

SENATE

Tuesday, November 16, 2010

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Prof. Patrick Watson, Sen. Dr. Lester Henry and Sen. Prof. Harold Ramkissoon who are all out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Professor 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. SHANE MOHAMMED

WHEREAS Senator Professor Patrick Watson 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, 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, SHANE MOHAMMED, to be temporarily a member of the Senate, with effect from 16th November, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Patrick Watson.

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 15th day of
November, 2010.”

“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. DANIEL DOOKIE

WHEREAS Senator Lester Henry 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, acting in accordance with the advice of the Leader of the Opposition, 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, DANIEL DOOKIE, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Lester Henry.

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 15th day of
November, 2010.”

“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: MRS. PARVATEE ANMOLSINGH-MAHABIR

WHEREAS Senator Professor Harold Ramkissoon 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, PARVATEE

ANMOLSINGH-MAHABIR, to be temporarily a member of the Senate, with effect from 12th November, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Harold Ramkissoon.

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 11th day of
November, 2010.”

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law: Shane Mohammed, Daniel Dookie and Parvatee Anmolsingh-Mahabir.

CHILDREN'S LIFE FUND BILL

Bill to establish the Children's Life Fund as a charity and for related matters, brought from the House of Representatives [*The Minister of Health*]; read the first time.

PAPERS LAID

1. Second report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2003. [*The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2004. [*Sen. The Hon. S. Panday*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Racing Authority for the year ended July 31, 2005. [*Sen. The Hon. S. Panday*]
4. Audited financial statements of the Business Development Company Limited for the year ended September 30, 2009. [*Sen. The Hon. S. Panday*]
5. Annual administrative report of the Trinidad and Tobago Film Company (TTFC) for the year 2008/2009. [*Sen. The Hon. S. Panday*]

SECURITIES (NO. 2) BILL

Bill to provide protection to investors from unfair, improper or fraudulent practices; foster fair and efficient capital markets and confidence in the capital markets in Trinidad and Tobago and to reduce systemic risk; to cooperate with other jurisdictions in the development of fair and efficient capital markets, and for other related matters [*The Minister of Finance*]; read the first time.

BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS

(NO. 2) BILL

Bill to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction [*The Minister of National Security*]; read the first time.

PETROTRIN PENSIONS (NO. 2) BILL

[Second Day]

Order read for resuming adjourned debate on question [November 09, 2010]:

That the Bill be now read a second time.

Question again proposed.

Mr. President: On that occasion the persons who have spoken already are: The Hon. Carolyn Seepersad Bachan, Minister of Energy and Energy Affairs, who is the mover of the Motion; Sen. Dr. Lester Henry; Sen. Basharat Ali; Sen. David Abdulah; and Sen. Subhas Ramkhelawan.

Sen. Fitzgerald Hinds: Mr. President, thank you very much. When the Minister presented the Bill entitled, “An Act to restructure the pension arrangements of the Petrotrin Company of Trinidad and Tobago Limited”, she promised us that it was a very simple Bill, and to some extent it is.

In Sen. Basharat Ali's contribution he raised a couple matters that I consider to be sufficiently important—I thought I would have had some response from the other side thus far, but I would probably hear it from the Minister when she winds up this debate—the question of the potential for the conflict of interest between the attorney-at-law for the trustee and the management company, where the attorney-at-law may act for both; the question of who will determine fees for services so far as the management company is concerned. He also raised the question of Republic Bank being able to offer both services. I would like to hear specifically the Minister's response to those questions.

There was another issue that the Senator also raised as well that I thought of and which Sen. Abdulah attempted to explain, to my mind, unsatisfactorily. I am not challenging it per se, but it just does not meet my intellectual satisfaction. *[Interruption]* Yes, as I applied my mind to the thing, I could not see easily the reason for the need for a specified majority.

We were told, and we know that pension is part of people's property. It is money and we understand that! Basic! We were told that the persons who are involved do not stand to lose anything—there are improved benefits to be had and we would experience, if you like, savings by virtue of having

one manager—one trustee as opposed to seven or eight—and, therefore, one envisages that those persons who are involved in this merged plan would gain rather than lose.

1.45 p.m.

Mr. President, Sen. Abdulah told us it was the union's recommendation, and I understand that. He told us it was recommended so as to ensure that no one was able to successfully challenge the constitutionality of it; I heard that too, but yet I did not feel sufficiently impressed by the explanation. I am not challenging it, but I would like to hear a little more on that as the Minister winds up.

The Minister, simple as the Bill was, took the time, as politicians are wont to do, to tell us by way of criticism—that is right, she read to us her contribution and that escaped the President or probably we were not aware that she got the authority of the President so to do. At any rate, she mentioned in passing that the PNM was uncaring, because this matter stood to be resolved since 2008 and there was agreement in 2003 and all those fanciful things, and so the PNM was uncaring in that respect.

I want to have the Minister understand, yet again, particularly when she visits this place, that we must always remind her that you cannot build a house from the roof. I heard it said in this debate, if there was no Petrotrin there would be no plan to merge today. She came into public life; she met Petrotrin and she is aware of the history. She was the Chairman of the National Petroleum Marketing Company, so she is aware of the history.

Sen. Abdulah, in fact, dealt with some of that history. He likes to use this concept of PNM revisionism. He claimed that the PNM was trying to rewrite the history as we proceed. Of course, he also said, "That was the reason they should cause these matters to be ventilated in the nation's

schools, so the young in our society, in those formative years, would have an understanding of what the true history is." I can assure Sen. Abdulah that his analysis and understanding of that history will never find itself in those books, because he really has a skewed view of the history of this country, and I can understand that with the background he comes from. He spent all his life hearing the same thing, doing the same things and behaving the same way.

When this Government came to office, they met a progressive, forward marching, if you like, multiracial, multicultural, highly skilled and highly educated population. That was what they met. They behave as though nothing existed before the coming of the People's Partnership. I simply want to remind them that a lot happened long before they came and it falls to them to continue the evolutionary process to advance Trinidad and Tobago to the extent that they could. Do not spend all your time criticizing and condemning past administrations.

Petrotrin is part of the testimony and legacy of the management of the PNM; it is a fact. This is not about any revisionism, but just by way of extension. Every school and every institution you now have the responsibility to manage and to advance, you met, so do not forget that. That is a basic lesson you must imbibe and do not ever forget that. You cannot build a house from the roof. You met something and your duty is to improve that thing.

There was a time, we heard in this debate, when oil was largely foreign-owned in this country. There was no Petrotrin at that time. I heard Sen. Abdulah boastfully reply to my friend, I think it was Sen. Deyalsingh, that long before Dr. Williams embarked on his journey abroad to study, it was the first President General of the Oilfields Workers' Trade Union

(OWTU), great servant of this country, who first articulated the question of a national oil company. Articulating it is one thing, as I have heard you say before. This very piece of legislation you are bringing to the Parliament today, was put in place by another administration. He would have mooted that a long time ago, but it fell to the PNM to make the thing real and so it did. That was only possible when this nation was able to do that.

The PNM can justifiably take credit for that, Sen. Abdulah. You must not try to take credit away; that is what I call revisionism, trying to rewrite the facts. Whether it was BP, Shell or Amoco, most of it was foreign-owned. It was after the mid 1970s and into the 1980s when we were able to earn far more revenue from tax measures. It was the Government of Trinidad and Tobago, led by Dr. Williams, who Sen. Dr. Henry reminded us of.

At that time, as you know, different countries were looking at the natural resources in their territories, oil and whatever else, and deciding how to deal with them. Some countries went for out and out expropriation, taking the stuff from the foreigners who had owned it, taking the assets. Trinidad and Tobago decided, under Dr. Williams, that we would not do that. We would buy out majority shareholders; we would buy them as we could, and so that process began, and we have come to where we are with Petrotrin today.

Someone mentioned in the course of the debate that BP, for example, lost interest in production activity in Trinidad and Tobago and workers' jobs were, therefore, at risk; persons who had invested all their time and energies into building that company here. It was Dr. Williams and the PNM that set out to protect these workers' jobs. Therefore, as they had their jobs, they made contributions to the various pension plans that we are now merging

today.

So you cannot revise the thing, Sen. Abdullah, red as you might be; those are some realities. I felt obliged to place this on the record, because I am aware that a lot of young people listen to these debates and their views might become skewed by your perspective on the thing, therefore the record had to be set straight. *[Interruption]*

Sen. Abdullah: Would the Senator give way?

Sen. F. Hinds: Just before I give way to you, as a matter PNM courtesy, I simply want to remind you that, while you were speaking, I had asked you to give way and you did not, but we are the PNM, we do it in a certain way; feel free.

Sen. Abdullah: I did respond to one question that the Senator posed to me; so I did respond in one way to his query. Is the Senator aware that in the 1960s British Petroleum actually engaged in a very significant retrenchment in the oilfields and, therefore, the jobs of many workers were not protected by the then Williams government-- this was one of the reasons why the OWTU was demanding a national oil company-- and that subsequently Dr. Williams wrote a letter to then President General of the OWTU making a commitment of the government that there would be no retrenchment in oil, a fact which the government later reneged on in the 1980s and 1990s?

Sen. F. Hinds: I do not want to confuse us with all those records you have in a dusty room in your office. I am dealing with a simple matter here. The fact of the matter is that you could go and spend your time reading that over and over again under a lamp.

Sen. Abdullah: It is indelibly etched in my memory.

Sen. F. Hinds: And as I say lamp, you must remember that you told us that insofar as your Government's growth poles are concerned, Laventille, a

constituency I represented, was supposed to be one of those growth poles. I understand that one of your colleagues is asking the Government what about Laventille and no answers are forthcoming, to the extent that he went in Woodford Square on Sunday and expressed dissatisfaction and disaffection with the behaviour of the Government. [*Interruption*] That is Makandal Daaga I am talking about.

Mr. President: Sen. Hinds!

Sen. F. Hinds: I am so sorry, Mr. President. He just disturbed me a bit.

Sen. Abdulah: You look discombobulated.

Sen. F. Hinds: Yes, that Government, very discombobulating. [*Laughter*]

As I was saying before Sen. Abdulah made another speech, when these circumstances developed in BP, Dr. Williams, recognizing that we did not have the expertise, but we wanted to do the business, entered into a joint venture with Tesoro. That was done to protect jobs and to continue our operations in oil and to protect the pension rights of the workers involved. The government then acquired Shell Trinidad Limited and these, as you know, were transferred into Trintoc, again protecting workers' jobs and again protecting workers' rights.

In 1985 the government acquired Texaco and the refinery. I know these things are recorded somewhere, but I just felt like repeating some of them. As we heard from the Minister, Texaco had three plans and all were transferred into Trintoc. So by 1993, Trintoc had six plans and Trintopec had two. The government in 1993 merged Trintoc and Trintopec, out of which came Petrotrin. We heard some of the issues, some of the reasons why it became necessary to merge these plans and, as we have indicated here, we support that. We have no difficulty with that.

The same thing happened with Caroni. It was foreign owned, Tate &

Lyle, and in 1975 the Government of Trinidad and Tobago under the PNM intervened, again to protect workers' rights, interests and jobs and bought out the shareholdings. Since then we have had a very thriving Caroni (1975) Limited, notwithstanding some of the problems that were associated with it and all organizations. *[Interruption]*

Sen. Seepersad-Bachan: You should not even talk about that.

Sen. F. Hinds: That is part of the history; that is the fact.

The plan as we heard, this merger, would affect some 10,000 persons. The Minister raised the question about the uncaring PNM and the question of delay. She spent a little time criticizing my party in government at the time for not bringing this thing earlier, but I am sure a closer analysis would tell her that there were some administrative issues and eventually the Bill was draughted and she has presented it.

I do not want to spend time dealing with the delays; that has been sufficiently dealt with. I think if the Minister wants to be honest and fair she would understand how the thing works. She said that since 1998 the OWTU submitted a proposal and the PNM did nothing in terms of harmonizing the plan. On December 17, 2003, Petrotrin and the OWTU signed an agreement. I too want to join the Minister in congratulating the OWTU. They were very much in the forefront, in the vanguard, if I may say so, in looking after the rights of workers, as is their responsibility as a trade union after all, union representatives live quite well, you know. It is not philanthropy; they live very comfortably and they get hefty pensions from their unions when they retire too; but I want to congratulate them.

2.00 p.m.

I want to congratulate them. You see, Sen. Abdullah does not think that he is not a man of means, you know. He is quite well resourced and so

on. [Laughter] All the talk about bread and sweat and justice, they live very, very well, they eat high on the hog very comfortably. As a vegetarian, I am still obliged to say that. They live very, very comfortably. So a lot of it is elitist Red rhetoric, nothing to do with the reality. He does not know one thing about poverty. I am almost certain of that. Privileged! Anyway, they signed a Memorandum of Understanding and I want to congratulate the OWTU for its contribution in this regard. As the Minister knows full well, a Canadian firm was brought in to do a valuation exercise. That too would have taken time, that too would have taken money, but the job, eventually, was done.

I indicated earlier that I have just a little gap in my mind and I would like to hear the Minister clear up this question of the need for a special majority. In passing, I heard it said that once you pass it with a special majority you do not have to come back to Parliament. Well that did not make any sense to me, but I would like to hear more.

This question of pension and how great this merger is, and it took the People's Partnership Government to bring this to Parliament, I simply want to remind my friend, Sen. Abdulah and the Minister, that it was in 1971 the largest cross section of the society that would have been impacted upon positively with the introduction of a pension plan or some kind of benefits, in circumstances where some of our grandmothers and old aunts worked hard washing people's clothes for years in different parts of the country, toiling in the cane field, doing a lot of stuff without any benefits—in 1971/'72—'71 is the legislation—it was Dr. Williams and the People's National Movement that introduced the National Insurance Scheme in this country. When I read *Hansard* on it, at that time it impacted some 200,000 persons who were not to enjoy benefits of that kind anywhere in the

economy. Now, that was a major contribution as far back as 1975—'72—'71/'72. Some of the workers—[*Interruption*]

You see, there he goes again with his Red rhetoric telling me about state of emergency. I am talking about NIS but your mind is skewed in a certain way. [*Interruption*] With all of that, whenever they came into direct confrontation on behalf of the workers, you were never there, somehow or the other.

Sen. Abdulah: No, be careful where you are going.

Sen. F. Hinds: I must be careful, yes. Mr. President, we must not forget that. It was Dr. Williams and the very PNM that introduced NIS. Some of the workers, as I was saying, made no contribution, some as little as 75 cents, and the thing has evolved to what it is today. Some people rely on—that is all—they people get when they retire from work.

Therefore, that is the piece of our history that cannot be gainsaid and this is why I am proud of the PNM regardless of what you say, because I know the contribution the People's National Movement has made to the development of Trinidad and Tobago and the region. I am almost certain that you would not last long enough to make any contribution close to it, because, as I told you before, you have become easily discombobulated with all of the various interests. Your Caricom ambassador spoke loudly in Woodford Square on Sunday—you should go and hear what he had to say—and spoke about pension. I do not know if Fazeer Mohammed was entitled to a pension at CNMG. I do not know if the benefits he was entitled to included a wonderful pension such as this, these merged plans, and probably would never know.

Mr. President, we take note of the fact that whenever the question of pension arises, this Government has been found wanting. The very NIS of

which I just spoke, having told persons—and I have to remind them—having told potential voters that for them that the thing would go to age 60 and that they would get \$3,000 a month, they included the very NIS in the calculation to deny people of that. So, some persons who were expecting to receive the pension promised, plus the NIS, they are reporting to us that they feel robbed, they feel cheated. In fact, a large cross section of them has asked me to use this forum to communicate to the Government that they feel cheated. For the second time I see one element of the coalition, one element of the merger, like we are merging this pension plan, coming out and pronouncing against the behaviour of the People's Partnership. I saw the COP last week saying that it dissociates itself from the behaviour of the Government in respect of the firing of Fazeer Mohammed.

Mr. President, as we intervened in this debate over the last couple of days and as we wind up today, I want to indicate, yet again, our support for this measure. We think, in principle, it is a good thing, it is more efficient, it will generate savings, it will generate improved benefits for the workers in that entity. I would like the Minister, as I have asked, to tell us a bit and to justify to us the need for the constitutional majority. Even if she found it there, she must have been told the real reason for it. Tell us! I would like to hear her response to the points as I have rehearsed them, coming from Sen. Ali, because I thought Sen. Adbulah would have dealt with it, but, in fact, he did not.

Having dealt with that, I think, as well, in the generality, this Government had told us a lot about—well, no, Sen. Dr. Henry told us about the question of indexation of pensions, generally speaking, and I concur with him on that. This Government spoke a lot during the campaign about pension portability and so on, and I would have thought that they would

have taken this opportunity to tell us a bit more about that and their plans for implementing this across Trinidad and Tobago.

Before I retain my seat, I would like to seriously congratulate my colleagues Sen. Deyalsingh and Sen. Cudjoe—she spoke on this as well?—for their intervention in this debate, and, of course, Sen. Dr. Henry who spoke first—[*Interruption*—or, Dr. Henry and Sen. Deyalsingh, my apologies, for their intervention, expressing our support for these measures, making some recommendations, which we are comfortable with. I would like as well to remind Sen. Abdulah, what he would have seen in them are the young, green shoots of the resurgence of the People's National Movement with vigour and vitality, because, as you—[*Desk thumping*]

Sen. Oudit: Senators excuse, would you just allow me for a point of clarification, please? For the record, it was only Sen. Dr. Lester Henry who spoke on this particular Bill.

Sen. F. Hinds: I was on my legs, Mr. President. So, I would like to congratulate my colleagues, because, of course, we would have caucused and we would have come up with the positions that we would have advanced in this debate, and again I would like to wish all of the workers at Petrotrin, all of those who are to enjoy benefits under this plan, long life and good health. I would like to thank them for their contribution to the development of the gas and oil industry in this country, and, of course, for their contribution to the development of Trinidad and Tobago.

Mr. President, I thank you.

Sen. Daniel Dookie: [*Desk thumping*] Thank you very much, Mr. President. What a privilege it is for me to be in this honourable place and to have the opportunity to contribute in this debate. [*Desk thumping*]

Let me begin by congratulating the speakers who went before. I

really think that we have had some interesting discourse on this matter, and, with the help of Almighty God, I would attempt to add value to this debate by focusing a little more on what I define as the softer issues as they relate to the Bill. I know a lot of attention was placed on what I describe as the harder issues in terms of the role of the asset managers, the role of the trustees and issues such as that, but I would like to place some emphasis on some of the softer issues and will attempt to speak a bit on the primary objectives of this Bill; the financial preparedness of not the plan itself but of employees and participants; the impact that unexpected expenses have on benefits, the fund and the employee; the issue of lifestyle management as it relates to benefits and the plan; to touch a bit on inflation and to touch a bit, again, on the role of the union.

Mr. President, all pension plans are designed for specific reasons. I think one of the more fundamental objectives of this proposal is to ensure that participants enjoy a suitable standard of living in their golden years. I think we can accept that and that is a major objective of this transition. As well, not just for the employee, but when the need arises as well to provide suitable care for dependants. Hence, a key question comes to mind: What happens, as people in the insurance industry refer to it when an employee is exposed to one of the hazards of life, live too long, die too soon or living “debt”? “Live too long” refers to old age; die too soon—premature death and living debt speaks to disability.

I know the hon. Minister indicated in her presentation that, in terms of the premature death benefit, it is four times the annual salary plus contributions. I think that is what she indicated to this honourable Senate. By industry standards that is quite good. The same question has to be posed in the event of the employee not just dying too soon, but living too long and

living in disability. I know that clause 5(1) speaks to the issue of pension benefits and other benefits, and I am sure that it is incorporated into the programme. I am sure that is a major objective.

What I want to stress on is that, if we want to meet these objectives continuously, then it is critical that a little more emphasis is placed on review. Why I am saying that, I think it is critical that we continuously evaluate the progress of the investment as it relates to risk in terms of the fund to ensure that the performance of the fund can adequately meet the demands of the retiree in his golden years. I think that is extremely critical.

2.15 p.m.

Let me point out how this could take place. Oftentimes, I think, not enough emphasis is placed on what I will call issues concerning the workforce, not particularly the size of the workforce, but in terms of the workforce composition. For example, what is the amount or percentage of the workforce that represents what we may refer to as baby boomers, or what is the amount or percentage of the workforce that is defined as generation X, because these two types of employees behave differently; they have different needs and hence, as the ratio changes over time, so too will be the need for the fund to change in order to provide suitable benefits for them in their later years. All I am suggesting is that as we go forward—and as I said, yes, the proposal seeks to improve benefits—I am saying that there is a need to ensure that this process continues in terms of review to ensure that, when it matters most, the benefits that are provided to participants are adequate.

Let me speak a little to the issues of financial preparedness, not financial preparedness of the fund, as I know many speakers would have addressed, but financial preparedness of the employee. I have seen

employees—some of Petrotrin—having retired, either through reaching retirement age or taking early retirement, oftentimes having to depend on charity or some sort of help during their golden years. That says to me that oftentimes they were totally unprepared financially for retirement. It is not just the issue of transferring benefits and rights as they exist today, but the issue of looking at the entire retirement management process.

Now, I think it is incumbent upon the organization, in this case Petrotrin, as a social responsibility to the employee to ensure that the employee is prepared for retirement financially, and I have found in this regard that oftentimes one of the legs of what is referred to as the three-legged approach is often neglected. We have the social benefit issue, and Sen. Hinds addressed that quite well in his contribution; you have the employer sponsored or assisted part of the leg, which we are dealing with in this debate, but the leg that I have found that has been given little attention is the personal saving aspect of an entire retirement planning programme.

Now, if we are truly concerned about the well-being of our retirees, as I am sure we are, then it is incumbent, as I said, upon the organization, as a social responsibility, to ensure that the employee, through other interventions in the organization, is adequately prepared financially for his golden years. You see, as an advisor myself, oftentimes I have heard quite too many times employees say, “I do not need a personal savings programme for my retirement because I have a company pension plan.” The result of that attitude is realized too late when the employee realizes that what he has in place is not sufficient to meet the demands of retirement.

All I am suggesting is that, in the entire process of retirement planning the organization, in this case Petrotrin, and all other organizations, as a matter of fact, as a social responsibility, must encourage their employees to

save personally, or to take personal responsibility for their retirement. You see, in my view, it is not advisable to indicate to the employee that he should take a cut in his standard of living when he retires. As a matter of fact, my view is the opposite. He should either try to maintain it or improve it but, if that has to happen, it has to be funded. Yes, we have the social element: NIS; we have the company-assisted or sponsored programme; the pension plan, but the organization, as a social responsibility, must promote and encourage employees to save for their golden years. [*Desk thumping*]

Let me briefly address the issue of unexpected expenses as we are dealing with retirement employee benefits, and there are some things that can occur in retirement years that could make retirement a nightmare. One of these is major medical bills. There are others: property; liability with losses, et cetera, but I want to focus a little on major medical bills. Some key questions have to be answered. What benefits are available to retirees in their retirement years as they relate to major medical expenses, long-term care and disability benefits? I think oftentimes as we plan for retirement these—what I refer to as softer issues—are oftentimes neglected.

If we were to take an example: a retiree having to be in a private hospital because of long-term illness for a year at \$500 a day, we are talking about a sum of \$182,500. If you add to that the cost of major surgery for a retiree in his retirement years, then what happens is that retirement becomes a real nightmare for the retiree. Hence, as we go forward in terms of improving benefits—because this is what the Bill seeks to do—I think it is critical that we look at crafting a relevant suite of benefits that would be relevant in a meaningful way to the employee in his golden years if any one of these major issues were to arise. [*Desk thumping*]

Sen. Abdulah: Would the Senator give way for a moment? I just want to

inform the Senator that at Petrotrin, thanks to the Oilfields Workers' Trade Union, the retiree and the spouse of the retiree do have extensive medical benefits. We do have some challenges in having them implemented in the way that we would like to see them, but there are medical benefits for the retired worker and the spouse of the retired worker at Petrotrin and in other workplaces that we have recognition for, so that some of the issues that he is raising, in fact, have been addressed for many a year now.

Sen. D. Dookie: Thanks very much, Senator. I am not at all trying to suggest that these things do not exist at present in Petrotrin. What I am suggesting is the need for continuous improvement, [*Desk thumping*] because what is relevant today in terms of paying medical bills would not be relevant 15, 20 years down the road. I am merely suggesting, as we go forward, as I indicated earlier, in terms of the need for continuous review, we must continuously keep these issues at the forefront of our negotiation.

Let me touch on another softer issue that I refer to as lifestyle management. The pre-retirement mentality and conduct of employees have a direct impact on the real benefits that are available. When I say real benefits, I am talking about how sufficient is the benefit. Prudent financial decisions are critical in the pre-retirement stage and oftentimes employees make financial decisions in their pre-retirement period based on their salary and not on their pension, and oftentimes, when that is done, they have to fund these financial decisions based not on their salary but based on their pension.

Added to this confusion is the issue of lifestyle as it relates to health and health has a direct impact on the fund in terms of the rate of mortality, and the hon. Senator referred to survival benefits, and that will affect survival benefits; the rate of morbidity in terms of medical claims, and,

again, the hon. Senator addressed those, but I am going back to the issue of corporate social responsibility. The employer does not just have a responsibility in terms of the fund, in terms of making his contribution and a statutory contribution, if necessary, but also the employer has a social responsibility to the employee in terms of promoting—where health is concerned—wellness, and in terms of promoting prudent financial decisions, because sick retirees mean a pull on the fund, and poor financial decisions mean living hell for the retiree.

All I am suggesting—because, as I said initially, I am trying to focus a little on the softer issues. What I am suggesting in the entire planning process is that organizations like Petrotrin in terms of the entire planning process for retirement, pay more emphasis in terms of counselling as it relates to financial management decisions and in terms of wellness, because, at the end of the day, what we seek to do is not just to protect the fund but to ensure, as I said, the employee enjoys a suitable standard of living in his golden years.

Let me touch briefly on the issue of inflation which we know is a necessary evil, but it has to be managed. The increase in prices is a fact of life and it can be seen every day, but let me point out that the effects of inflation on investment are less obvious. As a matter of fact, as it is now, the rate of inflation is greater than the rate of interest and that simply means, in my view, that we ought to pay some attention to it.

Let me hasten to add that I agree with Sen. Ramkhelawan, who indicated that it may be reckless and somewhat challenging to incorporate full inflation protection in terms of retirement plans, but I wonder, just for consideration, if it is possible to incorporate inflation with a ceiling so that the employee would be able to have increases in his pension the older he

gets. I am just suggesting that that is a possibility. I do know that, from a personal perspective in terms of personal plans, that option exists in the marketplace. I am not too sure about how challenging it will be to incorporate such philosophy. I am suggesting that it can be looked at.

More than that, as I am trying to focus not on the harder issues but the softer issues, there are other strategies that could be employed to assist employees in dealing with inflation, and none of them is new to us. I go back again to the issue of corporate social responsibility, meaning that the organization, in their process, must promote these things. As I said, the strategies are not new to us, for example, saving consistently. Employees or people who save more consistently are in a better position to deal with inflation. In terms of the wise use of credit, employees and people on a whole, who use credit wisely, are in a better position to deal with inflation. I am just suggesting taking advantage of tax savings and using the savings to invest in retirement instruments can also assist the employee in managing inflation. I am saying that these are some of the softer issues that are sometimes neglected by organizations that can assist the employee to ensuring that his standard of living improves or he meets an acceptable standard of living in his golden years.

2.30 p.m.

So inflation protection with a ceiling is a consideration, and also the organization in terms of providing its social responsibility also promotes some of the strategies that I would have articulated.

Mr. President, let me conclude by speaking a bit on the union. In this debate, many of the speakers congratulated the role and effectiveness of the union, and I too would like to join in that chorus of congratulating the contribution that the union has made [*Desk thumping*] not just to Petrotrin,

but to national development and I will confess this. When I was younger, I had a desire to be involved in the trade union movement. I do not know, Sen. Abdulah, if it is too late. I do not know if you are recruiting, but I will share that with you, that I always had a desire to be involved.

Sen. Abdulah: Never too late.

Sen. Hinds: [*Inaudible*]

Sen. D. Dookie: Thank you very much, Sen. Hinds. Mr. President, I think the union is best placed—again, we are talking about what is best for the employee in his retirement—to promote a philosophy that is defined as delayed gratification. The question that I would ask in this case is, what can employees give up now for more later down the road? I think it is an important question because a little more in their retirement years may add more value to the life of the individual, as opposed to a little more now, and I think Sen. Abdulah could correct me if I am wrong. I think, as it exists now, that employees in Petrotrin have the option of increasing their contribution up to 15 per cent. Is that correct? I got a copy of a document today. I am speaking to issues like that. What can the employee give up now so that the employee will have more down the road?

I do not know what they can. All I am suggesting is that maybe it could be part of profit-sharing even though I know profit-sharing is not normally part of the defined benefit programme, but some measure of compensation that the employee might be prepared to forego now to ensure their retirement years are better spent. I speak to the issue of delayed a gratification and to suggest that the union is in good position to negotiate strategies such like this.

Mr. President, let me say what a joy it has been to come to the wicket for the first time [*Desk thumping*] and I trust that I would have added some

value to this debate. So, I thank you. [*Desk thumping*]

The Minister of Energy and Energy Affairs (Hon. Carolyn Seepersad-Bachan): Thank you, Mr. President. Through you, let me thank all Members of this House, on all sides of the House, for their contributions that they made to this Bill. When we were last here, I listened with deep interest to the contributions of all the Senators, and there are some particular issues I really wish to address this afternoon. I would really like to start before going into the details of the Bill, because some Members used the opportunity to raise issues on the pension system of Trinidad and Tobago. Therefore, I just want to—this should really be left to the Minister of Finance as we were dealing with the pension plan for Petrotrin, but I do want to take the opportunity to respond to some of the issues raised by Sen. Ramkhelawan.

First of all, Mr. President, as I had indicated the last time I was here and probably if I can just turn to page 36 of the budget statement, some of the speakers mentioned the investment opportunities and the rate of return with respect to pension plans, and I just wanted to remind, as I did then, that stated here in the budget statement on page 36:

“Pension Funds and the Energy Sector. The Government will develop the opportunities for new investment into the Energy Sector by encouraging the use of pension funds in suitable downstream industries which will be examined in terms of least risk parameters.”

I know that even when this announcement was made, some of the stakeholders, including the union, did have concerns with respect to the risk issues.

“This will provide a mechanism for greater capital participation in Trinidad and Tobago.”

Having said that, I did also seek the opportunity to consult with the Ministry of Finance and the Minister of Finance, just to give a preview and not necessarily a detail, of our comprehensive analysis to respond to Sen. Ramkhelawan. In particular, I just wanted to say for the record that what the Ministry of Finance is at this point doing is that they are looking at a complete overhaul of the pension scheme in Trinidad and Tobago, and I think Members opposite on the Bench would be aware of this as well. In fact, they are focusing on six key aspects as identified as it related to the public servants:

1. The reduction in the vesting period from 10 years to two years;
2. The removal of the 331/3 year;
3. The introduction of pension portability.

This is an issue that keeps coming up each time.

I want to say something. It is interesting to note that I sat on this side of the Senate a couple years ago and listened to debates during the budget from this side, and that was the same question we asked. Under the UNC administration there was a proposal done and, in fact, a proposed legislation for pension portability, and when we sat on that side the question was asked and the then Minister in the Ministry of Finance, Conrad Enill, indicated that that would have been implemented as a matter of fact. Today, we are still raising the same issue as to pension portability.

Sen. Al-Rawi: Would the Minister give way?

Hon. C. Seeparsad-Bachan: Yes.

Sen. Al-Rawi: Much obliged. Through you, Mr. President, would the Minister be in a position to inform this honourable House that the pension portability and positions that she just referred to a while ago, whether that is, in fact, extracted from the very budget debate of the hon. Minister, Senator

as he then was, Conrad Enill in 2007, the same issues of pension portability that she is now discussing?

Hon. C. Seepersad-Bachan: I cannot say if it is raised from there. All I am saying is that what has been quoted is that this Government will also be looking at pension portability, but what I was reminding this honourable Senate is that we had debated this very same issue. If I am not mistaken, it was in 2003. I do not know if my colleague could help me here, but it was about 2002/2003 when we came into this Chamber. That was one of the first issues then raised in the first budget debate. Every year it comes up, yes, pension portability, because there are several issues. There are people who move from job to job. Either they have to leave it or they have to transfer it or cash it in and there are issues when you cash it in. So, Senator, I cannot say whether or not. What I am just referring to here is what has been provided to me by officials in the Ministry of Finance.

4. The improved survivor benefits;
5. Harmonization and modernization of pension legislation; and
6. the automation of the pension system.

The reason for the automation, main features of the automation of the pension systems are, that you will be able to get automated benefit calculations, centralized pension administration for the public service, centralized collection and storage of records of member contributions, improved data management and integration with what they call the IHRIS payroll and modernized pension administration practices and procedures.

What I think is of importance here, from what I am seeing is that there will be consultation with stakeholder organizations, and, in fact, there is the plan to modernize at least 26 pieces of legislation relating to pensions. That was an issue that has been raised over and over, and I think Members of the

other side would be very well aware of that. In fact, what has happened is the whole issue of the harmonization of all the pension legislation, some of which I will come back to because it also affects what is happening here with Petrotrin.

What is also stated here is that persons holding appointments in the service would be able to benefit from the improvement of survivor benefits to their spouses and children and enhanced—so based on what Sen. Dookie was raising just now, there will be the improvement of survivor benefits to their spouses and children; and an enhanced separation package by the removal of the two-thirds cap relating to service in Government; improved portability with respect to service, and faster processing because you would have had this automated system.

I think it is important to note that this work is ongoing and it is against this backdrop of an automated pension system that will accurately track the course of the employment history of a person in government service. Going further—that is in the short term—in the longer term of it is the larger objective to encompass a pension scheme for the entire public and private sector. This would involve a thorough examination—through the examination of the current pension arrangements in the private sector and stakeholder involvement and cooperation to secure the lives of those who have retired in private and public sector employment, and seek to maintain a comfortable standard of living after retirement.

Mr. President, the reason I say this is because I note throughout there seems to be concerns about the pension system and government plans. As I had indicated, this was not an attempt to give a comprehensive response to Sen. Ramkhelawan on all the issues that he has raises, but the Minister of Finance at a future point in time will address this issue. It is important for

me to also state, in accordance with the People's Partnership Government, our philosophy of consultation, that we will not move forward until there has been extensive consultation with all the stakeholders of the industry.

Mr. President, let me just move now to the issue of the Bill at hand and I want to start just by going through a number of the issues raised, especially because many speakers on the other side referred to the contribution of Sen. Basharat Ali. I want to thank the Senator, first of all, for that very interesting history that he gave to us [*Desk thumping*] on the formation of the energy sector, the evolution of the energy sector. Let me start by saying, because we talk about foundation and I want to go back to that issue of foundation later on. You keep saying at this point in time when we do have good Bills and bad Bills, and we have demonstrated and as I said in the other place, wherever there is a good Bill, we will not root it up and not pass it because it was your Bill. It will serve us best in Government because we will be able to move forward and accelerate and develop this country at the pace that we need to develop it, and that is why we will do so. [*Desk thumping*] So, this is why we move very quickly—[*Interruption*]

Sen. Hinds: What about the OPVs.

Hon. C. Seepersad-Bachan:—we will move very quickly. Do not bring the OPVs in this Senator. You should be ashamed—[*Interruption*]

Sen. King: Non-working.

Hon. C. Seepersad-Bachan: This is it; you should be ashamed to bring that issue here but like just the same when you mentioned Caroni; do not bring those issues here. “We going good.” Let me tell you, Senators, on the other side, that when we want to develop this country, we have to make sure that we include everybody, and we know how to separate the good from the bad. We know what is in the interest of this country, and this is wh,y next time

around, we will be right back here for another five-year term. [*Desk thumping*]

So, moving forward on the issue of the Petrotrin Pensions Bill, 2010, the first issue raised by Sen. Basharat Ali—[*Interruption*] I will not be distracted by this hon. Senator. Sen. Ali said that one of the issues is that he noted that when they asked for the Trust Deed and Rules, you asked the question, made in anticipation of the Petrotrin Pensions Bill, 2010, I want to say the reason that is stated on the front of this and why this has to be done in this way, the Trust Deed and Rules, is because first of all it is a condition precedent for the Bill. The trustee must be in place to receive the assets when transferred by this vesting Act, this Petrotrin Pensions Act. So once the Bill is passed and it becomes law, you now have a receiver in place to receive the assets

Mr. President, the other issue raised is the issue of the selection process. Let us start with the selection process. Before I go there, let me just as well clearly state again, just for the record, that this is a defined benefit plan. Not only are benefits known beforehand, these are benefits that are guaranteed to the employees and this is what this Trust Deed and Rules set out to do.

2.45 p.m.

You asked about the selection process and one of the things it is important to note is that, first of all, Petrotrin has a competitive bidding process and, therefore, for the competitive selective tender there were invitations to bid sent out to all potential trustees. These included Republic Bank Limited, First Citizens, Royal Bank of Trinidad and Tobago, et cetera, and they submitted bids for the trusteeship of the proposed merged plans. All invited parties submitted the bids.

Following submission of the bids, parties were invited to make presentations to an evaluation team that scored Republic Bank Limited as the best candidate and the recommendation was approved by the board of Petrotrin. I want to add that the Oilfields Workers' Trade Union representatives also attended a meeting with the evaluation team and it was only upon agreement from the union that the final recommendation was sent for approval. I hope that clarifies that issue.

I want to address the next issue with the NPSA, the Trintopec Plan. Somewhere along the line someone mentioned that there were varying figures; that I mentioned \$9 billion and somebody else mentioned \$8.2 billion. The market value as at June 30, 2010 is \$8,584,651,674. Where you heard the \$9 billion mentioned was when I was quoting. There was this complaint registered and in the interest of transparency I indicated that I would bring it to the House. It came to me but it was addressed to the President of Trinidad and Tobago. From my understanding, it was circulated among Members of the Independent Bench and I thought I should address those issues. They call themselves the retirees and they had objections. I was quoting some of the complaints they were making and the \$9 billion was not there. I clearly stated the amount in my contribution.

The NPSA, Mr. President, the National Petrotrin Staff Association, at this point in time is represented by the union and has opted not to be part of the merged plan. This is their right. If at any point in the future they want to change their minds, the option is available. They have a bargaining unit and their bargaining unit will continue to represent them.

At this time, based on the improved benefits offered through the merged plan, these improved benefits have also been offered to the members of this plan. I just want to get that very clear for the record to protect the

interest. So the NPSA has opted at this time not to be a part of the whole merger and we must allow them that right. Should they change their minds, we can address that situation.

Sen. Ali: I just wanted clarification on that because they have a separate plan within Petrotrin. They have their own trustee, RBC, so I would like to be assured, notwithstanding what we are doing here, that they will remain as a group within Petrotrin separate and apart because they are not part of the Bill before us or part of their trust deed. That is what I am trying to have clarified in my mind and that is what they would like.

Hon. C. Seepersad-Bachan: They will continue in accordance with the rules of their own plan. They do have representation. The company meets with them regularly and they are not part of this merger because they have opted not to be part of it. Petrotrin cannot go against their wishes. They cannot be forced. However, if at any point in the future they so desire, this will be addressed. This can be easily remedied by coming back to this Parliament and amending the Act to allow them to join.

Let me start with an issue that was raised earlier and again just now; that is the issue of inflation proofing. A number of speakers raised the issue. One of the benefits contained in the 2003 agreement between OWTU and Petrotrin was a mechanism for the adjustment of pensions in payment based on escalations in the Retail Price Index capped at a maximum of 4 per cent per annum. To date, based on that agreement, there have been two rounds of such adjustments with a one-third currently pending. The third round is expected to be effected as soon as this merger is completed. There is inflation proofing.

I will just start at the beginning of the plan based on the issues raised. Let us go to "Purpose". You raised this issue of 2.1.1 and 2.1.2 and Sen.

Basharat Ali indicated that we were looking at a former plan and you were saying that:

“...shall continue to receive the benefits they were receiving in accordance with the rules of the relevant Former Plan on 1 January 2003.”

Section 2.1.3. goes on to say:

“All persons entitled to receive a pension under a Former Plan on 1 January 2003 who were contributing members of a Former Plan...”

Here you were looking at an effective date of 2003 and these two clauses are just trying to identify the two categories of beneficiaries, the first being those already on retirement and already benefiting from the plan. The second are those still in employment. Today some of them may have already retired and they are receiving benefits, but at that point the second category would have been those who were still working on January 01, 2003. That is why you had the wording of the two clauses to pick up both categories; one category of workers which would have already retired and receiving benefits and the second category which would be workers at that time, but could possibly be workers who are retired today.

The other issue raised—I know Sen. Hinds also raised the issue of payment of trustees and reimbursement of expenses—Mr. President, was all expenses from the fund. In the individual fund at this point in time there is the provision for administrative costs relative to the operationalization of individual plans. Therefore, as a result of that, for the merger itself, this will be borne by the individual plans. That was one of the issues.

Sen. Ali: I do not think one should relate this to the individual plans. This is for the harmonization. That is for the benefit of Petrotrin, the principal company. Why should the individual plans be charged with those expenses?

It might have been so with a smaller plan, but now with the merger—and the objective of the merger is for savings so that the cost of pension is lower. With one pool, we expect it, so why should the plan be penalized for it and not the company which is benefiting from it? That is all I am saying.

Hon. C. Seepersad-Bachan: It is the standard practice among all plans that if there are administrative costs the plans would bear that cost. This is why, to support the harmonization, I do not think you can expect the company to carry the administrative cost. It has to be the plans.

The unification of these plans is the desire of the workers of the company. In accordance with practices in the financial sector—and I am sure Sen. Ramkhelawan will agree—the plans must carry the administrative costs as they normally do.

I move on to the issue of 5.6 “Agents and advisers”. Sen. Hinds also raised this issue.

“5.6.2 Legal counsel appointed by the Trustee from time to time may be counsel to the Principal Company.”

What has happened—and I raise a related issue as well—as many of us would know, there is really a small number of firms that specialize in pension matters. As a result, different attorneys in different firms will specialize in this area. How they are able to achieve this is that they set up Chinese walls to separate and prevent that conflict of interest.

It is one of the issues also raised here with respect to the conflict of interest with respect to Republic Bank being a trustee and investment manager. Currently, and this has been in the industry for quite a while—it again speaks to the underdevelopment of the market. As a result of that, Republic Bank would end up with these firewalls to ensure they do not have these conflicts of interest.

However, in each plan the trustee and investment manager are one and the same. It is no different from many of the other plans in Trinidad and Tobago because of the capital market being underdeveloped and the scarcity of trustees. The Central Bank of Trinidad and Tobago has signalled the need to remedy this situation and Republic Bank Limited is in the process of separating the functions, recognizing that the issue has been raised. It has been raised before.

One of the other things I would like to add is that the question was raised about the issue of the management committee. Before I go to that, let me deal with the issue that Sen. Basharat Ali also raised, the issue of why the pensions cannot get more than the 66 $\frac{2}{3}$ if the surplus can afford it. Let me just say—and this has been an issue not only with Petrotrin but also with several other pension plans—at this time, it is the required practice in accordance with the law. The Board of Inland Revenue follows the income tax regulations of 1963 and if this is not in your Trust Deed and Rules, the Board of Inland Revenue will not register the plan. I remember that from another company. It would not be registered unless that 66 $\frac{2}{3}$ is present as a cap.

I am being informed that to date the cost associated with the preparation of the merged plan has been borne by Petrotrin and future administrative costs following the merger will be borne by the plan.

Moving on to the issue of the role of the management committee because the Senator did say—let me just quote what he said:

“This management committee is a rubber stamp that sits in the middle and does what the trustees tell it to do or the company tells it to do. There is nothing in the plan that establishes what would constitute fit and proper persons to sit on the management committee.”

I stand to be corrected.

3.00 p.m.

In fact, although it is not spelt out in the Trust Deed and Rules, Petrotrin's policy has always been, from the management side, to select appropriately qualified persons to sit as the company's representative on the management committee. I think that is a directive coming out of the Investment Management Department at the Ministry of Finance, to all state companies.

As a defined benefit plan, Petrotrin as the employer is in fact the sponsor of the plan and, as such, guarantees the benefit outlined. The company's representatives on the management committee include, this is important to note, the Treasury Manager who is the ex officio chairman of the committee and possesses significant investment and treasury management experience—that has been the practise from ever since—the Secretary, who is similarly qualified, and an attorney has also been appointed to address the legal issues. From Petrotrin's side, there is the Treasury Manager and the Secretary, who is a legal person. It is anticipated that the union, in the nomination of its representatives, would take careful note of the critical role that the persons they appoint would be required to undertake. Also the general workforce in the election of the worker representative would no doubt take all of this into consideration.

I think that addresses the issue of the management committee. I want to indicate as well that the role of the management committee is to ensure the oversight of the plan. Therefore, their role has been reinforced in the draft document prepared. It is important to note that the management committee will ensure that the trustees and investment manager—they are not there to make investment decisions; that is the role of the investment

manager. Therefore, that is why they have been quoted in that light. Therefore, although it may appear to you, Senator, that it is a rubberstamp, it is not a rubberstamp. It is there for oversight. One of the Senators raised the issue; I think it was Sen. Ramkhelawan. [*Interruption*]

Sen. Ramkhelawan: Thank you for giving way, hon. Minister. Perhaps, as you have said at the beginning, some of these matters might be best left for response by the Minister of Finance, because I think you might be obfuscating some of the issues without qualifying. I said fit and proper. There is in fact no definition for the persons who would sit. Whether it is tradition, traditions change. Laws change as well, but the clarity with which the person's qualifications are not well defined—go ahead, but let us be clear that there is no such thing as fit and proper and the selection process can change at a moment's notice.

Hon. C. Seepersad-Bachan: What I am saying is the practice, as obtained in Petrotrin. There are individual plans. Today, we are addressing the merger of the Petrotrin pension plans. You raised the issue of the role of the management committee. I am here clarifying what is the role and what has been the role and the practice in the past. I hope that addresses the issues. We have not seen at any point in time, or at this point so far, any practice that deviates. I did not say that there was a definition. I want to make that very clear.

Moving forward, with respect to the other issues raised—I have addressed the 66²/₃ which was in clause 8(2)(2). Last but not least, I want to raise the whole issue of the termination of the plan, which is what I wanted to reinforce. I did say it in the opening and I really want to reinforce this point, in terms of the termination. The merged plan has allowed for superior benefits. It is a superior plan. In fact, whereas what would normally happen

in the past when there is a surplus and there is a termination, either because the business is going out—the termination of the business, or the cessation of the contributions to the plan—in this particular case, if there is termination, there is no temporary stoppage of contributions or pension; no pension holiday. In addition to that, the surplus itself, instead of being paid out, which has happened before, to the investment managers, these amounts, once they exist, are allowed to be used to invest in annuities for the workers' benefit. Again, I think it is important that I repeat that this pension plan has been shared with the actuaries and it has been sanctioned to ensure that all the current benefits are indeed in accordance with the pension plan.

The other issue raised, in going forward, is that some have taken the opportunity to say a lot on Petrotrin and to speak on the history of the evolution of Petrotrin, how Petrotrin was formed and where we are today. The Senator across there spoke on the issue of whether or not we should be able to use the foundation as it is. Again, I want to tell the goodly Senator, if there is a good foundation, if we find a good and solid foundation, we will build the house on a solid foundation, but if the foundation is weak we will not build a house on a weak foundation. I think that is important, because they speak about all these in glorious terms.

The other side was here on this side for eight years. The delays that—they were saying that there were no administrative problems during that time. I want to repeat, because I said it in my opening. This Bill was completed since 2007, and there was no reason why this should not have been instituted since 2007 even before that election. Their interest was all over the place. At that point in time, it was about how many contracts they wanted to award. He talked about solid foundation, but, under the management of the People's National Movement, this is the same company

today that is heavily leveraged, suffering with cash flow problems.

They have a GOP project that went from US \$375 million to \$1.5 billion and still counting. That is management on their side. They have a world-class GTL plant that will not see the end of the day; cannot produce a drop of liquid. It went from US \$50 million. Where is it today? I do not know. Close to US \$500 million, but they talk about solid foundation. There is a pending lawsuit of \$12 billion. We have eased that and gone to arbitration.

When you talk about the workers—this is why on Saturday at the long service award, I said that no worker in Petrotrin must shoulder or bear that burden, because of mismanagement and corruption on the part—this is the people's business. This is why this should have been passed before, not today when the balance sheet of Petrotrin is taking a hit, because of the non-merger and because its plan did not go through. These are the things that we speak about, being timely. This is why we would have to restore Petrotrin to the health it once was.

As I have said, and I would say it again, Petrotrin and the energy sector are one and the same. People see it as one and the same, and if Petrotrin is not healthy, the energy sector is not healthy and we need a healthy energy sector, which will be done. We will restore it to global importance for Trinidad and Tobago. These are the issues. We want happy and productive workers, because, when we are ready to transform and move the company forward, we have the resources to do it and you go down the road frustrating workers, which is what the PNM administration did for eight years, frustrate the workers throughout the energy sector. Therefore, that is why we chose to come very quickly to deal with this Bill and get it out of the way, so that we can get on with the people's business.

At times I really do not understand, and when we listen to some of the comments, because they are running all over the country talking about the economic hardship—I heard the hon. Senator, who is not here today, Dr. Henry, say that we are responsible for all the issues of the economic hardship of this country. Six months, and you want us to clean up eight years of mess? Where have we reached today? Who is responsible for where we are today? You are! Who is responsible for where Petrotrin is today? You are! You caused this, but you want us to clean it up.

You were talking about projects in the energy sector. It is amazing to know, in this country, when I took office, not an investor was in this country. All these so-called projects that they talked about, not one was on the table; not an investor sitting at the table to negotiate. It is all ghosts that they were talking about. We have to start from scratch. Senator, let me tell you the issue. Where there is a good foundation we will continue to use that foundation and we will build on it, but where there is a weak foundation—as anyone knows, you cannot fix and build something on a weak foundation—if it means that we have to root out the foundation, we will do so and build over.

Before I close, there was one issue I missed as well, which is the issue of the constitutional majority for this Bill. Rightly so, again, when this Bill came to this Senate, the union had met with the then Minister of Finance and indicated their concerns and their suggestions. Everyone sat here, many of you were here at that time, I see some on the Independent Bench, and agreed to accepting the union's proposals of including the constitutional majority. Some income is in a form of property protected, as enshrine as a constitutional right and it was necessary to have that special majority to protect the State from any potential litigation that may be caused by matters

beyond the State's control. Therefore, this is why it is clear that they would need the constitutional majority. That was what was advanced by the union, at that point in time. Out of an abundance of caution we are here and we are asking for the constitutional majority for this Bill.

As I wrap up this debate, I once again want to give the assurance that the Government of the People's Partnership remains committed to the pillars upon which it campaigned and the mandate upon which it was bought to this office. Therefore, we will not sit and barely do what a government is expected to do, as others have done before. As the Government of the People's Partnership, we will focus on meeting all of the expectations of our people and deliver, build, develop, protect, innovate, enhance and provide our citizens with what they need, so that our nation can regain its position of economic, social and intellectual leadership as we once enjoyed.

Mr. President, I thank you and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

3.15 p.m.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Sen. Ali: Mr. Chairman, in the definition of "Petrotrin Pension Plan", I think they forgot to change—it should read: "...Plan established under section 5(1)" and not "4(1)". It was "4(1)" before you put in the clause.

Mrs. Seepersad-Bachan: I am advised that is a typographical error and, therefore, it will be fixed.

Sen. Ali: This has to change. It says in 5(1):

“...Pension Plan is hereby established for the provision of pensions and other benefits for or in respect of eligible persons.”

So all I am saying is that in the definition for Petrotrin employees’ pension plan it should read “section 5(1)”.

Mrs. Seepersad-Bachan: Hon. Senator, what I am saying is that this is really a typographical error and, therefore, it will be included.

Sen. Ali: I am not saying it is a typographical error. This has persisted, because this Bill was changed when you went for the three-fifths majority and that was left there. That is all, so correct it.

Mr. Chairman: We have got the undertaking from the Minister of Energy and Energy Affairs that it will be corrected to read “section 5”.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Clauses 5 to 8 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

Question put and agreed to, That the Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment.

Question put, That the Bill be now read the third time.

The Senate voted: Ayes 29

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Bharath, Hon. V.

Baptiste-Cornelis, Hon. T.
Fazal, Hon. K.
George, Hon. E.
Ramgoolam, Hon. R.
Ramnarine, K.
Oudit, Mrs. L.
Abdulah, D.
Maharaj, D.
Mohammed, S.
Beckles-Robinson, Mrs. P.
Hinds, F.
Cudjoe, Miss S.
Al-Rawi, F.
Deyalsingh, T.
Dookie, D.
Ali, B.
Ramkhelawan, S.
Baptiste-Mc Knight, Mrs. C.
Drayton, Mrs. H.
Balgobin, Dr. R.
Wheeler, Dr. V.
Prescott SC, E.
Armstrong, Dr. J.
Anmolsingh-Mahabir, Mrs. P.

Question agreed to.

Bill accordingly read the third time and passed.

FIREARMS (AMDT.) BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Brig. John Sandy):

Mr. President, thank you. I beg to move,

That a Bill to amend the Firearms Act, Chap. 16:01, be now read a second time.

Mr. President and hon. Senators, before you today is a Bill to amend the Firearms Act, Chap. 16:01. This is only one Bill from a comprehensive package of legislation, which serves to demonstrate the Government's affirmative action in seeking to reduce the level of lawlessness and criminal activity which pervade our society. Other areas of legislation to be brought include: the Bail (Amdt.) Bill, the Evidence (Amdt.) Bill and gang legislation.

Mr. President, it is a fact that a high percentage of crime in this country is gun-related. In an interview with the press on July 16, 2010, Prime Minister, Hon. Kamla Persad-Bissessar, quoted some startling figures. She stated that out of the murders for the first half of the year totalling 288, 222 were committed with firearms, and a number of firearms used in these murders and other criminal acts are often illegally imported or manufactured or stolen from persons with a legitimate firearm user's licence.

Added to that dilemma is the fact that we have had a number of instances where, in collaboration with the drug trade and Trinidad and Tobago being a trans-shipment point, the guns and ammunition which accompany the narcotics, unfortunately, when those narcotics are trans-shipped, in most instances, the guns remain, adding to the number of firearms in Trinidad and Tobago.

Mr. President, it is a fact that a high percentage of crime in this country is gun-related. This state of affairs is untenable and, thus, a harsher

measure of gun control is required. In this regard, this Government is taking decisive action as there can be no excuse for recklessness, negligence or lawlessness.

Mr. President, we have the experiences where our children and other family members are traumatized. Victims, some of whom do not deserve to die by means of firearms, die. Robberies are committed and senseless killings accompany these robberies. Sometimes people are robbed and violated, and upon leaving, the felons, these criminals, would shoot their victims for no apparent reason, having already deprived them of their belongings.

Mr. President, the Firearms (Amdt.) Bill, 2010, proposes an average of a 50 per cent increase in penalties for certain offences involving a firearm or any prohibited weapon as defined by the Firearms Act.

3.30 p.m.

Mr. President, several other notable amendments have also been proposed. The Bill also makes provision for a three—strike rule in terms of any person, on his third conviction for possession of a prohibited weapon, being liable to imprisonment for life.

We must recognize that the criminals themselves include young children and old folks. They engage them in keeping these firearms. So you find in some areas you see young boys walking with firearms because they are carrying them for criminal elders. Girlfriends are also engaged to keep these firearms for their "bad boy" boyfriends. We have had instances, as my learned colleague said, where the elderly in the community, these criminals would engage them and pay them to keep firearms. So you find the police go on a raid and they say, "Well, this is a little old lady so we will not bother her"; but you find that in her bedroom under a bed the firearms are stashed.

It is a situation that is permeating even the old folks in our society who ought to know better.

I would now like to take you through the Bill in greater detail. Clause 2 provides that the Act shall come into operation on proclamation by the President. Essentially, until the President proclaims that the Act comes into force on a fixed date, it shall not be considered to be implemented. This is not intended in any way to be a cause for great delay; however, there are minor administrative matters which necessitate some time before amendments are implemented. One such matter is the appointment of a chairman to the Firearms Appeal Board which I shall discuss in greater detail shortly.

Clause 3 declares that the Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution. These sections concern the protection of the fundamental human rights of our citizens. Section 13 of the Constitution of Trinidad and Tobago permits Parliament to pass an Act and declare that it shall have effect, notwithstanding that it may be inconsistent with sections 4 and 5 of the Constitution, once the Act is shown to be reasonably justifiable in a society that has proper respect for the rights and freedoms of the individual.

This Government recognizes the need to protect the human rights and freedoms of the individual; however, we also firmly believe that it is necessary to protect our innocent citizenry. It is, therefore, critical that the current legislation is amended in order to provide more stringent measures to curb the high number of gun—related offences and clamp down on the illegal possession of firearms that our country currently faces.

It has become chronic and, in some instances, unfortunately, some of our prominent people have been heard to refer to situations as collateral

damage when bystanders are killed; extremely insensitive, but that is the nature of criminal activity that our country faces at the hands of these criminals with firearms.

Clause 5 seeks to amend section 5 of the Firearms Act by repealing the current subsection (2) and substituting the following subsection:

- “(2) In any prosecution for an offence under this Part or Part IV—
- (a) a person who is found with any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession of such firearm or ammunition; or
 - (b) a person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any firearm or ammunition is found shall be deemed to be in possession of such firearm or ammunition, unless he proves that the firearm or ammunition was there without his knowledge and consent.”

We have had instances in the past where firearms are found in vehicles at roadblocks; and what do they do? There is an innocent youngster, with no record, in the vehicle and they would indicate that the weapon belongs to him; he takes the wrap and the real criminals go free. We are trying to change that. This section serves to essentially make it easier for the prosecution to prove its case. The Bill shifts the burden on the defence.

The proposed amendment has been adopted from the Dangerous Drugs Act Chap.11:25. It means that if a person is found by the police with a firearm or ammunition, he is deemed to be in possession and is deemed thereby to have knowledge and control of it, for all intents and purposes, until he can prove otherwise. Should that person be the holder of a valid

firearm user's licence or be one of the persons subject to the exemption clause at section 7 of the Act, then there is no issue, because he holds the firearm or ammunition legally and in accordance with the Act. However, if he is not the holder of a valid firearm user's licence and is found by the police to be in possession of a firearm or ammunition, then he must prove that it was there without his knowledge and consent.

We have had instances in the past as well where sons whose fathers have a firearm user's licence, knowingly or unknowingly of the holder of the firearm user's licence, have been found with weapons and they claim that they belong to their father, which is certainly no excuse. The father himself ought to be liable. There are so many instances when firearms are lost and misplaced by people who ought to know better, people in possession of a firearm user's licence. There was one instance where a gentleman left his licensed firearm in his briefcase in his motor car and then, having lost it, he wanted to go back to the authority to have it replaced, after exhibiting that type of irresponsibility.

Clause 6 amends section 6 of the Firearms Act by increasing the fines and penalties by approximately 50 per cent. I wish to specifically point out the inclusion of subsection (5) which reads:

"Notwithstanding subsections (3) and 4, a person who has at least two previous convictions for an offence under subsection (3) or (4) and who is charged with an offence under any of those subsections, shall be tried on indictment and is liable on conviction to imprisonment for life."

Mr. Panday: Sen. Hinds, you see determination?

Sen. The Hon. Brig J. Sandy: This is a significant insertion, as it now provides that where a person, after having been previously convicted of

possession of a firearm or ammunition, is now faced with a third charge of possession, he no longer has the option of a summary trial. His trial is now one of indictment only and he would now, upon a third conviction, face a term of life imprisonment. This measure serves to demonstrate the seriousness with which this Government views the possession of illegal firearms.

This Government envisions that this particular version of the three—strikes law will be effective because it will target those repeat offenders who have refused to change their criminal behaviour. The law will only apply to convictions, therefore, if a person is simply arrested and charged and not found guilty at trial, he will not be subjected to the punishment of the three strikes law. The life sentence for third—time offenders will keep repeat offenders off the street and the threat of such a long sentence may stop a two—time offender from committing a third weapon—related offence.

In this regard, we speak about the criminals and their intent. I recall a couple decades ago, while operating at the time with a senior police officer in a joint operation, he said to us that there were two types of "fellas"; there was the criminal who was a criminal, a criminal and a criminal, and he said there was the lawbreaker. The lawbreaker was more the type of individual who would break the law more so for survival. I remember the example he gave was that out of poverty a father would steal to feed his children, but a criminal is a criminal and is a criminal. In this instance, those criminals would be put away for life on their third conviction, to rid our society of their input and influence.

Clause 8 amends section 9 of the Act, whereby it seeks to increase the penalties for those persons convicted of selling or transferring of firearms or ammunition to another person without lawful authority. We have sought to

include in this section, for the first time, an offence at subsection (4) whereby, among others, any member of the protective services who commits such an offence of selling or transferring of firearms or ammunition to another person can be liable, on conviction of indictment, to imprisonment for 20 years. In accordance with section 6(2) of the Act, the clause is applicable to persons acting in the capacity of a police officer; a member of the defence force; the Director Trinidad and Tobago Forensic Science Centre; any scientific officer designated by the Director Trinidad and Tobago Forensic Science Centre; a customs officer while patrolling the territorial sea or a prison officer.

We have heard, too often, of the instances when members of our protective services are accused of renting firearms to criminals. This is something we must stop and we must stop firmly.

3.45p.m.

Mr. President, hon. Senators, as the saying goes, with great power comes great responsibility. The aforementioned persons are allowed by the Firearms Act to have in their possession firearms and prohibited weapons by virtue of their office as well as the role and duty that accompany that office. This measure by the Government will serve to clamp down on the illegal practice of renting or selling firearms by those rogue elements that have invaded our protective and legal enforcement services. Once they are caught and convicted there ought to be no question as to how high a standard of accountability which they should be held. As the saying goes, to whom much is given much is expected.

Clause 15 amends section 21B of the Firearms Act and gives the Commissioner of Police the discretion to suspend or refuse the granting of a Firearms User's Licence or a Firearms Employee's Certificate for five years

in the case of the person convicted of an offence under the Domestic Violence Act. This gives a greater discretionary power to the Commissioner of Police where before he had no such power in instances where persons may have been convicted of offences under the Domestic Violence Act. I wish to point out that making the power a discretionary one as opposed to a mandatory one by no means devalues the fact that domestic violence offences are serious in their nature.

Too often, Mr. President, we have heard in the past members of the protective services cleaning their firearm and it explodes, killing one of their loved ones, which is something I always have difficulty in accepting, because, if you are a trained officer in the use of a firearm, you know the first thing you do, as my learned friend across there, a former policeman, would tell you, is to unload that weapon, clear it and ensure that it is cleared before you start to clean. However, we have had those types of excuses or reasons for explosions in the past.

However, the Domestic Violence Act is wide-ranging in nature. For instance, the protection order under 6(1)(c) Part III of the Act can stipulate that a respondent pay interim monetary relief to the applicant for the benefit of the applicant and any child where there is no existing Order relating to maintenance, until such time as an obligation for support is determined pursuant to any other written law or under section 6(1)(c) Part VI declare that the respondent make or continue to make payments in respect of rent or mortgage payments for premises occupied by the applicant.

In this regard, a person against whom an Order has been made and who contravenes any provision of that Order or fails to comply with any direction of the court is deemed to have committed an offence under the Act. Previously, where such a person may have failed to provide maintenance or

interim monetary relief as directed by the court, the Commissioner of Police had no discretion in matter and was obligated to suspend or disqualify that individual's Firearm User's Licence or Firearm User's Certificate for a period of five years.

With the passage of this amendment the Commissioner of Police can now exercise his own judgment in determining whether to suspend a person's licence or certificate or refuse to grant same to that person. This allows for a bit of flexibility for the Commissioner who can use his discretion on a case-by-case basis to determine whether, under the circumstances, the failure of the individual, for instance, to pay maintenance in a certain case is enough to warrant the refusal or suspension of a licence. I do not know if you are aware, but, before an applicant is granted a Firearms User's Licence, his home is visited, his spouse is asked whether she is comfortable with it, he has to show where it will be stored. There are also investigations done on the individual to ensure that he is worthy of carrying a Firearms User's Licence. So, all that is done prior to the granting of the Firearms User's Licence and it still gives sole discretion to the Commissioner of Police or sole discretion resides with the Commissioner of Police.

Clause 17 shall amend clause 22B of the Firearms Act by repealing the current section 22B and replacing it with the following words:

“The Board shall consist of —

- (a) the chairman who shall have at least ten years experience as an attorney-at-law; and
- (b) two other members,

all of whom shall be appointed by the President.”

Currently, Mr. President, the Act designates that the Chairman of the

Firearms Appeal Board shall be the Chairman of the Police Complaints Authority established under section 4 of the Police Complaints Authority Act. The Firearms Appeal Board's purpose is to hear and determine appeals from the decision of the Commissioner of Police. The person is dissatisfied by the decision of the Commissioner of Police not to grant him a firearms licence, or certificate, or a permit, or to revoke it, may appeal to the Board to review the decision.

This Government is of the view that the Chairman of the Police Complaints Authority should no longer be chairman or a member of the Firearms Appeal Board. One of the main reasons for this is that the Police Complaints Authority is no longer under the ambit of the Ministry of National Security and would instead fall under the Ministry of Justice. Therefore the connection between the Firearms Appeal Board and the Police Complaints Authority shall no longer exist. In this regard and consequently it follows that these two positions should now be separated due to lack of practicality.

With the new expanded role of the Police Complaints Authority as identified under the Police Complaints Authority Act, 2006, there would also be a conflict of interest as far as time is concerned. One individual would have to fulfil the role of chairman of two different portfolios, and, as such, one position would always suffer. It is expected that, with one individual filling the post of Chairman of the appeal board and another in the post of Chairman of the Police Complaints Authority, there will be greater efficiency. Further, the separation of the positions would allow for matters to be dealt with more expeditiously and effectively.

Clause 23: additionally, clause 23 of the Bill, aside from increasing the penalties for the offence of failing to comply with the requirements of

the Act with respect to loss or theft of a firearm or ammunition, seeks to repeal the unproclaimed subsection 28(1B). This section was inserted by Act No. 3 of 2004 and reads as follows:

“Every person who finds a firearm or ammunition shall, within twenty-four hours of finding such firearm or ammunition, deliver such firearm or ammunition to the police officer in charge of the police station nearest to the place at which he found the firearm or ammunition and shall give a written statement as to the time on which the circumstances in which he found the firearm or ammunition.”;

This section has thus remained on the statute books but unproclaimed for approximately six years. The Government has decided to repeal this section as we have considered that such a section would indeed be dangerous to proclaim. Further, it runs contrary to the introduction of possession of a firearm being now a strict liability offence. Upon closer inspection and understanding of the section, it provides a veiled defence for those gun-reeling persons who may be found by the police to be in possession of a firearm or ammunition without being the lawful holder of a licence. The person can utilize this section to tell the police that he had only just found the weapon a few hours ago and had every intention of delivering it to the police station. This could present a loophole for any criminal found out there with a weapon. “I just found it”, and he has another 23 hours in which to—[*Laughter*] so we are trying to eliminate that loophole.

This, Mr. President, is by and large the main reason as to why this section has not yet been proclaimed. As mentioned before, this Government’s aim is to rid the country as best it can of the number of illegal guns and ammunition in the hands of lawless members of society who have no respect for human life or rights. We, therefore, do not intend to provide

built-in defences to those persons who are bent on causing mayhem among our citizenry. The removal of this section by no means precludes those honest citizens of our land from coming forth to deliver to the nearest police station any firearm or ammunition which they may find. In fact, I urge persons to continue to do so, to continue to adhere to your civic duty and sense of moral responsibility, and together we can dramatically reduce the amount of illegal weapons and ammunition on our streets.

In this regard, we are inviting the national community to partner with our protective services. As you are aware, there is a drive now to change the image of the police service to instil a sense of trust among the citizenry, and in this regard we call upon the people of Trinidad and Tobago to assist our police officers in achieving that. Additionally, not enough emphasis is placed on ammunition. We speak about firearms and ammunition all the time, but insufficient recognition is placed on the fact that when someone is held in possession of ammunition it is equally as dangerous as being held with the firearm. What has happened in the past and still continues to happen, the firearm would be in one area and the ammunition somewhere else and at the appropriate time they would put them together.

Even some of our innocent citizens would probably find a round of ammunition and rest it on a table or a desk somewhere and would be shocked and horrified to learn that following a police raid they are arrested for one round of ammunition.

Hon. Senator: Or an empty casing.

Sen. The Hon. Brig. J. Sandy: Or an empty casing, you are quite right. We need to educate our national community that one round of ammunition, an empty casing, a shell or any part thereof is considered arms and ammunition, and, as such, you are culpable and you are committing an offence.

4.00 p.m.

Mr. President, Members of this honourable House, I have taken you through the most salient aspects of the Firearms (Amdt.) Bill, 2010. The other clauses, as I have mentioned previously, seek to amplify and strengthen the fines and penalties regarding the other offences under the Act. This serves to further signify the gravity with which this Government intends to treat with the issue of illegal weapons in this country. This legislation signifies this Government's zero tolerance approach to the issue of illegal gun possession. Too many innocent lives have been lost in crossfire between gang members and too many members of our society live in fear. We have had instances of people in their homes shot and killed by what we call stray bullets. It is totally unfair to those people who now would be leaving orphans in the wake of their death.

Sen. Hinds: Whole families.

Sen. The Hon. Brig. J. Sandy: You are quite right. Families are massacred and sometimes we take these things lightly because they do not affect us personally. Some years ago there was someone who fired off a weapon on Old Year's night and killed someone in the effort. We take these things too lightly and, as such, we need to get rid of these firearms in our society and to bring back some sanity to our lives.

We must take firmer control over those persons who are the legal holders of firearm user's licences as well and hold them accountable for misuse and mismanagement of their weapon. With the passage of this legislation, the Government intends to hold the members of law enforcement to a greater level of accountability, for they are the ones who have easier access to firearms.

I am sure that my colleagues on the other side will agree with me that

we need stronger gun control laws and we need them now, and they will therefore join me in supporting this Bill.

With these few words, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Faris Al-Rawi: Thank you, Mr. President, and to hon. Members of this distinguished House. It gives me great pleasure to rise to debate this very important piece of legislation. This legislation comes at a time in Trinidad and Tobago when we are wrestling with some of the worst evils possible. Indeed, the evils that prevail currently are of a significant variety. We are faced with discontent; we are faced with economic hardship; we are faced with high inflation; we are faced with rising unemployment; we are faced with difficulties that have arisen as a result of changes of government; we are faced with difficulties in perspectives.

These are areas which I hope to come to in much more detail, but by way of a very cursory introduction I wish to state that this piece of legislation is perhaps one of the most important bits of legislation that we have debated for this year. We, on this side, consider our roles as Parliamentarians in the very many facets that that role offers: firstly we consider ourselves persons who are engaged in the creation of laws and; secondly, persons who create laws to assist those who administer the laws, and by that I mean assisting the separation of powers and the Judiciary itself, and thirdly we consider ourselves as persons obligated to debate legislation in its fullest form, firstly, for the immediate protection of citizens, secondly, so that the record of Parliament can form a proper aid to those who have to interpret the laws that we make and, thirdly, so that arising out of that debate, solid recommendations may come for us as a nation, receiving laws for our mutual benefit.

I stand on this side as an Opposition parliamentarian, and I have said it many times before but I wish to reiterate it, we certainly do not oppose for opposition sake, but I do intend to give the very distinguished Brigadier some strong challenge to some aspects of his contribution, or I should state, some aspects of his contribution which I think he ought to have made. I do so respectfully, with a view to encouraging strong recommendations, again for our benefit as a nation.

This legislation—and before I get there, may I offer a heartfelt congratulation to the Leader of Government Business, Mr. Panday, for adopting a habit that I noticed in my readings of *Hansard* that his predecessor, at one point, Sen. John Jeremie SC had adopted, and that is of producing a track change document. [*Desk thumping*] He is to be warmly complimented for providing to us a track change document which puts the amendments proposed in the context of the legislation. Regrettably, that came late today, but it is nonetheless sincerely welcomed and I wish to publicly thank you, Mr. Panday, for heeding the recommendations of all of us present when we debated the Motion on the efficacy of Parliament.

Sen. Panday: You should also thank the President.

Sen. F. Al-Rawi: Mr. President, I know—and I had said before—that I know you to be a man of sincere technical ability, particularly on computers, as whilst you were in practice I had the pleasure of working against you and with you at times and you made prolific use of the tools offered by the computers. I had actually prepared, for the context of my debate, a marked-up version of the Act itself, so I am very happy that this has met us here on the tables today.

That gratitude expressed, I turn now to my contribution as started. I was about to embark upon the legislation specifically and to state that the

Firearms Act, Chap. 16:01 is, in fact, an Act which is over 30 years old. It was enacted by Act No. 4 of 1970; it has been amended on a total of—

Sen. Panday: Forty years old.

Sen. F. Al-Rawi: It is true. I am a year shy of 40, I should know that. It has been amended on a total of nine occasions and this would be the tenth occasion and I should say that when one reviews the history of amendments of this particular legislation, we will note that in the 1970s there was a period of strong legislative review; in the 1990s there was a period of strong legislative review and in the period 2004—2006, there was a period of legislative review.

Coincidentally, one would perhaps note, 1970, 1990 and the 2000s being marks in Trinidad and Tobago's history, which, I am sure, we are all aware of, and I am speaking to the Black Power revolution of the 1970s; the failed coup attempt of the 1990s—1990 specifically—and, in fact, the sincere challenges which we as a society have faced in the period 2000 to date. That is an experience in the period 2000 to date which is shared by many countries, as I will point you to some statistics that reveal that we are not unique in the scourge that ravages our country right now. What we do, however, by way of legislative proposal, is certainly unique, and I am going to come to that in a moment.

The legislative reform, as we have it, is quite a sincere one. The hon. Sen. Brig. Sandy has taken us through the specific main clauses. In reviewing the legislation for debate I noted that there are 30 clauses in this Bill; that four of them go to what I call the first type of amendment, being substantial amendments to the law itself, and that the rest of them, save for the introductory clause and the amendment to the title and clauses 4 and 5 savings, relate actually to increases in fines and increases in terms, and by

that I mean jail terms or sentencing.

Of the significant amendments that the hon. Sen. Brig. Sandy has taken us through, it is noticeable that the one that falls for immediate attention is, in fact, section 5, and if you were to permit me to take you to that section, in the Bill itself section 5—and I start first with the Explanatory Note which is on page 2 of the Bill. The Explanatory Note tells us in the first paragraph that:

"This Bill would also make unlawful possession of any firearm or ammunition as strict liability offence."

Sen. Panday: Hon. Member, can you give way? In the beginning it was decided that there would have been, once you were found in possession that you would be guilty. As you see in the middle of that sentence it says, "until the contrary is proven." It is in those circumstances that we omitted to delete from the Explanatory Note the words, "strict liability". But if you notice what has happened in this matter, like the narcotics, what we have done is, we have shifted the burden—reverse burden—from the prosecution to the defence. You would know in law that you have to prove the *actus reus* and the *mens rea*.

Sen. F. Al-Rawi: If I may, there is a rule in a different capacity in our Standing Orders that speak to anticipation. He anticipated me quite properly. Mr. Panday is as sharp as I know him to be, because he recognized that I was about to speak to the need for certain amendments that I would wrap up to. So I am very happy that he is on his sharp point today and that he recognizes the skill that this Opposition Bench possesses—[*Desk thumping*]
—in rising very quickly to very important amendments that we need to make. [*Desk thumping*]

I put it in the context of the rule in *Pepper v Hart* that I know you are

very well aware of. In fact, that is supplemented—and I will come to this particularly in the case of *Sweet v Parsley*. [*Desk thumping*] That latter case, in fact, talks to the need for understanding the specifics of the intention of the mischief which Parliament seeks to cure by bringing legislation of this type. So it would be very dangerous, in fact, if we were to leave the expression, "strict liability" as it stands in the Explanatory Note, because, as the hon. Subhas Panday pointed correctly; he pointed to the fact that this is, in fact, not a crime of strict liability; what this is, is an attempt to reverse the classic statement of law set out most notably by Viscount Sankey in the 1935 Appeal Cases of---[*Desk thumping*] My friends compliment me too much—but set out by Viscount Sankey in the *Woolmington v DPP* case. As I am sure you know, that case was the first statement in the common law which spoke to, as Viscount Sankey correctly put it, that golden thread which existed in the common law that you are innocent until proven guilty.

Sen. Panday: O' level law.

Sen. F. Al-Rawi: O' level law. In fact, it is basic and trite law, which is why the appearance of the words, "strict liability", in the Explanatory Note is discombobulating, to use the word—[*Desk thumping*]—proffered by my friend, Sen. Hinds. It is discombobulating to O' level students of law.

Sen. Hinds: Well putted; well putted.

Sen. F. Al-Rawi: I will come specifically to the type of amendment that I am speaking of there, but before I move too far into an analysis of particular sections, I wish to make perhaps a bit more stride into the effect of this legislation as proposed to be amended, when one reflects upon the interpretation section and the definition section of the Act as it currently stands, because, quite properly, we must recognize the Act is to be construed and the amendments to be construed in the context of the whole legislation.

4.15 p.m.

The hon. Brig. Sandy did point us to a snapshot of the definitions that we must focus upon and I ask you, Mr. President, to reflect upon Chap. 16:01 of the Firearms Act, specifically section 2 of the Act, and that is where “ammunition” is defined. Ammunition is actually set out at subsections (a), (b), (c), (d), (e), (f) and (g) of section 2 in a very broad sense to include ammunition for any firearm of any type; every shell, cartridge, bomb, hand grenade, bullet-like missile; every part of such shell, cartridge, et cetera; every fuse, percussion cap; every bullet clip; any explosive when enclosed. So it may not in fact be in any traditional sense—that is to take care of what we would call home-made ammunition or home-made weaponry—and everything also declared by Order of the President. That must be immediately next read by the definition of “firearm” at section 2 of the Act.

“‘Firearm’ means any lethal barrelled weapon from which ammunition can be discharged any prohibited weapon, and includes any component part of any such weapon and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon.” Et cetera, et cetera, and it goes on to include certain exceptions to that. That, Mr. President, is also to be next appreciated in the context of prohibited weapon and prohibited weapon means, specifically, if you look at section 2 under “prohibited weapon”, subsection (c):

“any weapon of whatever description or design which is adapted for the discharge of any noxious liquid, gas or other thing;”

When those definitions are appreciated in the context of the proposed amendments to section 5, specifically the repealing of section 5(2) and the substitution of the language proposed by this Bill, one would appreciate that

and I read here from the Bill, Mr. President, “section 5 is amended proposed that subsection (2) read:

“In any prosecution for an offence under this Part or Part IV”—
that is of course of the Act, there being five sections to the Act—

“(a) a person who is found with any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession of such firearm or ammunition;”

I draw you to the reflection upon the words, “firearm or ammunition”; firearm including, in fact, a prohibited weapon at law.

“(b) a person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any firearm or ammunition”—
again, I include prohibited weapon—“is found shall be deemed to be in possession of such firearm or ammunition unless he proves that the firearm or ammunition was there without his knowledge and consent.”

Mr. President, I am inviting focus upon the fact that the definitions of “firearm”, of “ammunition” and “prohibited weapon”, are in fact all mutually inclusive. Each one includes the other. May I correct myself and say that ammunition perhaps does not, but definitely firearm includes prohibited weapon but insofar as those things are specifically included in their various parts, we now look to appreciate that which is being proposed by section 5(2).

Section 5(2) makes distinction, firstly, between actual possession in section 5(2)(a). That is when one is found with any firearm or ammunition on your person, and distinction for the place where it is found and those

persons who occupy or control. The point is that the legislation as proposed is going a very, very long way into an area that is potentially open to a lot of abuse. I say that because, whilst it is we as drafters of legislation, wearing that veil of ignorance, which by proper jurisprudence we should wear in coming up with laws, whilst that may be the case, we as legislators cannot forget the context within which the law is being passed. That context of the law is in fact the omission that I spoke of earlier, that I had hoped hon. Sen. Brig. Sandy would have referred us to. The amendments proposed to this legislation divorced from the context of our local society and I say even our Caricom society, and our placement in the geography of Trinidad and Tobago versus its neighbours, has to be factored into this equation. I had hoped that we would have had reflection upon the statistics which are available, certainly in the public domain, but perhaps better statistics available from the Ministry of National Security.

This proposed section 5(2) which speaks to possession and let me break it down least. I am guilty of being too academic. A man is walking down the road and he walks into a building. He has a gun in his waist; that gun falls out. He walks to another part of the building—let us say it is a restaurant or a bar. The police come in to conduct inquiries and they find the weapon on the floor. The proposed section 5(2)(b)—if it forms part of section 5 of the Act—actually means that those persons who are in control of or in possession of that property are all to be arrested. They are then to be taken down to the station and charged, and then they must run through the process. I will come to process as a separate subcategory of contextual appreciation of the law as proposed in a short while. Those persons, and that includes perhaps someone who is the reputed owner of the building, but who happens not to be there—let us call him an absentee owner—that person is

also included, and that person is now brought down to the station on legitimate inquiries of the police. But in a society where the police are clamouring for better wages, where there is an open recognition that there are, in fact, some rogue elements to the police force. I am not suggesting that we brand every good policeman who serves this nation so commendably, including those many policemen who are present in Parliament today. I am not suggesting that we tarnish those individuals, but it is an accepted fact and a foregone conclusion that until we address the wants of the police service, that our society as it is constructed—and by that I mean the hardships of society at present: wages, pressures on the economy, the economy bearing pressure on individuals. It encourages—[*Interruption*]

Sen. Panday: You might be going down a wrong road.

Sen. F. Al-Rawl:—some rogue elements to act in a difficult manner to those who are legitimate persons in this country.

Mr. President, the proposed section 5(2) as proposed to be amended is also in my view, disjointed, and I say that because proposed section 5(2)(a) and (b) are in fact in contradiction to each other. Bear me out in my explanation of this. The proposed section 5(a) and section 5(b) appear to have been drawn from different model Acts. Clause 5(b) appears to have been drawn from the Narcotics Act without importation of the language which would have run in front of the proposed section 5(b)—that is the introductory language—and the proposed section 5(a) appears to have been drawn from a different piece of legislation.

Sen. Panday: Act No. 38 of 1991. That is where it came from.

Sen. F. Al-Rawl: Thank you. I am grateful that the hon. Sen. Panday has told us. It would help in our debate of legislation if we are told where legislation originates from or where draught legislation comes from other

than on the day when it is being debated.

Sen. Panday: I must do your homework for you?

Sen. F. Al-Rawl: To get the points across—Mr. Panday, I am quite capable of doing my own homework as I am sure you recognize. [*Desk thumping*] I am grateful for Mr. Panday's assistance because he is a very experienced attorney in the criminal arena and I am a poor civil attorney.

Sen. Panday: You poor?

Sen. F. Al-Rawl: So despite the difficulties that we have, there is that we are here in this Parliament by way of mutual support to each other, and whatever research I have I will surely share with my good friends opposite.

In fact, that leads me to a little humour in that I witnessed my grandfather whilst I was growing up actually reading over *Hansard* debates where he then, opposite to Dr. Williams as he was, Dr. Williams would stop the debate and say, “Hey Seukie, yuh get that from?” So there was an old-time politics that I subscribe to that says that we must reciprocate and help each other with construction of legislation. [*Desk thumping*] I am grateful that Sen. Panday recognizes that, he coming from a slightly more advance than I, era, but I will not say he is quite yet the silver fox that the other Panday is, but he is on his way there.

Mr. President, in coming back to the point of the disjoint, the disjoint is difficult when one comes to construe the legislation, and by that I mean in a court of law. There is, in fact, very strong legal precedent that speaks to how it is one is to interpret law, and permit me to pull the case law that I am referring to. I am, of course, taking us to that which I referred earlier and is the cases that speak to interpretation relative to criminal statutes. In the case of *Sweet v Parsley*, it was recognized that whenever a court is called upon to construe legislation and that legislation is dealing specifically with an

offence which is criminal as opposed to a quasi-criminal, that whenever the section is silent as to *mens rea*, that there is a presumption that in order to give effect to the will of Parliament, the words “importing *mens rea*” must be read into the provision. I stopped to explain to those who are not lawyers. *Mens rea* is, of course, is the Latin term, *mens rea* meaning “guilty mind”. That is one of the essential elements in crimes, one of—the other being *actus reus* which is the guilty act.

So, my point relative to the Explanatory Note was that we could not properly say this was a strict liability offence, because, of course, strict liability means that there is no *mens rea*. You remove the *mens rea*; you say so long as you are found with the thing it is irrelevant. Whatever your intention was, you were found with it, therefore, you are guilty. Section 5(2)(b) as proposed specifically refers to consent and knowledge and, therefore, by implication refers to *mens rea* and section 5(b) when read with section 5(a), there is room for mischief by way of interpretation, because, if you were to read the case law in existence relative to statutory construction and *Sweet v Parsley* certainly one that I commend to all, and that is 1970 Appeal Cases at page 132 where Lord Reed laid down the principles to be read relative to importing *mens rea* by way of the will of Parliament, we must be careful to make sure that we are not dealing with section 5(2) as proposed, being one which would be open to an importation of *mens rea* relative to section (5)(a). I know this sounds awfully complicated, but it is anticipatory of the kind of debate that a strong lawyer in court could enter into, and for that reason we certainly do not want to have the reverse effect of passing legislation which we had hoped would have benefited society but which results in a proliferation of litigation straight to appeal process and to the Privy Council.

So, in accepting the role that I do as an Opposition parliamentarian, I accept that we are dealing with a balancing of rights, and it is a serious balancing of rights which we recognize in this piece of legislation because it has to deal with an exception to sections 4 and 5 of the Constitution in the first place which speak to our right to due process and because we are reversing the burden of proof in the classic *Woolmington v DPP* sense, we must therefore make the acknowledgement that we are passing law which is contrary to sections 4 and 5 of the Constitution.

Lest Mr. Panday anticipates me too quickly before the bell of 4.30 p.m., I wish to focus upon the point that there is a conflict potentially between sections 5(2(a) and (2)(b) as proposed, and that we must look at this in some better view.

Mr. President, my eye is on the marker because I have several other sections that I wish to recommend for consideration to the hon. Members present and I see it is now 4.30 p.m.

Mr. President: Hon. Senators, it is 4.30 p.m. as Sen. Al-Rawi has pointed out. Before we proceed to the tea break, however, I would like to congratulate Sen. Dookie on his maiden contribution here this afternoon. [*Desk thumping*] We will therefore take the tea break now and resume at 5.00 p.m. The sitting is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. President: When we took the tea break, Sen. Al-Rawi was on his feet and I make it that he has another 18 minutes before the end of his submission.

Sen. F. Al-Rawi: Thank you, Mr. President. When we left off, we were having a look at the particular sections of the proposed Bill and I was

addressing you as to the potential inconsistencies between section 5(2)(a) and 5(2)(b) specifically as they relate to *mens rea*, meaning the intention of the guilty mind as one of the classic elements of crime; there being two elements of crime that of a guilty mind and that of a guilty act.

In summary, I am saying that the section as proposed, in particular section 5(2)(a), is a dangerous one and we ought to look at it in some better form strictly as it speaks to the draughting of that term but also, as I would come to in a short while, in looking at that term in relation to the context within which the legislation operates. By that I mean the societal context within which that legislation is intended to operate.

I leave that point for a moment and proceed along a few other observations relative to the Act itself. I would like us to have a reflection upon the inclusion of the proposed subsection (5) to section 6 of the Act. I think that is proposed by clause 6 of the Bill itself. In short, I rise to support that inclusion as the term has been coined in other jurisdictions and here a short while ago by Sen. The Hon. Brig. Sandy, the three strikes rule. That is certainly a very laudable, strong deterrent context and, as we all know, laws are meant to be, as one of their consequences, deterrent in their effect.

We have next an observation as it relates to the impact that possession as reformatted by the proposed clause 5 will have in relation to subsection (h) of clause 7. It does not form part of this Bill, but on the marked up track change document that you have circulated, Mr. President, I would like us to have regard to section 7 of the Firearms Act itself, specifically section 7(h).

It actually says at subsection (h):

“Any person (including a restricted person) who came into possession of any firearm or ammunition in the capacity of executor of administrator of the estate of any deceased person, or Trustee in

bankruptcy, or liquidator of any insolvent person or of any company in liquidation, during the period of fifteen days after the day upon which he came into possession of such firearm or ammunition;”

Specifically that is one of the savings of a permitted circumstance where somebody can return a firearm to the correct authorities without being charged for possession.

Mr. President, we have seen later in the Bill that section 28(1)(b) of the Act is being proposed to be repealed mainly because it constitutes an inconsistency to the recasted concept of possession as we have now put it. However, dare I suggest that we ought to have regard to section 7(h) as well from two perspectives.

As we know, there is an administrative process to go through before being executor, administrator or liquidator on a bankruptcy. Technically that may take years. So you may find yourself in the position where a licensed firearm holder passes away, leaves a gun in a safe, for instance; his child opens the safe, finds the gun. You have removed section 28(1)(b) and the legitimate protection to call the police and say: “Listen, I have just found this firearm; I would like to return it. I have 23 hours left.” In fact, he has not yet gained the capacity under section 7(h) as an executor/administrator to a person to be clothed in law to avail himself of the protection that section 7(h) purports to give.

I recommend to the Government that if we are seeking to remove exceptions to possession, we have to look at section 7(h) as well. We have to factor in the fact that it takes considerable time before the court actually clothes you with the capacity of an executor, administrator or liquidator under the circumstances set out in section 7.

While I am on section 28(1)(b) as it is proposed to be repealed by the

Bill, I wish to point, by way of a real world example, to a case which arose in the United Kingdom. That is a case which concerns an army officer who saw a shotgun on the ground outside his apartment. He called the police and said: "Listen, I have just seen a firearm on the ground. I wish to return it." He picked up the firearm, turned it in to the police and was promptly charged. That is the effect the repeal of section 28(1)(b) will have on persons who come into legitimate reasons for having a firearm in their possession.

Mr. President, I refer you to that case. It was reported in the newspapers online. It is entitled, "Gun find soldier charged". It is at the Guildford Crown Court on Tuesday, November 10, where the court in Guildford considered the fact that albeit Mr. Clarke, who was the ex-soldier who found this gun, had a good reason for finding the gun, the court was compelled to charge him and there were no exceptions to the rule.

That brings us back to the whole recasting of possession in the format that we are looking at. It is accepted in the law that the courts are obliged to uphold the harsh penalties the legislation says it must uphold. That has been recognized in cases including the case in England, the *Royal Pharmaceutical Society of Great Britain v Stalk Wayne*, 1986 2 AER at 635. They said that, notwithstanding the fact, in that case they were dealing with what they termed strict liability for controlled substances, being narcotics, a pharmacist who received a forged prescription was charged and the charge had to be upheld even though he had no way of knowing the prescription was forged.

In this case when one applies that to the removal and repealing of section 21(b) of the Act, and we note the inconsistency left by section 7(h) which stands in a different capacity; when you combine those two positions and a comparison is done, we will know that we can in fact yield some very

heavy consequences upon some unsuspecting “Good Samaritan”.

Are these people now to find their aid in places like the hotlines, 1-800 numbers? We as legislators must consider carefully that whilst we are balancing the interests of putting forward a strong statement as to a no-gun, no-ammunition, no-weapon policy, we must still find ways to protect legitimate citizens of this society. I respectfully consider, notwithstanding that section 28(1)(b) may appear to be in conflict, the fact that we have saved section 7(h) as it speaks to executives and administrators, we must perhaps return to an inspection of the consequence of the removal of section 28(1)(b) from the Act.

I wish to turn now to the context in which we are appreciating this legislation. We cannot, even though we are told in classic jurisprudence to analyze laws with a veil of ignorance, divorce ourselves from the reality of the context of this legislation.

The statistical information on the record, available to all those who wish to have a view of it, lie in excellent authorities such as the address by the hon. Chief Justice of Trinidad and Tobago, Mr. Ivor Archie, on the occasion of the ceremonial opening of the 2010/2011 law term and also in the Annual Report of the Judiciary of the Republic of Trinidad and Tobago, which is available on the Judiciary website, that is the 2008/2009 report.

I wish to point us to the statistical information in that latter document because it is important to appreciate the context within which this law falls. In the Magistrates' Court, which is the first clearing house for crimes of arms and ammunition, there were in the 2008/2009 term a total of 90,437 new matters filed.

When we look to appreciate the specific statistical information provided by the Judiciary and we look specifically at the daily caseload, the

average daily caseload in the magisterial districts—there are 13 magisterial districts set out: Arima, Chaguanas, Couva, Mayaro, Point Fortin, Princes Town, Rio Claro, San Fernando, Sangre Grande, Siparia, St. George West, Tobago and Tunapuna—one appreciates that there were approximately 330 arms and ammunition cases every day in the period 2008/2009. There are totals in the thousands dealt with. There are in fact a few specific courts set out to deal at the Magistrates' level with arms and ammunition. Specifically, we have the Arms and Ammunitions Court 4B in Port of Spain and there is one in San Fernando and the caseload upon the magistrates who sit in Solomonian discharge of the justice, which they have to balance, is a very heavy one. It is extremely heavy when one considers what is about to fall upon these magistrates.

Even though we consider that we are changing the laws as they relate to possession, let us not forget when you get charged what system you go through. Let me take you through the process of a charge.

You are found with the arms, ammunition, weapon or any part thereof in the broad definition of a piece that you fall into difficulty with. You are taken to the station, charged and brought before the magistrate the next morning. If it is on a Friday, it is the Monday. If, pray tell, you got arrested on a Friday, you have to spend the weekend in jail. You come up on the Monday, at the first available opportunity, before the magistrate. A charge is read. That charge is either laid indictably or summarily; “indictably” meaning a more strict offence and “summarily” meaning an offence for which there is supposedly a lesser fine or conviction. You then have to go through the process of having the thing you are deemed guilty of being in possession of, the piece of ammunition or the firearm, considered by the forensic institute in this country and until they determine that it is in fact

within the definition of ammunition or firearm or a prohibited weapon, it is not yet proved. Right now, statistically, the average timeframe for a return by the department, the Forensic Institute, is close to a year and a half or two years.

5.15 p.m.

We see 90,000 odd cases per year coming up, 300 cases per day in arms and ammunition arriving, and then we have a backlog beginning to grow on that system; a burgeoning one, which is now being expanded exponentially, one might add. Yet, we have not considered the impact upon the Judiciary. When one falls into that routine, a year and one-half to two years, those members of society who are lucky enough to obtain bail may get bail. But what about the position of those members of society who cannot achieve bail, because they come from some impoverished area, or they are in difficult circumstances; that foolish teenager or unlucky teenager who happens to be in the car, as Sen. Panday put it out, who got charged for being in possession or in control of it?

What happens to him who languishes in jail when we are in a situation where it is accepted that there are challenges to the state of all of the jails? I do not care who stands up after me to try and apportion blame to PNM, UNC or PP, because the fact is that this country has been run by successive governments with different names. We could go through the letters of the alphabet. The point is, the system is still in place and it is run by the public servants who are in fact marching in Trinidad and Tobago right now. They cannot be paid, they say.

I had to file a matter—you may have noticed I was not here when Parliament first started for the prayer, because I was in the High Court Registry fighting to have a case filed today, which would be statute barred

tomorrow. The persons in registry said: “We have done our 1 per cent work for the day. We are acting in accordance with PSA guidelines.” What am I to explain to this poor woman who is relying upon me to file a claim for the benefit of her infant children, for her deceased husband’s benefits, when it is the PSA and the administration of justice? And, therefore, the Bill itself was—considering improving the administration of justice by this Bill when these things lead to examples like that? That is why I was talking about the societal impact. If I did not have the resources, as an experienced attorney, to go to the judge in chambers and insist that the judge tell the registry to accept my document and leave four lawyers behind me to make sure that it was done, so that I can come and do my duties today in the Senate, what would happen to that person? It is one thing to lay licks, as Sen. the Hon. Carolyn Seepersad-Bachan came a short while ago and tried to do. We are here to understand that governments come and go. We are persons in revolving doors; one day over there, one day on this side.

The administration of justice is left to our public servants. It is left to a Magistracy that is understaffed. It is left to a Judiciary, even though the hon. Chief Justice had extended open arms to the new People’s Partnership Government. It is in his address on the opening of the term, where he specifically encouraged open arms to have discussions between the Judiciary and the Executive. Notwithstanding that, we then witnessed a scathing attack by a Member of the Government, unto the very Chief Justice who opened his arms, when the Chief Justice says, relative to the administration of justice, and specifically criminal justice, that there must be greater cooperation between Government and the Judiciary, Executive and the Judiciary, and that the Judiciary cannot make the law. It is the Legislature to make the law. That is the reason why I am standing, almost in a heavy

academic mood, debating the effect this law is going to have and pointing us now to the societal context in which it arises.

When we factor the caseload in the criminal justice system, which is an amendment to this law, designed on the hand to show our contempt for crimes involving guns and other aspects—[*Interruption*]

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. P. Beckles-Robinson*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Mr. President. Whilst we are hoping to achieve that balance of justice that we as legislators must do—I agree with stating specifically in this Parliament that we are against the mischief of guns and ammunition and the proliferation of arms, when we turn to the other jurisdictions and we do an appreciation of their analysis of what stricter gun control laws have. That is, in fact, to be found in the United Kingdom in the Home Office Report where statutory controls of firearms were dealt with by the Home Office in England and the House of Commons on June 18, 2010.

We look also to statistical information from as far back as 2000/2001. You will see that, notwithstanding the implementation of stricter laws, the open, naked statement as to the efficacy of those laws to be had in reports of supposedly more advanced jurisdictions than ours—which say that, notwithstanding the stricter laws, they were ineffective—because regard to the system was not had. Albeit that we will hear “picong” from the other side of who left it in that state and who did not, it is not good enough for us to do that now.

Respectfully, if one were to have regard, even to the debates in this honourable Senate in 2003, I mean specifically the debates of December 09, 2003, when the Firearms (Amdt.) Act was considered, as it related to improvement of the law then, firstly with respect to the Inter-American Convention; secondly, with respect to the increasing of fines; and thirdly, with respect to what was called the modernization of laws, when you look at the debates there, we come back to the term that I phrased. It is not discombobulated and it is not the hubris. What I am talking about is the trivialization and the concept of “recent government”, as I call it. That is where Members who are now Members of Government, who were then Members of the Opposition, stood up in the debate on the Firearms (Amdt.) Act to criticize the last government as to the sterling amendments that were being brought. They said specifically—I refer to this because it relates specifically to the kind of legislation that we are dealing with today.

I wish to read from the debate of the hon. Wade Mark, as he was then, Senator in this Senate. He was speaking about the onus of proof; the very onus of proof that we are speaking about today in the reversal of your innocent until proven guilty. The onus is upon the accused to now prove his innocence. That is a reversal of the *Woolmington v the DPP*. The Sen. Wade Mark, as he then was, said:

“The onus of proving reasonable excuse shall be on the accused. Mr. Vice-President”—I am quoting from page 874 of the debate on Tuesday, November 09, 2003.—“I thought that in our Constitution it says that a man is innocent until he is proven guilty. How could the Minister of National Security and Rehabilitation turn the Constitution on its head in this piece of legislation and say: ‘I am guilty and I must prove my innocence’?”

He then goes on to say that he cannot stand to support the legislation.

Earlier he said:

“...this Act is 33 years old. It was enacted in 1970.”

It was 33 years old then, and it must be repealed and reenacted. He said that the days for—It was not he, it was Gillian Lucky, as she then was, who said that the days for increasing fines and for tinkering with the Act, as she called it, was in fact long over.

The goodly Sen. Wade Mark’s comments were echoed by Sen. Dr. Kernahan and Sen. Brother Noble Khan, in part; very strong criticisms, that we should not fetter the constitutional rights in a reversal of the onus proof. Whilst I agree here, as Members of my Bench do, that in fact we need to have strict laws, we will not be like recent Opposition was and come and reverse our story entirely, as we see here today. You go from criticizing legislation, thinking you will never be in Government, then you are in Government reading the same legislation which was proposed.

Let us go back to the statistical dynamics. Until it is that we can consider the reform of legislation and this legislation in particular, in the context of the efficacy of the overall system, and that we deal with it in an holistic manner; firstly, by way of statement of a legislative agenda, which we have cried for and have not yet had; secondly, by way of joint consultation, as the *Hansard* debate is replete in call by Members now in Government; and thirdly, by way of statement as to what is in the best interest, in terms of the evolution of laws in the context of the society within which we operate, I fear that we will be spinning the proverbial top in the mud. As responsible parliamentarians, I am of the view that this particular bit of legislation ought to be considered in a Joint Select Committee approach, and that we ought to have reference to the factual context within

which we operate.

On that point, I wish to point you to the remarks of the hon. Chief Justice. The hon. Chief Justice noted in his address on the occasion of the Ceremonial Opening 2010/2011, that the system and the High Court criminal statistics in particular, is subject to external inputs, affecting the ability to execute core processes and that among the existing environmental challenges, as the hon. Chief Justice put it, were new technologies, increased filings, reduced national income, customer expectations and threats to security of court officers, juror and witnesses.

In fact, the hon. Chief Justice then went on specifically to state that the cause of what he described as a morass, that is a decline in the clearance ratios in the High Court and the Magistracy, that morass was to be blamed upon factors which included an overburdened DPP's department, deficiencies in investigations and presentation of evidence, an overburdened forensic science facility, resulting in delays, interference with witnesses and jurors, resulting in aborted trials or perverted verdicts, more lengthy and complex trials, a shortage of defence lawyers and a retention of preliminary inquiries.

We are considering legislation today. Why I have called for the legislative agenda is not to continue the beating that this Government sometimes deserves, but it is really to say that unless we consider laws in an holistic sense—a very good example of that was when the hon. Minister earlier read from 2007/2009 contributions by the then Ministers of Finance for the PNM, as to what she said were solutions. She repeated verbatim from that. I asked her. She could not tell me, but I know, because I have read it. The point is that an holistic appreciation of the law must be had. We cannot divorce the societal context. We cannot divorce the context where

we have 500 workers in the HDC form what they call “behind de bridge” in the Colour Me Orange Project. We cannot divorce it from that fact of the unrest that is going on in the civil society relative to spending.

On that point, I mean the economic impetus which the Government as the third kicker of the economy has—we may not have had the need to have a stimulus package if we had kept our boards, replaced them slowly, or instituted boards quickly and continue projects which were legitimate projects. We saw the hon. Minister of Works and Transport run into trouble in completing a project which he knew needed to be done, but was stultified in his ability to perform, because there was not a board and the Prime Minister reversed him. Those factors and the Colour me Orange position in particular—that is the dismissal of the five workers—resulted in people going, as Sen. the hon. Brig. Sandy said, to be breakers of the law as they consider it, as opposed to criminals. A man who is hungry, “looking to feed his family” by stealing, may have done so by “renting” a firearm, because it is the accepted practice where, unfortunately, he may happen to live at present. That societal context and the growth in the number of persons brought before the courts, by a change in the law of possession, is going to be very sincere.

5.30 p.m.

I wish to state on the record that we have to be very careful about considering legislation which may result in an ineffective delivery of justice. It is not that the legislation itself is not necessary. I personally believe that there should be stronger gun-control law in this country. Notwithstanding the international statistics, I still think that we should support that, but it must be done contemporaneously with a contextual application and a bettering of support systems; a criminal case management system; and

statistical analysis and pull back.

I would have expected that this Government, having protested when it was in Opposition as to the need for statistics, would have come here with statistics and brought it forward for us so that we could compare the left hand and the right hand, and look at the objective together with the end result.

Mr. President, there is so much more that I wish to contribute on, having been prepared to do so. My eyes are on the clock and I notice that my time is short. Mr. President, today is an important day, so permit me to digress for a moment. Today is Eid-ul-Adha which is the celebration of the sacrifice that was offered up by Abraham in offering his son in sacrifice, and he was saved from it. I know we will come to that later but I wanted to raise the point shortly, before we give greetings later on that it is the sacrificial approach that is being celebrated today—the end of hajj today or last night—is what we as responsible parliamentarians need to adopt today to reconsider this legislation. As much as I want to see it implemented, I am cautious as to its effect. I think we ought to consider it in a joint select approach, and return quickly with it.

I know the Chief Justice had openly complimented former Sen. John Jeremie SC for sharing the legislative agenda as publicly as he did and, in fact, consulting with the Judiciary. If we take this legislation piecemeal, even though we know there is no magic bullet to bring results of the kind that we want in this country, we have to be careful about the consequence that is going to unfold to others.

Mr. President, may I openly congratulate my colleague, Sen. Daniel Dookie, on his maiden contribution this afternoon. For those persons out there who say that the PNM is in shambles, and that we do not attract talent,

he represents, to me, serious talent; intelligent talent. [*Desk thumping*] I wish to state that I am proud to be a Member of this party. I know that there are responsible men and women on the other side, so let us consider this legislation, if only for the mere fact that section 5(2)(a) and (b) will cause serious complications in law relative to the issue of *mens rea*.

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

Sen. Elton Prescott SC: Mr. President, I thank you for the opportunity to become engaged in the debate on the Bill to amend the Firearms Act. More particularly, I wish to record my thanks to you and to the Leader of Government Business for having provided us with a consolidation of the amendments, because it has made the reading much easier, and much easier for me to comment on the very disturbing, in some cases, and gratifying in others, amendments that are being proposed.

Mr. President, the Minister in presenting the Bill said that it was motivated by a need to reduce lawlessness in the society and, regrettably, I do not share the view that increased fines and penalties are the way, or the only way, or even one of the ways by which we are going to achieve a reduction in lawlessness.

Indeed, it may be said that lawlessness and the enforcement of laws are two things that have adverse relationship. As the enforcement of laws increases in its quality and degree, you may find lawlessness reducing. This Bill does not address enforcement, and maybe one ought to go back to the draftsman and say: how can we possibly make it work if we do not incorporate in these amendments, some means of enforcing the legislation, because without it we are not going to get anywhere?

Those of us who walk around in the society would know that the greater the increases in the severity of the penalty, the greater the chance that

those who are professionals practising in that industry will become more efficient in the crime. They will lean toward efficiency, because they need to avoid being caught. That is all!

A person who is engaged in criminal activity—I think the Minister attempted it—is in a business. He would do his swot analysis and he would know that these are threats and weaknesses and, therefore, he must prepare for them. They are not surprising events. The day he makes the error and he gets caught, he is probably going to end up having to pay substantially, or being deprived of his freedom, but if he is to keep ahead of the game, he is going to do well in that business. This Bill needs to contemplate on how best we can ensure that the firearms legislation reduces the proliferation of those with firearms and the existence of firearms within the society.

The Firearms Act was enacted in 1971. I, too, lament that we do not have the statistics, but I suspect that I am not without company when I say that between 1971 and now it is clear that the Firearms Act has not achieved a reduction in lawlessness. People are more afraid today, because there is a reality around us, that there are people out there who have guns and are prepared to use them even in cold blood; even for the slightest provocation; and, in some cases, even without provocation.

Mr. President, against that background, I now approach some of the changes proposed. Regrettably, being preceded by Sen. Al-Rawi, I now feel that I should engage in less intellectual rigour, so that the points I may wish to make can be appreciated by those who are slow to grasp the things that need to be addressed. May I start, therefore, with clause 5 if it pleases you. The Bill proposes to repeal section 5(2) of the existing legislation. That section says:

"(2) In any prosecution for an offence under this Part or Part

IV—”

- (a) a person who is proved to have had in his possession or under his control anything whatsoever in or on which is found any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession of such firearm or ammunition.

It is an offence of having been found with a firearm, or to have had firearm within your premises presumably. What is needed to be proven is that you have had it in your possession or under your control; not necessarily that today you are in possession of it, but that you were at some time in possession of it. I am proposing that we ought to retain that approach to the legislation. In short, the amendment to section 5(2) which says:

- "(a) a person who is found with any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession of such firearm or ammunition;"

I propose should read as follows:

a person who is found with or proved to have had in his possession or under his control—a reference to time—or proved to have had in his possession or under his control any firearm or ammunition shall until the contrary is proved be deemed to be in possession.

So, we would take care of those who are seen with the weapon in their hands and those who we know have had it. The accused person, who is escaping hot pursuit and throws the weapon away, is a person who has had it in his possession or under his control. The burden of proof remains on the prosecutor, yes, but I am suggesting that it is not being taken away by what we are now saying in the new clause 5(2).

Mr. President, if you follow with me, clause 5(2)(a) now appears to be

requiring proof that the accused was not found with the goods. When we read it again, it says.

"(a) a person who is found with any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession..."

To what should we attribute the words "until the contrary is proved"? What is it guiding? Is it the finding of the firearm? Does this section mean that until it is proven to the contrary that he was not found with the firearm, or the thing he was found with is not a firearm he is deemed to be in possession of a firearm? Did the draughtsman mean that until he has proven that he was not in possession, the accused is guilty of being in possession? Mr. President, should I attempt that again?

As it is written at present, one may read section 5(2)(a) as saying, if a police officer takes you to court and says, I found this man with a firearm, then you are deemed to be in possession of it until you can prove that you were not in possession of it. It can also mean that until you can prove that he did not find you with it, you are deemed to have been in possession of it. That leaves a contrary set of circumstances to be addressed.

My suggestion would have been that we maintain that it is the proof by the accused that he was not in possession which would relieve him of the burden of being deemed to be in possession. If he can demonstrate that he was not in possession—maybe he was away from the premises or sitting in the vehicle, but did not have his hand on the weapon; or maybe it was under the seat of the man at the front of the vehicle—until he can prove that he did not have possession, he should be deemed to have been in possession. That is sufficiently wide-ranging to take account of all persons in a vehicle, for example, and a police officer would not have to manufacture an accused who had it in his possession. He would simply say, of all those found in the

vehicle, you were found with a firearm. It is for you to prove that you did not have it in your possession.

The answer for the accused person is, “No, you found it beneath the seat of the man in the front of the vehicle” or “You came to the premises and you found it in the possession of someone behind the bar. I happened to be in another room in the building as you well know. Those kinds of approaches may well assist the accused person in removing the inference, very strong inference, that he merely has to be within the vicinity of an offence to be deemed to be in possession.

In case I have not yet said it, I am urging that we should remove the words "until the contrary is proved" from clause 5(2), so it would read as follows:

“a person who is found with or proved to have had in his possession or under his control any firearm or ammunition shall be deemed to be in possession of such firearm or ammunition.”

The accused person then must address all of these factors: was he found with it? Was it a firearm? If it was none of those then, clearly, he was not in possession of a firearm.

Mr. President, clause 5(2)(b) says:

“a person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any firearm or ammunition is found shall be deemed to be in possession of such firearm or ammunition, unless he proves that the firearm or ammunition was there without his knowledge and consent.”

My question to the draughtsman is, why have you added the words "and consent" to this passage? This clause is very straightforward. It says that if you are the occupier or you are in control or in possession of the place where

the thing is found, then you are deemed to be in possession of it.

What you are required to prove to escape being convicted is that you had no knowledge that the thing was there. The fact that you had no knowledge is probably going to be an indication that you could not have consented to it, but the observation is greater than that.

5.45 p.m.

Let us look at it differently. Is it not of great benefit to the accused person, if all he needs to say is, "I knew it was there, but I did not consent to it being there"? Since you have made knowledge and consent two compulsory elements of what he must prove, he need only say, "I did not consent to it being there to". The circumstances in which that becomes more graphic: an elderly mother whose wayward son has brought it onto the premises may well find, in pursuance of section 2(b), that she is deemed to be in possession of the firearm and she may plead as often as she wishes, as much as she wishes, that, "I had no control over this boy; he brought it onto my premises; I told him I did not want it there." In other words, "I had the knowledge it was there; I did not consent to it being there"; and she is now at the mercy of the judicial officer.

If it were a friend or visitor who had brought it onto the premises, the chances are that the accused person did not consent to it being there. So in the efforts of the draughtsman to catch everybody, he may bring about a result that some innocent householder, and usually it is the elderly father or mother whose son or daughter has placed him in this position, can be found to be in possession of a firearm or ammunition and be deemed to have consented to it and have the greatest difficulty in establishing that they did not consent.

If we could think about it: what if I come out of my premises, observe

a police chase going on and on my own lawn is the weapon the police were hoping to retrieve from the accused person? He has thrown it onto my lawn; I have seen it there; I know it is there. Why am I required to go to court and demonstrate that I did not consent to it being there? The difficulty I would have is persuading any court that I have absolutely no connection with the thing. I know it is there. How am I going to disprove that I did not consent to it being there, unless the police officer who was chasing the man comes to court and says, "I saw him throw it onto the premises"?

I am urging that you remove the requirement that the accused person must establish lack of knowledge and lack of consent in order to be relieved of the charge. All that he needs to do is to establish that it was there without his knowledge, which would be an easier road for him to travel, than to demonstrate that he did not consent to it.

May I go now, if you would permit me, to section 6(5). I came to the Parliament not realizing that this was what Trinidad and Tobago called the three strikes rule. I am not satisfied that it achieves that purpose and it comes from a simple understanding, as I do, of criminal charges. It has been a long time, because I do civil work, but I understand that the police officer who makes the arrest or prepares the charge, it is he who decides what offence is going to be charged, it is he who would draw up the complaint.

He may draw up a simple complaint of your having been found in possession of a firearm and when the matter comes up before the prosecutor in the Magistrates' Court, the accused is offered an election. He will determine whether this is going to be dealt with summarily or indictably; whether you are going with the lesser offence, as opposed to the likelihood of a greater penalty. That decision is made by the prosecutor.

Let us read it now:

"Notwithstanding subsections (3) and (4), a person who has at least two previous convictions for an offence...and who is charged with an offence under any of those subsections, shall be tried on indictment and is liable on conviction to imprisonment for life."

So, presumably, what is meant by subsection (5) is that the prosecutor is being directed to pursue these matters indictably. It is he who will know what convictions the accused person has had.

Is that not an indication to the judicial officer, the magistrate, that this accused person has two previous convictions? If that is so, have we reached the stage in our jurisprudence where the judicial officer can be told beforehand, "This person has a past history of criminal convictions for this offence"? My suspicion is, that is not what was being sought to achieve. One wonders how you are going to persuade the prosecutor to desist from placing somebody on an indictable charge, if he maliciously wants to bring about the demise of that person. Who is going to take control of putting into writing that this is a summary as opposed to an indictable charge?

May I, therefore, in the circumstances, invite the Leader of Government Business and those who draught it to revisit the section and seek to make clear when the three strike rule comes into being. It appears to me that it must be after the conviction. So there is need to revisit the drafting and to say to the judicial officer "Upon conviction on indictment, you would then, as you would normally do, ascertain what the record would show". The three strikes rule applies to the penalty that you would impose. In the way that subsection (5) is worded, there is a wide range of terms of imprisonment, all the way up to life. So the judicial officer will determine, at that stage, "This is one of those for which I would impose a life sentence or vice versa".

I now move to section 7. This is just an observation I am making. In section 7(1(aa)) the provision is that:

"The following persons are exempt from the provisions of section 6(1)..."

They are not susceptible to being charged with possession of a firearm because you are the Director of the Trinidad and Tobago Forensic Science Centre or a scientific officer of the centre designated by the Director in that capacity. Section 7(1)(l) includes, among the exempt persons, words that I have found great difficulty in separating from what I have just read. Another exempt group is:

"the Director, Trinidad and Tobago Forensic Science Centre and any scientific officer... as are designated by him..."

In the event that is not a simple duplication which has been overlooked all these years, and there is some other explanation, I would be happy to hear the explanation so we can satisfactorily support it remaining there; if not, it may well mean that somebody has to draw a line through one of these and remove what appears to be an irrelevancy.

Section 9 deals with the offence of transferring firearms or ammunition to persons who are not the holders of firearms user's licences and section 5 defines a transfer as including letting, hiring, giving, lending or parting with possession. I observed that it does not include control as one of the possible meanings. If you part with control of the thing, even though it is not within your possession, it may well constitute a transfer of the thing. I am therefore inviting a further consideration of section 5 fully to make it clear that acts of parting with control of the firearm are to be taken up in section 9.

While I am on it, a reading of subsection (2) would suggest that the

words "purchase or acquire" are grammatically incorrect. It should be:

“Any person is liable on summary conviction to a fine of forty thousand dollars or to imprisonment for ten years who purchases or acquires from,…”

It is not too late in the day to have that altered.

Regarding section 9(4), I have heard murmurings about the protective services being susceptible to conviction on indictment to imprisonment for 20 years. I believe our judicial system would sort the wheat from the chaff and no protective service officer would find himself wrongly convicted under that section. There may be other views about it, so I shall not spend any time on it.

I would like to go directly to section 21B, if it pleases you. I have only a passing relationship with the Domestic Violence Act. I am told that there are some stages in the process, one of which is the obtaining of a protection order in the absence of the person against whom you are complaining, or ex parte for those who are familiar with the term. I am wary that in the way that 21B and 21(2) are worded, that is to say, it is upon the conviction of a person for an offence that the commissioner may suspend his licence or certificate. It is not until then that person is likely to be relieved of a weapon. So that if your spouse, a police officer, has threatened you, the chances are that she would that weapon and might well carry out an offence, a more murderous one, long before we get around to conviction under the Domestic Violence Act. I cannot put it any better than that, Sir.

If the allegation is that there is a police officer who has made a threat to his or her spouse, it appears that we ought not to be waiting until conviction under the Domestic Violence Act before somebody has taken upon himself the authority to remove the weapon from the accused person.

One other way to deal with this might be to introduce legislation which says that at the ex parte stage, the date when the complaint is made about the threat, a judicial officer can make the determination. Judicial officers have enough experience to know, by reference to the antecedents of the person against whom the accusation is made, whether it is necessary to relieve him or her of the weapon. *[Interruption]*

Sen. Panday: In the Domestic Violence Act, are you aware that there are ex parte orders and, in some circumstances, the ex parte order is held over until the matter is tried? So in such a case, this matter can be dealt at ex parte.

Sen. E. Prescott SC: It seems as though I passed the tutorial. Yes, I started off saying that I am aware, if nothing else, there are ex parte orders and that ex parte means the complaining person will go in before the judicial officer without the accused person and say, "The accused person has threatened to shoot me." The judicial officer makes an order to preserve, hopefully, the life of the complainant, the life that is being threatened.

Maybe it is because I used the word "she" instead of "he". If he has a gun which he has threatened to use, he may well get the opportunity to use it fatally long before he is convicted. If I am still not clear, I am not going to do anything more with this. I know that there are other attorneys to follow me who are more versed in criminal law and they would probably put it over better. I suspect that the way to deal with this, and probably to avoid the fatal event, might be to have a judicial officer say, on the occasion of the ex parte order, "I am told that the accused person is a police or a person who has a weapon, a firearm, and has threatened to use it. "I will take steps to remove it from that person, because of the likelihood that subsequent events may overtake all of us and this matter may not come up before me and be resolved in the usual way."

6.00 p.m.

Section 22 is the section that deals with the Firearms Appeal Board. It is now said that:

“The Board shall consist of—

- (a) the Chairman who shall have at least 10 years experience as an attorney-at-law; and
- (b) two other members, all of whom shall be appointed by the President.”

Section 22c gives us a list of persons who are not qualified to be members of the Board. I wonder, unless 22c(e) refers to him, whether a police officer can be a member of the Board. If a police officer is caught up in the definition of a person who holds public office, then my concerns are reduced, because it means that no police officer can be a member of the Board. If a police officer can be a member of the Board, it appears to me that since this is a Board that hears appeals from a decision of a Commissioner, we are likely to be speaking about somebody who is junior to the Commissioner, making a determination on an appeal from the Commissioner, and that at the very least appears comical. So one may need to consider whether, if it is that you intended to remove from membership of the Board a police officer, then that ought to be said specifically.

I turn to the second aspect of 22c(e), which is:

“A person who holds or is acting in any public office or has held public office within a period of three years prior to the date of his appointment.”

Once again, if “public officer”, there includes a police officer, might it not be wise to disqualify a police officer with slightly more years away from the influence of the Commissioner? That is to say, he may be disqualified if he

has held public office during a period of 10 years. Three years is a very short period of time. You have just left the service of the Commissioner of Police, if it were 10 years you would be less likely to be influenced by it.

I am saying put into that group of persons, if this refers to police officers: “Police officers who have held public office during a period of ten years prior to the date of the appointment...” Anybody with more than 10 years then can become a member of the Board.

Finally, there is an approach used in the Supreme Court of Judicature Act to describe the chairman's professional qualifications, and I merely throw this out for consideration. It says, and this is a reference to judges, the person shall be an attorney-at-law within the meaning of the Legal Profession Act of 10 years' standing. You see, Mr. President, experience as an attorney-at-law can be varied. It moves along a line of total incompetence to a high degree of professionalism.

What is more, if we accept the recommendation I make, “an attorney-at-law within the meaning of the Legal Profession Act of 10 years standing”, we are likely to kill yet another bird—and forgive me for using the word “kill” in these circumstances—with one stone. That is to say, that attorney is likely to be one whose practising certificate has been paid up-to-date and who has been practising at the Bar. So, I offer that as an approach in preference to a chairman who shall have at least 10 years' experience as an attorney-at-law. It will be no good to simply produce your passing certificate from the college, the Council of Legal Education or what have you, and say, “My 10 years are up. I need to be considered for the chairmanship of the Board”.

I move now to the very controversial section 28. Section 28, if I understand it, removes from contemplation the person who finds a weapon.

I suspect that in practical terms the finder would have to be someone who took control of the thing, not that he saw it and leaped back in horror and said, "I have found a firearm." That is unlikely to stick. He clearly might have to be somebody who has taken hold of it and, for whatever reason, such a person we now find is no longer going to be treated under section 28. He would have to keep it in his possession in order for him to face conviction. What if he was to take control of it by simply keeping it concealed where it is? He runs the risk of somebody else finding it and taking it away, but is he a finder in the sense that the former section 1B had intended, or is he not being in control of it, a person who is guilty under section 6 of the Act? He has not touched it. So one is disinclined to say he is in possession of it or he is found with it, but he knows where it is and he can conduct transactions with it from where he stands and never place his hand on it. [*Interruption*]

Well, it may not be on his property, it may be next door on the open land and he is in control of it and from where he sits he can conduct transactions in relation to it without once touching it and a police officer may find difficulty in determining, "Am I looking at a person who is contravening the Act?" I would accept that there are others who may find differently in their reading of it and I make it only to say that one needs to be very careful that we have not excluded the person who has the skill to foresee that, "Unless I put my hand on it, I am unlikely to be charged with any offence."

Section 30(2) I found strange. It says:

"Where a firearm or ammunition is found on the premises, the police officer making the search may arrest without warrant any person found on the premises or in the place whom he has reason to believe to be guilty of an offence under this Act..."

You go in with your search warrant, you have found a firearm or ammunition on the premises and the police officer has the power to arrest any person found there whom he has reason to believe to be guilty of an offence under this Act. Then it goes on to say, "...other than an offence against section 28." Now when section 28(1B), the one that made a finder likely accused, was law—I am assuming that the amendment has been passed—is included section 28, then it makes sense to say, "other than an offence under section 28."

If we leave it in, what we are really saying is that:

"Where a firearm or ammunition is found on the premises, the police officer with the search warrant may arrest anybody he believes to be guilty of an offence of:

- (a) losing his firearm, or
- (b) being negligent in the loss of the firearm."

That is a reference to 28(1) and 28(1B).

Let me get away from the book and see what I am saying again. As it stands at the moment, section 30(2) permits the police officer to arrest a person who he believes to be guilty of an offence under any other section but section 28. So, he may not arrest a person who has found a firearm under the old section (1B). When you remove section (1B), the only offenders under section 28 are persons who may have lost their firearms, so it does not appear to be a necessary power for the police officer to have to make a distinction between persons who may be in charge of the firearm found on the premises—I am putting that badly. A person who has reported a firearm to be lost under section 28 does not need the protection of the phrase, "Other than an offence against section 28".

If you remove it, that person is equally innocent of any offence and

may not be considered at all. He only needs to be considered if upon the search he was found in possession of the weapon.

Mr. President, go with me please to section 40 and I will be cross-referencing to section 7(1)(h). Section 7(1)(h) you may recall, exempted executors (and such persons upon whom a firearm was devolved by law) from prosecution for a period of 15 days after you come into possession by law. May I just read it to you. Section 7(1)(h) says the following persons are exempt from the provisions of section 6(1). That is to say that they would not be charged with offences of being in possession of a firearm if such a person is one:

“...who came into possession of any firearm or ammunition in the capacity of executor or administrator of the estate of any deceased person, or Trustee in Bankruptcy or liquidator of any insolvent person or of any company in liquidation, during the period of fifteen days after the day upon which he came into possession of such firearm or ammunition;”

I think the example was used by Sen. Al-Rawi.

Upon the passing of the deceased person, the relative, if you like, who makes the search, including going into the safety deposit box, and takes possession of the weapon must now, within the period of 15 days thereafter will, be free from any harassment in relation to the possession of the weapon.

Section 40(5)(b) says:

“Subject to sections (6) and (7)—which refer to security companies and holders of Firearm User’s Licence, every firearm and every ammunition received at any police station under this section...”—pardon me, I am reading the wrong section. It

is a provision in section 40(1) that speaks to a 30-day period to deliver it to the police station.

“Every person who comes into possession of any firearm or ammunition in the circumstances”—he being the relative of the deceased—“shall, within thirty days of coming into possession of such firearm or ammunition, unless he has obtained a Firearm User’s Licence in respect thereof...deliver such firearm or ammunition to the officer in charge of the police station nearest to the place at which he comes into possession of such firearm or ammunition...”

Presumably, if he fails to do that, he would have committed an offence and is likely to be charged. Why not let us simply equalize the 15-day period to a period of 30 days? The chances are that the person who has now come into possession of this firearm lawfully, will either make an application for a Firearm User’s Licence and is unlikely to get it within a 30-day period, or, having had 30 days within which to decide what to do with it, he would deliver it to the police station. To leave it unclear what is to transpire between the fifteenth day under section 7(1)(h) and the thirtieth day under section 40(1), appears a bit untidy and that confusion is unnecessary.

Then finally, in relation to section 40, may I invite your attention to section 40(5)(b)? Section 40(5) recommends that you deliver the firearm to the police station and that it would be returned to you by the police service. However, section 40(5)(b), in a sort of Pollyanna-like fashion says, “If you, having delivered the thing to the police station, and it is not returned to you within 12 months of the date on which it was received at the police station, then you are liable for paying a storage fee and, if you do not pay that fee within six months of the expiry of the period of 12 months, the firearm shall

be forfeited to the State.”

6.15 p.m.

Did you get that impression, Mr. Leader of Government Business, that having delivered my firearm to the police station, I am likely to lose it because when we returned and sought to recover it, armed with my firearm user’s licence, the property keeper was on leave or the police officer simply could not find it because the records are in a poor state or not available to him? We have heard enough stories of police officers secreting weapons in parts of police stations where presumably they are being kept in safe custody for use at the trial when it comes up in two years’ time. I use two years mainly to make the point that the poor blighter—if that is a permitted word here—having delivered his firearm to the police station and having sought to retrieve it, may well find, if not delivered to him within 12 months of the date on which it was received at the police station—I am reading subclause (5)(b)—that he has to pay a storage fee for it, and if he has not paid it, as I am sure he would not because he did not lose it, it would be forfeited to the State. Maybe that is what makes my last point important to me. Maybe it is that that would suggest to the drafters of this legislation that by taking away property or the enjoyment of it, without due process of law, some different kind of majority is required to make this legislation valid.

I suspect I need not say any more on it, but I will say it nonetheless. If it is that we are going to introduce into the law—sorry, I should not say, now that we are going to permit this law to bring about a forfeiture without due process, as I suspect section 40(5)(b) does, then one has to be careful that we apply the appropriate majority to the passing of the legislation.

In those circumstances, I thank you for the opportunity. [*Desk thumping*]

Sen. Kevin Ramnarine: Thank you very much, Mr. President, for the honour of joining this debate on the Firearms (Amdt.) Bill. I think this is a very serious Bill because it deals with the most pressing issue in our country today, which is the issue of crime. It is the issue of crime that has our colleagues on that side and it is the issue of crime that has the Government on this side of the House.

The last time—[*Interruption*] Mr. President, I may seek your protection from time to time, if you do not mind. I would guess that people are irritable, but this is the Parliament of the Republic of Trinidad and Tobago and if it is you cannot meet the standard then you probably should not be here.

Sen. Bharath: They are not being irritable; they are irritants.

Sen. K. Ramnarine: Irritants, yes; irritable. I understand people are tired and I understand it is the month of November and we are all looking forward to Christmas and so on, but this is a serious Bill —

Sen. Beckles-Robinson: Why are you going down there now?

Sen. K. Ramnarine: Mr. President, I think I need to seek your protection here.

Sen. Beckles-Robinson: You eat some pepper sauce or what?

Sen. K. Ramnarine: Mr. President, the issue of crime is the most important issue facing this country and I thought that, in studying and in researching for this Bill, we need to set the context in which the Bill is couched. What the Bill seeks to do, very simply, is to increase the penalties for offences related to firearms and in that regard the Preamble of the Bill, and so on, outlines what the Bill seeks to do. From a managerial point of view, the Bill also seeks to introduce changes to the management control system. I may use some big words so they might—

Sen. Hinds: You lost us.

Sen. K. Ramnarine: I lost you. As I set the context for the Bill, I want to introduce some statistics into the debate. In the year 2002, our good friends next door came into government and in that year there were 171 murders. The following year, the murder rate in Trinidad and Tobago—

PROCEDURAL MOTION

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, in accordance with Standing Order 9(8), I beg to move that this Senate now continue to sit until 8.00 p.m.

Question put and agreed to.

FIREARMS (AMDT.) BILL

Sen. K. Ramnarine: Thank you very much, Mr. President, and thank you to my colleagues for extension of the sitting time of the Senate.

So we have a problem in Trinidad and Tobago with crime and that problem in Trinidad and Tobago with crime is inextricably linked to firearms and the control of firearms in Trinidad and Tobago. In doing my research for this Bill I came across a report by the United Nations and the World Bank that was published in March 2007. The name of that report—and I will put it on the record for the *Hansard*—is Crime, Violence and Development Trends, Cost and Policy Options in the Caribbean, March 2007, United Nations and the World Bank.

The report really says nothing new. The report just endorses what we already know about the state of play in Trinidad and Tobago. According to this report, the rise in crime in the Caribbean has been characterized by the increased use of more powerful weapons resulting in higher mortality levels. The report goes on to say:

“As violence has increased in the Caribbean, so too has the use of

firearms. Increasingly, more powerful weapons are being used, resulting in higher mortality levels.”

There are some statistics here that are very informative. The report shows that in the year 2001 in Trinidad and Tobago, we had 151 murders and, of those 151 murders, 82 were murders related—well, persons died as a result of the use of firearms. That resulted in a statistic of 54 per cent. So in the year 2001, 54 per cent of all murders in this country were as a consequence of firearms.

Fast-forwarding now to the year 2005, there were 386 murders, and of those 386 murders, 273 or 71 per cent were as a result of gun-related crimes. So what we see is a natural parallel between the increase in murders in Trinidad and Tobago and those murders being related to guns and the proliferation of guns in the society. Prior to the year 2000—I am going backward into the '80s and the '70s and so on—you had more murders related to cutlass wielding incidents and blunt objects and so on. So the data is here and it is nothing that we do not know.

The report uses data from a unit in the police service called Modus Operandi, not the SIA, which we will hear a bit more about later on. According to the report, woundings committed in Trinidad and Tobago utilizing a firearm for the period 2000—2005: in the year 2000 there were 383 woundings and the percentage committed with a firearm was 53 per cent. Interestingly, that 53 per cent decreased to 40 per cent five years later. The reason posited by the people who compiled this report was that firearms became more deadly. So instead of having wounded people you had dead people. So the percentage went from 53 per cent to 40 per cent.

Again, it speaks to the proliferation of guns in this society. That is what this Bill attempts to do. The Bill attempts to address what I call the

management control system that we have in place, because this is what Chap. 16:01 is about; it is about the management control that we have in place for the regulation of firearms in Trinidad and Tobago. Not so Sen. Hinds? You seem very interested.

I could understand the angst on the other side, because they were in government for the period 2002 to 2010 when this country experienced—and we must put this on the parliamentary record—a great trauma, and it is a record from which they cannot extricate themselves. The hard facts, the data—numbers do not lie—would show that in 2002 there were 171 murders in this country and in eight short years, in the year 2009, we had 509 murders in Trinidad and Tobago, a very significant increase in murders. And, of course, you know, murder is a proxy for all serious crime.

The people of Trinidad and Tobago on May 24 changed the Government of Trinidad and Tobago and they put into the Ministry of National Security my colleague, Sen. Brig. John Sandy and my colleague, Sen. Subhas Panday. I went on to the Police Service website, because I wanted to understand what was happening with murders in Trinidad and Tobago over the last six months, because I have been in government now and I am part of the Government and hence I am responsible for the crime situation in Trinidad and Tobago, because we are no longer on that side. What the data is showing is that in the month of September 2010, which was quite recently, we had 25 murders in Trinidad and Tobago. This is not me inventing these figures; this comes from the police service website; but for the same month in 2009, that is September 2009, there were 56 murders.

What we are beginning to see is—and we are seeing pieces of this coming out in the Parliament; we are hearing some commentary and it is probably too early to celebrate anything and I would not be satisfied with

any crime statistic unless we have zero murders in Trinidad and Tobago. That, to me, is acceptable. It is just as though you work in the oil industry; you are only happy and satisfied when you have zero accidents and zero fatalities.

So what we are seeing is that in the month of May 2010 there were 47 murders; in the month of June, that went up to 55. We had just come into office. We were sworn in on May 28; in the month of July 2010, the number of murders committed, 31, a sharp decrease; in the month of August; 39 and in the month of September; 25 and last month, October 2010, 32 murders. So what this data is beginning to paint a picture of—and it is probably still too early to—

Sen Hinds: Like they only kill one a day.

Sen. K. Ramnarine: Much better than you, Sen. Hinds, killing about two or three a day. So what the data is showing is that we are beginning to see some traction, and I think this has a lot to do with the change in leadership at the Ministry of National Security. It has a lot to do with the intelligent deployment of resources by our friend, the Minister of National Security.

[Desk thumping]

There is something called “systems thinking” and it may be a bit too much over the head of certain people opposite, and there is something called “reductionism”, which deals with analyzing a problem by breaking it down into its components and systems thinking looks at the whole. We on this side subscribe to systems thinking because we know that Trinidad and Tobago does not end at the lighthouse and Trinidad and Tobago does not end by the Caroni bridge and we know that crime must be analyzed in a systems thinking context.

That is why I thought I would bring some economics to this debate.

People may ask what is the relationship between economics and crime, and there is a significant relationship. Crime has contributed in no small way to the loss of business competitiveness in Trinidad and Tobago and Sen. Dr. Balgobin was at the head of the Arthur Lok Jack Graduate School of Business for many years and he was responsible for collating a lot of that data that was used to inform our business competitiveness ranking.

6.30 p.m.

Crime has impacted on the business competitiveness in this country. It has contributed to higher operating costs in the entrepreneurial environment in Trinidad and Tobago because a businessman would have to spend more money on security guards, camera, burglarproofing and so on, and that increase in the cost of doing business most of the time is passed on to the consumer. So, therefore, Mr. President, there is a relationship between crime and guns and what this Bill seeks to do and the cost of doing business and inflation. Crime has also contributed to a loss in investors' confidence in Trinidad and Tobago because people may think twice before they invest in a country which has a high crime rate. So who knows?

It is difficult to quantify how many businesses and businessmen would have been turned off by what they were reading in the media and so on, and on the Internet. Businessmen, of course, have options. They may want to invest in other countries in the Caribbean, and that reluctance to invest may have also led to the excess liquidity situation we have in Trinidad and Tobago, where we have almost \$4 billion in the local private banking sector that they seem unwilling to access. That, of course, lends itself to an inefficient allocation of capital because that \$4 billion could have been invested or applied elsewhere.

Mr. President, there is also a relationship between crime and

agriculture, and my colleague, the hon. Sen. Vasant Bharath—it is clear that he has been doing a great job at managing and turning the agriculture sector around in Trinidad and Tobago. What is the relationship between crime, agriculture and praedial larceny? I grew up in a rural community like Sen. Prescott SC, and it is the greatest turn-off to farmers living in rural communities when you have invested your time, capital and labour and so on, and your crop is stolen. [*Desk thumping*] Thank you very much for your support, Sen. Anmolsingh-Mahabir. Praedial larceny, therefore, lead to disincentivizing farmers, which then leads to decreased agricultural output, which again fuels inflation. So this is what I call the system thinking approach to crime, and it is a level of thinking that comes out of the work of people like Peter Senge and so on, at the Sloan School of Business in MIT.

There is also a relationship between crime and entrepreneurship, because many of the children of businessmen in this country have been turned off from business by crime and we may be losing a generation of businessmen. What child of a businessman wants to spend his life in business when he sees his father, mother, brother, sister and so on, subjected to violent robbery using guns and subjected to kidnapping and so on? So there is a relationship between the growth of the next entrepreneurial class in this country and crime. I know this is a level of thinking that is new to the other side.

The other observation that I would like to make is this. We have had an economy in this country—and I am dealing with economics and crime and we are fortunate to have a very distinguished economist on our side, Sen. Mary King, who has written widely about the business environment. We had a situation in this country where we had an economy that grew at a very robust pace from the early years of the 21st Century to now, and that

growth in the economy led to a decrease in unemployment. As the economy grew and unemployment fell, we had the anomaly of decreasing unemployment and increasing crime, and that to me is something that maybe the academics have not yet studied, but it tells that there was a level of planning behind the crime. I would not go too far into that because there is a school of thought that the former Government—[*Interruption*]

Sen. Deyalsingh: Would the hon. Senator give way, please? Mr. President, the language being used in the Senate, and I raise this under Standing Order 34(4); the hon. Senator, while he wants to make his points, I think he is ascribing less than average intelligence to the Members of the Opposition Bench. I do not think there is a need for that. We are discussing crime. We are here to discuss a situation that is affecting 1.3 million people in Trinidad and Tobago. I really do not think there is need for the Senator to continually refer to us in a disparaging way.

Thank you. [*Desk thumping*]

Mr. President: I assume you meant 35(4).

Sen. Deyalsingh: Yes.

Mr. President: I did not understand him to be making offensive or insulting language about Members in this House and, therefore I permit him to continue. Of course, no doubt he will keep on track bearing in mind your concerns.

Sen. K. Ramnarine: Mr. President, if I hurt the feelings of the Members opposite, I apologize, but sometimes who the cap fits let them wear it. So, before I was interrupted in my contribution, I was dealing with the economic consequences of crime and I thought it was an angle on the crime debate that had not been explored. I thought it was something that had to be put into the *Hansard* because the economy of Trinidad and Tobago is important to all of

us.

When we analyze the economy we never look at what I would call the system thinking approach to analyzing the economy, and I was saying that the crime situation over the last decade, while we are unable to quantify the impact that crime had on gross domestic product—and I am sure that there is some ambiguous PhD student out there who may do that—there was a significant impact that crime had on the economy. For four of those years, 2002—2010, I worked in a Chamber of Industry and Commerce and we were inundated by calls, letters, pleas from our membership about the crime situation in Trinidad and Tobago that was running away from the government of the day. So I thought that I would put on record the fact that the economy has been damaged by the crime situation that was allowed to run away in that decade.

Again, I apologize if I was going a bit too high and over the head of certain people, but when we come back to the organic and the inorganic nature of crime, we had a situation where unemployment in Trinidad and Tobago was decreasing and the former Prime Minister of the country—who is now very quiet; in the other place he sits somewhere to that side—was always very boastful about the fact that we were approaching what the economists call “full employment” in Trinidad and Tobago, and one therefore wonders, if we have a situation where the economy is approaching full employment, why then did we have a spiralling crime rate? It seems that it was very counter-intuitive that you would have an economy growing at a pretty robust pace and at the same time crime growing alongside the GDP rate.

So that lent one to postulate or to hypothesize that maybe there was some level of organization to the crime. One also has to acknowledge the

calculation of the unemployment rate is based on what they called the existing labour force, and there may be persons who actively decided not to participate in the labour force. So, therefore, the use of the unemployment statistic could be sometimes misleading. So that, Mr. President, is something I thought I should put on the floor of the Parliament for the *Hansard* record, and in the context of the Bill, I thought it was important because the Bill seeks to address the situation with respect to firearms out there.

In putting together my research for this Bill, there is a particular case to which I would like to refer. There was a murder that took place in this country on June 30, 2005. It was the murder of a young man named Uttam-Deo Maraj who worked as an engineer in the oil industry for a company called Halliburton. He was 26 years old. I am reading from a newspaper column written by our Attorney General on August 21, 2005 which speaks to the murder of Uttam-Deo Maraj. When one reads what Sen. Ramlogan had written five years ago, it is actually very touching. It is a murder that has always been in my mind when I read the story. He was killed, and it is alleged that the gun that the bandits had used to kill Mr. Uttam-Deo Maraj was actually a gun that was somehow sourced from a police station. So that, I think, brings a very sober note to my contribution. The Attorney General in his column of five years ago described him as the perfect son, brother and husband who was lost in a split second. His bravery and courage must never be forgotten.

Mr. President, a few days ago I attended the funeral of Mr. Naipaul Sookdeo. I think he was 80 years old. He was the father of Vindra Naipaul-Coolman, and his daughter was one of the more progressive entrepreneurs in Trinidad and Tobago. That family was able to build a business empire by

starting off selling vegetables in the Chaguanas market. It brings me back to the point I was making about uncontrolled guns and firearms in the society, and the destruction of the entrepreneurial class. So in that context, the Bill that is before us is extremely significant.

I have listened to the contribution of Sen. Al-Rawi, one of the more intelligent contributions that you would hear coming from that side. [*Desk thumping*] I think we need to give credit where credit is due. [*Desk thumping*] He did his homework on the Bill and gave the Government Bench what I thought was a very robust analysis of the piece of legislation before us. I also listened to the contributions coming from Sen. Elton Prescott SC, and I noted that in his contribution he was referring to aspects of the legislation that were not in the track changes; meaning aspects of the legislation were not proposed in the amendment to the Firearms Act. I think this track change approach came from—I think we have you, Mr. President, to credit for this track change approach and I think if we continue to get legislation like this—we had a debate a few weeks ago about the efficiency and effectiveness of Parliament, and I think this track change approach to understanding legislation and Bills will go a long way to achieving that goal.

So, Mr. President, I thought that we were lacking the context in which the Bill before us would be framed—[*Interruption*]

Sen. Hinds: We still do.

Sen. K. Ramnarine: We still do. Okay, if you say so. You may be lacking in context one day yourself. You were lacking in context for many years when you were in the wilderness, but we welcome you back to the Parliament, Sen. Hinds. So I thought that I would bring some context, and I wanted really to bring a human face to this Bill, which is why I referred to some of the victims of firearms and so on, and I wanted to really couch the

Bill in terms of the economic environment in Trinidad and Tobago and the danger that crime does to our business competitiveness.

So with those closing remarks, I want to thank the Senate for the attention. Thank you very much. [*Desk thumping*]

Sen. Terrence Deyalsingh: Thank you, Mr. President. As I rise to add my voice to the Firearms (Amdt.) Bill, 2010l, first of all, I want to congratulate Sen. The Hon. Brig. John Sandy. He gave a very objective, factual introduction when he attempted to pilot this Bill through the Parliament. I want to congratulate him for that sincerely because it is in far contrast to hon. Seepersad-Bachan as she attempted to pilot her Bill from last week and now Sen. Ramnarine.

6.45 p.m.

The public, when they look at us, may not realize that when a Bill is being piloted, the debate normally starts from the Government side, then we move to the Opposition side and then the Independent side. Whoever is piloting the Bill, in my opinion, sets the moral tone that we adopt for the rest of the debate.

I thank Sen. The Hon. Brig. John Sandy for that. Last week his colleague, while piloting the Petrotrin (Amdt.) (No. 2) Bill was going wonderfully well—I was paying close attention—she was factual, relevant; it was an education; but then she started to call us the Treasury bunch or the Treasury team to impute corruption. That is where I stopped listening. Again, I congratulate Sen. The Hon. Brig. Sandy. I would like to let the population know that the debate starts there. The tone of the debate is set by the Government side. We do not set the tone because we come after.

This issue of firearms killings is too important to let it descend into partisan politics, much too important. That is why I rose to interrupt Sen.

Ramnarine. You cannot take crime and gun violence in Trinidad and Tobago out of context. We have to look at it in the context of Trinidad and Tobago being part of a wide Caribbean society that is also affected by guns, gun violence and the drug trade because of our in-between position with South America where the drugs are produced and North America where they are consumed.

Murder and gun violence is not the creation of the People's National Movement. I would like to refer to the *Hansard* of December 09, 2003, where the then Independent Senator Prof. Deosaran—I do not want to take his comments out of context, so please allow me to read a fair part in case Prof. Deosaran is listening to this. This is the only jacket I have; I do not have court clothes other than this.

“We have had opportunity several times before to improve ourselves in the mission we should undertake to reduce crime, but it is true year after year, and if I might say so, with respect, regime after regime of political neglect to do what should have been done in the past.”

Look at these words: “regime after regime”. We are all culpable in this; not as Senator Ramnarine would have you believe that crime is a People's National Movement child. It is not. If he does not believe it, go to the *Hansard* which he so liberally quotes. Quote from other speakers; not just take data to support a skewed point of view. There are lies—is that unparliamentary language, Mr. President? There are lies, half-lies and statistics, whatever.

Hon. Bharath: Half-truths.

Sen. T. Deyalsingh: Lovely.

“...This is not any political point. This is what you might call a

civic intervention on behalf of a frightened population.”—referring to the failure of regime after regime—“The same thing happened with the UNC when they were in power.”

Should I repeat that, Sen. Ramnarine.

“As listened to my friend Sen. Augustus speak, it dawned on my mind for the umpteenth time that these two major political parties in this country should get together and fork out a strategic, coordinated, comprehensive crime plan for the country.”

This is what we want, Mr. President. We want to work with them. When Sen. Ramnarine comes with that type of language, it makes cooperation a little difficult.

I get back to putting crime in Trinidad and Tobago in context. I have a situational analysis of gun, related crime in the Caribbean, the case of Trinidad and Tobago, Antigua and Barbuda, St. Vincent and the Grenadines and St. Lucia. This is just to reinforce my point that gun crime in Trinidad is not a PNM creation. It exists throughout the Caribbean because of our geography; because we are islands with unpatrolled borders which are porous, which give an avenue for the gun runners and drug smugglers to get through their products for transshipment abroad.

It goes on to say that intrinsic in this relationship is the concentration of crime and gun-related violence in the major cities, “hot areas” in all four cases under study. In Trinidad and Tobago, the majority of gun-related violence occurred in the Port of Spain district and western district. In other urbanized cities such as San Fernando and Arima it exists. Do not deny it. These areas have witnessed high rates of gun-related violence.

In Antigua and Barbuda, the concentration of gun-related violence is in its capital city, St. Johns; in St. Vincent and the Grenadines, in the

suburban area of Kingston and in St. Lucia, predominantly in the Castries area. Mr. President, this is a Caribbean problem. We are here to seek a solution for Trinidad and Tobago.

I would like to have seen coming before this House this particular piece of legislation as part of an overarching anti-crime package. Let us deal with the gangs; let us deal with drug smuggling and firearms in a holistic manner as part of a total anti-crime package. That is what you call a legislative agenda. We need it and we will support it if we need to support it. My little research, to give some idea of what we are dealing with, tells me that licensed firearms in Trinidad and Tobago, the figures are between 7,000 and 10,000 which leads me to wonder how many illegal firearms we really have.

A UN report estimated—there is no way you can calculate this—that in the Caribbean area, not Trinidad and Tobago, there are 1.6 million illegal firearms. The Caribbean is just six million people. I am saying this to put the issue of crime, guns and illegal firearms in its proper context. Until we do that, we will just be trying to score political points off each other and will get nowhere very fast.

The Bill opened up a Pandora's Box, which Sen. Al-Rawi looked at—the issue of strict liability. I suppose the viewing and listening population by now must be wondering, going on Wikipedia, what is strict liability. Is it a good or bad thing to make an offence a strict liability offence? Apparently they have now admitted that it is not a strict liability offence. We still owe a duty to the public to let them know what it is in a manner that they can understand.

Mr. President, the issue of strict liability offences originated in England, I think in the 19th Century, just after the Industrial Revolution

when factories were gearing up and so on. There were lots of industrial accidents in these factories. Workers were losing their limbs, arms and so on.

The issue of industrial accidents in England in the 19th Century was made a strict liability offence where the worker did not have to prove that the operator of the factory had the particular *mens rea* or guilty mind for him to get damaged. This led to redress in the courts where workers were able to get redress and compensation for their injuries.

Over time different societies, in England in particular, have added other serious crimes under the umbrella of strict liability, for example, rape. I think in England now rape is a strict liability offence where the victim does not have to prove that a perpetrator had a particular mental capacity. That is what strict liability is. The principal objective of strict liability therefore is to maximize the deterrent effect of the law but we have to be careful, as Sen. Al-Rawi and Sen. Prescott SC mentioned, about the inconsistencies in sections 5(a) and (b). Those need to be addressed.

While we are talking about inconsistencies, I draw to the attention of Sen. The Hon. Brig. Sandy, who is piloting the Bill, section 2(1)(b), ammunition.

“‘Ammunition’ means—

(b) every shell, cartridge case, bomb, hand-grenade, bullet or like missile, whether containing any explosive or gas or chemical or not and whether intended to be discharged from or by any gun or other propelling or releasing instrument or mechanism or not, except missiles which can be used only for the purpose of extinguishing fires.”

Mr. President, in interpreting this particular clause—maybe as Sen.

The Hon. Panday is here now—does this also include fireworks which people set off for Divali, Old Year's night and every birthday party in our neighbourhood? My layperson's interpretation leads me to believe that fireworks can be included under this clause. When Sen. The Hon. Panday reads it, maybe he can clarify the issue.

This clarification of clause 5 and the issues that Sen. Elton Prescott SC raised earlier leads me to a very grave issue I have noticed in this Senate since my appointment in early October. That has to do with the continued absence of the Attorney General from this Chamber. We are discussing laws which have very serious implications. The cameras only focus on people who are speaking. The supporters of the Government and other people do not realize that the Attorney General does not stay for a sitting of the Senate. He comes for the prayer and then vanishes. Today he stayed a little to help hon. Seepersad-Bachan pilot her Bill. Once that was done, as we say in local parlance, he “dus’ it.” We have serious issues with this Bill. We have queries and concerns.

Sen. Panday: The hon. Attorney General was here and five minutes ago he had an important meeting. He indicated his wish to leave and he left.

Sen. T. Deyalsingh: Mr. President, we in this House need the Attorney General to clarify points of law. When people ask who the Attorney General is, they do not say: “Who is the Attorney General of the Government, the UNC or the COP?” It is: “Who is the Attorney General of Trinidad and Tobago? Where is he? Does he have some special dispensation?” I do not know.

This is the highest law-making body in the country. I would like to see my Attorney General take his rightful place and be an active participant in the process. We are discussing laws. He came to this Parliament after a

stellar career in the private sector and, with all the scores that Sen. Ramnarine keeps on the Opposition Bench, it is the Leader of Opposition Business in the Senate who brought to the attention of this country that the man handpicked by the Attorney General to lead the probe into Clico was unsuitable for the job.

7.00 p.m.

That, my dear friend, is the offices at Charles Street, which you denigrate every time you speak. It is not where we reside; it is our ability to do the people's work, Sen. Ramnarine. You could put us on High Street, San Fernando, we would do "de wuk". You could put us on Bacolet Street, we would do "de wuk", anywhere. If it was not for the astuteness of the Leader of Opposition Business here, that probe into Clico would have gone ahead, a particular result may have been engineered. And then what? Then we would hear: "Well", I ought to have known, and "I should have known." The IQ of people in the Opposition is not as low as Sen. Ramnarine would make it out to be.

Mr. President, the Act—[*Interruption*]

Sen. Ramnarine: The man is hurt! I thought he was not going there?

Sen. T. Deyalsingh: No, no. The Act alone is not going to solve firearm crimes. We have to study this issue from supply to demand, as I have stated before. A lot of the firearms/handguns being used—and we have to monitor international developments—come from what is called post-conflict situations, from disbanded guerilla troops in South and Central America and our borders are very porous and we have no border patrol. I have to bring up the issue of the OPVs again. In the absence of the OPVs, what is the plan? What is the plan? I hear that we may invite a foreign power to come down and help us patrol our borders. I do not know if that is true or not, but, if we

do that, are we not giving up our sovereignty to a foreign power; and what happens after that foreign power has budget cuts and they could no longer be supported? We have to take charge of our own destiny.

I come back to the issue of illegal firearms. The illegal firearms have a very strong sociological context to it, and if we do not pay attention to it we will be implementing solutions which have no chance of succeeding. I want to take this issue a bit further to when I spoke about former Sen. Prof. Deosaran's suggestion earlier. I was at a luncheon at the Tunapuna Chamber of Commerce some years ago, as a guest of a businessman from Tunapuna, when the then Prime Minister of Trinidad and Tobago, hon. Basdeo Panday, was speaking, after the UNC had been in government for, maybe, 18 months. He said then, about the spiralling crime rates, that he was concerned about it, but that he honestly did not know at that time what to do about it. This issue of illegal firearms needs the support of that side and this side. As former Sen. Prof. Deosaran said, regime after regime. I will repeat myself ad nauseam. We are all culpable. I cannot blame them, 100 per cent, but they cannot blame us. We are all in this together. We are in this together. Therefore, we need new ideas and new approaches to solve this issue of crime.

I know the last time I spoke I made a particular recommendation, and it elicited a very emotionally untidy response from the Minister of Health who is not here. If it is that the Government is going to adopt the attitude of: "When we in power, we shoulda do it", which were her words, basically, then what are we here for? We might as well pack up and go home. I cannot hold Sen. the hon. Therese Baptiste-Cornelis accountable for what Dr. Hamza Rafeeq did at the Ministry of Health, when he was in power, anymore than she could hold us responsible for other things that may or may

not have been done. To come to the Parliament and give an untidy response of “Yuh shoulda do it when yuh was in power” is disingenuous. It gets us nowhere. We are in this together. I hate to keep repeating myself, but that untidy response is reflective of other emotional outbursts.

Mr. President, we have to look at this issue statistically, as Sen. Ramnarine attempted to do. I have some statistics from the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service, and it gives you data on gang-related murders for the years 2007 to 2009. It breaks it down by division such as Port of Spain, and so on. For 2007, gang-related murders totalled 206; 2008, 345, where it peaked; 2009, 176, approximately one-half; and 2010 to date, 56. The decline did not start on May 24, as Sen. Ramnarine would have you believe. That is revisionism. I am sorry that Sen. David Abdulah is not here, because, he loves to talk about revisionism. These are figures from the police service; I did not make them up. Something has to be working, because, if nothing was working, right after the election of May 24 the hon. Prime Minister could not have said Trinidad and Tobago is a good place to invest. Which is it? Is it a bad place to invest or is it a good place to invest? Did it suddenly become a good place to invest on May 25? *[Interruption]*

Sen. Mohammed: Yes, definitely.

Sen. T. Deyalsingh: That is revisionism. When we look at this, something seems to be working. Let us ferret out what is working. Let us work in harmony. Let us work in conjunction. As I have said before, let us put our hands across this artificial divide. That is the challenge. As former Sen. Prof. Deosaran said, and I would repeat those words, regime after regime, we are all in this together.

Mr. President, I would have liked to have linked this Bill with the

coming and—[*Sen. Ramlogan enters Chamber*] thank you very much, Senator. Excellent, lovely, well done, nice to see you. The place looks strange to you. “Eh”?

The case study which I referred to earlier showed that 59 per cent—you see when we work together, we get things done—of the victims of fatal firearms who were sourced were males between the ages of 15 to 34. That identifies the vulnerable group that we need to target, with the same plans that were in place from 2007, which significantly brought down the gang-related murders in Trinidad and Tobago. I “doh” care who was in power or who wants to take the credit for it. That is totally irrelevant. Let us identify the plan and identify the vulnerable groups and work with them.

There are other socio-economic factors. There is the male fascination with guns. When we grew up—Sen. Ali, I am sure you had the 25 cents caps gun in those days. We all had them. [*Interruption*]

Hon. Senator: Two cents in those days.

Sen. T. Deyalsingh: A penny? Well, in my days it was 25 cents. There is the male fascinated with firearms, the old cowboy and Indian movies, shoot ‘em up, OK Corral and whatever. What has happened is that succeeding generations of people/children, through socialization, via television; music with antisocial lyrics; poverty; and American, what you might call, cultural imperialism—I have heard that term—whatever it is, you find that succeeding generations have lost the ability to separate fiction from fantasy.

There was a study done in the United States, which was replicated successfully many times over, which showed, basically, if you took a group of 100 children, 50 per cent or 50 came from at-risk families and 50 from what we might call normal, nuclear families, and you expose them to the same lyrics, the same violence on videos, the same violence on television

and the same sexual messages on advertising, you found that those 50 per cent that came from the well-adjusted families, by the time they are 18 or 19, saw that antisocial phase of their lives as just that; a phase. Then they adapted or adopted normal societal values, whereas the other 50 per cent exposed to the identical stimuli adopted the antisocial behaviour as a way of life. Those are some of the issues we have to look at in Trinidad now, as we identify the at-risk groups, the young males between the ages of 15 and 34.

Sen. Ramnarine spoke about the economy, as this economy continues to stagnate. I think he tried to make a link between the economy and crime.

[Interruption]

Sen. Ramnarine: Tried?

Sen. T. Deyalsingh: You did? Sorry. As this economy continues to stagnate, according to Sen. Ramnarine's theory, we are likely to see increased levels of crime? *[Interruption]*

Sen. Ramnarine: I cannot forecast that, Sir.

Sen. T. Deyalsingh: You do not know. I would like one of the three Ministers of Finance that we have to tell us what the plan for the economy is. Which of those three Ministers of Finance is going to put his hands up and say: this is the plan? *[Interruption]* Yes, three Ministers of Finance. Sen. Shane Mohammed does not know that he has three Ministers of Finance. *[Interruption]*

Sen. Mohammed: I never said that!

Sen. T. Deyalsingh: The substantive Minister of Finance, as you know, is hon. Winston Dookeran. The first Minister of Finance was Ernie Ross who, during the campaign, promised people \$3,000 for pension. That was the first Minister of Finance, Ernie Ross. Then there is Mr. Winston Dookeran and then we have an Inter-Ministerial team looking at the Clico affair—

different people expounding on economics finance. One minute, the amount of money owed to the contractors is \$7.5 billion, which they would pay in bonds. The following week is “\$1.5 billion”, which would be paid in cash. Which is it? One minute, “we doh have de money” and one minute. “We have de, money.” Which is it? As the economy continues to stagnate, we are going to see more retrenchment; workers will be left behind, and so on.

As we move forward, this Bill is basically a first step. What we need to do, after we look at this Bill and, based on the recommendations, investigations or observations of Sen. Al-Rawi, Sen. Prescott SC, and my own layman’s interpretation of clause 2(1) (b), which I think says that firecrackers could be included under that—[*Interruption*] I do not know, I am asking. I think if you read it literally, you can see where there is a window for a policeman to include firecrackers. This has nothing to do with politics, I am just giving it to you as I read it, so please.

My thinking is that this Bill go before the Law Review Commission for scrutiny, because it seems to have too many mistakes and inconsistencies, a part pulled from the narcotics Act, a part pulled from an Act. This is not a criticism. This is just a comment for our way moving forward. We have to look at this Bill in the total context of how do we go from here. This Bill is just a first step.

On the issue of crime, this is where I will not blame any government. My feeling is that one of the major reasons why crime is a major problem is because of poor parenting, and I will say that over and over and over.

7.15 p.m.

Sen. Ramlogan, you could pass as many laws as you want, but you cannot legislate good parenting; you cannot legislate good home values. Senator, let us be honest. You and I grew up in a different time. We had

nuclear families. We had parents who would support us and who would punish us. As a parent myself, I always say the first word that a parent should learn is to say no. Too many parents say yes to everything. If we are going to tackle crime, we have to get into the heads of parents. This is non-political; this is for Trinidad and Tobago. This is for our children and your grandchildren.

We have to address this issue of illegal guns, crime and drugs together. We need the enabling legislation. I again plead for a legislative agenda, at least, for crime. Please, let us deal with the Anti-Gang Bill which is coming, and let us not deal with it sequentially. If we do that, I think we can have a Trinidad and Tobago that we are all comfortable with, and that we are all proud to say, we belong to Trinidad and Tobago.

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

Sen. Helen Drayton: Thank you, Mr. President. I would not be very long. Most of my major concerns have been addressed by speakers before me but, with respect to clause 5, I would still like to put it in my own way by asking the following questions: To what extent our fundamental rights in the Constitution are still protected? Every single piece of legislation that comes to this honourable Senate—and very onerous pieces of legislation—infringes sections 4 and 5, which is where our fundamental rights are enshrined in the Constitution. So that the innocent citizen is no longer a hostage only to the criminal, he is hostage to the police authorities. However, the reality is, let us say a vulnerable youth, to prove lack of knowledge will be arrested, charged and sent to jail, and if there is no means for bail, that person stays in jail. That is the danger inherent in section 5, and it begs the question; we are putting, more and more legislation, and the question must be asked—while I know that a legislative framework is important—are we putting the

emphasis in the right areas?

Let me turn to clause 8 which seeks to amend section 9 of the Act to increase the penalty for selling or transferring a firearm or ammunition to another person who does not hold or who is not exempted from holding a Firearm User's Licence. I ask for clarification as to whether that extension of the statement “who does not hold or who is not exempted from holding a firearms licence”, should apply. Should it not be a question of increasing the penalty for selling, lending and transferring your firearm and ammunition without the necessary authority? Sen. The Hon. Brig. Sandy said in his presentation that it is a question of control. So if it is a question of control of firearms, then the fact that I am not exempted from holding a Firearms User's Licence, should I be allowed to sell or lend or transfer my ammunition without that transaction being recorded somewhere? I certainly would like clarification on that matter.

The second aspect of that clause—if we go to clause 8(4), which seeks to amend section 9—is that the penalty will be increased for members of the protective services. Those members were established in the Act as police officers, members of the defence force, the Director of the Forensic Science, or any scientific officer designated by the director of the forensic centre, a customs officer and a prisons officer.

Now, I am assuming that a precepted private security officer or officers, are included here or meant to be included as members of the police force by virtue of the fact that they fall under the Supplemental Police Act, Chap. 15:02, and the Commissioner of Police has ultimate jurisdiction over the precepted officer, but would that apply to all members of the private security industry? For instance, an administrative officer or a senior manager or a CEO whoever, a private security firm is registered under the

Private Companies Act, and who have responsibilities to safeguard the property of that private company—now they have access to weapons—do they have a duty of care, a special duty of care? If they do not fall under the Commissioner of Police since they are not precepted, why are they excluded? Why are you applying the law uniquely to the protective services members? Now, I understand that the protective service members have a special duty of care, but so too are members of the private security industry.

Mr. President, Sen. The Hon. Brig. Sandy also mentioned that there are instances where ammunitions take a walk from the premises of the protective services industry. I have to pose this question, where are the chances greater? In the core protective services—the private security industry—for firearms to be rented, transferred and sold, given the fact that there is a high degree of scrutiny in the core services—for instance, in the police service, you have daily checks, and it is more than once a day. I would imagine when there is change of shift, there would be some recording so that there is vigilance in that regard, but in the private security industry, oversight is disconcertingly inadequate. There are only random checks, and those random checks are like once a year or probably every eight months. So that should the law be specific in this instance to members of the protective services, I would suggest that it be amended, because the instance for loopholes within the private security industry is certainly very high.

In speaking to that industry, the Private Securities Industry Act was debated and passed in the other place—I think it was in 2001—and since then it lapsed. I recall that on a Motion brought by the then Sen. Wade Mark to this honourable Senate, the then Minister of National Security, Sen. Martin Joseph, made reference to the fact that there are approximately 5,100 precepted officers. At that point in time, there was reason to believe that

there were more firearms in the private security industry than in the hands of your police officers per se. That could be a statistic that is wrong. But suffice it to say, the private security industry has a population of over 35,000 in terms of employees, according to my research, and it is probably much higher than that—you said 50,000—and yet it is not properly regulated. Here we are bringing legislation seeking to control—

Sen. Panday: Hon. Senator, would you kindly give way? Your concerns are well founded and Sen. The Hon. Brig. Sandy has formulated a policy position which will be going to Cabinet this week to control private security firms. So, indeed, we are looking at it.

Sen. H. Drayton: So it begs the question then, with respect to this legislation and the penalties that are being increased for members of the protective services, would it include all members of the private security industry?

Sen. Panday: Hon. Senator, if they are precepted, they would fall under Chap. 15:02 and would, indeed, fall under this legislation.

Sen. H. Drayton: But Chap. 15:02 would refer to precepted officers. What about the unprecepted officers? This is what I am asking for clarification on.

Sen. Brig. Sandy: They do not have the authority to carry firearms.

Sen. H. Drayton: But they have access to firearms.

Sen. Brig. Sandy: They are not even allowed to touch them.

Sen. H. Drayton: So that we have incidences of firearms going missing and going amiss in the private security industry. [*Interruption*] So we have had that. This is what I am asking. Why is the law only dealing with a specific circumstance? Why is this piece of legislation only dealing with that specific circumstance? That basically is my question.

So the more I ponder on the legislation, I noted that there will be increases in penalties. Referring to what the last speaker, Sen. Terrance Deyalsingh said, when I read the penalties—to use another phrase of Sen. Faris Al-Rawi—I wonder if we are really not just spinning top in mud.

You talk about gangs; access to ammunition and small arms, so what would this five years difference mean to a youth between 15 and 25, who is illiterate, abused, devoid of any social skills and emotional development? Why would five years make a difference? I looked at the legislation, I understand the intent, and I am asking myself whether the increases in penalties are a question of raising revenues. What real effect would this have, given our unique circumstances?

So that in pondering the legislation, I recall it was the current Commissioner of Police, Commissioner Gibbs, if the newspaper report was accurate, was speaking about reducing crime; the combination of intelligence and scientific research, the systems to facilitate timely response; the modernization of records; employment of technology; the relevant training to include the upgrade of the curriculum for the Police Training Academy and, of course, as I said, I know we need appropriate legislation.

7.30 p.m.

Mr. President, before I close, let me just correct or embellish a statement which was made by Sen. Ramnarine when he referred to the statistics on crime, wherever he got them from. I have access to those same statistics, because they are on the police website. The declining trend in serious crime is not from July or June. The Commissioner of Police himself made reference to the fact that the decline in serious crime commenced in January 2010 over 2009. [*Desk thumping*] For the entire first half of the year, there has been a decrease in crime over the previous year.

When we make statements, it is very important that we make statements of fact. He recognized, to his credit, the substantive things that would reduce crime. I look at the Bill and I understand the importance of it. I have to emphasize that I do not understand the omission of a major arm, call it an adjunct arm, in the context of our national security. I do not think it is adequately addressed. It could only be adequately addressed in legislation.

With that, Mr. President, I thank you.

Sen. Danny Maharaj: Mr. President, it is, indeed, an honour to join in this debate here today. I would really like to respond initially to some of the comments made by previous speakers and really pledge my support for this Bill, as a Parliament, as a country and as a people strive to arrest the crime situation in Trinidad and Tobago that has been devastating our country for a number of years.

There is a beauty in this Parliament; it is that we are all here to bring a point of view, to represent a perspective and to add value. So we must be all be respected for our point of view and our perspective. This Government abides by that policy.

On that note, I hasten to advance that on the comments made by Sen. Deyalsingh, in his attempt to cooperate with Government and to have a less adversarial setting and conversation in terms of debate, I offer the advice that when the new year arrives, the goodly Senators opposite should remove from their necks those Balisier ties, because they are a burning symbol that is associated with hurt and degradation to Trinidad and Tobago. That is what really created infuriated Sen. Ramnarine. Let us take that out of the equation and the conversation might get a little better. [*Crosstalk*] We are talking about national interest and nationalism and I am willing to offer

neutral ties as a Christmas present to the goodly Senators opposite.

Sen. Beckles-Robinson: There is something called freedom of choice.

Sen. D. Maharaj: And freedom of expression also.

Sen. Beckles-Robinson: And freedom of the press.

Sen. D. Maharaj: In the contribution by Sen. Al-Rawi, he raised very good and significant points. [*Interruption*]

Sen. Beckles-Robinson: Wearing the same Balisier tie.

Sen. D. Maharaj: No problem, but we could always improve.

Furthermore, surrounding his very substantial contribution, he wanted to piece together and add surrounding issues, matters of the PSA, Clico and the economy. While I share a similar passion with him, the underpinnings of his statements struck me to be inappropriate as it relates to casting those present situations on this present Government's policy.

It is like having a jar of milk, deliberately taking it and smashing it to the ground and then clamouring, "Everybody is thirsty". That is the PNM. They have destroyed the economy; they have reduced our ability to serve via resources that could have been invested more properly, rather than wastage, extravagance, over expenditure, and now they clamour, "We need this and we need that and we are hungry".

We agree that there are needs to be fulfilled and this Government is working tirelessly, day after day, night after night, to undo the damage that was there previously. [*Desk thumping*] We appreciate now the support you are willing to give at this time; I hope it is 24-hour support. I hope all members in your party are willing to go into communities and do additional work to make up for the wrongdoings previously. [*Laughter*]

Mr. President, I say without doubt that crime and criminal activity are foremost concerns of the people of Trinidad and Tobago. Poll after poll and

survey after survey have indicated that illicit activity is the most troublesome and worrisome issue for our population.

It is no secret that we have for several years been the victim of a crime wave in Trinidad and Tobago. For us to successfully combat this crime wave, Government must take a multifaceted approach, that is, from the detection of crime to the conviction of the guilty and, eventually, to the rehabilitation of these individuals. This would require the entire overhaul of the criminal justice system. We need to look at this thing entirely, totally and have reform taking place continually as we move to better protect the citizens of Trinidad and Tobago.

It is a lot of work and we appreciate whatever contributions can be made on the other side. We could work together, because it has to be done. The youths and all citizens of this country require a better Trinidad and Tobago, but facts are facts. We cannot erase the facts, probably from a blackboard, but not from history.

The Firearms (Amdt.) (No. 2) Bill 2010, by increasing the penalties of certain offences involving a firearm or any prohibited weapon, as defined by the Act, by an average of 50 per cent, is a clear act of aggression against the criminal element. This Government has already passed the Evidence (Amdt.) Bill 2010. We are dealing with the Bail (Amdt.) Act and now we have the Firearms (Amdt. (No. 2) Bill.

We are focused on dealing with this crime situation in Trinidad and Tobago with the intention of strengthening the legislative aspect of the criminal justice system to ensure better crime control. Mr. President, gang culture, low detection rates for homicides and persons inflicting grievous bodily harm and low conviction rates for those apprehended due to procedural flaws, witness tampering and elimination,

have resulted in criminals being more fearless against the law, institutions of the law and law enforcement agencies. We cannot allow this country to become like the Wild West, with the fastest gunslinger running the town. It is the mandate of this Government that we deal firmly and fiercely with our crime situation. This Bill toughens the sanctions related to unlawful gun possession.

When one reads the newspapers or looks at the evening news you hear of police officers, prison officers as well as members of the public being gunned down. We have developing and hardened criminals waging war on our society. I would like for a moment to look at clause 6 of this Bill which deals with the issue of repeat offenders, making an individual liable to life imprisonment upon a third conviction. This will only apply to those who have continuously demonstrated a refusal to abide by the law. Such individuals need to be removed from society on a permanent basis, since they continue to wage war against the citizens.

It is a fine balance between crime control, civil liberties and due process, but more and more, we must become stricter as a country to protect those very vulnerable, innocent citizens who are being attacked, murdered, killed, victimized and abused. We must become more aggressive otherwise we will lose and this will become a gangland. Our paradise will become a gangland. We love our country too much. This Government will rise up to the challenge and address the situation.

We are seeing it continuously, successively day by day and we will work harder and spend more time in ensuring that one of the number one priorities of this Government is addressed. I want to assure the nation of this. There are a number of different aspects that are being addressed concurrently, from the police service to the Judiciary to legislation.

What has been demonstrated in a number of cases internationally is that strict firearm regulation, combined with strict enforcement, results in reduced gun related crime. I would like to draw your attention to an article entitled:

“Effect of a Ban on Carrying Firearms on Homicide Rates in 2 Columbian Cities.”

This is from the Journal of the American Medical Association. It discusses a policy implemented in Bogota and Cali, whereby carrying any firearms, legal or illegal was prohibited on certain days where it was deemed a higher risk for violence on those days. Let me quote:

“On the days when the ban was in operation, police set up strategically located checkpoints in areas of the city where criminal activities were commonplace, and they conducted random searches of individuals.

During the ban, police policy directed that if a legally acquired firearm was found on an individual, the weapon was to be temporarily taken from the individual and the individual fined.

Individuals without proof of legally acquiring the firearm were to be arrested and the firearm permanently confiscated.

The aggressive intervention programme operated in Cali during 1993 and 1994. A similar intervention was applied in Bogota from 1995 to 1997.”

7.45 p.m.

“The researchers studying the preventive effects of these measures reported that the rate of homicide (in Cali) was 14 percent lower than expected during periods when the ban on carrying firearms was in effect while it was 13 percent lower than expected (in Bogota) during

intervention periods”

Mr. President, studies around the world have linked increased access to firearms to increases in firearm-related homicide and suicide. Firearm laws control the use of firearms, the storage of firearms and who should be given a firearm. Clauses 18, 19 and 20 effectively cover this area.

Clause 8 increases the penalty for members of the protective services who engage in selling, renting or otherwise illegally transferring guns and ammunition. What we are aiming to do with this Act is to take those offenders who are in possession and who utilize illegal arms and ammunition off the streets for longer periods of time, essentially giving the judges more clout to sentence offenders if need be.

I want to refer to the United Nations Criminal Justice Reform and Strengthening of Legal Institution Measures to Regulate Firearms Report of the Secretary - General, March 07, 1997 that speaks to the importance of firearm control and I quote:

“The expert group, cognizant of the diverse cultural, legal and political structures of Member States and in the light of the results of the international study on firearm regulation, has agreed on the following general conclusion:

- (a) Import and export controls on firearms are not sufficient by themselves to prevent illicit trafficking in firearms;
- (b) The absence of effective firearm regulation in one Member State can undermine not only the regulatory efforts but also the effective governance of other Member States;
- (c) The manufacture of and trade in firearms for civilian use require effective domestic regulation and international cooperation and control;

- (d) Effective domestic regulation of firearms requires cooperation between all levels of government, law enforcement agencies, business, the media and citizens to promote crime prevention, public health and the safety and security of individuals.”

Mr. President, the current philosophies that hold sway in crime fighting for a number of reasons have not worked. That is why we must find new and innovative ways to fight crime. One of the initiatives that has had some success in several countries such as Canada and the USA is a firearm buy back programme whereby people with illegal firearms have the opportunity to bring in their firearms for a cash reward. Also, this will tie in to the whole concept of a gun amnesty which I consider very critical.

If we have individuals within society possess illegal firearms and they want now to relinquish these firearms or no longer possess these firearms because you do not want to be associated with breaking the law, then there must be some mechanism whereby we could get these firearms out of households, buildings or the country and safely move them into some secure holding as opposed to them being resold or circulated from one person to the next. So a gun amnesty, I think, is the idea we can look at whereby we give the opportunity for people to submit their firearm in an attempt to reduce firearms within the society and further reduce gun-related crimes.

I believe the Commissioner of Police is looking at this. In the long run the expense of investigating, apprehending, trying and convicting and then imprisoning offenders for illegal possession of firearms is going to be a lot more than, for instance, if you look at the cash reward. However, all those things are up for consideration. The essential and core point is, you must provide that system where we could get illegal firearms out of society in a systematic and procedural way where we could offer a chance so we

could clean up the guns in society. The important part is that guns would be removed from the streets and taken out of criminal hands and, at the same time, someone who wishes to get out of the gun culture will now have an avenue to do so, without fear that coming forward would result in imprisonment.

Mr. President, what has happened also, due to the ineffectiveness of the criminal justice system, based on the amount of killings and robberies within the society, we have normally law-abiding citizens who, through fear for themselves and their families, weigh the risk between breaching the law and what they deem protection of their family by acquiring illegal firearms. It is the responsibility, therefore, of Government, as they get stricter on possession of illegal firearms, to provide the necessary and appropriate response mechanism by the law enforcement agencies, the police services and so on, so that we appropriately protect our citizens so they do not believe that it is their responsibility to breach the law in an attempt to protect themselves. This concept of acquiring a firearm to protect one's family has also added to the demand for firearms within Trinidad and Tobago.

As I said, all these things must be addressed in context of the criminal justice system from legislation to enforcement to conviction. The entire process must be streamlined and work in tandem so we could have better crime control in Trinidad and Tobago.

Mr. President, those are my very few words in contribution to debate on this Bill. I know that this country is waiting. It is waiting day by day to step up and step forward towards a better tomorrow and I do believe, respectfully, that we all as Parliamentarians have value to add be it within the Government, the Opposition or the Independent Bench. So while, within the Westminster system, it is naturally an adversarial system and we will

have comments fitting in relation to the system. I know we would always rise above to put the people of Trinidad and Tobago as the foremost responsibility in this Parliament.

I thank you.

Sen. Shamfa Cudjoe: Thank you, Mr. President. I am thankful for the opportunity to join this debate and I would try to make my points in the couple of minutes that we have left this evening. After examining the changing face of crime and the increase of violence and gun-related crimes in Trinidad and Tobago, I have no choice but to support in principle the need for legislation to deal with crime and to deal with gun-related crime and violent crimes in our country. However, I support this legislation with reservations and in support of the points made by Sen. Al-Rawi and the points made by Sen. Prescott SC, that we need to reexamine the legislation and do some more work on it so that it serves us and serves our citizens better.

Mr. President, the Minister spoke about shipments of arms and illicit drugs and so forth within the country from Trinidad to Tobago and Tobago to Trinidad and he showed a serious concern for us as Trinbagonians because we take our—take for instance our fast ferry service. We take great pride in our fast ferry service which was initiated by the Tobago House of Assembly under the leadership of the People's National Movement. However, with the fast ferry service, even though you have people and vehicles moving fast and that is a plus, that is a benefit; we have the problem where guns, firearms and illicit drugs can move easier between Trinidad and Tobago.

I think that this increased traffic calls for increased port security, both in Trinidad and in Tobago. We need to have more security officers at the port and better trained security officers. We need to improve the security,

the scanning machines, the vehicle scanners and we need more advanced equipment to enhance port security; some hand-held scanners, the heavy-duty scanning machines. We also need to review the passenger manifest and take several measures necessary to control the crime situation as it relates to firearms and the transport and trade of firearms between Trinidad and Tobago.

These are just a few of the issues that came up in the meeting between the Minister of National Security and the Chief Secretary of the Tobago House of Assembly when the People's Partnership came into Government. So I would like to encourage the Government to continue to collaborate with the Tobago House of Assembly to treat with those issues that were discussed.

Sen. Panday: We do!

Sen. S. Cudjoe: That is what I say, “continue”. In Tobago we have a specific concern where we have more bays and more inlets, so it makes Tobago more difficult to patrol, more difficult to secure, and therefore we are more prone to the trade of drugs and firearms. Even kidnapping and human trafficking are some of the problems that affect us here in the Caribbean now.

I was deeply disappointed and seriously concerned when the People's Partnership made the decision to scrap the purchase of the OPVs. It is not just scrapping the purchase of the offshore patrol vessels, but not coming up with or not presenting an alternative plan or not presenting another route to treat with the issue.

Mr. President, you know that tourism is the mainstay of Tobago's economy, the bedrock of Tobago's economy, so an increase in violence and gun-related crimes that plague Tobago are serious impediments for

economic growth. So this whole issue of security, and border security, is very much linked to our tourism economy in Tobago. We witnessed where within the Caribbean region in the Western Hemisphere, the Americas, all the countries are stepping up on their border security.

We are all trying to combat problems of human trafficking, drug trade, the gun trade and that kind of thing. So when our country has taken the decision to leave our borders wide and open to criminals and to people who trade in firearms and that kind of thing, it is cause for serious concern, and the fact that there is no other plan that was presented to us as citizens and as a population, it calls for serious concern. I want to call on the Government that, if you do have a plan, please do not keep it secret, please let us know so we can feel a bit more comfortable because our mainstay, tourism, is at stake in dealing with this whole issue of security.

8.00 p.m.

Let me jump to my concern as a young person. I listened to the debate all evening and I recognize that most of the clauses in the legislation spoke to increasing the penalty; increasing the fines; increasing the jail time. I want to sound the alarm that, though this is one step in the process, this cannot be the long-term or the thorough solutions for our problems of fixing crime and firearms trade and the firearms-related crime in Trinidad and Tobago. I looked at legislation across the region and I recognized that different countries continue to increase the jail time; increase the penalty; increase the fines and it has been proven in several countries that this is not working.

I think we need to reposition ourselves and start talking about social programmes, about counselling, about mentoring, about how we get into the schools and get into the homes and really making this happen for us. How

do we take back our communities? You see, many times we talk about taking back the community from these monsters and it is these very monsters whom we have created. They came out of our homes, our schools, our churches.

We continue to build prisons and increase penalties without stopping to acknowledge or to understand where the people who spend this long time in the prison—we increase the penalties without trying to recognize and to understand where they are coming from; where this problem came from; how we got here. I think it is important for us to look at, as Sen. Prescott SC rightly said, issues like poverty. Even the Minister of National Security, Sen. Brig. Sandy, spoke about the whole issue of poverty; when you are not able to feed your family and you are left with just getting involved in crime to try to take care of your household.

In our country today we have a problem where breadwinners are being sent home, where public servants feel like they are not getting enough money to take care of their families and poverty is an issue. We have the problem of generations of illiteracy, abuse within the homes and unemployment. You see, we have a problem here where highly skilled people tend to become frustrated, like graduates from where I have graduated. Young people would have just graduated from UWI and so forth; they get out of school and they start looking for a job and they cannot find a job, but then you hear of a Minister's daughter being employed at the Airports Authority without an advertisement being placed in the newspapers, without a board in place, and you are here sitting, waiting for something to happen. It is just not fair.

Young people become frustrated and some of them would even give up. You talk to some young people and they say—I remember when I first

came out of school and was looking for a job, I started off somewhere—with a Master's degree and with distinctions—with about \$5,000 or so a month. I remember a young man laughing at me and saying, “You went to school all this time for that? I can make that hustling in two days. So why waste time working for a whole month when I could make that kind of money in two days?”

So we have to understand the mindset of the people who are committing these kinds of crimes and try to see how we could level with them. We need to look at how we position ourselves to have conversations; at how we raise our children; to impact on parenting; how we impact on the schools; on the church system. I point to the school system. Let me give you a case in point. We have made major steps, for instance, in tertiary education you have one section of the population moving full speed ahead, well educated, and we have left some people behind. What do we do to fill that gap? Then we have made another major move where we have given first-formers laptops, and that is a commendable move, but we need to do more, because we hear now the principals complaining there is nothing in the curriculum for which the student could use the laptops at the school and you find them on the laptops playing.

I saw a fight recently and what happened was the young man at school recorded the fight on his cellphone, downloaded it to his laptop and sent it by email. There are so many fights you could see in high schools on “YouTube” and that information gets passed in the blink of an eye. So, yes, we have the resources, but how do we put them to use so that these things work for us?

Several Senators would have spoken today about the police force and the need to restructure, analyze and to pay some more attention to the police

force and the judicial system, because, even in our police force we have some irrational, unfair and callous officers who take advantage of innocent citizens.

PROCEDURAL MOTION.

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I beg to move that the Standing Orders be waived, pursuant to Standing Order 83(1), to permit hon. Sen. Shamfa Cudjoe to complete her contribution. Thank you.

Question put and agreed to.

FIREARMS (AMDT.) BILL

Sen. S. Cudjoe: [*Desk thumping*] I thank you, Mr. President, and I thank you, Members of the Senate. I want to continue with the police force. You see, in considering the police force we cannot just look at manpower, we have to look at the quality of their training, the quality of the service they provide, the way in which they treat each other and even the way in which they treat us, the citizens, their customers, their clients. In that system there are some unfair, callous and irrational officers and this affects the public trust for the police service and undermines our ability to cooperate with the police. You see, when you do not trust the police, you tend to take matters into your own hands. So there is the need to look at the police system.

There is also the need to figure out why members of the police force are so frustrated. I can tell you some police officers speak about problems with salaries; poor working conditions. For instance, in Tobago we have two police stations where contracts were given for them to be rebuilt to have more modern facilities. The contracts were already awarded and the People's Partnership came into Government and they said, "Okay, we will review it", and they can rightfully do so, but six months have passed and they are still

reviewing it and there is no word. You either review and accept or you review and reject, but then you say nothing. Mr. President, I call on us to look into these issues. We have to look at issues dealing with the judicial system; how long it takes to call a case; how long it takes to get the evidence back from the forensic facilities—

Sen. Panday: Would the hon. Senator give way? Is the hon. Senator aware that there are no backlogged cases in Tobago?

Sen. Beckles-Robinson: You all are much more law-abiding. That is all.

Sen. S. Cudjoe: Yes. [*Laughter*] We are much more law-abiding citizens. I will get to that later, but I want to commend the Government on finally bringing the e-conferencing to Tobago where we can deal with the problem of not having to bring prisoners back and forth. So I commend the Government.

In doing my research I came across something that struck my interest. I looked at Canada, with a population of 34 million people. For 2006, 2007, 2008 and 2009 Canada has maintained a murder rate of about 600 per year—with a population of 34 million people. I think maybe we need to take a closer look at Canada and probably take a page out of their book. I looked also at the UK—for Canada and the UK, they have two murders per 100,000 inhabitants. In the Caribbean we have 30 murders per 100,000 inhabitants and in Trinidad and Tobago we have about 50 murders per 100,000 inhabitants.

I took a closer look at Canada and I remember when I was doing my master's degree and we were dealing with negotiating trade agreements with Canada and the UK, and one thing that you cannot touch, you cannot ask for any concessions on, is culture and entertainment. They hold culture and entertainment very sacred and they protect what is shown on their TV and

sent through their air waves. So I think we need to take a look at that because here in the Caribbean and in the western hemisphere, we have a problem where we feed into other people's culture that sometimes is not good for us. We look at video games like "Grand Theft Auto" and there is another one, I think it is called "San Andreas" where you get points. As you shoot somebody you get points and people's heads are rolling off and you get bigger and you get points when you play these video games.

We have to look at entertainment and the music we listen to. I remember Ras Shorty I singing, "What you feed your mind with builds your character and would pave the road that you would walk tomorrow". It appears that the same music that is supposed to unify us—because they say music is a universal language—it is the same music that is destroying us. You see, I remember, I think it was Verna St. Rose making the statement that, "Our airwaves facilitate verbal battles marked by disrespect, violence, ridicule, political partisanship, personal attacks and racial slurs. The right of freedom of speech is used to denigrate and abuse the rights of others."

As a young person, that is why I expected Sen. Maharaj, Sen. Ramnarine and even Sen. Shane Mohammed to join me in this, because I feel that we are the younger Members of the Senate and we could connect—*[Interruption]*—and the young at heart and even Penny—Sen. Beckles-Robinson. Mr. President, I think you understand the direction in which I am heading, because I feel that we listen to this music also and we are in tune with the young people. If you listen to the words of some of these Jamaican songs and American songs that we embrace, it is fight music.

We have moved from reggae to dancehall to now, what I call, "fight music". I think this is a very, very important point because, over the last couple of years, it is important to see how—I would not even call it

dancehall music anymore, but “fight music”—has changed us, and if that listener, according to Sen. Deyalsingh, is not cautious to know how to distinguish entertainment from real life, you could find yourself in a lot of trouble, because if you sit and you really listen to some good Movado songs and some of the lyrics that you hear, they could make you want to fight. So if you do not trust yourself, do not listen to that kind of music.

I think at some point in time the Minister of Education would encounter this when he goes into schools. There is a serious “gully” and “gaza” fight that is going on. This came out of Jamaican music, where you can go to a school now and ask who is “gully” and who is “gaza”, and the children will tell you who is on the “gully” side and who is on “gaza”. The children get on the internet and they follow these turf wars going on in Jamaica and they join in them and they relate to them. You have students looking at Crips and Bloods gangs in the US. We have to look at where this whole culture of “no care for other people's lives” is coming from.

I remember a song from Rick Ross saying: “Live Fast, Die Young.” We have “50 Cents” saying: “Get Rich Or Die Trying”. I remember a song from “Tupac Shakur” saying: “I got shot nine times, real Gs don't die.” So it is an honour to die for the streets; it is an honour to die in this criminal way and you die as a ghetto superstar, as they call it.

8.15 p.m.

This is the mindset of some of the young people out there, and I would like to go right back to what Sen. Deyalsingh was saying. At the end of the day, the responsibility does not just fall on the listener, the young person, it falls on the parent, even the staff at the radio stations that allows this kind of music to be played. Sometimes, late in the night, you will hear all the curse words booming through the speakers. I do not know if they

think that young people are sleeping at that time, but we are not.

Mr. President, even our legislators—because in Barbados I know they have a cultural content legislation and they take time to look at the music and say what could be played in their country and what cannot be played. So, I just wanted to bring this point that we need to take a more dispassionate and multifaceted approach to all of this. Maybe we can find a way to use our local artistes to promote love music or more positive music. I know Tempo had a campaign called “One Love: Badness Outta Style”, and they went around to the schools and promoted love music or they had a “schooler’s riddim” to encourage the young people to live in love and in unity, and to stop violence and crime through our own Caribbean music and I think that is something that we could endorse. I think we really need to take a dispassionate look at this.

Another concern for Tobago is that we tend to lump the statistics together. You will hear 400 and something murders in Trinidad and Tobago, but really and truly, so far for the year, Tobago has only registered seven murders. While it is not something to shout about because zero is something to celebrate, I think that we need to take a look at this. Maybe we need to take a page out of Tobago's book. I think one of the biggest weapons in Tobago's fight against crime is our mindset on what the Tobago environment or community should be and we try to create a community that makes it hard for criminals to exist, makes it hard for criminals to thrive. So somebody is always watching. Your neighbours know you very well, and in a short space of time, if a new face appears in the street you will want to find out where is that person staying, where is that person working, who is that person related to. You could call it “macocious”, you could call it “commesse”, call it whatever you like, but we call it looking out for one

another. I think, if we do that more, we will be in a better place.

Mr. President, I listened to the radio station in Tobago and the radio host joked about villagers in one community—I think it was in Calder Hall, where a young man whom they did not know came to stay in the community and he was mesmerizing the young girls with new sneakers, new car and that kind of thing and the people from the community rooted him up and ran him out of the community. So maybe we need to take that stand.

In closing, I want to say that this whole issue of crime is not about arithmetic. It is about creating a proper environment where we find it hard for criminals to exist. Yes, we have started to make a dent in crime, but I want to say that pruning the branches is not enough. We need to dig this thing out from the root and kill the other seeds before they grow.

Short-term is not enough, so we really need to take a dispassionate look at this. This is not a PNM thing or the PNM caused this or the UNC caused that or it is a People's Partnership problem, this is a Trinidad and Tobago problem and some of us sometimes forget where we came from. We get into high office, in big positions and say, “I have trained my child differently and my child walks the straight and narrow. But, Mr. President, I want to sound the alarm that this is not a Laventille problem or a Bethel Village problem or a “gully god” problem or a “gaza princess” problem, this is a Trinidad and Tobago problem [*Desk thumping*] because violence does not discriminate and it comes knocking on each and everybody's house door at some point in time.

So, Mr. President, one day one of us—could be you, could be me, God forbid—we may have to be next to our children or our child when they have to face the court. Somebody may call one of us down to the morgue one day to identify somebody who might be related to you. So at that point

in time, Sen. Ramnarine and Sen. Maharaj, it would not matter whether you are sitting there or you are sitting here, what matters is your relative behind bars or your relative is laying on that table. So, at the end of the day, it is my business, it is your business, it is all of our business, and politics has no place in this because, at the end of the day, this is my community and this is your community.

So, Mr. President, for myself, for my children, for my children's children, I support the whole motive behind bringing the necessary legislation, but I want to sound the alarm again that extending the penalty and developing hard fines and making the law more draconian and think that you are stamping down on the criminals, that is not the way to go. We have more work to do related to social programmes, and really digging this thing from the root and dealing with the family and the community.

Mr. President, I want to thank the Senate for extending my time so that I could make this contribution, and we extend our hand to work with you to really make Trinidad and Tobago a better place to live. [*Desk thumping*]

ADJOURNMENT

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, November 23, 2010. On that day it is Private Members' Day and I have obtained the general consent of the Senators opposite to use that day as Government Business Day and the following Tuesday will be devoted to Private Members' Day.

Mr. President, on Tuesday, it is hoped that the Intercept legislation will be debated in this House. We have been informed that on Friday that Bill will go through all its stages in the Lower House and will be here on

Tuesday. It is hoped that we shall complete that Bill on that day. In the circumstances, I have spoken to most of the Senators and we have agreed to commence the sitting on Tuesday, November 23, 2010 at 10.30 a.m.

However, in the event that something goes amiss in the other place, then Tuesday, November 23, 2010, we shall do the Children's Life Fund Bill.

Mr. President: What time would we start?

Sen. The Hon. S. Panday: 10.30 a.m. subject to your convenience, Mr. President. I thank you very much. My Senator brothers have indicated that they would like to extend greetings to the Muslim community.

Eid-ul-Adha Greetings

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Thank you very much, Mr. President. Tomorrow is a very historic day in the calendar of the Muslim community and we on this side would like to extend Eid greetings to members of the Muslim community, and, certainly to all of us here in this august Chamber and to members of the national community.

Tomorrow is the celebration of Eid-ul-Adha or as is popularly referred to as the Eid of Sacrifice, having just completed the holy month of Ramadan, fasting therein, and the celebration of Eid-ul-Fitr at the completion of the month of Ramadan. It is said that Eid-ul-Adha is the greater of the two Eids, and, in fact, while we have a public holiday in Trinidad and Tobago for Eid-ul-Fitr, our neighbouring country of Guyana has the public holiday for Eid-ul-Adha.

Eid-ul-Adha really commemorates in a sense and is narrated with respect to the vision that Prophet Abraham had to sacrifice that which he loved best, and the story is told that he had this vision that he should

sacrifice his son, Ishmael. It is in that context that we celebrate this occasion in commemoration of that event, and for those of us who would read the story or would listen to the sermon, which is called the khutbat, given on the day of Eid, it is indeed a very moving occasion, one that is filled with a lot of emotion to the extent where Prophet Abraham was told exactly how he should lay Ismail prostrate and in fact what he should do to sacrifice the young boy.

I say that is a very moving sacrifice, that is a very moving event, because we are reminded of the sacrifices that not only Prophet Abraham made, but that all Muslims and all of us here in this Chamber as well continue to make in the service of humanity.

As we celebrate Eid-ul-Adha, I want to also advise the Senate that, as we do that tomorrow, many of our brothers and sisters from Trinidad and Tobago are performing the Hajj in Saudi Arabia at this time. I want to say that we on this side are very proud of the fact that the Government of the Republic of Trinidad and Tobago, led by the hon. Mrs. Kamla Persad-Bissessar, has really assisted as a major intervention in alleviating the hardships of pilgrims going to Saudi Arabia to perform the Hajj, by ensuring that the kingdom of Saudi Arabia, through the Ministry of Foreign Affairs, was present in Trinidad and Tobago to issue the visas right here in our country. Previous to now, we would have had to go to Caracas at great hardship to get these visas, and, sometimes people were very discommoded and disappointed.

I want to say that, as we celebrate the Eid-ul-Adha and the Hajj, this is indeed in commemoration and it is fulfillment of one of the five pillars of Islam. We are told in the Holy Qur'an, Chap. 49 verse 13 and I quote:

“O mankind! indeed we have created you from a male and a female

and made you into nations and tribes that you may know one another. Indeed, the most noble of you in the sight of God is the most righteous of you. Indeed, God is all knowing and acquainted with what you do.”

I say this because the Eid-ul-Adha really signifies the important principles of sincerity, equality, humility, selflessness and concern for the less fortunate. If one were to look at the television screens, as we have from time to time in terms of what is happening in Saudi Arabia as we speak, you will see that all the pilgrims wear two pieces of cloth in white and there is no distinction between those who are wealthy and those who are poor.

Mr. President, on behalf of all of us here, we would like to take this opportunity to wish all our Muslim brothers and sisters, and indeed the national community, Eid-ul-Adha tomorrow.

Thank you very much. [*Desk thumping*]

Sen. Faris Al-Rawi: Mr. President, I thank you for allowing us the opportunity, all of us, to wish Eid Mubarak to our Muslim brothers. In Arabic we say—forgive me, I am both a child of the East as I am of Trinidad and Tobago—Eid Mubarak for those who do not speak Arabic. “Eid” means “celebration” in Arabic, “Mubarak” means “congratulation”, and I would want to wish sincerely “kul sana”—all health and best wishes for us all; Entum Bi Khair, to you I wish the best.

This celebration of Eid-ul-Adha as you say in Arabic—Adha is to sacrifice and Eid is the celebration of sacrifice—is one which is actually in common to our Christian brothers, our Jewish brothers and our Muslim brothers. In the Holy Qur’an, as we say Al-Kitab, the book, it is written that you should not destroy the synagogue or the church for there good worship is done. It is contrary to the tortuous statements of many people. Islam is,

in fact, a religion that preaches peace and tolerance, and “A-bra-ham” as we say in Arabic, or Abraham, is the father of all nations, and he is a factor, the prophet in common with Christianity and with Judaism. And so it is a reflection upon the sacrifice which he decided that he would give to God, Subhan’ Allah that he volunteered that most noble sacrifice of his own son, and, for anyone who is a parent, the thought of sacrificing your son or your child is a sincere one.

8.30 p.m.

So Eid-ul-Adha, being that which it is, the celebration of sacrifice, is something which echoes not only in our Muslim community but in our national community. So Alhamdulillah! Praise be to God that we live in Trinidad and Tobago, a place that is truly welcoming of every religion.

I remember growing up between Trinidad and Iraq and when I would visit Iraq I had the pleasure of showing, for instance, graduation pictures. I recall—and I wish to share with the national community the pride of Trinidad and Tobago—my own grandmother asking me, on seeing my Form V graduation pictures: “Is this a special picture?” At that point I said that it was a graduation picture. Then she pointed out to me: “No, he is Chinese; he is white; he is black; he is Indian. I had never noticed that before, being a child of Trinidad and Tobago’s wealth.

This country has the honour of celebrating every religious occasion. We have the honour of having a national holiday for Eid-ul-Fitr and we are allowed the privilege in this Senate this evening of wishing Eid Mubarak to our Muslim brothers on Eid-ul-Adha which is, debatedly, the more important of the occasions.

Depending upon the moon calendar and where you are, the Hajj would just have been completed. It is a privilege, not an obligation, to

attend Mecca. For those who have had the privilege of attending Mecca, those whom we call Hajjis, usually you sport a beard as a mark of Hajj. For those who have had the privilege of attending Mecca, it is a most solemn occasion that allows true religious reflection as my good brother Sen. Fazal Karim has said this evening, one where you are all equal before God and there is no discrimination amongst men. In the Middle East there really is no discrimination by virtue of colour or rank. I am privileged to say that that is a phenomenon I hope Trinidad and Tobago would be affected by.

In celebrating Eid-ul-Adha, there is actually a celebration of sacrifice. You would slaughter an animal in place of Ishmael and in slaughtering the animal, there is compassion because you are obliged to give two-thirds of the animal you have slaughtered to people you do not know and who are less fortunate than you. You keep one-third for your family members but it is also in recognition of the charity that comes with Islam.

In Trinidad and Tobago, we are privileged to have a charity that is common to all religious backgrounds. Being born to a Hindu grandfather, a Christian mother and a staunch Muslim father, I have had the privilege of growing up in a multicultural society and multicultural family. I am privileged to share in the celebration of Eid-ul-Adha and I thank sincerely this honourable Senate and you, Mr. President, for allowing all Muslims the privilege of recognizing our celebration of Eid-ul-Adha and for allowing our brothers in the Senate and in the national community to join us in that celebration.

So on behalf of all Senators present on this side or that, I wish everybody Eid Mubarak sincerely. Thank you.

Sen. Basharat Ali: Thank you, Mr. President. On behalf of the Members of the Independent Bench it gives me great pleasure to extend greetings on

the occasion of Eid-ul-Adha. I am pleased that this is happening, because, for a number of years I do not think that we have ever had greetings for Eid-ul-Adha. We are more familiar with Eid-ul-Fitr. This year we were not in session and did not even have our Eid-ul-Fitr greetings in the month September at the end of the month of Ramadan.

I believe my brother Sen. Fazal Karim and brother Sen. Faris Al-Rawi gave some excellent explanations. They are evidently a little more versed than I am at this stage of my life but I endorse whatever brother Sen. Karim has said and of course we have an authentic person from the Middle East in the person of Sen. Faris Al-Rawi. I come from a mixed family myself. I have Hindu blood, I have Muslim blood and I am married to a non-Muslim, an African person. I have an international family so I feel that I represent Islam, especially on an occasion like this.

I am pleased my friend quoted that particular verse from the Qur'an because Islam is becoming a very misunderstood religion and it has gone the other way around where in certain parts of the world there is basically hatred. We are fortunate that we can live together and we can celebrate together all these festivals. We had Eid-ul-Fitr and Divali; in the next month we will have Christmas and tomorrow we celebrate Eid-ul-Adha because we are one day behind the Middle East.

I am glad Sen. Al-Rawi mentioned the symbolism of the slaughter. Some people feel it is a pagan rite to slaughter an animal. It is really a symbol of the yielding or submission of the will of a person to the will of God which is what the prophet Abraham did.

As Sen. Al-Rawi said, it is a community affair in that, when the animal is slaughtered, two-thirds goes to charity and one-third to the family. My brother also mentioned that the community gets together and shares an

animal for slaughter. There are so many positive aspects and I am glad I will always be a part of it because of my family connections.

I would like today particularly to say Eid Mubarak to my Muslim sisters and brothers in this Senate and in the other place. I would like to extend to all parliamentarians Eid Mubarak and maybe one of these days we will be able to say: "Have a good holiday!" as Guyana does on the occasion of Eid. To the Muslim community as a whole, I say, Eid Mubarak and may God bless all of us!

Mr. President: To Senators who went before me, I certainly would like to add my sentiments of greetings to the Muslim community and the national community at large. Certainly the idea of self-sacrifice and of postponing gratification is one I think that all our community is in need of and so the symbolism represented is something we need to imbibe throughout our community.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.39 p.m.