally approved and this is the information I have obtained on my investigation into this matter.

7.30 p.m.

Mr. Vice-President, several recipients have approached my office and the office of the Leader of the Opposition and they are crying out for help. Persons who are 60, 65 and 70 years are crying out for their little pittance to which they are entitled, from the Government and because of the failure of the State cannot get it.

When I was the Minister of Public Administration, I used to have monthly meetings with the Public Service Commission, and whilst we know that the service commissions are independent, we can converse with them and tell them the concerns of the government of the country at the time. Of course, we were not directing them to do “x” or “y”, but certainly the Attorney General of the country could prevail upon, or at least nudge these people, to let them know that the country is experiencing great challenges as a result of the failure of the Judicial and Legal Service Commission to do its job?

You want to tell me that they have advertised for three years and cannot get a suitably qualified person to fill the office of Solicitor General? Or is it because the PNM promised a magistrate—who is now presiding in a court case involving the former Prime Minister of this country—that she will get that post and it has been left vacant for almost three and a half years, and it appears that this particular magistrate has a job to perform, and until she puts away Mr. Panday she will not be able to get that job.

Mr. Vice-President, there was an article two years ago—well I quoted it for you already. I read a newspaper article about two years ago where this particular statement was made by Gail Alexander where she said that a particular magistrate had applied for the job of Solicitor General and that job was being kept for that particular magistrate, but she must complete her job with Mr. Basdeo Panday, the former Prime Minister of this Republic. I am wondering if that is the reason, three and a half years later, we do not have a Solicitor General in office. What is the explanation?

I would like the hon. Attorney General to tell us. When I enquired sometime ago from the Comptroller of Accounts, there were over 375 applications outstanding just needing the approval of the Solicitor General because they had already been given the all clear by the President of the PSA and the Comptroller of

Accounts. So you have these people wasting away, some of them may probably go to the great beyond before they obtain their pittance.

We understand that it is the President of the PSA, the Comptroller of Accounts and the Solicitor General who make up this committee that approves applications dealing with the Widows and Orphans Fund. That is what I was told by certain persons from the Comptroller of Accounts Department. If I am wrong, tell me I am wrong, correct me.

Mr. Vice-President, people have approached me and it is my duty to represent their interest, particularly poor people, people who are in need, I think I owe it to them and the country to bring their grievance to the Parliament and ask the hon. Attorney General to use her good office to meet with the Judicial and Legal Service Commission because she can do so. She has done it before; she has had meetings with the Chief Justice. Just as you met with the DPP, you must meet with the Judicial and Legal Service Commission and let them know that the country is dissatisfied with the lack of action on their part as it relates to the appointment of a Solicitor General of this country.

I cannot understand when I raised the question and addressed it to the hon. Attorney General some time ago, she responded in one or two lines by indicating that is a matter not within her purview. It is a matter that the Judicial and Legal Service Commission has to address and, therefore, she cannot deal with the matter. I think that is copping out. Where people's interest and well-being are involved, you have to get up and take action, you have to meet with the relevant parties and let them know what is happening to the ordinary citizens of this country. Therefore, I am making an appeal on behalf of those citizens of this country.

Therefore, I am making an appeal on behalf of those 400 citizens on behalf of the UNC Alliance for the Government to intervene, and take urgent measures and steps to at least meet with the Judicial and Legal Service Commission and let them know that the lack of an appointment of a Solicitor General is having serious implications and consequences for hundreds of citizens in this country.

Mr. Vice-President, we are also worried about what is happening to international contracts and agreements. We must always remember that the Attorney General is a political appointee, whilst the Solicitor General is an independent office holder and looks after the interest and welfare of the citizens. Therefore, Mr. Vice-President, whenever you need advice, I want to advise you, never turn to the Attorney General, you turn to the Solicitor General to get your advice, Sir, because you are independent—or you are supposed to be.

I therefore call on the Attorney General to intervene on behalf of these 400 senior citizens who have come to me and asked me to come to you so you can do something for them so they can get their entitlement which they have not been receiving over the last three years and a few months.

I thank you and I hope the Attorney General will be able to give some comfort to those citizens who are in a state of denial because of the absence of a Solicitor General in office.

Thank you, Mr. Vice-President.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Vice-President, I would wish to start by saying having heard the contribution of hon. Sen. Mark, in support of his Motion: The failure of the Government to effect measures to ensure the appointment of a Solicitor General, and its negative implication on the lives of several hundred citizens, somewhere in the course of his contribution in support of the Motion, he most probably caught himself and changed course because all he asked is that the Attorney General intervene recognizing, as he admitted, that the Judicial and Legal Service Commission is an independent body established under the Constitution of Trinidad and Tobago and which is charged with the responsibility of the promotion and appointment of certain offices, particularly in this case, the office of Solicitor General and, therefore, from his own statement there is an admission that there is no failure by the Government to effect measures to ensure the appointment.

When we look at the contribution of the hon. Senator with respect to the negative implication on the lives of several hundred citizens—I believe he spoke about the committee established under the Widows and Orphans Pension Act and said that there is a committee which comprises the Comptroller of Accounts, the President of the PSA and the Solicitor General and the failure to have a Solicitor General, I guess from what I follow you as saying, has really prevented the committee from functioning.

Mr. Vice-President, I would like to refer this honourable Senate to section 4 of the Widows and Orphans Pensions Act, Chap. 23:54 which says:

“There shall be established for the purposes of this Act a committee to be called the Public Service Widows and Orphans Pension Committee hereinafter referred to as the Committee which shall consist of the Comptroller of Accounts and such other persons as the President may appoint, but of the latter officers one shall be appointed to represent the contributors.”

Solicitor General (Non-Appointment)
[SEN. THE HON. B. ANNISSETTE-GEORGE]

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Nowhere does this section require or mandate that the Solicitor General must be a member of the committee. It talks about the Comptroller of Accounts, and I believe the President of the PSA is the person who is appointed to represent contributors. So that the failure to have a Solicitor General, nowhere affects the functioning or composition of this committee, therefore, I wish to say that firstly the hon. Sen. Mark has not shown that there has been any failure on the Government to effect measures to ensure the appointment.

If he is asking for the Attorney General to intervene as he stated, I am sure the hon. Sen. Mark recognises as an independent body—and we all talk about independent bodies—that the Attorney General and the Executive have no influence over an independent body established under the Constitution. If he says that there should be some sort of conversation, his contribution has not shown that there has been a failure for conversation. He has not shown that at all, and I would also like to say that he has nowhere supported the fact that the failure to have an office holder as Solicitor General has had any negative impact on the implications of the 400 persons.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.45 p.m.