

*Leave of Absence*

*Tuesday, January 19, 2010*

**SENATE**

*Tuesday, January 19, 2010*

The Senate met at 10.00 a.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Dr. Lenny Saith, who is ill. I had granted leave yesterday to Sen. Subhas Ramkhelawan, who is also out of the country.

**SENATORS' APPOINTMENT**

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards  
President.

TO: MR. NOEL GAYLE

WHEREAS Senator Dr. Lenny Krishendath Saith is incapable of performing his duties as a Senator by reason of illness:

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

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 19<sup>th</sup> day of January, 2010.”

*Senators' Appointment*  
[MR. PRESIDENT]

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“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards  
President.

TO: MS. ALTHEA ROCKE

WHEREAS Senator Subhas Ramkhelawan is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALTHEA ROCKE, to be temporarily a member of the Senate, with effect from 15<sup>th</sup> January, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Subhas Ramkhelawan.

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 14<sup>th</sup> day of January, 2010.”

**OATH OF ALLEGIANCE**

*Senators Noel Gayle and Althea Rocke took and subscribed the Oath of Allegiance as required by law.*

**SESSIONAL SELECT COMMITTEES  
(Appointment of)**

**Mr. President:** Hon. Senators, in accordance with Standing Order 64(1) of the Senate, I wish to announce the appointment of the following Sessional Select Committees to the Third Session 2010 of the Ninth Parliament.

**Standing Orders Committee**

Mr. Danny Montano	Chairman
Mr. John Jeremie SC	Member
Miss Laurel Lezama	Member

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Mr. Wade Mark	Member
Mrs. Helen Drayton	Member

**House Committee**

Mr. Conrad Enill	Chairman
Dr. Emily Gaynor Dick-Forde	Member
Mr. Wesley George	Member
Dr. Jennifer Jones-Kernahan	Member
Mr. Basharat Ali	Member

**Committee of Privileges**

Mr. Danny Montano	Chairman
Mr. Jerry Narace	Member
Mr. Linus Rogers	Member
Dr. Adesh Nanan	Member
Miss Dana Seetahal SC	Member

**Statutory Instruments Committee**

Mr. Danny Montano	Chairman
Mr. Arnold Piggott	Member
Miss June Melville	Member
Mr. Mohammed Faisal Rahman	Member
Miss Dana Seetahal SC	Member

**PAPERS LAID**

1. Annual audited financial statements of Trinidad and Tobago Entertainment Company Limited for the financial year ended September 30, 2008. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]
2. Annual audited financial statements of National Broadcasting Network Limited for the financial years ended December 31, 2004 to 2008. [*Sen. The Hon. M. Browne*]

**ANTI-TERRORISM (AMDT.) BILL**  
[Second Day]

*Order read for resuming adjourned debate on question* [January 18, 2010]:

That the Bill be read a second time.

*Question again proposed.*

**Mr. President:** Hon. Senators, the debate on the following Bill which was in progress when the Senate adjourned on Monday, January 18, 2010, will be resumed: A Bill to amend the Anti-terrorism Act, 2005 to provide for the criminalization of the financing of terrorism and for related matters. Following is a list of those who spoke: Sen. The Hon. Martin Joseph, who moved the Motion; Sen. Wade Mark; Sen. Basharat Ali; Sen. Dr. Adesh Nanan; Sen. Dana Seetahal SC; Sen. Laurel Lezama; Sen. Lyndira Oudit; Sen. The Hon. Dr. Emily Dick-Forde; Sen. The Hon. Mariano Browne. Senators wishing to speak may do so now.

**Sen. Dr. Jennifer Kernahan:** Thank you, Mr. President, for the opportunity to speak on the Bill before us, the Anti-terrorism (Amdt.) Bill.

Mr. President, this Bill before us seeks among other things, to provide for the criminalization of the financing of terrorism. As far as we are concerned on this side, the 2005 Act is already a draconian piece of legislation. Citizens of this country are not very familiar with the provisions of this Act, because the sections have not been enforced against our citizens, but the Act is there and will be enforced at the appropriate time.

Mr. President, what we are being asked to do essentially with the amendment before us, with respect to our citizens, is to widen the net and tighten the noose, if I may be allowed to mix my metaphors. The Minister presented this Bill, and it is important to note that even in the amendments, "terrorism" is not defined either in the parent Act nor in the amendment before us. Many of my colleagues spoke on this issue, but I would like to point out the danger of this, as underlined in a paper by Dominic Bascombe. The paper is called "The Anti-terrorism Legislation in the Commonwealth: A Briefing Paper for the Commonwealth Human Rights Initiative" by Dominic Bascombe, May 2003. In this paper, he noted that the term "terrorism" has come to mean different things to different people over different times, and quoting the writer, he says:

"Those who were once called 'freedom fighters' can easily be de-legitimized and may now carry the label of 'terrorist'."

Mr. President, he noted in his paper that though much of the world now stands united against terrorism and catching perpetrators of terrorist acts, the task of

defining terrorism eludes us. It was very interesting that he pointed out that there are 19 international and regional conventions relating to combating terrorism today, and yet none start from a consensual definition of terrorism.

Mr. President, on reading Mr. Bascombe, it was clear to me that there is no consensus on the definition of terrorism, because powerful interests internationally would lose the political flexibility to label individuals, organizations, even sovereign states, as “terrorist” and an axis of terror as the ex-President Bush did with respect to the Bolivarian Republic of Venezuela and the Republic of Cuba. They were labelled as part of an axis of terror. These sovereign states were labelled as such because they refused to bow to the Empire, and that is why they were labelled terrorist and part of an axis of terror.

Mr. Bascombe pointed out that the UN 2000 Policy Working Group on the UN and Terrorism offer some guidance however, and I quote—this is the guidance offered by the UN Policy Working Group:

"Without attempting a comprehensive definition of terrorism, it would be useful to delineate some broad characteristics of the phenomenon. Terrorism is, in most cases, essentially a political act. It is meant to inflict dramatic and deadly injury on civilians and to create an atmosphere of fear, generally for a political or ideological (whether secular or religious) purpose."

It goes on to say, the UN Working Group on Terrorism, that:

"Terrorism is a criminal act, but it is more than mere criminality. To overcome the problem of terrorism it is necessary to understand its political nature as well as its basic criminality and psychology."

Mr. President, this is exactly why terrorism is so hard to pinpoint, to eradicate, preempt, prevent, because it is based on clear political mindsets and political purposes and so on, but yet it is a criminal act perpetrated by persons who feel that they have the right to perpetrate these very heinous acts of violence against innocent civilians and citizens.

### **10.15 a.m.**

The Minister in his presentation yesterday spoke to the fact that the Financial Action Task Force (FATF) was an intergovernmental body tasked with the development and promotion of national and international policies to combat money laundering and terrorist financing. He spoke to the fact that the reason for the amendments before us was to implement the 40+9 recommendations, specifically the nine recommendations, that have been recognized by the IMF and

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World Bank as international standards for combatting money laundering and financing of terrorism. The Minister went through the trouble of outlining the nine recommendations on which the amendments were premised. He spoke about the Convention and the suppression of the financing of terrorism, freezing and confiscating of terrorist assets, the recommendations of the FATF, cross border transfer of currency and so on.

What was interesting and important for our population to note was that the Minister admitted and acknowledged that the Bill required a three-fifths majority in both Houses, since it was inconsistent with sections 4 and 5 of our Constitution. It is our duty to point out that any bill which comes before this Parliament inconsistent with sections 4 and 5 entrenched constitutional rights of our people, must come under serious scrutiny. The people of this country must understand that the price of freedom is eternal vigilance.

It is interesting to note that this anti-terrorist legislation which violates sections 4 and 5 of our Constitution was preceded in the Minister's presentation, by way of justification, by a reminder of the horror of 9/11, the terrorist attack on the twin towers in the US. This was the major justification for the terror attacks in different countries of the world. Going back to 9/11, this is not a local phenomenon, it is an international phenomenon, because we could practically say that after 9/11 there has been established a new world order, in which the powerful developed countries practically dictate and demand the implementation of legislation based on policies elaborated by the G7 countries, a fact which the Minister also admitted in his presentation; countries like the US, the UK, Germany, Japan, Canada, France and Italy.

In fact, in a paper by the author I already quoted, Dominic Bascombe, this one named "An Update of Anti-terrorist Legislation in the Commonwealth, July 2004", he made the same point that we have made over the course of this debate. Many of the speakers on the other side were quick to decry the sentiments expressed by Opposition Senators with respect to the fear and mistrust of governments and their implementation of anti-terrorist legislation as a cover to abrogate the human rights of our citizens.

Reading Mr. Bascombe, we have realized that this is an international situation, the whole question of the abrogation of human rights is the other side of the purported war on terror and anti-terrorist legislation. It is an international phenomenon. He did a study of many Commonwealth countries. He did an in-depth study to show how many of the basic human rights were abrogated by so-called anti-terrorist legislation. This is something I will bring at the end of my contribution.

He noted that many Commonwealth States were being forced to introduce anti-terrorist laws in the aftermath of September 9/11, and that the European Union's move to introduce new anti-terrorist measures suggested that there was an increase, instead of the hoped for reduction, in potential pressure on States to conform. So this is an international phenomenon. The Minister is not alone in bowing to pressure from the G7 countries to push through legislation in this Parliament. In fact, in the debate on the FIU legislation we were told that we would be blacklisted if we did not get that legislation passed, and we were being rushed, without proper scrutiny of the legislation, to get it passed; but we will come to that also.

In fact, it is not just a question of putting pressure on developing countries and smaller countries; they have been blacklisting countries. In June 2000, the Financial Action Task Force published a blacklist of countries, including Commonwealth countries and Caribbean countries like the Bahamas, Cayman Islands, Dominica, St. Kitts and Nevis, St. Vincent and the Grenadines. I know Sen. Prof. Deosaran has a term for these things: "bullying" by the big countries with respect to what legislation we should have on our books, and how we should have it, and how it should be.

Mr. President, I would like to make it clear, as the Leader of Opposition Business said in the Senate, that we of the UNC are unequivocally opposed to terrorism. We agree with the Minister when he remarked in his opening statement that:

"The world wept collectively for the innocent men, women and children who lost their lives on that fateful day..."

But the harsh reality is, that some of us weep from the soul as civilians are slaughtered by terrorist attacks. There are others among us, the rich and powerful, the G7 nations, that merely weep crocodile tears. As cynical as they are, they are able to make a very fine distinction between the terrorists that they control, harbour, support and protect, and those that they do not. As far as the reality shows, with respect to some of these big developed countries, there are "good terrorists" and "bad terrorists"; the good terrorists are the ones I control and support and protect, and the bad ones are the ones I do not know anything about.

Mr. President, even as all right-thinking people of the world abhor and condemn all forms of terrorism, whether perpetrated by individuals, organizations or by state entities, only the most naive among us really believe that the US, as the major instigator of the anti-terrorist legislation worldwide after 9/11, finds

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terrorism, and I quote the Minister's words, "offensive and unacceptable". Only the most naive among us believe that. Maybe I would have to put in that category my Senatorial colleague, Sen. Lezama, because when Sen. Mark spoke about the mistrust and fear that our people feel with respect to this type of legislation and the purposes of this type of legislation, Sen. Lezama felt that these views were unsubstantiated and that there was no need for this kind of reaction.

I would like to inform the young Senator that declassified documents from the US State Department have documented the US support of authoritarian and terrorist regimes throughout Central and South America during and after the cold war in defence of its economic and political interests. Perhaps the Senator is too young to remember 1957 and the CIA overthrow of Arbenz in Guatemala. I think the young Senator in her naiveté and innocence would be too young to remember the Sandinista war, the war against the Sandinistas perpetrated by the US and the CIA for over 40 years. That resulted in the deaths of over 200,000 Nicaraguans. How was this war paid for? This was paid for by the now infamous cash for arms deal by the notorious Oliver North of the US State Department, where he sold arms to Iran, a country blacklisted by the UN, and the cash he got illegally and illicitly he used it to fund the anti-Sandinista war, resulting in the deaths of hundreds of thousands of innocent civilians. That is State terrorism. All this was in violation of several conventions which the US would have signed. The Minister called out all the conventions: 1963, 1970, 1971, 1973. There is no end of conventions that these powerful countries sign and promptly violate when it suits them.

Mr. President, it would seem to us sort of paradoxical that the Minister in his presentation also assured us that at the Fifth Regional Session of the Inter-American Committee Against Terrorism, in Port of Spain, the Government joined with the other member states of the OAS to condemn terrorism in all its forms and manifestations, whatever its origins or motivations. They said that there was no justification whatsoever and that it constituted a great threat. The Minister said that this was the consensus of the Inter-American Committee Against Terrorism in Port of Spain. We on this side agree totally. We support those principles and in the brave stand that the Inter-American Committee has taken against terrorism, "whatever its origin or motivation."

Based on that refreshingly unequivocal stand against terrorism by the Inter-American Committee, the next logical step of the OAS that the Minister should have been able to report, should have been that the US would have been promptly pressured by the OAS to accede to the Bolivarian Republic of Venezuela's request for the extradition of that self-confessed terrorist, Posada Carriles, to Venezuela,



where he was tried and convicted and serving a prison sentence for his part in the bombing of a Cuban airplane off the coast of Barbados. Our Government has an interest, because that vicious act of terrorism took place from our soil. The perpetrators were caught here and our local police had a hand in bringing them to justice.

This was done by the self-confessed terrorist in 1976, along with many other acts of terrorism which he likes to boast about to the *Miami Herald*. Yet, in spite of all these conventions that the US would have signed and which the Minister said were “embraced by all nations,” Posada Carriles is a free man in the US. The problem we have, hon. Minister, is: How tightly should we embrace these policies and legislation suggested by the G7? Because apparently they do not embrace them too tightly.

The Minister amended the Act of 2005 to include the definition of a terrorist. That amendment is very clear and, therefore, there should be no problems in identifying persons who are terrorists and bringing them to justice, based on the conventions that we have signed.

### **10.30 a.m**

Mr. President, one of the other issues that the Minister raised when he said that terrorism constitutes a grave threat to international peace and security and violates the democratic values and principles of the OAS Charter and the American Democratic Charter. We totally agree. Therefore, at that meeting in Port of Spain when we embraced all those principles; this Government together with members of the OAS, what should have been a logical conclusion based on very clear definitions on who are terrorists and what constitutes terrorism, what the OAS should have immediately done to follow through, if it were serious, was to mandate the United States of America to take immediate steps to secure justice for five young Cubans called the "Cuban 5" who have been imprisoned in the United States for the last 7—10 years precisely for trying to infiltrate terrorist groups in the United States of America and Miami and so forth to pre-empt terrorist action against Cuba. For that they were jailed and imprisoned. And if we look at the amendment before us in terms of what is a terrorist as given by the Minister, then clearly there is no way that those young five patriotic Cubans could be accused of terrorism. In fact, they were fighting against the terrorist groups in Miami.

So if you want to follow through with all these big pronouncements and say, “regardless of origin and motivation” you are against terrorism and committed to fight against terrorism, why are these things still happening? Why are five young Cubans in jail because they fought against terrorism?

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As I said initially, it is because the big countries can cynically make a very fine demarcation between “our terrorists” and “their terrorists”; “terrorists we know and those we do not”. They protect the ones who are part of their organizations and do their bidding and they talk a lot about fighting against terrorism; but we are the ones who have to pay the cake. We, the people of the world, as Mr. Bascombe would have elaborated in his paper, showing all this anti-terrorism legislation all over the Commonwealth, militates against human rights. We have to pay that cake for the hypocrisy of the G7 nations; with all their technology, that they are easily able to deal with these issues if they want to.

Mr. President, some of the clauses in this Bill before us are really frightening and we have to look at them very closely, the people of this country have to decide if this is a Government they really want to run this country, one that brings this kind of legislation given the scenario worldwide, given the hypocrisy of the G7 that are forcing us to bring these stats and legislation to the table.

Clause 6(1) says:

"(1) Any person who participates in a terrorist act commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years."

Mr. President, the original definition says; "commits a terrorist act" and this legislation as I said, is tightening the noose and widening the net. It is talking about “participation” in a terrorist offence. What is defined as participation? I do not know. If you lend somebody some money in good faith and they take it to perpetrate terrorist activity, does that mean you are participating in a terrorist act? There is no definition for it. What is this “participation” about? It is vague, and it is meant to widen the net so as to catch anybody “participating” in a terrorist act; because it is not talking about committing, it is talking about participation. One might be caught in a situation where he/she is unknowingly a part of something and does not know about it and will go to prison for 25 years. That is frightening.

Mr. President, clause 9 inserts a number of new sections into the original legislation and, again, it just broadens and makes even more vague allegations and pronouncements that anybody could fall into. It says that every financial institution or listed business shall report all business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with or who comply insufficiently with the recommendations of the Financial Action Task Force. That is fairly clear, but where it gets very murky is when it says that they shall pay special attention and

report complex, unusual or large transactions whether completed or not, unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose. What is that?

As I understand it, in societies in huge enterprises and conglomerates, their transactions are usually complex, they are usually large so how are you going to distinguish transactions that are suspiciously complex and unusually large? I do not understand how a financial institution is supposed to comply with that. That would probably imply that you would have to have your own anti-terrorist task force in your institution to deal with investigating every transaction that goes through your bank.

It also says that you are also to pay attention not only to the large ones and the unusual ones, but to the insignificant ones which have no apparent economic or visible lawful purpose. What is that? How is any financial institution to read and understand this to implement it? It is definitely couched in these vague terms to be able to say well, you fall into this category. You are insignificant enough because you have periodic transactions which have no apparent economic or visible lawful purpose.

Now which financial institution will be marking insignificant transactions that are periodic and have no visible, lawful purpose? Who is going to determine if a transaction has a visible and lawful purpose? This legislation is totally incomprehensible and the only way you can understand it is if you understand the concept of the net and the noose.

Mr. President, it says in Part III.

"Where a financial institution or listed business knows or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, the financial institution or listed business shall make a suspicious transactions or a suspicious activity report to the FIU..."

Mr. President, it is known that there are rules by which unusually large transactions over a certain amount are recorded, you have to record their source of fund and so forth, that would give a financial institution some sort of comfort with respect to source of funds and so forth. But then the Act says that you have to know if the source of funds are linked to terrorism or are to be used for terrorism, or to be used by terrorist organizations or those who finance terrorism. How is an

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ordinary financial organization going about its business supposed to make that link? Not just with respect to large transactions, but you have to link it back to terrorist organizations and terrorism and so on.

So it seems to me that the this legislation is couched in such a way that it is almost impossible for reasonable enforcement and implementation and, therefore, it gives a lot of leeway to the Government to accuse persons, individuals and organizations of not reporting and making the necessary link to terrorism with respect to transactions that are unusually large or insignificant.

Mr. President, section 22D(1) says:

"Where the FIU receives information from a financial institution or listed business and it considers that an investigation may disclose that funds in the possession of any individual or illegal entity is being used, has been used or is intended for use in the financing of terrorism, it shall forward such information to the relevant law enforcement authority for further investigation."

This clause with these different parts is meant to promote an atmosphere of almost terror among financial institutions, the population and individuals because now you are forced to safeguard yourself as an individual or institution by making reports that have no grounding because you want to pre-empt any investigation and reprisals and, therefore, it reminds me of the 1960s, the McCarthy Era, the anti-communist era in the United States of America where people were selling out their mothers and daughters because they wanted to protect themselves from accusations of being communists.

It seems to me that this is going to trigger a rush of reporting and disclosure of information that people would be forced to participate in just to protect themselves from reprisals from the FIU and the so-called law enforcement authorities.

Mr. President, one of the issues with this amendment before us where it says:

“Section 23 of the Act is amended—

(i) by inserting after the words "police officer..."

I think Sen. Mark referred to this and I would like to reinforce and agree with him that the whole question in addition to the very wide powers that the police officer, the so-called law enforcement authority would have to investigate complaints, because this amendment before us provides for this police officer or officer of the law enforcement authority to enter premises and seize and retain material, moneys

and goods of the victim; it seems that we cannot have in this legislation vague terminologies such as police officer or officer of a law enforcement authority when we do not know what law enforcement authority this refers to.

If you do not have a specialist law enforcement authority to deal with these issues, then you are putting the cart before the horse. Bring the legitimized law enforcement authority then place it in the Bill, but what you are asking us to do here today is to buy cat-in-bag and legitimize any police officer regardless of rank, when in the original legislation the police officer had to be above the rank of sergeant and on top of that, legitimize the role of a law enforcement agency of which we know nothing about.

**10.45 a.m.**

That is also frightening to us because it shows the level to which this Government will stoop to pass legislation in Parliament under the nose of the population which is entirely illegal.

In clause 12 of this Bill, a police officer or officer of a law enforcement authority may apply to a judge to enter and search premises and seize and retain material. These issues must be confined to legitimate authorities in law and must be confined to the persons who have the seniority to do these acts on a legal basis.

Clause 15 amends section 34 of the Act.

Continuing on clause 12, we have a situation that was mentioned by Sen. Mark, at the level of customer information that is available that can be asked for legitimately. Detailed information of customer accounts can be required by the police officer or law enforcement agency. Therefore, it is important that these agencies be legitimate. It is also important to note that the financial institution or business served with an order under this section with respect to monitoring is obliged to maintain confidentiality. Clause 12(10) states:

"...shall not disclose the existence or operation of the notice to any person except—

- (a) an officer or agent of the institution for the purpose of complying with the order;
- (b) an authorized officer referred to in the order."

These are serious offences because on the contravention of this clause, a listed business commits an offence and is liable on conviction to a fine of \$500,000. We are dealing with very serious fines and penalties. We are very concerned that such

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a cavalier attitude could be demonstrated in the Bill with respect to the rank of the police executing such orders and the legitimacy of the organizations that would do so.

Clause 13 of the Bill which amends section 32 says:

“(1) Every person or regulatory authority who has any information which will assist in—

- (a) preventing the commission by another person, of a terrorist act; or
- (b) securing the arrest or prosecution of another person for an offence under this Act,...

shall forthwith disclose the information to a police officer, officer of a law enforcement authority or the Central Authority as defined under the Mutual Assistance in Criminal Matters Act.”

The question is: Why include a provision which potentially criminalizes persons for not complying with vague provisions of the Act?

**Sen. Jeremie SC:** Where are you?

**Sen. Dr. J. Kernahan:** Clause 13, page 26. These are very vague requirements and you are bound to inform or disclose forthwith, the information to a police officer and the mythical officer of a law enforcement authority. It criminalizes persons with this vague and unintelligible provision. How would I know information that I have is information which would prevent the commission of a terrorist act? How can I, as an ordinary citizen, judge that the information I have is so important?

The importance of thorough investigators is that they would get information from people who do not know the importance of information that they have. When you put it all together, investigate and talk to a number of people, you would create a scenario or picture that you understand. Many of the people will not have all the information that you have and will not understand to where it leads. That is what criminal investigation is all about. We are making provisions in this Bill that puts the onus on me to understand the importance of the significance of information that I may have linking to a terrorist act or preventing the commission by another person of a terrorist act or securing the arrest or prosecution of another person. This is impossible. How is this going to work? How are you going to prove in court that I knew that this information that I had

was important and would have been a link to the prevention of a terrorist act? This is totally unintelligible. It looks like it makes sense but it does not. It makes absolutely no sense: "I shall have to forthwith disclose the information to a police officer."

When we get this sorted out, police officers would be inundated with rush reports. Everybody would be trying to protect themselves. Every little thing you hear or see, should you report it because it could be linked to a terrorist offence or the prevention of a terrorist act? How is this going to work? If there is sufficient information that an investigator—

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

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

*Question put and agreed to.*

**Sen. Dr. J. Kernahan:** Clause 13 is totally unintelligible. It has no sense. There is no meaning to it. It seeks to criminalize innocent persons because apparently, the onus is on you to know the value of whatever information you might have and you have to report this information forthwith to a police officer. I do not know how that will work.

Clause 15 of the Bill before us amends section 34 of the Act. It says:

- “(1) Where a customs officer, immigration officer, police officer or officer of a law enforcement authority reasonably believes that property in the possession of a person is—
- (a) property intended to be used for the purpose of a terrorist act or for financing terrorism;
  - (b) terrorist property; or
  - (c) property of a person or entities designated by the United Nations Security Council.

he may apply to a judge for a restraint order in respect of that property.”

That means nothing to us because we have no idea to what this Bill is referring. There is no schedule or anything to enlighten us. What does "property of a person or entities designated by the United Nations Security' mean to us? Is there a list

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somewhere? Will the Attorney General enlighten us as to what that means? It says tightening the noose and widening the net.

Subsection (b) says:

“(1A) Where information is forwarded to a law enforcement authority pursuant to section 22D, and it has reasonable grounds to believe that funds should be restrained, an officer of that law enforcement agency may apply to the Court for an Order to restrain such funds.”

This is a ticklish part because we know about funds being restrained by police officers and how it disappears from police stations. We have to be very careful when we are passing legislation authorizing any police officer to restrain people's funds. We know that we have magic police stations in this country that things just take wings and fly away.

I support Sen. Mark when he was very wary of section 15(e) in subsection (4) where it provides for deleting the words “Judge of the High Court” and substituting the word “Judge.” We want to know why. Why change that if it does not make any difference? I heard the Attorney General said that it does not make any difference. Just as we have a provision in this legislation for a law enforcement authority that we know nothing about, we could have a position later on for a court that we know nothing about and judge would refer to a judge in that particular court. Therefore, we understand High Court Judge and that is the term that we would like to be used to deal with that situation.

Based on some of the observations I have made with respect to this legislation and those of my honourable colleagues, it is clear that the expressions of fear and mistrust that were expressed by the Opposition Senators on behalf of the population are not as unfounded as many on the other side seem to think. In fact, the impact on human rights legislation of our citizens is very well documented. In other jurisdictions writers have documented the negative impact on human rights. These negative effects on human rights are documented in some of the G7 countries that are purporting to dictate to us what we should have in our legislation.

For example, Dominique Bascombe to whom I referred earlier on mentioned a number of negative impacts on human rights in anti-terrorist legislation in a number of countries. He referred to the negative impact on refugees and minorities and anti-terrorism legislation being used as a pretext by government to suppress minority groups and curtail their international responsibilities in accepting asylum seekers and refugees.



**11.00 a.m.**

He quoted the United Kingdom Anti-terrorist Act as a perpetrator, India, Sri Lanka, Tanzania and Guyana. He spoke to the detention of the abrogation of human rights with respect to detention and access to legal counsel and he said that anti-terror legislation often removes these basic rights under the guise of needing increased detention times in order to carry out investigations. Australia is a perpetrator; Singapore; United Kingdom.

So, you know, the G-7 countries keep coming up. Privacy: The United Kingdom:

"In the fight against terrorism, privacy rights are among the first to go as governments justify their 'Big Brother' activities on pre-emptive grounds."

He quoted the Counter Terrorism Bills of New Zealand, Canada, the United Kingdom. They keep coming up: Canada, the United Kingdom; part of the G-7.

"Freedom of Expression:

The freedom to criticize and voice opposition to government activities has born the brunt of the anti terrorist rhetoric as media groups are labeled 'terrorists' and face great difficulties in carrying out their duties."

This was highly visible in Zimbabwe where a newspaper was labelled "terrorist" for writing anti-government articles, and so on.

Freedom of Assembly and Association is another victim of so-called anti-terrorist legislation. In fact, in our original legislation we have in section 2 of the legislation where it says here:

"A terrorist act means—

- (a)(iii) prejudice to national security or disruption of public safety including disruption of the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or of other essential infrastructure."

That runs the whole gamut of everything in this country and any trade union activity, and so on, with respect to disruption of the provision of services, can be deemed a terrorist act and all the trade unions locked up, and so on.

So we have it here too; we understand the impact of this legislation on the rights and freedoms of our country. So when our young Sen. Lezama gets up to say, you know, we are talking nonsense and there is no abrogation of rights and

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freedoms, and so on, I would like to quote for her to end my contribution, what Mr. Bascombe said at the end of his paper on "A Briefing Paper for the Commonwealth Human Rights Initiative - Anti terrorism Legislation in the Commonwealth". He said and I quote:

"The actions of powerful Commonwealth nations such as the UK and Australia in limiting the civil liberties of the population serve as an impetus to other, less economically powerful states, (like us) that their restrictive laws are necessary in today's society. It is precisely against this sort of ideology that human rights violations are allowed to continue unabated. When the large movers and shakers on the international stage encourage the limitations of human rights of their own populations, they lose any moral ground in criticizing other nations."

He ends by saying:

"As the war on terror continues, it is important that the violations that take place in all countries of the Commonwealth do not escape unchecked. The heightened security measures that are introduced to combat terror need not supersede the rights of the population. Indeed, it is when tackling the horror of terrorist attacks that the fundamental freedoms that define civil society need to be most treasured and respected."

We support that principle. It was enunciated by the Leader of Opposition Business, Sen. Wade Mark and we all subscribe to that; the population subscribes to that, that the fundamental freedoms enshrined in our Constitution and that define civil society, need to be treasured, even in the so-called war against terror.

I thank you, Mr. President.

**Sen. Prof. Ramesh Deosaran:** Mr. President, this is obviously a very serious piece of legislation as has been expressed by all previous speakers, including those on the Government side. It is serious but it is also saddening to see how far we have to reach into section 4 of our Constitution in order to enact the legislation.

Prevention is always a very difficult thing in public policy, because something has not happened; you do not know when it will happen; you do not know how it will happen; you also do not know how much danger it could cause, but you have to take measures to see that such eventualities do not occur.

That, therefore, leaves a wide gap for controversy and for speculation as to how far into the Constitution you are reaching; whether you are on the right track or the wrong track or whether we are over-reaching ourselves, because nothing has happened.

To put it another way, if the airport at Piarco had been bombed a month ago, the tenor of this debate might have been very, very different, because something concrete would have happened. But something happened in unusual places that we know about. Who would have expected one of the world's leading tourist resorts, Bali, to be bombed and so many people killed as a result; never mind the Twin Towers, so unexpectedly, with one of the fortress nations of the world, the United States, having to suffer such a blow?

But nothing of that proportion has happened in this country. So, essentially, we are on a prevention mission. I remember in my primary school days, the *Student's Companion* had a very notable phrase: Prevention is better than cure. But that does not arrest the issue, because today in the world what we are trying to develop or what we are trying to take part in is a global response to a global challenge, terrorism, which is a cross-border crime. The issue today is not a clash between civilizations or fundamentalism versus the modern world, and so on; it is essentially a clash, a repeated, pervasive, widening clash between the need for security and at the same time, the need to preserve freedoms. That is that search for equilibrium that this particular Bill seeks to undertake.

Another related issue, before we get into the specific clauses, is the random nature of terrorism. You never know when it will hit or where it will hit. So it is not a matter of just the numbers; how many times it has happened in the Caricom area or how many times a train has been bombed in Spain by the Basque or in the London subway. The randomness of the terrorist activity is in itself a need to take preventive measures as far as possible, because like the Washington sniper, you never know who will be next.

It is therefore the responsibility of a government fairly and freely elected to undertake such prevention measures. But the question that has been raised, especially by the Opposition Benches, is: has the attempt gone too far? It seems, if you look at the recent spate of legislation, especially those with implications for section 4, which it does not guarantee you freedom. Section 4, in my view, provides the basis for guaranteeing these freedoms. That is the clause on which you rest your argument, but the clause itself does not readily guarantee you. You have to argue the case in court on that particular basis.

I say it is saddening, because many of us who have been in public life for some time, recognize the sacred value of freedom of speech, freedom of movement, especially, and the right to privacy of property and the secrecy of your business, your personal banking business, especially. A lot of us are very private persons, but we have been here because we have been called upon to service. But

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when we see the seeming encroachment on our privacy, we have to stand back and ask the question, not as private citizens but as civic-minded citizens: Are these provisions justified?

To some extent I think they are, and to some of the clauses I would perhaps ask for some further explanation. I remember about four or five years ago when I was at the University of the West Indies, we staged a seminar on terrorism. I think one of the early Bills had come before Parliament and we sponsored a public debate on it, where one of the speakers I invited was Mr. Allan Alexander. I think the current Attorney General made reference to Mr. Alexander's presentation at that seminar, when he said: "Is it possible that the way we are enacting legislation, robustly, whether indirectly we would attract terrorism?"

I found that a very peculiar statement to make, because I had seen it the other way. But from his perspective, he was implying that we should stay out of this particular game, as it were. Well, he made his points and I think the Minister in the Ministry of National Security at the time was there, Mr. Hinds, and he himself elaborated on Mr. Alexander's remark.

But this country has to be careful. I support the mission to prevent in principle, because we are an energy-based country; our borders cannot be as ironclad as we would like them to be; they are quite porous, necessarily so, given the geography. So we need to come on board with the rest of the world in that particular respect. Because even the banks in Switzerland, famous for their secrecy, they themselves have to open up their doors to provide information, not for the same reason but for different reasons.

So the old way of doing things has to be changed. The world itself is now changing and quite unhappily we find ourselves in a corner, as it were, with our freedoms being diminished one after the other in order to prevent terrorism.

I am making these preliminary remarks because I believe before you embark on public policy, there has to be a concept; there has to be an idea on the table; there has to be some objective and then you move into the legislation and the drafting. But you cannot destroy terrorism by destroying the guns or the terrorists. Terrorism, in its most fundamental sense, in order to destroy it, we have to destroy the idea behind terrorism. We have to destroy the perceived grievances that people have, that energize them so much so as to become suicide bombers and to have no fear of losing their lives.

This legislation, obviously, will not do it, and even the other pieces of legislation: Money laundering; Proceeds from Crime Act and so on, will not

really do it. Because if a man tells you he is not afraid to die, there is no law that could prevent him from taking the action.

So whilst we are doing these things on one hand; things that we must do, there is another issue on the other side; that just as the world is feverishly after such legislation, conventions and so on, there must be a parallel attack on the germination of the terrorism: Why is there the terrorism; what are the grievances, rational or irrational? And until such time as the ideas can be killed, so long will terrorism endure.

I would have liked to see some views in this particular legislation from organizations as the Chamber of Commerce, the Bankers Association, because whilst the Government can do its part, a lot of the responsibility, especially at the seminal stage, the origin of the information pertinent to investigation and prosecution, would have to come from the banking sector or those places we call business entities.

#### **11.15 a.m.**

What the Bill seems to do is put a lot of emphasis on state bureaucracy. I believe an improved emphasis should be placed on the infrastructure in the banking system itself. You should not assume that they will do the job as reasonably or as efficiently as the legislation expects. You have a compliance unit in some banks, of course, but what you need for this type of legislation is a fresh, intensive education programme for the banking industry and other such institutions where cash flows in and out. I do not see it yet in the legislation. I see the assumption that things would be done well and properly.

Sen. Dr. Kernahan did make the point in her last moments, that is: How will somebody, for example, the banking industry, know whether this information is relevant for an investigation, because, it could be, especially in the cases where it could be. You need a dedicated group of experts in the banking industry. Just as you are striving to have a Financial Intelligence Unit, the group of experts, properly trained and selected, it is time that the banking industry have within their jurisdiction, inside their offices, a dedicated group of personnel familiar with the legislation, the intention of the legislation and the kind of documentation and information that might, as the Bill says, assist; that is the language in the Bill, in the investigation process.

There are two points in this information requirement. You can gather information after the terrorist act is committed You can trace who provided the information and who were the accomplices but after the fact. That is the easy one. The more difficult and perhaps more desirable source is the information that will

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help prevent the terrorist act. That is why I come back to all the sources of information must be properly configured, resting on the required expertise and vigilance, especially those in the commercial and banking sector.

I would have liked to see, just in passing, a Caricom response to these conventions, because when I look at the legislation from other countries such as St. Lucia, Jamaica and especially Barbados, in this respect, I see significant differences; not in terms of objectives. It is the same objective to prevent and suppress the financing, but I see the bureaucracy and state apparatus used differs significantly. Why I make that reference is because I see, for example, in the Barbados case, in their legislation, a little less presence with the political directorate and more involvement with the Director of Public Prosecutions. But still, in the Barbados legislation, it makes clear, and it is a point I myself wish to emphasize, the Attorney General is responsible for certain matters, including those of extradition and where state-to-state negotiations or information-sharing are involved. Therefore, it is a similar issue in our legislation. The Attorney General does have a critical and necessary part to play in the Bill. I do not see that necessarily as a political interference. It comes throughout the Mutual Assistance Treaty and it is a convention in such matters that the Attorney General has a rightful role to play.

But there is another space for the DPP to handle, especially when it comes to the prosecution aspect of the matter. We have gone into the Constitution, but as I sat and I listened to the debate since yesterday and this morning, I am concerned, as I have said earlier on, over matters of freedom of movement, freedom of speech, the right to private property and so on. I have already expressed my views, with respect to the property tax issue. That is my conscientious feeling. There is no politics in it. I think it is a matter of historical principle, about the matter of privacy and property rights. I cannot think of any other way to attack terrorism without interfering with section 4. It is axiomatic that to deal with terrorism you have to enter the realm of freedom of movement and you have to enter the realm of private property. There is no alternative. You have to dig deeply into the Constitution in this respect, if you have to get close to the act of terrorism and especially if you want to prevent terrorism. The question remains though: How far do you dig and how do you dig? The principles should be clear to the national community. This in principle is not a Bill to bullyrag people's freedoms and rights in principle, because there is no other way. If somebody could delineate an alternative way to prevent and curb without interfering with these freedoms, I think myself, like everybody else, would be very happy.

What the Bill does, as with similar Bills, is to interfere with these rights, but to create a process to do so. It invokes what is called due process. Perhaps, that could be tackled as well in due course, but I am saying for myself that you can see intervening between the different clauses in the Bill, especially where the question of rights to privacy are involved, that there are checks. The primary check in this Bill and an attempt to preserve due process is the presence, role and intervention of the court, the judge. I counted the presence, the role and intervention of the judge 33 times in the legislation. In fact, you can call this, if you want, another name, “The Judges Legislation on Terrorism”. You have to apply to the judge for this, a judge must suggest this and if you find your property is confiscated for too long, you apply to a judge.

This raises another fundamental issue: To what extent should they be allowing judges to modify public policy in these respects? Is it the role of Parliament, or is it a dual function to have the policy, but yet have the checks and balances through due process by the court? That is a question for, perhaps, more academic esoteric debate. But, it is a saving grace that we have the judges so pervasively present in the legislation; 33 times.

But it raises another issue: Are the judges prepared enough to provide the kind of service required in the Bill, or is a judge a judge? [*Interruption*]

**Sen. Jeremie SC:** Sen. Prof. Deosaran, at the risk of incurring your wrath again, there is persistent and consistent reference to the Judiciary in the Bill, but that is the Executive’s way of balancing the necessity for draconian action which derogates from sections 4 and 5 of the Constitution with due process. It is a way that you put the Executive at arm’s length from the citizens. That is what we sought to do.

**Sen. Prof. R. Deosaran:** I do not know, maybe I misspoke, but that is exactly what I am saying; balancing rights with security. It is important that you have confirmed the point I am making. I would not like to leave the impression that there is no due process in this thing. I am raising, as I said, perhaps, a more esoteric issue as to the role of the court as against that of Parliament in public policy, or the role of the Executive to make and preserve public policy, but yet at the same time—the number of times you have the judges intervening here, it seems to modify the intent of the policy in some significant ways, but it is good. In a sense it provides protection to the community and it satisfies the requirement of due process. You would forgive my own intellectual curiosity.

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What I am coming to, without being disrespectful to the Judiciary, like I said with respect to the banks, is that there is judge and judge. There are differences in judgment, as we know. The Appeal Court would have shown that. We also need a special cadre of judges when the time comes, or when the time does appear for that intervention, to understand the nuances and complexities of terrorism and the history of terrorism. Perhaps, if I might venture, judges are human beings. Sometimes we forget that. They have passions, beliefs, preferences and religious preferences. We have a lot of fundamentalism in this matter of terrorism. Perhaps, the time will come soon, through you, Mr. President, hon. Attorney General, when we will have to ask judges for their beliefs; whether on abortion, homosexuality and a number of other things. These are the kinds of cases that come before them and we will not like to feel that there is some prejudice interfering with a verdict. It is done in other countries. As I have said, we have to reach there, if you want the intentions of such a Bill to be satisfied.

To the question of educating those involved, I think Sen. Dr. Kernahan did allude—or she created in my mind—to the necessity for so doing. The police, the customs department, immigration officers and the banking sector must have a parallel or subsequent education programme, especially when there is a delicate balance that must be maintained between, as the Attorney General said, the Executive, due process and rights of citizens.

As we reach this point, what has trumpeted throughout the debate surprisingly, is not that people do not support the legislation in principle, neither do they not feel that an attack should be made against terrorism and also to mount legislation to prevent terrorism, I think the single issue that has trumpeted throughout the debate so far is the question of trust. Do you trust the agency and the authorities? That is why I say it is saddening to know how much distrust exists in such matters.

The Government told us last Friday was the debate, now we find ourselves yesterday and today, because things changed. I must express my admiration for the graciousness of the Leader of Government Business in this matter, because he has done what he was not really bound to do. Once again, your graciousness and parliamentary protocol remains remarkable, for the record. I thought your colleagues would have clapped, but I see no applause. [*Laughter and desk thumping*]

**11.30 a.m.**

You describe property as tangible and intangible and there is a reason. You have paintings, you have certain possessions that are really not visibly material



and very expensive, but yet there are the intangibles that you as an owner cherish. Trust in the way I am speaking about it is a powerful, intangible asset in governance and in such matters before us.

If you do not trust the Attorney General; if you do not trust the Director of Public Prosecutions; if the public has no confidence in the judges and the Judiciary, well you would not have the public behind the legislation. You would not have the information coming to you as the Bill requires, and if it is the case that there is a widespread mistrust of these agents and agencies; if it is the case, it is easy for the Government to heal the breach. Say the things that you mean and carry out the things that you promised, because sometimes it is good to remind ourselves of certain ordinary things; it is like the Lord's prayer; everybody knows it by heart, but many of us keep on saying it every day as a reminder.

In this context of trust and effective implementation of the Bill's objective—I want to refer to the oath taken by, especially a Minister:

“I”—so and so—“do swear by”—whichever book it is—“that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially”—that is the word I want to emphasize, and I am doing so, not for the Government's benefit, but for the public's benefit and just to put it on the record—“and to the best of my ability discharge my duties as and do right to all manner of people”—and I do not have to read and spell what that means—“without fear or favour, affection or ill-will.”

So in my view, when somebody takes an oath like that, why would you distrust them? Why would you have sworn on the Bhagavad Gita, the Bible or the Q'uran and people will still distrust you? That disconnect should be healed if it does exist. Any time a Minister says something to you it should be like the gospel. He should not break his word. That is what it means in effect. [*Interruption*] Every time he makes a promise to the national community or to a friend, as a Minister, the sanctity of that discourse of relationship should be preserved because of this particular oath of office. And any public officer who takes such or similar oath and does not discharge the expectations in the oath, either secretly, overtly or covertly, has violated the trust put upon him or her.

So this question of trust must be attended to. I have been hearing too many times, in the national community and inside this honourable Chamber, because it is trust in the agencies that will inspire people in the banking industry, in these listed—let me see that list there—businesses, there are so many that you depend upon, trust, because as has been said, again—you are going to trust the police too.

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A blind man can see and a deaf man can hear that all is not as yet well in the police service with respect to integrity and trust.

Mr. President, it is not a case, but it is important to mention it because it is the police that would be actively involved in a large part of implementing this legislation. It is not a matter that you do not expect a police officer to commit a breach of duty or to become corrupt, or to fall to the temptation of bribery and so on. Is it that you expect the police service to be a band of angels? But what bothers the national community, and where the Government ought to pick up a bit more, is on the consequence when such breaches happen.

When several speakers mention the breach of trust at St. Joseph Police Station, and apparently at the Couva Police Station and up to now nothing concrete has happened to those incidents, I will not put it as dramatically as Sen. Mark, an enquiry here, a report and nothing has been happening. That is an example to show it is time, especially in the St. Joseph Police Station case where you have guns and drugs in the roof and so on, something concrete should have emerged by now, not just transfer.

I am making the point because you need public confidence to stimulate the request for information that will help assist in the investigation. But it seems as if a number of people in this country believe that after a while they would forget it. No, no, this is not how a country is supposed to be run. This is not a political point. This is a point where the Government might need to be reminded that the public expect things to be done in such matters because it will elevate trust in the Government. The matter of trust, if I might say so, does not only pertain to the Government. Trust pertains to all politicians whether you are on the Government side or the Opposition side. In fact trust is an issue even when Opposition politicians compete for office, [*Laughter*] because the way you are trusted before would be an element or a motive for putting you into office, possibly.

So trust is a very pervasive requirement in public life. That is why you have legislation like the Integrity Commission and so on, but trust and integrity—and Sen. the Hon. Mariano Browne, Minister in the Ministry of Finance did make reference to that. He said you have to work through the institutions but the institutions must have sufficient integrity so that the public would therefore service it in the way that is required. He made the point. So it is not a political point, because if Members of the Government side recognized it, and whatever challenges they might have, they have to overcome those challenges. Because in the case of the Couva Police Station, if before your very eyes a station filled with police officers, so much money could disappear and yet you have no convincing

evidence to put your hands on who, at least as a suspect, how will you case the money that is going after terrorism which is so far away from you? If before your eyes this thing is happening.

So that is the issue of trust and confidence that we must attend to. I must tell you I really cannot oppose the legislation. I cannot oppose the legislation but I am trying to point out some of the gaps that need to be healed if you want the national community to support it as it must, and there are some things the Government and the Executive must correct along that way.

I have a slight worry on page 14, section 22E as amended, clause 9 in the Bill. But I am sure the Attorney General or the Minister of National Security in his winding up would clarify it. Just a slight worry and it reads as follows:

“For the purposes of this section, the Minister with responsibility for national security may by Order prescribe the law enforcement authorities to which the FIU shall submit the report referred to in subsection (3).”

I am merely asking and I am quite sure there is a good reason, why the Minister of National Security and not perhaps the Commissioner of Police or some other agent? You see this terrorism business and the entry into people's assets and so on, could be done in a political context as far as people might conceive of it. So it is not a matter of whether the intention is good or whether it is administratively feasible.

**11.45 a.m.**

In the amended section 24C(3), there is a time period that you could keep certain things—four days. It also says not more than three months, even when you have a judge's intervention. Similarly in the amended section 24A(4), there is a check, 10 days limit; and in section 38(1) as amended, you have a maximum of 96 hours. So yes, there are checks, there are balances in the particular situation.

Let me emphasize again, the point about the Attorney General, because it has come up twice in the last two years. The Attorney General does have a role to play, Mr. President, in the state-to-state relations, matters of extradition, sharing information from one country to another and so on. But another worry, the rank of the officer given the responsibility to search and so on, I think that should be clarified whether you mean really any police officer, and if so why? Or, should there be a rank that we will prefer again, for trust and public confidence?

As I close and since this is a debate, I want to refer to some of the issues raised by previous speakers, very, very briefly. The Minister of National Security

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himself, he did well, he told us that 40 of the recommendations had been taken care of, we are dealing with the nine and we are on to the last four pieces, I believe. But he made an important point for the record, that whilst they need cash to support terrorism, suppressing cash alone will not help. I mean all it takes is for an explosive device to be thrown into a dustbin on Frederick Street. I do not know how much cash that will require. So the creation of fear and intimidation, and even holding a government to hostage, do not necessarily depend on the flow of cash. But this is as we should all recognize one piece of a related set of legislation.

As of my good friend, Sen. Mark, he says that our rights are taken away by mere suspicion. Well, I do not think so. I think in the course of police work, surveillance, you must frame in your mind a suspicion based on some pieces of information whether tangible or not tangible, and then you proceed, and your basic rights will be ultimately taken or not taken when the matter comes up for subsequent adjudication and so on. But how else can you do it, you see? I understand what Sen. Mark is referring to. But you see, we live in a world where we have to have some minimal basis, sometimes it is called prima facie, before you could move. Sometimes you are wrong, sometimes you are right, but it comes back to the dilemma. How else can you prevent something from happening? How else can you prevent something from happening if you do not have the space to frame a suspicion in the first instance?

The question of course will arise, could such powers be abused, and the answer is yes. That is why I come back to the question of policing and those with such statutory powers. Punish those who breach the trust. Punish them! Punish them! Let the public see that the trust is so sacred, whenever it is broken there is a sharp and severe consequence. Then, you will see public confidence in the system arising. He did make the point about rights again. I think he was very hard and fast on the question of rights, and as a veteran trade unionist, I think that is his prerogative.

But as I close, Mr. President, in this matter of suspicion of terrorism, we have to consider the imminent dangers of somebody boarding a plane looking suspicious because of the severity of the consequence. You cannot wait until you smell smoke or you see him pulling the trigger when the plane is up in the air, as an example. Even in this Parliament, I hope these officers are vigilant enough to keep a sharp eye on people with strange objects, bulging out of their pockets.

**Mr. 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. B. Ali*]

*Question put and agreed to.*

**Sen. Prof. R. Deosaran:** Let me put this point in a nutshell and use Shakespeare as a reference. There is no art to tell the mind's construction on the face, especially in matters of terrorism. In fact, do you know how many times where I live the residents beg the police to stop anybody looking suspicious because of the spate of robberies in that area. So in the public mind, the fear—this is another issue—how did we reach to this stage? But the fear is so dominant in people's minds that they suspect anybody. If you look too Rastafarian, they suspect you. If you are not dressed properly, they suspect you. Any little thing that suggests imminent danger or violence, the people now in their state of fear become very suspicious, and that is where profiling becomes policy—racial profiling—because the police works on probability.

If in the last six months they held persons for so and so demeanour, dressed, well the next time you see somebody looking similar in terms of probability, that is how human perception works. There is a whole literature on social perception, which is based on probability. So in a sense, racial profiling is not an arbitrary violation of people's rights. It is an inevitable part of surveillance, again, to prevent. So sometimes Peter pays for Paul, because you have a similar configuration. You might have a long beard with dark shades—present company excluded of course [*Laughter*—but you could not tell the police do not do that because surveillance is based on probability, enlightened probability. But as we know, there is another discourse on that. I could just leave it there, but I would not like to see us sacrifice this element of surveillance, so as to be so absolute in our differentiation as to who is who. Some will slip through the net.

Sen. Mark, like others, did refer to Couva and St. Joseph Police Stations, but my dear colleague, Sen. Basharat Ali, he said, "We have been coming here all the time and we have been distressed with the delays and so on." I will not refer to those points, except to say, that when you look at the last three months, Mr. President, we have been coming out as Senators very regularly. Not only on Tuesdays. We have crossed midnights several times. We have come on Wednesdays, we have come on Mondays, and the point I want to make is not that we are unwilling to turn out to do public service, we are ready. We have been here 2 o' clock or 3 o'clock in the morning with no guards to drop us home, especially the female Senators. But I want to suggest to the Government, if you really want to base constitutional reform on empirical evidence, the time has come to consider

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full-time parliamentarians. The time has come to consider that, if not totally full-time, but some provision about starting earlier in the morning. But make some provision, so those who are coming here will have the expectation that listen, this is not just Tuesday afternoons and so on.

I was pleased with the contribution by the Minister in the Ministry of Finance because he did describe what happens in the banks quite concisely and he did help us a bit to understand how monitoring can happen, but I want to repeat my point. You need an education programme for all those in the front line of this particular anti-terrorism mission.

Thank you, Mr. President. [*Desk thumping*]

**Sen. Dr. Sharon-ann Gopaul-McNicol:** Thank you, Mr. President, for giving me the opportunity to participate in this debate on criminalizing terrorism. One of the disadvantages I suppose in speaking towards the end, is that many of the previous speakers have raised the points that I am about to raise. So I have decided in the interest of avoiding repetition, I will focus on the main concerns and not repeat what the previous speakers had said, if I could do that. [*Desk thumping*]

**Sen. Narace:** Consider the Standing Order. [*Laughter*]

**Sen. Dr. S. Gopaul-McNicol:** I want to ask the Attorney General, upfront, why was it necessary to bring this Bill with such haste to the House? It is such an important piece of legislation, and if I could say—

**Sen. Jeremie SC:** There is no haste, Senator. When we moved with respect to the Financial Intelligence Unit Bill and the Proceeds of Crime (Amdt.) Bill, I think we said that we would be bringing the—As a matter of fact, there was a request from either your bench, or the upper bench—I am reminded it was Sen. Mark who asked, "Where is the Anti-terrorism Bill?" I mean, I cannot gesticulate as he does. Very few people can do that, but this is where it is. Okay?

**Sen. Dr. S. Gopaul-McNicol:** Thank you. But it seems to me though, that in spite—do we have a deadline of some kind that we have to submit something? I think you said, no. Did I hear that?

**Sen. Jeremie SC:** I did not say that. I said there is a deadline.

**Sen. Rahman:** Thank you. Unmentioned.

**Sen. Dr. S. Gopaul-McNicol:** Unmentioned.

**Sen. Jeremie SC:** We do not need to rush the service.

**Sen. Dr. S. Gopaul-McNicol:** The whole point is there are so many flaws that I found with this important legislation, that I think it would have served us well to take our time to correct it and preserve the integrity of the Senate. But since there seems to be some deadline which I am now hearing about, I understand why. The problem when we rush Bills like this and send them through and they get passed, when they are tested in the courtroom, you find that so many people who commit horrific acts and who commit criminal acts get off, because of so many technicalities that we might have missed because we had rushed the Bills through. This is why it is very important that we do not rush Bills through.

Also, in light of the fact of the unhealthy, as I perceive it, connection, between the Office of the Attorney General and the Anti-corruption Investigative Bureau of the Office of the DPP, I think it is important that we move very cautiously with the Bill.

Another concern around the rushing through of this Bill, is that a lot of citizens of our country, who are Muslim in terms of their affiliation—  
[*Interruption*]

**Sen. Jeremie SC:** Is that the theme?

**Sen. Dr. S. Gopaul-McNicol:** No, that is not the theme of the contribution. In any event, many of our citizens are of Muslim heritage and background, and you hear reports of a lot of people who, based on their phenotypical characteristics such as that they look Mideastern or they look Muslim, being harassed, not just when they are travelling abroad where you see people are unnecessarily being detained and so forth, because of phenotypical characteristics and they look a particular way. So I think this legislation is so important for us to strip it apart and make sure that we are covering all grounds. But notwithstanding that, let me get straight to the Bill.

### **12.00 noon**

Mr. President, clause 6 talks about terrorist property. I have to wonder when I look at this clause about a real estate agent who sells a property, only to realize after the property has been sold that it may have belonged to a terrorist. Could that agent be charged according to the law, because it seems that way to me? If you look at section 6(a) it says something about the property being directly or indirectly used for the purpose of committing or facilitating the commission of a terrorist act. It seems to me that such an agent could be charged as being in violation of the law if you happened to sell a property to someone that you later find out was a property owned by a terrorist. This needs to be corrected and revisited.

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If we look at section 10, it speaks about harbouring a terrorist; in fact, one could be convicted for 20 years for harbouring a terrorist. I have to ask: If a person does not know an individual committed a terrorist act—because this is not very clear in the legislation—is it fair to say that the person could be convicted for, “harbouring a terrorist”? This has to be clarified; not because you talk to a terrorist and you are in some kind of relationship with him, it means that you are aware that the person is engaged in a terrorist act. You may not be aware and we need to be very clear in the legislation, to make sure that persons are not going to be charged for things that they are unaware of.

Look at clause 9; if my interpretation is correct, it seems that the Director of Public Prosecutions (DPP) does not have as much investigative powers, whereas the Attorney General has so many investigative powers. I have to ask again: Why is this so? In fact, I thought it should have been the reverse. I would like this clarified.

I also have to ask a hypothetical question: If a government minister or someone affiliated to the higher rankings of the Government commits an act of terrorism, the police would have, of course, to go to the Attorney General, but there seems to be a bit of conflict here in this, in that, who would the government minister be reporting to, his own political colleague? In my estimation, it is like himself judging himself. This is how things, I believe, get swept under the carpet, when we have a sort of incestuous relationship, so to speak, of a person who is affiliated—*[Interruption]*

**Sen. Jeremie SC:** Thank you so much for giving way. In the past, attorneys general have had no difficulty discharging their ordinary functions as law officers. They used to be law officers of the Crown. Mr. Ramesh Lawrence Maharaj SC did his job with respect to colleagues of his. I think I did mine with respect to colleagues of mine. In any event, your characterization of the role of the Attorney General as being investigative is not accurate. The Attorney General does not investigate; there is an Anti-corruption Bureau which reports in part to the Commissioner of Police and does administrative reports to the Attorney General.

**Sen. Dr. S. Gopaul-McNicol:** I am raising this issue of what happens if a government minister is found in violation of such a terrorist act and does it get swept under the rug, is because of the incestuous relationship that exists. *[Interruption]* I am asking a question and I am expressing concern.

If you were to think back to three months before the election of 2002, cocaine and guns were found in the tank of—*[Interruption]*

**Sen. Jeremie SC:** I was not around.



**Sen. Dr. S. Gopaul-McNicol:** I am addressing my colleagues in the Senate. Whether you were around or not, that is not the point, Mr. Attorney General. *[Interruption]* *[Crosstalk]* So many distracting things are happening when you are speaking; the constant distracting—*[Interruption]*

**Mr. President:** Two things here: Senator, you should speak to me; ignore the crosstalk. I would ask the Members on the Government Benches to allow the Senator to make her contribution without interruption.

**Sen. Dr. S. Gopaul-McNicol:** Thank you, Mr. President. *[Interruption]*

**Mr. President:** Senator, I was going to rise a little while ago and I did not. I have done so once, do not cause me to do it again, please.

**Sen. Dr. S. Gopaul-McNicol:** About three months before the election of 2002—as I said, I raise the issue of what happens if a government minister is involved in any act of terrorism and how things are handled, because it seems as though himself is judging himself. It was in that context.

About three months before the election of 2002, cocaine and ammunition were found in the tank of former MP, Sadiq Baksh; this has never been addressed. Many reports were written, how accurate has never been answered or looked at, implicating four leading members of the PNM at that time. We have never seen a result of this investigation, so I have to ask and wonder what happens when things like these issues are raised. *[Interruption]*

**Sen. Jeremie SC:** I could help you out. I think the matter that you referred to is one involving a Mr. Paul. Is that his name?

**Sen. Mark:** He was mysteriously murdered in Venezuela.

**Sen. Jeremie SC:** Mr. Paul never turned up to give evidence to the police. The police went to Venezuela to visit him; that had nothing to do with the Attorney General. That was a police matter. The police went to Venezuela and he did not show up and he died subsequently in an accident.

**Sen. Mark:** Mysteriously.

**Sen. Dr. S. Gopaul-McNicol:** How convenient.

Yesterday my colleague, Sen. Mark, raised the issue, again, in keeping with terrorist acts, of what transpired in the 2002 election, in keeping in this same vein in terms of the Muslimeen connection. To this day, lots of reports have been written. Let me just say, I remember distinctly that on the night of the 2002 election, I was asked to say the prayer in Balisier House that night. At that

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particular time, walking into the premises of Balisier House was Abu Bakr and an entourage. He was clapped, there were drums beating and so forth and a lot of embracing of this gentleman. I had just returned to Trinidad to live, so I did not know actually who he was and I remember asking. I thought it was the political leader that was walking in.

**Sen. Mark:** It was the political leader walking in. [*Laughter*] [*Desk thumping*]

**Sen. Dr. S. Gopaul-McNicol:** Because I did not see the person from where I was standing, so I could not see the individual. I just heard the drums, and in keeping with our cultural approach to when a leader is walking in, I thought it was, and then I realized it was not. Of course, the terrorist act that people were accused of during that time—I remember distinctly many UNC persons coming in after the election upset that they were not able to participate, because they were blocked at the polls. I remember this, and at that time I could not believe it, so I denied the possibility of such things happening, until 2007 in the Port of Spain South constituency I witnessed it for myself, when a leading female of the PNM literally was intimidating persons at the polls. When it was reported to the police, they simply said that they could do nothing about it. These are acts of terrorism. [*Desk thumping*] So when I ask the question: What happens when your colleagues in the Government Benches are engaging in certain acts of impropriety and terrorist activities, what are the results, are they swept under the rug? What exactly happens? I think it is something we need to take very seriously.

In general, I am concerned that we are sending messages that if you do not support the Government, you could end up in hot water, as far as I see with all of this.

Clause 13 speaks about a person who provides instructions in carrying out a terrorist act. I have to ask, when I think of myself as a Girl Scout, Boy Scouts and so on. Boy Scouts are trained, oftentimes, in all kinds of activities where they may learn to make self-protective little explosives and fun activities. I ask the question: In such a case, would the Boy Scout master be charged, in providing instructions in training and carrying out a terrorist act, if they are training youngsters to engage in all kinds of self-protective activities, such as little explosives? We were trained and taught to do these things if we went on weekend trips as Girl Scouts and Boy Scouts, and a simple act may result in a person being charged. [*Interruption*] I would like the situation to be clarified.

**Sen. Narace:** Senator, would you give way?

**Sen. Dr. S. Gopaul-McNicol:** Let us go to clause 14. [*Interruption*] [*Crosstalk*]

**Sen. Narace:** Thank you for giving way. Senator, for me to sit here and hear those accusations made about the PNM, I really find it difficult to do. Let me tell you why I say that. [*Sen. Dr. Gopaul-McNicol rises*][*Crosstalk*] Senator, you already gave way.

**Hon. Senator:** That is a personal statement.

**Sen. Narace:** No, no, no. I know that this Senator went up on a PNM ticket. Could she say at that time that occurred and she saw that? I know that in the last local government election this Senator worked with me. I was the coordinator for Tunapuna/Piarco and at no point I saw that and at no point I heard her say that to me. So I just wanted to make the point that I do not think that I could sit here and hear them make these false and unfounded accusations about the Government. [*Crosstalk*]

**Sen. Mark:** Everyone knew that Abu Bakr was at Balisier House.

[*Mr. President pounds the gavel*]

**Sen. Dr. S. Gopaul-McNicol:** As I said, I was referring to the general election of 2002, at which time I did not work with the Minister of Health who is now the PRO in the PNM. I worked with the Minister during the local government election of 2003. At that time, Mr. Abu Bakr did not appear in the local government election of 2003, but he did appear in the general election after the election of 2002. [*Desk thumping*]

**Mr. President:** Senator, you would stay out of trouble if you debate the Bill in front of us. The Anti-terrorism Act has already been passed; it is already law. This is an amendment to that Act dealing only with the financing of terrorism. If you confine your comments to the Bill in front of us, you would find that you would have no difficulty. So please confine yourself. I have allowed you a certain latitude, but really, you need to talk about the Bill.

**Sen. Dr. S. Gopaul-McNicol:** Thank you, Mr. President, I thought I was speaking about the Bill, because I am going through the clauses, so I am amazed at this, but nevertheless.

**Mr. President:** Senator, when I make a ruling, you would accept it without comment.

**Sen. Dr. S. Gopaul-McNicol:** Clause 14 talks about inciting or promoting a terrorist and the penalty is 25 years in prison. Again, I have to ask: If we, as Members of Parliament, let us say that constituents come to our offices and they ask us about a particular situation that concerns them, and we provided the

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appropriate guidance where necessary—and one of the ways that we provide guidance is suggesting that maybe it is a good idea that you were to join in some kind of protest or some kind of march or some kind of strike against whatever the situation may be, and we encourage them, which I know I have. I have encouraged persons to exercise their right to protest and so on.

**12.15 p.m.**

So I ask, according to clause 14 if we encourage persons, would we be so charged as Members of Parliament? Will this fall under inciting the constituents? I think, quite frankly, it is rather frightening because when I think of the fact that I tend to encourage and support people to exercise their right to protest, I do not understand why it is I would be so charged, if a person exercises a right against a particular thing, it is all within the Constitution. One can protest once it is done in a quiet manner in keeping with the law.

Personally, I think this amended Bill did not deviate significantly from its predecessor. The main concern is that it impinges on the citizen's right and criminalizes in a reckless way all manner of behaviour as far as I am concerned. In general, I would like to see the law come with more safeguards for law-abiding citizens because that is lacking in this legislation.

Another issue is how the matter of terrorist act is defined. It is very worrying to me that we have a tradition in this country that people do protest. In fact, that is one of the ways that people get the attention of the Government and if you were to look at the definition of terrorist act, it includes a disruption of public safety, intimidating the public et cetera, so again I ask: If there is a simple thing like a march which we saw on December 18, 2009 outside the Parliament where people were exercising their right to protest in a civil disobedient way—civil disobedience is part of our societal practices to get the attention of the Government. In other words, they were exercising their right and what happened? Some persons were arrested and so forth. It is so easy, as far as I am concerned to manipulate the Act by saying there is a threat to public safety. [*Desk thumping*]

I think we have to focus on how we balance freedoms of people and their rights with the law in terms of the executing of the criminalizing of the terrorist law and I think it is important that we try to aim to get that balance. Let us look at section 24 of the parent Act:

"A person shall not be excused from answering questions or producing a document that the answer or document may incriminate him to any penalty or proceedings."

This section is saying that a person must comply and provide information even if it is self-incriminating. I think from a psychological point this is so ridiculous because it goes against the Constitution of Trinidad and Tobago, in particular section 5(2)(d) which addresses the protection of the rights and freedoms of persons who have been arrested or detained. It states:

"...Parliament may not—

(c) deprive a person who has been arrested or detained—"

It goes on to say that:

"...Parliament may not...authorize a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination..."

And yet this clause is speaking about the fact that a person should be willing to incriminate himself. I do not understand that. [*Desk thumping*] So our Constitution is not in line with the law.

In fact, this clause 24, I think members of the press could be forced to disclose information if you were to think of it—

**Mr. President:** Senator, my Bill does not have a clause 24.

**Sen. Dr. S. Gopaul-McNicol:** I was referring to the parent Act.

**Mr. President:** Why are we debating the parent Act?

**Sen. Dr. S. Gopaul-McNicol:** I was referring to the parent Act first and then I linked it with the amended Bill. In any event, I am concerned about the freedom of the press and we need to guard against that. In the amended Bill, clause 10 amending section 23, do we not have some specific qualifications for police officers? I did not quite understand why we had to include "or officer of a law enforcement authority". I thought this was a bit too wide.

Likewise in clause 12 in the amended section 24B, I am concerned how easy it is for an innocent person to be set up especially if that person is at odds with the Government. It is stated that if there are reasonable grounds for suspecting that there are on the premises terrorist materials. So I am asking what is considered reasonable grounds. It is a bit too wide and if it is left in such a nebulous way people can very well be seen as violating the law. It leaves a lot of room in my view, for a lot of unsavoury practices to take place in light of the fact that there is not true independence between the Judiciary, as far as I see it, and the Executive and certainly between the Parliament and the Executive.

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Clause 12, amending section 24B(1), again I am concerned about the Government going into people's accounts. It is stated in this clause and provides so loosely for "an authorized officer any such customer information relating to the person or account..." I think this is dangerous and it makes you so nervous that I feel this clause should be deleted from the Bill.

Likewise, clause 12 which deals with the amendment to section 24B(3), again it is an invasion of people's privacy and one's rights. Why do we need all that information? When I think of the fact that so many questions are being asked regarding people's previous addresses, their date of birth, account numbers and so forth, it is such a violation of people's privacy and rights.

Likewise, clause 12 amending section 24B(8) states that the Government has "no obligation to maintain the confidentiality of information..." Again, this is such a violation of human rights and it is quite frightening that the Government can secure information and then flagrantly say that confidentiality is not guaranteed.

Mr. President, again when I look at clause 12 amending 24C which speaks to a monitoring order, this can be seen as so dangerous. It says:

- "(3) A monitoring order shall—
- (a) direct a financial institution, listed business or non-profit organization to disclose information it obtained relating to transactions conducted through an account held by a particular person with the financial institution, listed business or non-profit organisation;
  - (4) A Judge shall issue a monitoring order only if he is satisfied that there are reasonable grounds for believing that—"

Again it is so nebulous, how broad are we going here? This particular clause has to be looked at.

As I conclude my contribution, I would like to ask the Minister of National Security—because I think this is important for all of us to be aware of—if we could receive a list of the entities designated as terrorists that was circulated by the United Nations. That is important.

I would also like to expand a bit on what my colleague, Sen. Prof. Deosaran said earlier. We have brought a Bill criminalizing terrorist acts, and if we had a government that would take into consideration a lot of the social concerns and

address them, it is important as a psychologist to say that we would not have been facing so many of these challenges that we face with this Bill. So I hope we would factor that in the future.

In summary, I believe it is the right of a government and certainly the right of the citizens of this country to defend human rights while combatting terrorism, and I say categorically while I am opposed totally to any forms of terrorism, there must be a balance between the rights of citizens and the fight against terrorism, we must be clear about that.

We do not want to see any form of terrorist act taking place and we certainly support criminalizing terrorism, but we must not criminalize innocent citizens and law-abiding persons just because our laws are so loose.

This Bill has to bring that balance about and unless these amendments are made to the Bill, I do not see in good judgment how any of us could support this Bill unless amendments are made that would address the human rights and freedoms of all citizens of this country.

I thank you.

**Mr. President:** Senator, would you like to start and go for four minutes, or would you like to start after the lunch break?

**Sen. George:** After lunch.

**Mr. President:** That is what I thought. Senators, we will take the lunch break now and return at 1.30 p.m.

**12.26 p.m.:** *Sitting suspended.*

**1.30 p.m.:** *Sitting resumed.*

**The Parliamentary Secretary in the Ministry of Health (Sen. Wesley George):** Mr. President, I rise to make a contribution to the Anti-terrorism (Amdt.) Bill, 2010. It is a Bill that speaks to curbing or putting mechanisms in place to treat with terrorist financing. Terrorist financing is indeed global in nature. It is complex, entrenched and it affects every country, organization and people. Terrorist financing is essentially one of the hardest things to root out when it comes to the war against terror. They can find all the bombs and the training camps which they can find easily.

Because of the complex nature of terrorist financing, it has proven to be a most elusive goal for even the most developed countries. The terrorist financing networks have refined the networks of money laundering. Years ago, money

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laundering from drug cartels was the main problem facing developing countries, as it relates to the underground economy. However, with respect to globalization, terrorist organizations have sought to employ the tenets or rubrics of globalization. That means economic integration, improvements in IT, communication and transportation for the well-entrenched networks that were laid down and established by the money launderers years ago. Essentially, we are seeking to treat with a very relevant and complex issue as it relates to this issue of terrorist financing.

Terrorists gain their funds from five main areas.

- Criminal activities such as bank robberies, kidnapping for ransom, extortion, smuggling, drug trafficking.
- Donations from local and/or foreign supporters including emigrants and charitable organizations.
- Assistance from sympathetic foreign states.
- Cash infusions from wealthy individuals and organizations.
- Revenues from legitimate business operations.

From the onset you can see that when one seeks to treat with the financing of terrorist organizations, the net is cast very wide and broad. You may run the risk of destroying the reputation of persons and companies who, essentially, are innocent and have absolutely nothing to do with acts of terrorism.

As it relates to Trinidad and Tobago, the point was raised, I think, to some extent by Sen. Seetahal SC and Sen. Prof. Deosaran mentioned it. For Trinidad and Tobago this is essentially a proactive step because it has not been publicized. The whole issue of terrorist funds passing through our institutions has not been brought in the public domain, at least not as yet. Like most things that happen on a global scale, it would soon be at our doorsteps. It would be mindful of us to do due diligence as we are doing here today, to put the mechanisms in place, if only to protect the integrity and reputation of our financial institutions.

When I say financial institutions, I will speak essentially to our banks, businesses, NGOs and credit unions. I say NGOs and credit unions in this context, especially credit unions because as we know, the credit union movement in Trinidad and Tobago controls a considerable amount of money as it relates to the economy of Trinidad and Tobago. When we speak of charitable organizations in relation to terrorist financing, we are talking about large organizations. In Trinidad and Tobago, those organizations tend to be well entrenched. They have longstanding records of service and quite often are made up of persons of high standing in society.



One would like to think that terrorists and the terrorist network often employ such organizations. I think it is essential for us to seek to protect our charitable organizations because there are those large enough to raise the kind of funds that terrorist organizations need to carry out their operations. There are not many, just a few in our country. All that needs to happen in Trinidad and Tobago is for the name and reputation of one to be tarnished and it would tend to have that cascading effect on all. Such is the nature of our economy and we should do due diligence to that bearing that in mind to put these measures in place if only to protect them.

How does this Bill seek to do that? Firstly, it seeks to put it in law that these organizations are responsible for bringing to the attention of the authorities, in this case the FIU, suspicious transactions. You cannot say for whatever is the reason that this happened and you do not want to get involved in it and turn a blind eye. It seeks to make them responsible. Essentially, you cannot say this is not your problem because as fragile as our economy is, all you need is for one bank to get tainted and that would have a rippling effect right through the economy as we saw with Clico. One would not want that to happen. One would want to ensure that that type of contagion effect does not happen and impact on the reputational cost not only of Trinidad and Tobago, but also the integrity of the companies and financial institutions of the country.

This would have serious implications for Trinidad and Tobago especially since the Government has expressed an agenda to position Trinidad and Tobago more firmly in the financial services sector as we seek to attract companies to invest in the country. It is important that we take steps to ensure that those companies are responsible. It would send a signal to those persons and us that we are responsible for the type of businesses that we are doing and we would also be our brothers' keepers in reporting suspicious transactions because we understand the result of such instances, if they are not reported and they go on to achieve the goal that they plan to achieve.

The Bill also allows for rules of engagement of the FIU. It spells out clearly that once a report is made to the FIU, how the FIU would engage these institutions; who has to report; the type and scope of information that is to be made available to them. It also spells out what the FIU does after they investigate it. Once they investigate and find nothing, the case is closed. If they investigate and realize that there is cause for concern, the information would then be passed on to the relevant authority for further investigation. Most importantly, the Bill allows even for an institution that is under investigation for its integrity and reputation to be intact

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because it clearly specifies that no member of the FIU can divulge information on the investigation that is going on presently.

What is comforting is that we saw a feature that was also put in the property tax legislation. It is avenues for redress. If a company is found to be wanting as it relates to its adherence to international provisions for the guidelines as set out in the international accord that we have to adhere to, after six months the company can apply to a judge and have its case reviewed. If new evidence is seen, depending on how the judge sees it, he can then be taken off that watch list and return to a state of normalcy.

Worldwide, when treating with issues of anti-terrorism Bills, you cannot get away from the issue of trust and privacy. To some extent that was raised in this debate. I do not want to dwell on the issue too long. I would like to use this opportunity to treat with one issue that I think Sen. Mark raised. Sen. Mark said that the people of Trinidad and Tobago do not trust this Government especially with legislation of this kind because they can use it as a tool to man a witch hunt and frustrate our enemies.

When he said that, do you know what came to mind immediately? What came to mind is that just recently, agents of the Opposition using the facility of the Equal Opportunity Bill and Freedom of Information Act attained a list of names of persons for scholarships. As I recall, they did this because they were of the view that the Government had used this programme to fund their partners and PNMites. It was then, as was spelt out afterwards and we have now come to realize what they did. They went through all the names on the list looking for key PNM persons.

**1.45 p.m.**

They plucked out Sen. Lezama and Joel Primus and they were hoping to get a whole set. But you know what happened? They failed, because out of a list of 500 persons they only found five. So what they said, "No one knew about it", trying to scandalize a legitimate programme. They said no one knew about it, but they failed again, because it was in the budget; it was advertised in the newspapers.

Then there were instances where Members of the Opposition, again, using tools of legislation; same Freedom of Information Act—and I recall years ago what they did, they called for the list of those who attained government housing. To do what? The same thing; manning a witch hunt.

**Mr. President:** Senator, I have given a fair amount of latitude and I agree that he is not on the target but he is responding to something that was said on your

side, so I will allow him a little latitude as I have allowed everyone, some of you more than others. So he has two minutes to say what he has to say and then move on to the Bill, please. [*Desk thumping*]

**Sen. W. George:** Thank you, Mr. President, I am so guided. But I just wanted to make the point that the people that they claim—it is not the PNM government; it is clear from their action, they are afraid of UNC in government. That is the point that I would like to make. They have to be talking about a UNC government. [*Laughter*]

**Sen. Rahman:** You “fraid” a UNC in government.

**Sen. W. George:** Mr. President, it is my opinion that this piece of legislation is a very timely one; it is one that seeks to, amongst other things, protect the integrity of our financial institutions to allow our NGOs, our community-based organizations, to operate, to serve their communities as they have done so well for so many years, and to do so with a measure of integrity in the present environment in which we live.

I thank you, Sir. [*Desk thumping*]

**Sen. George Hadeed:** Thank you very much, Mr. President. I rise in support of the Bill to amend the Anti-terrorism Act, 2005 to provide for the criminalization of the financing of terrorists and for related matters.

Maybe we do not fully understand what and who terrorists are. Terrorists are the type of persons whom we have to deal with in this day and age; these are people who, from the onset, from the minute they are born, are trained into one belief and that they would risk or give up their lives for whatever cause they believe in. A typical example: I do not know if Members could sit and picture themselves using an aeroplane, flying it and looking at a building and crashing that aeroplane into that building; giving up their own life and the lives of hundreds and thousands of others; innocent bystanders—innocent!

This is something that is not going to cost \$500 or \$1,000. These are people who were being trained for over five to six years. That would cost money and it is going to cost a lot of money, because it is not just one person; it is a group of over 20 people that were being trained to do this thing over a period of five years. That, in itself, costs a lot of money. Where are these terrorists getting this money from? This is what this Bill will only be a part of, trying to cut the source of their funding. It is not going to eliminate their funding totally; it is just going to see how best their funding could be cut, or reported.

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I was in Oklahoma City in 1995 when there was the bombing. My brother worked in a hospital not too far from where the bombing took place. I was at his home and we felt the bombing. The entire house shook. When we found out where the bombing took place, we were horrified. I was scampering to try and find out if my brother was part—or suffered in that cause.

**Sen. Rahman:** You thought he was part of the plot. Sorry.

**Sen. Dr. Dick-Forde:** That is out of order.

**Sen. Rahman:** Middle East, where the terror coming from.

**Sen. G. Hadeed:** What I am trying to bring about is that it is only when it hits home that you really realize the extent of this thing. We, here in Trinidad, a couple years ago, had a slight bit of terrorism. Sen. Prof. Deosaran mentioned when the norm was throwing a bomb in a dustbin and letting it explode. A lady, Mrs. Mc Ivor, suffered and lost her leg. Today she is in Arima in a wheelchair. We were fortunate that no one died.

But if we look at that and we take that in the broader sense and we feel that terrorism is not here in Trinidad; it is only external; it is only international, well, we should wake up, because you could never tell. One day it will be right here in Trinidad. It could affect us one day. So we need to take the necessary steps to try and eliminate acts of terrorism as much as possible.

We need to make it more difficult for these terrorists to be funded and this Bill is one step of doing that. It is not going to eliminate terrorism totally, but it makes it much harder and difficult for the terrorists to be funded. It is not draconian. I mean to say, we speak about the rigid checks and balances we have to take when we travel to the United States. Those of us with Muslim names or have any link, are pulled and a more stringent check is done. That is all part of it. Nothing is wrong with that. It makes things safer and we feel more comfortable flying in an aircraft because we know certain checks and balances were done. It might be a little inconvenient, but it is better to be a little inconvenienced than for you to lose your life.

I am just saying that I support this Bill. I am just going to be very brief. In closing, I feel sorry for a certain Senator who, in 2002, did not know who her political leader was, but I sympathize with her because she is in the same situation today.

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

**Sen. Mohammed Faisal Rahman:** Mr. President, I am very, very moved to stand here today to participate in this debate concerning the Anti-terrorism (Amdt.) Bill, 2010.

First of all, I would like to make a statement of sorts. Most of the Members of the Senate who have risen today have found it necessary to declare that they are against terrorism and I would like to say, particularly after the comments of the last contributor, that I personally want to declare my abhorrence for terrorism.

I have been writing about terrorism; I have been writing about all of this fanaticism and madness that is taking place in the world today. As a matter of fact, very fortunately for me, there is a letter in the *Guardian* today under my name, dealing with this issue and it is an issue that I have been dealing with for several years, and I blame, to a large degree, the Scribes and Pharisees who have overtaken our religion and have contorted our faith. [*Interruption*] Yes, contorted. It is distorted in the contortion. They have contorted the faith into a pretzel of what it is supposed to be.

Sir, I want to put on record that I am against the hijacking of my religion by the theologians and to say that I will never fear to stand up and make this point. Our religion has had an apostatizing of it by the majority of the people who subscribe to the scholarly position and approaches to our faith. I will not go further on that matter, because I will soon start on a sermon and I do not want to do that today. But I believe that I have satisfied myself with regard to this particular declaration.

Because one of the things, if I ever had hoped to be honoured by a placement in this honourable House, it was to give my views on matters of this serious nature, because my writings have not been met with the concern that I have put into them over the several years. So I am deeply grateful for the opportunity to be here today to voice these sentiments in the hope that they would be disseminated in such a way as to say—because one of the big charges against our people in my faith is that "You people say you condemn terrorism and you condemn violence, but you find excuses for the terrorism", and you say, as one of my theologian friends very recently wrote in the press which caused me to reply in the letter today, "But you know, the Malaysians only fire bomb the Christian churches because you people were misusing their scriptural name for God." I found that position to be reprehensible and I have made sure that I have put that position in the public domain.

So I want to say, Sir, that I stand here today, happy that I am able to make this statement in a public domain where there is some publicity given to this.

**2.00 p.m.**

Now, that does not mean to say that the present amendment is flawless; not by any means. It is a sloppy piece of legal work. There are several areas where there are editorial mistakes and other things, which I would point out.

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I would like to deal right away with a couple of points. First of all, there is the definition of “terrorism”. The point has been made repeatedly on this side and I want to reinforce it, because preparing for a terrorist act, which is what this amendment addresses, can take 20 years. The last contributing Senator, Sen. Hadeed made the point that these people are trained from the time they were born. If you wait for them to commit the act 20 years afterwards and call it a terrorist act, you have lost 20 years in nipping the matter in the bud. I agree with him; we have to find a way to prevent the nurturing of this sort of culture that seeks to impose its will by violence upon the rest of the world. We are still dealing with a minority, but it requires an effort by the majority.

That being said, there is also the question of the word “judge” being changed from a judge of the High Court to judge. The good Attorney General is challenging Sen. Mark on what is the difference between a judge and a judge in the High Court. As far as I know, there is a judge in the Industrial Court. There are retired judges who are also called judges. There could be visiting judges. If you are going to take any judge to sign a document and the law allows it, you would be in a big problem if you do, to specify a judge of the High Court. I want to say to the Attorney General that a judge in the High Court—[*Interruption*]

**Sen. Ali:** It is in the parent Act.

**Sen. M. F. Rahman:** I know, but I am saying this—the definition of what?

**Sen. Seetahal SC:** The parent Act.

**Sen. Ali:** A judge means a judge in the High Court.

**Sen. M. F. Rahman:** But in the amendment there seems to—are you saying that it is not effective in the amendment?

**Sen. Ali:** What I am saying is—

**Sen. M. F. Rahman:** I think I get the point.

**Sen. Browne:** Well done. Thank you.

**Sen. M. F. Rahman:** If the parent Act maintains that it is a judge in the High Court, then I bow to that. That remains secure. Once the matter of being a judge in the High Court is clear—

**Sen. Seetahal SC:** It is clear.

**Sen. M. F. Rahman:** I am satisfied with that. I do not have any clarification on that matter. When you ask what is the difference between a judge and a judge in the High Court, that threw out a challenge and I sought to answer that.

Terrorism was in the world long before 9/11 and it is a convenient tool that fanatics and people with an agenda have found to use and to adopt. That was established in the world for many years before that. The legislation that we are looking at today seeks to curb the financing of terrorism, but it may be that we are barking up a tree that is not the tree that we quite want to look at. There is budget terrorism, in addition to the sort of terrorism of a plane going into the building of which you all have a vivid memory. The point is that terrorists in earlier times have depended upon crime and bank robberies to finance their acts of terrorism. Those terrorists who were involved in the 9/11 terror were people who did not get their financing from small donors, such as we have in Trinidad and the rest of the world. They got their donations from big, very wealthy sheiks and people at such levels with billions of dollars who can afford to write a cheque for half of a million dollars.

When we bring legislation like this in Trinidad, and we do not have anybody and we will not have anybody in the foreseeable future, except you come in with your international financial centre where you have billionaires coming and lodging money in the bank from all over the world and facilitating them and bringing them here to the IFC to be able to write cheques and those people write those big cheques, they would never be suspect because they came in with big dollars in the first place to invest in a way that is normal. They will arouse no suspicion when they write a big cheque. They would come here and do whatever they want. The IFC is going to be facilitating, “down de line”, global terrorism. What is the net effect of these amendments today? We have nobody with billions of dollars in Trinidad that we can conceivably believe will write a cheque for \$10 million for terrorists.

What I see in this amendment is, first of all, conformance. This is conformance legislation primarily because, although the Government has not come and told us here today that this is a Bill that we have to pass and we have serious deadlines, anybody with half of a brain will understand that you do not prorogue a Parliament one day and come back in two or three days to start a new session and not even give the parliamentary staff the little break that they were looking forward to. I have heard mutterings. Some people said: “We were looking for a little rest.” There had to have been an imperative to have caused this amendment to have been brought here so fast. What is very interesting is that the Attorney General very astutely says: “I never said we did not have a deadline.” How I admire him for that. He never said that; quite true. They never said: “Gentlemen, we have a deadline”, which we know they have.

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I attended a conference last week Thursday and Friday, which was organized by the Ministry of National Security, where I got this little booklet and some very nice information. We were treated very well. It was a lovely conference. I had a ball. I enjoyed myself and I learned quite a lot. They were very, very wonderful people presenting papers. The consequences of not passing—would you help me, please? [*Sen. Dr. Kernahan pours water*] Thank you very much. That is part of our fraternity here. The consequences of not passing these amendments could be very disastrous for Trinidad and Tobago.

We had a former Attorney General from the Bahamas who gave us a presentation that outlined and detailed the consequences—

**Sen. Jeremie SC:** What is his name?

**Sen. M. F. Rahman:** Do you want his name? I have the document somewhere. I would give it to you. He detailed and outlined the consequences that the Bahamas faced for having dragged its feet on FATF requirements for money laundering and terrorism. If we in Trinidad ever face those consequences—they were fully outlined by the Minister of National Security when he brought the last Bill, the FIU Bill, I think it was—believe me; we are in the same position today.

Here we come to the point of prioritizing, “one ah meh old hobby horses”. The Government does not prioritize and at the 11<sup>th</sup> hour it rushes off, pretending. “Yuh ever see ah duck in water?” It is very calm, but moving very fast with its feet under the water going like that. That is how the Government operates; very quietly. We brought an ordinary little Bill with some amendments, but underneath “doodle, doodle, doodle, doodle”, because they are busy, busy and they do not want us to know how critical this Bill is. If they had come and said: “We have a serious Bill that has to go with the package for the FIU and we need to pass this very fast—”

**Sen. Jeremie SC:** We said so.

**Sen. M. F. Rahman:** Hello, somebody was objecting to the word “rush” when Sen. Dr. Gopaul-Mc-Nicol was speaking. The fact of the matter is that we are in a big rush today. In this big rush, do you know who would be looking like the culprits if we do not support these amendments? It is the UNC, the Opposition. We are going to be looking like the culprits because we are not supporting a Bill that is extremely important for the welfare of the country. The fact of the matter is you have enough. You are going to get your votes. If we even say “we eh talking, yuh have yuh votes”. We are not going to be hindering



anything. Listen to the gavel; it is going to rap in a minute. [*Continuous interruption and crosstalk*] “Yuh better rap it, Sir, dey eh go listen tuh me.” Coming back to it. We have our good, passive Government “swimming like mad under the water and dey say we doh trust dem.”

“Somebody wid ah Muslim name geh arrest outside de other day”; his name is Audullah. Poor fella. Abdullah is ah Muslim name and it mean servant of God. Yuh doh know ’bout it?” There is a gentleman by the name of David Abdullah. Properly named he would be Daud Abdullah. “Oh, yuh now know what ah talking ’bout. That is state terrorism in practice.” You understand? And you ask if we have any confidence in the Government and why we should fear them. [*Interruption*] I beg your pardon. Listen to me, “we eh born yesterday”. “Everything dat dis Government bring, watch.”

Sir, this Bill is very interesting. This Government does not realize what it is doing to itself with this Bill to its people. Now we do not have any big “fellas” paying our half of a million dollars for financing. They are bringing in a microscope on every transaction in this country. “Ah love that too bad. If is one thing ah like about this amendment is that everybody is going to geh ketch for all the corrupt practices and bribery that is taking place.” If a Member of Parliament is supposed to be making a certain salary and you see passing through his account \$500,000 and \$50,000, that is supposed to be reported now; whether it is an Opposition Senator or a Minister of Government. You know what? “De sting in de tail and ah too glad because now we go have all de”—no insinuations or implications here, but those Ministers of Government who become over-rich overnight with the wheeling and dealing, will have their finances reported, because the banks are going to find those transactions due to be called suspicious. You cannot be making \$50,000 per month and have money like that passing through your account. I am very happy. Bring the legislation on, with or without my support. There are lots and lots of ramifications here.

There is another thing I want to talk about here. The regulations in this amendment say that you cannot know of a matter and shut your mouth about it. Do you understand? What is the significance of that? The significance of that, Sir, is that you cannot tell the people that suspicion is not evidence. You know where I am coming from? You cannot get up and tell the people, either inside the Parliament or outside: “I know who is Mr. Big, but I cannot say anything.” You have a duty now to report it to the authorities and have them investigate it. When you come now and say a thing like that in the future, “we go have tuh ask yuh tuh better report” to the unit that you are supposed to have reported to, otherwise you

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are in dereliction and you are supposed to pay a fine. I am very happy. This piece of amendment is a very interesting thing. You know what? It is not a brainchild of the Government. They did not realize what they were doing. Look for this Bill to lapse. This Bill is going to lapse, it is not going to be proclaimed. It is going to come back with amendments. They will take up a lot of stuff. They did not realize the Pandora's Box that they have opened here.

**2.15 p.m.**

**Sen. Jeremie SC:** Sen. Rahman—

**Sen. M. F. Rahman:** They opened a Pandora's box—"nah, nah" you wait. I am not ready for you. [*Laughter*]

What they are doing here now is putting their own foot in the bear clamp, you understand, so I am happy with that. With all of the shortcomings to the amendment, let it come, because it is the Government, the cronies of the Government and the patronizers of the Government who are going to find themselves in trouble. Because you know what, when the political financiers and campaign financiers write their big cheques now, you are supposed to know who give it and why, so do not—listen, the ramifications of this Bill are beautiful. I love it.

**Sen. Browne:** Thanks for your support. [*Desk thumping*]

**Sen. M. F. Rahman:** I support good Bills in principle. [*Laughter*] Well of course. [*Interruption*] Hear "nah", I do not jump up in Carnival, but I "does" enjoy it from home. [*Interruption*] But of course, you see—my religion is a beautiful one you know; you could enjoy all the good things but you do not have to participate and behave like a "wajang". [*Laughter*]

Talking about "wajang", we have a practice in this Senate of double standards. I heard the good Sen. Lezama piously offering her sympathy to a Member of our Opposition Bench here who has not suffered at all. [*Laughter*] She sits in comfort next to me in a chair and nobody has fired her, nobody has demoted her. [*Continuous interruption*] You are not even supposed to anticipate a Bill, how will you anticipate "wha" happening now. [*Laughter*] What is this? You are not allowed to anticipate here. You are anticipating something. Let me say this—you know what—[*Crosstalk*]—as I explained to the good Senator, she is my colleague here and she is my rival outside, and that is the way it works. [*Crosstalk and desk thumping*] Because if the support—[*Continuous crosstalk*] No, no, that is the freedom of my party. I could support you here and be against you outside because you are fighting somebody that I do not want you to fight, somebody I support, but that is my freedom and that is my privilege. [*Interruption*]

The point I am making, Sir, is the double standards. [*Interruption*] A certain Minister lost some confidence in his political leader and he gets fired and he has to go and sit on the Back Bench. But they are looking at the lady who has become the darling for the moment—anybody who wants to take a photograph—“ketch yuh; ketch yuh”—and everybody wants to pay her compliments inside and outside the dining room, across the floor—[*Inaudible*] Okay, sure, you know everybody has their 10 minutes on stage.

**Hon. Senator:** You have 60 minutes on this stage.

**Sen. M. F. Rahman:** I am enjoying my time on the stage. I never made any denials of that. [*Laughter*]

One day I was in the washroom freshening up and one of our friends on the other side said “Rahman, you enjoy this place here you know”. I said “Boy, I would be lying if I tell you no”. I enjoy myself, sure, I enjoy myself, and you know what, Sir, I have learnt a lot of stuff, because whereas before I could only grumble and write in the press and sometimes not be published, here I have a voice and I can say anything I want to say if I say it in the proper way. This is the freedom that we have been given under the Constitution that this Government is trying to change. And I will tell you something, Sir. We want to know why it is that you have to be suspicious about judges. [*Sen. L. Oudit walks into the Chamber to continuous desk thumping*]

**Hon. Senator:** He was discussing you.

**Sen. Oudit:** I heard.

**Sen. Dr. Gopaul-McNicol:** She “ain’t” taking you all on either.

**Sen. M. F. Rahman:** I wish that applause was for me, but I think it is as a result of what I have said. [*Crosstalk and laughter*] It is a result of what I have said. [*Crosstalk*]

She is my colleague inside of here, I told her that, but I would tell you, [*Interruption*] we are rivals outside, that is par for the course, and after the 24th we would be colleagues in and out. [*Laughter*] So—what was the point I was making?

**Sen. Dr. Kernahan:** I do not know.

**Sen. M. F. Rahman:** I am enjoying this too much.

Mr. President, before here I only had freedom to write, but in this Senate—Ah, yes, yes, I was getting to the point that the constitutional change that is contemplated by the good Prime Minister with the half a dozen draft Constitutions

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that he has sent out rapid fire, staccato—“bap, bap, bap”, Constitution, Constitution—it will get you “bazodee”, and when you are tired studying the first five and seven and he brings number six, that is when you get in sync.

I told people, you know, do not take on those advance Constitution drafts; you are wasting your time because you are going to be busy studying Constitution every day. Wait until the last one comes and we “go” deal with that, you understand. Now, they ask us why we are suspicious of judges. Sir, the point is this, that the objective of the Prime Minister with his constitutional changes is to have an executive presidency which combines authority over the judicature, the law and the—what is it?—the Executive and the Parliament.

We have to be concerned about what clauses are put inside of here today because we are looking down the line. What is going to happen down the line if and when the new Constitution comes into effect with the provisions that have been put into the law in anticipation of that day?

Apart from the State terrorism against the Muslim named Abdullah which we heard about just now, I want to say this, according to the amendments here, anybody facilitating terrorism is guilty of funding terrorism. This is very circuitous in terms of its logic, but it is very direct in terms of its connectivity, and I would explain what I mean. When the Government invites the “elders” of a community who are all known to be established criminals—remember the breakfast?—and hands out million-dollar contracts and as a consequence we have an upsurge in crime, the Government has unwittingly—I am not saying they did it deliberately, governments can miscalculate and they can come up and do something incredibly stupid and not have been guilty of any intention to do such stupidity.

So, what I am saying is this, that at the end of the day the Government would have funded terrorism, because I would tell you, Sir, 500 murders a year in a population of 1.5 million is a terrorist situation, the national community is living in terror and guns, gangs and governance—you know that document that was issued by some foreigner that caused a lot of consternation?

**Sen. Seetahal SC:** You mean the—[*Inaudible*]

**Sen. M. F. Rahman:** “Gangs, Guns and Governance”, “yeah, yeah”.

If you took things to their natural conclusion and you examine this Bill and you examine that document you are going to see that terrorism has been unleashed on this country pretty unwittingly by the Government and the administration in office, and you have to look at these things. You know what? With all the

amendments, we have no recourse being given to the citizenry to take action against such State-sponsored terrorism as may manifest itself over a period of time.

This is a delinquency and a dereliction of these amendments, because if you are going to be protecting external forces from financing terrorism here and anything that—I forgot the definition that somebody gave, but basically anytime you cause a matter to cause a lot of people to be under threat and concern, it is a condition of being a terrorist, and right now with the amount of burglar proofing, guard dogs and security companies and all sorts of other things that we have to be living behind and under, this is a community under siege; this is a society under siege and it is only the State that could alleviate or continue to sponsor this sort of terrorism that has become entrenched in our country.

We always hear from the Government side that, “oh, you all do not support, you all only criticize” and we have been hearing from the Prime Minister and others, oh you only objecting for politics”, that is a politician talking. You are only bringing objections and criticisms because it is politics, but when we reopened this—what session is this?—Third Session of the Ninth Parliament we heard criticism of the Government coming from a source, an unimpeachable source, and the Government cannot say it is a political speech, obviously. So the Government is staying, from the Prime Minister down, very silent, even though what was said on that occasion echoes the sentiments of the people at large, including the Muslim named Abdullah who got lynched outside.

So we have to understand that this caring Government is a deaf Government; it is not dumb, but it is deaf and blind. It is blind to the truth and it is deaf to the cries of the people, and I believe, Sir, that the terrorism that we are undergoing in this country is a very serious case that we should examine. It is terrorism of a different genre. It is terrorism of a different complexion.

You know, one day when I was checking my notes like this, one of my friends told me he was listening to me on the radio and he thought I was fumbling, why did I run silent, so for the radio audience I am saying, I am looking through my notes. [*Laughter*] You have to think of everybody, Sir, when you are serving the public. [*Interruption*] Yes. Oh, you have to be considerate. We are always considerate here, Ma'am.

Sir, we have a state of terrorism in the world today that is unrelated to the kind of finance net that we are trying to put here. It is a form of terrorism that affects millions of people all over the world. I am referring to GM Genetic Engineering or

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Genetically Modified Organisms, where wheat, grain and so on—farmers are not allowed anymore in many countries of the world to replant their grain; they must buy GM grain. To cut a long story short, 20,000 farmers a year are committing suicide in India, right now, every year, as a result of the GM Genetic Engineering Modified upgrade. So that is sponsorship of terrorism by the very G-7 countries that are seeking to put the screws on little nations because they believe that the answer to contain the terrorism is to let the small Caribbean States and small nations become more compliant.

I will say this and one of the things I wanted to mention earlier, let me just incorporate it right now, we ‘ain't gonna’ get away; we cannot get away from this legislation. The information I got at the conference which I attended, Switzerland, which was famous for its secrecy of banking laws, privileges and so on, had to capitulate, and you see all of the questions we have to ask people now before they open a bank account, it is the same in Switzerland, and you are no longer protected by confidentiality.

So I say it is a good thing. If you come into money legitimately, what do you care if the Government knows about it? But if you are coming into money through illicit transactions—and this law does not only deal with terrorist income, it deals with, en passant, any illegal gains, any illegal moneys coming into your account, so not only bribe taking, but the bit of transactions here and there that are covered up, not reported and kept very silent—there is going to be, unless this Bill is suppressed and not proclaimed, a fall out in very high circles. Well, of course, they may bribe their way right through. Bribing from bank clerk, to bank managers, to commissions or FIU officials. God alone knows how extensive that might be, but the Bill is not going to net any terrorist funding.

**2.30 p.m.**

The Bill is going to net illegality, and we are going to have—I might live to see the day—because Sen. Basharat Ali is a few years ahead of me and he is still here—when some of these people will get their come-uppance with regard to the shenanigans that they have been doing all along. Back to my notes, again.

**Sen. Browne:** Amen.

**Sen. M. F. Rahman:** Now, I want to say this, Sir, that before we rush off and categorize terrorism as this awful thing, and it is an awful thing, but one has to bear in mind that if you push a mouse too far, it will turn in the corner and try to bite you. So the Government has to be considerate in how it manages the people. Push the people too far, and you are going to have the people behaving like

wajangs and terrorists on your hands. If you behave badly enough, if you give them enough incentive, if you give them enough cause—because you know, as Sen. Dr. Nanan said, the nations of the world are calling people terrorist when they were bombing them in the first place. You understand the response in Iraq to American soldiers is labelled terrorism, but the shock and awe that President Bush unleashed in Iraq on a bogus claim of seeking weapons of mass destruction, is never regarded as terrorism. But there is a move afoot to get legal justice against Mr. Bush and Tony Blair. So we will see how all of that plays out in the future.

The point I am making is that terrorism may be a response to prior terrorism. Terrorism may be a response to genuine terrorism that preceded it. So we ought to look at these things.

I am going to have to facilitate my friends on the other side and wrap my speech up because I seem to have covered most of the points that I had. The others are not as important, and I do not think I need to fish around.

**Sen. Browne:** We agree.

**Sen. M. F. Rahman:** So, Mr. President, in closing, I will say that—Oh yes. I had intended to go through the Bill clause by clause and show some of the things. [*Laughter*] I will spare you that. I will spare you that. Do not worry. I am tired as well, you know. After you have spoken at this length and this volume you do get tired. So I am saying that there are good aspects of the Bill, and I will strongly urge the Government to pay attention to the amendments that are being recommended, and that it looks after treating the population at large in a more reasonable and tender way, and that it looks for the sting in the tail on its own supporters in the fullness of time when this Bill kicks in and starts to have effect.

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

**Mr. President:** Before I call on the next speaker, I would just like hon. Senators to welcome with me, former Senator Muhummad Shabazz, who served in the late 90s in the Senate. I welcome him here this afternoon. [*Desk thumping*]

**The Attorney General (Sen. The Hon. John Jeremie SC):** Thank you, Mr. President, for the opportunity which you have given me to contribute to the debate this afternoon. Before I speak to the contributions of Sen. Mark and Sen. Dr. Nanan to a lesser extent, I seek to correct something which Sen. Oudit spoke to in respect of accession and signature. I will just clarify that, but I am going to confine my remarks to the constitutionality of the Bill and to those sections which speak to the role of the Attorney General, as opposed to the Director of Public Prosecutions.

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Now, I think it was Sen. Prof. Deosaran who said that he had counted in the Bill, 33 references to the court, and one might ask, Mr. President, why is it that with so much due process in the Bill, is there a need to pass the Bill with a three-fifths majority? That is a very real question. This is a piece of legislation which comes before us with a lot of due process in it, 33 references to the court. I will answer that by reference to, first a general proposition and then by reference to the Bill itself.

Our attitude on this side is that if there is any doubt in terms of the constitutionality of legislation, we prefer to stick the three-fifths majority requirement on it. That is our general principle. So that once there is doubt, I prefer to err on the side of caution. I think that is salutatory. It is what we did. Members would recall that during the course of the debate on the Evidence (Amdt.) Bill—now, when that Bill came before this House, we said that it did not require a special majority. When we looked at the state of the law, we saw that there was danger in a case which was pending at that time, and that case was *Re: Horncastle*. If that judgment in that case had gone against us, then the Bill would have been susceptible to challenge on the grounds of it, not affording an accused person a right to a fair trial. So that what we did, was put on the special majority certificate on the Bill.

Now, I will just elaborate on that. On the law as it stood at the time of the debate, there was no need for a special majority certificate, but there was a danger, in this case, *Re: Horncastle*, which was pending before the Supreme Court in the United Kingdom.

Now, in the light of all of that, we stuck on a special majority certificate, so that our approach is cautionary. We take the precaution to say, if there is doubtful constitutionality, if there might be a problem, then we go with the special majority. Now since that time—although it has nothing to do with the debate, I would just like to bring to the attention of hon. Senators, that the case of *R v. Horncastle* was decided on December 09, 2009. The hearings were on July 07, 08 and 09, 2009, so that the decision was pending at the time we debated the Evidence (Amdt.), and the judgment was in favour of the validity of the Act. In other words, the various changes which were made and which we sought to make to the common law rules with respect to the law of evidence, that those various changes did not in fact deprive the accused person of his right to a fair trial. So that that question is behind us, that law need not have been passed with a three-fifths majority, but it was in fact passed with a three-fifths majority. So that is our general approach. If there is doubt, we err on the side of caution.



Now, in the legislation which is before us as Sen. Prof. Deosaran pointed out, there are 33 references to the court and there are only two instances in clause 9 and clause 1, which seek to variously put in new section 22E and new section 38A into the Anti-terrorism Act. There are only two references which allow for action by the Executive without the prior sanction of the court. So that in respect of clause 9, there is provision for—I will just find that clause.

**Sen. Dr. Nanan:** [*Inaudible*]

**Sen. The Hon. J. Jeremie SC:** I will find it. I do not need your help. [*Interruption*]

**Sen. Rahman:** [*Inaudible*]

**Sen. The Hon. J. Jeremie SC:** No, I am sorry, I cannot agree with Sen. Rahman on that. That is Sen. Rahman's style. I will not interfere with him, if he does not interfere with me. It is in clause 9 and it seeks to insert new section 22E. I will read the clause. It says:

"(1) The FIU may instruct a financial institution or listed business in writing, to suspend the processing of a transaction for a period not exceeding three working days, pending the completion of an evaluation and analysis of a suspicious transaction or suspicious activity report."

That is 22E(1). Now almost immediately it says in 22E(2), it provides as follows:

"Where those instructions are given, a financial institution, listed business or any other aggrieved person, may apply to a judge to discharge the instructions of the FIU"—but in that interim period.

I will just continue:

"and shall serve notice on the FIU, to join in the proceedings,"—and this is important—"save however, that the instructions shall remain in force until the judge determines otherwise."

So that what you have here, through the FIU to which we have guaranteed a certain degree of independence in respect of the Financial Institutions Act that we have passed, the FIU can take action without prior recourse to the court. That is in clause 9. And if you look at clause 19, this is a clause which exists in other pieces of legislation as well, but it provides for seizure and the detention of cash and it provides as follows. This is new 38A(1):

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"Any customs officer, police officer or officer of a law enforcement authority may seize and detain part of or the whole amount of any cash where there are reasonable grounds for suspecting..."

And the grounds are stated.

Now in subsection (2), almost immediately again, it provides as follows:

"Cash detained under subsection (1) shall not be detained for more than ninety-six hours after seizure, unless a Judge orders its continued detention for a period not exceeding three months from the date of the initial seizure..."

Now, those are the only two clauses in the Bill which provide for Executive action, without the prior intervention of the courts. So that in those circumstances, we felt that it was prudent to pass this Bill with a special majority. That is it. Everything else in the Bill, every other power which is contained in this piece of legislation is subject to due process.

As Sen. Prof. Deosaran pointed out, there are 33 references to the court, and this answers Sen. Mark's concern. I hope it was raised in good faith. Sen. Mark's concern as to how do we balance the rights of the individual with the rights of the many, the rights of the many to be secured in their homes and to be secured from the threat of terrorism. I should just add by way of elaboration, that the Jamaican statute was passed as far as I can tell—I have a copy of it—with a simple majority.

**Sen. Browne:** Simple majority.

**Sen. The Hon. J. Jeremie SC:** Say again?

**Sen. Browne:** Simply majority.

**Sen. The Hon. J. Jeremie SC:** It was passed with a simple majority.

**2.45 p.m.**

We should remember as well that the Constitution provides in section 7—and this goes to Sen. Prof. Deosaran's point about prevention and cure—that instances where you have public emergencies, Parliament might provide for a number of things, including the most sacred of the rights, that is to say, the detention of persons. Parliament may make provisions under the exception for emergencies provision. Under 7(3), once the Act is passed which would provide for detention during periods of public emergency, that Act can be passed by a simple majority. That Act would deprive Sen. Mark of his most cherished freedom, the right to walk around the Aranguez Savannah in the morning. He could be detained and

put in prison under simple majority legislation passed under section 7, once there is in place a public emergency, which, of course, a terrorist act would constitute.

That is in respect of the prevention versus cure dichotomy posed by Sen. Prof. Deosaran. Sen. Prof. Deosaran said that he preferred to fix things while you have a period of relative calm and not to react in a crisis. But there is in place provision for us—by "us" I mean the Executive, whether it is this Executive or another executive—the Executive to take action which is necessary and which meets the challenges of the moment in cases of crises.

We are seeking today to expand on the legislative infrastructure which we started to construct in 2005. That is important for this reason: This is not, as some might have us believe, our first attempt to enact legislation of this type. There is on the statute books, Act No. 26 of 2005, the anti-terrorism legislation of 2005; that Act was passed on one of the darkest days—[*Interruption*]

**Sen. Dr. Nanan:** I just want some clarification. You are saying that when there was the bombing and the anti-terrorism legislation was around that time, if the Bill required a three-fifths majority, you could have passed it with a simple majority?

**Sen. The Hon. J. Jeremie SC:** That is not what I am saying. There is provision in the Constitution for the making of special provisions during periods of public emergencies. So in times of war, of which we have had none, or in times of emergencies, of which we have had several, the courts have upheld that it was okay for the Legislature to pass regulations for the detention of persons; for example, to restrict persons rights to access to court. Persons might be put on Gasperee Island or wherever, but these things can happen in times of public emergencies. The courts upheld that even the most privileged of the rights contained in sections 4 and 5 must give way to the rights of the many under section 7 of the Constitution. That is all that I am saying. It is not a warrant to pass permanent legislation.

I would just like to remind the Senate that what we are doing this afternoon is not our first pass at anti-terror laws. Indeed, Mr. President, you would recall that on August 29, 2005, one of the darkest days in this Senate—I have the *Hansard*. I would urge the new Independent Senators in particular, but all the new Senators, to get the *Hansard* of August 29, 2005, to see what happened when we first brought anti-terror legislation in this House. I would just give you a brief history of it. Some of it I cannot in good conscience read this afternoon, but I would just tell you what took place.

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The President of the Senate, who was then the Minister of Labour and Small and Micro Enterprise Development, was also the Chairman of a joint select committee which dealt with this Bill, because the Bill had a controversial provision in clause 24. That provided for the detention of persons beyond the common law period of 48 hours. The English have done this; when you are suspected of terrorist activities, the police can hold you for periods of time up to 96 hours, which exceeds the common law limitation, which is 48 hours or a reasonable time. So that there was a great deal of contention in this country, as there was in the United Kingdom, and there still is in the UK, about this particular provision.

So the Bill went to a joint select committee and when it came from that committee, my good friend, Sen. Mark, authored a minority report; now, that is not surprising, but a great deal was made—I want Senators to listen to me. I know that some of my new Senators are not listening to me, on my own side, but I want some of my colleagues to listen to me. You should get the *Hansard* of Monday, August 29, 2005, to see where we went in this Senate.

Obscene language, Mr. President—obscenities were used in the Senate on that day. Imagine that; this is the highest court of the land and we had obscenities used. [*Crosstalk*]

**Sen. Narace:** Who used it?

**Sen. The Hon. J. Jeremie SC:** Monday, August 29, 2005, that is all I would say. I will say no more on that, except that Sen. Mark and I are now very good friends. [*Laughter*] You would not believe it from reading the *Hansard* of the contributions of that date. [*Crosstalk*]

**Sen. Mark:** What is the significance of that?

**Sen. The Hon. J. Jeremie SC:** I am glad my friend, Sen. Mark, asked. The significance is that legislation like this—and it is not our first attempt at it—by definition, is difficult and it excites in the bosom of some the passion which one would expect of difficult legislation. On that day it excited in the bosom of my friend and colleague on the other side, Sen. Mark.

**Sen. Narace:** Obscenities? I find that hard to believe.

**Sen. The Hon. J. Jeremie SC:** I do not want to be accused of misleading the Senate. I did not say that Sen. Mark used obscenities. I said that obscenities were used in the House on that day. [*Crosstalk*] That is all I am saying.

Today, the amendment which is before us has excited the same type of passion in my friend, Sen. Mark, but for different reasons. He complains about the involvement of the Attorney General and the phrase, "law enforcement authority". I would not turn to sections 79 and 90 of the Constitution, which provide for the role and functions of the Attorney General and the role and functions of the Director of Public Prosecutions (DPP), save and except, that I wish to say that it is clear—and the point was clearly made by Sen. Seetahal SC—that the Constitution contemplates that the DPP shall have jurisdiction in respect of prosecutions in Trinidad and Tobago. That is not what is envisaged in this legislation.

What is envisaged in this legislation with respect to the role of the Attorney General—and I wish to draw to the attention of hon. Senators that Sen. Mark's fervour is not new. The role of the Attorney General is set out in Act No. 26 of 2005; I cannot put my hand on it at the present time, but there is provision for the Attorney General exercising certain functions in respect of terrorist activities.

What you have in this Bill in clause 9 under 22B, is a provision which limits the power of the Attorney General, whoever that might be, to his functions under the Mutual Legal Assistance Treaty. That is to say, he must coordinate with the United Nations to discover what and whether there is any entity within Trinidad and Tobago which is on a list of entities designated as terrorist entities by the UNSC.

This is where his power is subject to the court, if he has:

- "(b) reasonable grounds to believe that the entity—
  - (i) has knowingly committed or participated in the commission of a terrorist act; or
  - (ii) is knowingly acting on behalf of, at the direction of, or in association with an entity..."—prescribed by the UNSC.

Then he makes an application under section (1) accompanied by an affidavit to declare the entity to be a listed entity. The consequences which would flow from that would be that the funds of the entity would be frozen.

Those are established functions of the Attorney General. They are not prosecutorial functions; no one is being prosecuted for any offence under section 90 of the Constitution. Indeed, if one were to turn to the contributions made by Ramesh Lawrence Maharaj SC as the Attorney General at the time, and this was in moving the second reading of the Mutual Assistance in Criminal Matters Bill in

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1997, this was what he said. There was some discussion at the time about the role of the Attorney General and this was how he described it in the *Hansard* of Thursday, November 06, 1997:

“The technological explosion, the growth of transnational organized crime and the response of the national community to it, have created many new challenges, not the least of which is the impact on the jobs of law enforcement authorities. In a 1989 case, the United States of America v Katroni, the Supreme Court of Canada made the following statement:”

**3.00 p.m.**

“The investigation, prosecution and suppression of crime for the protection of the citizen and the maintenance of peace and public order is an important goal of organized societies. The pursuit of that goal cannot realistically be confined within national boundaries. That has long been the case, but it is increasingly evident today.”

He says in the report:

“...the challenge for law enforcement authorities in every country is that sovereignty, a fundamental principle which grounds the relationship of states, is also a major tool in the armoury of the criminal element in our society. Criminals depend heavily on the barriers of sovereignty to shield themselves and their crimes from detection.”

He says it is in that context that the public interest has to be considered and there is a discretion given to the Executive arm of the State through the Attorney General to determine whether that request in respect of—and he is speaking here of the production of bank records, searches of residences, things which necessitate the engagement of the judicial process within one state but which have an effect, or might be done at the request of another state.

So in moving the second reading of the Mutual Assistance in Criminal Matters Bill, the Attorney General at the time, their Attorney General, was quite clear to point out that these were matters which involved state-to-state relations. As Sen. Prof. Deosaran pointed out and in 1997, the scourge of terrorism was not what was engaging the mind of the Attorney General; what was engaging his mind was the scourge of corruption. That was the international offence he sought to attack with respect to the mutual legal assistance treaties; it was cross-border corruption and history would show that it was through his efforts that certain accounts were discovered in certain jurisdictions, bank records were made available to the State and as we say, the rest is history. Sen. Mark's leader stood exposed.

Mr. President, that is in a nutshell, the involvement of the Attorney General in this Bill. It is restricted to mutual legal assistance in criminal matters; there is no room for the prosecution of anyone or for the dilation of the powers of the office of the Director of Public Prosecutions (DPP) under section 90 of the Constitution, in the Bill.

I give way to my wonderful friend, Sen. Mark.

**Sen. Mark:** "You know you are just a temporary friend, eh." Mr. President, I want to ask the hon. Attorney General if he could explain why the change or the addition from a police officer or from an inspector and above. That would be the person who can go to the courts and apply for an order from a judge. Why this sudden change to any police officer, and this inclusion of an officer from an enforcement authority? What is that about, could you explain that to us?

**Sen. The Hon. J. Jeremie SC:** Thank you, I of course was on the role of the Attorney General. I see he has abandoned that objection to the Bill, so he is now on the police officer. I think the policy which the Minister of National Security will seek to advance is that in respect of these offences, you do not necessarily know if there would be a police officer above the rank of sergeant available at the time and in the location that one requires police action, or police access to the courts.

The Minister of National Security will speak to the policy of that; if an amendment is necessary, I have no objection to one. I do not know what the position of the Minister of National Security would be. Apart from that so-called controversy, that storm in a teacup which excited Sen. Mark yesterday—apart from that, Mr. President, I am speaking of course to you. You were at the receiving end on that dark day on Monday, August 29, 2005, that is a day that will live in infamy in the records of this Senate. [*Interruption*]

Mr. President, I do not know if at this time you would seek to protect me from my friends and colleagues on the other side?

**Sen. Mark:** "Yuh ran from Trinidad and yuh run to England."

**Sen. The Hon. J. Jeremie SC:** Mr. President, the Bill, apart from that storm in a teacup, there are provisions in 22A which speak to the financing of terrorism, that is in clause 9 of the Bill, it seeks to insert new 22A into the Act. Clause 9, also in 22B, provides for the listing of terrorist entities; in C there are reporting requirements, in (4) there is a power in the FIU to suspend certain transactions to which I have referred and explained as providing the rationale for the special majority.

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There is the authority to search in 24A, that is clause 12 of the Bill, the provision for a customer information order in 24B, a monitoring order in 24C, all these are in clause 12.

In clause 19 the insertion in 38A, our power to seize and detain cash, those are all the powers that we seek to give effect to the nine special recommendations to which the Minister of National Security referred, and with the enactment of this piece of legislation, yes we have a deadline. It is January 21, but that is not a deadline for the Senate, it is one for the State. The State has a deadline in terms of the passage of this legislation. We have not moved as expeditiously as we ought to have done with respect to the Financial Intelligence Unit, the Proceeds of Crime and now with respect to the Anti-terrorism (Amdt.) Bill.

I say that bearing in mind that the attitude which comes from the Opposition Benches is always "no", and if this Bill in fact, requires a special majority, as I have said it does, in the other place, a special majority could not have been guaranteed before November of 2007.

Mr. President, I thank you for allowing me to make this contribution.

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Thank you very much, Mr. President. First of all, let me begin by thanking all the Senators who participated in this debate; every single Member of the Opposition Bench starting with Sen. Mark, Sen. Dr. Adesh Nanan, Sen. Dr. Jennifer Jones-Kernahan, Sen. Mohammed Rahman, Sen. Oudit and Sen. Dr. Sharon-ann Gopaul-McNicol; the hon. Senators of the Independent Bench: Sen. Prof. Deosaran, Sen. Dana Seetahal SC and Sen. Basharat Ali.

On our side, Mr. President, I want to also thank, starting with the last contributor first, the hon. Attorney General; Sen. The Hon. Mariano Browne, Minister of Trade and Industry and Minister in the Ministry of Finance; Sen. The Hon. Dr. Emily Dick-Forde, Minister of Planning, Housing and the Environment; Sen. Laurel Lezama and Sen. Wesley George.

**Hon. Senator:** And Sen. George Hadeed.

**Sen. The Hon. M. Joseph:** Sen. George Hadeed; I was not here when he made his contribution.

Mr. President, having thanked each Senator for contributing, I think each indicated in no uncertain terms how important this piece of legislation is and as a result the contributions made by the various Senators, were all designed in some way or the other to see how best they could get explanations for issues they felt



needed to be explained. In this regard, I thank the hon. Attorney General for doing an excellent job in addressing some of the issues raised.

I think one of the fundamental issues raised was the question about law enforcement agency, everybody wanted to know about that, and as the Attorney General indicated, I would address that.

The law enforcement agency to which we refer in this piece of legislation is really the anticipated Special Anti-crime Unit to come into being. If, at the end of the day there is a view that says in the absence of the Special Anti-crime Unit, legislation being here that there are issues with respect to law enforcement in the committee stage, we will be willing to address them, but the law enforcement authority to which we refer is the anticipated Special Anti-crime Unit.

You would recall in my presentation, I indicated that given the nature of terrorism, there is requirement for almost a sophisticated unit to treat with terrorism, and it is in that regard the expectation is that that unit would be housed in the Special Anti-crime Unit which—its coming into being—is on the heels of this. And I am alerting hon. Senators because when last we spoke about the suite of legislation that would come in, we kept talking about rush, so again, I am giving the undertaking that the next piece of legislation that is going to be part of this "package" is the Special Anti-crime Unit Bill.

I heard you have been talking about it is coming, it is coming but it is a piece of legislation that is challenging us for all kinds of reasons, but let me not anticipate; I can assure hon. Senators that is on the heels of this piece of legislation.

Mr. President, the Attorney General spoke to almost most of the issues that were raised that need to be addressed and it is more than likely at the committee stage, some of those things need to be ironed out. What I must address is that Sen. Prof. Deosaran and Sen. Dana Seetahal SC raised the issue about confidence and trust in law enforcement, especially as law enforcement is called upon to operate at a higher level, it is important that the question about public confidence in the law enforcement agencies must also increase.

As a result, there are certain matters that must of necessity be treated in a certain way and Sen. Prof. Deosaran was very clear in terms of what he would like to see happen. I would also like to see that happen, but again, I am always constrained, and this is where Sen. Prof. Deosaran and I part company. He is smiling and I am smiling because Sen. Prof. Deosaran is of the view that given the tardiness in certain areas, that the Executive should—I do not know if it is—be publicly scolded; the entities that are required to do certain things.

**3.15 p.m.**

My position is that, notwithstanding the shortcomings of certain agencies, you do not publicly castigate them. It does not help you. My mantra—and this is where we part company—is that I praise in public and criticize in private. The Professor has indicated that there are outstanding matters, the St. Joseph matter and the matter with respect to the \$91,000 missing from one of the police stations. I am aware of all those things.

Do not for one reason believe that the Executive is comfortable with those developments. When you say that it reinforces, when I take the *Hansard*, I am able to underscore the fact that there is concern with the length of time investigations are taking place and we need to bring them to conclusion. It helps. Do not figure that it is falling on deaf ears. At the end of the day, with all due respect, the Executive cannot conduct investigations. Investigations have to be done by the competent persons who are required to conduct those investigations.

Sen. Dana Seetahal SC also raised some concerns with respect to the Police Complaints Authority Act. We are very much aware of that. Part of the challenge with respect to the Police Complaints Authority Act is the requirement for a director and the bar that is required of the person who is going to be a director. It is something we have to be concerned with because we are looking to find a director. The whole appointment of the director is also prescribed in legislation. It is based on consultations with the Prime Minister, Leader of the Opposition and then the President would identify or select someone. Yes, we have been, I do not want to say delinquent, it is about getting the most suitable person. We talked about the FIU and my colleague indicated that administrative arrangements need to be put in place in order to identify a suitable person to head the FIU. The same concerns raised with respect to political interference, et cetera, can be resolved.

Sen. Ali raised the question of the Egmont Group. We know about the Egmont Group but some of what we are doing are prerequisites for membership at the Egmont Group. The Government is well aware that the question of membership in the Egmont Group—I am trying to see where the Senator had raised the concerns about the Egmont Group.

While I am looking for that, Sen. Ali also said that on the basis of what he saw in terms of the latest assessment of Trinidad and Tobago, when I said that as far as the 40 recommendations are concerned, the passing and amendment to POCA and FIU would have given us—we would have satisfied at least—I think that Sen. Browne also reminded us that it is almost 22 of the 40 recommendations as it

related to that. We are now here to put mechanisms in place to deal with the nine. The key thing is the financing of terrorism legislation. All in all, Trinidad and Tobago is ensuring that we put in place legislation that would allow us to meet all the international requirements.

Let me say one other thing. From time to time, the Government is accused of only being concerned about building big buildings and that we are not concerned with some of the other issues. Part of our responsibility is to ensure that this country continues to progress in keeping with our vision of 2020. Many commentators talk about the fact that at some point in time, the natural resources of oil and gas that have brought us to this point will run out at some point in time. When? We do not know. Part of our responsibility in becoming a developed country is to recognize where the economic successes are going to lie.

The economic successes are quite clear. We are talking about knowledge-based economy. How do we develop a knowledge-based economy? We develop a knowledge-based economy by firstly, investing heavily in the human resources that would allow the country to acquire the knowledge and have the competitive edge. That is why we invest heavily in education from pre-school all the way up to tertiary education.

Secondly, we have to build infrastructure. If we want Trinidad and Tobago to be the economic capital of the region, we must have infrastructure that would allow that to take place. We have to construct buildings, et cetera, in order for that to take place. Part of it is also the question of the legislative package that would ensure that we are in step with the international requirements as they relate to banking, financing, et cetera. The challenge is that as we put things in place, we are so accustomed to operating at a certain level, that the requirement for us—I do not want to say quantum leap because it is not quantum—it is an understanding of what we need to do so that Trinidad and Tobago would be able to capitalize on some of the developments.

Let me back up a little to explain what I mean. When Trinidad and Tobago decided to shift from oil to gas, it was almost revolutionary at the time. There were the critics who felt that we were doing the wrong thing. The building of the Point Lisas Industrial Estate, at the time there were many of those who felt that we were going in the wrong direction. [*Interruption*] I beg your pardon.

**Sen. Ali:** Who felt you were going in the wrong direction?

**Sen. The Hon. M. Joseph:** There were those who felt that we were going in the wrong direction, only later on to realize, Mr. Vice-President, that the decisions

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taken then—in other words, part of the challenge we face is visionary leadership. Sometimes I am constrained to talk about the fact that I belong to a political organization and a government in which we have visionary leadership. Ahhh! [*Desk thumping*] There is no question about that. We have visionary leadership. Simple examples. When we decided to move the Drag Brothers, do you remember that eyesore in Port of Spain? Remember they were saying that we should spend the money on jobs in Laventille. I do not want to make the comments that they said. At the time they said that the Prime Minister mad. At the end of the day, look at how that decision has turned out.

I am constrained because you do not want to give the impression that “yuh bigging up yuhself”. At the end of the day, this move is going to help put us in a position where the question about long-term development and sustainability of the economy would be guaranteed. I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

**Mr. Vice-President:** Hon. Senators, at this time we will suspend the Senate for five minutes.

**3.24 p.m.:** *Sitting suspended.*

**3.30 p.m.:** *Sitting resumed.*

[MR. PRESIDENT *in the Chair*]

**Mr. President:** Hon. Senators, we have amendments from both sides. Apparently, they are not ready as yet. Apparently the tea is here. I am going to suspend now for tea until 4 o'clock.

**3.31 p.m.:** *Sitting suspended.*

**4.00 p.m.:** *Sitting resumed.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

**Sen. Mark:** Mr. Chairman, my amendments were being typed by the *Hansard* staff. I thought by now it would have been completed. They are still typing it. I do not know if it is possible I can ask you to allow me to just check to see how far they would have reached and, if not, I will just take my copy and I will read from my copy. But I wanted to give you the original so that you could have followed, as well as my colleagues. So with your leave, I could just go to the *Hansard* room

and find out where they have reached, and if they have not completed the exercise, I will just bring my copy that I have pen written.

**Mr. Chairman:** What clause do your amendments start with?

**Sen. Mark:** I started off, Sir, with clause 5. Can I just—

**Mr. Chairman:** All right. We will hold on a couple minutes.

*[Short pause]*

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed,* That clause 5 stand part of the Bill.

**Mr. Chairman:** We have some amendments by Sen. Mark. Senator, would you take us through your amendments.

**Sen. Mark:** Mr. Chairman, the amendment to clause 5 reads as follows:

A. In the proposed paragraph (e), insert in the appropriate alphabetical sequence the following definitions:

“terrorism” means an act:

- (i) that has the purpose by its nature or context, to intimidate the public or to compel a government or an international organization to do or to refrain from doing any act; and
- (ii) that is introduced to cause:
  - (a) death or serious bodily harm to a civilian or in a situation of armed conflict, to any person not taking an active part in the hostilities.
  - (b) serious risk to the health or safety of the public or any segment of the public;
  - (c) substantial property damage, whether to public or private property where the damage involves a risk of the kind mentioned in sub-paragraph (b) or an interference or disruption of the kind mentioned in sub-paragraph (d); or,
  - (d) serious interference with or serious disruption of an essential service, facility or system whether public or private, not being an interference or disruption resulting from lawful advocacy, or from protest, dissent or stoppage of work and not involving a risk of the kind mentioned in sub-paragraph (b).

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“transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, or the arrangement thereof and includes but is not limited to:

- (a) opening of an account;
- (b) any deposit, withdrawal, exchange or transfer of funds in any Currency whether in cash or by cheque payment order or other Instrument or by electronic or other non-physical means;
- (c) the use of a safety deposit box or any other form of safe deposit;
- (d) entering into any fiduciary relationship;
- (e) any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation;
- (f) any payment made in respect of a lottery, bet or other game of chance;
- (g) establishing or creating a legal person or legal arrangement; and
- (h) such other transaction as may be prescribed by the Minister by regulation, subject to affirmative resolution of Parliament.

B. Delete the definition of “law enforcement authority”.

Mr. Chairman, as I said in the parent Act there is no definition for terrorism and in the current amendment to the Anti-terrorism Act there is still no definition of the word "terrorism" although we are talking about terrorist acts; we are talking about terrorist organizations.

So I am suggesting, coming from the United Nations model legislation on anti-terrorism, this is the actual definition that they have used in the United Nations model legislation on anti-terrorism. So anybody looking at our legislation would be guided by a definition that has been agreed upon by the United Nations, rather than leave it as loose as we have done in the past. I have also looked at the Barbados legislation and they have also lifted out of the UN model legislation, this same definition for terrorism. So we can define what we mean.

Now, Mr. Chairman, I must tell you, it is a dynamic concept that is changing all the time. We know this, but this is what the United Nations has come up with so far and I think that we can go with it until they change it later on. So this is the essence of this first meaning of the word "terrorism".

If I can go on. You would recall in the legislation there is—let me just get the relevant section of the legislation for you. When we deal with large complex transactions, I would like to suggest that there be a definition in the interpretation

section, because in the body of the legislation, if you go to page 11, you would see II(2)(a) (i), but I am dealing with (ii):

"complex, unusual or large transactions."

Again, in the United Nations model legislation, there is a definition for "transaction". So again the authority that is going to implement and effect this law and the persons who are going to be affected by the law, they will understand when you talk about a transaction, what it means.

So what I have done is to put for the consideration of the Government, that definition coming from the model legislation and as it relates to clause 5B, we are making it very clear, we are not in the business of anticipating legislation. You know that is a violation of our Standing Orders. We cannot anticipate a bill that is to come before this Parliament. It is even more, I would say, unusual, and it would not be in keeping with good practice for us to insert into legislation "law enforcement authority" as the Minister said, refers to the Special Anti-crime Unit which he intends to pilot very shortly, legislation to legalize that entity.

In those circumstances I am saying to the hon. Minister, through you, Mr. Chairman, that until we are able to legislate and legalize this particular law enforcement authority called the S-A-U-T-T, it should not be included in the legislation. It should be removed; it should be deleted and when it becomes law, bring an amendment to deal with it, Mr. Chairman.

Those are my first series of proposed changes to the legislation.

**Sen. Seetahal SC:** I have a response to make, unless you want to go first.

**Sen. Jeremie SC:** Go ahead.

**Sen. Seetahal SC:** Thank you. In relation to the definition of "transactions" "SAUTT", it is not usual to define something that the meaning is commonly known, and I believe that transaction has no special meaning in this legislation so, therefore, there is no need to define it, because you will end up defining everything.

Secondly, in relation to terrorism, the definition section relates to words used in the legislation. If that word is not used in the legislation, there is no purpose defining it. Terrorism is not used in the legislation and part of the reason might be because it has such a dynamic meaning. So the offence really relates to committing terrorist acts—

**Sen. Mark:** When you say "terrorism", [*Inaudible*]. If you look under the section called "financing", "terrorism" is used here.

**Sen. Seetahal SC:** Terrorism?

**Sen. Mark:** Yes.

**Sen. Seetahal SC:** Okay. But in terms of an offence—okay, let us look at that. But in terms of the offence of terrorism, there is no offence of terrorism, as I understand it. There is committing a terrorist act and those who finance terrorism here by its nature, then you might want to say “terrorist acts” if you wish. But there is nothing other than that in terms of the substantive legislation, which is the parent Act. It stayed away. So the amendment might be to change that to “terrorist acts” at paragraph 12, because there is no criminal activity—that is what I should have probably said—of terrorism in the legislation. That is the point.

**Sen. Rahman:** May I comment, Sir? You see, while an act is a terrorist act, you can be grooming a young boy for five years in a famous madrasastic place in the East and actually developing him for terrorism, so you have to concern yourself with terrorism being stopped at that point. Terrorism is not an act, but it is a condition that we have to address.

**Sen. Seetahal SC:** So you need to take it out.

**Sen. Jeremie SC:** Chair, we do not agree that terrorism requires a definition. It might be that certain pieces of legislation—Sen. Mark referred to the Barbados piece—would use the expression “terrorism” in it.

**4.15 p.m.**

Ours does not, it is referred to as “terrorist act”, which is defined in Act 26 of 2005. The Jamaican Act, interestingly enough, which I have a copy of, does not have a definition of “terrorism”. It does have a definition of “terrorism offence”, “terrorist activity” and “terrorist group”, but there is no definition of “terrorism”. It is a function of drafting style. We do not use “terrorism”, we use “terrorist act” and that is already defined.

In respect of complex, unusual or large transactions, what we are looking at, just to put a context on it, is contained in clause 9. That is where it is referred to. It is in particular in clause 22C(2)(a)(ii):

“complex, unusual or large transactions...”

There is nothing which is a term of art there. Those are ordinary English terms:

“complex, unusual or large transactions, whether completed or not, unusual patterns of transactions and to insignificant but periodic transactions which have no apparent economic or visible lawful purpose,”

We do not think that there is any need to have a definition for that.



**Sen. Mark:** One of the reasons I have sought to have this inserted in the interpretation section has to do with the wide definition given to a “terrorist act”. When you look at that in the parent legislation, legal, lawful advocacy, legal and lawful protest could be interpreted by another authority to mean an act of terrorism. Therefore, I am suggesting that if the Government, which is a member of the United Nations—the United Nations has put forward a definition in a model piece of legislation on anti-terrorism and they have given us a definition to guide us, there is no need for us to be guided by “terrorism” as defined by the United Nations. It means to say: How are we going to explain to people when you accuse them of a terrorist act or state that he is in a terrorist organization? I believe that you ought to define the term “terrorism”. When we define the term “terrorism”, what will follow is what we mean by a “terrorist act” or “a terrorist organization”. It is linked. If you leave the definition out, then the authorities can twist and turn and interpret this thing how they wish and how this Bill could become a weapon of abuse.

**Sen. Seetahal SC:** What is the definition?

**Sen. Mark:** You have not seen it?

**Sen. Seetahal SC:** I do not have your amendments.

**Sen. Mark:** You could use mines temporarily. They have not circulated ours as yet. I wonder why it is taking so long.

**Sen. Dr. Nanan:** Yours is circulated already.

**Sen. Mark:** “Mines” is circulated already. I did not know that. I do not believe the Government is on solid grounds by seeking to reject such a very simple and straightforward suggestion, that we can all know as a Parliament, as a—

**Mr. Chairman:** We do not have to repeat ourselves. Can we have a position from the Government?

**Sen. Jeremie SC:** The Government’s position, as I have stated it, I have a copy of the Model Provisions on Money Laundering, Terrorist Financing, Preventative Measures and Proceeds of Crime for Common Law Legal Systems, dated April 2009. I do not know if that is the one that Sen. Mark is referring to; this one. In any event, the point is that the model law has to be adapted to your domestic law and domestic drafting considerations. They clearly say so. Our position, as in the case of the Jamaica Terrorism Act, is that it contains no definition of the sort that Sen. Mark is seeking. The methodology might differ. The objectives are captured in the legislation.

**Mr. Chairman:** Very well, so you do not accept the definition of “terrorism”? What about the definition of—

**Sen. Oudit:** One point, please. Clause 3 clearly identifies the long title of this Act, which is to criminalize terrorism and the financing of terrorism. There is a lot of detail about the financing of terrorism, but if you leave out a definition of the word “terrorism”, then what are you criminalizing if you are not clear in the legislation? That is in your title.

**Sen. Jeremie SC:** That is in the title, but the offences to which you refer are captured within the definition in the parent statute.

**Sen. Oudit:** So, what would prevent the Government at this point from including the term “terrorism”, since it is in your title?

**Sen. Jeremie SC:** It is not necessary. We do not see the need to do it. There is a definition of “terrorist” and “terrorist act”. How far can you go?

**Sen. Rahman:** Is there any damage done to the legislation by defining “terrorism”?

**Sen. Jeremie SC:** If you look at it, we have a definition of “terrorist act”. There is a definition of “terrorist financing”, “terrorist”, as a matter of fact, and “terrorist property”. Why is there a need to define “terrorism” per se?

**Mr. Chairman:** The definition of “transaction”, what is the position of the Government?

**Sen. Jeremie SC:** The position with respect to “transaction” is that transaction is an English word. It is not used in any special connotation and we do not see the need to have—

**Mr. Chairman:** The request is to delete the definition of “law enforcement authority”.

**Sen. Jeremie SC:** We agreed on that, Mr. Chairman.

**Mr. Chairman:** Is that in your amendment?

**Sen. Joseph:** When we come to clause 5(e), we are going to make a change right there, in terms of the amendment.

**Mr. Chairman:** I can put it at this point, or you want it worded differently?

**Sen. Joseph:** I would say it when it reaches to the recommendations that I have, in terms of the amendments.

**Sen. Mark:** I want you to bear with me. There is a definition where the Government is seeking, in the legislation before us, and that is on page 2(d), in the definition of “terrorist act”, to delete certain things. I am asking you to follow where I am going, so that you can understand. When you go to the parent legislation, which deals with what a terrorist act is and you look at (iii), it is very broad and very wide. If the Government is not interested in changing or including the definition of “terrorism”, I am seeking to get the Government to qualify this terrorist act. When they talk about it in this context, under (iii), it must say:

“...not being an interference or disruption resulting from lawful advocacy, or from protest, dissent or stoppage of work and not involving a risk of the kind mentioned above.”

In other words, we cannot lump legal and lawful protest in this definition of a “terrorist act”. In the Barbados legislation, the authorities in Barbados made it very clear that even though this means a terrorist act, they excluded what I have just said. I am suggesting that if the Government does not want to accept the definition of “terrorism”, then qualify “terrorist act”, so that you will know it does not include legal and lawful advocacy, legal and lawful protest or dissent, so that people in Trinidad and Tobago will know that there is a difference between a terrorist act and the normal legal protest.

**Sen. Jeremie SC:** If Sen. Mark would tell me how a legal protest or a lawful protest would be captured by the present definition, which is the mischief that you seek to cure; the present definition only kicks in when the conditions in the chapeau:

“‘terrorist act’ includes an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause”—a number of things—“is intended to compel a government or an international organization to do or refrain from doing any act or intimidate the public or a section of the public...”

The end of it is important.

“for the purpose of advancing a political, ideological or a religious cause.”

**Sen. Mark:** However, however—

**Sen. Jeremie SC:** If you can tell me how “lawful activity” could go within there.

**Sen. Mark:** However, this would not include:

“or any interference or disruption resulting from lawful advocacy, or from protest, dissent or stoppage of work not involving a risk of the kind mentioned above.”

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In other words, we need to enshrine in law. It may not be the PNM; it might be another organization in government and they could use this definition of a “terrorist act” in order—

**Sen. Jeremie SC:** Sen. Mark, if you read just a little lower down in the parent Act, there is subclause (2), which says:

“an act which—

causes death or serious bodily harm to a person taking active part in armed conflict in accordance with the applicable rules or international law; or;”

This is the important one.

“(b) disrupts any service and is committed in pursuance of a demonstration...”

That is your demonstration, lawful protest.

“protest”—I do not know how else you will frame that—“or stoppage of work and is not intended to result in any harm referred to in paragraph (a) of the definition of ‘terrorist act’,

shall not be considered a terrorist act.”

**Sen. Mark:** Okay. Mr. Chairman, I understand the point now, but I withdraw my position. However, I was only raising that in the context of the Government’s decision not to—

**Mr. Chairman:** I am going to put Sen. Mark’s amendment in its entirety, because I understand that they have accepted your 5B, but they would include it in their amendment.

*Question, on amendment, put and negatived.*

**Mr. Chairman:** We have some amendments by the Minister of National Security to clause 5(e)B.

**Sen. Joseph:** Mr. Chairman, I beg to move that clause 5(e) be amended as follows:

“A. Delete the definition for the term ‘Group of Seven’ and insert the following: ‘means the Meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976

B. Delete the definition of ‘law enforcement authority’”.

That B now becomes C, which reads:

“In the definition of ‘terrorist’,

- (i) delete the word ‘means’ and substitute the word ‘includes’;
- (ii) in paragraph (a), delete the words ‘unlawfully or wilfully’ and substitute the words ‘unlawfully and wilfully’”.

**Sen. Dr. Nanan:** I think we have a problem there, because we have two “means”. You have to clarify which one you are speaking about.

**Sen. Joseph:** Where?

**Sen. Dr. Nanan:** There is a “means” in (a).

“‘terrorist’ includes a person who:

- (a) commits a terrorist act by any means...”

**4.30 p.m.**

**Sen. Joseph:** Thank you very much, Mr. Chairman. Delete the word “means”—

**Sen. Seetahal SC:** It is after “terrorist”.

**Sen. Joseph:** Or in the first place where it occurs, something like that.

**Sen. Seetahal SC:** Now, in relation to your new proposal, Minister, delete “law enforcement authority” in the definition proposed, is there going to be any substitution?

**Sen. Joseph:** We would just increase the rank later on.

**Sen. Jeremie SC:** Police officer would be above the rank of a sergeant.

**Sen. Seetahal SC:** But where you have "law enforcement authority" in the legislation, delete it?

**Sen. Joseph:** Yes, throughout.

**Sen. Seetahal SC:** Okay.

**Mr. Chairman:** Okay, clause 5(e) was amended by including the proposed amendment to the Bill by including a “B” delete the definition of “law enforcement authority” and B which is now C, include the following words after the word “means” in the place it first occurred. So the question is that clause 5 be amended as circulated by the Minister of National Security.

**Sen. Ali:** Clause 5 in—*[Inaudible]*

**Sen. Seetahal SC:** What page?

**Mr. Chairman:** The bottom of page 4.

**Sen. Ali:** The definition of terrorist property. I think if one goes back to where “terrorist property” is defined in the parent Act, I believe that change there or the definition really refers only to (c). In the parent Act if we go to—

**Sen. Seetahal SC:** “proceeds from the commission of a terrorist act”.

**Sen. Ali:** No, the Anti-terrorism Act.

**Sen. Seetahal SC:** Yes, look it here.

**Sen. Ali:** Okay. It does not fit into (a) or (b) or adding the “or terrorist organization”, because there “property” means proceeds from the commission of a terrorist act”—

**Sen. Seetahal SC:** You cannot have proceeds of—*[Inaudible]*

**Sen. Ali:** The same thing applies to (b) for property which is being or likely to be used to commit a terrorist act, you cannot have “or terrorist organization”, but should be just at the end of the (c) “property which has been collected for the purpose of funding terrorist acts”. So that is where it has to go in as far as I can see.

**Sen. Seetahal SC:** Because the other one did not make any sense in a matter of finance, you cannot have proceeds from a terrorist organization.

**Sen. Jeremie SC:** So that terrorist property in (c) and then after act or terrorist organization where it occurs. So (c) would now read, Mr. Chairman, “property which has been collected for the purpose of funding a terrorist act or terrorist organization”. We are amending (c) in the parent statute, so the definition of terrorist property in (c)—

**Sen. Joseph:** That is a new (d) now.

**Sen. Seetahal SC:** You have (d) in the extent of the amendments, big “D”.

**Sen. Joseph:** Yes, correct. So we now have to add a big “D”, so we are going back to—

**Mr. Chairman:** Going back to where?

**Sen. Joseph:** Our amendments, so we are adding a “D” now.

**Mr. Chairman:** You are adding a “D”.

**Sen. Joseph:** Yes, big “D” and we are saying, “Definition of ‘terrorist property’ in paragraph (c), insert the words ‘or terrorist organization’ after the words ‘terrorist act’.”

**Sen. Seetahal SC:** Should it read, “the definition of ‘terrorist property’ by inserting after the words ‘terrorist act’ in paragraph (c), the words ‘or terrorist organization’.”

**Mr. Chairman:** So, clause 5(e) is further amended by the inclusion of (d): “The definition of ‘terrorist property’ in paragraph (c) insert the words ‘or terrorist organization’ after the words ‘terrorist act’.”

The question is that clause 5 be amended as circulated by the Minister of National Security.

- 5(e) A. Delete the definition for the term “Group of Seven” and insert the following: “means the Meeting of Finance Ministers of France, Italy, Germany, Japan, United Kingdom, United States and Canada formed in 1976.”

**Sen. Seetahal SC:** Mr. Chairman, circulated as amended in the House.

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed, That clause 6 stand part of the Bill.*

**Sen. Mark:** Mr. Chairman, I did not circulate the amendment to this clause but I just want to ask the Attorney General and the Minister of National Security, through you, this new definition from A to E and where we are talking about somebody who commits to somebody who participates, I think this is so wide and sweeping. I will give you an example: Sometime an innocent PH driver or sometime a hired driver picks up passengers—

**Sen. Narace:** How breaking the law innocent?

**Sen. Mark:**—or so he believes. No man, wait “leh meh talk nah”. You are driving your car and you pick up three “fellas” and they say they are going from X point to Y point, but you do not know these men are going to commit a robbery. But you innocently driving your car and “dem fellas” come into your vehicle, next thing they put a gun to your head and they say drive to the X point and they go and commit a robbery, the police go and get wind of it and they attack these

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“fellas” before they attack, you know, they shoot everybody or they arrest everybody, and no matter what you do there, this innocent driver is part of this, so we have to be careful when we say “any person who participates”, it is a wide kind of definition, if you say for instance “somebody who commits”—

**Sen. Joseph:** Mr. Chairman—

**Mr. Chairman:** All right, hold it.

**Sen. Mark:** So, I am just saying that I find it a bit—

**Sen. Jeremie SC:** Mr. Chairman, it is a good thing Sen. Mark did not circulate the amendments and that he was speaking “extempo”, because “terrorist act” includes mens rea. It includes “knowing” so that participation—a person who participates in a terrorist act would have some degree of mens rea. You cannot be a taxi driver—[*Inaudible*] Some sort of criminal intent.

**Sen. Rahman:** Wilful and intentional.

**Sen. Mark:** I think Sen. Dana Seetahal SC made the point that we have a police service that we are trying our best to build and to promote, but we know within the police service there are some elements there that can be abusive and destructive and who is going to deal with knowingly, wilfully and so on. They arrest you, trump up charges against you and they take you to court. I am simply saying that this is something that we need to pay careful attention to. We are putting this in the hands of the police. The police are the ones—

**Sen. Jeremie SC:** We are putting it in the hands of the Judiciary. The offences are not offences unless they are proved in the court.

**Sen. Mark:** Yes, but I know before DNA came into being a lot of innocent people were sent to jail and since DNA came into being a lot of people were freed. What I am saying is that whilst we know it will go to the Judiciary, the Judiciary will be acting on the basis of information and evidence coming before it, and sometimes you have innocent people who do not have lawyers to defend them properly or they get a legal aid person who does not have a big commitment because the money is small. What I am saying is that “any person who participates” is a wide—they are widening the net and that is all I am saying. I am asking the Government why are they changing the definition from “any person who commits”, that is what is in the parent Act now to “any person who participates”. I find it is a little broad. If I commit, Sir, I know I am guilty.

**Mr. Chairman:** Response from the Government again.



**Sen. Seetahal SC:** My suggested amendment to this was “any person who participates in the commission”, so that would be what should be included.

**Sen. Mark:** What?

**Sen. Seetahal SC:** They participate in the commission of a terrorist act rather than participate in the act, and also you have to delete the word “and” after offence. “Any person who participates in the commission of a terrorist act commits an offence”—well that should not be “commits”, okay you leave the “and” then, I was going to say “is liable to”, but leave the “and” since we want to have the definition like that.

Because another thing is, usually you do not presume in law that a person is guilty, so that is why I believe it is deleted, so it would now have to be that the person is liable if he commits the offence, okay, but you need to say he participates in the commission of an offence.

In answer to the fear by Sen. Mark, just to say that right now anybody who participates in any offence under our Aiders and Abettors Act is liable as the principal, but in your case scenario the person is going to have the defence of duress, so I think you know—

**Sen. Jeremie SC:** There is a problem with participation in the commission of a terrorist act. That is some of these acts, history tells us, are foiled so that you want to be able to catch the inchoate offence as well.

**Sen. Seetahal SC:** Yes, you do not have to put it there, because an inchoate offence under our Interpretation Act—once you attempt you are liable under the common law. Any attempt, it is like attempted murder, you do not have to put it here. In the Interpretation Act, every offence includes an attempt.

**Sen. Jeremie SC:** Yes, we know but we wanted to spell it out. If we say for example “a person who participates in the commission of”—

**Sen. Seetahal SC:** In the commission of an offence.

**Sen. Jeremie SC:**—“a terrorist act”—

**Sen. Seetahal SC:** And a person who attempts to participate in the commission would be liable anyway. Right now, if I may say, if you have “any person who participates in a terrorist act”, it is no more convincing to say that includes attempt, because if you participate in the terrorist act, how can it include an attempt to participate? More than what I am saying, I am saying that the clarity is “any person who participates in the commission of a terrorist act”.

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Okay? That would be the full participation. Also, you would always have included an attempt to participate in the commission or conspiracy to participate or an incitement. Those are things always included there that we do not put in legislation, but it is already included.

**4.45 p.m.**

**Sen. Jeremie SC:** Okay, so you would be happy with, "Any person who participates in the commission of a terrorist..."

**Sen. Seetahal SC:** Yes.

**Sen. Jeremie SC:** "commits an offence and is liable on conviction on indictment to imprisonment..."

**Sen. Seetahal SC:** Yes.

**Sen. Jeremie SC:** Okay.

**Sen. Prof. Deosaran:** Yes, but, Attorney General, you also have that same thing on page 10 in the amended 22C.

**Sen. Jeremie SC:** Okay, when we get to it.

**Sen. Prof. Deosaran:** But I am saying, what we are now recommending is already here, "participate in the commission".

**Mr. Chairman:** So, should I put the question? The question is that clause 6 be amended, by including the following words after the words "in the commission of".

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed, That clause 7 stand part of the Bill.*

**Sen. Seetahal SC:** In relation to a question posed by Sen. Mark—I do not know if it is carried in the record—the difference between "is guilty of and commits". The drafters and new drafting, and courts as well have said, you should not presume to put in any legislation or any law that somebody is guilty of an offence because that is the prerogative of the courts and out of Parliament. That is why Parliament is saying, what an offence is, by "commits", but the jury will have to find him or her guilty.

*Question put and agreed to.*

*Clause 7 ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed, That clause 8 stand part of the Bill.*

**Mr. Chairman:** We have an amendment from the Minister of National Security.

**Sen. Joseph:** It is a typo in 8(c). The word "commits" should be substituted with the word "commit".

**Mr. Chairman:** The question is that clause 8 be amended as circulated by the Minister of National Security:

8. Delete the word "commits" and substitute the word "commit".

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 9.*

*Question proposed, That clause 9 stand part of the Bill.*

**Sen. Drayton:** Mr. Chairman, in 22A(1), there is a grammatical error with the use of the word "they" to describe funds—the collective pronoun to describe funds. So I just want to suggest that there is an amendment there, if I may.

**Mr. Chairman:** What is the amendment?

**Sen. Drayton:** That the words "they should be used" be deleted, and the clause should now read, "...or attempts to do so, with the intention or in the knowledge that the said funds or such funds are to be used in whole or part...", because it is grammatically incorrect.

**Sen. Seetahal SC:** So in other words, what you are suggesting that instead of saying "they", you replace it with "funds"?

**Sen. Drayton:** Yes.

**Sen. Seetahal SC:** Yes, I think so. Repeat the word "funds".

**Mr. Chairman:** So what exactly do you want to do?

**Sen. Joseph:** So we are deleting words "they...they" and substituting the words "such funds".

**Mr. Chairman:** The question is that clause 9 be amended in 22A(1), by deleting the words from "they..." to "...they" and substituting the words "such funds".

*Question, on amendment, put and agreed to.*

**Mr. Chairman:** But we have a lot of amendments from Sen. Mark.

**Sen. Joseph:** We have amendments from me too, 22B.

**Mr. Chairman:** Yes, but I will take Sen. Mark first. Sen. Mark?

**Sen. Mark:** Yes. Mr. Chairman, now under clause 9, we are a Parliament, we are not privy, and it seems like we will never be privy to this so-called list of entities, designated as terrorist entities. We are being asked to approve a measure in which the Attorney General—

Mr. Chairman, I know that the Attorney General deals with matters if he is dealing with extradition. I know he deals with extradition. But my concern is like, even on the one hand he deals with external entities, I have no difficulty with him going to the court and applying if it is an external entity. But if it is an internal entity, I have a difficulty with the Attorney General dealing with that matter. I believe that matter where we deal with internal entities or organizations that have been described by the administrations of terrorists, that should be a task assigned to the Office of the Director of Public Prosecutions. But the way it is worded in clause 9, it seems to me that the Attorney General is responsible for both inside and outside of Trinidad and Tobago as it concerns entities that could be defined as terrorist, and there is where we have some concern giving the Attorney General, not to say the Attorney General might not exercise prudence, but we are dealing with human rights here.

We are dealing with invasion of people's personal accounts as an example, and for a politician to be able to have that kind of power over the citizenry, I think that we need to balance it. This is why I am suggesting that in instances where it involved organizations internally and individuals and listed entities internally, that be given to the Director of Public Prosecutions, and externally, let us go with the Attorney General because he will deal with state-to-state relations and I have no problem with that. That is why I am proposing, Mr. Chairman, that wherever the Attorney General is, we delete and we put the DPP to protect the rights and interests of the population because it is an independent office holder. That is why I am suggesting that the Attorney General consider, and the Minister of National Security, just to give people the assurance, not to say that you might abuse it, although there was a tendency in the past to do so.

**Mr. Chairman:** Senator, I am going to ask you not to keep repeating yourself.

**Sen. Mark:** Okay. Sorry.

**Mr. Chairman:** You have others at 9, (ii) and 9, (iii).

**Sen. Mark:** All right. Clause 9, (ii), Mr. Chairman, I would like to ask the Attorney General to maintain the status quo. He said that there is no difference between a judge and a High Court judge, because a judge means a High Court judge. So I am saying, leave the status quo.

**Mr. Chairman:** So you are withdrawing that?

**Sen. Mark:** No, no. I am saying he is changing the status quo, and I am saying retain the status quo. So I am going with my amendment. The other one is consistent with—I think the Minister is withdrawing this whole question about law enforcement agency. So if he is withdrawing that, then this would become redundant. Because I was saying, if the Minister is going to be part of that—  
[*Interruption*]

**Sen. Jeremie SC:** [*Inaudible*]

**Sen. Mark:** Well, I am just explaining to the Chairman that if you are withdrawing it, I would like you to withdraw it now.

**Mr. Chairman:** So you are withdrawing 9, (iii)?

**Sen. Mark:** Yes, pending. Just let me look at the Minister's own, Sir, so I can be clear in my mind.

**Mr. Chairman:** The question is that clause 9 be amended as circulated by Sen. Mark?

9. In the proposed PART III A

- (i) substitute for the words "Attorney General" wherever they occur, the words "Director of Public Prosecutions".
- (ii) substitute for the word "judge" wherever it occurs, the words, "Judge of the High Court".
- (iii) in the proposed new section 22E(4) substitute for the word "Minister", the words "Director of Public Prosecutions".

*Question, on amendment, put.*

**Sen. Mark:** But we want a division on this one because we really feel this is a very important matter. A very important matter, Sir, because we want to have a separation between the politician and the public. We do not want the politicians to be dabbling with the rights of the people.

**Sen. Ali:** Mr. Chairman, before the—

**Mr. Chairman:** We are having a division at the moment.

*The Committee divided: Ayes 6 Noes 23*

AYES

Mark, W.

Nanan, Dr. A.

Kernahan, Dr. J.

Rahman, M.F.

Oudit, Mrs. L.

Gopaul-McNicol, Dr. S.

NOES

Joseph, M.

Jeremie SC, J.

Enill, C.

Browne, M.

Manning, Mrs. H.

Piggott, A.

Narace, J.

Dick-Forde, Dr. E.

Gronlund-Nunez, Mrs. T.

George, W.

Hadeed, G.

Rogers, L.

Lezama, Miss L.

Melville, Miss J.

Gayle, N.

Deosaran, Prof. R.

Seetahal SC, Miss D.

Ali, B.

Baptiste-Mc Knight, Mrs. C.

Nicholson-Alfred, Mrs. A.

Drayton, Mrs. H.

Merhair, Miss G.

Rocke, Miss A.

*Question negatived.*

**5.00 p.m.**

**Sen. Dr. Nanan:** I just want to get from the AG some clarification on 22C(1)(b):

"...is a person or entity designated by the United Nations Security Council,"

I wonder if there is anything missing there. If you read it:

"belong to an individual or legal entity who—

(b) is a person or entity designated by the United Nations Security Council."—as what?

It is 22C(1)(b) at page 11.

**Sen. Joseph:** What is the issue?

**Sen. Dr. Nanan:** If you read it:

"belong to an individual or legal entity who is a person or entity designated by the United Nations Security Council."

**Sen. Jeremie SC:** 22C(1), you have to read the chapeau:

"(a) ...or

(b) is a person or entity designated by the United Nations Security Council,"

What is the difficulty?

**Sen. Seetahal SC:** As what?

**Sen. Jeremie SC:** Designated—it is listed; on the list.

**Sen. Dr. Nanan:** It does not say that.

**Sen. Seetahal SC:** Maybe we need to say that.

**Sen. Jeremie SC:** As a terrorist entity.

**Sen. Seetahal SC:** As a terrorist entity, because that is what you have in 22B(1), so that is what you need to include. I have one more suggestion.

**Mr. Chairman:** I am just going to put this one; take it one at a time.

The question is that clause 9 be amended at 22C(1)(b) by including the words: “as a terrorist entity” after the word “designated”.

*Question put and agreed to.*

**Sen. Seetahal SC:** I had an amendment; at page 14 of the draft, at 22E(4).

**Sen. Joseph:** It will be necessary when I come to move, if we are talking about law enforcement agency; that means we have to delete the whole of subsection (4). We are going to come to that.

**Sen. Seetahal SC:** It is not on your list of amendments.

**Sen. Joseph:** It was not, because once we had removed "law enforcement authority", it fell off.

**Sen. Seetahal SC:** That is all I am drawing your attention to, not to forget.

**Sen. Joseph:** Mr. Chairman:

- 9 A. In the proposed new section 22B(5) delete the word "shall" and substitute the word "may".
- B. In the proposed new section 22C(2)(ii) delete the word "to".
- C. In the proposed new section 22D(1) delete the words "is being used, has been used or is intended for use" and substitute the words "are being used, have been used or are intended for use".—and adding a new E:
- D. In the proposed new section 22E delete subsection (4).

**Mr. Chairman:** Do we all have that? There are four amendments to clause 9 by the Minister. We have A, B and C, which have been circulated and D which is in the new proposed section 22E delete subsection (4).



The question is that clause 9 be amended as circulated by the Minister of National Security.

**Sen. Mark:** Mr. Chairman, before you put the question, just for clarification, I would ask the Minister to go back to the same 22E on page 14, subsection (3). When we say:

"...a report shall be submitted to the relevant law enforcement authority..."

We are going to delete that?

**Sen. Joseph:** Wherever that occurs.

**Sen. Mark:** I am on page 14, 22E(3).

**Sen. Joseph:** That has to stay; that is the police.

**Sen. Mark:** In other words:

"...a report shall be submitted to the police..."

**Sen. Joseph:** Yes.

**Sen. Mark:** All right. Is it the Commissioner of Police?

**Sen. Joseph:** Just the police.

**Sen. Mark:** So when you say the police, I know that the person in charge of the police is the Commissioner of Police and I know if you submit a report to the Commissioner of Police he would then delegate whoever he wants to investigate the report. In Barbados they are very, very careful in their legislation; they do not make these elementary errors. They say that a report must be submitted to the commissioner of police and the commissioner of police would then delegate whoever has to report. If you just say the police it could be a constable, it could be a sergeant.

**Sen. Jeremie SC:** The Minister of National Security is happy to accept your amendments.

**Sen. Mark:** I just want to make sure that things are being done properly.

**Sen. Jeremie SC:** Would you vote with the—[*Laughter*]

**Sen. Mark:** No, no; that does not mean to say I will vote. You want to blackmail me here this evening.

**Sen. Jeremie SC:** I want to bargain with you.

**Sen. Mark:** Negotiate.

**Mr. Chairman:** The question is that clause 9 be amended at 22E(3) to delete the words "relevant law enforcement authority" and substitute the words "Commissioner of Police".

**Sen. Joseph:** Except that you will now have to put an F. In the proposed new section that now becomes F, since Sen. Mark's amendment is now going in. What was E becomes F and Sen. Mark's amendment becomes E in the list of amendments at clause 9. Remember where we just added in "the Commissioner of Police"—what the last E would now be F.

**Mr. Chairman:** I will have to put the question differently.

*Question put and agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed, That clause 10 stand part of the Bill.*

**Mr. Chairman:** We have a proposed amendment from Sen. Mark:

Delete clause 10 and re-number accordingly.

**Sen. Mark:** Consistent with what the hon. Minister of National Security has done, this entire section becomes redundant. I am, therefore, proposing that it be deleted completely, because it is inconsistent with what the hon. Minister has said that he wants to adjust and there is no need for police officer. We know it is the Commissioner of Police for the report.

**Sen. Joseph:** This is above the rank of police officer; the rank of sergeant.

**Sen. Mark:** You are dealing with the rank of sergeant?

**Sen. Joseph:** Yes.

**Sen. Mark:** Why can we not be consistent, hon. Minister? In the parent Act, if I may quote for you; go to section 24 of the parent Act and you would see under section 21:

"Subject to subsection (2), a police officer of the rank of Inspector or above..."

So it is inconsistent. This is an amendment to the parent Act, so all we want to do is maintain consistency, rather than you have a sergeant here and an inspector there. It does not make sense; we just need to be consistent.

**Sen. Joseph:** Mr. Chair, if I may; I am advised that this involves border control activities and if you pitch it to the rank of inspector, it would be a little too

high, as a result it would lose a whole group of persons who operationally would be involved in activities of this kind. For that practical reason, we cannot push it up to the rank of inspector.

**Sen. Mark:** Could you explain when you say border activities?

**Sen. Joseph:** Remember that seizure of cash—if you recall in the Bill it would allow persons to be engaged in those types of activities and we are saying sergeants and above; if you say inspector—they are really middle management.

**Mr. Chairman:** Are you withdrawing your amendment to clause 10 or should I put the question, because I have not put the Minister's amendments as yet, but we have discussed it.

**Sen. Mark:** Mr. Chairman—

**Mr. Chairman:** Put the question?

**Sen. Mark:** Yes, I think you would have to put mine.

**Mr. Chairman:** The question is that clause 10 be amended as circulated by Sen. Mark.

*Question, on amendment, put and negatived.*

**Mr. Chairman:** Minister, you have some proposed amendments to clause 10?

**Sen. Joseph:** Mr. Chairman, I beg to move that clause 10 be amended as follows:

A. By deleting sub-paragraph (i) and substituting the following:

“(i) by inserting after the words 'police officer' the words 'above the rank of sergeant’”,

B. By deleting paragraph (b) and substituting the following:

"(i) in subsection (2), by inserting after the words 'police officer' the words 'above the rank of sergeant.'"

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11.*

*Question proposed, That clause 11 stand part of the Bill.*

**Mr. Chairman:** Sen. Mark, do you have any amendments?

**Sen. Mark:** Mr. Chairman, my amendment is as follows:

Delete clause 11 and re-number accordingly.

Again the Minister has suggested that we go with sergeant. No, inspector remains, but we had proposed—he is agreeing that law enforcement authority would be left out. Mr. Chairman, I am concerned about why we are deleting the words "in chambers"? Is it, as the Attorney General advised, that the judges are saying we are trying to direct them and that they should be allowed to do their own work and, therefore, we should not say that this matter should be heard by a judge in chambers and just "by a judge"? I am not too sure.

**5.15 p.m.**

Before you go on to order; capital 'O' common 'o', I think we are burdening the Parliament with trivia.

We also indicated in our amendments this thing about just a police officer, we are saying that this whole section becomes redundant in the context of what we have advanced.

**Sen. Jeremie SC:** Chairman, there is no need for Sen. Mark to make the amendment with respect to the judge and judge in chambers; those terms are no longer used under the new Civil Proceedings Rules. The judge means a Judge of the High Court of Trinidad and Tobago and that definition is contained in the parent statute and when we use the term judge, that is what it refers to.

We agree with the changes to law enforcement authority and that is it.

**Sen. Joseph:** Mr. Chairman, if you look at my amendments to clause 11A, B and C they are consistent with 10 and that is removing the words "police officer" and inserting the words "above the rank of sergeant in A, B and C.

**Sen. Mark:** Chairman, in 11,1 C let us just stop at sergeant. I do not want the words "or someone acting on that officer's behalf". That is not appropriate at this time.

**Sen. Seetahal SC:** Or above the rank of sergeant is an Inspector, but probably you would want to say it.

**Sen. Mark:** I think you should delete that, Attorney General.

**Sen. Jeremie SC:** We agree.

**Sen. Joseph:** Mr. Chairman, at 11C we are proposing a full stop after sergeant and removing “someone acting on that police officer’s behalf”. It reads:

- “11 C. By deleting paragraph (e) and substituting the following:  
(e) in subsection (12), by deleting all the words occurring after the words “police officer” and substituting the words “above the rank of sergeant”.

*Question put and agreed to.*

*Question, on amendment, [Sen. Mark] put and negatived.*

*Question, on amendment, [Sen. Joseph] put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed, That clause 12 stand part of the Bill.*

**Sen. Mark:** As the Minister has said, we are dealing with these matters so I would not pursue this.

**Sen. Joseph:** Mr. Chairman, I beg to move that as circulated, the amended 12 A, B and C which will be consistent with the amendments we made at 11 and D and F will also be consistent with—and E:

In the proposed new section 24A(4)(b) delete the word “brief” and substitute the word “detailed”. G and H as circulated.

- 12 A. In the proposed new section 24A(1) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.
- B. In the proposed new section 24A(2) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.
- C. In the proposed new section 24A(2)(c)(iii) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.
- D. In the proposed new section 24A(3) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.

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[SEN. THE HON. M. JOSEPH]

*Tuesday, January 19, 2010*

- E. In the proposed new section 24A(4)(b) delete the word “brief” and substitute the word “detailed”.
- F. In the proposed new section 24B(1) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.
- G. In the proposed new section 24B(10),
  - (i) in the *chapeau* delete the word “notice” and substitute the word “order”;
  - (ii) delete paragraph (b) and renumber paragraph “(c)” as “(b)”.
- H. In the proposed new section 24C(1) by deleting the words “or officer of a law enforcement authority” and substituting the words “above the rank of sergeant”.

*Question put and agreed to.*

*Clause 12, as amended, ordered to stand part of the Bill.*

*Clause 13.*

*Question proposed, That clause 13 stand part of the Bill.*

**Sen. Joseph:** Mr. Chairman, I have an amendment and also in keeping with the amendments that preceded.

**Sen. Mark:** Before we entertain the hon. Minister’s amendment, may I seek clarification on mine?

**Mr. Chairman:** Yes.

**Sen. Mark:** Mr. Chairman, when we talk about regulatory authority I thought that the Commissioner of Cooperatives is one of the regulatory authorities in Trinidad and Tobago because he regulates all the credit unions and cooperatives and we have people saving in cooperatives and credit unions, so I was wondering.

**Sen. Enill:** There is currently legislation to bring it to Central Bank, but that has not been done as yet.

**Sen. Jeremie SC:** Mr. Chair, we can take that amendment. In clause 13 after the word “institutions” we add “and the Commissioner of Cooperatives”. Of course, there is legislation which will come.

*Question, on amendment, [Sen. W. Mark] put and agreed to.*

**Sen. Joseph:** Just to clean up, we have to put a comma after the word “exchange” and remove the word “and” and put it before the Commissioner of Cooperatives.

**Mr. Chairman:** Do you have an amendment to clause 13?

**Sen. Joseph:** Yes. As circulated.

“13. In paragraph (a), in the proposed new subsection (1), delete the words “to a police officer, officer of a law enforcement authority” and substitute the words “to a police officer above the rank of sergeant”.

*Question put and agreed to.*

*Clause 13, as amended, ordered to stand part of the Bill.*

*Clause 14 ordered to stand part of the Bill.*

*Clause 15.*

*Question proposed, That clause 15 stand part of the Bill.*

**Sen. Mark:** I would not pursue this one, Sir.

*Amendment withdrawn.*

**Sen. Joseph:** Mr. Chairman, I beg to move that clause 15 be amended as circulated.

“15 In paragraph (a), in the proposed new subsection (1), delete the words “police officer or officer of a law enforcement authority” and substitute the words “or police officer above the rank of sergeant”.

**Sen. Mark:** Before you put that question, are you taking the whole of clause 15?

**Mr. Chairman:** Yes.

**Sen. Mark:** May I ask the Minister to go to 15 (1)(a) where it reads:

“Where information is forwarded to the Commissioner of Police” so it would be consistent with what we agreed to earlier?

**Sen. Joseph:** We are deleting the words “law enforcement authority” and adding—

**Mr. Chairman:** That is in B(1)(a) is it?

**Sen. Joseph:** Yes. “Where information is forwarded to the Commissioner of Police”.

**Mr. Chairman:** Read for me what the amendment is, what words do you want to put.

**Sen. Joseph:** Where information is forwarded to the Commissioner of Police pursuant to section 22A”.

*Question put and agreed to.*

**Mr. Chairman:** Clause 15 is amended by deleting 1(a), the words “a law enforcement authority” and including the Commissioner of Police, delete the word “it” and replace with the word “he”.

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clauses 16 and 17 ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed, That clause 18 stand part of the Bill.*

**Sen. Joseph:** Mr. Chairman, I have amendments to 18 as circulated.

A. In paragraph (a)(ii), delete the word “and” in the second place where it occurs.

B. In paragraph (b)—

(i) delete the word “(7),” and the full stop at the end of the paragraph.

(ii) Insert the word “; and” at the end of the paragraph.

C. Insert the following new paragraph:

“(c) in subsection (7), by deleting the word “order” in the second place where it occurs and substituting the word “Order”.

*Question put and agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

**5.30 p.m.**

*Clause 19.*

*Question proposed, That clause 19 stand part of the Bill.*

**Mr. Chairman:** Sen. Mark, you have some amendments.

**Sen. Mark:** Yes. I withdraw this.

*Amendment withdrawn.*



**Sen. Joseph:** Mr. Chairman, I beg to move that clause 19 be amended as follows:

- A. In the proposed new section 38A(1) delete the words “police officer or officer of a law enforcement authority” and substitute the words “or police officer above the rank of sergeant”.
- B. In the proposed new section 38A(5), delete the words “or officer of a law enforcement authority” and substitute the words “above the rank of sergeant”.
- C. In the proposed new section 38A(8), delete the words “or officer of a law enforcement authority” and substitute the words “above the rank of sergeant”.

*Question put and agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

**Sen. Mark:** Mr. Chairman, you know that I had some amendments in clause 19, but I was going line by line. I realized that you closed off on me.

**Mr. Chairman:** You said that you withdrew your amendment.

**Sen. Mark:** I withdrew a particular section when you raised it, but not the entire clause 19, Sir. It is one thing that I withdrew with the law enforcement officer.

The Chairman asked, I said yes, I withdraw that and then he went to you.

**Sen. Seetahal SC:** What about judge?

**Sen. Mark:** That is okay. The one that I have some concern about is the two-year period. I am dealing with page 30, clause 19(4). I find that the two-year period is a bit long. I suggest Barbados—I am looking at standard too. I suggest for your consideration 18 months.

**Sen. Joseph:** Mr. Chairman, my understanding is that it is consistent with what is in the POCA legislation.

**Sen. Mark:** Do you mean that Barbados is violating POCA?

**Sen. Joseph:** I am talking about our POCA.

**Sen. Mark:** I was looking at the Barbadian experience because they are a very civilized nation.

**Sen. Joseph:** So we are not civilized?

**Sen. Mark:** They uphold human rights. I am not saying you. I am saying Barbados does that.

**Sen. Seetahal SC:** You can always come back. There is nothing preventing a person whose money is seized to come back to the court and say that despite the order that I—assuming that the maximum order is that time.

*Clause 20.*

*Question proposed, That clause 20 stand part of the Bill.*

**Sen. Joseph:** Mr. Chairman, I beg to move that clause 20 be amended as follows:

Delete paragraph (a) and substitute the following:

“In paragraph 1(h), by inserting after the words “police officer” the words “above the rank of sergeant””.

**Sen. Mark:** Mr. Chairman, I beg to move that clause 20 be amended by deleting (b) “officer of a law enforcement authority”.

*Question, on amendment [Sen. W. Mark], put and negatived.*

*Question put and agreed to.*

*Clause 20, as amended, ordered to stand part of the Bill.*

**Mr. Chairman:** *[Interruption]* Could we have one meeting in this Chamber please?

*Preamble approved.*

*Question put and agreed to, That the Bill be reported to the Senate.*

*Senate resumed.*

*Bill reported, with amendment.*

*Question put, That the Bill be now read a third time.*

*The Senate divided: Ayes 24*

AYES

Joseph, Hon. M.

Jeremie SC, Hon. J.

Enill, Hon. C.  
Browne, Hon. M.  
Manning, Hon. H.  
Piggott, Hon. A.  
Narace, Hon. J.  
Dick-Forde, Hon. Dr. E.  
Gronlund-Nunez, Hon. T.  
Hadeed, G.  
George, W.  
Rogers, L.  
Lezama, Miss L.  
Melville, Miss J.  
Gayle, N.  
Deosaran, Prof. R.  
Seetahal SC, Miss D.  
Ali, B.  
Annisette, M.  
Baptiste-Mc Knight, Mrs. C.  
Nicholson-Alfred, Mrs. A.  
Drayton, Mrs. H.  
Merhair, Miss G.  
Rocke, Mrs. A.

*The following Senators abstained:* W. Mark, Dr. A. Nanan, Dr. J. Kernahan, M. F. Rahman, Mrs. L. Oudit, Dr. Gopaul-McNicol.

*Question agreed to.*

*Bill accordingly read the third time and passed. [Desk thumping]*

*Adjournment*

*Tuesday, January 19, 2010*

**ADJOURNMENT**

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, in moving the adjournment, let me thank all the Senators for the contribution to this particular piece of legislation including my friends who sit on the opposite side. One day we will get them where we need to have them.

I beg to move that the Senate do now adjourn to Tuesday, 26 January, 2010 at 1.30 p.m., which would be Private Members' Day. The matter we will discuss would be the Motion by Sen. Dr. Nanan on renewable energy.

I wish all those who need it, good luck. [*Laughter*]

**Mr. President:** Hon. Senators, the question is that this Senate do now adjourn to Tuesday 26<sup>th</sup> September, of January at 1.30. [*Laughter*] The 26<sup>th</sup> January, that is my wife's birthday and tomorrow is my anniversary. I crave your indulgence. [*Desk thumping*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 5.40 p.m.*