

SENATE

Tuesday, May 03, 2011

The Senate met at 10.30 a.m.

PRAYERS

[MADAM VICE-PRESIDENT *in the Chair*]

PAPERS LAID

1. Annual administrative report of the Tobago House of Assembly for the year January to December 2007. [*The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday)*]
2. Annual administrative report of the Tobago House of Assembly for the year January to December 2008. [*Sen. The Hon. S. Panday*]
3. Annual administrative report of the Tobago House of Assembly for the year January to December 2009. [*Sen. The Hon. S. Panday*]
4. Industrial Court (Pensions and Gratuities of Members) (Amendment) Regulations, 2011. [*Sen. The Hon. S. Panday*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the public accounts of the Republic of Trinidad and Tobago for the financial year ended September 30, 2010. [*Sen. The Hon. S. Panday*]
6. Annual report of the Government Human Resource Services Company Limited for the financial year 2008-2009. [*The Minister of Public Administration (Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam)*]

ORAL ANSWERS TO QUESTIONS

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Madam Vice-President, I am pleased to announce that the Government is in a position to answer questions Nos. 49 and 52. Questions 54 and 55—the Minister of Works is unavoidably out of the country. Section 53, I have the answer here [*Interruption*]

Sen. Hinds: Question not section.

Sen. The Hon. S. Panday: Sorry, question 53; I humbly seek one week's adjournment. I have the answer, but I just want to make sure I can deal with Sen. Hind's supplementals.

Sen. Hinds: Madam Vice-President, whatever your spurious reasons, it appears as though your high horse of answering all questions at all times has petered out. Okay.

Madam Vice-President: Question No. 49, Sen. Hinds. [*Interruption*]

Sen. Deyalsingh: Madam Vice-President, I refer to Standing Order 18. It does allow the Presiding Officer or the Chair to vary the answering of questions. Seeing that Sen. Panday has already indicated he is willing to answer question No. 54, with your leave and your permission, in the interest of time, could we please go to question No. 54 first? Thank you.

Madam Vice-President: I believe Senator, that the Leader of Government Business indicated that question No. 54 is not able to be answered at this time.

Sen. Panday: It seems to me that the foolishness of that press conference is still rubbing off on you, Senator. We have indicated, we are not ready to answer that.

The following questions stood on the Order Paper in the name of Sen. Fitzgerald Hinds:

**Police Complaints Authority
(Details of its Functions)**

- 53.** Could the Minister indicate to this Senate:
- (i) whether the role and functions of the Police Complaints Authority have changed in the past year;
 - (ii) the number of complaints filed against police officers in 2006, 2007, 2008, 2009 and 2010;
 - (iii) the number of complaints resolved in favour of the complainant in 2006, 2007, 2008, 2009 and 2010;
 - (iv) the number of unresolved complaints; and
 - (v) the date on which the previous Chairman and Vice-Chairman of the Authority demitted office?

**Piarco and Crown Point Airports
(Details of Contracts)**

- 54.** Could the hon. Minister of Works and Transport: indicate to this Senate:
- (a) whether contracts for the improved lighting of the runways at the Piarco and Crown Point Airports, have been executed;
 - (b) If the answer to (a) above is in the affirmative, the name(s) of the contractor(s) and the contract price in each case, as well as the dates of award and/or execution of these contracts;
 - (c) the procedure observed in the issuance of these contracts?

**Piarco and Crown Point Airports
(Lighting of Runways)**

55. With respect to the contracts for improved lighting of the runways at the Piarco and Crown Point Airports, could the Hon. Minister of Works and Transport inform the Senate of:
- (i) the action taken by the Prime Minister in this regard;
 - (ii) the outcome of the resolution/consultation promised publicly by the Hon. Prime Minister, in respect of these contracts when she called for a halt to the issuance of contracts without board approval?

Questions, by leave, deferred.

**Consular General
(Details of)**

49. **Sen. Fitzgerald Hinds** asked the hon. Minister of Foreign Affairs:
- With respect to persons who serve as Consular General, could the Minister inform this Senate of:
- (i) the dates on which Mr. Michael Lashley, who served as Consular General to Toronto, Canada assumed and demitted office;
 - (ii) the dates on which Dr. Harold Robinson, who served as Consular General to Miami, assumed and demitted office;
 - (iii) whether arrangements have been made to celebrate the work of the persons named at (i) and (ii) above; and
 - (iv) whether those named at (i) and (ii) above were accorded the usual courtesies and civilities practised by the Ministry/Mission when such officers demit office?

The Minister of Foreign Affairs (Hon. Dr. Surujrattan Rambachan): Thank you very much, Madam Vice-President. Let me first apologize for my absence here last week. I was away on official business with the Prime Minister and the delegation to Brazil.

Madam Vice-President, in answering this question, I wish to say that one of the characteristics of professionalism and particularly of the legal profession is the attention people pay to detail. Very often cases in court are lost and very often people suffer injustices and sometimes governments are made to pay heavy, as has happened with the previous administration, because of inattention to detail—I believe it was \$37 million in one instance that was paid. Proper research is also another factor that a good lawyer—in the legal profession—would undertake; and also the ability to understand and have a command of the English language.

It does appear, however, this is not so in terms of this question, Madam Vice-President. What is even worse is that these fundamental errors come from someone who is supposed to be an experienced parliamentarian. Therefore, in the question there are certain flaws. One, there is no such position as Consular General in the Ministry of Foreign Affairs. [*Desk thumping*] The hon. Member would see when the question was filed, it was C-O-N-S-U-L-A-R that is far different from Consul General. Madam Vice-President, I hope that the Member of Parliament is not suggesting in any way that the staff of the Parliament is at fault. So there is no such position as “Consular General” in the Ministry of Foreign Affairs.

And secondly, there is no one by the name of Dr. Harold Robinson, who served as Consul General in Miami. There is no such person.

Sen. Ramlogan: Wild allegations! Another wild one!

Hon. Dr. S. Rambachan: Madam Vice-President, when you have such fundamental errors being made, it leaves the public to wonder about the quality of parliamentarians on the side of the Opposition. [*Desk thumping*] It leaves you to wonder about their fitness to reassume the role of government in the country.

Parliamentarians are expected to set high standards and one hopes that those are not the standards by which the former administration ran the affairs of government.

That having been said, Madam Vice-President, I will acquiesce to the hon. Senator’s request for information on the retired Consul Generals listed in the question. [*Crosstalk*]

10. 40 a. m.

Madam Vice-President, the date on which Mr. Michael Lashley assumed office as Consul General to Toronto was December 6, 2003, and he subsequently demitted office on December 20, 2010 after he attained the compulsory retirement age of 60 years, as outlined in the Public Service Act of Trinidad and Tobago.

The past Consul General to Miami, Dr. Harold Robertson—not Robinson—assumed office on August 1, 2002 and subsequently demitted office on August 1, 2004. He was then transferred to the office of the Consulate General of the Republic of Trinidad and Tobago in New York, where he served from August 2004 until October 25, 2010 when his contract came to an end.

Madam Vice-President, a farewell reception was held at the Mission in New York for Dr. Robertson, however, none was held for Mr. Lashley based upon his request.

Madam Vice-President, both Mr. Michael Lashley and Dr. Harold Robertson have not returned to Trinidad and Tobago upon demitting their respective offices, and therefore this question is not applicable. However, let me say, that several of the Ambassadors who were recalled by this administration came back to Trinidad and spent, according to their rights, up to 28 days in the comfort of the Hilton Hotel in Port of Spain.

Madam Vice-President, the Ministry of Foreign Affairs and the People's Partnership Government take this opportunity to thank both of them, Mr. Michael Lashley and Dr. Harold Robertson, for their service to Trinidad and Tobago and we wish them all success in their future endeavours. Thank you.

Madam Vice-President: Any supplementals?

Sen. Hinds: No. Thank you very much, Madam Vice-President.

Ms. Reshmi Usha Ramnarine
(Details of Recommender)

52. Sen. Fitzgerald Hinds asked the hon. Minister of National Security:

Could the Minister inform the Senate of:

- (i) the name of the person who recommended Ms. Reshmi Usha Ramnarine for the position of Director/Head of the Security Intelligence Agency (SIA);
- (ii) the highest level of academic qualification Ms. Ramnarine possesses;
- (iii) the procedure followed in making her appointment to the position of Director;
- (iv) whether she was interviewed;
- (v) if the answer to (iv) above is in the affirmative, who was the interviewing officer; and
- (vi) whether Ms. Ramnarine is still employed with the SIA and if so in what capacity?

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Madam Vice-President. The candidate was not recommended for the position of Director/Head of Security Intelligence, Agency (SIA), but rather Director of the Strategic Services Agency (SSA). The recommendation for consideration of the candidate was made by a Deputy Director Strategic Services Agency.

The candidate's highest level of academic qualification at that time, was the Microsoft Certified System Engineer (MCSE) certification, which is a globally recognized professional qualification that is a prerequisite for most jobs in complex IT environments.

Madam Vice-President, Senators, as was previously stated in this Chamber, unlike what obtains with the Commissioner of Police for example, the precise requirements and process with respect to the selection of a candidate for the position of Director, Strategic Services Agency are not set out in law. What obtained at the time was as follows: a recommendation would be made by the management of the relevant agency or Head to the Minister or the Head of the National Security Council. The matter would be considered by the National Security Council. Once approved by the National Security Council, that body would recommend that the matter be taken to Cabinet for approval. Cabinet would either agree to the recommendation or disapprove. Once Cabinet approves, in keeping with the current process for Presidential appointments, all documents pertaining to the recommended candidate would be submitted to the President for consideration.

In the case of the candidate in question, this was also the procedure that was followed. Senators should note that it is the intention of this Government to ensure that legislation relating to the operations of intelligence agencies include provisions for the recruitment of personnel at all levels.

As noted at item (iii), the procedure that obtained did not necessitate the conduct of a formal interview.

Part (v) is not applicable.

Part (vi), no, the individual is no longer employed with the SSA.

Sen. Hinds: Thank you very much. Supplemental. The Minister in relation to (i) suggested that the officer was recommended by the Deputy Director, SSA, would the Minister say who that person is?

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, it has been my practice, unlike others, not to name people in the intelligence agency in this honourable Senate, and I maintain that.

Sen. Hinds: Second supplemental. Since, according to the Minister, the recommendation was considered by the Chairman of the National Security Council who would have been by then in possession of all the necessary or supporting documents, and that the Minister would himself have been part of the National Security Council, the supplemental question is, did not some concerns or alarm bells or red flags pop up in terms of the documents then before you?

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, the Senator knows that any deliberations with the National Security Council are classified, sometimes confidential as well as secret, I cannot disclose that at this time.

Sen. Ramlogan: Yes, he should know that.

Sen. Deyalsingh: Supplemental question as to 52(ii). I think it is on record that the hon. Minister of National Security has said that Miss Ramnarine at that time, possessed a BSc in Management Information Systems and the hon. Minister of Legal Affairs I believe, Mr. Prakash Ramadhar, also claimed that she had that degree but was also further enrolled as a second year student in psychology at the University of the West Indies.

If those statements were correct at that time, my question is, are those still the highest level of academic qualifications that she has attained, and if not, what has led the hon. Minister to now say that her highest level is MCSE, Microsoft Certified Systems Engineer, which is a far cry from a university degree?

Sen. Panday: Madam Vice-President, 35(3).

Sen. Hinds: Madam Vice-President, the supplemental was directed to the Minister of National Security.

Sen. Panday: On a point of order, I am saying, Standing Order 35(3).

Madam Vice-President: I believe the Senator is allowed a supplemental question given that the Minister already gave his response to the question. So Minister, you can continue.

Sen. The Hon. Brig. J. Sandy: Thank you, Madam Vice-President. Madam Vice-President, I never identified a degree of the candidate. What I said was she was a university graduate. Thank you.

Sen. Deyalsingh: Supplemental. The MCSE qualification as I know it, is a certification that anyone can do online, or by going to any number of computer schools which are not necessarily given by the University of the West Indies or the University of Trinidad and Tobago. The MCSE qualification does not necessarily mean that it is a university level qualification. Could the hon. Minister shed some light on that, since he seems to be claiming that the MCSE qualification was in fact attained at a university, and if it was, what university?

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, I went to the other place and I apologized to the House and the national community for having misled them on information that I had at the time, which led me to believe that the candidate was a university graduate. I have already made that apology to the national community, and I am not prepared to get back into that. I thank you.

Sen. Hinds: One further supplemental. Having apologized for that, the question is have you as the Minister of National Security of this country taken any action to find out who provided the misleading information, and if so, what action is being taken against them that caused you to be misled in the context?

10.50 a.m.

Sen. The Hon. Brig. Sandy: Madam Vice-President, yes, we did, and this is why the candidate in question is no longer in the Government employ. [*Desk thumping*]

Sen. Hinds: Further supplemental. Since you did and the candidate is no longer in the employ of the agency and we learnt last week that she was fired, again, I ask, what action has been taken against the person who made the recommendation and provided you with the misleading information?

Sen. The Hon. Brig. Sandy: Madam Vice-President, no one on this side said that the candidate was fired. He said so.

Hon. Senator: Subhas said so. [*Crosstalk*]

Sen. The Hon. Brig. Sandy: No, no; no, no. The *Hansard* will tell you. [*Interruption*] What the hon. Senator said, “She was relieved of her duties”.

Madam Vice-President, when the candidate was to be appointed to the directorship she must have been relieved of her duties at the lower level to be appointed. It happened with me in the military. I was a sergeant. I was relieved of my duties as a sergeant and appointed to a lieutenant in the Trinidad and Tobago Defence Force. Similarly, she must have been relieved of her duties then to be appointed. Having been appointed on January 14, on January 22 she submitted her resignation from that position. Thank you.

Sen. Hinds: Very good.

Sen. The Hon. Brig. Sandy: I thought you would never notice.

Sen. Hinds: Very good.

Madam Vice-President: Leader of Government Business, are you prepared to answer question 55 or is it deferred?

Sen. Panday: Question 55, Madam Vice-President, I humbly ask that that question be deferred for one week. [*Interruption*] Which one is that? A week; it was deferred for a week. I had already asked that.

Sen. Deyalsingh: Madam Vice-President, with your leave, on a point of clarification, the Ministry of Works and Transport, I believe has two Ministers, the substantive Minister and also—

Madam Vice-President: Senator, could I pre-empt your question. The Leader of Government Business indicated before question time that there were several questions that would be deferred, in fact question 55 he had asked for one week;

question 54 and—my misunderstanding—question 55 as well, because they pertain to the same Minister. So could we just allow the Leader of Government Business to come up with the requested answers at another sitting?

Sen. Hinds: No, but, Madam Vice-President, with great humility, I understand my colleague as saying that he was concerned because we are told that the Minister—the questions cannot be answered because the Minister of Works and Transport is not in the jurisdiction. He is out of the country. We have had questions answered up to last week on behalf of Ministers. Up to last week Minister Panday answered questions for a Minister who was out of the country, so that in itself is clearly not a bar. In addition to that, my friend, Sen. Deyalsingh, was saying that there is another Minister in the Ministry, and therefore, we can see no good reason for the questions not being answered based on the explanation given. That is what we are saying.

Madam Vice-President: Hon. Senator, you are well within your rights. I do take your point. It is a very good point and I urge the Leader of Government Business to take into consideration what Sen. Hinds has indicated and if we can come with an answer on behalf of the Minister, certainly that would be appreciated in this Senate.

Sen. Panday: Madam Vice-President, since the question has been raised, in order to adequately answer the question, one needs to discuss it and consult with the substantive Minister, and I said that he is out of the jurisdiction at this time. [*Crosstalk*]

ANTI-GANG BILL, 2010

[Third Day]

Order read for resuming adjourned debate on question [April 12, 2011]:

That the Bill be now read a second time.

Question again proposed.

Madam Vice-President: Those who spoke on April 12, included the presenter of the Bill, Attorney General, Sen. The Hon. A. Ramlogan; Sen. Fitzgerald Hinds; Sen. Basharat Ali; Sen. The Hon. Brig. John Sandy; Sen. Faris Al-Rawi; Sen. Elton Prescott SC; Sen. David Abdulah; Sen. Terrence Deyalsingh; Sen. Corinne Baptiste-McKnight and Sen. Dr. Rolph Balgobin.

Those who spoke on April 19, included Sen. Rabindra Moonan; Sen. Shamfa Cudjoe; Sen. Helen Drayton; Sen. The Hon. Rudrawatee Nan Gosine-Ramgoolam; Sen. Dr. Lester Henry; Sen. Prof. Harold Ramkissoon; Sen. Dr. James Armstrong; Sen. Penelope Beckles-Robinson; Sen. Subhas Ramkhelawan and Sen. The Hon. Fazal Karim.

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Sen. The Hon. Subhas Panday started his contribution and spoke for two minutes before we adjourned. Senator, you have 43 minutes of your original speaking time.

Sen. The Hon. S. Panday: Thank you very much, Madam Vice-President. I had the opportunity to look at all the contributions which were made in this debate, and as I said before the pendulum swung from one side to the other where there were some claiming that the legislation is good, it is necessary, we should have it immediately; and there were some that were saying, no, it is too draconian, we need to temper a bit.

Having done that, Madam Vice-President, I went to the public, went to the man in the street, went to the proverbial man in the maxi-taxi, and when you listen to those persons you would hear they say, “We want this right now”. These are dangerous times and dangerous times require strong action. They even went on to say—it seems to the man in the street that we, or most of us, are only concerned about the defendant’s human rights. We defend the perpetrators of the crime and at the same time we say nothing on behalf of the victims. They say that they have listened to this debate and they have not heard anybody saying anything about the victims, the pain, the suffering and agony which they have endured. They ask, “Why are we not standing on the side of the innocent citizens who have to live in jails, who have put burglar proofing and live in jails?”

They ask, “Have you heard about Vijay Persad, a little boy who was kidnapped at Petite Cafe in Princes Town?” His parents died afterwards, they went to their graves not knowing where their son has gone. They say, “Are we not thinking about persons like that?” Yet we are talking—the police might be brutal, this might happen, we must protect the rights of the defendants. Those parents cried from the day they lost their child, their son, an 11 year-old boy, a student of the Robert Village Hindu School about to sit his SEA.

Madam Vice-President, this was traumatic, not only today, not only to the parents, but it was traumatic to even the students in the class. You know what they did, Madam Vice-President? They took his books which he did his home lessons in and placed them on his seat until they left school. That was the pain and agony that children in the school suffered, and they say, “But you all are not talking about that.” We must talk about that. We must defend the persons who are the decent and upright citizens.

You have Ali from Gasparillo, a young man 21 years old, snatched in front of his gate; no one knows where he has gone. Up to today that mother sits by the window waiting, hoping and praying that one day her son would appear. Up to last night that mother was still crying.

The criminals have become so brazen that they are even burying you alive. Last week a victim was buried alive. They are saying, “What are you all doing, legislators? What are you all doing? You must come and stand up for the upright citizens in society”; and as we sit here and we deliberate on the niceties and the legalities, the criminals are running wild in society, they have become more brazen, they have become more ruthless and in those circumstances we humbly recommend this piece of legislation to this honourable Senate.

Madam Vice-President, just recently Gen. Colin Powell visited Trinidad and Tobago to launch the Mentoring Programme which has been initiated by the hon. Minister of National Security. He said that gangs are infecting Trinidad and Tobago. They have become infections in Trinidad and Tobago. When we spoke, although he came to speak about mentoring, he was cognizant of the fact that the gangs have infected Trinidad and Tobago and the time had come for us to take back this country from the criminals.

Madam Vice-President, the Prime Minister, the hon. Attorney General, the Minister of National Security, have all committed themselves to deal with the issue of crime so that the citizens of this country will be protected.

I was at the LRC, and even before that I took part in the study of the legislation. The hon. Attorney General, in due course, will answer all the legal questions which have been raised. I am aware that the Attorney General is fully prepared to answer those concerns which have been raised by all Senators of the Senate. However, I want to give a little background as to the words used and the philosophy of the legislation. I will not go through the whole Bill; the hon. Attorney General will do that. What I would like to do is to just take out one or two parts of it to show the thinking of the Government on the Bill.

During the committee stage Sen. Corrine Baptiste-Mc Knight spent a lot of time on the word “harbours” and we attempted to create a definition for harbour, and that definition was tied in later on with section—I would get the section in a minute—but tied on with another section. If you look at the word “harbours”, one would see that the definition of harbours means giving refuge or shelter to another person and encouraging or supporting, whether tacitly or explicitly, that person in committing any gang activity.

Madam Vice-President, when one looks at the culture of the gangs, when one looks at the history of the gangs, you would see a gang member or a gang leader might be friendly with you, he may give you something totally unrelated to gang activity, and when the police comes and tries to get him, he goes to you, says,

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“Hear wha happen, remember the other day I give you X, Y and Z; you have to protect me now.” Our information is that many persons did not want to protect them, but because of the strength of the gangs, the violence of the gangs many people succumb to that.

11.05 a.m.

Hence, Madam Vice-President, it was thought that you put into the legislation that if you harbour someone you can be given a jail term. It says, that the term for harbouring a criminal when one looks at the spectrum of sentencing, one would see that it is five years. So what happens is that we then tell people that it has now become an offence to harbour someone. You are being given strength by the law to say, “See me, I am not making any jail, and if you come to me I would be sent to jail and in those circumstances I am not going to take jail for anyone and therefore, you have to go”. So that is the spirit in which that legislation was drafted. It is in a way, giving an excuse to an innocent person who is bullied by the gang to harbour them, and we say in those circumstances the term is only five years.

Madam Vice-President, we looked at another issue, and the other issue is concealing. Concealing now is a much more serious act on the part of a person. Conceal means, to hide or prevent someone from being arrested. For that one you will see that the term for an offence such as that is not five years, but the term for a person like that is 10 years. So this is a positive act, and in those circumstances you find that there is a higher penalty. However, we have placed it in the law, and many persons are saying, “look, what you are doing!” We wish to indicate that that idea of concealing somebody to prevent the police or the authorities from accessing them is already in the law. When one looks at Chap. 10:04, the Criminal Law Act—I think it is section 5 which says, that anybody who prevents the apprehension of another person is liable to punishment and the punishment for that varies according to the offence for which you have protected that person. Therefore, although it appears to be draconian legislation there are other pieces of legislation, already in our law which are as draconian as this, and this is not anything special.

Another area which we like to look at is that of recruiting persons within 1,500 feet from a school or 500 metres. Madam Vice-President, the gangs are also in the schools and we intend to deal with that issue of gangs at the school. If you look at the legislation there is a special provision for recruiting a minor into a gang, or a child into a gang, for example, clause 11(2)—and you get 15 years for

that. When one looks at clause 11(3) one sees a person who is within 500 metres of the school recruits to a gang, a person—so it does not have to be a minor, it does not have to be a child, the idea is, we have the sanctity of the school and we are trying to protect the school.

So in those circumstances we deal with a situation of attempting to introduce a child into a gang or to recruit a child into a gang, but also in recruiting any adult, any person including an adult within 500 metres of a school. That is the seriousness of this offence and as such, Madam Vice-President, you could be given up to 20 years for that.

Not only in the school, we also look at places of worship. So if you attempt to recruit somebody, a person, 500 meters from the school or a place of worship, either a mosque, a church, a mandir, any place of worship, you will be caught under that law and you will be given 20 years.

Madam Vice-President, I think it is necessary also to indicate clause 13 which went to the committee. Before you could have detained someone for five days before charging, and the thinking behind that was, when one looks at the history of gang activities and in particular murders—it started about Thursday and over the weekend it went on until about Monday. I remember when we came into office, the first Monday we came into office—on the Monday newspaper—11 persons were killed over the weekend. We thought that that window—we were trying to use that window to ensure that persons—take a man off the street if you feel he would be killed or if you feel he is going to kill somebody, you take him off the street because on the weekends we found that the criminal activity was high. Also in 7 days, the 5 days could move along the scale according to when criminal activity spiked.

However, the committee in its wisdom indicated no, you can keep the person for 3 days; 72 hours, after 72 hours you let him go. Now, in practice what could happen is, if we keep you for 72 hours, after 72 hours we let you go and send a police car behind you, and the moment you reach home, hold you again and start over another 72 hours. We decided that we wanted to be fair; we decided we wanted to be clear. We did not want anybody to use any underhand methods to keep on letting you out, bringing you in, letting you out and bringing you in. So we decided that we are going to put precision to the law. That is why in clause 15 you will see that notwithstanding any law to the contrary a police officer may, without a warrant detain someone for a period not exceeding 72 hours. After that you have to let him go.

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However, if you have information and you think that you need to keep him further, then within 48 hours you will know whether you want to keep him any further—you would not detain him any longer, sorry. Then a senior officer will go to a judge and ask for an extension of the period of detention and that person will be given 48 hours. However, they said that the total number of hours which you can keep him—the person detained—is 144 hours, that is six days. So therefore, at the end of the day what we have done here is that we have refined that principle of the five days into a six day period but, you are ensuring that the rights of the person who has been detained are not interfered with.

Madam Vice-President, as we say this law is serious law. We want to ensure that it does not stay forever on the statue books as a result of that what we have done is that clause 15, in this sunset clause, it shall continue for a period of five years from the date of its commencement.

So during that five years, I am certain that this Government will sit down, monitor, analyse this piece of legislation, and if there is a necessity to have it extended we shall come back to the Parliament and account to the Parliament how this legislation has been carried out.

11.15 a.m.

This Government intends to be transparent and, as such, within five years we shall come back and report to the Parliament as to the action taken under this Act, whether it was effective; whether we need to amend it or whatever needs to be done. As I said, the hon. Attorney General will answer the other questions, but these are some of the questions I wanted to put on the record as to the thinking behind the legislation. Also, when one looks at the Bail Act, clause 6(9) says:

“...where a person is charged with an offence mentioned in subsection (8), and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

Whether he gets it or not, well, that is a matter for the court. But the purpose of that is to ensure that that person is kept out of circulation for that period of time.

The message which needs to be sent is that this legislation must be read in conjunction with the abolition of the Preliminary Enquiries Act. That means that preliminary enquiries, that is the inquisition at the magistrates' court, will go—it means that in 120 days you are before a judge. You are not before the magistrates' court again; you are before a judge, so the judge starts the matter within 120 days. So

you are getting no bail and your matter starts in 120 days. As the matter goes on, you are in custody with no bail, and at the end of 120 days, after a trial, if you are found guilty, you will be getting this 20 years.

So we want to let the public know that when you are involved in gang activity, once you are taken up by the police your matter goes to trial and you may get that 20 years. Therefore, from the time you are held, you may not be seen outside anymore. We are saying we do not want this to happen to you; we do not want this to happen to our young boys, so if they believe that this legislation is joke and is fun, we want to let them know the seriousness of this legislation and we hope that when we explain that once you are arrested there is a possibility that you are going straight for 20 years without seeing outside again, that it would act as a deterrent. These are the few legal points that I wanted to touch on and I am certain the hon. Attorney General will continue, as I said.

This Government is using the gang legislation as a form of suppression of crime. This is not the only piece of work that this Government is doing. It is instructive to indicate to this Parliament the other initiatives which this Government has embarked upon to deal with crime, including gang legislation. This Government is not following the course which was followed by the former regime. Einstein once said, that if you continue to do the same thing over and over and expect a different result, you are mad, and for nine years they continued doing the same thing over and over and expected different results. The only difference they had in results was that the crime rate escalated.

This Government has decided to embark upon a new course and that has been headed by both the hon. Minister of National Security and the Attorney General. In order to deal with crime, including serious crimes like gang activity, the Government had decided to view the process into three groups: one, the police; two, the prisons and, three, other activities. We want to inform the criminals and the population that we have embarked upon a new type of policing. As I said, the person who chaired all those meetings was Hon. Brig. John Sandy. We have moved away from the Mastrofski model of the model stations, and we have gone into a new services delivery model. That is where we are at this stage. This model is a modern model and it is called the 21st Century Policing Initiative.

On April 04 a pilot project was instituted in the Western Division; you know, the Western Division from St. James—that western end of the peninsula. It is hoped that with this new vision and this new model, we hope to have better policing and high visibility to deal with crime control, including gang activity. We

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want to let the population know that we are moving forward to protect the society. The Western Division has been divided into three areas: the western area; Diego Martin area and Maraval, and what the police service has done is that they have moved the police officers from inside the station and have them out on the streets. In that division, there are about 10 patrol cars; in that patrol car there are two persons and they are patrolling 24/7. So you have used 10 cars; 10 units out all day.

As these cars move around the society and persons make complaints or reports, these officers pick them up immediately from the command centre and they do not have to leave the station or say, "I wonder if there is a car; I wonder if there is a driver", or, "I cannot go out because there is no driver", or, "I cannot go out because somebody has gone with the car. " The car and the policemen are circulating all the time so, therefore, within a very short space of time, on the making of a report the police is on the scene. That is the way we intend to move.

As I say, there are about 10 units in that area with two officers each; 20 officers we have used. Then this is supported by a tactical unit of eight officers and they are also moving in vehicles, so if they see any criminal activity, any movement of any gang or any suspicious movement, they are there and they can take action immediately.

In addition to that, the police have decided to put in place traffic units. So in addition to those other vehicles there are four traffic units, each containing two officers, and they are also moving around, and they are specialized officers to deal with law enforcement and to assist traffic movement. So if people are inclined to commit an offence, these policemen will be there.

In addition to that, you have the CID unit which is investigating all the major crimes which have been reported. So instead of having them in the station, they are also on the field and the moment a report is made and they are contacted by the other units, the Criminal Investigation Department officers could be there.

In addition to that, there are other units: a Domestic Violence Unit which is staffed with members who specialize in dealing with domestic violence. There is also a unit called a Vulnerable Persons Unit to deal with young children and old persons. Then you have the Police Community Unit. All these officers are not in the station. They are on the streets moving all the time.

Now, you know that gang warfare has led to a number of murders. You have heard a lot of information about SAUTT, and what the Government is doing with SAUTT. But what has happened at this point in time is, while SAUTT is being reorganized the equipment from SAUTT, especially the aerial equipment, is now

available to the police, and they call that the Law Enforcement Aviation, that is, you have these helicopters and the moment a vehicle gets a request and you need helicopters, they are there within a few minutes. These are well equipped, they say, with state-of-the-art equipment. Brig. Sandy will say, “Shut yuh mouth after that. It is a matter of national security. Keep quiet.” That is as far as I could go, but to say that we have world class technology on those units.

So there is high mobility. These officers are not to deal only with gang warfare, but all criminal activity. The officers are now out there. These cars are fitted with GPS. So no longer will you hear people complain that they made a complaint to a police station and they were told that there are no vehicles, yet they saw a vehicle near a grocery—making groceries. No longer will that occur in that there is GPS on the police cars and they could be tracked at any time. Also, the police told us that at the end of the day they have to have a log which could be correlated with the digital information which we have.

So this Government is working on crime. However, it is nine years—not 53 years—that we have had and we need some time to deal with it. You heard the Commissioner of Police has indicated that they are using the manpower resources. When somebody is arrested, there is a recording unit now in the station, where the officers bring you in; take you to the recording unit and they process you for court and the officer is back out in the field servicing the people. These are innovative methods that the hon. Minister of National Security has been directing with the police.

You will ask, “Well, how will the police manage?” The police authorities have said: you will work a 12-hour shift and go home—two 12-hour daylight; two 12-hour nights, and then you could go home for four days. So police officers now could go and see about their families for four days and come back rejuvenated to work. So this long overtime, keeping policemen 72 hours working all the time, they must get fatigued. This new system will say, 12 on, you go home in the night; 12 on, you go home in the night, so, therefore, you are home in the night with your children and your family seeing about your family life. It is only two nights that you will be away from your family and then you have four days off. That is the new model of policing and this is the way the police have indicated that they will deal with crime.

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Madam Vice-President, you would see things changing. Our information is that reports are very favourable from the Western Division; people are happy. The problem the police are having now—it is said—is that people are making more reports because they are seeing the police all the time and are developing confidence in them. Knowing that they would be there in a very short time, you have a spike in reports. The police are happy for that.

We want to commend the police that 99 per cent of officers are eager to work and this Government wants to say thank you to officers. [*Desk thumping*] Whatever encouragement this Government can give to you, headed by the Minister of National Security, the Ministry in charge of the police, you would get that. As we said before, we do not have the figures yet. The project started on April 04; today is merely a month later. All we have to go on are anecdotes; we do not have the figures as yet. The anecdotes say that the people in the Western Division are very happy about the situation.

The police have indicated that the pilot project in the Western Division would be for four months. After that they would analyze it and make whatever adjustments. If it is successful, as the Government hopes it would be, it will be extended to the other eight divisions, but it takes time. It is a new system; it has to be tweaked and, as such, we are certain that the population would bear with us. May 24 will be one year since the election, and we have come here today to indicate to the population what this Government has done in relation to crime and solving crime.

The police, however, are also very happy that we are passing laws to give them that support. So the role of this Parliament today is to assist the police, in that, when you pass legislation like this, it is like giving police tools to work with and not frustrating them. They ask: where is your legislative agenda? All we tell them is: Look at the pieces of legislation we have passed during the last year. [*Desk thumping*] Madam Vice-President, 99 per cent of the legislation which has been passed during the last year deals with the solving of crime.

If one looks at the records, and you take January to May last year, up to midday yesterday, for the corresponding period in 2010, January to May, there were 167 murders, for this year it is 30 less. We are not happy with that; one death is too many. But we feel that we are on the right track. We are trying everything within our power. Certain areas which need locking down, the Minister of National Security has given instructions to lock them down. We are trying everything within our power, and we hope that with all these measures which we are embarking upon, this Government will bring down the crime rate.

Madam Vice-President, things are moving; however, this is not a panacea to deal with the problem. There must be a coordinated effort to deal with these problems. For example, the administration of justice must work hand in hand with the Legislature and the police. For example, we passed the Remand Bill in this honourable Senate, all of us voted, where the remand period was increased from seven and nine days to 30 days. We pray and hope that matters are not adjourned, that all the matters from a list on one day, which might be 90 or 100 cases, just shift away for a month, and push the problem 30 days away. We hope and we pray that this 30-day remand really gives the Judiciary the opportunity to have case management. So they would put some cases for a week, some two weeks, some 12 days, so that when you spread the cases, the court would have more time to deal with them, rather than spending all day adjourning. So there needs to be coordination with all the elements to ensure that we deal with this system. If we do not do that, the Government will be unable to deal with crime.

For example, I remember in my previous incarnation, you would go to a court and there are 100 cases on the list for a day, a list that high, and 100 policemen have to be in court because they have their cases in court. They sit there for almost eight hours because they are going through the list. At the end of the day, you would have used 800 man hours doing nothing. It is hoped that with the remand system in place, you would bring the police to sit there only for the cases set for trial.

You see there are more policemen in court than even defendants, and we hope that system will change, where if you are doing two or three cases today, call those two or three policemen involved in that case and the witnesses, and deal with that case, and permit the police service to have the other 98 policemen out in the field. Everything has to be synchronized. If 100 policemen are withdrawn from the system, what happens to the motor car? The officers are out in the field. In this Western Division there are probably 100 police officers involved. If you take 20 out of the system, it goes out of compliance. Hence, everyone who is concerned with crime and the administration of justice has to work as a team if we want to deal with this.

We pray and hope that the Government will not be chastised and blamed for things over which they have no control. That is why today we have come here before the Parliament to indicate and put light on the things we hope will take place, so that the system will work, crime will be solved and our people will be happier.

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Madam Vice-President, in terms of the prison, this legislation, as we say, is draconian. We admit that, but we are doing other work. Do you know what happens? Long ago when a young boy was committed to the Youth Training Centre (YTC), he had to be on remand. Nothing could take place in his life until he was convicted, and only when he was convicted he was placed in a programme to read or write, as the case may be. Sen. Brig. Sandy has indicated that has to come to an end, and instructions have been given to the YTC that the moment a young boy comes in, he must be put into a class, we must help him and we must rehabilitate him. If at the end of the day he is set free, his time at the YTC would not have been wasted. [*Interruption*]

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

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

Question put and agreed to.

Sen. The Hon. S. Panday: Madam Vice-President, this is a new situation, where we are innovating, where we are changing things, so that we are taking care of the next generation. While this legislation deals with the immediate situation, we are looking into the future of the other generation.

The hon. Minister, Sen. Brig. Sandy, has also given me instructions to, "Make sure you put a Cadet group inside there." I promised him I would follow instructions. We have embarked upon restorative justice, where we are preparing persons in prison. Persons who are about to come out in a year or two, we are putting them into courses: masonry, carpentry, hairdressing, et cetera, and they are going to write an exam called the CVQ, the Caribbean Vocational Qualification. So that when you come out from prison, you would be a qualified person; you would not have to go back to prison, to make a life in prison.

The hon. Prime Minister has come out with a very innovative idea. That, again, has never been done in the past, and for that we must congratulate her when she says that prisoners coming out will be given \$5,000. That is a visionary leader. For hundreds of years nothing has been done, and this Prime Minister comes out and says, "We are giving you \$5,000." Madam Vice-President, do you know what they did? They made a mockery and said, "Oh, best yuh go to jail, yuh go get money; leh we go to jail, boy." It is deeper than that. The vision is deeper than that.

The purpose of that money is to help you, to prepare you to go out in life. There are many persons who have lost their family. When they leave jail and come out on the Churchill Roosevelt Highway, they look east and they look west, there is nowhere to go. This money could probably help them with rent, to tide them over so they would not go on the streets and back into crime. For example, if you are going back into a trade, this money could help you to buy tools, so you could be a useful person to the society. This is the vision of the Prime Minister and this is the vision of the People's Partnership. It is not sharing money for the sake of sharing money, but really trying to create a better society.

The Prime Minister also indicated that she would like to see a prison industry, where we develop an industry in prison, so people can work for money in prison. When they come out of prison, they would have additional money to start a life. Maybe if they make money, they could use it for some purpose, maybe compensation to the victim or their family so there would not be that extra excruciating pain to other persons.

Madam Vice-President, this Government is working. As you know, we have had problems in the prisons. All the years they were there, and you heard about smuggling in the prisons. They never did anything about it, but this Government has put scanners in the prisons to reduce that illegal activity there. We are working.

We hope in the adult prison while persons are on remand, and for years they do nothing, we are trying to occupy those persons so they themselves would be better persons.

What are the other things we are doing? As you know, the Ministry of National Security has identified hot spots and we are working with those hot spots. Sen. Brig. Sandy, who is himself a former cadet, has said that discipline is the way to go forward. In that regard, the Government has decided to put a cadet unit in every secondary school in Trinidad and Tobago. [*Desk thumping*] This is where we are going. With the hard work of the cadet officers, eight schools have already been prepared, and we are only waiting to launch the programme any day this month, subject to the convenience and availability of the Prime Minister. So in all the schools you would have role models, and as it develops, the cadet officers in order to inculcate that discipline and pride, could probably ask schools to allow them to wear their uniform one day a week, or something like that, to instill discipline. So we are looking into that.

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Madam Vice-President, also the Ministry of National Security again under Sen. The Hon. Brig. J. Sandy, for the last Christmas we had “Concerts of Hope.” We did not go in any high-class areas, but we went to challenged communities: Siparia Deltones, Hatters in Embacadare, Arima Angel Harps—and where is Sen. Shamfa Cudjoe?—we were in Tobago too, [*Desk thumping*] trying to give some sort of entertainment to the people to bring them closer to us. So that instead of looking at the criminals for friendship, they had the police, they had the Ministry, and they had the Government as their friends. And we want to tell all those persons who feel that they are about to slip off, or even if you slipped, and want to come back, we are your friends, the police are your friends, we in the Ministry are your friends, the officials are your friends; our arms are open, waiting to welcome you away from the life of crime.

Madam Vice-President, finally, the issue of mentoring. I need say little or nothing more on that issue. It has been in the public domain for the last two weeks when under the initiative of the hon. Minister we had Gen. Colin Powell coming to Trinidad and Tobago to start the Mentorship Programme.

Madam Vice-President, I am certain that your heart would have bled the other night when you heard that a man was killed in the Beetham; he had nine children with six different women. And one lady said: “He was hoping to come and live by me, and he went down the other street, down the road by the other “child mother””—not wife you know “child mother”—“and they kill him there. ” That is one of the causes, where young boys, those five or six boys would be growing up not knowing the father, because he is never in one place at any given time. And as such, the Mentoring Programme that was launched by the Ministry, that mentoring programme is to assist in that regard.

We are asking, the Hon. Brig. J. Sandy is asking, all fathers you have a duty and an obligation to your sons, and on Saturday, June 18th, we invite all fathers in Trinidad and Tobago to join the Ministry of National Security, and the Minister of National Security for, as the Minister says “Sons come with your fathers, and fathers bring your sons;” hug them, hug your sons and bring them. And if every single man does that, the crime situation would be surely reduced. Thank you very much, Madam Vice-President. [*Desk thumping*]

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you very much, Madam Vice-President. Madam Vice-President, I wish to thank the Independent and Opposition Senators, and indeed my colleagues on this side for

their very insightful and thoughtful contributions on this Bill before us. Many have spoken, and this was a matter that engaged the attention of a joint select committee, and I am pleased to say that the quality of debate on this particular Bill has been at a very high level.

Permit me to perhaps pick up where my colleague, the Leader of Government Business, Sen. Panday has left off, and it really has to do with the impact of this legislation in the fight against crime and the necessity for it. We have all the statistics on the gangs and we have seen in the newspapers only last week another shooting taking place by virtue of gang warfare, and I think the country must be very heartened, by what Sen. Panday had to say in his rather illuminating and informative contribution, about the efforts made thus far by the People's Partnership and the Ministry of National Security to reach out to the young men in our society. I know many colleagues on the Independent Bench, Sen. Baptiste-Mc Knight and Sen. Drayton have raised this point as to what is the Government is doing to reach out. I hope that suggestions that have been highlighted during the course of this debate would be incorporated in some of these plans and policies and programmes from the Ministry of National Security. But that quiet work on the ground, the Mentoring Programme and reaching out, is one that is slowly bearing fruit.

We are not here to be triumphant and beat our chests, because it is too early, and any premature claim of success may be followed by a counterproductive reaction. What we simply want to say to the national community is, whereas we are coming down hard with an aggressive crime fighting legislative agenda, with legislation with teeth that can bite into the flesh of the crime problem, we are at the same time having a softer, social approach to ensure that those young men and women, who are in the twilight zone can enjoy a moment to pause and a moment for detached reflection and introspective analysis, to think twice, to say well look, there is an alternative and there is another option. That is something we would want to encourage, to pause for a cause.

The policies and programmes offered by the People's Partnership include expansion and new initiatives, for example the Civilian Conservation Corps, we have built on it, and expanded it, and there are so many other social programmes such as MILAT, MYPART, HYPE across the board.

The point is, if a young man or young woman really wants to make something of themselves, if they want to earn a decent day's pay for a decent and honest day's work, this is a country that affords that opportunity. That is why when we

pass legislation that is so strong, legislation that may be perceived and even said by some to be draconian, we have to understand the purpose of that legislation in the context of what Trinidad and Tobago offers. There are very few countries in the world, that perhaps offer the kind of social safety net that Trinidad and Tobago has—very few countries. From early childhood education straight up to tertiary education; meals in schools; currently laptops are being taken home, so you can be an “IT” person, and learn more about the knowledge-based society, and move with the times—“free”. “Free”, because the taxpayers of this country have to provide that.

These are the very same taxpayers that have been held to ransom, by a minority of teenage miscreants who insist and persist with a life of crime. And that is why we make no apologies on this side for passing strong legislation to deal with the crime problem, because we know, we know that there are ample opportunities out there for those who wish to stay away from the path and life of crime. The get-rich-quick and the “bling” mentality, when you do not work for the “bling” has to come to an end.

Too many people have lost their lives for some idiot’s thirst for materialism, to buy a new pair of expensive sneakers, to wear a gold chain with a Mercedes Benz pendant on their chest, to dress a particular way and to live a life that sends the wrong signal to the other youths in our society. The time has come to put an end to that.

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That is why this legislation has targeted the gang leaders, those who wish to recruit gang members, those who wish to target young persons in our society and go near to the schools, places of worship, the orphanages, education institutions and the like.

We have had a great deal of gloom and doom. The Government has taken a great deal of pounding, a great deal of criticism for “what are you doing about the crime? What is happening?” Now, we cannot change what we have inherited overnight, but permit me to quote from the *Newsday* editorial of Tuesday, May 03, 2011, as we approach our one-year anniversary. This is what the *Newsday* editorial said:

“We are not yet in possession of all the crime data for the first few months of 2011, but we can concur with the Commissioner of Police Dwayne Gibbs”—and I had (the Minister of National Security)—“that homicides are down drastically from early last year. At the end of April 2010, the murder toll—the

crime statistic which most worries TT—stood at 169. April 2011 is nearly at a close and the number of killings has dropped by approximately 40 though police engaged in massive sick out action in the first quarter of the year. The news may mean that should the police continue their stellar performance, Trinidad and Tobago could see its murder toll reduced by as much as 100 this year. Now that would be good news!”

A glimmer of hope; a moment for quiet optimism, not triumphant blowing of trumpets and beating of chest, no, but to give our country some hope that as a Government after one year—we are not saying that you are safe in the way that we want you to be. We are not saying that the criminal gangs no longer roam the streets and have you in your homes barricaded, gingerly peering from behind burglar proof bars as if you are the one in prison. We are not saying that they have not yet stopped the incursion on your basic fundamental liberties, civil rights as a law-abiding citizen, but we are saying that we as a Government through our policies and programmes, we are seeing a light at the end of the tunnel as reflected in the lower homicide rate thus far and, also, in the increasing number of young men who are reaching out to partner with the Government in the polices and programmes that we have through the Ministry of the People, through the Ministry of National Security and other Ministries that are specifically targeting the youths in our country.

The youth population is one that we are specially targeting because the young man of today is a leader of tomorrow. That is why during the course of the debate, my learned friend Sen. Hinds and others went on about: what is happening, we are falling down in national security, the police service is in shambles and so forth. The police service is not in shambles. Yes, there are problems in the police service but anywhere you have human beings en masse, there will be problems. My grandmother used to say, “God give you five fingers on each hand—none ain’t equal—to remind you that once you have human beings in a community, in a society, in a group, you bound to have differences. ” That is why we are taking a multidimensional approach to the problems that afflict us in our society.

Permit me to say to those who criticize the police service, we must give Jack his jacket, and I wish to compliment and say congratulations to the police service and our Commissioner of Police [*Desk thumping*] for this drop in the homicide rate. Hats off to you, Commissioner Gibbs, your Deputy Commissioners Mr. Ewatski and Mr. Williams, and, of course, outgoing acting Deputy Commissioner Mr. Raymond Craig, and incoming, confirmed, Senior Superintendent Richardson. On that note, permit me to say that the editorial also made a very

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telling point which demonstrates the Government's commitment to a strong police service. They criticized us during the course of the debate for dismantling the Organized Crime and Narcotics Unit and so on. But our vision for the police service is that it will run this two-legged race on both feet, not hopping on one foot at a time with one eye closed, watching the next parallel organization while it does the same and they almost go in opposite directions, because that is what we inherited, competition for turf.

In the very same security agencies one man has a fatter salary than the other, one man trying to justify his position, his higher salary and, therefore, you have competition for turf which led to a lack of coordination, and very often no sharing of criminal intelligence that would have been conducive to a proper and more effective crime fighting plan. That is what you get if you take people out of one structure and put them in another without any regulatory framework. The point has been made for so many years. When they criticized us for dismantling SAUTT, they never, at any point in time said that there was no legislative framework and SAUTT was illegal. That is a fact! SAUTT was illegal! We had to rationalize and streamline what existed in SAUTT, and we have done so in a most responsible manner.

We have gone out of our way to ensure that the baby is not thrown out with the bath water because there were good men and women in SAUTT, who served this country with distinction [*Desk thumping*] and who developed an expertise that is going to be invaluable in the fight against crime. But that expertise, that expert, if you placed them in a parallel organization where they feel they have to compete with the police service, it is a recipe and a formula for disaster.

Madam Vice-President, we are already seeing that the criminal intelligence information is being fed into the nodes of the system and the crime fighting institutions run and driven by the police service and these are the results: slow but sure, and measured but deliberate progress. A small step we say, but a small step in the right direction. As Mahatma Gandhi said, "The longest journey begins with but a single step", and the police service of our country, through the auspices of the hon. Minister of National Security and the Minister of State in the Ministry of National Security, Leader of Government Business, under their leadership the police service has taken a small step in the right direction on the journey for a better society for us all. [*Desk thumping*]

Permit me to quote and highlight another point in this editorial from the *Newsday*. They said:

“Appointing acting commissioners on the verge of retirement may also encourage these to turn a blind eye to sporadic bursts of politically motivated campaigning and PR policing which replace police generated crime suppressing modus operandi that are sustained and sustainable.

We must congratulate the PP for providing the police with the infrastructural and institutional backing in the fight against crime, for its determination in June 2010 to see the Police Service Act implemented and put an end to the era of acting police commissioners.” [*Desk thumping*]

Madam Vice-President, there are deliberate decisions taken by this Government in the interest of this country, and we do not come and make a big song and dance about it. The former regime had a tendency, and it was a discernible trend, to have people act in critical and key offices, and if they were not acting they left a vacuum. There was a lacuna. I remember at one time in this country there was no Police Complaints Authority, Solicitor General, Integrity Commission, acting DPP, acting Commissioner of Police, no Commissioner of State Lands, and the list goes on and on, no Chief Parliamentary Counsel, but when you connect the dots for all these offices in the State apparatus, you will find that every office had something to do with the administration of justice and law and order. The Solicitor General, the Integrity Commission, the Police Complaints Authority, the DPP, all of these offices, and the former administration had people either acting or they just simply did not have any one at all for prolonged periods.

Madam Vice-President, it was only when litigation followed—sometimes I was involved in litigation. It was only when the court stepped in that you found that they were prompted into action, but that is not the way to run a country. We have given security of tenure and put people there. We did not know Mr. Gibbs. Mr. Dwayne Gibbs was chosen by the Police Service Commission, appointed under a different administration after an extensive and expensive process. Penn State University; \$7 to \$8 million; Prof. Mastrofski and so on. We criticized that expenditure and we criticized those policies of the PNM, but as a responsible Government—we could have played politics and said let us go for someone we know. Scrap that procedure!

When they criticize us for Reshmi Ramnarine—as if that will overwhelm all of the other good things—they must also bear in mind that this is the same Government that brought legislation to Parliament to appoint a new Commissioner of Police [*Desk thumping*] and two Deputy Commissioners of

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Police. Notwithstanding the fact that the process was one that was complicated, cumbersome and convoluted, we did that with the full knowledge of the population. We did that in the knowledge that we publicly said that our political support and position was for Mr. Stephen Williams as Commissioner of Police. We said that in this Parliament, but because the Opposition did not want Mr. Stephen Williams, rather than lock horns on that, we compromised and went along with Mr. Gibbs and Mr. Ewatski.

More than that, after a hiatus, we then came to the position that we had an acting Deputy Commissioner of Police in the form of Mr. Craig, but we also had a merit list from the same procedure and that merit list was going to expire under the law in June of this year. Had it expired in June of this year, had the merit list been allowed to lapse and expire, we would have had an acting Deputy Commissioner of Police until we could have come to Parliament with new legislation or using the existing law embark on a procedure to appoint a new Deputy Commissioner of Police. That could have taken three to five years, but we did not do that.

We acted in the nick of time and brought legislation to this Senate in the midst of the controversy and fiasco surrounding comments made by the former Chairman of the Police Service Commission, in the midst of provocative claims about ethnic balance and so on, in the midst of that it was the People's Partnership Government that brought legislation to this Senate to save the valid merit list and to bring legislation here to ask that this Senate approve the appointment of Senior Superintendent Richardson to the post of Deputy Commissioner of Police, so we would have a confirmed Deputy Commissioner of Police.

12.10 p.m.

Madam Vice-President, it is well known that when someone is acting, there is the perception that it is easy to exercise some degree of political influence, political pressure and also to have some sort of manipulation in the system. That is the perception! That does not always happen because the office holder sometimes is a strong person of integrity.

I recall for example, when the present DPP of our country, Mr. Roger Gaspard—remember Mr. Gaspard was vetoed then put to act, and the short period of time that he was put to act was insulting. It was insulting because a man who had grown up and served as a career public servant in the office of the DPP, having risen through the ranks, the government of the day was saying—they vetoed him, and they blocked him. They did the same thing to Carla Brown

Antoine, now Justice Antoine. And it was only after public outcry and condemnation, criticism and much noise from Members on this side when we were sitting across there on the Opposition Bench, that the Government was eventually forced into appointing a man of such immense integrity; a man who is known to be independent in the person of Mr. Gaspard as DPP.

We are saying that we have moved away from that culture of acting appointments in serious high offices because if we are to fight the gangs and the criminal culture, we must put people who have security of tenure, and who can actually make decisions based on their expertise and make their own competent decision and judgment. And that is why we have nothing to fear on this side. So that you could cry Reshmi Ramnarine from now until you are blue in the face, look at all the appointments we have made.

I want to say to you, and I want to repeat what Sir Vivian Richards said when the Indian leg spinner Narendra Hirwani took five wickets on his debut. I think, he said, “A sunny day in winter does not make it summer.” And I repeat that to you, “a sunny day in winter does not make it summer.” Yes, we have made mistakes, and yes, we have come and we have apologized for those mistakes. We have said before that we are not perfect but when the population has to deal with us as a Government, and they compare it with the arrogance, the sheer arrogance, that they had grown accustomed to, for the past eight years, the population will know that to err is human but they will know that that statement by itself coming from a Government means that our feet are firmly planted on the ground. Firmly planted on the ground! [*Desk thumping*]

So, Madam Vice-President, during the course of my Leader of Government Business, Sen. Panday, on what the country is doing, we are trying new things. On the highway—for those of us who live in south—now when you drive from San Fernando to Port of Spain, you will see in the median, they are constructing police bays, surveillance bays. And I want to say that we have not made a huge song and dance about that but it is an innovative idea. You know why? When the police have to chase some bandit in a car, or something occurs or even if it is an accident, they have to drive to the next flyover and then come across and cut across to get on the next side, and the response time that is taken up by driving to the next flyover, often results in the person who is the subject of the chase escaping. By the time you come around, “dem fellas gon”! And it took after half a century of rule in this country—the PNM ruled this country for almost half a

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century—those highways were built and constructed and for half a century they ruled, it took a People's Partnership in less than one year, the vision and foresight to come and construct these police surveillance bays in the middle of the highway so that we will be able to chase the criminals and get the bandits rather than have them escape.

Then the gangs—In that same innovative vein, the Anti-Gang Bill is in that vein. No one can forget, no one in this country can forget when the former Minister of National Security Martin Joseph had said that he knew how many gangs there were—I believe he had said it was 500 gang members—he said 500 gang members and he was going to hunt them down, he had identified them, he knew where they were. In the same vein, as the former Prime Minister said, he knew who “Mr. Big” was. It seems as though they knew who the criminals were but still, they did not do anything to apprehend them, or to provide information to lead to their apprehension. Nothing! They did not bring legislation like this to equip the police service.

You see, it is the old kind of thinking to say that every time they had to think about the police service, they would think of it in terms of more cars, more police stations and more police officers, and that is a valid analysis. But, in the meantime, giving them more cars and giving them more police stations and all of that, is not going to help if apart from the physical tools and equipment you give them, you do not give them the legal armoury, the legal power to actually fight the crime in the way that it should.

This Anti-Gang Bill is about empowering the police officers and giving them the legal wherewithal and armoury they need, to cloak them with legal protection so that they can confront the gang members and the gang leaders. They can hold them for three days—pre-charge detention—and then go to a magistrate to hold them on judicial authority for a further three days, if need be. The police will now know that the country is standing alongside the police service and the gang leaders and gang members will know that the country is uniting against the gangs in this country, and that is why the legislation is so important.

Madam Vice-President, when I heard some of the points made by the Opposition—you may recall I gave the example of the trauma and distress that a man whose vehicle is stolen, undergoes when this vehicle may have been purchased with the intention that it would be used as an income generating asset—“to work a lil taxi and pay off the bank, mortgage your house”—what happens to that man when that car is taken,—most times it may be insured under third party. My learned friend, Sen. Hinds raised the point that perhaps the Criminal Injuries Compensation Board could compensate the man for the loss of the vehicle.

Permit me to respond and point out that this is a point unfortunately that is entirely without merit. Section 3 of the Criminal Injuries Compensation Act speaks to, as the title of the Act itself, criminal injury, and the injury as is well known is defined as “harm or damage done to the person’s physical or mental condition as a result of the crime...any disease deliberately, recklessly or negligently inflicted on another person and pregnancy arising out of rape” but it will not cover the replacement of a car. So the suggestion that I was making, somehow, a big song and dance about the distress and the position the person would find themselves in and that they had some avenue for redress, unfortunately, is not the case.

12. 20 p. m.

Sen. Basharat Ali, on the Independent Bench, raised a point which I think was echoed and endorsed by Sen. Baptiste-Mc Knight, and it had to do with clause 7 of the Bail (Amdt.) Bill, paragraph (l), “recruiting a child to be a gang member,” which is listed as one of the gang-related offences. In the Anti-Gang Bill, Madam Vice-President, “child” means a person who is under the age of 18, whilst in the Bail Act “child” means a person who is under the age of 14. In the Bail Act further, “a young person” which is a separate category, means “a person who is between the ages of 14 and 16”—attained the age of 14, but is under the age of 16.

Sen. Ali quite rightly raised the point as to how we are going to harmonize all these various definitions. Clause 11—I have taken a careful look at it and clause 11 of the Anti-Gang Bill creates the offence of recruiting gang members. The provision is not limited to the recruitment of children to gangs, it deals with the recruitment of gang members, simpliciter. And in the First Schedule to the Anti-Gang Bill, however, I noted that the offence was listed as “recruiting a child to be a gang member”. I think that is where the confusion that you quite rightly alluded to has arisen, it is the source of the confusion, and I am grateful to you, Sen. Ali, for pointing it out. An amendment will have to be made to the name of the offence listed in the First Schedule, to properly reflect and embody the intent of the substantive provision at clause 11 of the Anti-Gang Bill. In that vein a consequential amendment will have to be made to clause 7, of the Bail (Amdt) Bill in paragraph (l) in order to maintain consistency with the Anti-Gang Bill. Paragraph (l) should, therefore, now read as follows:

“recruiting gang members”

and we leave out “child”.

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At the committee stage we will remove the word “child” so as to remove any inconsistency between the two pieces of legislation as to whether a child is under the age of 18 or 14, and that would hopefully resolve the issue.

So at clause 6 of the Bail (Amdt.) Bill, 2010 in the proposed subsection (8) where mention is made of “a child” it will now read:

“(a) where a person is charged under section 10(1) of the Anti-Gang Act with harbouring a person who is the child; and

(b) is the parent or person acting in *loco parentis* of the child, and is brought before the Court but no evidence has been taken within sixty days of reading of the charge, that person is entitled to make an application to a Judge for bail.”

Now the reference in clause 6(8) is anchored in section 10(1) of the Anti-Gang Act and there is no need to clarify that particular one, because it actually says:

“Where a person is charged under the Anti-Gang Act”

So that because by express reference to the Anti-Gang Act it means that for the purpose of that provision, it is clear that you are speaking only for where a person is charged for an offence under that particular Act, so that will hopefully do the trick there. The term “young person” is not used in the Anti-Gang Bill or the Bail (Amdt.) Bill, so that the issue of any inconsistency does not arise there, it really arose in the other point with respect to the Bail (Amdt.) Bill.

Now, Sen. Ali also raised the pertinent point about the Miscellaneous Provisions (Bail and Kidnapping) Bill which is now in the other place. That amendment comes under section 5A(2) of the Bail Act to increase the non-bailable period for persons charged with kidnapping from 60 to 120 days. I think the point you were making Sen. Ali had to do with the consolidation as it were to get through with that.

The Bail (Amdt.) Bill proposes to amend section 5 of the Bail Act to insert five new and distinct provisions. The Miscellaneous Provisions (Bail and Kidnapping) Bill proposes to amend an entirely separate section which is 5A. They do not contradict each other, but in fact complement and supplement each other, and what you have now is a harmonization of the situation whereby across the board 120 days no bail period for persons charged with gang-related offences involving the use of firearms and for persons charged with kidnapping. So we have in fact—your point is a good one, but we have done is to achieve a measure of consistency and to harmonize the various time periods. What I will say, however, is that with respect to consolidation—

Sen. Ali: May I?

Sen. The Hon. R. Ramlogan: Sure.

Sen. Ali: I understand what you are going to do on the bail side, but the kidnapping part now has to go to another Bill, that miscellaneous provisions really refer to two different Bills, the Bail (Amdt.) Bill and the Kidnapping Bill. So you are still left with a spot there for where you are going to put in that kidnapping thing, and that will be the first amendment to the Kidnapping Act, in fact.

Sen. The Hon. R. Ramlogan: Thank you very much. Well, what is going to happen with respect to the issue of consolidation, the Law Revision Commission is going to take a look at that and, of course, we will certainly take on board that suggestion.

Now, Sen. Prescott, learned senior counsel, had made a point that clause 5(1)(b) needs a little bit of reconstruction, because the words “commits an offence” needed really to govern both subparagraphs (a) and (b). I see merit in that point and it is really a drafting point, but I believe that that is a point, Senator, that can be dealt with in the editorial policy at the committee stage, so that we will, in fact, rectify it.

I believe Sen. Dr. Balgobin raised a concern and that had to do with whether or not law enforcement officers who are putting their lives on the line as it were, and who will now be confronting the gangs with this kind of legislation, bearing in mind that we will probably expect the organized business that crime is, that is the criminal enterprise to actually also react to this legislation and to react perhaps in an aggressive manner. So that Sen. Dr. Balgobin was making the quite valid point that perhaps when gang members engage and seek to harm law enforcement officers, we should treat that as a specific event and one that attracts a higher penalty as it were.

I think there is merit in that, there is also—in my research there is precedent for it elsewhere in the world. We need to send a message not just to the criminal gangs that we will stand together with our law enforcement officers, but we also want to send a message to our law enforcement personnel that we value what they do for us, and that we feel that we cannot treat them as ordinary citizens when they are putting their lives on the line for us. We beat up on the police service a lot, but what about those officers who actually dedicate themselves to fighting crime to protect and serve in a genuine and meaningful manner? There are many of them. I want to suggest that the point raised by Sen. Dr. Balgobin has fallen on fertile soil on this side.

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I looked at the Canadian model; in 2009 the Canadian Federal Parliament had passed an Act to amend the Criminal Code (Organized Crime and Protection of Justice System Participants) Chap. 22 that was assented to on June 23, 2009. And that Canadian Criminal Code was amended to create:

“...an offence for assaulting a peace officer with a weapon or causing bodily harm and of aggravated assault (upon) a peace officer.”

Under the latter offence a person who in committing the former, wounds, maims, disfigures or endangers the life of a peace officer is liable to a term of imprisonment for not more than “14 years.” The former legislation I think was 10.

As the law of our country currently stands, there is section 29 of the Offences Against the Person Act:

“Any person who assaults...any constable, peace officer...in the... execution of his duty...is liable to imprisonment for four years.”

I really feel that four years is a bit low. You are saying that if you endanger or assault police officers in the execution of their duty that four years is the penalty.

12. 30 p. m.

When we compare that to the tiered scheme of the penalties in the Anti-Gang Bill, being a gang member on the first offence is 10 years; second offence is 20 years; a gang leader, 25 years; being a member of the protective services and being involved in gangs, 25 years. If we say that police officers rent their guns to bandits or get involved in the gangs for that kind of illicit activity, we need to highlight that as a specific offence with a harsh penalty of 25 years. It is a fair point made by Sen. Dr. Balgobin that on the flip side, we should also say that when police officers are attacked that, too, is something that is deserving of separate and special treatment by the legislation.

So the recommendation that there be higher penalties for gangs that target members of the protective services when they are doing their jobs—and that is something that happens in this country—we on this side propose to accept this because it is known that when they engage law enforcement personnel, they do so with sophisticated weapons and with the intent to shoot and maim or shoot to kill. When they engage police officers, the bandits are not aiming to shoot a police officer in the elbow or kneecap; they are aiming to shoot the man to kill him stone dead. So we really have to respond with equal force and measures to say that we will now stand on the side of the police officer, and if you are about to engage

them, understand that they will carry a most severe penalty. It is in that vein that we feel that a penalty above 25 years should be imposed because of the aggravated nature of this particular offence and having regard to the message it sends.

We propose to insert a new subclause 5(4) which will read:

“A gang member who unlawfully and maliciously—

- (a) by any means whatsoever, wounds or causes grievous bodily harm to; or
- (b) shoots at with intent to do some grievous bodily harm, a police officer, prison officer, member of the Defence Force, constable appointed under the Supplemental Police Act or the Special Reserve Police Act, member of a Protective Service Agency or a person involved in law enforcement, commits an offence and is liable on conviction on indictment to imprisonment for thirty years.”

That is, of course, building on what we had in the Offences Against the Person Act in a meaningful way.

We accept the recommendation of Sen. Dr. Balgobin in the context of the points he made. He made the point that criminality and gang activity are a tax on our productivity. That is a valid point. The correlation between lawlessness, crime and productivity is very important. He said it in a simple way. He said that people are afraid to open their businesses late and that is true. There are people in this country who are scared to open their businesses late. Why? The workers do not want to work late because they are afraid to travel late at night and the businessmen themselves are scared that if they open late, they would be easy targets for the bandits.

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

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

Question put and agreed to.

Sen. The Hon. A. Ramlogan: Thank you very much, Madam Vice-President. I am very grateful to my learned friend, Sen. Deyalsingh.

Business is being affected and productivity is being affected because of the criminal activities and the way the criminals target from rum shops go up. People

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are afraid to open their businesses late at night and people are afraid to work late at night. Currently, in order to get people to work late at night, businesses have to incur an additional cost because they have to provide transportation.

When we eat at restaurants, we must think about the waitresses. We go there at ten o'clock and we are still there at eleven o'clock. I always think about how the people are going home. Would they reach home safely? How many poor, innocent girls in this country never made it home after working at KFC or some restaurant on a night shift? That is why I do not feel sorry for the stance this Government is taking against the bandits because they have terrorized this country and held us to ransom for far too long. The time has come for us to claw our way back into the constitutional sacred pact, which is the fulcrum upon which law and order and all our fundamental human rights in this country rest. We must claw our way back.

I believe it was Sen. Drayton who made the point that crime can be minimized by increasing surveillance in hot spots and increasing the presence of the police service. It is in that context, Senator, that I highlighted the surveillance bays on the highways. I would not want to go into the CCTV cameras, the new ones we are putting up as well; but in crime hot spots, we have been quietly laying a very solid foundation to fight crime in this country.

Sen. Drayton had pointed to item 8 on the First Schedule of the Anti-Gang Bill which relates to the offence of participation in criminal activity in association with gangs. I believe, Senator, you had indicated that you were a bit concerned that all the activities in the schedule seem to be gang related and whether that was superfluous.

Perhaps I could point out that the First Schedule continues a list of gang-related activity offences. All the offences listed in the schedule are offences under various pieces of legislation and the offence referred to at item 8 is a specific offence under the Anti-Gang Bill. For instance, it is really meant to capture, when we say "participation in criminal activity in association with a gang", for example, a gang of kidnappers link up with car thieves to carry out transportation; just the one segment, the transport of the kidnapped victim. That is a point made by the police service and they will fall into that category—participation in criminal activity in association with a gang. They will now be subject to the full brunt of the anti-gang legislation and the might of the law because they acted in concert with a gang.

That is important. When we remember the Dole Chadee case, the joint enterprise included the man who was waiting in the car. If these “fellas” who want to take PJ and know very well what the man in the back seat is going to do and feign innocence afterwards, tough luck. You are taking a PJ; know where you are dropping them and have an idea why. A man is telling you to wait and he is coming out with a black bag on his back and you are hearing things clicking and making noise and he is going by somebody’s house; you must know. Too many people who undertake that aspect of the criminal job come to court crying and begging. No. The law must have no mercy for you. If you did not do the transport “wuk”, the “wuk” could not be put down. You are an important link in the chain of crime. By accepting that job and accepting to transport, you pop the trunk; you know what they put in the trunk and the fact that you choose to turn a blind eye is not good enough.

So all and sundry who choose to participate in that chain of crime, we are coming because every link in that chain we see as a strong link and we want to make it weak. We want to weaken the links in that chain of crime.

Sen. Drayton also pointed out that the definition of the word “gang” was somewhat nebulous. That is a concern that I had as well because “gang” is not a precise legal term as such. I looked at it. I believe the same point was made by my learned friend Sen. Beckles-Robinson. She cited the relationship between gang activity and social injustice in the Caribbean paper. Sen. Prof. Ramkissoon had raised this point as well about this definition.

This is a point that had troubled us at the joint select committee. In the legislation, several terms are correlated—“gang”, “gang leader”, “gang member”, “gang-related activity”. These definitions in the legislation, except the definition of “gang leader” were patterned after definitions in the Mississippi and Illinois legislation.

The joint select committee examined the definitions and made appropriate modifications and alterations to suit our circumstances, having received the presentations from the police service and other interested stakeholders. It was felt that the definition that had emerged was sufficiently clear to make the legislation workable and I propose to keep that definition because I suppose that whatever you put can be criticized. We think that this model recommended by the joint select committee is a good one and should stay.

Both Sen. Drayton and Sen. Prof. Ramkissoon commented on the definition of a gang comprising of a minimum of two persons. That is also something that troubled us at the joint select committee. We were of the view that a gang could comprise two persons. We looked at the legislation and what happens in other countries and came down on the side of the legislation that exists in the province of British

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Columbia where a gang was defined as comprising a minimum of two persons. That proposal was accepted by the joint select committee. You do not want to dilute it because if you go away from that, the gangs would start to compartmentalize. If you put it at three persons, they are acting as three, but you will have two and they will try to blur the relationship with the third one and it makes the prosecution of the crime difficult. That is the advice we have received.

Sen. Dr. Armstrong proposed an amendment to clause 5(1) of the Bill related to a person who attempts to become a gang member. He is not here with us now, but I want to point out that the offence of attempting to become a gang member was already omitted from the legislation by the joint select committee, since we felt that attempts to become a gang member would be extremely difficult to prove. Unfortunately, the offence was inadvertently retained in the Bill. By way of errata, which has been circulated, the words “creating an offence” have been omitted and I am grateful to Sen. Dr. Armstrong for pointing it out.

Sen. Beckles-Robinson wanted to be supplied with some indication as to what evidence would reasonably follow to show the existence of gang membership because, of course, in our legislation it is not necessary to show a common name, insignia, means of recognition and so on. That was based on the presentation from the police service whereby the gangs here—there are many permutations we are advised—some of them, whilst they are organized, are deliberately disorganized in a splintered way that you cannot recognize them. It was in keeping with that, our own gang culture in the Caribbean, that it was felt, in light of the intelligence that the police service and the security agencies have, we should keep it so that it would be very general.

Sen. The Hon. Panday pointed out that intelligence reveals that our gangs are somewhat unique. It is not that you cannot use insignia and so on. You can, but it is not necessary. So we have made the prosecution a little easier for the State because a fellow would say he got this tattoo on his hand because “he gul frien’ gih him dat”. But it is the same gang tattoo. They will say it is sheer coincidence. How would the prosecution be in a position to disprove what he is saying to mount a positive burden in the court? It was felt that, in light of the problems encountered in prosecuting such offences, when you have to prove that the insignia or emblem is one that is distinctive and related to the gang in other countries, we had better avoid that pitfall here.

The police can use information such as the alleged gang member’s admission to the gang, information from family members, the community, his association with the gang people, members and photographs. The police have indicated that

sometimes you have photographs and that in itself is indicative that the person is part of the gang given what is photographed. So it will help them.

I think that Sen. Ramkhelawan pointed to what he terms the inequity in the penalties in that a person who joins a gang would serve 10 years and a person who encourages another to join, the recruitment, it is 25 years.

12. 45 p. m.

Madam Vice-President, we felt at the joint select committee that, yes for joining a gang we will give you 10 years, but we felt the person who is doing the recruitment is someone who has to be treated with differently, because that person is the one who is really bringing in the lifeblood and increasing the size of the gang and giving it strength in numbers. So, we felt that we wanted to send a strong message to deter the culture of gangsterism that has reared its ugly head in this country. The committee was of the view that those who encourage gang membership and recruit people should be severely penalized with a 25-year sentence, and we propose to keep that, because we feel it sends a right message and it is a strong deterrent.

Sen. Ramkhelawan also expressed the view that amendments to the First Schedule should be made via affirmative resolution and not a negative resolution. He also pointed out that this Bill was not a simple majority Bill, and in considering that, I think there is merit in what Sen. Ramkhelawan said, and I suggest that an appropriate amendment be moved at the committee stage to change it so that it should be made via an affirmative resolution as opposed to a negative resolution.

Madam Vice-President, we have taken on board—as you have seen, I have listened with an open mind and have been very receptive to the points made during the course of this debate even though they came after a joint select committee report and a unanimous passage in the other place, I think this is testimony to the erudite contributions that come from Senators in this particular Chamber and, in particular, this piece of legislation has, perhaps, been scrutinized very closely, because we all understand the purpose for which we are passing this law; to empower the police to help rescue our country from the hands of the criminals and the bandits, and we understand as well the draconian nature of it, because it really does tend to equip and empower the police in a way that it has never been before to fight the gangs in this country.

So, Madam Vice-President, I wish to conclude by expressing my heartfelt gratitude and thanks, firstly to the Members who have served on the joint select committee under my chairmanship. We had many long hours and the work that

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has been produced has really withstood the scrutiny by and large, minus a few amendments which we feel are important. I wish to say that those Senators who contributed during this debate have really led to an enhancement and an improvement in the legislation with their comments and I wish to thank them.

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

Question put and agreed to.

Bill accordingly read a second time.

Madam Vice-President: Hon. Senators, at this time, I believe it would be appropriate to break for lunch for 45 minutes before we resolve into committee. Hon. Senators, it is now 12. 48 p. m. and we will take the lunch break and resume at 1.35 p.m.

12.48 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

Bill committed to a committee of the whole Senate.

Senate in committee.

Sen. Teelucksingh: Madam Chairman, before we begin the committee stage, may I humbly suggest that we extend a very warm welcome to the school children who are observing the proceedings—

Sen. Al Rawi: Cunupia Secondary School.

Sen. Teelucksingh: Cunupia Secondary School. [*Desk thumping*]

Madam Chairman: A very warm welcome to the students of Cunupia Government Secondary School. [*Desk thumping*]

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

Clause 5.

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

Sen. Ramlogan: There is an amendment to clause 5 which says:

Insert after subclause (3), the following new subclause:

“(4) A gang member who unlawfully and maliciously—

- (a) by any means whatsoever, wounds or causes grievous bodily harm to;
- or

(b) shoots at with intent to do some grievous bodily harm,
 a police officer, prison officer, member of the Defence Force, constable appointed under the Supplemental Police Act or the Special Reserve Police Act, member of a protective service agency or a person involved in law enforcement, commits an offence and is liable on conviction on indictment to imprisonment for thirty years. ”

Madam Chairman, this is the suggestion proposed by Independent Sen. Dr. Balgobin, and which was accepted by us on this side.

Sen. Panday: Madam Chairman, therefore, we are deleting in the last line “twenty-five” and inserting “thirty”.

Madam Chairman: It is a subclause.

Sen. Panday: Sorry. Then we have to renumber.

Madam Chairman: Yes, and renumber 4 to 5. Right!

Sen. Dr. Armstrong: Madam Chairman, I also suggested an amendment which I understand has been accepted to take out under (a) “attempts”.

Sen. Ramlogan: The words “or attempts to become” in 5(1)(a) have, in fact, been deleted.

Sen. Dr. Armstrong: I also proposed consideration for the reduction of the penalty, the reason being that if you look at the penalty in this clause and you look at the penalty in clause 8, for both offences you get 20 years, and in clause 8 it seems to me to be a more severe crime that is committed. In fact, I am not even very sure in clause 8 what is meant by “gang-related activity”, but I imagine that it is an offence.

Madam Chairman: When we get to clause 8; but in your reference you are tying it in to—

Sen. Dr. Armstrong: I am making a comparison between the penalties that you have in clause 5 versus a more severe transgression later on where the penalties are the same, and this is why I was proposing that we consider a reduction.

Sen. Panday: Hon. Senator, if one looks at clause 4 “gang-related activity” is defined in the legislation.

Sen. Dr. Armstrong: Okay, fine! What about the penalty, the 20 years?

Sen. Panday: Hon. Senators, there was a joint select committee and the matter had been discussed exhaustively, and the joint select committee came to the conclusion that having regard to the nature of these offences being so heinous that we should keep the penalty.

Sen. Ramlogan: I think, Senator, at first blush, what appears on the face of it to be a lower threshold in terms of a violation of the criminal code, in terms of the practical side of it, it really is not, and that was informed in part by the presentations we received from the police service. I presume where you are heading is the professing to become a gang member. Is it?

Sen. Dr. Armstrong: “Yeah. ”

Sen. Ramlogan: What has happened is that this clause is really intended to deal with persons who profess to be gang members in order to gain an unlawful benefit. What has happened is that when I piloted this Bill in the other place—there are a number of persons who by virtue of the way they dress and the way they conduct themselves, portray and project themselves as being part of an organization or a gang, and what they do is utilize that projection for illegal and illicit activity. We were advised by the police that this is a problem that is taking root in the society under the guise of appearing to be legitimate just by the way you dress.

You have a problem now in Central Trinidad, for example, where businessmen—not just in Central but in other parts of the country—who are owed money, rather than resort to litigation in the court and allow due process, what they do is hire persons who profess, and they go and actually extort money. They tell people they would kidnap their children and they demand a mobilization fee to not do it, and they actually go to you and tell you, “Well, I see your daughter is going to school at so and so primary school. I noticed that she wore a red dress when she went out last week. ” So they let you know that they have been monitoring, and you have been the subject of their surveillance. You cannot prove that they are actually a gang member, but what you do know is that the person is professing by their dress code and by what they are saying, to be a gang member, and that is something that is really, from our information, quite serious and quite prevalent.

In fact, when I presented the Bill in the other place, I made the point. I made a stirring appeal to the business community that if you are owed a debt, you have to secure payment of that debt by litigating the matter in the High Court, and when you get a judgment in your favour, you then enforce it; and you could do the same things. You could go and break down people’s door and so on, but you would do it with a court order and court marshals and you can levy with a licenced bailiff.

1.45 p.m.

But if we—I feared because of the problem that is taking hold, this clause which was the subject of much debate at the joint select committee, and which resulted in the important insertion of the words “in order to gain an unlawful benefit” by the Independent and Opposition Senators on the joint select committee, we felt that, having regard to the presentation of the police service, this is something that was sufficiently important that it should stay.

Sen. Dr. Armstrong: I appreciate that, you know. The only point that I wanted to make is that I did not think that it is as severe an offence as we have elsewhere in this Bill [*Interruption*] as well as in other pieces of legislation that we have passed already, where you are giving someone 20 years for this offence that we are looking at here. That is the point I am trying to make. I am not saying it is not severe, I am just saying—[*Interruption*]

Sen. Panday: Senator, on the first conviction it is 10 years and on the second conviction it is 20 years. If one looks at the section, the first conviction, 10 years, the second conviction 20 years. Also, Senator, when one looks at the Firearms Act, if one has a firearm you are given a certain penalty; if you have an imitation firearm which cannot do anything you are given the same penalty.

Sen. Dr. Armstrong: The same penalty?

Sen. Panday: Yes. It is a deterrent. Thank you.

Question put and agreed to.

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

Clauses 6 to 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Sen. Ramlogan: Madam Chairman, we have an amendment to the First Schedule in clause 16, we wish to delete the word “negative” and substitute the word “affirmative”. That was a suggestion made by Sen. Ramkhelawan which I have accepted in this particular piece of legislation.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

First Schedule.

Question proposed, That the First Schedule stand part of the Bill.

Sen. Ramlogan: Firstly, in item 4 we wish to delete the words “in the course of gang-related activity” and in item 11 we wish to delete the words “a child to be a gang member” and substitute the words “gang members”.

Question put and agreed to.

First Schedule, as amended, ordered to stand part of the Bill.

Second Schedule.

Question proposed, That the Second Schedule stand part of the Bill.

Sen. Dr. Balgobin: Madam Chairman, there is a small typographical error on form 1 of the Second Schedule which says “police custody since” and it has created a new word, at least in my document; it should be three, there should be a space.

Sen. Panday: An errata has been circulated and the matter has been taken up in the errata. Thank you very much for your contribution.

Question put and agreed to.

Second Schedule ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

Bill reported, with amendment.

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

The Senate voted: Ayes 28

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Bharath, Hon. V.

Baptiste-Cornelis, Hon. T.

Karim, Hon. F.
George, Hon. E.
Nan Gosine-Ramgoolam, Hon. R.
Ramnarine, K.
Abdulah, D.
Watson, Prof. P.
Maharaj, D.
Moheni, E.
Moonan, R.
Beckles-Robinson, Mrs. P
Cudjoe, Miss S.
Al-Rawi, F.
Deyalsingh, T.
Ali, B.
Ramkhelawan, S.
Baptiste-Mc Knight, Mrs. C.
Drayton, Mrs. H.
Balgobin, Dr. R.
Ramkissoo, Prof. H.
Wheeler, Dr. V.
Armstrong, Dr. J
Hinds, F.

Question agreed to.

Bill accordingly read the third time and passed.

1.55 p.m.**BAIL (AMDT.) BILL, 2010***Order for second reading read.*

The Attorney General (Sen. The Hon. Anand Ramlogan): Madam Vice-President, I beg to move,

That a Bill to amend the Bail Act, Chap. 4:60 be now read a second time.

*Question proposed.**Question put and agreed to.**Bill accordingly read a second time.**Bill committed to a committee of the whole Senate.**Senate in committee.**Clauses 1 to 6 ordered to stand part of Bill.**Clause 7.**Question proposed, That clause 7 stand part of the Bill.*

Sen. Ramlogan: Madam Chairman, I beg to move, that clause 7 be amended as follows:

In paragraph (c), in the proposed paragraph (1) delete the words “a child to be a gang member” and substitute the words “gang members”.

*Question put and agreed to.**Clause 7, as amended, ordered to stand part of the Bill.**Clauses 8 and 9 ordered to stand part of the Bill.**Preamble approved.*

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

*Senate resumed.**Bill reported, with amendment.**Question put, That the Bill be now read a third time.*

Madam Vice-President: This Bill requires a three-fifths special majority.

The Senate voted: Ayes 29

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Bharath, Hon. V.

Baptiste-Cornelis, Hon. T.

Karim, Hon. F.

George, Hon. E.

Nan Gosine-Ramgoolam, Hon. R.

Ramnarine, K.

Abdulah, D.

Watson, Prof. P.

Moheni, E.

Maharaj, D.

Moonan, R.

Beckles-Robinson, Mrs. P.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Ali, B.

Ramkhelawan, S.

Baptiste-Mc Knight, Mrs. C.

Drayton, Mrs. H.

Bail (Amdt.) Bill

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Balgobin, Dr. R.

Ramkissoon, Prof. H.

Wheeler, Dr. V.

Armstrong, Dr. J.

Question agreed to.

Bill accordingly read the third time and passed.

TRAFFICKING IN PERSONS BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Madam Vice-President, I remain honoured to be allowed to pilot this Bill in this august Chamber. Madam Vice-President, I beg to move,

That a Bill to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto, be now read a second.

2. 05 p.m.

This Bill seeks to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto.

As you are aware, Madam Vice-President, this Bill was passed at the other place with inputs, and quite appreciatively so, from our colleagues on the other side.

Madam Vice-President and Senators of this honourable Senate, trafficking in persons or human trafficking, which is one aspect of transnational organized crime, is a rapidly growing global phenomenon. In the past 10 years, the trade in human cargo has been growing exponentially and it is currently the second most profitable criminal activity worldwide, along with arms trafficking, surpassed only by narcotics trafficking.

This Bill carries 48 clauses and, as such, I seek your leave to proceed with this presentation. Hon. Senators are asked to note that, in 2007, the Government of Trinidad and Tobago ratified the United Nations Convention on Transnational Organized Crime and two supplementary protocols of the convention, one of which is a Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. However, no legislation was drafted to give effect to this protocol.

Statistical and anecdotal data indicate that the offence in trafficking in persons is evolving in Trinidad and Tobago. The International Organization for Migration (IOM) and the United States Department of State both report that Trinidad and Tobago is a country of transit and destination and may well be a country of origin. I am sure you would agree with me, Madam Vice-President and hon. Senators.

Sen. Hinds: Thank you very much, Madam Vice-President. You indicated that it is evolving in Trinidad and Tobago and you further indicated that these two organizations, mentioned to have found that—I do not want to quote, I cannot remember your words, but to paraphrase, Trinidad and Tobago is a—what did he say?

Hon. Senator: A country.

Sen. Hinds:—country that is likely to have had the experience. Have you or are you able to say in your own estimation as Minister of National Security, whether you have found so far any evidence of this evolution or the existence of this in Trinidad and Tobago?

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, I say to my colleague, be patient, I will get there.

Sen. Hinds: Let me thank you, I look forward to your response, your direct response in time.

Sen. The Hon. Brig. J. Sandy: Indeed! Indeed!

Sen. Baptiste-Cornelis: Drink your tea slowly.

Sen. The Hon. Brig. J. Sandy: Due to its transnational nature and the involvement of a network of cross-border facilitators, human trafficking is difficult to detect, both internationally and locally. However, initial in-house research appears to corroborate the findings of the IOM and the US Department of State, particularly with respect to Trinidad and Tobago as a transit and destination country for the purposes of sexual and labour exploitation and domestic servitude.

IOM reports indicate that in the last year there were six cases of human trafficking and in 2009, 11 such incidents. There have also been reports circulating throughout foreign media concerning the alleged trafficking of their nationals to Trinidad and Tobago. If these reports are accurate, this would reflect a disturbing and disheartening reality.

However, statistics regarding the number of cases cannot be substantiated as there is currently no official central repository for such information. Further, due to the fact that there is no such offence as human trafficking within the legislative

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framework of Trinidad and Tobago, no prosecutions for this specific crime are conducted. The lack of requisite legislation places this country under international scrutiny.

In 2009, for the first time, Trinidad and Tobago was placed on Tier 2 of the United States Department of State annual Trafficking in Persons (TIP) Report. Much to our dismay in the 2010 report this country was relegated to the Tier 2 Watch List. According to the US State Department, countries placed on the Tier 2 watch list are defined as, I quote:

“Countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards, and:

- (a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing.
- (b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year;”—including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims and decreasing evidence of complicity in severe forms of trafficking by government officials—“or,
- (c) the determination that the country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.”

Madam Vice-President, a political framework to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000, was prepared by a multi-sectoral task force to counter human trafficking in Trinidad and Tobago. This task force was established under the authority of Cabinet in July 2009 and began its work in November of that year.

The task force was chaired by the Minister of National Security and comprised representatives from various Ministries, non-governmental organizations as well. The task force also obtained expert assistance from the Counter-trafficking Unit of the office of the International Organization for Migration in Washington DC. Nine months later the task force submitted its policy framework to the Cabinet of Trinidad and Tobago.

On September 22, 2010, Cabinet agreed:

- (a) to approve this policy framework to give effect to the United Nations protocol to prevent, suppress and punish trafficking in persons, especially women and children, and
- (b) that the Attorney General cause to be prepared the necessary legislation to give effect to this protocol.

Madam Vice-President, the trafficking in Persons Bill now before this honourable Senate will signal that this country is making significant efforts to bring itself into compliance with minimum international standards pertaining to the crime of human trafficking and that this Government is seeking to address the issue in its embryonic stages before it becomes a widespread criminal activity.

This Bill was drafted using the RAM's Caribbean Counter-Trafficking Model legislation and explanatory guidelines published in December 2008. Hon. Senators, this model legislation is a product of collaborative discussions among distinguished legal experts from 10 Caribbean countries, including Trinidad and Tobago, Caricom agencies and the United Nations International Children's Emergency Fund (UNICEF).

The model represents the efforts of the framers to correct the weaknesses inherent in the domestic legislation of respective Caribbean territories in relation to this offence through the creation of specific and comprehensive counter-trafficking legislation. It was developed as a generic document which could be modified for use in the respective countries which form the Caribbean Community.

The Bill was also drafted with close reference to the protocols supplementing the UN Transnational Organized Crime Convention and the UNODC international framework for implementation of said protocol.

Please note, Madam Vice-President, that trafficking in persons legislation from a number of Caribbean and Commonwealth countries were also reviewed by the multi-sectoral task force, as well as our legal drafters, in order to formulate the most comprehensive counter-trafficking legislation for the Republic of Trinidad and Tobago, which is what we have before us today. Hon. Senators, legislation to effectively counter this global challenge must depict an integrated plan of action which focuses on the tenets of prevention, protection, prosecution and partnership.

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This Bill was passed in the other place with some pertinent revisions that augur for clarity and I would be grateful for the opportunity to take this honourable Senate through its provisions.

Madam Vice-President, there are seven parts to this Bill encompassing 48 clauses.

Part I: the first part is preliminary in nature and consists of four clauses. Clause 1 is the short title, that is the Trafficking in Persons Bill, 2011. Clause 2 is the commencement clause and this provision allows the Ministry of National Security to ensure that all administrative mechanisms are established so that implementation could commence upon proclamation.

Clause 3 is the interpretation section and it delineates various definitions from the UN protocol which is the basis for this legislation as well as commonly accepted terms.

Clause 4 is the object of the legislation which is to prescribe measures to prevent and combat trafficking in persons through various methods which would augur for the protection and assistance of victims, the facilitation of efficient investigation of cases; the facilitation of prosecution of individuals and organizations and the promotion of cooperation between Trinidad and Tobago and other states. The object clause, though not typically inserted in our laws is intended to show the purpose of the legislation and keep us focused on that purpose without attempting to override what is the clear and unambiguous text of operative provisions.

Madam Vice-President, with the proceeding overview of the basis of this legislation I would now like to treat with the substantive provisions.

Part II: Madam Vice-President, it is becoming common for governments to establish departments, desks, committees, units or task forces to inter alia, formulate strategies, identify and prosecute traffickers and improve the treatment of victims. We are proposing that two bodies be legislatively established to perform critical functions related to our legal and moral obligations. These are the national task force which is the focus of Part I, and the Counter Trafficking Unit, which is the subject of Part III of this Bill.

Clause 5 establishes a task force which is to be known as the national task force against trafficking in persons.

Clause 6—

Sen. Hinds: I am terribly sorry. Would you be kind enough—you mentioned 11 cases a moment ago?

Sen. Al-Rawi: Ten.

Sen. Beckles-Robinson: Yes, 11.

Sen. Hinds: Ten or 11 cases you mentioned a moment ago?

Sen. Beckles-Robinson: Six and 11. In 2009 I think you said 11 incidents?

Sen. The Hon. Brig. J. Sandy: I am not sure what you are asking, so how should I know.

Sen. Beckles-Robinson: No, from the report.

Sen. Hinds: Yes, from the report you mentioned that there were some 10 or 11 cases in Trinidad and Tobago. Is that what you said?

Sen. Beckles-Robinson: In 2009, 11 incidents.

Sen. Hinds: I just want some clarification on that, if you would be kind enough.

2.20 p. m.

Sen. The Hon. Brig. J. Sandy: There are cases reported in Trinidad and Tobago and because we have no legislation, they cannot be substantiated.

Sen. Hinds: I would like some clarification please, if you will be kind enough.

Sen. King: Later.

Sen. The Hon. Brig. J. Sandy: Later. Yes.

Sen. Hinds: No, no, this is serious. You know it is not a joking matter. This is serious.

Sen. King: It is important that we hear the Bill.

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, I beg your protection as I said, it is 48 clauses. I would like to get it flowing. We can deal with all these things later, please.

Madam Vice-President: Hon. Senators, would you please allow the Minister to move the motion, and if it is that you have concerns, certainly you can request from *Hansard*. [*Desk thumping*] No, no, I understand that, I am not saying no. All

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I am asking is that the Minister be allowed to make his presentation and you can always ask for clarification afterwards. [*Crosstalk*]

Sen. Hinds: In all fairness, we are entitled to ask for clarification at any stage during his presentation. Nothing is wrong—[*Interruption*]

Madam Vice-President: Could you kindly allow the Minister to finish, so you can always ask or seek clarification after, rather than interrupt his presentation at this time. So maybe you can listen and let him finish his presentation, he will tie it in, and let him go through the explanation of the Bill.

Sen. Hinds: Madam Vice-President, I just want to be very clear on this. The impression that I am getting from your comment is that something is wrong about asking the Minister to elucidate while he is making his presentation. Nothing in the Standing Orders makes that wrong. So while I understand what you are saying, the impression that I am getting is that you are now saying, contrary to the Standing Orders, that we should wait until he has finished his presentation.

Madam Vice-President: Hon. Senator, I am not saying anything that is contrary to the Standing Orders. In fact, I am simply indicating that, please allow the Minister to continue his presentation and all Members will have a chance to contribute in their own time.

Sen. Hinds: That is not the point, Madam Vice-President. With great humility [*Crosstalk*] I am making a point, I am speaking here. Madam Vice-President, you are saying you are not making a statement contrary to the Standing Orders. But if you are suggesting to Members that we wait until he is finished and then we raise issues during our contributions, then that is contrary to what the Standing Orders allow. We are entitled to seek elucidation once he gives way during his presentation. That is all we are saying. That is what the Standing Orders permit. I was getting the impression that your comment was suggesting that we do not do that.

Madam Vice-President: Senator, I do not intend to continue with this with you. I am not. You have gotten the wrong impression. Minister, could you kindly continue.

Sen. The Hon. Brig. J. Sandy: Thank you most kindly, Madam Vice-President. The IOM reports indicate that in the last year there were six cases of human trafficking and in 2009, 11 such incidents.

Sen. Hinds: Thank you very much.

Sen. The Hon. Brig. J. Sandy: I beg your indulgence to keep your ears open so that you will hear me. Madam Vice-President, if I may continue, clause 5 establishes a task force which is to be known as the National Task Force against Trafficking in Persons.

Clause 6 outlines the functions of this task force which include—but are not restricted to:

- The development of a national counter-trafficking plan for the prevention of trafficking in persons and children;
- The development of other plans in consultation with representatives of civil society which aim to provide victims of trafficking with appropriate housing, employment, psychological counselling, medical assistance and legal information;
- The coordination of the collection and sharing of trafficking data among government agencies.
- The strengthening of bilateral, multilateral local and regional capacities to assist trafficking victims, prevent trafficking, prosecute traffickers and enhance cooperative efforts between destination countries and countries of origin;
- The evaluation of all public awareness programmes to ensure their effectiveness and the measuring as well as evaluation of the progress of Trinidad and Tobago in the areas of trafficking, prosecution, prevention, protection and assistance to victims.

As is abundantly clear, Madam Vice-President, from this clause, the task force will be critical to policy formulation, partnership and oversight of the counter trafficking unit. These functions are not perfunctory, these are serious responsibilities and the Government felt that the highest level of representation is required.

Clause 7 therefore, reflects that this committee will comprise: Ministers, appropriate senior Government officials, appropriate non-governmental officials and other persons with the relevant expertise. There can be no dispute that this selection is indicative of the commitment that we in Government place on the issue of trafficking. Permit me, Madam Vice-President, to refer to Nobel Peace Prize winner and former President of Costa Rica, Mr. Oscar Arias Sanchez, who reminds us that the more freedom we enjoy the greater the responsibility we bear towards others as well as ourselves.

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The Republic of Trinidad and Tobago is a democratic nation which can boast of extensive freedoms. Much therefore is expected of the people of Trinidad and Tobago when it comes to the issues of human exploitation and enslavement which abrogate freedom. Madam Vice-President, hon. Senators, some may say that it is sufficient to deal administratively with matters pertaining to the task force and its functions, we maintain however, that enslavement is not a trifling matter. It therefore requires a more aggressive and responsible stance. The protection of human dignity and rights demands that we adopt a radical approach of having Ministers engaged in counter trafficking task forces as is done by the United States of America and in Guyana.

Madam Vice-President, traffickers are ruthless and we must strive to be legally hard-nosed if we are to thwart their dastardly activities. Justice must not only be done, it must be seen to be done. So, too, we must show in print and by our actions that this country will be adopting the most stringent methods to counter trafficking. Accordingly, it stands to reason that the members of this task force must be as proposed. Further, legislating for these matters provides invaluable information to victims. It will guide countries of origin in its collaboration with Trinidad and Tobago and it reflects that we are determined not to be a country of origin, an in-transit country or a country of destination. Of course, it also serves to underscore this Government's policy of accountability and transparency.

Madam Vice-President, clause 8 reflects that the Chairman of the task force will be appointed by His Excellency the President from among the Ministers.

Clause 9 empowers the task force to regulate its own procedures and deals with matters such as frequency of meetings, the appointment of a secretary and confirmed minutes. Again, Madam Vice-President, although most of these provisions can be treated with administratively, there is no harm in inserting them in this Bill as there are several other enactments that do incorporate this type of information which will afford the greatest level of transparency and accountability.

Clause 10 is an example of good governance, to the extent that persons whose interest could be affected by a determination or decision of the task force must declare that interest and cannot be present at meetings when the particular subject matter is being deliberated.

2.30 p.m.

What we are striving to do by incorporating administrative matters is give effect to the object of the legislation by prescribing measures to combat trafficking in persons, and I trust that colleagues on the other side will appreciate this approach and give the required support.

Part III: We have spoken at length on the policy aspect of our multidisciplinary approach and I now wish to provide details of the operational thrust of our strategy. Clause 11 of Part II establishes the Counter Trafficking Unit within the Ministry of National Security. This unit will be headed by a director who will be appointed by the President for a period of three years in the first instance. This unit will also comprise a deputy director and the legislation is not ambiguous with regard to the desirable qualifications and experience.

The director and deputy director must possess a combination of qualifications and experience in international relations, management, law or security. In addition to the director and deputy director, the Schedule to this Bill enumerates the composition of the Counter Trafficking Unit and this honourable Senate will note that the unit will be staffed by suitably qualified and experienced public officers, authorized officers who are defined as designated persons, such as police officers, immigration officers, social workers, communications specialists, administrative staff, an attorney-at-law and such other officers that are necessary for carrying out the purpose of this legislation.

The competencies of some of these staff members are also set out in the Schedule and some of the core requirements relate to investigations and interviewing skills, understanding and recognizing symptoms of victim traumatic stress disorder, assistance to and protection of victims, evidence and intelligence gathering, cooperation and fluency in a language other than English. This Schedule can be amended by Order subject to negative resolution. Rest assured, hon. Senators, this measure allows for ease of adjustment to the particulars outlined in the Schedule yet retains Cabinet as well as parliamentary scrutiny.

Clause 12 sets out the functions of the Counter Trafficking Unit and some of the core responsibilities are:

- victim identification;
- evidence gathering;
- operation of a hotline for the reporting of possible cases of trafficking;

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- receiving, analyzing and investigating reports of possible cases of human trafficking;
- liaising with appropriate agencies, international organizations and civil society in order to provide protection and assistance;
- preparing and implementing public awareness programmes; and
- conducting research, collecting data as well as analyzing that data with regard to trends and patterns of trafficking.

This unit, with the task force, will perform all required activities to ensure that this country fulfils its mandate to prevent, protect, prosecute and partner. The added dimensions of rescue, rehabilitation and reintegration will also be focal points for this nation as we strive to curtail slavery in the 21st Century.

Part IV: this part is specific to entry, search and seizure. Effective investigation allows for the collection of compelling evidence which will result in successful prosecution. This provision, therefore, provides for a police officer to enter premises, search those premises and seize articles, vehicles or property found in the course of such search. Due process is, of course, observed, as the police officer must provide information on oath to a judge, magistrate, clerk of the peace or a justice of the peace. Those officials must, however, be satisfied that there are reasonable grounds for suspecting that evidence of, or relating to an offence, is to be found on the premises before issuing a warrant to enter, search and seize. At times, based on the information received, persons from the Counter Trafficking Unit may have to accompany the police officer to provide assistance. All of these persons in attendance, including police officers, must be protected from persons who seek to threaten, assault or obstruct. Clause 14 therefore makes it an offence to obstruct, and upon summary conviction such a person is liable to a fine of \$15,000 and imprisonment for three years.

Part V: this part of the Bill is just as significant as the foregoing provisions. This is where offences are established and concomitant penalties identified. Prior to reviewing these offences, there is need to describe human trafficking, as too often the media and even members of the public, whether unwittingly or deliberately, inextricably link matters of exploitation and disappearances with human trafficking. This is not always the case, so for clarity I would like to speak to the elements of human trafficking.

Trafficking in persons and children is defined in clause 3, and you and hon. Senators would note a slight distinction between the two definitions as the elements of the offence are not wholly the same. This is the reason for having separate definitions. When we are speaking of trafficking in persons, there must

be three components; namely, the act, the means and the purpose. The act refers to what is being done, such as recruitment, transportation, transfer, harbouring or receipt of persons. The means used to carry out the act refers to how the act was done. This usually involves threats, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, giving payments to a person in control of the victim as well. There is no need to prove the means used when children are being trafficked, and this is the distinction sought to be drawn by having two definitions. The purpose speaks to why this crime is perpetrated and the reason is exploitation of man, woman and child.

When we discuss human trafficking, let us be clear we are talking of an integral trade in human beings for the purpose of exploitation—slavery. There are systematic vulnerabilities in many countries that provide a fertile ground for the establishment of trafficking strongholds in any country. Matters such as ignorance, poverty, material expectations, cultural factors, absence of effective birth registries, lack of education and aggressive recruitment by partner agencies, are just some of the variables that must be addressed by individuals, civil society and the Government.

As you are quite aware, Madam Vice-President—and I am sure Senators in this honourable Senate are—some of the methods used in controlling these victims include seizure of passports; some perpetrators go as far as to make jails of their respective homes for some of these victims who are brought in the guise of house servants, and we have seen situations here in Trinidad and Tobago where some of our foreign neighbours have had reason to go to their respective embassies seeking asylum in that regard.

We are committed to the process of re-engineering the way we deal with human trafficking which started with public awareness campaigns and continues with this Bill, to ensure that we are not a country of origin, a destination country or an in-transit country. Trafficking can affect any nation, as I have said before. Prostitutes can be trafficked; children are sometimes sold to pay off the debts of parents; the adoption process can be abused to facilitate trafficking of babies and pregnant women, and persons can be lured by promises of love; opportunities of a better life. In some instances we know, or we have read of people being trafficked to use their body organs in other countries.

Trafficking may now be the new crime of choice, as risks are low in some countries as there is a high profit potential. It cannot be disputed that perpetrators benefit financially from compelled service while their prey are exploited, beaten, raped,

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prostituted, starved, enslaved and trapped in a life of degradation. What may have started as a dream of a new life for some, quickly transformed into a dominated existence of forced labour and sex trafficking.

I cannot help but underscore that victims are stripped of their freedom, especially as they are isolated, have no money and their identification as well as travel documents are taken away. They are forced into child marriages and to work as prostitutes, strippers, drug mules, smugglers, child soldiers, child camel jockeys in domestic work or in gruelling jobs. Many are used for the purpose of creating pornography, while others are killed or tortured for their organs. The perpetrators do not act alone, especially as trafficking is at times one component of organized criminal activity. Traffickers have their support systems to facilitate these heinous activities, and this Government will take all necessary steps to eradicate facilitators. There are too many entities that appear to be legitimate but are actually being utilized, whether they are aware or not, to foster exploitations. Hotels, motels, construction sites, taxis, massage parlours, brothels, landlords, recruitment agencies, taxi services, financial services and transportation companies, must now be on their guard as closer scrutiny will be placed on them.

We hear of the stories in our rural areas where poor, not well-informed young people are offered jobs and this is the manner in which they are lured into a life of slavery. Foreigners have come here for a better life, because they have been offered that in other countries. They go to these recruitment agencies; they are told, "Bring your documents. We are taking you elsewhere to be recruited" and they are never seen again by their respective families. They are shipped to other countries and are forced into labour as slaves.

The impact of trafficking is far-reaching and the consequences are dire. There is lost childhood, premature death, diseases, post-traumatic stress disorder, broken bones, stunted growth, permanent damage to reproductive organs, tuberculosis, victimization, persecution, suicide, poverty, drug and alcohol-related problems and physical scars.

2. 45 p.m.

Madam Vice-President, the cost of catering to the needs of survivors is indeed astronomical; however, this Government shall engage in a victim-centred approach to assist and protect all victims.

I think the worst aspect of it is the trauma experienced by victims which changes their lives entirely. And we hear of instances where parents may go back

to their children and the children do not even know them, because they are changed people. This crime goes hand in hand with kidnapping; as such, the same elements that exist in such criminal activity exist here in human trafficking.

Images of slavery and exploitation in movies, stories, books and writings are forever etched in our minds. We shall never ever expunge from our psyches, the acts, rationale, the pain, the fear, the cruelty, the inhumanity, the effect on the family, the impact on society and the cost to the world. We must, therefore, ensure that the risk is made too high for traffickers by taking essential measures, such as proposing sentences that are proportionate to the crime.

Madam Vice-President, we recall the document produced by Mrs. Debbie Ali entitled “Barefoot”, where she identifies and explains to her readership the experiences she had while being captive as a kidnapped woman. Having looked at that document, one would understand the effects that it has, not only on the victim, but on the victim’s relatives as well.

This is an appropriate juncture to resume our review of the Bill, starting with the criminal offences and related provisions of Part V. Hon. Senators, section 68(2) of the Interpretation Act directs that where a minimum penalty or fixed fine is stipulated for an offence, the court is to instead treat that provision as if it is a stated maximum fine. We are of the view, however, that we as legislators should dictate the minimum penalty and allow the court to use that figure as a benchmark, instead of the maximum extent permissible by law.

As such, we are saying in clause 50 that this stipulation of the Interpretation Act shall not apply to specified penalties within clauses 16 to 19. This means that where there is a reference to a minimum penalty it would operate as a minimum penalty.

Clause 16 creates the offence of trafficking in persons, and clause 17 makes it an offence to incite, organize or direct another person to traffic in persons. Both these offences, on conviction, will attract a fine of not less than \$500,000 and imprisonment of not less than 15 years. Clause 18 creates the offence of trafficking in children, while clause 19 makes it an offence to incite, organize or direct another person to traffic in children. Both those offences, on conviction, will attract a fine of not less than \$1 million and imprisonment of not less than 20 years. There is no need to extrapolate on the rationale for imposing a higher penalty where children are trafficked. Children are our most vulnerable, and we must instill fear in those who choose to deprive children of an education, their youth and family life. That freedom to play and be a child must not be taken away from our children.

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Too often, as a defence to the illicit activity, an accused seeks to rely on a victim's consent to the exploitation, sex or marriage and refers to the victim's past sexual behaviour. Clause 20 serves to deem these matters irrelevant for the following reasons: firstly, although an adult victim may have initially consented to accompany a trafficker, in order to achieve some particular end result, for instance marriage or a better job, the means used by the trafficker will serve to nullify that consent. Further, even if a person has attained the legal age to consent to sex, it does not serve as consent to be trafficked. Secondly, our Sexual Offences Act already renders evidence of past sexual activity and reputation inadmissible, and we support the extension of such provision in this Bill.

I have outlined the primary offences which will attract minimum penalties in this Bill. However, the expert group which developed the model legislation expressed the view that the State should prescribe sentencing guidelines for aggravated circumstances. Clause 21, therefore, identifies those matters for which a court could impose an additional sentence of 15 years. Such circumstances include the use of a dangerous weapon. The fact that trafficking was part of the activity of an organized criminal group, the trafficked person was exposed to a life-threatening illness in the course of trafficking or exploitation, and the trafficking occurred as a result of abuse of power.

Where a person has been convicted of trafficking in children or inciting, organizing or directing another person to traffic in children, the court would also be empowered to impose a term of imprisonment for the remainder of the person's natural life.

Finally, where certain officers are found to be guilty of any offence in this legislation, they would be liable to imprisonment for 25 years. In this regard, there are certain officers, such as police officers, defence force officers, customs officers, immigration officers and officers of the prison service, who may, in the course of duty, have cause to interact with minors; an additional duty of care is entrusted to these officers by virtue of their oaths of office. Should this nation have to lose confidence in these officers, by virtue of their illicit actions, they must be appropriately punished.

Madam Vice-President, States are required to criminalize the offence of trafficking; however, it was recognized that there are concomitant activities which should be penalized. Clause 22 represents one such form of criminality, that of the unlawful procuring, destroying, concealing, removing, confiscating or possessing of any travel document or identification document belonging to another. These

acts are engaged in to instill fear of deportation and render submission to the trafficker, so they would not be condoned. The penalty for conviction is, therefore, a fine of \$350,000 and imprisonment for 12 years.

Clause 23 focuses on the transportation of persons for the purpose of exploiting that person's prostitution. This term is defined, and hon. Senators would note, that where there are aggravated factors, as are cited in this clause, the court can order that the conveyance used for transporting the victim be forfeited by the State. As was said earlier on, it is similar to kidnapping where there is a team involved.

In order to stifle this lucrative enterprise, there must be forfeiture of assets. Clause 24 serves to empower the State to forfeit property and benefits gained from the proceeds of the crime of trafficking and the same would accrue to the seized assets fund established under the Proceeds of Crime Act (POCA). Overseas assets are also subject to forfeiture, and the forfeiture will be effected in accordance with the Proceeds of Crime Act. Consequential amendments, of course, must be made to the Proceeds of Crime Act to give effect to this provision.

Clauses 25 and 26 create offences of knowingly receiving or obtaining financial or other benefits from trafficking in persons and children. The penalty on conviction is a fine of \$400,000 and imprisonment for 15 years, where the offence relates to adults. However, with regard to children, the penalty will be a fine of \$500,000 and imprisonment for 20 years. We must, through these penalties and others, discourage the demand that fosters that exploitation.

Madam Vice-President, corporate liability must exist for all offences identified in this legislation. To this end, clause 27 penalizes a body corporate, on conviction, to a fine of \$5 million. Further, officers, directors or agents of a body corporate who directed, authorized, consented to, acquiesced or participated in the commission of the offence are liable, on conviction, to the punishment provided for the offence.

Clause 28 seeks to provide the court with the ability to impose additional penalties, such as revocation of licences and order for winding up, forfeiture of assets and properties as well as a prohibition from performing any further activity. By these penalties we have strived to observe the general rule which is, of course, subject to exceptions, that punishment should serve four functions, mainly: retribution, rehabilitation, incapacitation and deterrence. As such, we again urge honourable Senators on the other side to view the penalties proposed for slavery and exploitation, in light of these principles.

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Madam Vice-President, compensation is an integral component of the UN trafficking protocol. Article 6 of this protocol mandates that each State party shall ensure that its domestic legal system contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damages suffered during the trafficking process. As it is not the State that is perpetrating the wrongs, there is discretion as to the extent of the compensation to be awarded. We propose that clauses 28 and 29 are collectively sufficient to establish a mechanism for victims to be compensated.

The three-pronged approach to compensation suggests firstly: it is expected that the court would order that traffickers pay compensation to victims or compensation would be derived from the proceeds of any property forfeited. Compensation in these instances shall be adequate and shall compensate for prescribed matters such as housing, medical and psychological treatment, loss of income, attorney's fees, emotional distress, pain and suffering, and shall be paid as soon as practicable after the making of an order and will be in addition to any other remedy or penalty in relation to the offence.

The rules committee will be empowered to make rules to treat with any order of restitution made, and in the absence of such rules the judge may give appropriate directions.

Secondly, the victim may apply to the court for compensation and, thirdly, the victim can also apply for relief under section 29 of the Criminal Injuries Compensation Act. As a consequence of this entitlement, this Bill will amend the schedule of offences in the Criminal Injuries Compensation Act to ensure that an application can be made where an offence has been committed, in breach of this human trafficking legislation. Whilst no amount of money can ever place the individual in the position he or she was in, prior to being trafficked, there cannot be double or triple compensation. The court will therefore take into account the quantum previously awarded when making a further order.

3. 00 p. m.

Finally, I wish to point out that the victim's absence from Trinidad and Tobago will preclude him from being compensated.

This now brings me to another provision that seeks to protect and assist victims, clause 31. In most instances a trafficked victim is lured and then forced into committing crimes such as prostitution, pornography, breaching immigration

laws as well as trafficking in dangerous drugs, arms and ammunition. The question therefore is whether trafficked persons should be immune from prosecution as they were forced to participate in the illegal acts. In discussions it was submitted that total immunity from prosecution is not typical, and further, some persons who were actually accomplices or complicit in the crime would attempt to pervert the course of justice by claiming to be trafficked. In fact, some persons who enter Trinidad and Tobago, whether legally or illegally, and later contravene immigration laws may seek to avoid deportation and other penalties by claiming to be trafficked.

A victim may not wish to remain in Trinidad and Tobago after being rescued so clause 39 ensures that the Ministers of Foreign Affairs and National Security collaborate to facilitate the safe repatriation of victims and any accompanying dependants to the country of citizenship or lawful residence.

Clause 46 empowers the Minister to make regulations for giving effect to the purposes of this legislation. Clause 47 allows for the amendment of the Criminal Injuries Compensation Act, the need for which was discussed early in my presentation and finally clause 48 speaks to the jurisdiction of the court.

Madam Vice-President, I have already discussed the schedule which is specific to the counter trafficking unit. The 2010 TIP Report declares that a good anti-trafficking law should contain the following provisions:

- broad definition of the concept of coercion;
- a well-articulated definition of trafficking and the facilitation of law enforcement and the prosecutorial responses;
- the collection of meaningful data;
- a mechanism of care provided for all suspected victims of trafficking, explicit immigration relief for trafficking victims,
- specific protection for child victims of trafficking, and
- explicit provisions ensuring that identified victims have access to legal redress to obtain financial compensation.

We have responded to the call to action by incorporating all of the required elements into this Bill, thanks to the efforts of individuals and organizations who and which were instrumental in developing the policy framework formulating this

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legislation and engaging in outreach programmes. As we progress in our efforts to counter human trafficking, the Government expects that there will be greater evidence of corporate social responsibility being exhibited by the private sector.

In closing, I wish to remind this honourable Senate that slavery and indentureship are no longer stories of our forefathers; this could be the story of our own children, relatives, friends and associates, despite constitutionally enshrined rights. This Bill heralds a stage in our history where as a nation we can make a difference to stymie the efforts of traffickers. The task ahead appears formidable, but together we can prevail and surmount.

Therefore, in the words of Mr. Ban Ki-Moon the Secretary-General of the United Nations and I quote:

“It is up to each and every one of us to raise our voice against crimes that deprive countless victims of their liberty, dignity and human rights. We have to work together to realize the equal rights promised to all by the United Nations Charter. And we must collectively give meaning to the words of the Universal Declaration of Human Rights that no one shall be held in slavery or servitude.”

With these words, Madam Vice-President, I beg to move. [*Desk thumping*]

Question proposed

Sen. Faris Al-Rawi: [*Desk thumping*] Thank you, Madam Vice-President. I rise to join in the debate of this bit of framework legislation. Trinidad and Tobago is faced with an opportunity today to encapsulate a remedy to horrific crimes. I have to confess that in preparation for this debate, at times I felt sickened by the subject matter. I am sure every Member of this honourable Senate and anybody who considers the core subject matter that we are seeking to deal with would have felt sickened. We are talking about the most heinous acts known to mankind: enslavement, debt bondage, child pornography, trafficking in human beings it really is a reflection of how dark humanity can be. And I am happy that we stand as a Senate this afternoon to join together in seeking to take a solid step to wipe out the type of scourge that humanity needs to be without.

It is with compliments that I offer the hon. Sen. Brig. J. Sandy sincere congratulations on having the honour to pilot this bit of legislation. I would hearken back to the fact that my first cry is that the legislation itself is late. Regrettably we are back into the Parliament for a second week running avoiding a difficulty—if I put it at its lowest—and that is, that we as a nation face—I would not use the term “blacklisting” which my friend, hon. Sen. Hinds has difficulty

with—but we face negative listing and prejudice as a result of our tardiness in coming forth as a country to deal with the United States' imposition, a very good one, of a global standard onto this country. I speak specifically to the Congress Report which is laid in the United States which deals with their trafficking victims' protection legislation. As you would know: that legislation was first piloted in the year 2000; it was then amended in 2003; and in fact, amended again in 2008; and the elephant in the room that we are dealing with, because there has been no statement to this fact, is that Trinidad and Tobago faces negative listing and movement down to Tier 3 on the ranking by the Congress of the United States of America.

On that note, I will put one of the mischiefs that we are seeking to deal with in piloting this legislation as that. Firstly, that is, the CRS Report for Congress, that is the Trafficking in Persons US Policy and Issues for Congress specify that the United States in its desire to draw the global community into a tighter cooperation has established a system of ranking—there are four rankings that the United States Congress offers to countries around the world. The hon. Sen. Brig. J. Sandy did mention one of those listings when he indicated that Trinidad and Tobago first came on to the radar in the United States in the year 2009 when we were ranked at Tier 2.

For the benefit of those who are paying attention to this debate, I will ask the national community to note that the four tiers that we are dealing with are Tier 1 which is made up of countries deemed by the State Department of the United States of America, to have a serious trafficking problem, but who fully comply with statutes minimum standards for eliminating traffic; that is Tier 1.

Tier 2 includes the largest number of countries—some seventy-plus countries, which are viewed as not fully complying with those standards but which are seen as making significant efforts to bring themselves into compliance. Madam Vice-President, I am quoting from the CRS Report for Congress, Trafficking in Persons US Policy and Issues for Congress as it was dated at August 14, 2008.

3.10 p.m.

Madam Vice-President, Tier 2 Watch List is in fact the next category, and that was first added as a category in the year 2004. In 2007, it was made up of some 40 countries and those are, as hon. Brig Sandy informed us, countries which are taking steps but which are not seen to be serious in either the steps which they are taking or in the implementation of measures which they have on their books.

Lastly, we have Tier 3 which is viewed to be countries making no steps at all and or not seen to be participating in taking serious measures against trafficking in persons.

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As a result of the 2008 amendment to the United States legislation—and that was piloted by William Wilberforce, Trafficking Victims Protection Reauthorization Act of 2008:

“...any country that has ranked Tier 2 Watch List for two consecutive years (beginning from the time of the 2009 report) and that would otherwise be ranked Tier 2 Watch List for the next year will instead be ranked Tier 3 for the next year, unless the president”—of the United States—“waives application of this provision based on a determination that, among other things, that the government has a written plan for meeting the”—American legislation—“TVPA’s minimum standards.”

So the elephant in the room identified, the first one is that we are here to avoid a negative listing, a very serious one. And for the benefit of those who are following this issue, I wish to inform some of the penalties for Tier 3 listing. You see, there having been a trajectory in Trinidad and Tobago’s experience in developing this legislation which began in the year 2003 with several point markers in 2004, 2005, 2006, 2007, 2008, January 2009 and July 2009, there having an established track record and a build-up of momentum in dealing with this, under the People’s National Movement, it is imperative for us to appreciate where the penalty lies and how we have come to find ourselves there, if only so that we do not have it repeated.

The Tier 3 penalties pursuant to the Trafficking Victims Protection Act in the United States say:

“...governments of countries on Tier 3 may be subject to certain sanctions, whereby the U. S. government may withhold nonhumanitarian, non-trade-related foreign assistance. Such assistance may be withdrawn from countries receiving it, and in addition, countries on Tier 3 may not receive funding for government employees’ participation in educational and cultural exchange programs. Consistent with the TVPA, governments subject to sanctions would also face U. S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions such as International Monetary Fund (IMF) and the World Bank.

Imposed sanctions will take effect October 1, 2010...”

Now, Madam Vice-President, that is a serious marker for Trinidad and Tobago if one were to appreciate that in 2009 the then government, the People’s National Movement, in fact as hon. Brig Sandy informed us, established a multi-sectoral task force. That task force was given a strict nine-month time frame to

come up with, in particular, legislation to take us beyond this point and to take us to avoiding any downgrading from Tier 2 to Tier 2 Watch List and from Tier 2 Watch List to Tier 3. And specifically, in October 2009, when that multi-sectoral task force was put together it was comprised of persons including one Nafeesa Mohammed, and it is conspicuous to note that the work of the task force in a 10-month time frame that was ascribed to it for product was significantly hindered by the fact that Nafeesa Mohammed in discharging her duties was relieved of her duties when the Government changed and the Attorney General took office. I say no more than that, save that, we as a country need to be careful not to throw the baby away with the bath water.

You see, Madam Vice-President, what happened in June 2010 was that the policy framework and the model legislation prescribed for Trinidad and Tobago was submitted to the People's Partnership Government and nothing happened until today in the sense of when the legislation was brought. I will not be disingenuous and say that nothing was being done, but dare I say I do not believe that enough was being done, and I say so because you would recall that in February of this year when we were debating the amendments of the Financial Intelligence Unit of Trinidad and Tobago Bill, that I had cause in my complaint of the Government as to why it was bringing amendments of the type that it sought to bring then which I called trifling or trivial amendments, as proven by the fact that more substantial amendments were brought and there are more substantial amendments to come as the hon. Attorney General has promised. But I made the complaint then in February, and in fact it was in the course of your presentation to the honourable Senate that I asked the Government to take notice that Trinidad and Tobago had been downgraded and that Trinidad and Tobago was late in the production of its legislation. Dare I say that it is my belief until proven wrong, that that was the first time that it echoed in certain minds across the divide that sits between Opposition and Government.

Now, I say that insofar as the Special Anti-Crime Unit of Trinidad and Tobago in its report to the Government, warned of the position that we were in as of June 2010 and gave a specific warning that if we did not lay legislation within six months of June 2010 that we were going to suffer the downgrading to Tier 3 as a result of the Trafficking Protection Victims Rehabilitation Act, 2008 as amended in the United States, and that is the specific case.

So, today, dare I say that we are in the same position we were in last week when we allowed amendments which were poorly thought out to pass, because I do not believe that Trinidad and Tobago has the room not to pass this legislation

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today. So I think that it is a sad day when we have not been told the fact that this legislation has to be dealt with today. Dare I say, that the proof of that argument, the veracity of that argument, lies in the fact that the trafficking in persons legislation has been rushed through this Parliament and superseded all other Bills which were laid before us for consideration including the Anti-Gang and the Bail (Amdt.) Bills, which we only just finished because there were two pieces of legislation that we had to deal with: one was the amendments to the Financial Intelligence Unit of Trinidad and Tobago Act and the second one is the one we are dealing with now. So let us call a spade a spade today, and let us not apologize or feel discomforted for the fact that the Opposition must keep the Government on its toes. In fact, we have been discharging our responsibility because since February of this year in an earlier debate, we warned the Government that it was late in bringing the legislation; legislation which was prepared and sitting on the table for implementation.

Madam Vice-President, with that stated and with the understanding that we are seeing the effect of private international law and public international law meeting national legislative agendas, I wish to pause on the point of a legislative agenda. I heard this afternoon across the Senate floor, on the Benches opposite me which are now empty—and I do find it very disconcerting to deliver a debate to the Government when there is nobody sitting opposite me. Not enough. The Attorney General is not present. He is a mover and shaker of legislation in this Government, and I think that we owe some better courtesy than to have empty benches opposite us. Anyway, the point is I heard across the floor today that we are to view the Government's legislative agenda—I will put it in my own words—in arrears. I heard the Leader of Government Business tell the hon. Members of this Senate today that we are to imply the Government's legislative agenda by looking at the legislation which we have passed. Now, let me say that that is an unacceptable position and it is unacceptable when we come to drill down into the terms of this Bill.

Madam Vice-President, you will see that this Bill and the proposed Act which will be born from the Bill, correlates to a number of pieces of legislation. It correlates to the Proceeds of Crime Act. It correlates to the need for bringing the Children Act forward, and I will pause there for a moment to say it is imperative that this Government bring the Children Act forward. I do not care whatever reason it has not been brought forward, whether it is that Parliament prorogued, whatever it is; it is imperative that after one year of government that we see the Children Act and the need for it is in fact born out of the protection to victims of

trafficking in this very Bill as one of the sections deals with specifically. So I wish to put the Government on notice. I notice my learned friend, Sen. Emmanuel George, is taking notes and I hope that he is taking a note of that point. The legislative agenda must be published. It is not acceptable for us to guess what is coming because Trinidad and Tobago is the ultimate entity to suffer, as we will suffer from a downgrading or a risk of being downgraded, or having just by the skin of our teeth avoided downgrading, we must be able to factor what minefields lie ahead so that we can plot an appropriate course.

Madam Vice-President, with the general background said, understanding that the United Nations Convention which gave birth to this protocol and that we are specifically here seeking to implement the protocol which came to life on December 25, 2003—this protocol—we must remember that this protocol has two brothers. We are dealing with the trafficking in persons protocol born out of the Palermo Convention, the United Nations Convention, but there are two other protocols which are equally critical for us to factor. The first is the protocol—if you want to simplify it in terms of its appellation—as it relates to smuggling in persons, and the second brother to this protocol that we are enacting today is the illicit small arms protocol; the illicit manufacturing and trading in small arms protocol all born out of United Nations Resolution 55/25 of the year 2000.

I say so because this Bill which we are dealing with today, which deals with trafficking in persons, had originally crafted—in the entity from which the Bill was born today—and recommended that we deal with the smuggling in persons aspect. You see, that was the specific recommendation of the last PNM government because it was a recognition of Trinidad and Tobago's true character as a developing island state economy with 360 degrees of porous borders.

In fact, the best practice recommendation in relation to dealing with trafficking in persons is in fact to include the aspect of smuggling persons. Now there is a distinction to be had. Trafficking in persons does not necessarily imply movement. Notwithstanding the use of the label trafficking, it does not necessarily require movement of persons if you contemplate that trafficking may include trafficking as a destination point.

3.25 p.m.

Trinidad and Tobago having been described by the International Organization for Migration and by the United States Congress in its Trafficking in Persons Report 2010, as a source country, as a transit country and as a destination country, we factored that you do not need to move people necessarily to traffic them. That

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is distinct from saying that you are dealing with smuggling in persons which, in fact, involves the movement of persons which can feed into the transit aspect of trafficking, but is different because it usually involves a voluntary position on the part of the potential victim. That is where a victim says “I wish to be moved and to illegally enter another country”; this is what the Americans refer to, in their Mexican border issue, as a coyote transport where you are transported across the border voluntarily, but then you find yourself in a conflation of being borne now into trafficking difficulties, in the sense of that which has been defined in this Bill.

Now, Madam Vice-President, all of this discussion really lies upon the operationalization of the entity which is intended to enforce the monitoring or the three Ps—let me put it that way: the protection, the prevention and the prosecution—as they relate to the offences in the Bill, and the protecting of victims, and the education, and therefore preventing the crime.

You see, if we understand that operationalization is the key issue, we must remember that the People's National Movement had specifically envisioned the Special Anti-Crime Unit as the home to house the counter-trafficking unit which we see featuring in Part IV of this Bill. And that was so upon another substrata bedrock, that is, the relationship to border protection, and in fact, the contract period which the People's National Movement had engaged in and spent taxpayers' money on in arranging for the offshore patrol vessels. Those vessels which I know some Members opposite me are tired of hearing of, but which are the security vehicles to people in this country and which are the bedrock for protecting against the offence which we seek to create by the establishment of this legislation—trafficking in persons. [*Desk thumping*]

In fact, that might very well be the reason why the smuggling in persons was left out. How could you possibly be seeking to prevent trafficking in persons and prevent smuggling in persons—the sister aspect or the brother aspect to this protocol—when you have denuded the country of the ability to have border protection for over one year now?

On that note—because I know that persons are tired of us singing the mantra of where are the OPVs and how much we are paying—I wish to reflect upon an article which I had cause to review, and that is an article by Keith Subero, Madam Vice-President. It was published on May 01, 2011 the *Trinidad Express*. The title of the article is “Year of ‘mis-es’”. The author of the article goes on to give a reflection of whether this has been “an annus horribilis”—as he calls it—a horrible year for the People's Partnership, or whether it has in fact been a good year for the People's Partnership. But when he drills down to the issue of the offshore patrol vessels, he had this to say and I wish to quote him. He says:

“Back to reality. The full impact of the OPVs cancellation makes it clear that the decision was a miscalculation, and now as its misstep becomes clearer, People’s Partnership members have become silent.

Nonetheless, its decision has created a \$2. 5 billion bill which the taxpayer has to pay, this time to the French-based banking group, BNP Paribas, which funded the purchase of the three OPVs.

The Government is silent, but the costs are enormous. In the Coast Guard, which has been without a commander since last September, the cancellation has created a psychological crisis among personnel.

Over 100 members, some of whom spent up to three years training in the UK, have returned to an uncertain future because their specialized training is not transferable to any other vessel at Chaguaramas.

Beyond their professional crisis, the time away created marital and family crises for some. ‘There is a moral problem; many of these men are on welfare i. e. that is counselling because of that disappointment, in both their careers and family life,’ a source said last week.

The three OPVs are now on the international market, while the Government is locked in international arbitration in London, with a number of English QCs lined up to argue our case.

For National Security Minister, John Sandy the way out has been to speak to the US, Spain and Italy, not on the purchase of new OPVs, but long-range patrol vessels.

Unconfirmed reports state that the US and the British and Dutch governments have all queried the cancellation of the OPVs; they stated, diplomatically, that the Government misunderstood its international obligations for patrol and search-and-rescue operations in regional waters.

The cancellation has also made us a laughing stock because Jamaica, Barbados, Bahamas and St. Vincent are all modernizing their Coast Guard fleets.

Those reports say that the US Government continues to question the real reasons for the Government’s cancellation because in April last year the British shipbuilders, BAE, apologized for their delay in delivery, and agreed to pay this country over TT \$100 million in compensation.

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And since taking office, Minister Sandy is on public record as supporting the purchase of the vessels for which some \$30 million was spent in building specialized jetties, storage and berthing facilities.

What should we expect during the month of May? It will be ‘fete after fete’, but it should be a time of reflection: Was the People’s Partnership Government’s offerings of last May as total ‘mis’, or are we poised for annus mirabilis, a year of wonder?”

Madam Vice-President, I have raised that to say that it is not only the People’s National Movement who is speaking to the denuding of the resource of the offshore patrol vessels, it is not only the Opposition which is constantly harping on what we have termed “the dismantling of security services.” It is the people of Trinidad and Tobago who are also echoing this refrain.

Madam Vice-President, if we look at the fact that the author has pointed to the United States government wondering how we could have cancelled the offshore patrol vessels, and the United States government being responsible for not listing us at Tier 3 as we are in line to be listed now—the last rung of the ladder, unless it is we are a presidential exception—how are we to encourage good favour from the United States, if this is the view that the People’s Partnership has curried for Trinidad and Tobago?

Madam Vice-President, I turn to some of the clauses of the Bill. I wish us to reflect upon, first of all, the philosophical difficulty that I have with certain clauses. I ask Sen. The Hon. Brig. John Sandy to note the concerns which I have, because I am not going to be contradictory, I will support this legislation, for the fact that I must support it as a national of Trinidad and Tobago, but I do want Sen. The Hon. Brig. Sandy to come back to this Parliament and deal with the difficulties that we have.

My difficulties in the core context of the Bill lie firstly, in the operationalization issues which the Bill has. Secondly, in the philosophical bases which the Bill presents in the establishment in particular of the National Task Force. And thirdly, in some of the inconsistencies that the legislative proposals bear in the clauses of the Bill.

3.35 p.m.

Madam Vice-President, the Bill itself seeks in open statement to deal with trafficking in persons. Part II proposes the establishment of a National Task Force. Clause 5 of the Bill says that:

“...Task Force...to be known as the ‘National Task force Against Trafficking in Persons’.”

And that task force is meant—if you look at the construct of clauses 5, 6, 7, 8, 9 and 10 of the Bill, they are in fact meant to form the policy framework. But this Bill proposes most curiously to have a framework of Ministers creating policy for operationalization.

Madam Vice-President, if you look at clause 5 which establishes the National Task Force and then you read clause 6, you see that the functions are:

- to develop a national counter trafficking plan for prevention of trafficking;
- to coordinate its effective implementation;
- to coordinate collection and sharing;
- to coordinate sharing of information;
- to identify and engage in cooperation with foreign countries;
- to establish policies to enable Trinidad and Tobago to work with non-governmental organizations;
- to measure and evaluate the progress of Trinidad and Tobago;
- to prepare quarterly and annual reports.

Clause 7 says that:

“The task force shall comprise the Attorney General, the Ministers responsible for Foreign Affairs, Labour, Social Development, National Security and Justice.”

But, Madam Vice-President, when we are creating a team of Ministers to deal with the policy of operationalized implementation, the one thing that is missing from this core is the accountability. You see, in the previous model recommended by the People’s National Movement, the counter trafficking unit was meant to be an institution of the Special Anti-Crime Unit. It was never pretended that ministers of government would be involved in ascribing policies and implementing those policies, because they could not be held accountable, as this model shows us, other than once every five years in a general election, unless called sooner.

So, Madam Vice-President, in creating a rubric, it is true to say that we will have inter-ministerial high level coordination, but in a Parliament that is hamstrung by sheer lack of officers, we have Ministers of Government coordinating implementation of policy; implementation of policy without accountability. How

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do I fire the Minister of National Security or the Attorney General for a failure under this Act? How do I do it; other than when his ticket is revoked when the baton passes to another government, be he in that government or not?

Madam Vice-President, the difficulty in this is that you should properly be relying upon the operation of a national security council which the Prime Minister heads. There is an established procedure already in existence. The development and implementation of policy should be in the hands of those who are involved in the business of policing or the application of coercive powers of arrest, because that is broader. That includes the police, the national security services, the coast guard, the customs and its arm, the immigration authority, not the Ministers of Government, they have no seat here. And remember, Madam Vice-President, that the hardest criticism offered against the Special Anti-Crime Unit was that it reported to a Minister.

The Opposition when it then came into Government is on record as criticizing the Special Anti-Crime Unit, because they said that it had no accountability because it reported to a Minister. We heard the Attorney General today stand and say that SAUTT was illegal, in the face of no evidence of that, not one case brought against it; in the face of section 75 of the Constitution allowing it; in the face of the police regulations prior to 2006 as saved by the Police Service Act, 2006; in the face of the Defence Act all authorizing the task force. How could he stand and make that statement, a bold statement without fact or basis?

What they have done in this Bill is to institutionalize the very complaint which they offered and not at least giving us the opportunity to be able to fire or hold those Ministers responsible for dereliction of duty, or failure to carry out plans, because they cannot be measured, because it is national security. So how are we going to perform it? The golden rule of management is that if it cannot be measured it cannot be performed. I felt some degree of comfort knowing that officers who could not perform their duties could be fired. I have no ability to fire a Minister right now other than by general elections. The Prime Minister has promised the right of recall, I am waiting for that to come, Madam Vice-President, because then I will have the ability to call serious issues to recall persons, but regrettably in this model I cannot. So, whilst it is noble to say there will be coordination, in this Bill there is none, because there is no accountability for it.

Madam Vice-President, if we look to the counter trafficking unit in clause 11—clause 11, this is a recipe for disaster. And why do I say it is a recipe for disaster? We are proposing in clause 11 to establish:

“...a director to hold office for three years...and a deputy director...”

But hear what subclause (4) says:

“The Counter Trafficking Unit shall comprise suitably qualified and experienced public officers, and such other persons as set out in the Schedule...”

Madam Vice-President, does it not echo with some degree of similarity to FIU Susan Francois issue? Are we going to have the Attorney General come forward here and say that this legislation was ambiguous? He boasted a little while ago that he has appointed persons and he said that boast in the naked presence of advertisements by the PSC advertising for the post of a director and deputy director for the FIU.

What he has done is to say that we are now faced in clause 11 of this Bill with the same issue. We are going to be appointing public officers—one could argue insofar as there is an *ejusdem generis* rule for statutory interpretation, that the director and deputy director as established under clause 11(1) and (2) could be public officers. Are we going to run the route of asking senior counsel, or is he going to come to us for free advice to say this clause needs to be redrafted? If we are to accept his logic in the FIU debate which we just had—that there was ambiguity in that Bill—then we must redraft clause 11, Madam Vice-President, lest we fall into the same trap.

Madam Vice-President, if you look at the functions in clause 12 of the Bill you will notice from clause 12 paragraphs (a) straight down to (r), what we are doing here is replicating the exact functions of the Special Anti-Crime Unit of Trinidad and Tobago.

Sen. Hinds: Are you serious?

Sen. F. Al-Rawi: We are replicating the exact functions, Madam Vice-President. That being the case, why throw it away? We paid for it. One billion dollars a year [*Desk thumping*] was invested into it, and it is thrown away to be recreated in this Act, but recreated badly, because it has been denuded, because persons have been sent home. So how do we justify the value for money issues, Madam Vice-President? Clause 12 is a poor attempt to recreate, because if you look in particular at clause 12 paragraph (o), this task force, this CFU is to do such

other things as may be delegated to it by the task force. This unit must do what the Attorney General tells it to do, this unit must do what the Minister of Foreign Affairs tells it to, this unit must do what the Minister of Labour does. But, Madam Vice-President, we do not have a description of who the chairman is going to be.

3. 45p. m.

Is the chairman going to be the Minister of National Security, the Minister of Labour, Small and Micro Enterprise Development? Who is it going to be? We are dealing with an issue of confidence and if you factor into this debate the fact that this Government is in open strife with itself, who is going to be the chairman? Who is giving attention to the issues of confidence and the separation they complained was required under the Special Anti-Crime Unit of Trinidad and Tobago? Are we going to see the person anointed, the Hon. Roodal Moonilal, the bulldozer man himself, in open strife with Minister Bharath?

I watched my learned friend, Sen. The Hon. Bharath, beaten and dishevelled today, who had the courage to stand with farmers and say: “I do not care the consequences. I am drilling home the issue of conflict in this Government.

My learned friend, who also demonstrated courage, was Sen. David Abdulah. He went and he protested as well. So we have a government in open protest with itself, yet we have established in this Bill an interoperation of Ministers without definition of who the chairman will be. We do not even have a specification of how they are going to be fired or removed from office; no specification of how the directors could be removed; the deputy director and the chairman. So we are setting ourselves up for problems, if we use this Government, as they have demonstrated. I often wondered why they chose the colour yellow as their symbol in the UNC. Now I know why. It is the colour of the tractor they used to bulldoze the lands.

That is their new party symbol, the technical symbol of the yellow backhoe, where a Minister did not have the courage to apologize to people. Madam Vice-President, would you believe that the hon. Minister of Housing and the Environment had the audacity to say that law must prevail over equity? He refused to apologize for upholding the law. He said: “I am not going to apologize for bulldozing your lands because the law was on my side”. Has he not heard of the concept of equity? The maxim is—he is an attorney-at-law now and he should know better—equity prevails over law. Give the people the apology which they deserve. Work with them. We cannot be trivialized by the fact that he only bulldozed 15 acres. Fifteen acres multiplied by 5,543 square feet is how much of arable land? He put my friend, Sen. The Hon. Bharath, into problems.

Madam Vice-President, I got too far. Let me return to the Bill. I am on to Part IV: Entry, Search and Seizure. We are dealing with entry, search and seizure and I am recommending to the hon. Minister of National Security that he considers adoption of a form which would allow us to stop and search. You see this was a feature of smuggling in people. The stop and search factor for any conveyance of vessel and aircraft, et cetera, is an essential tool if you want to drill down to stopping trafficking or smuggling.

I wish him also to consider the fact that when we are looking at premises for inspection under warrant, that “premises” is in fact too narrow a definition and wish him to consider looking at the adoption of a similar form used in the Firearms (Amdt.) Act, where we looked at section 5 in the 2010 amendments in particular, occupation, control or possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon where trafficking in persons is suspected. I humbly suggest that the definition for “premises” ought to be enlarged if we want to drill down to dealing with the mischief of this debate.

On a note of tidying up the Bill lest we come back for amendments too quickly, I think that clause 14 should be included under Part V because it speaks to criminal offences and related provisions. I recommend—

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

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Hon. E. George*]

Question put and agreed to.

Sen. F. Al-Rawi: Much obliged, Madam Vice-President. I thank my learned friend, Sen. The Hon. George. [*Interruption*] No. Sen. The Hon. George is an honourable man and I recognize him as such. When I look further into the clauses of the Bill, I would like the drafters, through you, Madam Vice-President and through the hon. Minister, to consider the manner in which we define the offences. Clauses 16, 17, 18, 19 in particular and 21 seem to possess an ability to be truncated and the legislation could be tightened somewhat.

We already have in the definition section a definition of trafficking in persons and so it seems to be a little awkward to break it down in clauses 16, 17, 18 and 19 in the fashion in which we have. I think it is inelegantly drafted and perhaps we can take a leaf out of the anti-gang legislation which we passed a moment ago where we dealt with gang-related offences as offences and then tied them into gang-related activities and into a schedule. I think it could be drafted tighter.

I also ask Sen. The Hon. Brig. Sandy and his team to pay attention to clause 21. This is where we first begin to look at aggravating circumstances as they present themselves in organized criminal groups. We defined organized criminal groups in the definition section of the Bill, but the definition itself, I think, is a little weak.

If you were to look at the definition of that section and compare it to the sterling work which came up in the anti-gang legislation, you would see that perhaps we are in better need of definition because an organized criminal group is defined in clause 2 of this Bill to mean:

“a combination of two or more persons, whether formally or informally organized, acting in concert through its membership or through an agent, with the aim of committing one or more of the offences established under this Act.”

Surely we could tighten it up by tagging it on to trafficking in persons as defined or by use of a kind that we did in the anti-gang legislation. My time is short so I would ask you to pay attention to that issue for me because that could be better defined.

When we look at clause 21(3), we are prescribing that the court may impose a term of imprisonment for the remainder of someone’s natural life for someone who has sexual intercourse with somebody under 12 years of age. To me—and forgive me for being a father and a big brother whomever—I think that should be “shall”. I am not comfortable with a discretionary aspect. If we are going to send a message, we may want to send it much stronger than that, so that they will not think about doing it. That is something we should look at seriously.

If you look at subclause (5), it prescribes giving greater penalties to persons in our protective services. To put it in a nutshell: police officers, customs officers, immigration officers, members of the defence force or the prison service. My humble recommendation there is that we consider including a definition “anybody with coercive powers of arrest” as a broadening of that definition and also that we consider the inclusion of public servants. Let me tell you why.

We are prescribing models—and this Bill is one example—where public servants will be included in a task force. Public servants may run afoul of offences in this Act because they may be privy to knowledge. They may be just as important in our protection as security services and protective services. Do we want to broaden the net to include public servants?

There are many public servants—take the Financial Intelligence Unit (FIU); take the CFU and look at the involvement of public servants as authorized officers. Clause 23 of this Bill deals with a person’s prostitution and it provides conflict to clause 16 because prostitution is included in exploitation in clause 2 of the Bill.

Here in clause 23, we prescribe a fine of \$350,000 and imprisonment for 12 years; but in clause 16, which deals with exploitation for trafficking in persons, we prescribe \$500,000 and 15 years imprisonment. There is a conflict insofar as clause 23 deals only with prostitution and prostitution is defined as trafficking in persons insofar as it is included in the definition of exploitation. We have to look at whether there is a conflict in clause 23 and clause 16 because the two cannot stand side by side.

We are dealing in clause 27 with a body corporate. When I looked into the definition of that term as used in the Companies Act, Chap. 81:01, in section 4, a “body corporate” includes any body wherever it is incorporated, regardless of how it is incorporated, but does not include a corporation sole.

Again, we come back to the issue of the involvement of the public service and even the Corporation Sole. There is a question mark that I have in this application of a fine. In clause 27(2), we are dealing with “acquiesced in” and that is a dangerously wide term to use when you are offering a fine of \$5 million in 27(1) and imprisonment.

That is something we have to look at. I think that the inclusion of “acquiesced in” is dangerous. We must be cautious to balance the rights of the individual. Albeit that we all agree that we are dealing with a heinous crime, trafficking in persons and all of its subset inclusions, we have to balance the rights of individuals.

I think that clause 29 could be improved by reference to special damages and general damages as a catch-all phrase at the end of the clause lest we be guilty of leaving any other form of damages that the courts may recognize in the development of the common law. Can we have a view of clause 29 in particular?

This Bill, in dealing with the protection to victims, focuses on some very important areas which require tie-in to improvements in the criminal justice system and specifically our ability to get case management structures in the criminal courts and that is all the much more important when we factor that we are dealing mostly with laying of indictable offences in this Bill.

There is no real room for the operation of a summary offence. We have in this Senate in this term already dealt with prescription of summary offences for serious crimes and high standards. You know there is a prescription of caution as it relates to how high a fine you can go for summary offences and how high the terms of imprisonment can be. Madam Vice-President, it is important for us to understand that until there is a radical transformation of our criminal justice system, we are going to be overburdened and if we want to have effective implementation, we should perhaps consider the ability for summary route or for offences triable either way, so that we can speed up the process of conviction rates.

4.00 p.m.

Madam Vice-President, under Part VI of the Bill, Assistance to and Protection of Victims of Trafficking, we are dealing with prescriptions for changing a victim's identity. I do not know—and that is in clause 33—that there is any law in this country which allows us to give someone a new identity and new documents. I do not know how that is going to happen.

Madam Vice-President, I wish to offer a prescription to my learned colleague, Sen. The Hon. Brig. Sandy, and say that it is time for us to look at concurrent amendments to our criminal justice legislation, in particular, as it relates to the use of anonymous witness statements. That is a tool which is used in the United Kingdom, in particular, in relation to trafficking in persons offences. Now, they do not have one codified piece of legislation, but they do have separate pieces of legislation which, in effect, give the full protection.

The use of anonymous witness statements which is a very careful standard prescribed—in fact, there is a leading case on it, *R. V. Myers* and it is a 2008 judgment. Madam Vice-President, that provides very good guidance on when we wish to implement anonymous statements. If we cannot change someone's identity lawfully—because I do not know how we propose to do that under this Act—and if we cannot rely upon the criminal justice system as it is, and if we cannot seek to implement an effective witness protection programme for whatever reason, it may be important for us to volunteer an effective piece of utilization of legal technique and legal conviction that you use anonymous witness statements. Now, that is to be carefully balanced against a person's right to face his accuser. It is trite law that you should face your accuser, but it is imperative that we offer victims the ability to, in appropriate circumstances, not have to face persons who would otherwise do them harm.

Madam Vice-President, I know that I have only a couple minutes left, but there is one extremely important point for this Government to put on its unpublished, unarticulated and unannounced legislative agenda, that which remains to what my children refer to as a “snuffaluffagus agenda”; an imaginary agenda. I wish them to put on its agenda the Children Bill.

We saw an excellent piece of legislation come forward in the Children Bill, and I hope that somebody would catch the words when I say I am not interested as to why it was not brought forward. We need it to be brought forward now. My understanding is that Parliament prorogued and it lapsed. It is a Bill with some 123 clauses and it is critical legislation offering protection to victims under this Bill, and it is imperative that we deal with that.

So, Madam Vice-President, if the hon. Minister, through you, could tell us how he intends to operationalize this unit; how he intends to fund this unit; how the budgetary allocation is going; how the value for money is to be delivered when we have thrown away SAUTT and reinvented it in a poor form here. Respectfully, if the hon. Minister could also tell us what are the concurrent pieces of legislation to come to improve the criminal justice system and to improve as well the victims’ protection rights including the Children Bill, I would be very grateful, Madam Vice-President.

I thank you for that opportunity. [*Desk thumping*]

Sen. Basharat Ali: Thank you, Madam Vice-President. I was hoping I would be able to finish before tea time, but I do not think I will. I would probably go on a little longer. If you allow me, I would go to 4. 45 p. m. and I would be okay and that is a later tea.

Madam Vice-President, I wish to thank you for allowing me to make a contribution to this most important Bill before us. I was not aware that we might be on the verge of another negative listing as my young friend said, but seeing that the Leader of Government Business in the Senate said that we are going to finish earlier—we could not have 20-odd speakers and we are going to finish early. It was first seven o’clock and it is now eight o’clock. So, I do not think that we are going to be getting on that list today.

I do have some comments, having tried to do some research on this particular issue. This is not my field, but I spent some time at it for a few days. I would like to start from the very beginning just to read again, Madam Vice-President, what the long title of this Bill is. I think you may have read it a couple of times already,

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but it does not do any harm to remind us, as we go along, what the long title is. The long title says—and I have to get to it—“An Act to give effect to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto.”

So, the objective of our Bill here is to primarily put two things into place; the protocol, that protocol for the trafficking in persons and which is supplementing that convention which we also have here, the Transnational Organized Crime Convention. That convention, in fact, has two other annexes to it. From my information, that convention was tabled and passed on September 26, 2001. That is the date it was finally passed and was ratified by Trinidad and Tobago on November 06, 2007. According to my information, the Convention came into force, in fact, a little earlier in December 2000, and I believe it is called the Palermo Convention, because Palermo is a city in Italy where it was signed. Just like we had a Basel Convention, this one was in December 2000 and it is called the Palermo Convention. So, we are really trying to put that into effect.

As I said, we ratified that convention and annexes, and according to my information the date when that was done was rather peculiar. Let me see. It says here, signatory, September 26, 2001; entry into force, 24. 09. 2003; T&T ratification, November 06, 2007. Now I believe we had an election a day before that date; November 05, 2007 was probably the day of our election at that time. So we did not have a Parliament in place when this was ratified, but it was evidently something which should have been done during the Ninth Parliament, having ratified it. So we spent the whole of the —I am sorry to say that to my young friend there, Sen. Faris Al-Rawi— Ninth Parliament and we never touched it when we have ratified it. So, we have all been delinquent on this subject [*Desk thumping*] so let us not say who is to blame and who is not to be blamed. I mean, three years have gone by and nobody has done anything on it, and now we are coming and saying that we are going to Tier 3 or whatever it is. I do not know what Tier 3 is, so I am not going to get there. I want to do something to address some of the matters related to this Bill.

Madam Vice-President, before I realized it, and what I had to do, the first thing that occurred to me is that there would be a UN model law on this. So that is the first approach I made, and that was to go to the website, the UNODC website, and download that convention. I found, in fact, there is a UN model law against trafficking in persons. When I started to look at the definitions, et cetera, I really thought that was the law we were looking at, modified as necessary.

If you go to the draft law under that same heading there, you will see so many little versions as commentary which you can adapt for yourself for your own purpose. This is why I thought that is what we were looking at and I was quite happy, because I am reasonably familiar with many of these UN model agreements for fertilizer plants, chemical plants, for construction and, for example, licensing of processes. I am familiar with that, because the UNIDO particularly has done a lot of work in that direction. So, I have a fair amount of confidence in the work that goes into that. I say, well let me go there, but I realized that I had done the hon. Minister a disservice, because I never looked at how this Bill progressed through the other place.

When I did check and it was Saturday—Friday night into Saturday—I realized I did not even see it on TV. I did not have any time for it, so I promptly asked Parliament—and this was early Saturday morning—could they send me first thing or as early as possible on Monday which was yesterday, the contributions of the hon. Minister—both the piloting and the winding up—which they did. I am thankful to Hansard for doing that. Having received the Minister's contribution, I realized that there was something else called the Caribbean Counter-Trafficking Model Legislation, and I had no idea this was there, but seeing that it was mentioned in the hon. Minister's contribution, I checked with the library yesterday morning and they looked. I said that I saw something with that title but I could not download it, but they managed to download it for me; the trafficking model and the explanatory guidelines, quite a useful document, but between yesterday and this afternoon I did not have the time to really go through it. But what I could say is that there was not too much difference, in fact, between what we have in our Bill and the UN draft Trafficking in Persons Model law, and there is not an awful lot of difference in many of the areas, and the first area I always tackle is the definitions.

I put them side by side and said, "Well, look all the time I have spent has not really been lost, because I could just pick up from where I left," because I really did not have the time to do this. So I stuck with the UN law model, although I acknowledge that the hon. Minister has given us information as to how wide they have looked at it in terms of Caricom, expertise, et cetera. I am not going to get into certain parts of it; I am just going to look at some very specific areas which I would like to do. But I would like to thank the Minister very much for his presentation, and for bringing to light some of the matters that we have here.

One of the things I looked at in the hon. Minister's presentation is speaking to the four Ps. If my young friend were there, I would say well we petroleum people know about three Ps in reserves: proven, probable and possible, but the four Ps as

I learnt through the Minister refers to something else. I have the list here somewhere if I could find it in my notes. It is prevention, protection of human rights of victims, prosecution and partnership. If I remember, those were the four Ps. Of course, the hon. Minister spoke of the three Rs also: rescue, restoration and rehabilitation or reintegration.

4.15 p.m.

We well know about the 3 Rs: Reading, writing and arithmetic—[*Laughter*] but in the field of environment, I am sure the hon. Senator responsible for the environment and such other matters will say it should be reduce, reuse, recycle and renew in that order. So those were things that I appreciated in the hon. Minister's presentation.

I also was very thankful in looking at his winding up because he gave us a very fine list of what was still to be done when this Bill becomes effective—the law. If I may read, I think it is worth reading, the winding up on April 18. I will read from the text. I think it is not vetted text because it has not even got pagination on it. So I can only say it came on page 4 when it showed up for printing. This is what the hon. Minister said on that day in a very short wind up which I think summarized pretty well what was happening there. With respect, the way forward following the enactment of this legislation, the Government intends to:

1. Appoint members of the National Task Force—and I will speak to that later.
2. Staff the Counter Trafficking Unit—and I will mention that briefly.
3. Implement the public awareness campaign that was drafted by the multi-sectoral committee—that is during this Government I believe.
4. Communicate and reinforce the information sharing protocols with respect to identifying and rescuing victims and prosecuting perpetrators.
5. Communicate the template for screening of victims.
6. Initiate all necessary steps to address the issue of human trafficking on the basis of prevention, protection, prosecution and partnerships not only with our Caribbean colleagues but with the international community as well.

I have read that, Madam Vice-President, because I really think that is where we get into this National Task Force. These are all functions which have to be supervised and co-ordinated by the National Task Force. In the UN language they often speak of the inter-agency co-ordinating task force. They call it that. That is the language that they use in their draft and that is why I will come back to it.

I would like to say there seems to be some reservation about the composition of the National Task Force, as it is called—the Attorney General and five other Ministers; I would not repeat the titles. But I think in the long run when you are speaking of task force, task force has, as it implies, a job to do and in this case they are the policy arm, as the hon. Minister said, of all this work here, the law there in this respect, supplementing the Counter Trafficking Unit.

I myself, Madam Vice-President, have not really any problem because they say it is ministers who are going to be this task force. I had the honour when very young—I was still the age of Sen. Al-Rawi—I was on what was called the Coordinating Task Force which was related to the development of the energy sector. That was mid-70s, 1975 to the end of 1979; those were the years of the coordinating task force. I was a member. We were a small group of people and we had various interests. I was a contract officer working in the ministry. They had the general manager of the Industrial Developmental Corporation, he was a member; Professor Julien, who was a university professor and also Chairman or Deputy Chairman of the Industrial Development Corporation, he was a member; the Permanent Secretary, Ministry of Industry and Commerce, the late George Rampersad, he was a member; and somebody from the Office of the Prime Minister. That was the core membership of the task force which was given that big job of coordinating all the activities towards the development of the use of our natural gas downstream.

So, this coordination involved all the tasks that were there. We had committed people—it was that small group plus a small staff. It was a CEO, my good friend Carlos Hee Houng, who was a technical man and a couple of other people who were assigned projects: infrastructure work, electricity. We had full support from T&TEC; the WASA people, we always had them; town and country planning, my good friend, Snaggs. But we were all very, very committed. We had to work hard because we did not have a lot of people, and we were looking for results. I think that it is the attitude that helps rather than who constitutes the thing. We worked together as a team to get to the point where we were doing these projects at Point Lisas; whether it was a joint venture with Amoco on the fertilizer project; whether it was Iscott; whether it was developing Point Lisas Estate, and such like, those were the projects which we were doing. We were also doing aluminium smelter with Jamaica and Guyana. So, all those projects were handled by a small group of people. It is amazing how much work you can get done once everybody is committed to doing his part of the work.

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So, I am never too afraid to say, that okay, because it is five—Attorney General and five Ministers—it is not going to work but what I did find, hon. Minister, particularly, if I could address that to you, was that one needs to ensure that you have the right people to support you.

So when I go back to the Bill itself, clauses 5 and 6 of the Bill are the ones that matter from the point of view of what I was going to say. Clause 5 says:

“There shall be established a Task Force to be known as the National Task Force Against Trafficking in Persons.”

Then we get to the functions and this is where I had a little problem because I was not too happy with what came out of the amendment. If you look at item 6(1)(a), (b) and (c); (c) particularly, which I think is the prime responsibility of the task force—to develop a national counter trafficking plan for the prevention of trafficking in persons and children and to co-ordinate its effective implementation.

Nothing is wrong with that sentence. But:

“(a) to monitor and give directions, both general and specific, to the Counter-Trafficking Unit;”

I felt that the functions of the task force could be placed in quite a different light by a couple of sentences, two of which came from the model UN law, and this is why I chose to circulate this amendment which I hope to raise in committee.

If you look at the amendment I have here, clause 6(1)(a), (b) and (c) to delete what we have there and to substitute “(a) to co-ordinate the implementation of this Act, including developing of protocols and guidelines.” That comes straight out of the UN model law. And (b) also, slight change comes from that, “to develop within one year of commencement of the Act”—I chose one year of commencement of the Act; you do not necessarily have to give a time but I am putting the Government in the position where they have a time frame to accomplish certain tasks. So, I decided one year was a good time. “To develop within one year of commencement of the Act”—the Act has to be proclaimed before it commences, so that is why I use the word there—“national plan of action consisting of a comprehensive set of measures for the prevention of trafficking, indication of assistance and protection of victims, including victims who are repatriated from another state to Trinidad and Tobago; the prosecution of traffickers and the training of relevant staff and non-state agencies as well as to coordinate and monitor its implementation.”

4.25 p.m.

So that is the new 6(1)(b) and 6(1)(c), which was (b) before and I have now put into (c)—because that is a less important to (b) there—“to develop plans in consultation with representatives of civil society to provide victims of trafficking with appropriate housing, education and training and psychological counselling, legal assistance or legal information and medical assistance in a language that the victim can understand”.

So, just those three functions (a), (b) and (c) in alphabetical order are what I am trying to get across, and I chose one year because at the end of one year the task force has to present an annual report, they do quarterlies but they also have an annual report. So at the end of one year they have a yardstick against which to measure, and so the report after a year should say, “Well, look, this is where we have reached, we have done it”. Or if we have not done it, why have we not done it?

I am hoping that I will get through with this amendment because it does provide a time frame for developing this plan—this whole national plan—which is then going to be implemented or in conjunction with the Counter-Trafficking Unit.

So, this is one of the key reasons why I brought this one. I would like us, Madam Vice-President, to look at it and see—I am open to any suggestions—from the timing, to less time, to more time, whichever one you choose but I think it is important that we start putting ourselves under the gun as regards time, and that is why I chose that one.

I went back to this task force itself—I had a couple of questions. If you look at the 7(1) which is the composition:

“The Task Force shall comprise the Attorney General, the Ministers responsible for Foreign Affairs, Labour, Social Development, National Security and Justice.”

And if I jump to 8 then:

“There shall be a Chairman of the Task Force appointed by the President from among the members who comprise the Task Force under section 7(1).”

My question before I saw the hon. Minister’s presentation was, well how was the President going to appoint this Chairman out of this pool of six? I may be wrong but I think that I read in your presentation in the other place, that you said

“select”, that the President will select the chairman—Now that is a strong word, if it is to select, because there are many options for the President to make an appointment. I think, especially when all these six people have been appointed already by the President in another capacity.

So how is the President going to make this appointment? And there are options, one option is that you say it is in his discretion after consultation with whoever. It is after consultation with the head of government, that is the Prime Minister, and the Leader of the Opposition, and the third option is that he is advised—the President is advised by the Prime Minister who should be appointed to a position but I do not know. I thought I read the word “selected” in the text. I say that it is the unrevised version and it could be that I am mistaken, so please clarify that for me, how this appointment is made. Because we all are appointed, those in Opposition are all appointed by the President in that sense of the word—we get instruments and we have to go and swear and whatnot.

If I go back now to 7(2), it says:

“The Task Force shall also comprise other appropriate senior government officials...”—

Madam Vice-President: Hon. Senators it is 4. 30 p. m. , we will take the tea break and resume at 5. 00 p. m. This sitting is now suspended until 5. 00 p. m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Vice-President: Hon. Senators, Sen. Ali was on his legs. By my calculation, you have 19 minutes left.

Sen. B. Ali: Thank you very much, Madam Vice-President, I will take very little of those 19 minutes.

It has been brought to my attention that in the draft amendment that I passed, there is a typographical error—an omission in fact, in the (c), second line after the word “training” should be included “opportunities”. So it should read “educational and training opportunities and psychological counselling”. So I would like the Clerk to make the necessary amendments to that please. Thank you for finding it.

Madam President—Madam Vice-President—I am promoting you, in continuing, I just wanted to point out also that under the heading I was speaking of the composition of the task force, the 7(2), I did not quite understand. It says:

“The Task Force shall also comprise other appropriate senior government officials including officials with responsibility for law enforcement, immigration, social development, foreign affairs, labour, justice and appropriate non-governmental organizations and other persons...” with the relevant experience.

So I do not quite know who a senior government official is. Is he a political person? Is he someone who might be equivalent to a parliamentary secretary or something like that? I think that needs to be clarified because we are getting an expanded thing. I first assumed, in fact, that it would be a public officer, a senior public servant who would be there, but in reading it through—once they have that word government before it, it sounds to me as if it is a political person appointed to that, and an official would mean an advisor or something like that, appointed by the government.

So, I would like to get a clarification as to what that is, because it is important and you have the same number of people, the same number of positions for which there are Ministers where you have these senior government officials, including officials with responsibility for law enforcement, which we have elsewhere—immigration, et cetera. So, I think we need to be more precise as to what we are talking about there, because it could be a mix. I do know whether the words “including officials with responsibility” could mean officials at the level of the public service, but then it says “who shall hold office for two years”, would be eligible for reappointment and to be appointed by the President also.

5.05 p.m.

So, once again, my question remains, how is the President or who is the President going to appoint and by what mechanism? Since it says holds office for two years and being eligible for reappointment, I think it needs to be clarified, what kind of person this is. If it is a public servant it is different from another person who is a political appointee, because it is a short-term kind of appointment. So I would like very much to get that clarification and the position of the President—in all the different appointments, chairman of the task force, which I presume is the top one there and these other members of the task force, I do not know what they call them, other than the Ministers.

Madam Vice-President, under clause 9(4), “The Task Force shall select a Secretary from among the membership.” I am not sure where that one comes in now, “a Secretary from among the membership”. Is the task force—all of these members—there are five Ministers, one of whom is the chairman and—there are

six Ministers. In fact, I call the Attorney General a Minister. And all these other people here, the one and the two, and then we have: “The Task Force shall select a Secretary from among the membership”; so I think these items need to be clarified. For example, a secretary, is it someone with a specific qualification or background, et cetera, to be doing that job there?

With respect to the Counter Trafficking Unit, looking once again at the personnel side of it—the establishment was in force I can see that—“a Director appointed by the President and who shall hold office for three years” and is eligible for reappointment, then a deputy director appointed by the President. Both of those people shall be persons who possess a combination of qualifications and experience in international relations, management, law or security. So in fact you may have both appointees having the same qualification, they may choose, well, okay, we have qualifications and experience in management and may end up with two of those, so without any spread or difference.

From that point of view if you are looking at your human resource and I know you have specialists in that, it looks a bit strange, that you do not have the flexibility or the breadth in the organization if you do it like that. I did not go into all of the offences, I think I would leave that to all of these legal luminaries we have here. I did want to mention, and I think, hon. Minister, you spoke in the other place about the Criminal Injuries Compensation Act to victims, but I think you must be aware that Act goes back to 2000 and has not been amended since. It came to Parliament in 2007 and it lapsed, so we have not had the latest amendment to that. The sums, for example, in today’s terms, may be quite different because you still have not gotten any approval beyond 2000. I think that is something to be examined. It think it is in the hon. Minister’s presentation. I read it, I did not copy it, then I went and checked on the Parliament site and found that that is the only Bill that was presented in that period 2000 to whenever, and it lapsed in September of 2007. That is when Parliament was dissolved.

I would like to find out, once again—I know this matter has come up in the case of the people from Tobago, for example, who were looking out for compensation from the Government; the two English people who were injured? But I do not think too many people made the connection there between what was law in 2000 and is still the law, because we have not had the amendments going through the motions. That is more or less where I am; I am in the Schedule and looking at it, it gives you a wide range to deal with competencies, et cetera, but I will leave that in the good hands of the hon. Minister.

With that, Madam Vice-President, I thank you for giving me the opportunity and I am looking forward to the passage of this Bill as soon as we can all get together to do it. Thank you very much.

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Thank you very much, Madam Vice-President, for giving me the opportunity to contribute to this debate. I think I first want to get it right, what the Bill that we are debating speaks to. It is an Act to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto.

Madam Vice-President, before I get into the meat of what I want to speak about in my address to this august Senate, I want to make mention of a couple of statements that were made by a previous speaker, Sen. Al-Rawi. He referred to the fact that this Bill has come largely out of the US's imposition of a global standard on countries of the world, and he spoke to Trinidad and Tobago's exposure to being termed a Tier 3 country in respect of that global standard. He then mentioned that from his point of view that the legislation is being brought to this Senate late and it is again a situation where it is being brought because of the potential for Trinidad and Tobago being blacklisted, and he then proceeded to cast blame on this Government for its tardiness in bringing the legislation. But I recall when I was Permanent Secretary in the Ministry of Labour and Small and Micro Enterprise Development, this is sometime around 2006, this matter was before that Ministry, and I recall meetings being held with counsel—I do not remember his name—from the US Embassy and I remember also my participating in those discussions along with the then, and who I think still is, the director of planning in that Ministry.

I, of course, demitted that office in 2007 and proceeded into retirement from the public service. But since that was the subject of discussions as far back as 2006, I would like my learned friend to explain to me, how come it took five years to get to this point. He did say, and apparently simply glossed over the fact that it was there even before 2006, because he did say 2004, 2005, 2006, 2007, 2008, 2009; then he stopped at 2009 and, of course, offloaded the responsibility on this Government

Sen. Al-Rawi: Do you want me to answer now? I have the answer.

Sen. The Hon. E. George: He said he did not want to be disingenuous, but I think he was being disingenuous and self-serving—I should not say self-serving, I should say party serving in the way that he spun this one, and the fact that he did say—

Sen. Al-Rawi: Hon. Senator, do you want the answers? I have them before me, I could give them to you in a minute if you want.

Sen. The Hon. E. George: No, no, please, please. He was saying let us call a spade a spade and so on. I quote him exactly there. “Let us call a spade a spade today.”

I want to say to him, that he is looking at a spoon, a teaspoon in fact and calling it a spade. [*Interruption*] In that regard, I want to compliment my colleague, the Minister of National Security, Minister Sandy and all the lawyers who did the drafting of this legislation so that—

Sen. Al-Rawi: I have it here, nine points. [*Shows document*] I have it right here.

Sen. The Hon. E. George:—I want to disagree with Sen. Al-Rawi in placing the responsibility for, what he calls, this—

Sen. Al-Rawi: I have done my homework; I could give you the answers now.

Sen. The Hon. E. George:—late submission of this legislation to this Senate and tell him he should get his facts right. [*Interruption*]

Secondly, he spoke to the empty benches on this side when he was speaking, and to the fact that it was disconcerting for him to be speaking to these empty benches. I want to make two points on that. When the Senate reconvened at five o'clock, the Senate was forced to wait because there was not a quorum in here. There was one Senator of the Opposition Bench sitting on that side, that is one point. Two, I think today when Sen. Panday was speaking earlier this morning on the other Bill I observed from my seat that while Sen. Panday was speaking there were, at one point, only two Senators of the Opposition Bench sitting in their seats.

So I want to tell him again that he needs to be a bit more balanced in how he is addressing this matter. Indeed, Sen. Al-Rawi will recall that I did say to him at one point that I thought that they had all departed, except those two, to the Hansard in order to prepare for this current debate, so he would know that what I am saying is true.

Sen. Al-Rawi: Yes, yes.

Sen. The Hon. E. George: My one caution to him, therefore, [*Interruption*] is that he should pay attention to the old adage, which I am certain his colleague who sits on his left, the goodly Sen. Terrence Deyalsingh, refers all the time to the adages and so on that he has found in the *Students' Companion*.

Hon. Senator: “Aye ya yaye.”

Sen. The Hon. E. George: And I want to speak to this one adage that I am certain he would have found there, “Those who live in glass houses should not throw stones.” [*Desk thumping*]

I want to address a third matter raised by Sen. Al-Rawi and that has to do with a quotation that he made from the *Express*, I think it was, an article written by Keith Subero—or S-U-B-E-R-O, to put the emphasis where the Spaniards would put it on the second to last syllable. I simply want to dismiss his reference to Mr. Subero by saying that Mr. Subero is not an unbiased commentator, whether it be regarding the OPVs or any other issue, so quoting him in this honourable Senate simply does not count.

There are other matters that were raised by Sen. Al-Rawi on which I am certain we have a difference of opinion on this side and my colleagues would, of course, deal with those as this debate proceeds.

Sen. Hinds: “Al-Rawi is with ah R, eh.” [*Laughter*]

Sen. The Hon. E. George: Madam Vice-President, I now come to the meat of what I plan to say here today—

5.20 p.m.

I am a man of few words you know. I am not as loquacious as my good friend, Sen. Fitzgerald Hinds, and I try to stick to the issue at hand. I want to say, Madam Vice-President, that there are two items in this Bill that I would like to refer to as being signal, in my view, in terms of the content and in getting to the meat of this Bill.

Sen. Hinds: I said I am a vegetarian honourable. I do not like that word.

Sen. The Hon. E. George: And the first one is the definition of trafficking in persons, and as I go through my discourse, the link with the issue of trafficking in persons definition will be revealed. The trafficking in persons definition says—and Sen. Al-Rawi did say that he considers trafficking in persons a heinous crime—trafficking in persons means “the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power, the abuse of a position of vulnerability or the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;” And then exploitation is defined two pages ahead of that in the same clause 3 of the Bill as including:

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- “(a) keeping a person in a state of slavery;
- (b) subjecting a person to practices similar to slavery;
- (c) compelling or causing a person to provide forced labour or services;”

And it goes on up to (j). But I quote these two, the definition of exploitation and the definition of trafficking in persons to come to the meat, as I said, of what I want to say.

We the people of Trinidad and Tobago, Madam Vice-President, must be sensitive to this issue of human trafficking. The act of my standing here today is the result of human trafficking. [*Desk thumping*]

Sen. Hinds: Oh! I could not believe [*Interruption*]

Sen. The Hon. E. George: I want to repeat that. The act of my standing here today is the result of human trafficking. Our society and a large segment of our population had their genesis in the inhumanity and the cruelties of human trafficking. That period of open and unashamed slavery and in particular African slavery, was the most cruel and mindless and subhuman in the recorded history of mankind. The kidnapping, the transportation and sale of men, women and children from Western Africa to the Caribbean, and to North and to South America, had the sole intention of providing forced labour, unpaid labour, agricultural and household labour to the Europeans, to exploit the resources of the Americas at low costs and high profits. Slave labour was also exploited to provide free and uninhibited sexual services to the social hierarchy of the plantation and the society. For almost 400 years this exploitation of Africans continued.

Indentured labour was just one removed from slavery, but it was no less human trafficking. While slavery was based on force, confinement and zero freedom, indentured labour was triggered by coercion, bribery, deception and false promises.

Sen. Hinds: Sounds like the UNC today.

Sen. The Hon. E. George: Madam Vice-President, our society was founded on the exploitation of human beings. Human trafficking provided the foundation. As a people we have inherited the social, economic and psychological scars of human trafficking and human exploitation. Many of these scars still affect us in many ways. As a society we have been working our way out on purging our psyche of these negative vestiges of the African slavery and Indian indentured labour. As we modernize our society, Trinidad and Tobago cannot and must not

allow pockets of slavery to again raise their heads and creep back into our nation. Whether the exploitation is of our own nationals, or of nationals of other countries, the inhumanity is no less exploitative and demoralizing. This legislation introduced today in this Senate is a step in the direction of stopping varying aspects of what we have defined as human trafficking which is no less than the clandestine reintroduction of pockets of human slavery and exploitation for financial profit.

Madam Vice-President, human trafficking has many faces. It is the faces of women being exploited for sexual services and for which they receive no remuneration, working under duress and curtailed freedom. It is the faces of children working in conditions akin to a labour camp. It is the faces of men, especially young men, in a situation of involuntary slavery. Human trafficking defines those activities which involve the use of force or fraud or coercion or deception for the purpose of securing various forms of labour exploitation. [*Desk thumping*] This modern day form of slavery targets young children, teenagers, men and women who are forced to work in prostitution or the sex entertainment industry, domestic servitude, restaurant work, janitorial work, sweat shop factory work and migrant agricultural work.

The sexual exploitation of girls and women receives headline exposure, but attention must also focus on labour servitude, bonded labour and child exploitation. We need to know the extent to which these forms of trafficking and exploitation take place in Trinidad and Tobago. Research work, surveillance by police, immigration and NGOs is required to establish the basis of what occurs in our society. Imported exploited labour operating within our borders or the exploitation of indigenous labour are both our national responsibility and require action on our part and indeed, need to be informed by ongoing research and surveillance into and enforcement against its existence in Trinidad and Tobago.

Madam Vice-President, the worldwide growth of human trafficking in its various forms has already forced several countries to enact legislation to detect, control and prosecute perpetrators and international conventions already exist at the multinational levels within the United Nations. For example, the Trafficking in Victims Protection Act of 2002, enacted by the United States defines severe forms of trafficking in persons. In 1999, the United Nations Center for International Crime Prevention and the United Nations Interregional Crime and Justice Research Institute developed the global programme against trafficking in human beings. In 2000, the General Assembly of the United Nations adopted the Convention Against Transnational Organised Crime which was accompanied by

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two important protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against Smuggling of Migrants by Land, Sea and Air, or the Palermo Protocol, which Sen. Basharat Ali referred to earlier.

The Palermo Protocol is an international instrument which calls for the criminalization of human trafficking including forced labour, slavery or any acts of servitude based on a paradigm or principle of prevention, criminal prosecution and victim protection.

5. 30 p. m.

The Global Report on Trafficking in Persons provides countries with specific information and reported cases of trafficking in persons, victims and prosecutions. It also includes an overview of trafficking patterns and the legislative responses to the issues of human trafficking. According to the 2009 Trafficking in Persons Report, the most common form of human trafficking is sexual exploitation, which accounts for 79 per cent of the victims of sexual exploitation who are predominantly women and girls. In 30 per cent of the countries which provided information on the gender of traffickers, women make up the largest proportion of traffickers, strangely enough. In some parts of the world women trafficking women is the norm.

The second most common form of trafficking is forced labour, which makes up about 18 per cent of those trafficked. This may be a misrepresentation because forced labour is less frequently detected and reported than is trafficking for sexual exploitation. Worldwide, almost 20 per cent of all trafficking victims are children. The United Nations Protocol against Trafficking in Persons, the foremost international agreement in this area entered into force in 2003. The report shows that in the past few years the number of member states seriously implementing the protocol has more than doubled, from 54 to 125 out of the 155 states covered. However, there are still many countries that lacked the necessary legal instruments or political will.

I now turn to the forms of labour trafficking. There are several forms of exploitative practices linked to labour trafficking. There is bonded labour or debt bondage, which is the most widely used method of enslaving people. In this case, the victim's labour is demanded as a means of repayment for a loan or service. Of course, the calculations and the repayment terms are done by the exploiter and the victim remains in continuous repayment. The value of the victim's work never seems to catch up to the original sum of money borrowed.

The other form of labour trafficking is forced labour, and this is a situation in which victims are forced to work against their own will under the threat of violence or some other form of punishment. Their freedom is restricted and a degree of ownership is exerted. Forms of forced labour can include domestic servitude, agricultural labour, sweatshop factory labour, janitorial, food service and other service industry labour, and begging.

Another form is coercion which involves serious threats, physical restraint of the victim and their relatives or any scheme, plan or pattern of behaviour intended to cause the person to believe that failure to perform an act will result in grievous harm to their person or to a loved one. Then there is child labour, which is a form of work that is likely to be hazardous to the health, physical, mental or spiritual development of children and can interfere with their education. The International Labour Organization estimates that worldwide there are 246 million exploited children, aged between 5 and 17, involved in debt bondage, forced recruitment for armed conflict, prostitution, pornography, the illegal drug trade, the illegal arms trade and other illicit activities around the world.

We are not sure of the extent to which these aspects of exploitation operate in Trinidad and Tobago because we need to do the research and the investigation that would throw up this information, but we have some indications of what might be taking place. The hon. Minister of Education, sometime ago, referred to children who are missing from school and asked the question; where are these missing children? Where, indeed, are these children? We hear stories of the sexual exploitation of girls and women in the workplace, in establishments in our country. What is the nature and how widespread are these practices which women are forced to do to keep their jobs? We do not know how much a drug vendor or domestic servant is a victim of bonded labour; how many unreported rapes take place as a result of coercion or degrees of bondage. We need more in-depth research to obtain this data for Trinidad and Tobago.

Trinidad and Tobago has several pieces of legislation addressing some aspects of human trafficking and exploitation, such as the Sexual Offences Act, which criminalized the activities associated with exploitation and prostitution by means of force or coercion. We have the Children Act, which seeks to protect children from exploitation, sexual and otherwise; we have the Foreign Labour Contracts Act, Chap. 88:11, which addresses the matter of exploiting foreign and immigrant labour, and we have also in Trinidad and Tobago, ratified some ILO Conventions which explicitly speak to the problem of human trafficking. These conventions are the worst forms of child labour: the Convention on the Minimum Age, the

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Convention on Forced Labour and the Convention on the Abolition of Forced Labour. These are not sufficient to address this problem and there is therefore need for comprehensive legislation to deal with human trafficking, hence the bringing into Parliament of this Trafficking in Persons Bill, 2011.

The Bill seeks to abolish all aspects of human trafficking, namely, the abolition of forced labour, the abolition of sexual exploitation, the abolition of child labour and the outlawing of the exploitation of migrant labour.

Before I close I want again to refer to certain sections of the Bill which have impressed me considerably. These include the definition—well, I referred to the definition earlier on. But these include clause 16, which comes under Part V and speaks to the criminal offences and related provisions in the Bill. Clauses 16, 17, 18 and 19 are all clauses which I think will be seminal to the effectiveness of this Bill, in particular clause 16 which will provide for the offence of trafficking in persons where a person:

“(a) recruits, transports, transfers, harbours or receives persons into or within Trinidad and Tobago;”

So as I said, clauses 16, 17, 18 and 19 are clauses that I feel are central to the effectiveness of this Bill.

Clauses 32 and following in Part VI, speak to the subject of assistance for victims, because victims of human trafficking need to be assisted—once they have been discovered—to recover from the pressures and the effects that such bondage would have had on them. Sorry, I should have referred to clause 29, which is the clause that refers to the perpetrators having to make restitution. I think this is a very important aspect of the Bill that forces perpetrators to make good as far as is possible to those persons who were formerly their victims.

So these are the three areas in particular that I am impressed with in the Bill. For those who are legal luminaries here, there may be other sections in this Bill which would impress them, but these are the three areas, I think, I am particularly impressed by. Other than that, I want to congratulate, once again, my colleague, the Minister of National Security, and I also want to commend his legal officers, the officers of his Ministry and the Ministry of the Attorney General and all of those who would have done yeoman work in preparing this Bill to be brought to this House here today. I therefore want to conclude by saying that I support the Bill and consider it vital to ensure that forms of slavery are never brought back, however surreptitiously, into our sweet country, Trinidad and Tobago, ever again.

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

Sen. Terrence Deyalsingh: Thank you, Madam Vice-President, for allowing me the opportunity to join the debate, the Trafficking in Persons Bill, which seeks “to give effect to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime and for matters connected therewith or incidental thereto.”

I join this debate in what the radio announcers call drive time, because people are in their cars going home from work. I do not know if that is a good thing or a bad thing. Some of them might be driving home; some may be preparing dinner and as the world has changed, maybe more fathers are preparing dinner than wives. But I am happy to be on drive time.

I also want to take this opportunity to wish you, Madam Vice-President, Happy Mother’s Day on Sunday and to wish all mothers in the Senate—all mothers listening—Happy Mother’s Day, and to reflect on, I think, Sen. Sandy’s comment earlier—it may have been Sen. Sandy or Sen. Ramlogan—speaking about the young lady who had, I think, six or seven children via, I think, five—

Sen. Al-Rawi: Sen. Panday.

Sen. T. Deyalsingh: Sen. Panday, sorry. In wishing mothers a Happy Mother’s Day, I also want to appeal to young ladies not to become mothers before their time. I think Mother’s Day is something that they should aspire to later on in life rather than earlier in life.

As a former Permanent Secretary in the Ministry of Labour, I do not know what Sen. George has against the Hansard reporters. It is obvious that he wants to put them out of jobs, because what he did here was violated Standing Order 32(6) which says that no one must read a speech. This is a debating Chamber and debating calls for some degree of logical consistency in your argument, some degree of factual accuracy and some degree of emotional content to persuade people to your point of view. But if we read a speech, we accomplish none of the above. We had to restrain Sen. Hinds from calling him up on Standing Order 32(6), otherwise he would have had nothing to say. So as we progress in this honourable Senate, maybe we can go back to debating and not reading of speeches.

I would like to reply to Sen. George’s rebuttal of Sen. Faris Al-Rawi’s contribution where Sen. George attempted to rebut Sen. Al-Rawi’s contribution that the People’s National Movement did nothing when Sen. George was the

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Permanent Secretary in the Ministry of Labour since 2006. I would like to, in the best art of debating, be factually correct and produce a persuasive argument to completely and utterly destroy that theory, that hypothesis.

In 2008, one Ms. Amy Mahoney, who was the project coordinator for the Counter Trafficking Unit of the International Organization of Migration, spoke in Trinidad and Tobago in 2008 and this is what she had to say:

“...various groups, including immigration officers and non-governmental organisations, had already been sensitized”—that is prior to 2008—“to the issues as they relate to trafficking and how to deal with information received on trafficked people.

Mahoney said the IOM was presently working with the Government”—of the day, that is the People’s National Movement—“to formulate legislation on human trafficking, as well as taking steps towards the development of a coalition between the Government, local NGOs and itself to deal with trafficking in the country.”

5.45 p.m.

Let me give you the backdrop to Ms. Mahoney’s comments. The Government continued to cooperate with the International Organization for Migration which began a strengthening technical capacity (STC) project. The STC’s goal was to bolster capabilities of the Immigration Division and other law enforcement agencies.

Madam Vice-President, the backdrop goes further than that. She went on to say that in the training manual presented by the International Organization for Migration they stated that the information needed before you actually go into legislating and implementation of legislation and all that, is a comprehensive background research to figure out the scope and nature of the problem. [*Desk thumping*] That is what was going on in 2008. But I will take Sen. George back to the year 2000; 2008 is not enough.

In 2000 we had the Palermo Convention, three protocols supported; 2004, the International Organization for Migration came down and started their work; 2005, the IOM review, they did their migration assessment. All this is to bring good legislation, so that once it is passed, it stands scrutiny; unlike the FIU Bill in February, which was amended in March and amended again last week. Rush legislation, which accomplishes nothing, where you have to put in a validation clause in the FIU, clause 18, to validate the work done by Ms. Susan Francois.

That is why we do not rush legislation. That is why we were working since the year 2000 on this piece of legislation.

Madam Vice-President, 2006, IOM office project; 2008, we kept the IOM; 2009—and the list goes on. So that takes care of Sen. George’s assertion that the PNM did nothing. It comes from the mouth of Ms. Amy Mahoney. She is not PNM; she is from the International Organization for Migration. That is debating.

I want to echo Sen. Al-Rawi’s opening argument that this Bill we are debating has to be one of the darkest days that we could experience. I concur with Sen. George, that a country like Trinidad and Tobago—*[Interruption]*

Sen. George: You are concurring?

Sen. T. Deyalsingh: Yes, Sen. George. I concur with you that a country like Trinidad and Tobago which lived through slavery, which experienced and lived through indentureship—*[Introduction]*

Sen. Hinds: And which now has an oppressive Government.

Sen. T. Deyalsingh:—should be debating this Bill, speaks to the dark side of human nature. Sen. George said that he was a victim of trafficking, meaning that you are descended from persons who were trafficked hundreds of years ago. Am I right in that assertion? Yes, no?

I will give you a little story about myself, to further agree with Sen. George when he said that he stood there as a victim of human trafficking.

When families sit with old aunts and old uncles and we tell tales that are woven into the fabric of our family, one of the tales I heard many years ago, which has been often repeated in my family circles goes like this: On the boat that left India, many years ago, on the deck, they thought that a young male child had died and they covered him with a white sheet, preparing to do a burial at sea. A couple hours later, somebody noticed that the white sheet was moving. It turned out that the young child was not dead; the young child was, in fact, alive. The young child did, in fact, survive the trip. That young child was my paternal grandfather. So like Sen. George we are all victims, descendants, of some form of human trafficking.

Sen. Karim: “Jahaji bhai.”

Sen. T. Deyalsingh: “Jahaji bhai”, well said; “meh aajaa”. *[Crosstalk]*

That we are here today, it is sad, but human nature being what it is, there will always be the unscrupulous who wish to turn a profit regardless of the consequences and regardless of the cargo that they deal in.

As we deal with this Bill, my research took me to the United Nations' website which deals with human trafficking. I came across countries being divided into three major groups: source countries, these are countries where the people are actually grabbed and transported to other countries called destination countries, and en route from a source country to a destination country—what in business is called a transshipment point—you might have a country as a transshipment point or a transit country. Some of the source countries tend to be countries like Colombia, Togo, and Sudan. Some of the destination countries: Saudi Arabia and the United States. Trinidad and Tobago poses a particular dilemma. It would seem that we are both a transit country and a destination country. Whether we are a source country, is one of the problems Ms. Mahoney spoke about in that backdrop I gave you. As Sen. Brig. Sandy said in his opening, there is a lot of anecdotal evidence to say that trafficking takes place in Trinidad and Tobago, that is, that citizens of Trinidad and Tobago are trafficked out of this country.

To the best of my knowledge, and Sen. Brig. Sandy could probably correct me, I do not think that has been proven conclusively, but the anecdotal evidence is there. That is what Ms. Mahoney was speaking about. She was postulating that before we bring legislation, we need to know what type of legislation to deal with what type of problem we have. I would suspect, and in speaking to experts in the field, that Trinidad and Tobago is a transit country, a destination country and less of a source country. It does not mean that some of the people reported missing may not have been shipped out, but nothing has ever been proven.

The reason I bring this to the table is that it is seen very often in the newspapers, and there was a case very recently, where parents reported a 16-year-old girl missing, and it turned out a few days later that she was staying with someone. That type of story goes on and on, but even if one person is shipped out, it is a problem that we have to deal with. That is one too many.

In reading the legislation and in mapping it against what I now understand to be the destination countries, the source countries and the transit countries, and mapping that against what Ms. Mahoney was saying, I am wondering if this is the correct legislation, because we do not understand what is the nature of the problem we have. That is probably one of the reasons the legislation may have taken some time to come.

But the other problem facing us, hon. Minister, as you piloted the Bill, is that in doing some work again, I came across two umbrellas: human trafficking and migrant smuggling. The Bill as proposed speaks to human trafficking. As I said, and I think you can agree with me, that we may not have much of a human

trafficking problem with Trinidad and Tobago. What I do know, and what I do recommend, is that we have a migrant smuggling problem, that is, people who voluntarily leave their country and enter our shores illegally to seek a different or better life here. Very often you see this when the police would raid brothels and they have a lineup of X number of women from Colombia, Venezuela, the Dominican Republic and so on. We see that in the newspapers all the time. These women would tell you—and I have no firsthand experience with this Sen. Bharath; I see you smiling very coyly.

Sen. Bharath: You are saying it with such a serious face.

Sen. T. Deyalsingh: Yes, I know; that is debating, persuasive argument. [*Laughter*] I would suspect that what we have in Trinidad and Tobago is also a migrant smuggling problem, that is, where people, especially women, are smuggled via Cedros to work in the local brothels. But if we do have a migrant smuggling problem, it begs the question: what are we doing to protect our borders against migrant smuggling? I do not want to beat a dead horse, but the horse needs to be beaten. What is happening with the OPVs?

Sen. Brig. Sandy, I raise the OPVs, not to be repetitive. I raise the issue of our porous borders, not to be repetitive. I raise the issue of the OPVs, not to flog a dead horse, but recent events of two or three days ago, where Osama bin Laden has been captured and killed, has placed the world on a heightened security footing. [*Crosstalk*] I made the point in this Senate last year, when the OPV contract was cancelled, that a major gas company had made a presentation to us in the office of the Opposition Leader, and they would have done so to your side.

At that time back in October/November, when I was but a wee lad in the Senate, I made the point that they were concerned that they saw pirogues hanging around their oil and gas installations out at sea and they were scared. Now we have a situation where the entire world has been put on notice. You have heightened security at all airports around the world, and we have nothing to protect our oil and gas installations in the north coast, the east coast, the Gulf of Paria or wherever. We talk about smuggling. Sen. Brig. Sandy, it still begs the question: if not the OPVs, what?

Coming back to Trinidad and Tobago and its Tier 2 Watch List status, my understanding of what criteria the US State Department uses to put a particular country in a particular tier, has to do with two fundamental issues: the problem of human trafficking and two, the legislative measures taken by a country to combat human trafficking.

6.00 p.m.

Trinidad and Tobago—we are unable to quantify the nature of the problem, the size of the problem. The major reason for our Tier 2 Watch List listing has to do with legislative framework. And I say this because I was shocked when I looked at a table that ranked countries according to these tiers: Tier 1—which is where everyone hopes to be—Tier 2, Tier 2 Watch List, and Tier 3, and I was shocked to find what I might call an anomaly.

Australia which is a very developed country has a Tier listing of 1, which means they are one of the best, but in digging into Australia further what surprised me was that the Australian rating had more to do with their robust legislation than the ability to control human trafficking, because oddly, Australia has a huge quantifiable human trafficking problem. And if you permit me I would just read for a short while: “Australia is a destination country—so this goes back to classifications I gave earlier whether you are a destination country a transit country or a source country—“Australia is a destination country for victims trafficked... from East Asia, South East Asia Eastern Europe, particularly the People’s Republic of China, the Republic of Korea and Thailand.”

So when we look at countries with their Tier 1 ratings, and you look at Trinidad and Tobago with Tier 2 Watch List, I do not want the public—the drive-time public; mom and pop preparing dinner—to get the impression from this debate that we are on Tier 2 Watch List because of the size of the problem we have. I think in Trinidad and Tobago it has more to do with the less than robust legislation as required by the US State Department and the United Nations. I think we can agree on that.

Other Caribbean countries—Barbados is also on Tier 2 Watch List, and Barbados is a country we always look up to as one of the more developed Caribbean islands; they are also on Tier 2 Watch List. Singapore, a country often quoted, often spoken about in Trinidad and Tobago as an ideal, a model to look at, they are also on Tier 2 Watch List. St. Vincent and the Grenadines, our Caribbean neighbours to the north, Tier 2 Watch List, Guyana, Tier 2 Watch List; Antigua and Barbuda, Tier 2.

So I just want the public to understand what these numbers mean and what these tier ratings mean. They speak to two things, and I just want to repeat that, the robustness of your legislative framework and the nature and size of your human trafficking problem.

As I look at the Bill in a little more detail, some clauses of the Bill may need some work, and I want to recommend some analysis of the Bill, but I want to introduce that analysis by telling the Government plainly, I am in support of the Bill, they will get no trouble from me as far as support of this Bill is concerned. I would suggest to the hon. Minister who is piloting the Bill to look at the issue of migrant smuggling as I have described, because I think when you talk about migrant smuggling you may need different laws to combat that, versus human trafficking, which is the taking out of people. So I just want to recommend that.

As I turn to page 6, the whole issue of sex tourism—and later on in the Bill it speaks about warning people who go abroad; so you are warning Trinidadians who go abroad to engage in sex tourism. I do not think the Bill has any penalties for a Trinidadian or Tobagonian national going abroad to procure the services of a child prostitute. [*Interruption*] It is there? If it is there fine, so when they are brought back here, they would be penalized accordingly. Great!

On page 7, where we talk about going on with the different definitions, my concern is, and Sen. Al-Rawi spoke about it, the operationalizing of this thing. How are we going to get the people and how are we going to get the agencies to function? We spoke about the disbanding of SAUTT, we spoke about bringing some modicum of SAUTT—some image of SAUTT back into this Bill. The point is, why was SAUTT disbanded in the first place? What you will notice, since SAUTT was disbanded there has been an unfortunate rise in the incidence of kidnappings—and that cannot be denied—and fall in the detection rate, that is not the fault of the People's National Movement. The statistics would bear it out, so no need to go into that.

I want to turn to page 8 of the Bill, clauses 4 and 5, and it goes back to rebut Sen. George's assertion that the PNM did nothing. Sen. Sandy, that we passed the UN protocol's, but no legislation. I want to put on record that the multi-agency task force set up by the last administration developed the policy framework to combat human trafficking; they also developed the Counter Trafficking Bill which is the forerunner to this, and here it is today. But my problem with that is, when May 25th came and this Government got a huge majority, well deserved—a lot of the goodwill out of 29/12 because that is a huge endorsement, but a lot of that endorsement has evaporated by the laying off of competent people [*Desk thumping*] who were in the multi-agency task force, who had the institutional learning, who could have transitioned this thing so that this Bill could have been brought earlier, so that we would not be in danger of dropping down to Tier 3; that is my position.

If any party could be accused of arrogance, so be it, but the word that comes to mind now is hubris, [*Desk thumping*] a shorter word but much more dangerous. You see, the possibility of this downgrading from Tier 2, to Tier 2 Watch List, to Tier 3 was clearly spelt out in the documents developed by the multi-agency task force. They were warned, they were told in June 2010—I have it here—that the work left behind by the multi-agency task force pointed the way forward. It pointed the way forward so that we would not be here, just like the FIU Bill, coming at the stroke of midnight to enact legislation to take the Government out of their self-inflicted crisis again. They were warned by the multi-agency task force.

6.10 p.m.

Madam Vice-President, when we look at clause 6(d), (e) and (f), we talk about:

- “• to co-ordinate the collection and sharing of trafficking...
- to co-ordinate the sharing of information...
- to identify and engage in efforts to facilitate cooperation with foreign countries...;”

particularly those which are a significant source of victims.

The same way we have to flog the old OPV horse, we have to flog the SIA/SSA Reshmi Ramnarine issue because these agencies are the ones charged with collecting data, disseminating data, talking to the FBI, talking to the US State Department, talking to MI5, talking to MI6, talking to the Royal Canadian Mounted Police, ad nauseam. But what we have is confusion, convulsion and conundrum, still, over Reshmi Ramnarine because we do not know whether she was fired, whether she resigned or whether she was relieved. We heard today she was relieved. My question is which relieve is that because there are two meanings to relieve. Meaning one means that you are happy to get rid of the thing, meaning two means that you have been asked to demit office and get out of the place. What is the meaning of “relieve” in this case? That needs to go into a definition clause here, because that relieve—when Reshmi Ramnarine was relieved as we heard today, is it that she was happy not to be in the SIA or SSA, that is, “I am relieved”; or was she relieved, meaning, she was asked to leave? What is the difference between relieve, fire and resign? But we will come to that.

Page 10 talks about the task force and Sen. Al-Rawi spoke very well about the task force, but I want to address the issues with a task force. Clause 7(1) says:

“The Task Force shall comprise the Attorney General, the Ministers responsible for Foreign Affairs, Labour, Social Development, National Security and Justice.”

Madam Vice-President, my problem is this: you currently have a Government where you want to bring a smorgasbord of Ministers from different parties, different political lineages, to form a task force. How effective is this task force going to be if you have the kind of internecine warfare taking place between the Minister of Finance and the Minister of Works and Transport; between the Minister of Housing and Environment and the Minister of Food Production, Land and Marine Affairs; between the Minister of Labour and Small and Micro Enterprise Development and the Minister of Health? How is this task force going to work, where you have all these Ministers with different lineages trying to work together on a Bill? It is not going to work.

On the ten o'clock news this morning, I heard Minister Dr. Moonilal saying in response to a question, that the hon. Minister of Food Production, Land and Marine Affairs has his own *modus operandi*. He said it in a very—if you read between the lines, it was not a complimentary statement at all. It was filled with condescension, it was filled with all the negative words you can get out, but you want to put these Ministers who are at loggerheads, who speak with different tongues, who come from different political parties together on a task force to combat human trafficking. [*Desk thumping*] It is not going to work.

You see, when you listen to different contributors from the Government side and they talk about PNM being in power for so many years, they always paint the legacy of the People's National Movement in a negative light. But, Sen. Brig. Sandy in his presentation, when he was dealing with clause 7, said Trinidad and Tobago is a democratic country with extensive freedoms. Did that only come via May 25, 2010? It is amazing the forked tongues, but it is absolutely amazing that Trinidad and Tobago under the People's National Movement according to them, achieved nothing significant. Absolutely amazing! Yet, when the Prime Minister went to London and said that Trinidad and Tobago is the second best place in the world for women and children, did that happen overnight?

Women and children are a significant component of this Bill, but the hon. Prime Minister in London said that Trinidad and Tobago, by some international ranking—I see Sen. Abdulah getting his trusted black book to call me on a point of order, but that is all right. [*Laughter*] The hon. Prime Minister in London—[*Interruption*] Do you have it right this time?—said that Trinidad and Tobago is

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the second best place in the world for women and children [*Desk thumping*] and we are debating a Bill here that talks about women and children. That only happened under the People's National Movement. I do not know if we should take blame for that or credit for that, but I go on. [*Interruption*]

Sen. King: Correction, Madam Vice-President. The quotation from the Prime Minister's speech in London was that Trinidad and Tobago is the third best place to be born a girl.

Sen. T. Deyalsingh: I would love to repeat that. Trinidad and Tobago is the third best place to be born a girl. What does that say about the People's National Movement? [*Desk thumping*] That Trinidad and Tobago is the third best place in the world to be born a girl. Is that not wonderful? Is that not a beautiful thing to have to say? I thank you, Senator. I thank you.

Good PNM policy and that is the way to interrupt me. That is debating. Nice aye! Good! [*Interruption*]

Sen. George: Once it come out in your favour.

Sen. T. Deyalsingh: No, no, no. If you are objective, I have no problem. [*Crosstalk*]

Madam Vice-President, during the debate, one of the Government Senators, I think, mentioned the little legal phrase that justice must not only be seen to be done. [*Interruption*]

Sen. Al-Rawi: Justice must not only be done, but also seen to be done.

Sen. T. Deyalsingh: Just to clarify, it was said by Lord Hewart in a very famous case and the actual quote is:

“...justice should not only be done, but should manifestly...seen to be done.”

That is the actual quote. Maybe, Minister Dr. Moonilal should pay attention to that quote, “justice should not only be done, but should manifestly...seen to be done” and he should apologize. [*Desk thumping*]

So, Madam Vice-President, clause 16 is where I return and draw Sen. Brig. Sandy's attention to my earlier argument about migrant smuggling. I think we need to consider that there because clause 16 says:

“A person who, for the purpose of exploitation—

- (a) recruits, transports, transfers, harbours or receives persons into or within Trinidad and Tobago;”

That is where the migrant smuggling comes in. This talks about bringing people in. So I just want to draw his attention to that. I do not know whether other Acts actually specifically mentioned migrant smuggling as opposed to only human trafficking. Maybe it is something that the drafters could look at.

Madam Vice-President, I now draw your attention to clause 22 on page 21.

PROCEDURAL MOTION

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the conclusion of the debate on this Bill.

Question put and agreed to.

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Madam Vice-President: Senator, you have five minutes.

Sen. T. Deyalsingh: Thank you, Madam Vice-President. As I was saying, hon. Minister of National Security, I understand and I fully agree with the intention of clause 22, but I have a particular problem where innocent employers could be at the wrong end of this clause. If you will permit me, the clause is rather long but I think I have to read it out so that I could make my point effectively.

Sen. Hinds: Oh yes!

Sen. T. Deyalsingh: “A person who, for the purpose of trafficking in persons or trafficking in children and acting or purporting to act as another person’s employer, manager, supervisor, contractor, employment agent, or solicitor of clients, and who knowingly procures, destroys, conceals, removes, confiscates, or possesses any travel document, or other government identification document, whether actual or purported, belonging to another person, commits an offence and is liable on conviction on indictment to a fine of three hundred and fifty thousand dollars and imprisonment for twelve years.”

Through you, Madam Vice-President, Sen. Brig. Sandy, I understand the intention of the clause, but what I am seeing here is some honest employer being asked by a maid to keep her passport for her. I do not have a safe, so keep my passport for me and my identification card. So, he keeps it. He knowingly keeps it, but innocently so. But during the course of employment something happens between that employer who now has possession of those travel documents and the maid. The maid then brings a false charge. The burden of proof is now on that honest employer to prove that he did not have the particular intent here.

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As I say, I understand the clause, but I am saying that this clause could pose danger to honest employers who honestly hold travel documents, and then when the relationship breaks down they might find themselves at the wrong end of this clause. I think that is something that needs to be considered, please. Please! It places a very heavy burden on employers because these maids are not going to have access to safety deposit boxes, strong boxes or whatever.

I now turn to clause 33. Clause 33 gives me no particular problem, but what I have a problem with, as I said earlier, is that the multi-agency task force appointed under the People's National Movement has made certain recommendations. One of the recommendations pointed to this Bill since June 2010, and the third "dead horse" I am going to flog today—Sen. Al-Rawi and myself tend to be the jockeys on this "dead horse", but until the Government gets it we will continue to flog it—is the need for a legislative agenda. I say this because I take particular umbrage at Sen. Panday saying in this Senate today, look at all the Bills and that is the legislative agenda.

I have no inkling as to what is coming. What the hon. Leader of Government Business is saying: "Look in the rear-view mirror, see what we did and that is the legislative agenda." I want to advise the Government that we should not be looking back, we should have it in front of us and be looking forward.

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. E. George*]

Question put and agreed to.

6.25 p.m.

Sen. T. Deyalsingh: Thank you, Sen. George and thank you, Madam Vice-President.

As I was saying, a legislative agenda is not something that we look at retrospectively. It is something that we have in front of us that points the way as to where we are going. So I will repeat, I take umbrage, I take serious umbrage at being told and lectured by the Government that I should look to see what was passed, and that is the legislative agenda. I must look at the budget, and that is the legislative agenda. If I look at budget, I would see a tunnel was supposed to have been built from Tunapuna to Maracas, does that mean that that is the legislative agenda? Where is the legislative agenda to build the tunnel? But we must look

back to deduce what the legislative agenda is. I do not want to deduce a legislative agenda, I want to see it; the population needs to see it. All the people who voted for this Government—29/12—want to see a legislative agenda. Where is it? Why is it a State secret? It cannot be that you come to this honourable House and speak of a legislative agenda so flippantly.

Madam Vice-President, as I come to the end of my contribution, I want to again, regrettably, reflect on the fact that human nature, the dark side of human nature makes us have to pass these types of laws. It is really a sad reflection of where we, as a species, where we have come.

Madam Vice-President, to illustrate the size of the problem, the United Nations Global Initiative to Fight Human Trafficking called UNGIFT, estimates—and this is an estimate—and if we believe in the Iceberg Theory, what you see is probably only 10 per cent of the problem. It is estimated that 2.5 million people worldwide are forced into labour. That is the estimate. It could be significantly higher. But what is disturbing is that of that 2.5 million, it is estimated that 250,000—which is about 10 per cent—are in Latin America and the Caribbean, and we are included there. And this is what I was getting at earlier, it is difficult to quantify the size of this problem because if 250,000 are in Latin America and the Caribbean, what is the size of the problem in Trinidad and Tobago? It is difficult!

Other statistics say that there are probably 127 source countries and 137 receiving countries, and as I said at the start, Trinidad and Tobago is most likely a transshipment point, a transit point and a source country, we do not know. But what is the statistic that is even more disturbing, the UNGIFT—the Global Initiative to Fight Human Trafficking—estimates that the size of this trade, the profitability, is probably worth US \$31.6 billion. That is the estimated size, the monetary size of the problem, so it is profitable. So if it exists here, hopefully this legislation would take care of it.

But what is more disturbing—the statistic—is the prosecution and conviction rates. As I said earlier, it was estimated in 2006, there were probably 2.5 million people in forced labour, but out of that there were only about 5,808 prosecutions which is about 0.23 per cent—you see how low it is, how difficult it is, and of that, you only had about 3,160 convictions.

Madam Vice-President, as I come to a close, I voice my support for the Bill. I draw particular reference to the composition of the task force. Both Sen. Al-Rawi and myself are concerned that a task force composed of Ministers is probably not the way to go, not only as a result of the warfare taking place now, but who is to bear the ultimate responsibility for it?

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The other Acts we have looked at in this House like the FIU and so on, they vest a great deal of these powers in an independent body. I want to suggest to the hon. Minister that he look at this, that that task force should not be of Ministers, it should be some other type of independent body that can be held accountable for success, praised for success, and be held accountable for failure. Because this Bill is too important to our international standing to have it fail due to political bickering. That is my honest, honest feeling, and I recommend that highly to you. Madam Vice-President, with those few words, I thank you very much. [*Desk thumping*]

Sen. Dr. James Armstrong: Thank you, Madam Vice-President, for allowing me to make a contribution. Madam Vice-President, I would like to start by indicating my general support for this Bill. I think that the problem of trafficking is one that we are already having some serious problems with in Trinidad and Tobago. A great deal of emphasis has been placed on trafficking for prostitution, children and so on.

There is another phenomenon that is taking place with respect to people who are being brought into Trinidad and Tobago for labour, to provide services in labour, in the construction sector, and so on. And in doing some research on this Bill, I saw that there is a significant amount of discussion in the literature with respect to who should be considered as someone that is a victim of trafficking.

Some weeks ago, we saw for instance, that there were three persons who were actually in Trinidad and Tobago—I believe they came here from India to provide labour, I believe, in the construction sector, and after a while, it came to light that they had their passports forfeited, and that they were not really being paid the amount of money that they thought they were going to be paid, and they were really subjected to conditions which they did not anticipate and for which there was no agreement.

I was reading an article by one of the authorities on the subject who actually looked at the UN Protocol, someone by the name of Natalia Ollus who is a programme officer living in Helsinki, Finland, and she introduced the concept or emphasized the concept of bonded labour as being a problem with respect to trafficking. And therefore, it is from that point of view that I think we have a serious problem in Trinidad and Tobago and that we really need this type of legislation.

6.35 p.m.

One of the points that she also raised is that disparities in economies between countries can also lead to trafficking, and this is one of the reasons I think because of the relatively or comparatively favourable economic situation in Trinidad and Tobago, that we would tend to attract a number of people to our shores who normally would not choose to come to Trinidad and Tobago. Therefore, I think that we need to hasten to approve this legislation and really get our house in order.

Now, one of the concerns that I have about the Bill, Madam Vice-President, is the fact that it seems to place a great deal of emphasis on trying to also accommodate the victims of trafficking. For instance, if we look at clause 6(1) of the Bill, it is something with which I have some concern. Clause 6(1)(b) talks about developing:

“...plans in consultation with representatives of civil society to provide victims of trafficking with appropriate housing, employment, educational and training opportunities...”

I have some concerns about that because someone who is really a victim of trafficking is not someone who would have come here willingly and I am not too happy with the idea of providing “housing, employment, educational opportunities and counselling”. While I agree that this is part of the UN Protocol, it is something that a number of countries that have actually looked at the UN Protocol made actual declarations indicating that they would not be bound by this particular clause. It is something that I think we need to look at seriously and to have some conditionalities with respect to housing and employment, which I think should be temporary.

For instance, I would like to cite some of the declarations that were made by some of the other countries. Australia indicated that they would not abide by that particular clause and they expressed serious reservations about it. Qatar voiced a number of reservations; Saudi Arabia is another and quite a few other countries. Syria for instance indicated that they had some reservations about that, and that it would not be binding on them, although it is in the UN Protocol and actually made provisions to ensure that persons who are victims of trafficking would not be entitled to the kinds of things that we have actually provided here.

So I think we should consider introducing some amendments to that particular clause, something along the lines that housing and employment would be considered, or would be provided on a limited basis until the person is

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repatriated. And I really would like to see that introduced because the persons really—this reads as if it comes from the statute of the UNHCR—are not really entitled to these things.

The other concern that I have, has to do with something that has already been raised by some of the previous speakers, with respect to clause 7 and the composition of the task force. Under clause 7(1) while I agree that, yes, there is need for a task force to be established, I have concerns similar to those expressed by Sen. Al-Rawi about the composition and the Ministers—having so many Ministers; not for the same reasons for instance that were expressed by Sen. Deyalsingh, but simply because I feel that too many Ministers should not really be involved in a task force such as this. Of course, there is need for ministerial oversight since there are policy implications, but I certainly would not want to saddle the Attorney General and a number of the Ministers cited here with this function. Therefore, I would also like to see that there is some reconsideration of the actual composition of the task force which perhaps would include a number of organizations that would in some way have something to do with the whole problem—NGOs that would in some way be concerned about trafficking and the victims of trafficking and have some ministerial oversight of that task force. So I would like to see that clause 7(1) and the composition that there is some revision to that.

Clause 12(h), I have some concerns about that; it talks about:

“where necessary, to refer possible cases of trafficking in persons to appropriate governmental agencies, civil society or international organizations. . . .”

While I agree that we can include or should include government agencies and civil societies, I am not sure about the aspect of “international organizations for requisite action” and then we go down to talk about “foreign embassies or high commissions”.

I would prefer to see that whatever concerns there are, be transmitted perhaps to the Ministry of Foreign Affairs and through that conduit we could then deal with foreign embassies and high commissions. The implication here, the impression I have here is that they will be going directly to high commissions and foreign embassies. So I have some concerns about that and I would like to see some revision to that.

Clause 12(q) as well, Madam Vice-President, I have some concerns about that; it speaks here about:

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“to prepare and disseminate educational materials to inform victims of trafficking in Trinidad and Tobago of their rights, the measures in place of their safety...” and so on.

6.45 p.m.

Again we seem to be trying to be more accommodating than trying to resolve the situation whereby there is repatriation. I want to place some emphasis on the need to repatriate people who are the victims of trafficking rather than to treat them as refugees and give them refugee status. There, again, I have some concerns and would suggest we look at that when we get to committee stage.

Clause 21 is another one that causes me some concern. Clause 21 talks about penalties for various transgressions and, at the same time, it talks about allowances for the imprisonment of an additional 15 years. This is not very clear to me. If you add 15 to 20, you get 35 years and that seems to be quite excessive. I believe that I was told some time ago that the maximum term of imprisonment normally would be 25 years. That is not clear to me if you allow an additional imprisonment of 15 years, which would then make it 35. This is something we need to look at.

In clause 23(2), it allows for an additional 20 years. Again, it is a little confusing to me why the Judiciary should be allowed, in certain circumstances, an additional 20 years. That would be quite excessive and make it 40 years. I have a little problem with that.

Clause 39(1) speaks about victims of trafficking who do not remain in Trinidad and Tobago, the Minister and the Minister to whom the responsibility for foreign affairs has been assigned facilitating the safe return of the victims of trafficking. That to me is confusing because if the victims of trafficking do not remain in Trinidad and Tobago, what specifically is this clause referring to when it says “facilitate the safe return of victims of trafficking and any accompanying dependants to their countries of citizenship or lawful residence”. If in fact they did not remain in Trinidad and Tobago, it means they are not in Trinidad and Tobago. It is not very clear to me what is implied here in clause 39(1). It is quite confusing in terms of what we are trying to get at.

The last thing I want to comment on, Madam Vice-President, has to do with the provisions with respect to a number of other benefits that are implied with respect to health services. I think I mentioned educational services already. There is also provision in the actual UN Protocol—which a number of countries have

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also indicated they are not going to abide by—and that has to do with the resolution of any sort of conflict. The protocol, Article 15, refers to any conflicts being addressed or sent to the International Court of Justice, and a number of countries, in fact all the countries, in signing the protocol, made declarations and reservations with respect to Article 15 of the UN Protocol which makes reference to referring certain matters to the International Court of Justice. In almost every single case it was made clear in the local legislation that they will not abide by that and a number of provisions were made in the national legislation whereby whatever arrangement they wanted would have been placed in their national legislation. That is not addressed in our legislation, which means there are no provisions or guidelines to deal with any dispute between countries or things that should be referred for external arbitration. That is something else I am a little concerned about and I think we need to address that.

Apart from that, I would like to express my appreciation to the Minister for bringing the legislation and to indicate that, taking these comments into consideration, I would be happy to support the Bill.

Thank you.

ADJOURNMENT

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, I beg to move that this Senate do now adjourn to Tuesday, May 10, 2011 at 1. 30 p. m. , which shall be Private Members' Day.

Tunapuna Magistrates' Court (Untenable Circumstances)

Sen. Fitzgerald Hinds: Thank you warmly, Madam Vice-President, for the opportunity to move this matter to be raised on the adjournment of this sitting of the Senate.

Of course, it is well known that one of the many purposes that we serve or ought to serve in this august Chamber is to use this forum to seek out, where applicable, and to protect the rights, interests and well-being of the people of Trinidad and Tobago, whom, together, we represent. It is with this singular purpose in mind that I filed, for the attention of the Senate, this Motion which reads as follows:

The failure of the Government—and I do not particularly like that word because I understand the implications of it—to address the unhealthy, untenable circumstances that all stakeholders, especially the magistrates and their staff, including members of the Trinidad and Tobago Police Service and the

maintenance and training company security officers who provide security services around the court, are forced to bear while at work at the Tunapuna Magistrates' Court. This is caused by a defective air condition system and the absence of the audio digital recording system.

I will treat with the air condition first.

As a practitioner in the courts of Trinidad and Tobago, I had occasions recently to attend the Tunapuna Magistrates' Court and appeared before Magistrate Gail Gonsalves, a long-standing, dignified, knowledgeable, experienced magistrate, in a couple matters. I describe the circumstances as being unhealthy and the unit in that courtroom and in the precincts as being dysfunctional because the temperature in the room, I am almost certain, without scientific testing, got close to zero.

I understand that this happens almost every day. It is an industrial type unit that has been put in that building, the Tunapuna Administrative Complex, and it has been malfunctioning for quite some time. *[Interruption]* You see, one of my friends on the other side, in typical bulldozer fashion, is now arguing across the floor and getting my attention, asking who put it there. That is not the point. The magistrate did not; the police officers did not; the security officers of MTS did not; members of the public who come to court to have their matters resolved in a civilized manner did not; but they are all afflicted. So the question is not who put it there. In fact, not even the Minister responsible, I would say the Attorney General, put it there; not present or past. *[Interruption]* That is not the point. He is asking me now in typical seagull form how long that has been happening.

That is not it. The point in issue is that in Trinidad and Tobago and, more specifically, in the Tunapuna Magistrates' Court, we have a situation where the air conditioning unit is malfunctioning to that extent. I can tell you it is unhealthy, because on the few occasions I had to spend in that place, maybe an hour or two hours, I left there rather discomforted, feeling pain in my joints. It was absolutely horrendous.

I noticed when I entered that the police officers were all clad, unusual for court duty, in those thick black tunics that you see them use in the night and outside on patrol on other elements of their duties. I unwittingly went into the courtroom dressed as I am, hopefully as elegant as I look today and felt rather discomforted at it, so I was pressed by day two to raise it with the magistrate. It was at that point that she explained to me that this is a long-standing problem and

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that it has caused the magistrates sitting in that court to bring to an end the proceedings far earlier than they want to or ordinarily should. Very often, they bring the day's proceedings to an end at about 1.00 p.m.

I found at times, while there, that I literally could not hold my pen to take notes, so cold it was. The people who occupy those rooms on a daily basis made it very clear that this is the state of affairs they are forced to work in. I considered it to be unhealthy, untenable and I promised myself that I would use this forum to raise the matter with the Government so that it can do whatever it can to bring relief to all of the stakeholders in the circumstances.

Magistrates work very hard. They do so in very challenging circumstances. They assume a tremendous amount of risk because they interface with 90 per cent of the litigants in the court system in Trinidad and Tobago from the best to the worst; from the most law-abiding to the most outlandish lawbreakers and they deserve better. The police officers as well.

7. 00 p. m.

Had I encountered this problem anytime in the past and I had this forum, I would have done precisely what I am doing today. [*Desk thumping*] It is hoped that action will be promptly taken to resolve that problem to the extent that it can be. It may require fundamental change, but it is a small price to pay to ensure that the business of the court proceeds apace and without the troubles and that they are addressed.

One regular occupant of the court told me that when she would have gone home, very often she found it difficult to embrace her baby, because of the discomfort that she would have felt. It is rather serious. It is not exaggerated, but it is very, very serious. So, I am hoping, through the Attorney General, who I am told will respond on behalf of the Government, he being the conduit—recognizing the separation of powers—between the Government and the Judiciary, would find out—in fact, this Motion was filed a very long time ago. So I am confident that by now the hon. Attorney General would have access to the information, and possibly a suggestion as to a resolution of the problem as I have raised it.

In respect of the Tunapuna Court, the Attorney General ought to know by now or be aware that there was a defective sewer system in that building and it went on for weeks. The upshot was it flooded the area where the prisoners had to be kept waiting for their date in court as it were, and because of that state of affairs—and that went on for quite some weeks—they could not bring prisoners to court so,

again, that impeded the matter. I am told that that matter, between the time of filing this Motion and my presentation of it today, that particular problem has been resolved, and I am particularly happy to know that.

This Motion also deals with the question—I see the Attorney General is agreeing with every word I say. I see he is agreeing. I sense that his nod is a nod of agreement. His eyes are closed as well, but I think some people concentrate better with their eyes closed. Maybe this is a case in point, but I should raise my voice just to ensure that he looks at me when I speak and that he may find disagreement and not nod with his eyes closed in agreement constantly.

Madam Vice-President, the other matter that this Motion treats with is the question of the absence of the audio digital recording system in that court. You would know, or at least you ought to know, and we have often told you that longhand note taking was, and ought really in modern Trinidad and Tobago to be a thing of the past. It is probably the kind of thing that Sen. Abdullah would be very familiar with, being a thing of the past.

Madam Vice-President, I noted the magistrates and the note takers in the court continue to make use of longhand notes unlike some of the other magistrates' courts and, certainly, the High Courts that I have attended in the course of my practice as a professional, and this slows down the proceedings tremendously, and that coupled with the conditions that I have described earlier really took away from the effectiveness of the courts in the administration of justice in our country.

Longhand notes lend themselves easily to inaccurate recording of information as given by witnesses, whether they are led or whether they are cross-examined. So, Madam Vice-President, it lends itself to human error as well, and the computer aided transcription service, the CAT system as we call it, has been put in place in some of the courts and the audio digital recording system, which is the most modern application of the technology in this respect, is not present in the Tunapuna Magistrates' Court. I am told that it is not present in a few of the many magistrates' courts around Trinidad and Tobago.

Madam Vice-President, as my time for the presentation of this Motion comes to an end, I would like to get an indication from the hon. Attorney General who I anticipate will speak to this, what action the Government proposes to take to resolve these two matters. Confident that once they are resolved and to the extent that it is a problem anywhere else in the jurisdiction—once those problems are resolved, we will be moving more swiftly toward the achievement of the Vision 2020 project that Trinidad and Tobago has rather correctly set out for itself.

Madam Vice-President, I thank you very kindly. [*Desk thumping*]

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you, Madam Vice-President. The hon. Senator has raised a matter in relation to the problems faced by all persons using the Tunapuna Magistrates' Court. [*Crosstalk*] I classify prisoners as persons. I said all persons using the court. The matter is as follows:

The failure of the Government to address the healthy and untenable circumstances that all stakeholders, especially magistrates and their staff are forced to bear while at work at the Tunapuna Magistrates' Court caused by a defective air condition system and the absence of an audio digital recording system.

Madam Vice-President, these are two components or two issues which form part of a major overhaul and upgrade of the Tunapuna Administrative Complex. Permit me to say a few words on the air condition system first. The Tunapuna Magistrates' Court is housed in the state-owned facility referred to as the Tunapuna Administrative Complex. That falls under the portfolio of the Ministry of Public Administration. I, therefore, sought to obtain a report on the current status of the air conditioning and ventilation systems at the court from the Ministry of Public Administration in this regard.

Madam Vice-President, the air conditioning and ventilation systems at the Tunapuna Administrative Complex comprise 12 handler units; 12 condensing units with associated electrical pipework and ducting. It is noteworthy that these units have been in operations since the plant was commissioned in 1990. In August 2010, after we assumed office and realized that these problems which the goodly Senator highlighted have been around for such a long time, we took immediate action, in August 2010. [*Desk thumping*]

A condition survey on that building was done and it was submitted by Nipdec to the Ministry of Public Administration. The hon. Minister of Public Administration, Sen. Gosine-Ramgoolam took a personal interest in this matter and the results and the findings of that condition survey found that due to a lack of proper and routine maintenance and routine inspection of all these units, except the three new ones that are there, the units have outlived their usefulness.

Now, it raises a very important point, because the lack of a proper maintenance schedule and the failure to inspect the units—we all have air conditioning units in our homes and so on, and it is known by the average citizen that an air conditioning unit has to be serviced. Routine inspection and routine maintenance of your air conditioning unit is not rocket science, yet, it was found

after we commissioned this condition survey in August 2010, that due to the lack of a proper maintenance schedule and routine inspection, all the units, except the three relatively new condensing units had outlived their economic lives and had fallen into a state of disrepair to such an extent that they had to be replaced totally. We had no choice but to accept that recommendation.

Permit me to pause to point out that my good friend, hon. Sen. Hinds, who was himself a former Minister in the Ministry of National Security at the time, would have been in a position to commission such a report and to do something about it. [*Desk thumping*] What I do want to point out, and where I agree with my learned friend is that this affected all the stakeholders, and one of the stakeholders in the justice system as far as we are concerned is the Ministry of National Security. It is really sad to know that the former administration would have allowed the air conditioning units to fall into such a state of disrepair and to malfunction to such an extent unnoticed without any form of monitoring, inspection or routine supervision—the thing just came like a ton of bricks; yet another financial avalanche to hit this Government that we have inherited, because of the simple failure and omission on the part of the former administration. I mean, how difficult could it be—I do not really get into all the technical sophisticated things like the Clico scandal and what they did and so on. I say maybe that might be a little too much. But how difficult could it be for you to know that your air conditioning unit has to be serviced? Oh, come on! [*Desk thumping*] From 1990—2011 they ran these air conditioning units into the ground.

Permit me to quote the finding: that due to a lack of proper maintenance schedule and any routine inspections—that is what it is! Everyone knows that when you service an air conditioning unit in a home you set the date for the next servicing at the same time, because you know it is routine. Routine! Given the deteriorating condition of these units, the unfortunate situation to which the learned Senator adverted, has been in existence for quite some time now. [*Crosstalk*] I do not know that my learned friend had any alternative professional career besides law. I am certain that whilst this situation persisted under the former administration, notwithstanding the fact that his career in that administration was somewhat curtailed and truncated, the fact of the matter is, whilst he was training as a good apprentice to come back out, I am certain that he was aware of that problem. I really wonder what was done. [*Crosstalk*] I sense a certain amount of discombobulation on the part of my learned friend. [*Desk thumping*] Do not be so discombobulated and dislocated.

You see, Madam Vice-President, the Property and Real Estate Division in the Ministry of Public Administration engages a service provider to undertake repairs in order to keep the occupants as comfortable as possible. [*Crosstalk*] You know, I recall that my learned friend's—one would have thought and one would have expected Sen. Hinds, not just because he is a lawyer practising there, and not just because he cares for the prisoners, the magistrates and the public—photograph was in the newspaper and the Senator was proudly displaying his wonderful and much admired locks; his Rastafarian dreadlocks. I saw it in the newspapers. When I was preparing for this Motion, I thought that with those locks that we so admired, he would have been sweating more than everybody else. He should have brought this to the attention of the former administration, pronto! I was amazed to know that he waited this long. Anyway, it shows you could endure. [*Desk thumping*]

Madam Vice-President, in 2011 the People's Partnership, having surveyed this entire mess we have inherited, in February 2011 we approved the recommendations of the condition survey, and this is what we have to do with that entire administrative complex.

7. 15 p. m.

- We have to refurbish the sewer system.
- We have to have repairs done to the structural system and integrity of the building.
- We have to replace the central air condition system, supply and install a standby generator.
- Upgrade the lighting system—because he did not mention it, but the lighting is very poor as well. People have to squint and so on. So we have to upgrade the lighting system which also has security implications.
- We have to upgrade the communication system including voice, data and security.
- Upgrade of the electronic fire protection system.
- And an upgrade of the plumbing system. [*Crosstalk*]

Sen. Baptiste-Cornelis: They left anything working?

Sen. The Hon. A. Ramlogan: You see, not even the Opposition they left working. [*Crosstalk*]

Sen. George: They were building NAPA—

Sen. The Hon. A. Ramlogan: Madam Vice-President, whilst they were concentrating on building skyscrapers, NAPA and the Waterfront Project and so on, they neglected to maintain the buildings that were already there and actually being used by the people of the country. Courts are very important buildings and I am amazed to know that this situation was allowed and managed to escape their collective attention.

Let me turn to the audio digital recording system. Now, before I do, with respect to all the other activities, Madam Vice-President, the Ministry of Public Administration and the Ministry of Works and Transport, pursuant to Cabinet's decision, they are in the process of developing RFPs (requests for proposals) to go out for tendering to have these works done in as quick a time frame as possible.

Madam Vice-President, with respect to the audio digital recording system, the Judiciary indicated, I am advised, that it was unable to install the audio digital recording system in the Tunapuna Magistrates' Court. And listen why—when they complain about a lack of an audio digital recording system, almost as if we do not want to put in one. [*Crosstalk*] No, no, no, no. It is as if, you know this Government does not want to install one there. You know the position is this. You cannot install that system because the existing electrical systems in that court are outdated and unable to facilitate the introduction of such a modern electronic system. Those are the facts. [*Crosstalk*]

Sen. Baptiste-Cornelis: “Say it aint so Hinds. Say it aint so.”

Sen. The Hon. A. Ramlogan: The Judiciary is therefore, awaiting completion of the necessary rewiring and re-cabling in order to install an audio digital recording system in the Tunapuna court. [*Crosstalk*]

Permit me to say as well—we have to re-cable and rewire because when you all built buildings like this, what happened is that you all did not think futuristically. What happen is that the Vision 2020 that you boasted about, this is what the vision 2020 brought to the country; buildings that last for 10 years that have to be redone from beginning to end. It will sometimes cost us less to demolish and rebuild. We have to do the rewiring. [*Crosstalk*] Everyone knows it is easier to wire from scratch than to rewire. So, the Tunapuna Magistrates' Court is not the only court without the benefit of a digital recording system.

By Cabinet Minute 586 of March 18, 2010, Cabinet noted that the refurbishment works on the complex were to be untaken in two phases. A conditional survey is

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to be performed resulting in the preparation of a scope of works and a budget for the refurbishment works and an implementation of the required refurbishment works.

We have agreed to engage NIPDEC to undertake phase one with the understanding that once completed the conditional survey, scope of works and budget estimates would be submitted for Cabinet's consideration. A note was submitted in October 2010 for Cabinet's consideration indicating that NIPDEC had submitted the conditional survey, scope of work and budget estimates, with the scope of works dealing with the major mechanical, electrical infrastructure and building components. The estimates for this work, Madam Vice-President, is \$12,676,602—[*Crosstalk*] \$12. 6 million after 10 years because of the failure to properly maintain the building.

Replacement of furniture and fixtures and other fittings would only be contemplated when the major refurbishment works are completed. Cabinet has been asked to accept the proposal submitted by NIPDEC and to agree that the Central Tenders Board be engaged to carry out the refurbishment works at the Tunapuna Administrative Complex at the cost identified.

On February 3, Madam Vice-President, Cabinet agreed, in view of the urgency of the public health considerations, that the works for the refurbishment of the sewer treatment plant—because he did not mention it, but there was a health hazard [*Crosstalk*]

Sen. George: That is right.

Sen. The Hon. A. Ramlogan: So, we excised from that, the sewer treatment work, and we have asked that the Ministry of Public Administration and Ministry of Works and Transport develop RFPs for phase two. To date, the focus with respect to the critical sewer treatment plant which is currently non functional and can pose a health risk is being engaged and given top priority.

Madam Vice-President, the audio digital recording system falls within the scope of outfittings, not phase, one or two, and will require detailed discussions led by the Judiciary to ensure that the main infrastructural rewiring and re-cabling interface seamlessly with the audio digital recording system. The Judiciary has advised that they are currently beginning the process to secure the connectivity service to facilitate the installation of this audio digital recording system. As such, when the details of phase two are being worked out, the Judiciary will then be engaged to ensure the seamless interface with the main electrical system and by extension the effective accommodation of their needs.

The sewer treatment plant, Madam Vice-President: whereas, significant progress was made by NIPDEC with the award of the contract and the mobilization of a contractor for the job, by Minute 627, the Cabinet agreed that WASA should undertake as a matter of urgency the refurbishment of the sewer treatment plant at the complex. The Ministry of Public Administration has, therefore, been engaged in bringing the parties together to facilitate this. WASA, under the distinguished leadership of Minister Emmanuel George, will solve that problem where you all failed. Thank you very much. [*Desk thumping*]

Mother's Day Greetings

Madam Vice-President: Thank you very much hon. Senators. Before I put the question, to all Members in this honourable Chamber, to the parliamentary staff and the national community, on the occasion of Mother's Day, on Sunday—it is my opinion, of course, that Mother's Day is every day—[*Desk thumping*]

Sen. Hinds: Oh yes.

Madam Vice-President: —but my wish, if I may be so bold, is that that each mother and each child is safe, happy, protected and empowered, as each one engages without fear or favour in the continued development of nation building. We are very proud and I am sure we all here wish all mothers a happy Mother's Day on Sunday. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.21 p.m.