

*Leave of Absence**Tuesday, December 14, 2010***SENATE***Tuesday, December 14, 2010*

The Senate met at 1.00 p.m.

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

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Anand Ramlogan and Sen. Dr. Rolph Balgobin who are both 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: DR. ANDY ALI

WHEREAS Senator the Honourable Anand Ramlogan 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, ANDY ALI, to be temporarily a member of the Senate, with effect from 14th December, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Anand Ramlogan.

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 13th day of December, 2010.”

Senators' Appointment
[MR. PRESIDENT]

Tuesday, December 14, 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. NICHOLAS GALT

WHEREAS Senator Dr. Rolph N. S. Balgobin 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, NICHOLAS GALT, to be temporarily a member of the Senate, with effect from 14th December, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Rolph N.S. Balgobin.

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 9th day of December, 2010.”

OATH OF ALLEGIANCE

Senators Dr. Andy Ali and Nicholas Galt took and subscribed the Oath of Allegiance as required by law.

**JOINT SELECT COMMITTEE
(Appointment of)**

Mr. President: Hon. Senators, I have received the following correspondence from the Speaker of the House, with regard to the appointment of a Joint Select Committee:

“December 13, 2010

Sen. the Honourable Timothy Hamel-Smith
President of the Senate
Office of the President
The Red House
Abercromby Street
PORT OF SPAIN

Honourable President,

Tuesday December 14, 2010

Appointment of a Joint Select Committee

Your letter dated December 7, 2010 on the subject at caption refers. Please be informed that at a sitting held on Friday, December 10, 2010 the House of Representatives agreed to the following two (2) resolutions:

BE IT RESOLVED that this House appoint the following six (6) members to serve with an equal number from the Senate on the Joint Select Committee established to consider the Anti-Gang Bill, 2010.

Mr. Prakash Ramadhar

Mr. Stephen Cadiz

Mr. Jairam Seemungal

Mr. Herbert Volney

Ms. Marlene Mc Donald

Mr. Colm Imbert

That an Act to amend the Bail Act, Chap. 4:60, be referred to the Joint Select Committee which has been established to consider and report on the Anti-Gang Bill, 2010; and that this Committee be further empowered to discuss the general merits and principles of this Bill along with its details and be mandated to report on this Bill also within three months.

Respectfully,

Hon. Wade Mark, MP
Speaker of the House”

**ANNOUNCEMENT BY THE PRESIDENT
Managing Director Vidara Enterprises Limited
(Letter from)**

Mr. President: Hon. Senators, I have also received a letter seeking the right to reply from Vidara Enterprises Limited relative to a statement made in this Senate by the Leader of Government Business.

Before I proceed to have that letter read out to the Senate, and I have decided that it is proper that such a reply should be allowed today, I wish to suggest that Senators, in making allegations about specific individuals in this Senate should indicate to this Senate at the time that they are making or about to make that

Announcement by the President
[MR. PRESIDENT]

Tuesday, December 14, 2010

allegation, so far as the matter of which they complain relates to a criminal offence that they will indicate to this Senate whether or not they are prepared to refer the matter to the Commissioner of Police for further investigation.

While I recognize that freedom of speech is paramount in this Senate, nonetheless I think that that helps to balance the rights of those outside of this Senate along with the right of freedom of speech.

I will now ask the Clerk to read the reply from Vidara Enterprises Limited. [*Desk thumping*]

Procedural Clerk: “Vidara Enterprises Limited, No. 15 Fairview Drive, Moka, Maraval.
10th December, 2010
Senator the Honorable Timothy Hamel Smith
President of the Senate,
Red House,
Abercromby Street,
Port of Spain.

A PERSONAL STATEMENT FROM THE
MANAGING DIRECTOR OF VIDARA
ENTERPRISES LIMITED

I am hereby requesting the right to reply to statements made by Hon. Subhas Panday during the debate on the Finance No. 2 Bill at the sitting of the Senate on December 07, 2010. In his contribution the Hon. Senator alleged that my company, Vidara Enterprises Ltd., corruptly received a contract from the Estate Management & Business Development Co. Ltd. worth \$64 million for land development works at Felicity.

The facts are as follows:

1. Vidara Enterprises Ltd. is a family owned project management and contracting firm incorporated in 2005 and has been legitimately doing work with various state agencies since that time.
2. Over the last two (2) years, Vidara has been invited by the EMBD to bid on four (4) projects viz a viz
 - (a) La Romaine Development
 - (b) Couva Development
 - (c) Felicity II Development
 - (d) Petit Morne Development

Tuesday December 14, 2010

We were successful with Felicity II Development and unsuccessful with the others.

3. With regards to the Felicity II Development we outline the following:

- (a) By letter dated March 24th 2010 (attachment A), Vidara was invited to submit a bid for the above, the closing date for same was April 16, 2010 at 1:00 pm.
- (b) Five (5) other companies were also invited to submit bids.
- (c) There was a public opening of the bids at 1.15 p.m. on the said date (April 16, 2010) at the office of the EMBD at Valpark Plaza the result of which were as follows:

Vidara Enterprises Limited	\$ 64,401, 883.70
Universal Haulers	\$ 64,524,708.88
Syne Contracting	\$ 81,247,903.59
Danny Enterprises Limited	\$ 86,449,356.31
S&D Limited	\$ 66,147,703.80
Hanif Mohammed & Sons	\$ 128,243,850.07

Please note that Vidara Enterprises Limited was the lowest bidder.

- (d) By letter dated April 26, 2010, the EMBD wrote to Vidara (attachment B) indicating that our tender had been accepted. The mobilization period was from April 28th to May 12th, 2010. Work commenced in June 2010.
 - (e) The formal contract documents were signed on May 20th, 2010.
 - (f) By letter dated October 21st, 2010 (attachment C), Cordec Limited (engineering consultant) wrote to Vidara Enterprises suspending all works under Clause 8.8 of the Condition of Contract. Our understanding is that ten similar contracts were also suspended by the EMBD pending a policy review.
 - (g) At present, the Contract remains suspended under Clause 8.8.
4. With regards to the issue of prequalification that is an internal EMBD matter. However, the fact that Vidara was invited to bid on four (4) occasions—[*Interruption*]

Announcement by the President

Tuesday, December 14, 2010

Sen. Panday: Mr. President, on a point of order. There is no full disclosure and that report there misleads the Senate, because I have a document from EMBD which says that they will inform them they did not qualify.

Sen. Hinds: That is discourteous!

Mr. President: Senator, you did not indicate what point of order you are making.

Mr. Hinds: A point of order against the Clerk?

Sen. Panday: No, no, against the statement.

Sen. Hinds: No, he is reading. That cannot be right.

Sen. Panday: Okay, I will deal with it in another place.

Mr. President: All right. I will hear you, Sen. Hinds.

Sen. Hinds: It is not a Senator speaking; it is the Clerk who has been mandated by you as President to read this statement and that should be done unperturbed and undisturbed.

Sen. Panday: I am not against the Clerk; what I am saying, the contents of what the Clerk is reading are not totally true, because I have a document from EMBD saying that they would be informed of the results of the—

Mr. President: What I would like you to do, Sen. Hinds—I note your point; I understand what you have said—I would like you to indicate the point of order to which you refer relative to the question of the reply being read out.

Sen. Hinds: I am not certain that there would be a point of order dealing with this particular matter. What I do know is that the statement that you have mandated the Clerk to read is being read on account of statements made by the Senator. He has the floor of this Senate and he will have ample opportunity to deal with it, but I think it is downright discourteous and improper for him to intervene while the Clerk is reading at your behest. It is almost as if the President is speaking and it is not the way to go.

Mr. President: What I would say, Senators, it appears to me, of course, there is no Standing Order dealing with the matter, but the statement being read out to this House—sorry, do you want to refer to a point of Order?

Sen. Hinds: Yes, I am being directed by my learned friend, the leader of our team here, Sen. Beckles-Robinson, that insofar as interruption is concerned, Standing Order 34 deals with the concept of interruptions and there are, as we

Tuesday December 14, 2010

well know, two circumstances where there can be interruptions. One rises on a point of order where another Senator is speaking. The person who was speaking a moment ago is not a Senator per se, and, therefore, there is no need for an interruption on a point of order when the Clerk of the Senate is addressing the Senate as mandated by you and, (b), certainly does not apply because he did not say anything to elucidate. So it is Standing Order 34.

Mr. President: Thank you. What I see the position as, is that a reply is being read out into the proceedings of this Senate as a response to what was said on a previous occasion. That reply then becomes part of the *Hansard* proceedings here and, therefore, if there is a point of order—I am not saying there is—relative to the statement being read out, I think that any Member is entitled to take a point of order. He cannot correct a statement being made there; that is a matter of debate, but he can take a point of order. I do not think that 34, either (a) or (b) estops a person from taking a point of order relative to reply.

Having said that, I did not understand from Sen. Panday the point of order that he was making and I just want to point out to him, before he starts, that the point of order must relate to what is in the reply. He cannot contradict what is being replied. That is not a point of order. He must say the point of order relative to what is being read out. I will hear you now, Sen. Panday.

Sen. Panday: Indeed, Mr. President. The point of order is under 34(b), and what the honourable Clerk read is that they said that the issue of prequalification was an internal matter of the EMBD, but in the bundle—pre-qualification information package—it stated that when the pre-qualification—

Mr. President: Senator, you were telling me what the point of order is. I have to rule whether I will allow you to speak on the occasion.

Sen. Panday: The point of order, please, Mr. President, is that the statement before this honourable Senate is incomplete and the statement does not give all the facts.

Sen. Hinds: “How you know that?” You are not the author of the statement.

Mr. President: Thank you, Sen. Hinds. I will preside. If the question of 34(b) relates to elucidating a statement being made by somebody from the other House, however, there is a proviso attached to that 34(b) and the proviso is that the Senator speaking is willing to give way, it purely is a matter within the discretion of the Senator who is on his legs. Therefore, if I take that matter relative to what we have in a reply, I do not think, Sen. Panday, with all due respect, that we can allow the reply to be interrupted on that basis. [*Desk thumping*]

Announcement by the President

Tuesday, December 14, 2010

Sen. Panday: Mr. President, I will act accordingly.

Mr. President: Thank you. Will you continue, Mr. Clerk?

Procedural Clerk: “4 With regards to the issue of prequalification that is an internal EMBD matter. However, the fact that Vidara was invited to bid on four (4) occasions for similar projects including this one the company must have concluded that it was a prequalified contractor in good standing with the EMBD. As such, Vidara could not have acted inappropriately by tendering in response to written “invitation to tender”.

I hope the above facts be read into the records of Hansard so that private citizens can have redress for inaccurate and unwarranted attacks by members. It is important, especially in the Upper House, that debates are conducted with decorum and dignity.

Thanks for your consideration in the protection of democracy.

Your humble servant,

Laura Sewlal-Khan

Managing Director”

Sen. Panday: Mr. President, with your leave, there is no Standing Order to deal with this issue and it is a result of a direction when this type of debate went in public. Mr. President, what is the position when somebody replies and it is untrue—

Sen. Hinds: That is inappropriate.

Sen. Panday:—where, for example, Mr. President, it said that the pre-qualification was an internal issue of the EMBD when we have documentation that that is not so?

Mr. President: What happens in debates, Senators, is that one Senator in his debate makes his point of view. It may or may not be right. The other Senators have the right to reply. What will happen relative to *Hansard* is that we have your statement made on the last day and we will interject this reply immediately after your statement so that anybody reading the *Hansard* will be allowed to weigh up the pros and cons of what you have already said vis-à-vis what appears in the reply today. The two documents will therefore stand for what they are and will speak for themselves. Thank you.

PAPERS LAID

1. Administrative report of the Arima Borough Corporation for the financial year 2009. [*The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]
2. Annual audited financial statements of the Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2006. [*Sen. The Hon. S. Panday*]
3. Annual audited financial statements of the Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2007. [*Sen. The Hon. S. Panday*]
4. Annual audited financial statements of the Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2008. [*Sen. The Hon. S. Panday*]
5. Annual audited financial statements of the Tourism and Industrial Development Company of Trinidad and Tobago Limited for the financial year ended September 30, 2009. [*Sen. The Hon. S. Panday*]
6. Annual report of the Ministry of Information for the period October 2008 to November 2009. [*Sen. The Hon. S. Panday*]

ORAL ANSWERS TO QUESTIONS

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, the Government is able to answer question No. 6. The other questions will be ready on the next occasion. The Minister of Finance is here, I am sorry, so we will be able to answer questions Nos. 6 and 7. We seek an extension to answer questions Nos. 10 and 5.

Mr. President: So you are not dealing with question 10 today?

Sen. Panday: No, please, Mr. President. We will deal with questions Nos. 6 and 7.

The following question stood on the Order Paper in the name of Sen. P. Beckles-Robinson:

**Arima Community Centre
(Details of Construction)**

5. With respect to the Arima Community Centre now under construction on Anglican Street, Arima, could the Minister inform the Senate:
 - (i) what is the estimated cost; and
 - (ii) what is the scheduled date of completion?

Question, by leave, deferred.

Question No. 10 is now a question for a written answer.

**Arima Hospital
(Details of Construction)**

6. Sen. Penelope Beckles-Robinson asked the hon. Minister of Health:

With respect to the proposed Arima Hospital, could the hon. Minister indicate to the Senate:

- (i) the Government's plans for the construction of the hospital;
- (ii) the proposed date of commencement and completion of the said construction project; and
- (iii) the services to be offered at the hospital to members of the public when completed?

The Minister of Health (Sen. The Hon. Therese Baptiste-Cornelis): Mr. President, the question was asked: what are the Government's plans for the construction of the Arima Hospital. The response is, Cabinet has approved the Ministry of Health's Hospital, Physical Infrastructure Development Strategy which involves the planning for the commencement of construction of the proposed Arima Hospital in the year 2012, as I said in my Senate contribution during the budget debate.

The second part of the question asked the proposed date of commencement and completion of the said construction project. Given the requirements for the development of the hospital designs, inclusive of the preparation of the design technical bid specifications, the over tendering procedures which we are going to implement and the valuation process, it is expected therefore that the construction of the new hospital will be in the third quarter of 2012. The preliminary projects scheduled for the Planning/Design/Construction and commissioning of the hospital according to the Ministry of Health's research, is approximately 36 months.

Part (c) of the question asked what services are to be offered at the hospital to members of the public when it is completed? It is proposed that the Arima Hospital will have a total bed capacity of 150 beds, when constructed and the services to be offered will include: internal medicine, general surgery, orthopedics, urology, obstetrics, prenatal and post-natal, ophthalmology, ENT, psychiatry, intensive care, gynaecology, operating theatre services, accident and

emergency, ambulatory care clinics, laboratory services, pathology, pharmacy, radiology, diagnostic imaging and physiotherapy. As it gets closer to the period, a detailed user brief and functional programmes outlining the clinical programmes, schedules of accommodation and scope of services and the required human and financial resources will be prepared for the hospital as part of the project planning requirements.

This completes my answer. Thank you.

Sen. Beckles: I want to thank the hon. Minister. Is it possible to indicate how many beds?

Sen. The Hon. T. Baptiste-Cornelis: It is 150 beds.

1.30 p.m.

Outstanding Resources (Strategic to Collect)

7. Sen. Penelope Beckles-Robinson asked the hon. Minister of Finance:

With respect to the \$13 billion tax receivables referred to in the recently concluded budget debate, could the Minister provide the Senate with further details on Government's strategy to collect these outstanding revenues?

The Minister of Finance (Hon. Winston Dookeran): Mr. President, the arrears of \$13 billion comprised the principal of \$5 billion and penalties and interest of \$8 billion. The major portion of the arrears, therefore, relates to penalty and interest charges. It is expected that a significant portion of the \$8 billion penalty and interest component will be cleared automatically, as taxpayers take advantage of the tax amnesty being offered till the end of May 2011.

Mr. President, with respect to the collection of outstanding taxes, the Board of Inland Revenue has, and will implement, various measures to collect the outstanding taxes. They are as follows:

Pursuant to Finance Act No. 2 of 2010, the BIR intends to pursue the collection of arrears using the amnesty provisions enshrined in the Bill. These provisions are as follows:

1. The amnesty will be offered to all resident individuals and companies which have not filed returns of income for any year up to and including the year 2009.
2. All interest on outstanding taxes including business levy and Green Fund levy due and payable as of December 31, 2009 will be waived, where such taxes and levy are paid during the period September 08, 2010 to May 31, 2011.

3. All interest charges on any payment made prior to September 08, 2010, in respect of any tax and business levy and Green Fund levy due or payable as at December 31, 2009 will be waived.
4. All penalties, further tax and additional tax due and payable on outstanding taxes including business levy and Green Fund levy as at December 31, 2009 will be waived, where such taxes or levy are paid during September 08, 2010 and May 31, 2011.
5. Penalties, further tax and additional taxes in respect of taxes, business and Green Fund levy due and payable as of December 31, 2009 and paid prior to September 08, 2010 will be waived, where such penalties, further tax and additional tax have not been paid.
6. Penalties and outstanding returns for the years of income up to and including the year 2009 will be waived, where such returns are filed during the period September 08, 2010 and May 31, 2011.
7. Penalties with respect to returns for the years of income up to and including the year 2009 and filed prior to September 08, 2010 will be waived, where such penalties have not been paid.
8. For the avoidance of doubt, the concession shall not apply to taxes, levies, interest, penalties, further tax and additional tax paid prior to September 08, 2010.
9. Where any returns, taxes or levy remain outstanding after May 31, 2011, the penalties, interest, further taxes and additional taxes which would have been payable on such returns, taxes and levy shall be revived and become payable as if the waiver had not been granted.
 - (i) The amnesty will act as an incentive to taxpayers with accrued penalties and interest to pay outstanding taxes, as the total liability will be significantly reduced. The effectiveness of the amnesty will be also strengthened by the introduction of supporting communication strategy and will involve letters being issued to all taxpayers informing them of the outstanding taxes, and advising them to take advantage of the amnesty.
 - (ii) A new billing system. The BIR will soon implement a new billing system aimed at informing taxpayers of outstanding tax liabilities.

- (iii) The automation of integrated tax processing system. The enhanced efficiency of the ITPS will ensure that tax liabilities are offset against tax refunds and expedited with greater urgency. This will also act as an incentive to taxpayers.
- (iv) Large taxpayers. The outstanding arrears on these large taxpayers amount to approximately \$800 million. The collection of these arrears is sometimes delayed as these assessments normally involve very complex and highly technical issues that may involve the Tax Appeal Board, and matters before this board usually take a considerable amount of time before they are resolved. The tax amnesty will afford these large taxpayers the opportunity to reassess and reduce the outstanding tax positions.
- (v) Finally, enforcement activity. After the amnesty period, the State will utilize the full extent of its legislative authority to ensure that compliance with the relevant Taxation Acts is followed as Government seeks to make good on its tax receivables, broaden and diversify its tax base. After May 31, 2011 when the amnesty period ends, the BIR will aggressively pursue enforcement action for delinquent accounts. This will involve the use of garnishee orders and distraint actions, that is, levying on the assets of taxpayers with delinquent accounts.

Sen. Beckles-Robinson: Thank you.

STATUTORY AUTHORITIES (AMDT.) BILL

Bill to amend the Statutory Authorities Act, Chap. 24:01 [*The Minister of Public Administration*]; read the first time.

**JOINT SELECT COMMITTEE
(APPOINTMENT OF)**

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Thank you very much, Mr. President. I beg to move the following Motion:

Be it resolved that this Senate appoint the following six Members to serve with an equal number from the House of Representatives on the joint select committee to consider and report on the Anti-Gang Bill, 2010 and the Bail (Amdt.) Bill, 2010:

JSC (Appointment of)
[SEN. THE HON. S. PANDAY]

Tuesday, December 14, 2010

Mr. Anand Ramlogan
Brig. John Sandy
Mr. Subhas Panday
Mr. Fitzgerald Hinds
Mrs. Corinne Baptiste-Mc Knight
Mr. Elton Prescott SC

Question put and agreed to.

Sen. The Hon. S. Panday: Mr. President, I beg to move the following Motion:

Be it resolved that an Act to amend the Bail Act, Chap. 40:60 be referred to the joint select committee which has been established to consider and report on the Anti-Gang Bill, 2010, and that this committee be further empowered to discuss the general merits and principles of this Bill along with its details and be mandated to report on this Bill also within three months.

I beg to move.

Question put and agreed to.

FIREARMS (AMDT.) BILL

[Second Day]

Order read for resuming adjourned debate on question [November 16, 2010]:

That the Bill be now read a second time.

Question again proposed.

Mr. President: The debate on the following Bill which was in progress when the Senate adjourned on November 16, 2010 will be resumed. Those who spoke were: Sen. The Hon. Brig. John Sandy, the Minister of National Security, the mover of the Motion; Sen. Faris Al-Rawi; Sen. Elton Prescott SC; Sen. Kevin Ramnarine; Sen. Terrence Deyalsingh; Sen. Helen Drayton; Sen. Danny Maharaj; and Sen. Shamfa Cudjoe. Any Member now wishing to join in the debate may do so.

Sen. Fitzgerald Hinds: Thank you very much, Mr. President. As indicated by you in your introductory remarks, we are here to debate a Bill to amend the Firearms Act, Chap. 16:01. The Explanatory Note tells us that this Bill would make unlawful possession of a firearm—of any firearm or ammunition—a strict liability offence, and make provisions for the Chairman of the Firearms Appeal

Board. Let me begin by indicating, that I cannot see based on the terms of this legislation, how it is possible to define the amendment as taking us to a case of strict liability.

Sen. Panday: Hon Senator, the preliminary note in the Bill is misleading, in that it is not a Bill of strict liability. What has happened is that the burden has been reversed.

Sen. F. Hinds: Well, that is precisely what I was saying. Now I recognized—
[*Interruption*]

Sen. Beckles-Robinson: The preamble is misleading.

Sen. F. Hinds: The preamble is what I was getting at and it is certainly misleading. I agree with that, so we will disregard that and move on.

Mr. President, let me restate my respect for this Chair, let me restate my respect for you as occupying that Chair and to assure you that my expressions of indignation earlier in this session, I consider them appropriate, but I no way meant them to be directed at you. They were at a state of affairs arising out of the conduct of my friend opposite, who I think based on his long-standing experience as a parliamentarian and, of course, as Leader of Government Business, ought to know better. My friend demonstrated here today, if I may say so in passing, a keenness to speak and to speak again, because it is his mischief that brought us to the statement that we heard earlier today in this honourable Senate. So he is very keen to speak, but when journalists accosted my friend outside of this Chamber a couple days ago, the *Daily Express*, Friday, December 10, 2010—[*Interruption*]

Sen. Panday: Mr. President, 35(5).

Mr. President: Sorry, I did not hear you.

Sen. Panday: Two points of order, Mr. President, 35(5) and also 35(1).

Mr. President: Well, certainly I doubted the relevance—I cannot see that it comes under 35(5). I do not think he is imputing improper motives. But Senator, you were verging off course relative to the Firearms Bill which I had asked you to draw your attention to and just keep on track.

Sen. F. Hinds: Thank you. We were debating an amendment dealing with possession where we are reversing the burden according to my friend, and I am in possession of a document to demonstrate the concept of possession that I was getting at, if I will be so permitted.

1.45 p.m.

I will demonstrate the point I am making. It is possession we are talking about and I am in possession of an article taken from Friday, December 10 in the *Express*. I am coming to it. Much like hearsay, this is not to deal with the content of the document, but the document itself; the paper, Mr. President. The headline says’;

“Subhas to Khan: I am smarter than you.”

So he is keen to speak today, but when journalists questioned him outside the House, he said he is smarter. The article tells us he said he is smarter than Khan. In other words, Mr. Khan cannot get him to say what he is prepared to say in here outside of the Parliament, so he is on the record as saying, “I am smarter than you.”

Sen. Panday: Mr. Speaker, 35(1), 35(1), 35(1); a point of order.

Mr. President: Sen. Hinds, I want to see the relevance. Obviously, if you can show—if you can demonstrate that this relates to the question of the Firearms (Amdt.) Bill, but, in particular, the question that you are pointing to, I would like to hear that first. If you could tell us how you make the relevance and then, if it fits, we can go into the article.

Sen. F. Hinds: I am obliged and I will move on. I was just trying to make the point in answer to your question, Mr. President, that we are dealing with firearms which are dangerous instruments and could kill, but this now is dealing with dangerous words that could destroy people’s reputation; but I will move on as we talk about possession and danger.

Mr. President, you cannot make pelau without rice. If there are no guns, there will be no gun killings; homicides—simple logic. With regard to the offshore patrol vessels—because the Government’s proposals in this Bill, they will tell us, because it infringes an element enshrined in our Constitution; that is to say, the principle that one is innocent until proven guilty, which is enshrined in our Constitution, and the measures here today are a direct infringement or attack on that, hence the reason the special majority is necessary.

To justify that infringement on that enshrined constitutional right, they will tell you about the prevalence of firearms in the society and the dangers that they pose. We have no trouble with that, but when the Government whimsically and recklessly, I might add, scrapped the OPV programme, that allows for the continued inflow of firearms in Trinidad and Tobago, rendering the legislation that they bring here today otiose.

Sen. Beckles-Robinson: Otiose?

Sen. F. Hinds: Yes, the uninitiated may say “oh-tiose”, but I say “oh-shiose”. As my Jamaican friend would say, “eether” or “either” way. I think you get the picture.

Mr. President, an article appearing recently in the *Guardian* newspaper, with an unfortunate picture, a sombre looking Minister of National Security at the centre of it, headline: “Penny wise, pound foolish.” And that is precisely how I see the Government of the Republic of Trinidad and Tobago as they cancelled the OPV programme, hoping to recoup moneys that are already spent and therefore facing litigation. We have canvassed that already, but I only make the point that the legislation that we are dealing with today is troubling.

I would like to suggest that, if the Government is looking for ways to deal with this, they need to improve the morale of the members of the protective services; most certainly the police service, more specifically the police service and the regiment. They are on the roads too, hunting down guns, dealing with criminals, unfortunately. They need to improve the morale and they need to improve incentives to all these officers.

So, for the police, I want to tell my friend in national security, what he needs to consider is creating an environment of performance-related pay. Do not just give them \$1,000 like you did—hush money—a few months ago, but you can set up cash incentives for the police officers; say \$2,500 for every firearm offence that they detect. Within 24 hours, they get a cheque for \$2,500 and a letter of commendation from their commissioner, which will assist in their elevation in the service as they later go for promotion and those things.

Therefore, if a police officer wants to earn \$15,000 a month, he spends some time doing intelligence and he goes out there and captures five firearms and improves his packet. That will boost the morale of the police officers in this country no end, I can assure you. You run a programme of gun retrieval like that for six months and you could include the police, the soldiers, the prison officers, fire officers, customs officials, immigration officers and members of the Special Anti-Crime Unit.

Performance-related pay: you decide how much you want to earn in a particular month, in addition to your usual salary. In order to support that, you need to arm them and empower them so that they could confront people up and

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

down the country with more stops and searches in the marketplace and in the maxis. Police officers will tell you sometimes they see suspicious looking characters, they are unarmed and they could do nothing about it, or would do nothing about it. By the time they call for support, the scenario would have changed.

You run a programme like that for six months and you assess it at the end to see what the feedback was; to see if you were able to bring in 2,000 firearms, and then you could consider extending the programme again. You declare war on the criminals that way; not by pontificating.

Mr. President, having said that to my learned friend, the Bill before us is an important one and needs to be looked at very carefully. Any time there is any legislation that attempts to interfere with the enshrined rights—the basic human and fundamental rights written into sections 4 and 5 of our Constitution, we need to watch it very, very carefully, particularly when it comes from that Government.

Let me say for the benefit of all those who are listening, there is a view in this country, and perhaps in the world—well I think largely in this country—that poverty is the cause of crime. It may be, but I am not persuaded that it is entirely so. I am not persuaded. For if poverty was the cause of crime, the circumstances in which I was born and in which I grew up, I may have been a serial—

Sen. Bharath: Killer.

Sen. F. Hinds:—criminal. [*Laughter*] So I rather doubt that. I rather doubt that. And more than that, in support of my contention, some of the most honest, unlike some—well no, I am sure he will say 35(1) if I said what I planned to say—but some of the most honest—do not look at me with a smirk on your face. I am not denigrating you as I say honest. I know you get uncomfortable if I describe you as honest, but I am not. [*Laughter*]

Some of the most honest and upstanding, and if I may use a Rastafarian concoction, “upfull” and decent citizens I have known are people living in some of the so-called poorest parts of this country; in Laventille, in Morvant, in John John and in Beetham. I am glad I said that, because I am of the view—and I say this on the basis of comments I have heard from some of my friends on the other side before they took on ministerial office—I am of the view that they are mistaken in the belief that the crime problem in Trinidad and Tobago exists in certain parts of the country and not in others. It is perpetrated by a certain section of the community and not by others. I have heard comments, and do not call on me to justify it because I can.

If that is the basis on which they prepare legislation and come, we have to watch them very carefully, because they may feel that the penalties may be directed at some to punish some, to deal with some, foolishly thinking that it was a sectional thing rather than troubling us across the country, as indeed it is. You see some very severe measures coming in the Anti-Gang Bill, in the Bail Bill, and in this Firearms Bill; very, very severe measures coming and probably emanating from that mistaken impression—probably emanating from that.

Mr. President, let me address some of my concerns with this Bill. First of all, we have already conceded by my friend that it is not a question of strict liability. A strict liability offence takes away the need for any *mens rea*. There is no need for *mens rea*, and this is loaded with the need for *mens rea*. Just the mere use of the word “possession”, Mr. President; now, the Act does not define possession and, as such, we must revert to the ordinary common law application or meaning of that term.

We found an amendment today as we walked into this House. I was treating with the amendment in the Bill that was presented to me which read at clause 5 saying:

“Section 5 of the Act is amended by repealing subsection (2) and substituting the following subsection:”

And I read what is the new subsection that the Bill told us we should contemplate, which I read and which I studied in preparation for my appearance here; but, having walked in today, I met the Government removing the subsection that is in the Bill, which reads:

- “(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.”

Those, Mr. President, were the terms of the measure purported or proposed by the Government before we came here. When I came here today, it now says, in effect, that we will do away with what I have just read insofar as (a) is concerned, and we are now to substitute the Bill with a clause in the proposed new section 5(2). It says:

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

“Delete the proposed new paragraph (a) and substitute the following:”

So they are making a little change and it now says:

“...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 or have been in possession of such firearm or ammunition until the contrary is proved.”

I submit that the rearrangement of those words does not take us very far. It does not change anything.

I say so, Mr. President, because the term “is found with” can be interpreted as possession. And then, if he is found with, or proved to have had in his possession, so it is a tautology of sorts, because we are using the word “possession” again; but it means possession. And the word “possession”, based on the common law understanding of that, carries with it the need for a mental element or *mens rea*, as the lawyers and those familiar with Latin construction would call it or say it.

Possession, Mr. President, is not an easy concept. It has troubled the best judges in the courts of England from whom we borrow our jurisprudence—very, very difficult. That is why I can tell you—it is a difficult concept. Let me continue, Mr. President. In Archbold—I have the 2004 version here. There is a 2010 version, but the paragraph is the same and equally valid. At 26:54, the experts are saying—and Archbold is called the “criminal lawyer’s Bible”.

2.00p.m.

The experts are saying that it is a very difficult concept.

“In the ordinary way, a person has in his possession anything which is in his physical custody, or under his control.”—and that was adumbrated in *DPP v Brookes*—“However, the concept of possession is far from straightforward. This is because, in the criminal law, every case of possession seems to involve a mental ingredient of some kind...”

We are directed by the learned writer to an article written by Professor J. Smith, by whom I had the opportunity to be tutored when I studied law in England; a fantastic thinking intellectual he is.

The writer continues:

“The House of Lords in a leading case, *Warner v Metropolitan Police Commr*...held that the offence was ‘absolute’ but nonetheless went on to express lengthy opinions as to the nature of the mental element which the prosecution were required to prove in order to establish the fact of possession in various cases.”

It is a very difficult concept and the mere use of the word “possession” involves a mental element.

“Upon an initial reading of the speeches in *Warner*,...it may seem incongruous that an offence is declared to be ‘absolute’ and yet explanations are then given as to the ‘mental ingredient’ involved...it is suggested that this area of the criminal law is more clearly understood if certain points are borne in mind. First, the law separates the physical element of possession...from the mental element...”—of possession.

That is to say an intention to possess.

Secondly, many cases that you would read dealing with possession do no more than illustrate well-established propositions of law.

I am saying all that to tell my friends on the other side that notwithstanding your attempt to amend the legislation and reverse the burden so that the person is deemed to be in possession unless he or she could prove otherwise, you may very well find that the courts may find it all superfluous because the concept of possession itself has to be demonstrated by the prosecution and that includes the mental element.

In that case, *Warner v Metropolitan Police Commr*—

Sen. Panday: Hon. Senator, therefore, in (b)—thank you very much for your indulgence—what do you suggest we substitute “possession” with, I humbly ask?

Sen. F. Hinds: I will come to that. I know that you are a little “jijiry” because facts were put in your face.

Sen. Beckles-Robinson: How do you spell “jijiry”?

Sen. F. Hinds: Hansard can spell it, I am sure. Facts were put in your face and it has discomfited you.

Sen. Panday: [*Inaudible*]

Sen. F. Hinds: Go outside and say it! I will help you pay the bill if I can afford it because you know I am a poor man.

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

Well, you heard my friend. I will remind my friend about his friend Hakim Jamaal; but I will come to that in a little while. If he could pay him; he paid him. I will come to that. We will deal with that later.

I was making a more acute point and I do not want to be disrupted by my friend again. I am sure that now I have reminded him about his friend, he will not say anything to me again for the afternoon. I am sure about that. [*Interruption*] Uh hm; and when we speak we speak with facts that we can support inside or outside.

Might I continue, Mr. President?

Mr. President: Please do.

Sen. F. Hinds: Unperturbed. Any recommendations, you will have later. Take your time. I always warn you: drink your porridge cool.

This amendment purports to shift the burden. There is a line of authority—we have done this in legislation in Trinidad and Tobago before, where we purported to shift the burden, the onus, because the Constitution, as I indicated earlier, enshrines that a man, as a long-standing principle—and it existed post the Constitution—is innocent until proven guilty. The amendment purports to deem the man to be in possession and he or she must now prove that he was not. That is a serious encroachment on that long-standing protection of innocent until proven guilty; put differently, he who alleges must prove. Very, very different.

This matter came up in many courts around the world; in the United States, in England, in Canada and there are authorities coming out of Canada. The seminal case in Canada is the case of *R v Oakes*, where the question of reverse onus was dealt with; and the Canadian Supreme Court, on many an occasion, struck down provisions of legislation on the grounds that it infringed their Bill of Rights, as indeed we have in sections 4 and 5 of our Constitution.

While I am not aware, as I speak today, of any challenge to any attempt in the past to reverse onus like we are trying to do today, it is open for some public-spirited person or some afflicted person to approach the constitutional court and to have the matter ventilated. I am only putting the Government on notice that it is very possible.

The Constitution says we must declare—and this Bill does it in clause 3 that this shall have effect even though inconsistent with sections 4 and 5 of our Constitution. It also requires a three-fifths majority, which we will do if you are able to persuade all on the other side of the propriety of what you have offered, bearing in mind that you have to be scrutinized very thoroughly based on your demeanour in the past.

However, even if you declare it to be inconsistent and you get the majority support you wish in the House or in both Houses, it still is open to the constitutional court to decide whether it passed that test outlined in section 13 of our Constitution, which says that the infringement must be reasonably justified in a society that has regard or respect for basic human rights and fundamental freedoms. That is enshrined in our section 13.

The courts of Trinidad and Tobago and the region have had, on many occasions past, to look at legislation to see whether it met the test in section 13 of our Constitution and in others. I refer us to the case of *De Freitas v the Permanent Secretary of the Ministry of Agriculture, Fisheries, Lands and Housing and Others* 1998 53WIR at page 131. This is a case coming out of Antigua, which in its Constitution has a similar provision to ours. This is a Privy Council decision.

The court was examining civil service regulations to see whether it met the test that existed in the Antiguan Constitution, which is akin to our section 13 of the Constitution of the Republic of Trinidad and Tobago.

In that case, the court concurred with sentiments coming out of the jurisprudence of Canada, as I made reference to a while ago, and the tests were that the objective of the encroachment must be sufficiently important for the restriction that we are now trying to impose.

Secondly, there must be rational connection with that objective and the use of the least drastic means and there must be no disproportionality and the effect must be proportional to the restriction they are attempting to deal with.

Gubbay CJ in a South African case is on record as saying, and I quote:

“‘arbitrarily or excessively’—where these encroachments—“invades the enjoyment of the guaranteed right according to the standards of a society that has a proper respect for the rights and freedoms of the individual.’

In determining whether a limitation is arbitrary or excessive...the court would ask itself...—

‘whether: (i) the legislative objective is sufficiently important to justify limiting a fundamental right; (ii) the measures designed to meet the legislative objective are rationally connected to it; and (iii) the means used to impair the right or freedom are no more than necessary to accomplish the objective.’”

A day may very well come when the Government would find that someone goes to the constitutional court and it would have to pass this test. I am not sure whether it

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

will, but a day may come and I want, for the two reasons I have already advanced: the use of the word “possession” imports the common law meaning of that which implies a mental element. So before you get to the question of his being deemed to be in possession, you would have by then, hopefully, demonstrated that he was in possession. You have described it as “found with”.

Let me give you an example of how difficult this could be. “Found with” implies to some extent, on your person or in your bag or in your immediate control. I know of a case where a blind citizen was found in the airport with satchels of cocaine strapped to her leg. I know what you are thinking. There is no difficulty for the court in those circumstances because, of course, she would have felt whoever was putting it on her or she may have put it herself.

If, on the other hand, the thing was found in her suitcase, then it may have raised a whole different set of considerations. If it were found in the rim of her hat or stashed in a false leg, it raises different considerations. So the practical issue of possession could be very troubling.

Your (a) talks about “found with” or is proved to have been in possession; and part (b) deals with the question of being in control because sometimes the police may go to a location without a warrant. The person whose name appears on the warrant may not be at home. The police would search; they would find narcotics or other illegal substances or items including firearms and they then get a warrant to arrest the person who was never there. The idea is to say that he was in constructive possession of the thing because he had control; but if it was in his house and there were other occupants, visitors, the thing is, from a practical standpoint, very difficult and the difficulty of the deeming provision that you are putting in place today is that to prove the contrary, that is to say that the individual may have some explanation for being in the possession that you would have found before the deeming provision applies. There may be cases, according to the law, that I have looked at, where the man may have a very good, honest and truthful explanation that he is unable to prove in a legal sense and you run the risk of convicting the innocent.

Let me say that these are issues that the court has grappled with for years because they are dealing with the question of possession as it now stands before these amendments become law.

I am really seriously wondering whether this is not all superfluous. It is going to be fairly easy if you find a gun in a man’s pocket or his waist or in a little pouch under his arm; but where, for example, one is an occupant of a motor vehicle, five of us in the motor vehicle, a maxi-taxi and Sergeant Brown turns up. It has happened.

2.15 p.m.

The person in the back, when he sees the blue and grey, or the heavy SAUTT kit and the police kit two o'clock in "de" morning, tosses the thing under the driver's seat. "Police search de vehicle and find it. De driver saying: 'I doh know how this get here'. De fella in de back saying: 'I doh know how it get here either. De police typically takes everybody and say: 'Tell de Magistrate dat.'" It is very, very difficult. I see my friend, Sen. The Hon. Brig. Sandy, is paying close attention, understanding that he is part of a Government that is unthinking. He must be wondering what he is doing there. I wonder too.

I see in the amendment that they have proposed, though they have come—when we got the Bill, it said, as I quoted earlier, unless he proves that the firearm or ammunition was there without his knowledge, or consent. Now they are deleting the words "and consent", so that it will now read "unless he proves that the firearm or ammunition was there without his knowledge." Now, if it was there without his knowledge, in fact—[*Interruption*] someone is proposing—oh, I see. [*Interruption*]

Sen. Abdulah: Mixed up as usual.

Sen. F. Hinds: These amendments are very—this is an attempt by a learned senior counsel. We have the benefit of his presence in the Senate. He, recognizing the difficulties that I am trying to share with you, Sen. Abdulah, has sought, by way of offering an amendment, to tidy up the confusion that you may be very well setting in train. He is trying to tidy it up. I think he needs to be commended and it is welcomed.

More correctly, the Bill that is before us continues to read:

"unless he proves that the firearm or ammunition was there without his knowledge and consent."

Now, as I was saying, he now has to prove that it was there without his knowledge. But if, as often can be the case, in fact, he had no knowledge. The cases that I referred you to: *Warner v the Metropolitan Police*, there is a commentary from Prof. Lewis that we were directed to—let me run an element of it to demonstrate the point. In this case, *R v Lewis*—Mr. President, permit me to read this one:

"The appellant was the sole tenant of a house, in...which amphetamines and cannabis were found. He was not present during the search, but..."

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

He found the warrant endorsed by the police, which they left behind, based on the way they do business.

“His defence was that the tenancy was a device...”

He actually rented this place, and he rented it as a device to obtain benefits from the social security in England, to which he was not entitled.

“Although others went to the house, he had never intended to live there and visited the premises only occasionally; his wife and landlord testified that his visits were infrequent. When there, he never looked in the cupboards and took little notice of what was on the premises; he never suspected the presence of drugs. He was convicted and appealed,...on the ground that the judge, relying on a direction in...”

The same Warner and the Metropolitan Police Commissioner had misdirected the jury on the meaning of “possession”.

“He argued, *inter alia*,”—through his lawyer, of course—“that the mere fact that the appellant might have had an opportunity of discovering the drugs was not sufficient to support a finding of his possession of them; the question of investigation was material only when there was something to put one on inquiry;...”

If you did not know that your grandson or the neighbour—because as I pointed out to the Minister of National Security recently, there has developed a very unkind, ungainly and very horrible practice, where criminals, living close to senior citizens, who sometimes do not venture into their own backyards, they may be shut-ins and all of that, hide their illicit stuff in these people’s backyards. “Dey get dey hand behind de meter box.” I know of a case where they were hiding firearms in a woman’s letter box, which she is deemed to have control over. Her name and number are on the box. This is a case where she may be entirely innocent, but if she cannot prove she did not know, the lady would end up in jail, based on what you are proposing here today.

These are some of the difficulties. There already exists—and I am submitting that what is offered here today does not really make a difference; it might very well be superfluous. I understand what the Government is attempting to do. It is easier when you find the weapon on the person, but when it is not absolutely on their person in a practical sense, you start having all the troubles. Mr. President, I want the Government to take note of that and to satisfy us and me, this Senator in particular, how this amendment will deal with these issues.

Talking about guns, I read in the *Express* newspaper of Friday, December 10, again, that a businessman, a citizen, Tony Chow Lin On, engaged—he had to defend himself—in a shoot-out with bandits. I read a follow-up story where his life is now under threat. Sometimes these boldface criminals try to rob you of your car and your stuff, and because you resisted then, they are now sending you death threats. They are now going to another level. These are the things that Sen. Panday and Sen. Brig. Sandy must apply their minds to. They have to.

While I read that, in the *Newsday* of the same day, there was the headline:

“Santa Kamla spreads joy.”

Is only fete, party, travel and joy, when serious things are happening in our society. [*Interruption*]

Mr. President: Senator, please keep to the Bill.

Sen. F. Hinds: Yes, I am keeping to the Bill very, very much. I have possession of this article.

Mr. President, typically a Bill comes through the Ministry of the Attorney General. The Attorney General is not here today. I see the Minister of Planning, Economic and Social Restructuring and Gender Affairs is here. I am concerned. We are called here today. We could have been elsewhere. The season is with us. The holiday is looming large. We could have been elsewhere, but the Government brought us here today to discuss a measure that is designed to bring about the end result of safety and security in the society. It is very important. The Attorney General is not here and I do not know, I am making some of these suggestions. I told him how he can mobilize the police; empower them and motivate them, so that they can go out there. They do not have to moonlight. They can go and fight crime. If they show the society that they have 2,000 guns retrieved after six months, they would be roundly applauded. I am sure the police officers are up to the task. I know that. I was a police officer myself; very proudly so; a police instructor as a matter of fact. I know the ethos. I know the “fellas” are willing to work. But, when I offer advice to the Government I am not so sure whether they would take it.

You would recall, I stood in this Senate during the budget debate and I told the Minister of National Security—look him sitting there—and his Minister in the Ministry of National Security, that the headline that said: “DPP probes a high Government official”, I stood here and told that Minister of National Security that a Member of the Cabinet of Trinidad and Tobago was under police investigation for a

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

conspiracy to pervert the course of justice. I stood here. And I tell you today, to date, not the Minister of National Security, not the Minister of State in the Ministry of National Security, not the Attorney General, not the Prime Minister who is head of the National Security Council, not one of them has come to me since that budget debate and asked me what am I speaking about. How can I have faith in them? How can I feel that we would be protected, when I stood here and said that a Member of the Cabinet—?

I am calling on Mr. Gibbs, Commissioner as he is, to tell this country what has become of that investigation. Where is it? We want to know, because since I do not know who the Cabinet Minister is, I am watching everybody askance, even my very distinguished friend, the Minister of Health. I do not feel good about that, but I have to look at you askance. I want to know who is under police investigation and what is Mr. Gibbs doing about it as a member of the public. My advice may very well fall on deaf ears, but in the public interest I am obliged to render it.

Mr. President, what this Bill has done as well is to increase the sentences substantially. What was \$50,000 is now \$200,000. I do not want to go through it; it is replete with increases in the sentencing, the fines and the jail terms. I know that this is the Parliament. It is one arm of the State. The others are the Executive and the Judiciary. I am astounded sometimes, because I have a good idea of what is involved in finding a firearm. I have a good idea.

In 2005, we launched—when I say “we”, I do not mean the PNM, I am not being so specific; the country, because we do it for everybody—a National Committee to Eliminate the Illicit Trade of Arms Ammunition and their Component Parts. We understood that firearms was the number one weapon of choice, and at that time the figures showed—and I am sure it is not very much different—that 68 per cent of the murders were committed with firearms.

I saw the other day that a man was beaten to death with a shovel. The shovel is not the number one choice, it is the firearm. It was discovered from the study that there is a serious lack of data on small arms and light weapons within the entire region; weak controls at official ports of entry and exit, as well as vast unprotected coastlines; and lack of awareness among law enforcement officers about small arms, light weapons, their parts and methods of concealing them. There are guns like torchlights, lighters and pens. There are pen guns. We needed

to train our troops in being able to recognize them and the places and the ways in which these items are concealed. A lot of work has been done. I know the trouble; the long hours of intelligence gathering. I know police officers—as I told you before—may have had to dress like vagrants; male police officers who had to dress like women, or female police officers who were courting bandits for months.

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. L. Oudit*]

Question put and agreed to.

2.30 p.m.

Sen. F. Hinds: I am particularly warm for your motion, Sen. Oudit. I do appreciate it; my heart melted on it. [*Laughter*] I do not know if it did anything to my head but, certainly, my heart.

Mr. President, it pains me when I contemplate all of those things. If you put a dollar value or a cost to the work that is done to retrieve a firearm, very often you would read in the newspapers—I sat in court and saw a meagre fine of \$2,500 for possession of a gun. Sometimes the police officers who are involved feel deflated—all of those long hours of work and intelligence gathering; the cost of the thing. Officers are mobilized at 3 o'clock in the morning—two and three van loads of officers—to go and raid a house, and when you get a gun and ammunition, after all of that, it goes to the Forensic Science Centre and it takes two years there. That is another problem you have to sort out. Eventually, there is a fine of \$2,000 or \$3,000. The police have no control over that, because that is a matter for the Judiciary.

I understand that the magistrates who deal with these matters are reluctant to impose the kinds of sentences that are already on the books, because the Court of Appeal would usually indicate to them that the sentences are too severe. If a magistrate sentences a man to seven years in jail for a gun, which he is entitled to do under the current law, notwithstanding your amendments to increase, the Court of Appeal is very likely to reduce it or impose a fine of \$2,000 or \$3,000. I suspect it is because of the prevalence of the thing it has become almost common place, but it is frightening. In my days as a police officer, when we went to raid a block, we were almost certain that the only guns on the block were police guns, now the police are encountering everything; serious weapons.

Fire Arms (Amdt) Bill
[SEN. HINDS]

Tuesday, December 14, 2010

So, one of the issues has to be the question of swift justice and more stringent sentencing, if I might say so. From an administrative standpoint, there is also good reason to contemplate the establishment of a court in the Chaguaramas area to deal with the West of Trinidad to cut down on the backlog of cases; the appointment of more judges; and judges and magistrates retreat in order to organize the question of sentencing.

Mr. President, clause 6(h) says:

“Notwithstanding subsections (3) and (4), a person who has at least two previous convictions for an offence under subsection” (3) and (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.”

I consider a trial on indictment to be a waste of time; a waste of resources; and a waste of money. The thing could be done in the Magistrates’ Court, if it is done swiftly, and if the sentence is appropriate. Typically, you go to the High Court for higher sentences. So, if you could deal with it in the Magistrates’ Court, there is no need for that.

So, Mr. President, I know much has been said on these Bills, and much more is left to be said, but I do not think there is anything else useful I would like to add, but just to say to the citizens of Trinidad and Tobago that this gun problem is not a Trinidad and Tobago problem. I remember hearing some citizens, led by my friends who are now in Government, hounding the then Minister of National Security, Martin Joseph. Whenever somebody died, the way they howled, you would think that he killed the person.

I heard Mr. Dookeran telling his supporters when they launched an office in Fyzabad, that the thing is not working well—the Partnership is not working well—and that you all are in breach of the social contract. Mr. Dookeran said that! I am not talking about what Mr. Warner said. He has already threatened you. He said it is either he or me or both.

Mr. President: Senator, we are on the Firearms (Amdt.) Bill.

Sen. F. Hinds: We are, indeed. They are shooting from the hip; all of them. [*Laughter*] Wild man, like warahoon; every one of them!

Mr. President, I want the citizens of the country to understand that this is not a PNM thing or, indeed, a UNC thing. As a matter of fact, I think they should put a provision in here to protect the UNC from the COP and the COP from the UNC, because the thing is real bad. [*Desk thumping*]

Mr. President, at any rate, I have offered some practical solutions to the problem that these measures are intended to address. I have addressed the law on the matter. I do not know what the constitutional court would hold, but I have addressed the possibility of a challenge under section 13 of our Constitution, and I would like my friends to apply their minds wholly to that. I have addressed the difficulties that the common law understanding of possession has created and would continue to create. I have submitted that what we have before us today would not interfere with or improve, more appositively, the troubles of dealing with the difficult question of possession.

As I conclude, talking about possession, Mr. President, what if a Prime Minister walks into a country at 8.30 a.m. and she is in possession of intelligence information, and recklessly skews it for all to hear and see and then that Prime Minister is asked—now that the mess has blown up and people are wondering—what has become of the information? Who had it? Who saw it? Who read it? Who was detailed to secure it? Who was detailed to destroy it, if it was destroyed? All of these questions to that Prime Minister—sealed lips, hiding behind belatedly the concept of national security—on that morning when that Prime Minister arrived, she was in possession of that information.

So, if those circumstances subsist, as I have just described them to you—I know they have the bare striking resemblance to familiar issues but, hypothetically, would you not say that the Prime Minister is having difficulty with the legal and practical issues of possession as well? [*Desk thumping*] With that in contemplation, I would like to thank you for the opportunity to have made a contribution on this Bill, and I look forward to hearing the Government on the matters that we have raised.

Sen. Corinne Baptiste-Mc Knight: Mr. President, I thank you. Unfortunately, I cannot presume to promise you the entertainment or enjoyment that you have just had. I would like, in view of the fact that many of the concerns that I had on this money Bill—it is a money Bill, because all it deals with is increasing revenue. [*Desk thumping*—is that even though I understand the severity of the problem, I wonder whether we should not be concentrating more on finding the firearms in order to produce the revenue, rather than just measures to increase the revenue without finding the firearms.

My main concern lies in clause 15 of the Bill. Now I listened attentively to the introduction of the hon. Minister of National Security, and I beg his indulgence, but I got the impression in dealing with this particular clause, he referred to the fact that it concerns problems that might arise from non-payment of maintenance issues. I got the impression that his advisors had probably suggested to him that this was a trivial issue.

Fire Arms (Amdt) Bill
[SEN. BAPTISTE-MC KNIGHT]

Tuesday, December 14, 2010

Mr. President, I sought out the Domestic Violence Act, and I found that among the forms of domestic violence which are mentioned in the definitions it says that domestic violence includes physical, sexual, emotional or psychological and financial abuse. It went on to define financial abuse. Now, personally, I consider dereliction in paying maintenance as severe as rape within marriage, because financial abuse, in this setting, is a means of continuing control to the detriment of the children.

When our courts issue orders for \$300 and \$400 a month maintenance for a child—we are all aware that this is insufficient—when it is not paid, it is considered trivial; trivial enough that if the defaulter has a gun licence and it would normally be suspended for five years, we are now saying that this really and truly is not severe enough to suspend this licence for five years.

We will allow the commissioner to determine whether it should be less. In a day and age when without having to pay maintenance, estranged husbands, men, men-in-law turned up at people's offices and killed them. In a day and age, when on the United Nations Day Against Domestic Violence, all sorts of parliamentarians of every complexion turned up on the Parliamentary Channel piously saying how they regret domestic violence and it must be stopped, and two weeks later, you bring a Bill to Parliament to allow a man who refuses to pay money for his children to hold a gun. You are changing the law to prevent him from being able to hold this gun to allowing him to have the gun. No, Mr. President! Whereas I am sympathetic to the money Bill, this particular clause I absolutely cannot stomach.

It goes further; not only does it give a discretion, but it says that after the person is convicted, they may refuse to grant a licence. No, Mr. President. I am imploring the Government to delete this clause 15 and accept only the addition being proposed by my colleague, Sen. Prescott SC.

2.45 p.m.

Mr. President, if we want to send a message to the women of this country that we understand their problems, that we share their pain, if we want to send a message to the young children who are running delinquent on the roads, because their fathers are not supporting them, that we want their fathers to support them, then we must amend the Domestic Violence Act to say that maintenance must be paid into the court every month, at the beginning of the month, and if it is not they would not only be jailed, but those who have firearms would not be able to hold a firearm, period. This is all I would like to say on this Bill today.

Thank you, Mr. President.

The Minister of Public Administration (Sen. The Hon. Rudrawatee Nan Ramgoolam): Mr. President, thank you for allowing me to stand in support of this Bill. Before I do so I would like to respond to a point or two uttered by our learned Senator on the other side, Sen. Fitzgerald Hinds.

The Senator noted that a major issue is one of boosting the morale of the police service rather than engaging in issues of the Bill specifically. We on this side want to assure the goodly Senator that building morale in the police service is really an organizational issue, so we agree with him. It focuses on the organizational life, leadership issues and how leaders can create an environment to motivate and boost their employees' lives, how we manage our employees, how we administrate our functions and, therefore, we are in full support of that. However, it is a satellite issue to the actual issue we are treating with now, which is the legislation of the Firearms (Amdt.) Bill.

For our goodly Sen. Hinds, we want to assure you that we on this side continue to address the issue of morale in the entire public sector; as a result we need to know that this Bill is specific to crime and criminal activities, as these relate to illegal firearms and, I may say, many of us who have legal firearms, because some of us who own legal firearms also engage in some kind of acts, as we may know, domestic violence and so on.

The second point that the goodly Senator made was that some of us or many of us or all of us—I did not get that quite clear—believe that crime is confined to a particular sector of society or to a particular level in the society; far from the truth. We on this side of the aisle recognize that crime permeates the entire society vertically, from top to bottom; even the priests are involved, as we see in the newspapers. You would recall a few months ago that the Pope had to go to England to apologize for the indiscretions of some of his priests. So we want to assure the goodly Senator that we are aware that this Bill is not just for a sector or strata of the population, it is really a Bill that is cast to catch all the illegal firearms fish in the sea.

With those few points in response to what our goodly Senator has indicated, I now turn to some issues in the Bill.

I quote from the Explanatory Note:

“The Bill seeks to amend the Firearms Act, Chap. 16:01...to increase the penalties for certain offences involving a firearm or any prohibited weapon, as defined by the Act, by an average of fifty per cent. The Bill would also make

*Fire Arms (Amdt) Bill**Tuesday, December 14, 2010*

[SEN. THE HON. R. NAN GOSINE-RAMGOOLAM]

unlawful possession of any firearm or ammunition a strict liability offence and make provision for the Chairman of the Firearms Appeal Board an attorney-at-law of at least ten years experience.”

Since this Bill is inconsistent with sections 4 and 5 of the Constitution, as we see in many pieces of legislation, a special majority is required in this House. I am sure that all Members of this august House will definitely support this Bill, after we hear the debate from both sides and we are able to tweak it, because it is a Bill that we really need to use to contain this issue of firearms crime. This Explanatory Note is really the crux of the matter. Provisions for the Chairman of the Firearms Appeal Board to be an attorney-at-law is at the heart of this Bill summarized very nicely.

This Senate needs to be reminded of the number of persons charged for firearm offences over the last four years. This statistic is not very comforting to law-abiding citizens and the national community as a whole.

News hot off the press, I obtained it early this morning from the police: 2007, number of persons arrested for firearms, 732; 2008, 886; 2009, 773; 2010, 808 and 2010, today is December 14, we hope we do not, but looking at trends we may have more, the average over those four years is 799.75 or let us say approximately 800. Therefore, while there is the decrease/increase, there is no comfort, because there is a trend of a marginal increase and decrease. So one cannot, at this time, within these four years, predict that we are moving downwards.

When compared or calculated with 1.2 million persons in the society, we see that this is 0.1 per cent of the population. It is really not a good picture of crime in Trinidad and Tobago, especially when it focuses only on the number of persons arrested for firearms; that is only one crime. However, I was unable to glean statistics for conviction rates. I hope somebody would be able to help there.

We know from reading the newspapers and listening to persons with information, that our conviction rate is not very high either. So one can generally assume the situation is not much better. The information gleaned from the police is that the rate of recidivism is very high, in that, those convicted and charged for illegal firearms and who are released, subsequently find themselves engaging in the nefarious acts again. So these subjects generally, especially those who spend a few months or a year or two in jail, come out and they repeat their acts.

Other information gleaned is that those persons who spend a longer time in jail are less prone to repeating these acts. Therefore, information and statistics are extremely important for us in determining what measures to employ in trying to curtail crime in any form. I thought we should be looking at the trend, what has happened, what causes

people to go back, why people get there and so on. This is what we have tried to do a little, before we came up with this piece of legislation. It may not be perfect, but this is why we have an Opposition and an Independent Bench to help tweak this legislation to ensure that it goes through the passage today.

This action would allow for keeping these persons away, and I think I mentioned this in the House sometime ago. It would keep many persons away from their own vulnerabilities. We must put measures in place. Human beings generally are tempted. You are not going to leave your money and jewellery open when you have strangers around. It is not that you do not trust them, but human beings as we are, many are tempted. So we have to guard persons from themselves. This piece of legislation also tends to achieve that objective.

On another note, Mr. President, it is to be noted that this Bill is only one part of a holistic, multifaceted approach to treating with crime. This really would not be able to solve all the criminal problems in the country and all the criminal activities which this elected People's Partnership Government is really addressing. This Government is looking at all these pieces of legislation to address the entire question of lawlessness, mayhem, disorder and crime in our society.

You are well aware that currently before this Parliament are the following measures: the Anti-Gang Bill 2010, to provide for the suppression of association created for unlawful or criminal purpose. We also have the Bail (Amdt.) Bill, 2010 to deny bail to gang members and persons charged with certain offences involving firearms. We also have the Miscellaneous Provisions (Remand) Bill 2010, to amend the Summary Courts Act and the Indictable Offences (Preliminary Enquiry) Act, in order to increase the period in which a magistrate can remand an accused person with regard to summary offences and indictable offences; the Evidence (Amdt.) (No. 2) Bill to extend the use of video recorded evidence to encompass all criminal proceedings and to allow for the admissibility of the video recorded statements of both accused persons and witnesses, even where witnesses are absent at the trial, and the Securities (No. 2) Bill, 2010 to deal with protection of investors from unfair, improper or fraudulent practices in capital markets. This deals with what is called, and we know it, "white collar crime".

All these measures deal with different aspects of criminality in Trinidad and Tobago. There are other initiatives on stream that were implemented by the People's Partnership Government, those things that were there and when we came in we ensured that we brought closure to them. For one, the appointment of three new Deputy Commissioners of Police and the Commissioner of Police; restructuring of the intelligence agencies; introducing and passing the Interception of Communications

*Fire Arms (Amdt) Bill**Tuesday, December 14, 2010*

[SEN. THE HON. R. NAN GOSINE-RAMGOOLAM]

Bill, with the help from our loyal Opposition Members and Members of the Independent Bench. You see, Mr. President, we have right-thinking persons in this House, and we thank them. I know that we in this House will continue to do that.

3.00 p.m.

Today we are dealing with the Firearms (Amdt.) Bill. This Bill increases penalty for certain offences involving firearms, prohibited weapons deemed unlawful; possession of a firearm, a strict liability offence—I know that is causing a bit of debate but I am sure we will get over that—but since illegal possession of firearms is a minor offence as identified in the books, and probably, I am subject to correction here, apparently the possession of illegal firearms is seen as a minor offence.

I was informed that, generally, officers in the police service probably treat this type of crime as minor, and therefore, the emphasis is on major crimes: murder, kidnapping and crimes of those. Now, this is important simply because we need—if we treat the possession of illegal firearms as something that is minor, marginal, not really very important, then our approach to addressing or trying to solve that crime would not be one of motivation, excitement, wanting to get over it and find the culprits. So, I think, even among the police service, we would need to change gears and also focus on the importance of illegal firearms with some degree of urgency. I think it was Sen. Hinds on the other side who mentioned something to that effect, which points to the prevention aspect.

We are saying, if we can treat the possession of illegal firearms, in a serious way, we would be able to contain the actual act of the crime and this is what our Government is attempting to do. We are not only looking at the treatment aspect, but we are looking at the preventive aspect. Why I say preventive, because if you look at section 6 of the Act it is making life difficult for those persons who want to engage in these nefarious activities.

Any person who contravenes any of the provisions of this section is liable in the case of an offence under subsection (1) on summary conviction to a fine of not \$10,000 as it used to be, but now \$15,000 and to imprisonment of eight years, no longer five years. So we have increased that—on conviction on indictment to imprisonment for not 10 years but now 15 years, so you increased it to act as a deterrent.

An offence under subsection (2) on summary conviction to a fine of \$50,000—not \$50,000 now, that was previously, but \$75,000 and to

imprisonment of not 10 years but 15 years now. In (ii) of (b), on conviction on indictment to imprisonment for 20 years now, instead of 15 years.

We hope, Mr. President, that some of these measures would help to deter those persons who are sitting wherever they are and premeditating on how to acquire an illegal firearm or those who have legal firearms and may want to use them for some other reason. Therefore, as a result, we need to emphasize the importance of crime prevention and this Bill, especially, clause 6 and others help to address the prevention aspect of crime so that we can, sometime in the future, minimize or eliminate—well, that would be a tall order eh—crime in our society.

Mr. President, the Bill, therefore, provides for the Chairman of the Firearms Appeal Board to be an attorney-at-law with 10 years experience. This is important as well. This is, what I would like to call, the institutional strengthening aspect, simply because, Mr. President, if, God forbid, you manage to get sick and go to Mount Hope and you have to have an operation, I am not sure you would want me to be performing that operation at all, because I am not a doctor. I am not a doctor! Therefore, every discipline has its own unique information, and anybody, a Chairman of the Firearms Appeal Board, should be a lawyer with at least 10 years experience, because they know the law. In this way we would make informed decisions. Let us get this thing right otherwise there will be no need to send us to schools and universities, absolutely no need if we want to put every Tom, Dick and Harry everywhere to do anything. Therefore, the Bill addresses this. It tries to really put someone who is qualified with the experience to help us guide this process.

However, before we look a little closer at the Bill itself, we must ask ourselves a few questions. What are the sources of all of these illegal firearms? Well, some responses or a few responses I should say, the illegal gun trade; importation by, apparently, law-abiding citizens under the radar, in suitcases or in and among legitimate cargo. Part of the drug trade where guns accompany a drug shipment to protect the very shipment that is coming through.

If I should quote from the *Newsday*, yesterday's editorial with respect to that one—yes it is yesterday's *Newsday*—Monday, December 13:

“Tackling armed violence.

The assurance provided by Minister of National Security, Brigadier John Sandy, last Wednesday that Trinidad and Tobago remained committed to tackling the illicit manufacturing and cross border trafficking in firearms in the region will be hailed by concerned persons.”

Then another line I would like to quote here:

“Guns have been brought into the twin-island State over the years by drug majors to ‘protect’ the landed narcotics as well as sales and the respective turfs within the country.”

This is yesterday’s news, Mr. President. Also, another response, irresponsible elements within the protective services: renting firearms to criminals—and I am not casting aspersions on any one sector, but to indicate as I said earlier, every discipline has the good, the bad and some ugly, so even when we read it in the newspapers, some members are before the courts, I am sure—owners of legally held firearms renting them out to criminals—and we have read about those things in the newspapers.

As a result of all of these issues raised, Mr. President, we now need to look at some specific provisions of the Bill to address some of these problems identified.

Clause 5, for example creates a strict liability offence for unlawful possession of a firearm, as such, the burden of proof would now be on the defendant, and we heard some views on this, we will see what the outcome is going to be.
[*Interruption*]

Clause 8 provides that members of the protective services found in breach of the Firearms Act be sentenced to 20 years imprisonment. That is when we talk about preventive measures. This is critical. We need to send a very clear message to those of us placed to set example to the average citizen. I think I said sometime earlier again, a fish rots from its head, and more so, I do not think those of us at certain levels have the moral authority to talk to anyone below us if we are engaged in those very activities. We should be examples as we lead, as we manage and as we help to guide our people along.

Sen. George: Caesar’s wife principle.

Sen. The Hon. R. Nan-Gosine Ramgoolam: Caesar’s wife. Clause 15 provides that where legally-owned firearms are used in committing offences under the Domestic Violence Act, the licence will be revoked. Very important!

We have to learn to manage our emotions; another big issue in our society, Mr. President, road rage, anger. Managing our emotions and our anger is what separates us from the life of the jungle. This is why we are called human beings, therefore, even if we possess licensed firearms, it does not give us the right to use it in ways that the firearm was not made for.

Clause 17 deals with institutional strengthening, and this one is interesting. It removes the Chairman of the Police Complaints Authority from being the Chairman of the Firearms Appeal Board. Previously, the Chairman was there sitting on both chairs, and therefore, it is interesting now to note that we have separated that. It requires that the Chairman of the Firearms Appeal Board be an attorney-at-law for 10 years—as I have said before—of experience and this clause would lead to better decision making as I indicated earlier. It also requires that the Chairman be appointed by the President who is perceived as a mutual person, and all of us in this Senate would and should be happy about that.

The rest of the Bill, as noted in the first paragraph of the Bill, the Explanatory Note, really deals with increases of up to 50 per cent in penalties for offences under the Firearms Act and increasing penalties is one of the ways, really, we hope to deter persons from engaging in these nefarious activities.

So, Mr. President, in concluding, the response of the People's Partnership Government to crime is to deal with this issue by constructing a holistic multifaceted approach to this deep-seated social malaise that this society is choking with. We are literally choking, Mr. President. A malaise that has destroyed a generation and that continues to destroy our young people, and if we do not take stock, I shudder to think the kind of society we may have in the next few years. Therefore, we really have to implement serious decisions and tough decisions to deter persons from committing crimes.

You know what I never seem to understand, is that the criminals have all the right. What is the right of the victim and his or her family? We do not seem to understand that. We mouth it but I do not think we understand it. I do not think we believe it because if we believe in it we are going to act on it via the Acts.

3.15 p.m.

Crime is only one aspect of this societal disintegration brought about by years of fostering a dependency syndrome in our society. We have to get our people out of that by the way we manage the economy and this Government is determined to do just that; to empower our people to make them feel free once more; that they have a brain to think and to act and that nobody is going to think and act for them. So that empowering them, creating the environment to empower them, is extremely important if we are to move our people from this dependency syndrome.

This social malaise speaks to what? Breakdown in family life; a decrease in religious, spiritual and moral values in our society and an obscene emphasis on materialism which engenders the instant syndrome: instant tea; instant coffee; instant gratification. That is the population that we are really nurturing, so there is

Fire Arms (Amdt) Bill

Tuesday, December 14, 2010

[SEN. THE HON. R. NAN GOSINE-RAMGOOLAM]

no need to do hard work to earn a penny. That value system causes a thinking, an attitude and a behaviour, that is not in consonance with the overall norms, mores and values of a so-called civilized society.

The wise man from the East once said, and I quote—I do not want to call his name right now: “Bring up a child without religion, without spirituality and without a moral compass and you make him or her into a wonderful rogue.”

Therefore, I will agree with Sen. Hinds. On the one hand we have to get the legislation in place to curtail what is happening; the treatment aspect, but the prevention aspect, probably is for other institutions in conjunction with the Ministries of National Security, Education, Social Services—what happens in the organization. It is a holistic approach we have to take. It just cannot be a piecemeal approach any longer.

Therefore, there will be a massive loss of confidence and trust in our Government’s ability to protect us as a people, if these actions continue. This Firearms (Amdt.) Bill is therefore only one building block among many others that we hope is going to—is a barrier which, when completely constructed, will protect us from all those who use firearms selfishly and inhumanely and will seek to deprive hard-working, law-abiding citizens of their possessions and, quite often, their lives. This Bill is necessary and deserves the support of all Senators in this honourable Senate.

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

Sen. Penelope Beckles-Robinson: Thank you very much, Mr. President. I join this debate on this amendment to the Firearms Act and I would like to share with quite a number of the views of the last speaker, Sen. Nan Ramgoolam. I think that the hon. Minister really looked at some social issues. What I would like the hon. Minister in the Ministry of National Security and the hon. Minister of National Security—I will tell you my concern. My concern is that when I look at the law, when I look at what the Court of Appeal has been saying in the recent cases, I get the distinct impression that they are comfortable with the existing legislation and, therefore, maybe, Sen. Panday, when you are addressing the matter, I am not in my mind certain as to exactly what is the mischief that the Government is intending to treat with, because when you read the existing legislation and you look at *Bharath*, which is the most recent case—July 2010—that case went through all the cases over the last, probably, 10 years, I would think.

They looked at the Canadian law; they looked at the British cases; they even overruled some of our previous cases and made it clear what they thought the legislation should be. In other words, they made it much clearer what is the issue of occupation, occupy, control and possession. That case is July 2010. That is the most recent case that we have and that case, as I said, made it very clear what are the concerns and what are the issues as they relate to what exactly it is to occupy a vehicle, a vessel, a car, an apartment, a house. It looked at the issue of control and the Court of Appeal, in my humble view, seemed to have come to a position as it relates to the interpretation of this section that you are attempting to change.

Now having regard to that most recent decision—and we are talking about months ago—what I am not clear on is that since the court took a lot of time to explain and, in a sense, to me, what the court did is what you are trying to do, but you are actually changing the legislation. When you change the legislation now, it means that what the court ruled in July 2010, to me, it is going to be totally different and I do not know if that is what you intend.

Now, I am, of course, willing to listen to what you have to say, but when I read the case and I give you some of the comments of the court, you will then tell me whether or not you are really achieving what you set out to achieve.

Maybe I should start there. Mr. President, this is Criminal Appeal 49 and 50 of 2008 but it was delivered on July 29, 2010. Minister, I will provide you with a copy of it, because I really believe that this is the case that you need to study to satisfy yourself that what you want to do is really—that this legislation is going to meet your objectives.

Now this is not to say that it is not necessarily to look at the increasing of penalties and, of course, when I listened to you and I read your discourse, do not misunderstand what I am saying. At this point in time when we look at what is happening in the country as it relates to guns, murder and so, I think that the Government's position as it relates to looking at increasing penalties and putting any measure that would deal with the safety and security of the citizens, I do not have a problem with that, and you would have seen that we have supported the pieces of legislation that have come. So that is not the issue. You have increased the fine; you have increased the penalties, that is not the issue. My concern is the way the legislation is drafted and what is the exact intention.

The case is *Latchmi Bharath, Ferney Bohoroquez a/c Bohoroquez, Ferney "Pena" v The State*.

Sen. Panday: I do not like those two names.

Sen. P. Beckles-Robinson: Sorry?

Sen. Panday: I do not like those names.

Sen. P. Beckles-Robinson: You do not like those two names? Which one you do not like, the “Pena”?

Sen. Panday: Pena.

Sen. P. Beckles-Robinson: Mr. President, the facts of that case are that you had two police officers observing a motor vehicle that was parked in Gulf City. Appellant number one was seated in the front passenger seat; number two was the driver and the third person sat in the back seat. So that they found a large quantity of cocaine in the middle rear seat and they also found some 1.47 million bolivars, some US currency and there was 21.3 kilogrammes of cocaine. The three persons were convicted and those persons appealed. What the court sought to do was to go through all the cases prior to that and to come to a clear decision about issues of occupying a vehicle; what it is in terms of control and in terms of possession.

Now, the person, I think, that was really—well, the person seated at the back of the vehicle, which is Oliveras, the court actually allowed the appeal and what the court indicated was that mere presence does not amount to possession. I think most people agree with that, but, you see, when you look at the way you are putting the legislation, I think that is going to be a serious question. I will just read for you one or two comments that the court made. What is interesting about this case is that it dealt at length with looking at the debate in Parliament, and that is why it is also a good case. They looked at what Parliament intends. They actually looked at the debate; they looked at certain words that were said and they made it very clear that the court deals with exactly what Parliament means; what Parliament intends.

So you would find that that is another interesting reason why we should look at the case. I am reading from page 13:

“The foregoing review establishes firstly, that in every case to which S 21(1) of the Act applies, the prosecution must prove *prima facie* ‘occupation, possession or control’ of the premises or vehicle before the accused is deemed to be in possession of the narcotic and any burden case upon him. Secondly, in respect of the premises, the local Court of Appeal has been consistent in construing the term ‘occupies’ narrowly as necessitating an element of control...As we have now made clear, for the reasons stated we are of the opinion that we are not bound by the authority of...*Ramdhanie*.”

And, Minister Panday, I know that you know *Ramdhanie*, so I do not propose to go through that. The last thing in this case:

“For all purposes the term ‘occupies’ within the Act is to be given its narrow meaning incorporating an element of control. There can be no reason to apply different principles to buildings and vessels and vehicles, the absurdity of so doing would immediately be apparent in the instances of houseboats, which while mobile provide living accommodation. An example of such control might be that the prosecution evidence establishes that a passenger is directing the vehicle’s route or that the relationship between driver and passenger allows for an inference of a measure of control by the passenger. Mere presence cannot and does not equate to ‘occupation’. Where there is evidence capable of proving that a passenger is an ‘occupier’ the judge must go on to explain to the jury the meaning of the term and leave it to them to find whether or not the passenger is indeed, on the facts, an occupier.”

So, hon. Minister, my point is: Do you need to change that particular section in the Act, or do you need to deal with the issue of the penalties? That is really the question. That is a matter that I hope that you will address.

There were two Canadian cases that the court looked at: *R v Gun Ying* and this is at page 4:

“They entered a bedroom and found the appellant’s wife and another man smoking opium.”

The appellant was in Niagara Falls. They arrested the appellant on return and he was convicted and the court indicated that:

“...the words ‘occupies, controls or is in possession of’. He found that the words are not used in the widest sense but in their limited sense namely that occupation, control or possession must under the circumstances be of a nature which goes to and supports the charge, otherwise the presumption does not arise.”

3.30 p.m.

In the other case *Lou Hay Hing*, the premises were owned by the appellant. He sold the premises two and half months ago but had not yet found an alternative accommodation, so he was still there. The police came, opium was found, and the court charged the persons who purchased the property together with the person who was the original owner. Again, they dealt with the issue of occupation. So I am saying in essence, that when you look at this case, Mr. President, I am of the

Fire Arms (Amdt) Bill
[SEN. BECKLES-ROBINSON]

Tuesday, December 14, 2010

view that the court gave this directive because there has been a multiplicity of cases going to the High Court, where they seem to have been equating mere presence with control and with possession. I would simply ask the hon. Minister to have a look at that case and see whether or not he is satisfied, that in changing that particular section he may not be actually doing a disservice in terms of what his intention is.

Hon. Minister, just in case—I just wanted to see if I could find exactly what our section says. Our section is very similar to the Canadian section and what you are really purporting to do here is to take the section under the dangerous drugs and incorporate that into the firearms, but you have not taken the identical section. You have made some changes. So the Court of Appeal is saying that the dangerous drugs section dealing with the cocaine and marijuana and so, is sufficient for them to be able to treat with the issue of control, with the issue of possession, and to make it clear that mere possession is not enough for convictions. So I want to leave that for the time being. I want to say that the hon. Chief Justice in his speech in September 2010 also gave some very, very interesting information.

Mr. President, Sen. Ramgoolam spoke about the issue of the holistic approach. Holistic approach means that we are looking at all the issues: the social issues, the financial issues whatever, family issues. At the end of the day, I make the point over and over that part of the challenges—not just of this Government, of the last government—is the issue of detection and conviction. The fact is that, as we continue to pass pieces of legislation, we realize that our detection and conviction rate is not improving. Subject to information that can be provided by the Minister of National Security or the Minister in the Ministry of National Security, my information is that our detection and conviction rate is still less than 30 per cent and, therefore, we have a serious problem in Trinidad and Tobago.

Now, not only is the issue of detection a concern, but more importantly, one of the issues that the hon. Chief Justice raised—and if I can read page 11 of his speech—this is the High Court and he was dealing specifically with criminal matters. He was talking about the successes of the court as it relates to matters coming before the court.

“High Court (Criminal):

The picture here is not very encouraging. There was a 14% increase in indictments filed when compared with 2008-2009. The number of capital matters in the High Court declined even as the numbers in the Magistrates’

Courts for preliminary inquiries continue to increase. The number of matters disposed of fell by 30%. Clearance ratios have declined in the past year from 0.87 to 0.53, and the acquittals accounted for the largest share of dispositions 40%...”

So in other words, the Chief Justice is saying that the highest number of matters that we are disposing of are matters where people have been set free.

“The causes for this morass are many and include:

- An overburdened DPP’s department
- Deficiencies investigation and presentation of evidence
- Overburdened forensic science facilities resulting in delays
- Interference with witness...
- More lengthy and complex trials
- A shortage of defence lawyers
- Retention of Preliminary Inquiries”

So the point is that, whilst we are dealing with legislation and clearly increasing penalties, the fact is, we are seeing that most of the matters that are being disposed of in the High Court are acquittals, and the Chief Justice is giving his reasons as to why he thinks that they are not successful in many instances in terms of prosecutions. So the fact is, as we pass these pieces of legislation, how could we reduce that 40 per cent of acquittals; how could we ensure that we deal with the DPP’s department that is overburdened; how do we improve presentation of evidence; how do we acknowledge that a lot of the trials are much more complex; shortage of defence lawyers? You saw recently where a judge summoned the Chairman of the Legal Aid and Advisory Authority to indicate to the court why no lawyers were appointed. I think it was either for 10 or 12 accused. So these matters are extremely important.

Now, I assume that this Government recognizes that there still seems to be some challenge in terms of the DNA Act, 2007. That is a matter that needs to be solved and also the issue of the ballistics testing. The Chief Justice talked about the overburdened forensic science facilities resulting in delays. Now, Mr. President, similar to either cocaine or marijuana, exhibits that are sent to the forensic laboratory are taking as much as eight months to a year, and I am subject to correction by the hon. Minister. As a matter of fact, my colleague, Sen. Hinds, said two years.

Sen. Panday: [*Inaudible*]

Sen. P. Beckles-Robinson: Okay, you can clarify that, but I know for a fact that it is taking at least one year. Do you want to say what is the time frame?

Sen. Panday: Thank you very much. We had made investigations and our information is, it is now between three to six months for a turnaround from the time of taking the exhibits to the forensic centre to its return to the police officer.

Sen. P. Beckles-Robinson: Three to six months?

Sen. Panday: More officers have been taken on board recently.

Sen. Hinds: Very good!

Sen. P. Beckles-Robinson: Okay. Mr. President, as someone who is practising in the Magistrates' Court, I would tell you that has not been my experience and I know Minister Panday also practises in the Magistrates' Court. As recently as yesterday when I was in court, in Arima, there were a number of matters where more than a year had passed and the exhibits have not been returned. Just two weeks ago in Port of Spain, there was a matter that was a year and a half and the exhibit was not returned. [*Interruption*]

Sen. Hinds: Misleading the Senate.

Sen. P. Beckles-Robinson: Now the point is, I know that hon. Panday as one of the Ministers in the Ministry of National Security would have certain data, but I want to say that this is a matter that needs urgent, urgent attention. If you look at the speech of the hon. Chief Justice, you would see that the hon. Chief Justice also maintained that part of the problem is the issue of exhibits returning on time.

As a matter of fact, at page 15, the hon. Chief Justice says:

“New filings in the Magistrates' Courts remain high, dropping marginally from 90,437 matters in 2008-2009 to 89,416 in 2009-2010. Disposition rates have improved growing from 79,226 in 2008-2009 to 88,907 this past year.”

If we are listening to those figures, you are talking about 8,000 matters a month. Now that tells us the extent to which we have a problem as it relates to crime in Trinidad and Tobago. He went on to say that:

“St. George East continues to deal with the lion's share of the matters, but Arima, with only three magistrates, handles more than its proportionate share...running second in total with a disposal to filing ratio of 1.51, far outstripping any other court.”

The other point I would like to share, Mr. President, is that matters are being adjourned for eight months, nine months and one year in the Magistrates' Court. Now the fact is, if somebody is charged with possession of a firearm and it is going to take eight months to one year to have that exhibit returned to the court, it means that if you are in custody—let us say the normal seven-to 10-day period—and you have an existing conviction or for some reason you cannot have your bail taken, you are riding up and down in the van, sometimes for a year, sometimes for two years. If we are to address these issues successively, then we have to find some way that we can deal with those challenges in the forensic department.

I know that under the last Minister of National Security, the issue of scholarships was a matter that they looked at. I know they looked at doing some infrastructural work, but the simple issue is that with the number of matters that are going before the court, the existing resources of the forensic department really makes it virtually impossible. I mean, on any given day, whether it is Port of Spain, San Fernando, Point Fortin, I do not know that there is any day in any of those courts that you do not have somebody appearing before the court who is charged for the possession of marijuana or possession of cocaine. So it is a matter that requires urgent attention.

Mr. Speaker, the other matter that I want to raise has to do with the Government's actual position on the right to carry arms. In today's *Newsday*, "Police seizes a 9mm pistol, 25 rounds of ammunition and arrested three men in Phase 3, La Horquetta", the question I ask myself is: where would a citizen of Trinidad and Tobago get a 9mm pistol and 25 rounds of ammunition? The police actually caught them sleeping on the roof. Where would they get this 9mm? I was actually collecting data over the last three months and then I decided it was not really worth it because every single day there is a situation where there is some offence with guns. So I understand the Government's concern.

Reading from the same editorial of Sen. Ramgoolam, the *Newsday* raised what I think is the most interesting point as it relates to this debate. The *Newsday* editorial of December 13, talked about the assurance provided by the Ministry of National Security in relation to the tackling of the illicit manufacturing and cross-border trafficking in firearms. The last two paragraphs of this editorial say and I quote:

"While the United Nations hosted workshop and indeed similar workshops are of immense significance, nonetheless this country's short distance to Venezuela and Colombia, from where illegal narcotics are transported overland and by sea to Venezuela, as well as our relatively unprotected

Fire Arms (Amdt) Bill
[SEN. BECKLES-ROBINSON]

Tuesday, December 14, 2010

Southern coast, has made the drug transshipment trade less difficult. Some of the southern-based fishing boats have been contributors to the trade. We have to tighten the protection of our coast line.

In the meantime, although apart from a few crudely made hand guns and shotguns, there is little evidence of any manufacturing of firearms, nevertheless the authorities should remain vigilant.”

3.45 p.m.

Mr. President, as we seek to increase these fines for possession of arms and ammunition, the real point that this editorial is making is that guns seem to be coming into Trinidad and Tobago at will. There seems to be no restrictions, because, at the end of the day, when you see some of these weapons that are present when you go to court, when you hear that the police held somebody with a gun, you are asking yourself—I mean, they are not made in Trinidad and Tobago.

I would think by now, with all our intelligence, that if there was some place manufacturing guns in Trinidad and Tobago, I mean, knowing how Trinidad and Tobago is, that somebody would have been able to locate that factory. So what it means, Mr. President, is that our borders are unprotected and guns are coming in aplenty, and we have not been able to stem the guns entering Trinidad and Tobago.

How are we going to deal with that issue? Now, the Government in its wisdom, or lack thereof, decided to renege on the contract to purchase the OPVs. If the Government has decided that, for whatever reason, that is the position they need to take, the fact is, how are we going to treat with this issue to which the *Newsday* is referring? How are we going to protect our borders? What can we do to stem this inflow of guns and ammunition into Trinidad and Tobago?

I would have thought, Mr. President, that probably the best way to treat with something like this would have been what we debated a week or two ago, which is really intelligence. It is really intelligence gathering. You really have to find some special way where somebody is going to be able to give information quietly to the Ministry of National Security, to the coast guard, to somebody, as to how these guns are coming into Trinidad and Tobago, and where it is coming.

Mr. President, that leads me to the very important issue as to what has happened to our Interception of Communications Act. Now, you see, we stayed here until three o'clock two weeks ago to pass that legislation. I recall that an

assurance was given that that legislation was going to go straight to the President, and my understanding is that it did go straight to the President and that the piece of legislation has been assented to. If it is that legislation is made law, the chances are that what the Government is trying to do today, that is probably the only way that they may be able to solve some of the challenges that exist as they relate to these arms and ammunition coming into Trinidad and Tobago.

Mr. President, lo and behold, that Interception of Communications Act has not been proclaimed, and I am calling on the Government to proclaim that piece of legislation. As a matter of fact, I am hoping that the Government would tell us today why that piece of legislation has not been proclaimed. [*Desk thumping*]

Sen. Hinds: Look the Minister is there. Call on him, let him tell us now.

Sen. P. Beckles-Robinson: You see, Mr. President, I looked at an article today in the *Newsday*.

Sen. Hinds: Let the Minister get up—he is right there—and tell us.

Sen. P. Beckles-Robinson: “SIA ‘spy files’ on PNM, Jamaat”. Now, Mr. President, what it means is that there is a window of opportunity that has been created, since the legislation has been passed and assented to, for these files and this spying to continue at will because here it is that Ms. Nalinee Seelal has indicated that a bundle of documents delivered by an official—an official—in this country to the office of the *Newsday* two days ago contains transcripts allegedly obtained from the spying activities of the Strategic Intelligence Agency in the years 2000—2003.

Mr. President, this is today. This is today’s *Newsday*. Sen. Ramgoolam spoke about a holistic approach to dealing with the issue of arms and ammunition. I support that entirely, because a holistic approach really means that you have to not just increase the penalties. You do not just have to find a way where you give the police service better resources; that you give them vehicles; that you increase—probably give them the \$1,000 that the honourable Government did that would in some way probably give them some incentive and some motivation.

But this piece of legislation that we passed two weeks ago, or that was amended in the House—as a matter of fact, it came back to the Senate last week Tuesday for the final amendments. You cannot really deal with a matter as complex as firearms and ammunition coming into Trinidad and Tobago, save and except you have important pieces of legislation like the Interception of Communications Act because you know, nobody is going to just come, even if

Fire Arms (Amdt) Bill
[SEN. BECKLES-ROBINSON]

Tuesday, December 14, 2010

you have an amnesty and you say, “Okay, next month, next week, there is going to be an amnesty. Bring in all your guns.” Who is going to bring in what guns, Mr. President? Who is bringing in the guns?

That requires a certain type of skill for the Government to acquire that kind of information. That is why in the House you would recall that the Government and the Opposition, and quite rightly, cooperated to make sure that was dealt with with dispatch. The Government came and boasted and said, “Okay, fine.” Look how quickly the Prime Minister made this announcement—I think on the 12th—and the following week the legislation was before this honourable House. We met the following Tuesday and yet still, Mr. President, the legislation is not proclaimed.

Mr. President, I mean, I cannot understand it. I am calling on the Government to proclaim the Interception of Communications Act. If we do not do that, then what we are seeing here in the *Newsday*, somebody else is going to drop some other transcript to the *Guardian* and to the *Express*. Now the point about it is that you have freedom of the press, you know. I am not complaining about the media writing about what it has received. The fact is that nothing can happen to anyone here because there is no law. There is no law, Mr. President. [*Desk thumping*]

I will go further to state that what we have to be concerned with, the hon. Minister of National Security, the Prime Minister and the Attorney General all stated that the SIA spied on judges and the Chief Justice. As a matter of fact, the hon. Minister of National Security and hon. Attorney General gave us those details. They were spying on judges. They were even spying on the present Minister of National Security, the Commissioner of Police, myself, Sen. Hinds and Sen. Al-Rawi.

Sen. Panday: He is not important.

Sen. P. Beckles-Robinson: So I heard. That is what I heard. Minister Panday said they were not spying on you.

Sen. Hinds: They were not spying on me.

Sen. P. Beckles-Robinson: Now, Minister Panday, when you say they were not spying on Sen. Hinds, that means you know who they were spying on. Right? [*Laughter*] [*Desk thumping*]

Sen. Panday: A good lawyer.

Sen. P. Beckles-Robinson: As a good lawyer, having learned from you. Mr. President, my point is this; if we are not careful, people are going to be blackmailing people in Trinidad and Tobago. Somebody is going to be calling somebody and saying—arbitrarily, I am using these names—“Chief Justice, justice this, I have a tape. I have a transcript collected by the SIA about you.” What happens when there is no law? Mr. President, this is an extremely serious matter. [*Desk thumping*] I am hoping that before this debate is concluded today the Government tells us what is the problem in proclaiming the law.

Sen. Hinds: Tell us.

Sen. P. Beckles-Robinson: Mr. President, I am sure your part was done. The point is that the Parliament moved with dispatch to send that legislation to the President—with dispatch. [*Desk thumping*]

Sen. Hinds: Cabinet is feting.

Sen. P. Beckles-Robinson: I heard Minister Ramgoolam talk about the Government being serious on crime. I have read the Minister of National Security’s statement on this Bill and I have absolutely no doubt in my mind that he is not serious about crime, or the Minister in the Ministry of National Security. But I have a concern that this piece of legislation is not passed.

You see, further to that, Mr. President, we have something called “WikiLeaks”, and we see that—you are giving me the proper pronunciation? What is it?

Sen. Ali: WikiLeaks.

Sen. P. Beckles-Robinson: WikiLeaks; right, good. It is kind of strange that they have the words “weak” and “leak” together. It does not seem consistent. Mr. President, the United States of America, one of the most powerful countries in the world; Russia, their information, private information; discussions between the president and other heads of state have found their way on the internet. What is to stop all of these files that seem to be floating somewhere from finding their way on WikiLeaks?

Sen. Hinds: Because of the recklessness of the Prime Minister.

Sen. P. Beckles-Robinson: Because of the Government’s failure to proclaim the Interception Act.

Sen. Hinds: Recklessness on the part of the Prime Minister. [*Desk thumping*]

Sen. P. Beckles-Robinson: You see, Mr. President, let me say something. Last week I spoke about the fact that there is a situation now where—you see, Mr. President, we do not know. You have had 15 years of collection of information, illegal collection of information. You may very well have data in those same transcripts concerning the issue of bringing into Trinidad and Tobago illegal arms and ammunition. It is possible. Mr. President, at the end of the day, if it is that this matter is not dealt with, the country will continue to lose confidence in the Government.

You recall that over the last couple of weeks there was a declaration from several members of the Government; one, that there are no files. Some people have never seen their files. Some people have seen their files. Some people have said the files have been destroyed. The Minister of Justice said that two Israeli persons destroyed all the SIA files. How it is that files are now being handed to the *Newsday* [*Desk thumping*] if they have been destroyed?

Sen. Hinds: Ask the Prime Minister.

Sen. P. Beckles-Robinson: Mr. President, we are not going to be able—Sen. Ramgoolam spoke about the fact that some of us have a higher standard, and if we are not going to be able to speak truthfully, then we are not going to be able to deal with those who are at a lower level. They are not going to listen to us. They are going to feel that in the Parliament is “ol’ talk”. That is what they are going to think if we cannot deal with these matters properly.

I mean, one cannot stop people from carrying documentation to the media, but I am hoping that we will not see any similar documents. Mr. President, you would recall that one of the reasons we stayed until three o’clock in the morning is because we had a clause, a retroactive clause, section 23, that dealt with any existing information; information over the last couple of years, and the fine that was going to be imposed for persons who were in possession of that was how much?

Sen. Al-Rawi: A million dollars.

Sen. P. Beckles-Robinson: One million dollars.

Sen. Hinds: Waste of time.

Sen. P. Beckles-Robinson: So, Mr. President, had that Bill been proclaimed, this person who went to the *Newsday* with this bundle of documents could have been charged. That person could have been charged, but you know what, Mr. President? Not a single thing could be done.

Sen. Hinds: They could have been listening to the conversation too.

Sen. Al-Rawi: National security at risk.

Sen. P. Beckles-Robinson: So that, as we stand right now, while this Government could have been using information that they probably could have been collecting all now, they cannot use the information. Mr. President, if this Bill, the Interception of Communications Act, is not proclaimed, it is a national security risk and it continues to put a lot of people's lives at risk. Right? [*Desk thumping*] Mr. President, I will go so far to say, if the Government does not treat with this matter, citizens are going to feel that the inmates are running the asylum. [*Desk thumping*]

Mr. Hinds: Oh, well putted man, well putted.

4.00 p.m.

Sen. P. Beckles-Robinson: You see, Mr. President, we have a situation in the country where, at this present time, as we try to deal with the crime problem—and I made the point on the last occasion that, when the Government makes a statement, the citizens are not sure whom to believe. And if they come here and tell us that they are going to do everything in their power to make a particular Act law, Mr. President, we must believe them. The reason we sat here until three o'clock in the morning is because we believed that that piece of legislation would have become law, and the next time they ask us to stay until three o'clock, I am going to question that.

Mr. President, I want to move on, because I have a concern as I link the issue of who do we believe in the Government.

Sen. Hinds: None.

Sen. P. Beckles-Robinson: The Minister of Tobago Affairs—oh no, Tobago Development—

Sen. Cudjoe: Destruction.

Sen. P. Beckles-Robinson: I am not going to use that word. You are going to get me into trouble. The Minister of Tobago Development says—and I am quoting from the *Newsday* Sunday, December 12:

“I am considering whether the time has come for all of us to carry firearms’... ‘Since I have been on this job’—it has been asked of ‘me if I want to carry firearms.’”

Now, the article starts:

Fire Arms (Amdt) Bill
[SEN. BECKLES-ROBINSON]

Tuesday, December 14, 2010

“Tobago is ‘traumatised’ by crime Minister for Tobago Affairs, Vernella Alleyne-Toppin said on Friday as she mooted the possibility of a universal right to bear firearms and revealed...a lack of sniffer dogs in Tobago is hindering the ability of Tobago police officers to conduct investigations.”

Now, I want to say two things. This is a Minister of Government in the People’s Partnership, and this Minister is saying—and she gives us—the hon. Minister indicates her own challenge in getting the police to respond to a particular young lady who was missing. The Minister indicated that she advised the police that maybe if they had sniffer dogs they may be able to find the young lady.

“‘I called’—them—‘no less than 20 times and they told me all kinds of things’—They kept telling me ‘Doh worry, she’s alive, she’s alive.’”

Now, if this Minister is requesting sniffer dogs for Tobago, I would like to think that this Government, of which the Minister is part, would entertain that consideration. But more importantly, I would like to know whether or not this Government is of the view that it is time for everybody to carry arms. Is that the policy of the Government, for everybody to carry arms? [*Desk thumping*]

You see, it does not matter how bad things get, you know, Mr. President. If we become a country where everybody is carrying arms, then we are in trouble. The hon. Minister indicated that there are parts of Tobago—she noted that there are areas of the country where she will not go because of crime.

“There are areas in Tobago where I will not live. High-end areas where I will not live where crime is seeping in.”

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

Motion made, The hon. Senator’s speaking time be extended by 15 minutes.
[*Sen. F. Al-Rawi*]

Question put and agreed to.

Sen. P. Beckles-Robinson: Thank you very much, and I want to thank my colleagues. Mr. President, I want to call on the Minister of National Security and the hon. Minister in the Ministry of National Security, both honourable men, to disassociate themselves from this statement that it is time for Trinidadians and Tobagonians to carry guns because, if we leave this unchallenged, the criminals

out there will have a field day, you know. They will believe this is the position of the Government and I know this is not the position of the Government and people need to be careful, when they are holding ministerial office, about what they say in this country.

You know, Mr. President, there is a situation now where—and I would say one more thing about what the hon. Minister said. The hon. Minister said that:

“Investment is down’...and part of the reason is criminal activity.”

Now, last week when we I made the point, somebody even suggested to me that I was being irrelevant but their own Minister—a Minister of their Government is saying that investment is down. Mr. President, the country is almost at a standstill. Yesterday on the stock exchange only 44,000 trading dollars—in TT dollars—trading existed. [*Desk thumping*] Could you believe that—\$44,000; just over US \$10,000?

Sen. Hinds: “Dookeran ain’t saying that, though.”

Sen. Cudjoe: That is not even \$10,000—less.

Sen. P. Beckles-Robinson: Well, less than \$10,000.

Sen. Hinds: And we were promised a bumper Christmas by Minister too—Dookeran.

Sen. P. Beckles-Robinson: You see, Mr. President, we have been saying just last week that this Government indicated—the Minister of Finance—that \$2.7 billion have been paid to contractors but, you know, the head of the Contractors Association said that he spoke to his contractors and he cannot find one contractor, [*Desk thumping*] not one contractor, Mr. President, who received that \$2.7 billion.

Sen. Hinds: And you want to believe them?

Sen. P. Beckles-Robinson: So, you know, Mr. President, if there is a situation where we are trying to pass legislation here to increase the penalties for carrying arms and ammunition and somebody else says, time to carry guns, if the Government tells us that they are going to pass the legislation quickly and we see that they are taking their time, Mr. President, we have a serious concern. Because, you know, as Sen. Hinds said, today the Senate is meeting a few days before Christmas and we could have been doing other things. And, Mr. President, I want to believe, because I have made it clear on more than one occasion, that the hon. Minister of National Security is one of the persons the country holds in high esteem.

Fire Arms (Amdt) Bill
[SEN. BECKLES-ROBINSON]

Tuesday, December 14, 2010

The Minister in the Ministry of National Security, Sen. the Hon. Subhas Panday, whom I know a very long time, and I can say quite clearly that whenever we speak, if he tells me this, and we discuss things from time to time in relation to when matters are to be debated, who is going to speak and so and so, to date I cannot fault him. So I just want to make the point that it is for the Government to make sure that they do not contradict themselves, or else we can pass how much legislation we want, nobody is going to believe us.

Mr. President, my final point is this. You see, when we talk about—when the Minister of Tobago Development talks about the fact that investment is down as it relates to crime, and the Minister talks about the fact that—something that really bothered me, when the Minister said that we have to start:

“We have started to wonder if to disaggregate ourselves from...Trinidad and Tobago statistics so that tourists would be attracted. There is a creeping, seeping criminal activity from Trinidad to Tobago.

So, Mr. President, I hope that I am misreading the hon. Minister, because the hon. Minister is saying that there is so much crime going on in Trinidad that we probably need to get to the stage where we tell the tourist, “Listen to me, when you are coming we are really dealing with Tobago. You are not dealing with Trinidad. They have too much crime in Trinidad; strictly Tobago.” Mr. President, we are Trinidad and Tobago. [*Desk thumping*] This piece of legislation is dealing with Trinidad and Tobago. And again, I want to know if this Government supports this position as stated by this Minister of Tobago Development that we should disaggregate ourselves from Trinidad and have Tobago separate and Trinidad separate. I hope not. [*Interruption*]

Well, Sen. King, I am concerned, you know. I mean, I understand we have crime, and many times the people who go to Tobago to commit crime, many of us understand that many times it is Trinidadians—many times; that is very true, but we need to be careful still that we do not send the message that we want to disaggregate so that it will benefit Tobago and that at the end of the day Trinidad will look different. That is my point and I am saying I do not think the entire Government supports that view. That is my position.

Sen. Hinds: You do not know.

Sen. P. Beckles-Robinson: Well, I do not think the entire Government supports that position. You see, Mr. President, the fact is that the hon. Minister of Tobago Development also said that the situation that is going on in Caribbean Airlines would not affect what is happening in Tobago, even though the Minister

says that crime is causing us to have less investment. But again, similar to the fact that we have different positions being taken by different members of this Government, you have a situation where, similar to the files that I talk about, one person is saying the files have disappeared, one person is saying that the files are there, some people are saying they saw their files, we have a similar situation that is going to affect investment and credibility of the Government and of Trinidad and Tobago.

If at the end of the day the Minister with responsibility for Caribbean Airlines is saying, “Look, I am de Minister; dey send me no minutes; they doh talk to me; I doh hear noffin; I better resign”, and the board is saying, “We send you minutes, we tell you everything, you know everything that is going on.” Mr. President, when we debate legislation here and we tell the young people, Listen to me, the truth is the truth; whatever we say, we believe it, you begin to wonder what is really going on. If the board is saying one thing and the Minister is saying something else, the question is, whom do you believe?

Mr. President, as I close, I just again urge the hon. Minister of National Security and the Minister in the Ministry of National Security to seriously look at the *Barath* case, which I am going to send to copy now, save and except they already have it. *[Interruption]* Okay, good. I will send it now so that they can look very closely at the legislation and that, when we complete the debate of this Bill and it is assented to, it would not be like the Interception of Communications Act, and it will be proclaimed right away. Thank you, Mr. President. *[Desk thumping]*

Sen. Subhas Ramkhelawan: Thank you, Mr. President, for giving me the opportunity to speak on this, the Firearms (Amdt.) Bill. It is difficult to come after Sen. Beckles-Robinson as we close into tea, but I hope that I will not be blocking for the next 15 minutes and that I will be able to score some particular points in the deliberations today.

Much of the discussion, Mr. President, has been focused on and circumscribed by increased penalties for criminals. If you look at the number of amendments made in the—or proposed amendments—most of them increase the fine or increase the jail term for convicted persons with regard to firearms. But I would like to couch my contribution today looking at the concerns and the needs of citizens, upstanding citizens, who are obeying the law, and who, for various reasons, have not been able to access firearms for legitimate use. And I think that it is important, because we all acknowledge that we have not been able to deal effectively with the scourge of crime.

4.15 p.m.

We acknowledge that it is a genie that has gotten out of the bottle and will take some serious work to get it back into the bottle. We all acknowledge that there is need for increased deterrents; but deterrents are not a one-pronged attack, it is an attack from many ways; not only from a wider range of legislation, but very often we have heard senior persons in our police service and, indeed, the hon. Minister of National Security and the Minister in the Ministry of National Security speak to the need for ordinary citizens to come forward and assist in the fight against crime.

I am going to deviate somewhat from my hon. colleague, Sen. Beckles-Robinson, and say it is time to give legitimate citizens more access to firearms in order to properly defend themselves. Criminals can get access to firearms much easier than citizens who are law-abiding.

There are a number of reasons for this. One is, as a former public servant—I will not say an old public servant—in my younger years, I learned the acronym, M-A-D, MAD, maximum administrative delay. When you become seasoned in the public service, you have to learn how to deal with Ministers; how to deal with this and that. As you become more senior, you learn to be more and more MAD.

It seems to me that is one area that our Commissioner of Police and our appeal board, if it is indeed functional, have learnt in terms of deliberations in dealing with citizens who have a legitimate right, if the process is properly followed, to have a firearm. I will talk about that a little more because my learned friend Sen. Hinds came with some new terms today; but I want to speak to what I would call a “laggar bhaga” approach to giving citizens the right to use firearms.

[MADAM VICE-PRESIDENT *in the Chair*]

My learned friend, Sen. the Hon. Ramgoolam, will explain more about that, but for the benefit of Sen. F. Hinds who has lived north of the Caroni Bridge all his life, you can use the term “doh care damn” as an equivalent; often used in the southland by our senior citizens. [*Interruption*] I will deal with *Hansard* later.

Not to detract, it is of deep concern that citizens who have this legitimate right, if they meet all the requirements, are being denied their right because of this maximum administrative delay. As I go through the Bill, I will speak to that in more detail.

Is it right that a few criminals—Sen. The Hon. Ramgoolam has said that some 0.1 per cent of the population has been charged for matters relating to firearms. Is it right that these persons should hold us all hostages so that we are now locked up in our homes? Gone are the days when we can take our families on a moonlit night on a drive

to Maracas. I miss them so much because I am 99 per cent certain that I will not be able to get there, spend an evening of three or four hours and come back home without incident; not having the ability to properly protect myself and knowing full well that there are those who may be around me who would illegitimately have access to weapons which can be of serious damage to me or my family.

We are locked away behind bars. Is it right for any government which is passing legislation; is it right that this Parliament, which is passing legislation that allows for persons to have access, if they meet all the requirements to firearms, but are being deterred by something that is happening in the office of the Commissioner of Police and something that is not happening with the Firearms Appeals Board?

I am advised by those who ought to know that there are more than 5,000 applications for firearm user's licences and it might be a low estimate. More than 5,000 firearms applications pending and I would ask the hon. Minister of National Security, of course without giving any names, what is the flow process? How many of these applications are being looked at, processed and determined? How many have been done for this year? How many have been done for last year? Or is it just this vexing matter of maximum administrative delay?

I turn to several matters in the Bill itself before I speak to the whole question of the effectiveness or lack of effectiveness of the Firearms Appeal Board. I am putting the question to the Minister of National Security: Is the Firearms Appeal Board functional at this time? If it is not, why is it not?

Sen. Panday: Hon. Senator, the Firearms Appeal Board is not functional, the reason being that the chairman of the Police Complaints Authority was also the chairman of the Firearms Appeal Board. In this legislation, we are separating the functions in that the person who is chairman of the Police Complaints Authority would not be the person heading the Firearms Appeal Board. We are hoping to separate it so that one would not keep back the other from functioning. So whatever concerns you have, we will deal with it as early as possible.

Sen. S. Ramkhelawan: I thank the hon. Minister. It speaks to a question that troubles me and many ordinary citizens out there—the effectiveness of the process whether at the level of Commissioner of Police or Firearms Appeal Board.

Now the answer is clear. If you do not have a Firearms Appeal Board and the Commissioner of Police is not processing these applications, how are people going to pursue their legitimate right to carry a firearm in the context that they do not feel sufficiently protected by the existing capability of our police force? That

Fire Arms (Amdt) Bill
[SEN. RAMKHELAWAN]

Tuesday, December 14, 2010

may not be a good thing and I hope, and we all expect, that with legislation and effective management the police service will be improved in terms of apprehension and detection. While the grass is growing, the horse must not starve. While that is happening, we cannot have a situation where citizens who have businesses and otherwise are unable to access the legitimate use of a firearm.

I want to go to various aspects of the Bill. I turn to clause 6(5), which I call the three strikes rule. Strike three and you are put away in jail for life. I wonder whether this is the avowed intent of the drafter of the legislation or the avowed intent of this Parliament. Should we as a Parliament make that determination or should we leave the matter for interpretation by our judicial officers? It is a question that I ask because the circumstances which circumscribe particular matters might argue for adjustments. The question is: How, in this situation, can we take a firearms offence, third time conviction, and put somebody away for life when there are other instances? This is someone found with firearms; this has nothing to do, as yet, with other matters and other charges which might be laid against that person in such a situation, which may result in life conviction.

Is the firearms aspect alone in and of itself sufficient? What is the kind of social engineering we are seeking to do? If we find you three times with firearms, that is it; we put you away for life? Or if you are with firearms, there are certain other charges and other intentions which, when proven in a court of law, can put a criminal in jail for life? I am not sure I want to support a third time conviction; somebody going to be put away in jail for life.

Sen. Beckles-Robinson: Subject to the Minister's correction, it is not really that the magistrate will have a discretion. I had that same concern and when you go back to the interpretation section, there will be a discretion.

Sen. S. Ramkhelawan: Even with that discretion, I think the 25-year term will be more than sufficient rather than just life. That is all I am saying. Twenty-five years is almost like life. It is an issue I would like the Minister of National Security to expound on when he is winding up and we go to committee stage.

I support strongly clause 9(4) of the Bill. Clause 9(4) speaks to police officers who are selling, transferring or renting firearms and, if they are caught in such situations, it is something where the maximum penalty should be applied. I, therefore, support very strongly that particular bit of the legislation if these persons who are imbued with a certain trust in defending and protecting the society are actually engaging in the damage to society.

As we go along, there are certain aspects of the Bill which I think we should have another look at. It was there before; it has not been amended. It is the question of someone who has a legitimate firearms user's licence. If a police officer, for whatever reason, commences an investigation on a firearm, during the period of the investigation, the firearm is confiscated but there is no requirement for the investigation to be completed within a certain time frame; and, if not completed, the firearm is returned, there is the question of lack of effectiveness that I will pursue when we come back, having been able successfully to defend my wicket until tea.

Madam Vice-President: Hon. Senators, it is 4.30 p.m. We will take the tea break and resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. PRESIDENT *in the Chair*]

Mr. President: I think we have a quorum, Sen. Ramkhelawan. You were on your legs. As I make it, you have another 28 minutes.

Sen. S. Ramkhelawan: Thank you, Mr. President. Before the break, I was speaking to the question of police officers having the right, under the law, to confiscate firearms in order to undertake an investigation on a legitimate firearm user. But, there was no obligation on the police officer, in the law, to complete the investigation even within a reasonable time. There was no such obligation, and I was suggesting, through you, hon. Minister of National Security, as we are seeking to tighten and improve this firearms legislation, that it must be something that should be considered by way of an amendment that puts in a reasonable time frame for response. Once we start to get something like that in place, it helps to address this question; the vexing question of maximum administrative delay.

The next point I would like to raise—again I am speaking in the context of that silent grouping, in their own legitimate quest to have the use of a firearm for the protection of themselves and their families, find themselves in a way, derailed in pursuing this legitimate right, because of the those delays.

Under clause 17, there are general provisions as to the grant and issue of firearm licences, that would be. What is clear is that there is no provision for a time frame for a response, when application, duly completed and submitted—there is no provision for a response to that applicant, which again is a matter for the Executive, however couched. But, in terms of the Legislature, it may make

sense for us to put in a provision, a time frame, for a response. I would suggest to you why this is required, because when an applicant, as I am advised, makes application, there is a lengthy and extensive process for that application for a firearm.

There are the requirements for a number of references from reputable persons. There is the requirement for a visit to the home of that applicant to see where the firearm will be stored. There is a requirement for the applicant's spouse to certify that the spouse and the applicant are living in harmony and there is no disharmony. I suppose that is to ensure that the firearm would not be inappropriately used in a domestic situation. There are a number of requirements, and, of course, the key requirement is sufficient evidence that this firearm is merited by the applicant. But, even when one gets past that entire stage, it goes to some—what I am told—black hole, where it gets lost in the whole process of any transition from application to a response. I was saying earlier that the information that I have received is that there are at least 5,000 applications pending for a firearm licence and there is no clear response.

I would go further to speak to another aspect of the legislation, under clause 22, which speaks to the Appeal Board. If the application is refused, and there is only one person that makes that determination and that is the Commissioner of Police in his own discretion—for which there can be or ought not to be any interference—give a yes or a no to that permit. What has happened, I would suggest, is that the permit is refused, there is an appeal process, and the appeal process is one where the applicant could go before the Firearms Appeal Board and, in making that appeal, his application could be further refused or his application could be approved and instructions go to the Commissioner of Police to approve the application and issue the firearm licence.

In terms of the process, if you do not refuse, there is no opportunity for an appeal, because there is no time line over which, on the completion of an application submitted, the Commissioner of Police must respond. It argues for a certain level of ineffectiveness in the process. I suppose, if a decision is taken not to issue a number of firearm licences, the easiest way to deal with that is neither to accept or reject the application, but leave it pending. *[Interruption]*

Mr. Panday: MAD.

Sen. S. Ramkhelawan: It is maximum administrative delay, which I have explained to this honourable Senate already. If that was the case, if it was the intent of the Parliament not to provide and not have issued firearm licences, then we should say so and make adjustments to the legislation. I do not believe that it is the intent of the Parliament. It might be the intent inherent in Executive action or Executive inaction, but the will of the Parliament ought not to be frustrated by maximum administrative delay.

What happens is that you get a massive backlog. I have asked, through your Chair, the hon. Minister of National Security to give us an indication in his winding up, how many such applications are pending. I want to believe that it would be much more than 5,000. I want to believe that.

Then, in the process and in the administrative flow, the hon. Minister in the Ministry of National Security, only just a while ago, gave this honourable Senate information that the Firearms Appeal Board is non-functional. Of course, it is non-functional on the basis that the Chairman of that Board is, under current legislation, the Chairman of the Police Complaints Authority, and for various reasons, that has not worked.

I am gratified then to see that in this piece of legislation, that there is an adjustment where the chairman is an attorney-at-law practising at the bar for more than 10 years. That, of course, will give some flexibility and fluidity in the process, provided that a time line is established, by which the Commissioner of Police ought to be able to reply. These applications, many of them, have been pending for two and three years. It might be useful to give a quick yes or a quick no. If you have a quick no, what happens? If you have a refusal, it then allows the applicant to make an appeal. I believe that is the basis on which our democracy has been founded; that there is the need for the other side to be properly heard.

The Commissioner of Police could be heard in his refusal, but in a democracy such as ours, there is the right of the person to also be heard if he is refused. He must have the ability to exercise that right. The ability to exercise that right is not being allowed to him, because of certain limitations in the legislation. That limitation is a time line for which the Commissioner of Police must reply.

I am not saying—the Commissioner, of course, is an extremely busy man. For him to take his time out to review these applications would be something of a challenge. I accept that, but in law, he is authorized and required to do so and if we want to change that, change the law. If we want to change that and adjust from that, then this Parliament must say: “We do not want that and we will not vote for that and, therefore, there will be some other arrangement.” But, the arrangement

Fire Arms (Amdt) Bill
[SEN. RAMKHELAWAN]

Tuesday, December 14, 2010

is in place and the Parliament says somebody other than the Commissioner of Police who might be more focused in this area will be allowed, then so be it. But, as it is in the legislation which I support, the Commissioner of Police does it and he must be required to do it within a particular time.

I want to move from the Commissioner of Police in the process, to the Appeals Board, which we have heard already, has not been functional, and with this legislation we will get some functionality. But the board itself, when you look at clause 22—I had cause earlier to say and I would wait for my colleague, Sen. Ramgoolam to say it again—the constitution of the board and the regulations and procedures of the board leave much to be desired and the Parliament has left it to the board to set up its own procedures. The Parliament, in terms of the composition of the board, I think, needs to have a re-look.

All the legislation speaks of is what makes somebody not qualified to serve on the board, but does not speak to what is required to make someone suitable to ensure that they can have proper deliberations in arriving at a decision which is a very important decision; a decision as to whether someone will or should be entitled to carry a firearm is a very important decision. It is a decision that could result in life or death. When the draft legislation says that the board shall consist of a Chairman who shall have at least 10 years' experience as a practising attorney-at-law at the bar and any two other members, I have a concern about that.

5.15 p.m.

My concern is that there must be some qualifications for these persons to sit on a board as important as this. Now, the terms of disqualification will, in fact, allow somebody who is an officer in a private security firm to sit on that board. It will allow somebody who is less than 25 years old to sit on that board, and to have a firearm you must be more than 25 years old, because you are not disqualified. You are only disqualified if you are a Member of the Senate, the House of Representatives, a local authority or you were in public office three years before sitting on the board, or you were convicted of an offence punishable by a term of imprisonment. So apart from that, any number could play and anybody could sit on this board, and there is the whole question of suitability and so on. “By the President”, I would expect this means the Cabinet.

I think the Parliament has a duty of proper oversight to establish qualifications for the person sitting on the board. I put it to the hon. Minister of National Security that there should be some fine-tuning as far as this is concerned, or else

we are going to continue with a situation of non-functionality of the board—ineffectiveness or inappropriate qualifications to sit on the board—any one of them or all of them. This is not something that we would want to see.

You could have a situation where a police officer who had served in a rank junior to the Commissioner of Police sitting on the board who may have retired three years before, saying to the Commissioner of Police that he should give a licence to so and so. I do not think that is the intent. If it is not the intent, we need to embed it in the legislation to ensure effectiveness and functionality.

There are other concerns that I have with the board, apart from qualifications, and my real concern is one of effectiveness. There is no time line set for the board to make a determination on any particular matter. So that we could have a situation where 3, 4, 5, 6, or 7 years go by and there is no determination in terms of an application for a licence. It does lead to frustration. Very often, no is a better answer, whenever it comes up down the road. When it goes into that black hole no one knows when it will come out and where it is going to go. So, again, effectiveness is an important consideration.

The board is allowed, under this legislation, to make its own procedures and operate by its own procedures. There is no requirement for the board to meet, at least, once per month or twice per month. I have not seen the procedures. I am pretty certain that many Senators have not seen or heard or have sight at all of such procedures, maybe there are, but the applicants do not even know what is the procedure they would be judged by. I think, in the interest of transparency and proper disclosure, applicants should have an understanding, because these matters are heard in camera, so you would not have any precedent to look at or look for. I think procedures that are well set, transparent and properly disclosed are important. I think I have said enough about that side which really is the other side of the firearms legislation; the side of the legitimate applicant for legitimate use.

There are a couple points that I want to make. Section 28(1) is being amended, and I would like to know what happens if a person—perhaps I should read it into *Hansard* so that there would be some clarity about what is being discussed. Section 28(1B) is removed, and this speaks to:

“...a 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...circumstances in which he found the firearm or ammunition.”

Now, my take on this matter is that with the removal of this, what it is saying is that if you see a firearm, see but do not touch, because if you touch that firearm, you will be guilty of a number of factors, because you do not have a user's licence. I would like the hon. Minister, in his winding up, to suggest that if a person finds a firearm, what does he do?

If he takes it up, there appear to be a number of significant penalties. What he ought to do—and we should tell the national community—is if you find a firearm, do not touch it. Call the police, stand and look over it, but please do not touch it, because you become liable for having a firearm in your possession without a licence. I think that is a lacuna and I would be guided by the hon. Minister of National Security as to where provisions are properly made for someone finding a firearm. Where are the provisions to ensure that person would not be subject or liable to conviction on the offence of having a firearm? I am not seeing it and I, therefore, ask for some clarification.

Probably the item that attracted my attention in the sense that it was moving from the sublime to the ridiculous—it is not an amendment, but it is already embedded in the existing legislation—is the power to stop and search vehicles.

Under section 29(1) it says:

“A police officer in uniform may stop any vehicle for the purpose of ascertaining whether any firearm or ammunition is being conveyed therein and may search without warrant such vehicle, the driver thereof and any person conveyed therein.”

Really, there is no problem with that particular clause, but if for some reason the driver or the person operating the vehicle fails to stop at the request of the police officer, that person is liable to a fine of \$7,000 or to imprisonment for three years. So you could have a situation where somebody might have been stopped for speeding and the person sped off—probably he did not see and he sped off—the penalty for that would be much less than the penalty here. All the police officer needs to say is, “look, you know I was going to stop this vehicle. I thought this person had firearms.” Whether he finds firearms or not, an action could be taken and the penalty is very severe. I do not think that was the intent of the Parliament. A police officer might change his mind. He would stop you for speeding, and then he says, “okay I was going to stop you to check you for firearms, but you sped off”, and the fine and the penalty seem very inconsistent with the action that is taken. I would ask the hon. Minister of National Security to look at section 29(1). Is this what was meant? Is this the intent? There is very little room for interpretation by a judicial officer.

Under section 36, I wonder if this is a throwback to matters which obtained before the year 2006. Section 36 makes provision for the President to make regulations. Maybe my learned friend, Sen. Prescott SC, can provide some explanation. I have not seen a situation where the President makes regulations. It is usually a Minister making regulations subject to negative resolution.

Sen. Prescott SC: Thank you very much, Mr. President. I gather that Sen. Ramkhelawan thinks I might be able to clarify. What I am observing about using the instrument of the President making regulations, is that it seems to put out of the reach of parliamentarians any opportunity to challenge those regulations. If it were a Minister who had the power, according to section 36, then at the very best we could hope to have the opportunity by negative resolution to address a deficiency in the regulations proposed by the Minister. I do not know whether we are going to get the opportunity here to make a substantive change to section 36, because this is the existing section 36.

It does appear to me that at this stage one may wish to bring to the attention of Senators that if it were still open to us to do so, we should consider using the instrumentality of the Minister making the regulations subject to negative resolution. In that way, the management systems that we all seem to be propounding here will finally begin to bear fruit, that it is we who determine how things are managed legislatively. Thank you very much, Mr. President.

Sen. S. Ramkhelawan: Mr. President, those are some of my thoughts on this bit of legislation. As I have said, much of the legislation has spoken to increased penalties and fines, but as we look at the legislation, we see some areas of imbalance, because the legislation appears to be more focused on dealing with the criminals rather than dealing and balancing the rights of citizens who can make a legitimate claim for an application for a licence. The other areas I have spoken to, I am sure that the Minister will address them as we go along.

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

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, we would like to conclude the sitting by 6.00 p.m, so I would speak for two or three minutes, because Minister Rambachan is here to respond to Sen. Beckles-Robinson's Motion.

I heard all the Senators who spoke this afternoon, and each one made a valuable contribution, but the only thing that upsets me is Sen. Hinds, when he tried to give the impression here today that we are passing legislation and targeting a particular set of people in a particular place, giving the impression that

Fire Arms (Amdt) Bill
[SEN. THE HON. S. PANDAY]

Tuesday, December 14, 2010

the legislation intends to victimize certain persons. That is furthest from the truth, and we want the population to know that. The crime rate affects the whole of Trinidad and Tobago and, as such, legislation is not being passed for any particular region as such, but for the country as a whole.

5.30 p.m.

Mr. President, he gives the impression, when he spoke about poverty in relation to the legislation—we want to indicate to him, and to the population, that this Government believes that we must not only go for the small persons but we intend, we are working now, there is an interministerial team attempting to deal with that issue to take the bigger people—the white-collar crimes, or, in matters like these, persons who benefit from crime and who encourage young people to kill one another and to kill themselves. We intend to go for white-collar crimes, Mr. President. Like, for example, when you bid for a contract and you are not pre-qualified, and you come and you say, “Look I am qualified, and I get the contract, that—[*Interruption*]

You said that we are going only for a particular type of people, and when you spoke of possession, people who have never been qualified, never pre-qualified for a contract, get a \$64 million contract, and you are trying to justify that. And that is why I want to put that on records, that is the point [*Desk thumping*] and we want to get that on the records, that we are going against everybody, and we are not—[*Interruption*]. No, no, no. We are not identifying anybody. [*Interruption*] It is 5.31, Sir. It is late in the night. And I thought that it was necessary that I get that on the records.

Mr. President, I want to address, as I say—[*Interruption*]

Sen. Beckles-Robinson: Just to ask, are you—not on this—are you winding up or are you just—

Sen. The Hon. S. Panday: No, no, no, no.

Sen. Beckles-Robinson: You are just starting your contribution?

Sen. The Hon. S. Panday: I am just starting. I just want to deal with Sen. Hinds a little.

Sen. Hinds: Would the hon. Minister give way?

Sen. The Hon. S. Panday: I would like to do so at 6.00. [*Laughter*] Mr. President, Sen. Helen Drayton, I will start with her contribution. She made a good point when she spoke about persons being able to transfer their weapons to persons who do not have a licence. You made a good point, and the population,

hearing that argument, will, indeed, feel concerned. But hon. Senator, I myself did some research on the matter and it says a company, for example a private security company, might have an armoury and they have weapons and ammunition, and they have officers working for that company, and those officers are precepted, and as Sen. The Hon. Brig. Sandy will say, a precepted officer does not have to have an FUL. So, therefore, if we say it is an offence to give a weapon to somebody who does not have a firearm users licence, you commit an offence, then many security firms will not be able to issue firearms to the precepted officers.

And I say, I will I continue along that line. It is 5.32. There is another point, Mr. President, just before I go, in that I thought Sen. The Hon. Brig. Sandy would have been able to do that today, but since we are curtailing our debate today; police officers are working very hard, and they are trying to deal with the crime rate, and we want to tell the police officers of Trinidad and Tobago that we thank you, we admire you and we have the greatest respect for you [*Desk thumping*] and we will respect from the lowest to the highest.

When Sen. The Hon. Brig. Sandy was told at a function that police officers have worked and they have been told—somebody spread a rumor that they are not going to get their overtime allowances for which they have worked in November, we just want to let police officers know that there is no sabotage, that the Government cares about them, but the reason they are not getting their November overtime in their December salary was because the names came up, they went to the financial unit and from the financial unit it went to the IRIS, where they do the cheques, and it came up—by the time it came up, cheques were already in the process of being processed, because, in December, salaries are paid much earlier than in the other months—I think it is mid-month—while in other months it is the day before the last working day. And we want to tell police officers, you could consider that money as good as gold; you could use it as collateral; you can take—[*Interruption*] hold on—and that you could use that to take your credit and that we really—[*Interruption*]

Yes; take credit. The money is as good as gold, because we believe that police officers are working and we do not want them to feel frustrated or in any way disenchanted, and to tell police officers that we are grateful for the work they are doing, [*Desk thumping*] we recognize the work that they are doing—not only the police officers, but all the defence services, and we are asking them, this fight is a fight against crime; it is a fight for the whole country; do not drop their arms; do not go down in frustration, but keep the fight going on and let all of us deal with crime and have a happy Christmas.

Mr. President, I will continue on a next occasion.

ADJOURNMENT

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I beg to move that this House do now adjourn to a date to be fixed.

Mr. President: Senators, before putting the question, I have to indicate that leave has been granted for a matter to be raised on the Motion for the adjournment of the Senate and, therefore, call upon Sen. Beckles-Robinson. I also indicate that it is 15 minutes that she has in her presentation and, in reply, Sen. Dr. Rambachan as well has 15 minutes. Thank you. Sen. Beckles-Robinson.

**Prime Minister's Comments
(Assistance to Caricom Countries)**

Sen. Penelope Beckles-Robinson: Thank you very much, Mr. President. Mr. President, I would like to say thank you very much, and to my colleagues on the other side for the opportunity to raise this Motion. The Motion reads:

“The negative impact on the country’s economy and the regional integration process, following the comments by the hon. Kamla Persad-Bissessar, Prime Minister of the Republic of Trinidad and Tobago, in relation to the request for assistance by Caricom countries after the passage of hurricane Tomas.”

Now, Mr. President, let me say that when I filed this Motion, it was actually before the hon. Prime Minister had made her apology, so that in my comments I will, of course, acknowledge that that apology was made. I just wanted to share with the Senate a couple comments that were made by some of the countries in the Caribbean, and, first of all, I think the real problem started from the statement, or the alleged statement, that the Prime Minister made, as it relates to the whole issue of benefits to be derived from Trinidad and Tobago following hurricane Tomas. Subject to correction, the quotation is:

“...if we are giving assistance with housing...for example then we may be able to use Trinidad and Tobago builders and companies, so that whatever money or assistance is given, redounds back in some measure to the people of Trinidad and Tobago...”

And, of course, the Prime Minister made comments as they relate to benefits that would accrue to the people of Trinidad and Tobago.

Now, that particular statement, Mr. President, attracted quite a lot of negativity, and I think that negativity came against the backdrop of one statement and one other important issue. That other statement had to do with the fact that the

Prime Minister, attending her first Caricom meeting, indicated that Trinidad and Tobago was not an ATM machine but, in addition to that, the other issue has to do with the issue of the Caribbean Court of Justice.

Now, Mr. President, you would recall that when the UNC was in office sometime ago, there was what you might call an unsolicited pledge to finance the appropriate reconstruction of a building in Port of Spain in a manner befitting the Caribbean Court of Justice. After the UNC went out of office and the PNM came into office, the UNC then reneged on that agreement, and, therefore, today that agreement in relation to the Caribbean Court of Justice has not been able to materialize in keeping with the agreement. So that there are those issues that are still very fresh in the minds of our Caricom brothers and sisters, and then this particular statement was made. Mr. President, it is said that the real issue is whether aid should be tied—humanitarian aid should be tied to disasters, because there is a big difference when somebody may just ask for a loan, maybe for infrastructure, but the fact is that this was aid requested at a time of disaster.

Now, the *Jamaican Observer* indicated that we are obviously among the firmest believers in regional integration, knowing that we cannot achieve any meaningful progress and development as a chain of tiny, divided islands. Now, interestingly enough, Minister, this article said—the headline is, “What the T&T PM meant but did not say”. In other words, what the article was addressing was that people are very much aware that aid is given by many countries, as you know, whether it be the United States, Russia, they give aid whether in times of disaster or not. As a matter of fact, this editorial said:

“All aid is tied, to some extent, and in one form or another. Usually recipients are obliged to purchase from the donor country and to use their experts and workers.”

The article also goes on to say that they are of the view that:

“There is donor fatigue in Port of Spain, which we believe is what the Prime Minister Persad-Bissessar meant to convey in her infamous indiscretion of saying that Trinidad and Tobago is no longer an ATM’...” machine.

They concluded by saying that:

“The rest of Caribbean must realise that Trinidad and Tobago is not a cash cow and there is nothing wrong in recycling some of the aid they receive back into the Trinidad economy. That is what the spirit of Caricom co-operation is about.

Mrs. Persad-Bissessar misstated what she meant, and her Trade Minister, Mr. Stephen Cadiz, is only pouring salt in the wound by blaming Jamaica for the fallout, which includes calls for a boycott of Trinidad goods.”

In other words, the *Jamaica Observer* was saying that the issue of governments giving aid and requesting benefits is not necessarily something unusual, but it is how you say that. And you must acknowledge that, where there is disaster, one ought not to be insensitive by simply saying, “Look, you need help. We must benefit. We will give you aid but we must benefit”, and that in making those statements it can appear to be very insensitive.

So what happened next, Mr. President, was that you would have realized that following that statement, there was a call to boycott Trinidad and Tobago’s products. As a matter of fact, again, in the *Jamaica Gleaner* it was stated:

“A campaign to boycott Trinidad and Tobago products is now under way as the backlash”—against comments made by Trinidad and Tobago Prime Minister, Kamla Persad-Bissessar for her—“...statement that the twin-island nation would have to get something in return for helping Caribbean neighbours affected by hurricane Tomas.”

“The BlackBerry broadcast message...said: “Join me and many of my friends in the ‘Buy nothing made in Trinidad and Tobago’ campaign. This is as a result of TNT PM’s open statement to the media saying she will not give any assistance to Caricom countries affected by Hurricane Tomas unless it is to the benefit of Trinidad. I wonder if she is aware of the amount of products we purchase daily that is made in Trinidad”.”

Now, Mr. President, I got a copy of the Central Statistical Office bulletin, “Review of merchandise”. This is volume XII, 415, and it says, and I quote at page 2, Caricom Trade January to June 2010.

Imports from Caricom sources during January to June 2010, were valued at \$346 million.

And domestic imports, Mr. President, \$6,788 million. There was a decrease in the value of imports by \$4 million and an increase in domestic imports by \$2,380 million when compared to the comparative period for 2009.

5.45 p.m.

Mr. President, the main Caricom markets for goods exported from the Republic of Trinidad and Tobago during January—to June 2010: Jamaica amounted to 32.6 per

cent; Barbados, 19.2 per cent; Suriname 14.9; Guyana, \$899 million or 13.2 per cent, and that is exports; key Caricom suppliers, Barbados, 32.7 per cent, Guyana, 22.7 per cent, Jamaica 10.6 per cent and Belize, 8.7 per cent.

At the end of the day, the important issue is that the Prime Minister has apologized for the statement. The data that I just read clearly indicates that Trinidad has a favourable balance of trade. As a matter of fact, when you look at the data we are exporting so much more than we are importing from our Caricom sisters and brothers, therefore it is extremely important for us to be very careful about the comment.

It may be that the hon. Minister of Foreign Affairs and the Government would be able to tell us whether, in truth and in fact, since that statement, there has been any negative impact; in other words, has it remained as is. Are you in a position to tell us whether there has been no change, therefore there is nothing to worry about or whether from either your travels or communication with other Caricom countries you can say that the apology has been successful? *[Interruption]*

Mr. President, in our own Trinidad and Tobago and I read from a *Guardian* commentary—I am not sure exactly what date this was:

“That’s dangerous, Madam PM

There are dangers to this country’s...to its image and to the regional integration movement associated with Prime Minister Kamla Persad-Bissessar being so hard-nosed about giving assistance to our Caricom partners on the basis of this country getting something in return from lending a hand in a time of need. As with her comment of T&T not being an ABM for Caricom, this statement requiring a pound of flesh for assistance can seem to be offensive and demeaning to our Caricom neighbours. Assistance to countries which are victims of natural disasters is a well-established practice in international relations even between and amongst countries...”

The final comment I would make is from an *Express* editorial that says:

“Wrong words, PM

Disaster relief and economic assistance should not be nor made to appear as, a business deal. Help should be extended without any strings so glaringly attached, especially in light of the loss of life in St. Lucia and the infrastructural devastation in the other islands. From a political point of view, good Caricom relations are also essential if each country, individually too small to have any real weight on the international stage, can make an impact by presenting a united front on the various issues which affect the Caribbean as a whole.”

And the final comment:

“Mrs. Persad-Bissessar might do well to remember, however, that great leaders are distinguished from pedestrian politicians by their willingness, at some several points, to defy public opinion in order to serve the greater good.”

Mr. President, as I close, I remind us that Trinidad and Tobago has been very fortunate. Maybe it is where we are located, but unlike countries like Jamaica, Haiti and St. Lucia, we have not borne the brunt of hurricanes and natural disasters, but we do not know when our time would come. We would remember the situation in the United States where 1.2 million people had to be evacuated before category 3 hurricane Katrina arrived and even the mighty America could not have handled the consequences of Katrina.

You would remember that even Venezuela, Hugo Chavez offered oil. Of course, it might have been just mischievous, but the bottom line is that we have seen where natural disasters could hit anywhere and we could be subject to that.

We can look at Haiti and look at the book by Reginald Dumas, as Ambassador to Haiti—and I think it is the best book we can read in relation to aid and the billions and billions of dollars that have been going to Haiti over the years, how it has not really impacted positively on them.

As I close, in my last minute, let me say that I visited St. Kitts last week. As I landed, a Kittitian said to me, “Oh, you are from Trinidad; so all yuh just want that whenever we have a problem, you all would just give us things, because at the end of day when you all give us, you all will get back. Well, in St. Kitts, we too not buying anything from Trinidad.” I do not really think that is true, but it is not a dead issue.

In addition to the apology, Trinidad and Tobago has to actively ensure that its commitment to Caricom and regional integration is something we continue and whatever efforts are made, to ensure there is no serious fallout for our manufacturers in terms of goods that are purchased from Trinidad, to ensure that people have a better standard of living.

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan): Mr. President, I thank you for the opportunity to be in this Chamber.

The Motion moved by Sen. Penelope Beckles-Robinson is a very mischievous one in its intent [*Desk thumping*] and is geared mainly to create bitterness between the hon. Prime Minister, Kamla Persad-Bissessar, the Government of Trinidad and Tobago and our Caricom partners.

There is a time for politics, but equally there is a time for responsible leadership, especially at a time in the affairs of the Caribbean where it is being marginalized and sidelined by the new global partnerships between the developed economies and the emerging economies. This is, therefore, a time where those on that Bench who appear to be aspirants—and I say “appear to be aspirants”—for the future post of government would do well, in the interest of this country, to promote unity in the region rather than hate for Trinidad and Tobago.

We understand our responsibility to the rest of the Caribbean. We understand our need to contribute to their development. We understand that the entire Caribbean has to rise together or we will fall together. The one thing we will not do is refuse to help our brothers and sisters in the Caribbean, as I would demonstrate we have done after hurricane Tomas.

This Motion, as the hon. Senator herself admitted, comes long after the hon. Prime Minister in all humility, speaking like a true leader, expressed regret that her statement was given the particular interpretation by sections of the region. The timing of this Motion demonstrates—[*Interruption*]

Sen. Beckles-Robinson: Hon. Minister, I said my Motion was filed before the apology.

Hon. Dr. S. Rambachan: Yes, I heard you.

The timing of the Motion demonstrates how low those on the Opposition intend to go to seek power, even at the cost of creating dissention and division in the region. I assure this House, our country and the Caribbean by extension, that the intention of the People's Partnership Government is to unite the Caribbean and never to divide it. [*Desk thumping*]

Further, by thinking they are using this Motion to embarrass the Prime Minister, what they are probably going to be doing is inadvertently threatening the manufacturers of this country by creating hate against Trinidad and Tobago, hate for manufacturers in this country and, in addition, threatening the jobs of citizens whose interests they claim to defend and the very economy also that they claim to defend. It almost seems that they are happy and would be happy to know if the people in the other Caribbean countries refuse to buy products from Trinidad and Tobago. It is a sad day for that side. It is a sad day when a political party could come to this House and, through its representatives, bring a Motion like this that threatens the manufacturers of this country in terms of their relationships with their clients in the Caribbean, and claim that they are still a people first political entity.

Prime Minister's Comments
[HON. DR. S. RAMBACHAN]

Tuesday, December 14, 2010

Mr. President, the manifesto of the People's Partnership Government, which incidentally is now public policy, having been laid in the other place, is abundantly clear on the Government's commitment to regional integration. This Government has taken concrete steps towards advancing this course by strengthening the human and intellectual infrastructure that is required to advance the integration process. I will give you two examples.

Since the victory of this Government on May 24, we have appointed Makandal Daaga as Ambassador to Caricom on cultural affairs and Mervyn Assam as Ambassador with responsibility for trade, which includes trade within Caricom. As an aside, the hon. Prime Minister on her visit to London in October of this year, held a meeting with Caricom high commissioners to get a common position on the matter of the airline passenger duty imposed by the UK on flights to the Caribbean, which has already begun to impact tourism in the Caribbean and which has the ability to destroy certain islands of the Caribbean in terms of their tourism sector. The Prime Minister on that occasion, in my presence, made strong representations to the UK on this matter.

The matter of regional integration is not an issue that is affected by what is purported in this Motion. I have seen no evidence of any falloff in the relation between Trinidad and Tobago and its Caricom partners. Rather, the issue of integration is one that requires all Caricom nations, their people and leaders to decide what of their sovereignty they would wish to relinquish in exchange for regional integration. That is where the argument lies; how much of your sovereignty you are willing to give up in exchange for regional integration.

It is a debate that has to start and which is long overdue, given the pace at which other parts of the world and regions are moving in terms of their own integration, thereby further threatening marginalization of the Caribbean.

I would like to put on record some of the initiatives that have been supported by Trinidad and Tobago, since the People's Partnership Government took over, to forge regional integration. Before I do that, let me say that we are committed to even deepening the functional integration process taking place. The Caribbean Public Health Agency (CAPHA) is to be set up. The honouring of our commitment to grant scholarships to Grenadian students was something started by the previous government. We continue to do that. Trinidad and Tobago continues to pay for a consular office for Grenada in Port of Spain, to the tune of approximately TT \$400,000 per year. Trinidad and Tobago continues to give scholarships to Haitian students who are in Trinidad and Tobago now. We have not deviated from those commitments.

Trinidad and Tobago agreed to set up a Council of Ambassadors in Caricom so we could pursue, on a more diligent basis, the whole matter of integration. Trinidad and Tobago attended the Heads of Government meeting on the margins of UNGA, at which the Prime Minister herself participated and agreed to that. Trinidad and Tobago is proposing a Commonwealth Business Forum in May of next year to which Caricom countries and business organizations in the Caricom region will be invited. Trinidad and Tobago continues to support free movement of labour under CSME. Trinidad and Tobago launched a Children's Life Fund in Jamaica when the Prime Minister visited, and placed J \$50 million in it by a donation through Trinidad Cement Limited. Trinidad and Tobago continues to encourage investments in Jamaica and other parts of the Caricom region.

6.00 p.m.

Mr. President, in her address to the Organization of American States in Washington DC about a month ago, Mrs. Persad-Bissessar, our Prime Minister, informed the OAS that she had met and accompanied St. Lucian Prime Minister, Stephenson King, on a tour of that island and saw devastation left in the aftermath of Tomas which left many people in distress. It was reported in the *Trinidad Express*, and she called upon the region, the entire OAS region—she said as colleagues, as neighbours, as brothers and sisters of this hemisphere, as a family of the OAS, to expand the outreach to assisting nations in their hour of need and to bring relief to the people of Kingston, Castries and Port-au-Prince as Trinidad and Tobago continued to do.

Mr. President, it was not just speaking, in fact, if you read Dunstan Bonn in writing out:

“Kamla Persad–Bissessar was yesterday praised by St. Lucian Prime Minister Dr. Stephenson King for her quick response to rally to his countrymen’s assistance in the wake of the passage of Hurricane Tomas.

King made the comment following...her visit...at his official residence in Castries...”

I want to deal with a point that the hon. Senator made about humanitarian aid and to quote Dunstan Bonn in terms of what he reported the Prime Minister to be saying, when he said, and I quote:

“I want to make it very clear,”—this is now Kamla Persad-Bissessar speaking, reported by Dunstan Bonn—“that we remain committed to assisting you here and the people of St. Lucia. There are no strings attached to the humanitarian aid that we bring and will continue to send to you for reconstruction.” [*Desk thumping*]

Prime Minister's Comments
[HON. DR. S. RAMBACHAN]

Tuesday, December 14, 2010

Mr. President, in that light, let me say that Trinidad and Tobago, following Tomas, did the following: sent three shipments by the Trinidad and Tobago Coast Guard vessels, which meant that on those three shipments, eight 20-foot containers were sent to St. Lucia, three of those containers contained materials from WASA—here is a list of all of the materials—to the value of \$531,930.82 [*Desk thumping*] and was sent to restore the water system in St. Lucia because they depend in St. Lucia on their water for the hotels. Three 20-foot containers were shipped to St. Vincent also via Trinidad and Tobago Coast Guard. I have an email here from S. Pantin at amerijet.com, when St. Lucia did not have water and we appealed to the private sector here in Trinidad and Tobago, Mr. S. Pantin at amerijet.com, writing to Captain Gary Griffith and Hon. Chandresh Sharma, Member of Parliament for Fyzabad, on relief supply to St. Lucia, wrote, November 04, 2010:

“We operated two flights to the Hewanorra International Airport in Vieux Fort, with a few key shipments of water. Blue Waters donated 13 skids weighing some 27,730 lbs of Water, which was shipped to the National Emergency Management Organization, the Church of Jesus Christ and the Latter Day Saints purchased an additional 12 skids of water from Blue Mountain Water Company, weighing 21,600 lbs”—and that was also sent there.

Mr. President, I can go on to read a list of more of the things. I can give you details if you wish of what was contained in those containers if you wish: potatoes, onions, salt, soya bean oil, sugar, yellow split peas, lentils, rice, garlic, water, whatever, it is here and it was sent to our brothers and sisters there. However, Mr. President, way before this matter, way before this furore broke out about Trinidad and Tobago's products not being bought in the Caribbean, way before this, our Caribbean neighbours were suffering from the global financial crisis, and in particular the price of energy affected them. It affected consumer spending across the region.

I want to reply to my hon. friend by quoting from Sir K. Dwight Venner, the Governor of the Eastern Caribbean Central Bank, where he said here in the *2009 Eastern Caribbean Currency Union Economic Review*. He said:

“The beginning of 2009 was marked by the intensification of what was called, the most significant disruption of the financial and economic systems in the advanced economies since the Great Depression.

The impact on our economies has been significant. We are estimating a contraction in growth in the Currency Union of approximately 7.4 per cent in 2009, primarily due to declines in the tourism and construction sectors.

These challenges are associated with the reality that the crisis will not be over for us, as it is projected that growth in the Currency Union will contract by a further 2.4 per cent in 2010”.

I can go on, Mr. President—in the Bank of Jamaica Annual Report 2009. It says here that, “Jamaican economy declined by 2.8 per cent in 2009”. I do not have the time, Mr. President, to go through the details of this, but to tell you that if you take some examples, the decline in the ability of our Caribbean neighbours to buy did not start in 2010. For example, if you look at Barbados, Trinidad and Tobago exports to Barbados, in that 2008, US \$545,989,000; 2009, US \$275,150,000—and I can go—Jamaica, 2008, US \$1,249,721,000; 2009, US \$476,348,000. Just about 40 per cent of what they were able to buy in 2008. So, the decline did not start in 2010 with what they purported Mrs. Persad-Bissessar our Prime Minister—this decline was continuing and the statistics are here to bear it out and to show it. So, Mr. President, the question is who is really dividing the Caribbean? Who is really responsible for dividing the Caribbean? How many minutes do I have again, Mr. President?

Mr. President: One minute.

Hon. Dr. S. Rambachan: One minute. Mr. President, therefore, I want to read one bit here, of a commentary made by Sir Ronald Sanders, former Caribbean diplomat, writing about this matter of the attempt by the former Prime Minister, Mr. Manning, to create a political union and to exclude, as it were, those who did not want to come when he said:

“If the objective is not to form a classic political union, but to ape the economic unions around the European Union, why do the OECS countries and the Trinidad and Tobago not simply push the pace within CARICOM itself by reforming the organization in the way that is necessary, and by doing so keep Barbados, Jamaica and Guyana on board?”

I ask the question, really, who was working against regional integration; this People's Partnership Government or the PNM government, under the former Prime Minister?

I thank you, Mr. President.

Season's Greetings

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Thank you very much, Mr. President. This, we hope is the last sitting for the season and we should return, sometime in the new year, when we shall continue the people's work in this honourable Senate.

Mr. President, on behalf of all the Senators on this side and on behalf of the Government of Trinidad and Tobago, we wish all the people of Trinidad and Tobago a safe, merry, holy and peaceful Christmas, and that is extended to the whole holiday season.

This year has been a very promising year for the people of Trinidad and Tobago, especially as it relates to that event which took place on May 24, 2010. [*Desk thumping*] We have given hope to the people of Trinidad and Tobago and we do not intend to let them down in the new year. When one looks at Christmas one would see it is an event that touches almost every person in Trinidad and Tobago. Regardless to which religion one belongs to: Hindu, Muslim, Christian, Bahai—

Sen. Al Rawi: Orisha.

Sen. The Hon. S. Panday: Orisha, Baptist; everyone is touched by the Christmas season and that really augurs well to indicate the kind of society we live in. Although we have problems with crime, this society, by and large, is a very tolerant, peaceful and loving society.

Mr. President, we must give ourselves praise for that and to exhibit that type of tolerance and that type of consideration for others in this Christmas period. [*Desk thumping*] As I say, usually you would say, we extend Christmas greetings to our brothers, but having regard to what Christmas is to Trinidad and Tobago, we say, "Merry Christmas" to all of us, everybody in Trinidad and Tobago. We hope that the New Year would bring prosperity to all of us. We hope that the economy—we are certain that the economy would grow in the next year and that all our people, we hope, would be happier next year than they were this year.

Thank you very much, Mr. President.

Sen. Penelope Beckles-Robinson: Thank you very much, Mr. President. I too would like to join my colleague—and to say on behalf of the Senators on the Opposition, the People's National Movement—to wish the entire Trinidad and Tobago a happy and holy Christmas. We know that Christmas is a time of giving, of sharing and we want that we remember at this time the less fortunate.

Season's Greetings

Tuesday December 14, 2010

Mr. President, in particular, we know that this is a time when we have over the years increased road fatality, sometimes due to drinking and driving. We want to remind them that the breathalyser legislation has been passed and I am sure that the Minister of National Security would have officers on the road. Ideally we would prefer to have them around in 2011, so we want to advise our citizens not to drink and drive, to drink with moderation. Often we know that the people who end up dead are sometimes very innocent and not the ones who were participating in driving in a very reckless way.

Mr. President, we also want to point out to a number of persons who are involved in crime and who do not acknowledge the fact that many of the persons in Trinidad and Tobago who have attained their wealth, sometimes it is not substantial wealth, but wealth for any individual is what you have worked hard for, and we are seeing more and more, people who just have bare necessities are being killed for simple things and let us hope that we would have a minimum amount of crime and murder for this Christmas.

We wish prosperity and success to everyone for 2011 and I know that my colleague has said that his Government has given a lot of hope so we look forward to the good governance in 2011 and remind the entire Trinidad and Tobago that it is not the things that you do at Christmas time, but it is the Christmas things you do all year through.

Thank you, Mr. President

Sen. Basharat Ali: Thank you, Mr. President. I would like to join with my colleagues in wishing on behalf of the Senators of my Bench, wishing the Parliament first of all, a very happy, peaceful Christmas and a very happy New Year.

I would like very much to extend to all our parliamentary staff, the best wishes of all of us, [*Desk thumping*] they do yeoman duties all the time and I am sure they would be glad to have a little rest as all of us.

So, Mr. President, I will not repeat the sentiments expressed here, but to wish that we all do have a holy Christmas, after all it is a religious festival and that we be mindful of the hazards of the road and that we have a very safe season and that 2011 would see us a bit better off than we have been in 2010.

Thank you. [*Desk thumping*]

Season's Greetings

Tuesday, December 14, 2010

Mr. President: Hon. Senators, I wish to associate myself with the sentiments of the Senators who spoke before me and to take this opportunity as well to wish each of you and your families, and each of the Members of Parliament and the nation at large, the joy and love that is at the heart of Christmas. I also wish that in the year 2011 all of us would experience peace and may peace reign in the hearts of the nation. Thank you.

I wish, of course, that you would join me in some merriment after we finish sitting here in the Members' Lounge.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.16 p.m.