

*Leave of Absence**Tuesday March 13, 2012***SENATE***Tuesday, March 13, 2012*

The Senate met at 1.30 p.m.

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

Madam Vice-President: Hon. Senators, I wish to advise that the President of the Senate, Sen. The Hon. Timothy Hamel-Smith is out of the country. I have granted leave of absence to Sen. The Hon. Bhoendradatt Tewarie, Sen. The Hon. Kevin Ramnarine and Sen. Helen Drayton who are all out of the country.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MR. KEVIN BHAGALOO

WHEREAS Senator Dr. the Honourable Bhoendradatt Tewarie is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KEVIN BHAGALOO, to be temporarily a member of the Senate, with effect from 13th March, 2012 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. the Honourable Bhoendradatt Tewarie

Senators' Appointment

Tuesday March 13, 2012

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2012."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MR. RABINDRA MOONAN

WHEREAS the President of the Senate, Senator the Honourable Timothy Hamel-Smith is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

AND WHEREAS the Vice-President of the Senate is acting as President of the Senate:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44(1)(a) and 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, RABINDRA MOONAN, to be temporarily a member of the Senate, with effect from 13th March, 2012 and continuing during the period of absence from Trinidad and Tobago of the said Senator the Honourable Timothy Hamel-Smith.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2012."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

Senators' Appointment

Tuesday March 13, 2012

TO: MR. NICHOLAS GALT

WHEREAS Senator HELEN DRAYTON is incapable of performing her duties as a Senator by reason of her absence out of the country:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NICHOLAS GALT, to be temporarily a member of the Senate, with effect from 13th March, 2012 and continuing during the absence of the said Senator Helen Drayton.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2012."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: ARNOLD RAM

WHEREAS Senator the Honourable Kevin Christian Ramnarine is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ARNOLD RAM, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Kevin Christian Ramnarine

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 12th day of March, 2012."

Oath of Allegiance

Tuesday March 13, 2012

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Sen. Rabindra Moonan, Sen. Kevin Bhagaloo, Sen. Arnold Ram, Sen. Nicholas Galt

COMMONWEALTH DAY COMMEMORATION

Madam Vice-President: Hon. Senators, as many of you are aware yesterday Monday, March 12 was Commonwealth Day. This observance began in Canada in 1898 on the birthday of Queen Victoria and was initially called Empire Day. In the post-colonial era it was renamed Commonwealth Day, and member countries agreed that observances would take place on the second Monday in March every year. Commonwealth Day is dedicated to the observance of the progress that nations of the Commonwealth have made in the promotion and understanding of global issues and international cooperation for its citizens. Although there is a designated theme each year, there is no uniform practice for the celebration of Commonwealth Day across the many nations of the Commonwealth.

Yesterday, a gala celebration was held in Westminster Abbey in the UK which also marked the commencement of the celebrations of the Diamond Jubilee of Her Majesty, as the UK monarch and as head of the Commonwealth.

This year's theme for Commonwealth Day is "Connecting Cultures". And the executive committee of the local branch of the Commonwealth Parliamentary Association has chosen to host an event entitled; "MPs who can cook", in commemoration of this occasion. The executive committee is of the view that this culinary event would be an ideal opportunity to connect all Members of Parliament of both Houses, to showcase and explore various cultures in Trinidad and Tobago. On that day, the committee is confident of full participation and cohesion for all present in the spirit of friendship, teamwork and goodwill.

Each Senator would have received a letter informing of this event which is scheduled for Saturday, March 31, 2012 from 11.00 a.m. to 4.00 p.m. in which you are urged to participate in the event. I wish to encourage your involvement in this event, both as a cooking participant as well as an involved observer. Similar to the well-received Parliamentary Cricket Competition, held last year, I believe such activities serve to remind us of the oneness of spirit, and national historical connections we all share as citizens of this country, and which come so clearly to the forefront on occasions such as these.

All Members will also have the opportunity to interact with the youth representatives involved in the National Youth Parliament 2012, who will also be invited.

Today, Members, is the deadline for you to indicate your interest in being part of this event. We all look forward to Members who can cook. If you have not yet contacted the Secretariat, please do so.

I wish you all here, and within the Commonwealth a most successful year ahead. Thank you.

**JOINT SELECT COMMITTEE REPORT
(Presentations)**

Sen. Dr. James Armstrong: Madam Vice-President, I have the honour to lay on the Table the following reports as listed on the Order Paper:

(Group II)

Sport Company of Trinidad and Tobago

The Third Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group II) on the Sport Company of Trinidad and Tobago (SPORTT).

(Group II)

Office of Disaster Preparedness and Management

The Fourth Report of the Joint Select Committee on Ministries, Statutory Authorities and State Enterprises (Group II) on the Office of Disaster Preparedness and Management (ODPM).

ORAL ANSWERS TO QUESTIONS

Diplomatic Passports

(Details of)

Sen. Fitzgerald Hinds asked the hon. Minister of Foreign Affairs:

- (i) Could the Minister indicate the number of diplomatic passports issued to citizens of Trinidad and Tobago over the past five (5) years;
- (ii) Could the Minister outline the criteria that have been applied for the issuance of such passports over the said period;
- (iii) Could the Minister indicate the total number of such valid passports now in existence; and
- (iv) Could the Minister indicate the course of action typically adopted by his Ministry, if and when the circumstances of a diplomatic passport holder change?

The Parliamentary Secretary in the Ministry of Foreign Affairs and Communication (Sen. Nicole Dyer-Griffith): Madam Vice-President, the number of diplomatic passports, machine readable, issued to citizens of Trinidad and Tobago over the past five years is 656, since January 24, 2007, as obtained from the Immigration Division, Ministry of National Security.

The criteria applied for issuance of such passports over the said period are determined by Cabinet Minute No. 1221PM8759 dated July 16, 1987.

The total number of valid diplomatic passports, machine readable, is 650 issued since March 13, 2007, as obtained from the Immigration Division, Ministry of National Security.

Given the specific endorsement in each passport as to the bearer's official status, when the circumstances of a diplomatic passport holder change, the passport would cease to be valid for the purposes stated. Consequently, it is to be returned to the Ministry of Foreign Affairs and Communication for onward transmission to the Chief Immigration Officer, Ministry of National Security.

In cases where such a document is not returned, the Ministry would contact the bearer in order to retrieve the document. Thank you, Madam Vice-President.
[Desk thumping]

1.45 p.m.

Sen. Hinds: Supplemental question. Would the hon. Senator who responded here today indicate, for the benefit of the members of the national community who are not privy to Cabinet documents, whether you are prepared to circulate a copy of the Cabinet Minute, to which you referred?

Sen. N. Dyer-Griffith: Madam Vice-President, I would like to ask that that be filed as a separate question, please.

Sen. Hinds: You mean I should file a separate question to determine whether you are prepared to release a Cabinet Minute, which carries the information that we sought in the Parliament today?

Sen. N. Dyer-Griffith: Yes, Madam Vice-President.

Sen. Hinds: Thank you very much. It does not make sense but I will abide by that for the time being, since Sen. Abdullah prompted your answer. That is quite okay.

**Clearing of Lands by Agents of the HDC
(Details of)**

41. Sen. Fitzgerald Hinds asked the Hon. Minister of Housing and the Environment:

- (a) Could the Minister indicate the total cost (including bulldozer cost, security cost and supervision) of the recent clearing of the lands by agents of the HDC, previously occupied and cultivated by farmers at Pineapple Crescent, D'Abadie also known as "Pineapple Smith Lands" and Egypt Trace, Enterprise, Chaguanas?
- (b) Could the Minister indicate whether the bulldozed produce were "short crops"?
- (c) If the answer to (b) is in the affirmative, would the Minister indicate whether these crops were fully developed and if so, why were they not saved?
- (d) Could the Minister indicate whether the development of housing has actually begun?
- (e) If the answer to (d) above is in the negative, could the Minister further indicate the expected start date?

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, the reply to question 41, in respect of part (a) of the question, the total cost paid by the Trinidad and Tobago Housing Development Corporation for the clearing of the lands previously occupied and cultivated by the farmers at Pineapple Crescent, D'Abadie, also known as "Pineapple Smith Lands", and Egypt Trace, Enterprise, Chaguanas, was \$99,825. The answer to part (b) of the question is, the produce at Pineapple Crescent, D'Abadie and Egypt Trace, Enterprise, were short crops. The answer to part (c) of the question is that the crops were at various stages of maturity.

The Trinidad and Tobago Housing Development Corporation has advised that the farmers in occupation of lands at Pineapple Crescent, D'Abadie and Egypt Trace, Enterprise, were served with quit notices dated February 26, 2010, and March 23, 2011, respectively, by the Commissioner of State Lands to facilitate them giving up the lands to accommodate the corporation's entry onto the said lands.

The answer to part (d) of the question is that mobilization works started at Egypt Trace, Enterprise in August 2011. The development of housing at Pineapple Crescent, D'Abadie has not yet commenced. And the answer to part (e), the Trinidad and Tobago Housing Development Corporation estimates that the development of housing at Pineapple Crescent, D'Abadie will commence in June 2012. I thank you, Madam Vice-President. [*Desk thumping*]

Sen. Hinds: In light of the Minister's response to parts (d) and (e) of my question, would the Minister agree that it would have been far more humane, far more sensible, to allow the crops to have matured and to have been reaped for the benefit of the citizens of Trinidad and Tobago, and then take possession of the lands, or you could have taken possession, ensure that the crops were properly utilized and then you could have secured the property for housing development, given that you have started no housing there since then?

Sen. The Hon. E. George: Madam Vice-President, that does not sound like a question to me, it sounds like a statement, so I do not know if I am required to answer it.

Sen. Hinds: Let me ask it again since he does not recognize a question from a statement. The question is, in light of your response to parts (d) and (e) of my question, would it not have been more sensible and more humane for the Government to allow the crops to have matured and be reaped rather than destroy them, seeing that you have not used it for housing since?

Sen. The Hon. E. George: Madam Vice-President, the hon. Senator may wish to ask that as another question and it would be answered.

Sen. Hinds: Thank you very much from a Government that boasts that it answers all questions, and promptly. You could fool some of the people but not all of them—certainly would not fool me.

Construction of the San Fernando/Pt. Fortin Highway (Details of)

42. Sen. Fitzgerald Hinds asked the Hon. Minister of Finance:

- (a) Could the Minister indicate why the sum of approximately \$7 Billion (TT) needed to fund the construction of the San Fernando/Pt. Fortin Highway was not raised by borrowing "in the market"?
- (b) Given that the sum of \$1.5 billion (TT) was not budgeted for the project at (a) above in fiscal 2010-2011, could the Minister indicate from which "Heads" in the estimates of expenditure was this sum taken?

The Minister of Food Production, Land and Marine Affairs (Sen. The Hon. Vasant Bharath): Madam Vice-President, in response to part (a) of the question, February of this year the Government approved the overall budget of \$7.5 billion for the Solomon Hochoy Highway extension project. Financing for this project will be provided on the basis of the yearly requirements of the four-year contract, and to this end Government agreed to provide initial funding of \$1.5 billion.

Government agreed to finance the project instead of borrowing in the market as the project did not require its entire budget funding, immediately. Additionally, borrowing \$7.5 billion on the local market would have adversely affected this country's public debt levels, and at the time could not have been accommodated under the borrowing limits as outlined in the Guarantee of Loans (Companies) Act.

Part (b) of the question: in June of last year, while steps were being undertaken to arrange financing for this project, the Permanent Secretary in the Ministry of Works and Infrastructure requested that financing in the sum of \$1.5 billion be made available to the National Infrastructure Development Company Limited (NIDCO), to honour financial obligations associated with this project. To facilitate the request the required sum was identified under Treasury deposits. In the accordance with the Exchequer and Audit Act, Chapter 69:01, section 17(1) (b), the Minister of Finance can authorize the use of the balances held on these treasury deposits to make advances.

Advances made from the Treasury deposits are recoverable within a period not exceeding 12 months after the close of the financial year in which advances are made. Funding was appropriated as part of the Finance (Supplementation and Variation of Appropriation) (Financial Year 2011) Act, 2012, as part of the closing of accounts to bring the advance to account. Thank you.

Sen. Hinds: Supplemental question. So the Minister is saying, rather than borrow money you have utilized the nation's savings to fund the \$1.5 billion, thus far? Is that what the Minister is saying?

Sen. The Hon. V. Bharath: I will reread for you part of the question which would have answered, sufficiently, the question you are asking, which is that these funds can be utilized under the authority of the Minister of Finance at any time. At any time, advances made from these deposits are recoverable within a period not exceeding 12 months after the close of the financial year.

Sen. Hinds: I would like to direct another supplemental question. Would the Minister tell us why would the Government have taken this position when they could have borrowed money, even internationally from one of the international organizations for example, paying back at a substantially reduced interest rate with the usual five-year moratorium? Does it make sense to have gone the way the Government has done within our budgetary arrangements?

Sen. The Hon. V. Bharath: Madam Vice-President, clearly Sen. Hinds must be asleep. I said, in my response to the earlier question, that we could not accommodate the borrowings because we had exceeded the guarantee of loans amount, and this is why we went to Parliament, subsequently, to raise the ceilings on the Guarantee of Loans (Companies) Account.

Sen. Hinds: Yes, that is quite all right. Final supplemental. When the Government borrows money, for example from the IADB, very stringent procedures for procurement must be observed. Is the Minister willing to give this country the assurance that sufficient and similar stringent procurement procedures have been observed in respect of the contract or contracts under this project?

Sen. The Hon. V. Bharath: Madam Vice-President, clearly I am not in a position at this point in time, because I do not know the details of the entire contract, but I am sure that if Sen. Hinds is willing to pose this as a separate question, the Ministry of Finance would be happy to answer.

Sen. Hinds: So, is the Cabinet Minister saying to the country today that you cannot comfortably and confidently vouch for the conduct of your colleagues in the Cabinet, in respect of procurement on a major project such as that?

Sen. The Hon. V. Bharath: Madam Vice-President, I said no such thing.

Sen. Al-Rawi: Madam Vice-President, this is a supplemental question. Could the hon. Minister assist in perhaps elucidating whether there is any contemplation by Cabinet—the Executive—to obtain a loan on the international market, and to, in fact, replace the borrowings from our savings per se?

Sen. The Hon. V. Bharath: I am not certain what the intention of the Minister of—the substantive Minister of Finance intends to do, but as I mentioned before, these borrowings have to be replaced within a 12-month time frame of the end of the financial year. So, the intention of having raised the limits on the Guarantee of Loans (Companies) Act in Parliament, several months ago, would mean necessarily that we would have to borrow those funds, either internationally through organizations like the IADB or others or locally. It is more than likely one of two options would be that, yes, we would go internationally, or we would raise them through the use of bonds or Treasury notes on the local market. Of course, that has its attendant costs involved.

**BACTERIOLOGICAL (BIOLOGICAL)
AND TOXIN WEAPONS BILL, 2011
[Second Day]**

Order read for resuming adjourned debate on question [March 06, 2012]:

That the Bill be now read a second time.

Question again proposed.

Madam Vice-President: Hon. Senators, the debate on the Bill, which was in progress when the Senate adjourned on Tuesday, March 06, 2012, will be resumed, an Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and

Toxin Weapons and on their Destruction. The list of those who spoke on Tuesday, March 06, 2012: the hon. Dr. Surujrattan Rambachan, the Minister of Foreign Affairs and Communications, the mover of the Motion. Any Senator wishing to join the debate may do so now.

Sen. Faris Al-Rawi: Thank you, Madam Vice-President, and I may note that in the Senate this afternoon, as you preside, there are three women at the head table. I noticed the power of our women both as clerks of Senate and with you, Madam Vice-President. Welcome back to the Chair.

Madam Vice-President, I rise to make a contribution in the Bill before us now, which is the Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. When last we met, one week ago, the hon. Minister of Foreign Affairs and Communication, the hon. Dr. Rambachan, piloted this Motion, premising for us that the objective of this Bill was bifurcated.

On the first limb he set out for us that we would, by enacting legislation of this type, be meeting our international obligations pursuant to the Convention of which we are a part signed by this country in 2007; that is July 19, 2007. Secondly, that we would be preventing what he described as the mischief caused by biological weapons, so that the objective of the Bill stated by the hon. Minister was in those two classes.

In his very short presentation, the hon. Minister provided what I discern to be six assurances in justifying his objective. Those assurances included that the Government had taken its time in preparing this legislation, this draft legislation, the Bill to come before us, and, in fact, the hon. Minister in an indication of the type of time that he spent said that people were warmed by the inclusion of attorneys in the process.

2.00 p.m.

I noted that the hon. Minister said the Government was careful to involve people like this in the business of Parliament, that being, when a Bill comes before this Parliament there are teams of doctors, teams of people dealing with biological matters, a team of lawyers, surrounded by many teams, and that therefore when the Government involved people like this in the business of Parliament, there was participation by the widest community in the affairs of Government, and as a result of that people warmed up to this Government. Those were the specific words used.

When I reflected upon the contribution and the types of assurances which I would point this honourable Senate to in justifying the objective of this Bill, in the context of people warming up, I genuinely had some concern as to whether the hon. Minister had noticed beads of sweat, as opposed to warming. I say so insofar as I genuinely believe that there has not been enough interrogation of the type of legislation which we should adopt in this country.

Madam Vice-President, the hon. Minister pointed out to this Senate and to the people of Trinidad and Tobago that there were three Conventions of material note. There was first the Convention Against the Proliferation of Nuclear Weapons; there was the Convention Against Chemical Weapons, per se, and there was the Convention Against Biological and Toxins as Weapons. Those are three Conventions which Trinidad and Tobago should have in its sights.

The Convention that we are dealing with today was put into effect in 1975 and signed by Trinidad and Tobago in 2007. In the period 2007 to now, there have been four attempts to bring legislation forward. There were two attempts by the PNM when last it was in Government, and this is the second attempt by this Government to bring it forward. On all prior occasions the Bill lapsed. In my interrogation of why these Bills were allowed to lapse by the last Government, I noticed that there was serious concern as to the effect that this legislation would have when one contemplated how it articulated with other pieces of legislation in Trinidad and Tobago.

Specifically I noticed, and I recommend it for consideration by all Senators, the Basil Convention, as put into effect in 2008/2009 here. Secondly, the Anti-Terrorism Act, as put into effect in 2005 on our laws and as amended in 2009 and 2011, and thirdly, the Dangerous Drugs Act. When I looked at the overall effect, Madam Vice-President, it is there I had the first submission that the Bill had not been well thought out.

The hon. Minister did say to us that the Government's team looked at other legislation. They looked specifically, as I understood it, to the United Kingdom and St. Kitts as two jurisdictions. I had a look at those pieces of legislation, and was concerned that our legislation did not contemplate matters which the United Kingdom saw in the interarticulation. The UK Bill itself was brought into effect in 1974. In fact, the UK Act is the Biological Weapons Act of 1974.

The hon. Minister, in pointing us to the effect of one of the purposes he was bringing, said that he was satisfying the dualist approach to law. The dualist approach to law means that in the realm of international law, international law

becomes national law only when you codify it in your laws. That is as opposed to a monist theory of law which says international law, once implemented and signed on to, automatically becomes your law. So Trinidad and Tobago, being of the type of State that attributes itself to holding on to dualist law, is intended to enact laws to make it effective.

There is a subset of dualist law that the hon. Minister perhaps ought to reflect upon. That is, in fact, the principle of—I think it is best put in Latin—*lex posterior derogat priori*. That is basically, new law causes a replacement of old law. I say so because if you look at the language of the 1974 UK Act and then you look at the ramifications factored by the anti-terrorism legislation in England, you would notice that the UK Act was amended by the anti-terrorism legislation in England. In fact, that may very well be the case in relation to our own laws.

When you look at the anti-terrorism laws in Trinidad and Tobago, the Anti-Terrorism Act, 2005 specifically contemplates adherence to several pieces of international law and charters, which are set out in the interpretations clause. The anti-terrorism law, which stands as law in Trinidad and Tobago, has effect upon this very Bill we are considering. So the first question that arises is whether a wholesale importation of only part of the UK law is apposite to Trinidad and Tobago's best purpose of laws. That is the first question. That has to be factored from the language of the Bill itself. I would say that it is to be factored by two aspects: the positive aspects of the Bill and the negative aspects of the Bill, insofar as there are material omissions from the Bill, in my humble view.

It would be safe to say that the Minister provided very short explanation of the rationale behind the law to this Bill. In fact, the Bill itself was explained in a mere 20 lines in his *Hansard* contribution. The mischief which the Bill could have was explained in a mere 20 lines. It was supplemented by a statement that the Government had to be very, very careful. When you digest and crystalize the hon. Minister's presentation, those are the two core things that stand out. So what is this Bill about, Madam Vice-President?

The Bill is 14 clauses long. It says that we are enacting into local law the international Convention. It says that the law is to be proclaimed. The proclamation was explained by the hon. Minister, being, "When we get regulations together, when we assemble a team of people to look after this legislation, then we will proclaim it." The Bill then sets out in its operative terms in clauses 6, 7, 8 and 10 very important factors for the nation to pay attention to.

Madam Vice-President, may I start in reflecting on the Bill firstly upon the matter that is intended to be covered by it. There is a definition section to be had at clause 4. In this section there is the definition for biological agent and toxins in particular. When we look to the definitions had elsewhere and to the protocol of the Convention in particular, because the protocol is something that we must factor—there is the Convention and then there is a protocol to the Convention in international law. When you look to the protocol in particular, the list of agents and toxins and the mechanisms considered to be equipment for delivery of toxins and agents are very, very, very wide. They include every aspect of aerosol delivery, all forms of chemical equipment in any form of common laboratory in Trinidad and Tobago.

When you look at what is considered to be equipment covered by the this Bill, translated to the people of Trinidad and Tobago, it means literally anything and everything that one may use in a standard chemical factory, pharmaceutical factory or laboratory analysis, including things like the Caribbean Epidemiology Centre (CAREC), as the Act as it is intended to be, will bind the State.

The Act itself, from its definitions aspect, both express definitions in the Bill, and implied definitions, if one were to reflect upon the protocol, shows that it is a very wide ambit of coverage. When you look further at the Bill, you notice that its architecture suggests that the Minister of Foreign Affairs would deal with Treaty aspects, and the Minister of National Security would in effect be the person responsible for the implementation and operationalization of the legislation as proposed.

The Minister of National Security proposes to do that, ably assisted by two sources. The first source is set out in clause 6 of the Bill, where the Minister of National Security is empowered with the ability to constitute a toxins weapons committee. That committee is stated simply to consist of:

“...a Chairman and Deputy Chairman and such members as the Minister may from time to time appoint in writing...”

Secondly, in subclause (2):

- (2) The terms and conditions of the appointment of a member of the Committee and the period of tenure of office shall be such as the Minister may set out in the instrument of appointment.
- (3) The Committee, with the approval of the Minister, may make such Rules governing its proceedings...”

So the Minister of National Security assembles and appoints this committee, and this committee is charged with the responsibility in clause 6 to create rules and regulations.

When you look to clause 7 of the Bill, you see that the committee has specific powers. They are express powers which include:

“(1) The functions of the Committee shall be—

- (a) to advise the Minister on matters relevant to the making of regulations under the Act;
 - (b) to advise on and monitor the implementation of regulations made under the Act;
 - (c) to coordinate the activities of all agencies involved in the implementation and enforcement of the requirements under the Act or Regulations made thereunder; and
 - (d) such other functions as are from time to time conferred on the Committee by virtue of this Act or any other written law.
- (2) The Committee in the performance of its functions under the Act shall be subject to such general or special directions as the Minister may give from time to time.”

So this section, when you look at the powers, establishes that the committee has a massive range of powers.

When you factor that against clause 5 of the Bill, you are giving these wide, sweeping powers to coordinate all arms under the Ministry responsible for enforcement, to a nameless, faceless committee established by clause 5, which is not subject to any form of specifics in relation to the qualifications for appointment, which is not subject to any specifics in relation to the tenure which they may enjoy, which is not specific to any form of protection relative to interference that one may potentially argue, any political creature acting as a Minister is potentially capable of. You have got these wide powers vested in what I call a nameless, faceless, “prescriptiveless” committee.

Then when you look further, you see in clause 9:

“The Minister may, upon the recommendation of the Committee, give directions in writing—

- (a) for the immediate seizure and disposal of any biological agent or toxin...in any building, place...”—et cetera

He may give directions in writing to the owner for immediate disposal. The Minister may give directions under subsection (1)(b) for manner of disposal, et cetera. So the Minister in section 9, on the advice of this nameless, faceless committee, has the power specifically to interfere with your right to property and other rights enshrined in the Constitution.

In fairness to the hon. Minister of Foreign Affairs and Communications, he mentioned section 9 as that specific clause which abrogated the rights in our Constitution, set out in sections 4 and 5. He alluded to the fact that it was that very abrogation of rights that we would need a three-fifths majority for.

So here we have a nameless, faceless committee, the Minister acting on the advice of this nameless, faceless committee, and we are being invited as a Senate to consider two things: one, to consider voting for this thing by way of a three-fifths majority, and two, to consider that the Minister's assurances, given to us in piloting this Bill, are reasonable enough in a democratic society such as Trinidad and Tobago, to withstand any scrutiny or challenge relative to a derogation of rights.

2.15 p.m.

What does that mean in simple terms? Section 13 of the Constitution provides the authority for this Senate, and for the House below us, to vote by a three-fifth's majority, pass legislation which seeks to derogate from constitutionally enshrined rights, and consider that it is reasonable enough, such that, when a court is invited to interrogate the position says, "Parliament in its wisdom was satisfied as to the policy and the measures put out, and we the court will only interfere in a limited fashion, based upon something which the lawyers call proportionality and reasonableness." That is what we are being asked to do as a Senate. We are being asked to accept the Minister's short contribution of the policy and prescriptive measures in this Bill as being reasonable to a society such as Trinidad and Tobago.

Madam Vice-President, at the very start, if you factor clauses 5 and 6 of this Bill, the nameless, faceless committee, the powers given to the committee in clauses 6, and the powers given to the Minister on recommendation of the committee in clauses 9, you would see that we have not reached, in my humble view, the threshold required for proportionality and reasonableness as set down in law.

The law in relation to this area is to be found in a number of cases in our local jurisdiction. It is to be found in the case of *Steve Ferguson v the Attorney General*, *Civ App 2010-185* in the dicta of Kangaloo, Justice of Appeal; it is to be found in *Suratt v the Attorney General* in the Privy Council judgment there, and that is 2007 at the UK Privy Council at page 55; it is to be found in the *Attorney General v Northern Construction*, *Civ App. 100 of 2002*.

That litigation, that body of law, in fact codified and approved what we call in law the De Freitas test. Now, the De Freitas test is the test which this Senate ought to have in the mind, and the test is, set out in a case of *De Freitas v the Minister of Agriculture* which is a 1999 appeal case from the Privy Council at page 69. When you cut it short, the test which we ought to consider has three limbs. The first limb is that the legislative objective is sufficiently important to justify limiting fundamental rights. The second limb is that the measures designed to meet the legislative objectives are rationally connected to it, and the third limb—and this is the important one—is that the means used to impair the right to our freedom are no more than is necessary to accomplish this objective.

The first two points we can argue are clear. There is a mischief in the form of biological and toxins to be used as weapons, which we must deal with. There is the need to comply, in a dualist sense of law, with our obligations from an international treaty perspective, in particular UN Resolution 15:40 which prescribes for us the obligation to do it, but the third limb that we must only impair to the extent that we must, i.e. the minimal threshold interference test, that is the one we have a problem with when you factor the maxim of *lex posterior* being derogated by new law—old law being changed by new law. Let me jump immediately to explain that. The Anti-Terrorism Act of Trinidad and Tobago stands in conflict with this piece of legislation.

The laws of Trinidad and Tobago as enshrined in Act No. 26 of 2005, Chap. 12:01 conflict with this Bill. Where does it conflict specifically? Madam Vice-President, this Bill says that the Minister in the second arm of assistance—the first arm being the committee, as I have described—the second arm of assistance is to be factored in the power given to an ordinary constable of Trinidad and Tobago, and that set out in clause 8 of the Bill.

“...Magistrate who is satisfied, by proof upon oath, that there is reasonable ground for believing that there is in any building ...”—may give a warrant allowing certain functions to be carried out.”

That is, that the police officer can take any sample, can open and examine, any book, document or any other record, electronic, et cetera, can use or cause any computer and data processing system to be used to examine, can reproduce material et cetera; can use or cause to be used equipment; can seize and retain for such time as may be necessary equipment, and that the search warrant may authorize any suitably qualified person to do so.

So clause 8 of this Bill says that on a mere oath before a magistrate a policeman can come up and say, “Listen, I have reasonable suspicion that there is something running afoul of this piece of law when it becomes effective”, and we can in fact put heavy powers in the hands of the police without any form of check or balance other than the magistrate being satisfied upon oath.

How does that stand in relation to the anti-terrorism laws of this country? The anti-terrorism laws of this country, when they were being considered in 2005, were described by the Member for Siparia then, the hon. Kamla Persad-Bissessar, now Prime Minister of Trinidad and Tobago, in her contribution on Friday, February 18, 2005 as—I quote from page 220, I am sure:

“This”—and she means the Anti-Terrorism law being considered—“is one of the most frightening pieces of legislation we will face in this country.”

As a result of the interrogation in the Lower House then, the anti-terrorism law went to a joint select committee and a report was laid, and a very sterling piece of legislation was produced in my opinion. And the Anti-Terrorism Act prescribes a very, very, very different form of threshold for satisfaction to go and take people’s property, seize, examine information, et cetera. And what does it prescribe?

The anti-terrorism law prescribes in sections 23 to 27 inclusive, and also sections 34 to 38 inclusive—it provides for in sections 23 and 24, “Investigation of Offences”. It provides for in sections 34 to 38, “Seizure and Forfeiture of Terrorist Property”. And what does that law prescribe? That law says, if you have suspicion you ought to take your suspicions, to the policeman, go to a judge of the High Court of Trinidad and Tobago, *ex parte*—meaning by yourself, do not tell the other side—and have that judge consider your evidence, and then and only then, would you be permitted the right to go and seize, take and inspect, et cetera.

Madam Vice-President, that is to be factored against the very contribution that I referred to of the Member for Siparia back in February 2005 when she noted, in particular, commentary in relation to the anti-corruption squad at pages 221 and 222 of her contribution, where she reflected upon the Anti-Corruption Investigation Bureau. She said in particular at page 222 that:

“...it is totally unlawful and illegal for any anti-corruption bureau or squad to be under the Office of the Attorney General. We are going to challenge this elsewhere, since this has come clearly to our attention.”

In reflecting further, she saw as a mischief then, as I understood her contribution, the fact that mere policemen on mere oath could go and carry out the kind of draconian measures that were being recommended by the Bill. But what do we see today? We see a Bill that comes forward to this Senate which prescribes the exact form of mischief that the hon. Member for Siparia sought to protect against in her contribution under the Anti-Terrorism Act.

So, the fact is, why are we now adopting a lesser standard? Are we adopting that lesser standard simply because the Minister of Foreign Affairs was warmed by his interaction with lawyers in his department to say that our law meets the United Kingdom law? That could not be the case with the greatest of respect, because the English law does not prescribe the adoption of a committee as this Bill does. It does not prescribe for a nameless, faceless committee with wide-ranging powers specified. It specifically does not. The Act of 1974, the Biological Weapons Act, 1974 as amended most recently by the Serious Organised Crime and Police Act of 2005, makes no such recommendation.

So why are we ignoring the Member for Siparia back in 2005, now Prime Minister of this country, her specific advice, that legislation of this type is frightening legislation, and that we must have caution with respect to police powers? Why are we ignoring that advice? Why are we seeking to introduce into the English law, which this Bill is templated upon, a nameless, faceless, no form of qualification committee? Why are we doing that?

Why are we empowering the Minister of National Security to act upon this committee's advice, to derogate from your section 4 and 5 rights? Why? Why are we doing that further in the context of the state of emergency experience that we had, 107 days of lock-up in Trinidad and Tobago, where we saw detention orders issued; where we heard the hon. Minister of National Security tell us that it is public knowledge that no charge has come out of that; where we saw that implemented for an alleged assassination plot, which has now died and fizzled out? Why are we doing that?

Why are we also doing that when you factor how persons are appointed by this Government? I must of course refer to the appointment of Resmi Ramnarine, now Shashi Rekha? When you consider that you can see, whether it is bona fide or not, that there is a massive crack in the consideration of the suitability of persons to be appointed in committees. That was an appointment to the SSA. So if you could have a major slip-through in as important an event as that—the SSA—why are we allowing it here? We must surely learn from our experiences. Our

experiences tell us that we must interrogate the law and put better safeguards into the legislation, particularly when you consider that this Bill requires a three-fifths majority, and it must be reasonable and proportionate in law.

My humble submission to this Senate is that it is far from reasonable, when you contemplate the mechanisms set out in the Anti-Terrorism Act in particular, to now adopt a much lesser standard. That is what I meant when I factored the concept of omissions to the legislation.

A further omission is, why are we tolerating any form of action by the police or by this committee in recommending to the Minister of National Security without any form of reflection to the Director of Public Prosecutions? I am aware that the PNM legislation, when laid before this Senate, to this same intent of this Bill, recommended that no proceedings be brought unless the Director of Public Prosecutions had blessed it and approved it. I am specifically aware and I am inviting us to take note of the fact that the Anti-Terrorism Act specifically requires if you are going to inspect people's property, if you are going to seize their property, that you must have the blessing of the Director of Public Prosecutions.

Let me point you, Madam Vice-President, to those very provisions. Again, sections 24 and 25 under 23 and 24, "Investigations of Offences" under the Anti-Terrorism Act, subsection 2:

"...police officer may make an application under subsection (1) only with the prior written consent of the Director of Public Prosecutions."

Further, section 24:

"...a police officer of the rank of Inspector or above may, for the purpose of an investigation of an offence under this Act, apply *ex parte* to a judge in chambers for an order ...

(2) only with the prior written consent of the Director of Public Prosecutions"

Again, if we reflect upon section 34 "Seizure and Forfeiture of Terrorist Property" under Part VIII of the Anti-Terrorism Act, you again see that it is limited, the warrant that may be issued, to a period of 60 days, and again you must have positions of reflection to the judge of the High Court and also to the DPP. The material question to answer is, why take a lesser standard?

2.30 p.m.

Now, let us compare apples with apples. The Anti-Terrorism Act deals with very serious subject matter. It deals with terrorist activity in contravention to many international Treaties; it deals with suspected terrorist activity, anticipated terrorist activity, and it allows, in fact, the ability to inform oneself by searching documents, et cetera, utilizing them and to seize property and information. So, you cannot say that we would be comparing apples with oranges in comparing this Bill to the Anti-Terrorism Act, because the Anti-Terrorism Act deals with the very form of public mischief that we are seeking to prevent in this particular Bill. But the very burning question is, why take such a low standard? Why take such a low standard when we reflect upon the effect on members of the media sitting here?

It is public knowledge that the home of a well-known journalist was stormed into by the police, documents were seized—I do not know that a warrant allows you, in fact, to take away information in the manner that it was done, but that would be dealt with elsewhere. But, we have immediate examples of how the police, on a very low standard of proof to a magistrate upon oath, may, in fact, be misguided in carrying out their obligations. That is factored when you notice how many people were subjected to difficulties in the state of emergency again.

We saw inspection, entry into premises, seizures, et cetera, happened, again, by the police. At one point it seemed to be almost as if the Attorney General and others were directing it. They retreated quickly when it turned ugly. But the point is that there is no rationale provided by the hon. Minister of Foreign Affairs and Communications as to why we must accept such a very low standard of protection for the citizens of this country. That is an issue which must be answered, and dare I say that any Senator present today who seeks to vote in favour of this Bill would have shirked a very strong responsibility and onerous obligation of properly interrogating the standard of the law which we bring to Trinidad and Tobago.

Madam Vice-President, if I proceed further with the Bill, not only is the policy poorly explained by the hon. Minister, not only is the standard, a woefully low standard—and I am not warmed to know that in the United Kingdom a police officer may have powers of inspection, because the mechanisms available to a police officer under the serious crimes legislation, et cetera, are far different from our standards here in Trinidad and Tobago. So, we must consider our local circumstance, the reasonableness of this law to Trinidad and Tobago society. Whilst we are not seeking to exact perfection in the drafting of legislation, we must certainly seek to have perfection in the explanation of any rationale as to the objective of the legislation.

Now, when we look further into the Bill, a very curious thing occurs at section 11 of the Bill. Permit me to reflect upon this. “Where an offence is committed under this Act or Regulations...”—and I stop there. Since when is it the law, anywhere in the Commonwealth that a regulation can make offences, can prescribe offences, can state offences? Since when is it the law anywhere in the Commonwealth, and in particular in Trinidad and Tobago, that subsidiary legislation can prescribe offences? It is not the law! “Where an offence is committed under this Act or regulations...”—section 11. Surely the hon. Minister of Foreign Affairs and Communications could not be serious when he said that lawyers paid careful attention to this draft legislation. It cannot be the case. We are prohibited from recommending offences or creating offences in subsidiary legislation. It is an absolute prohibition, all the more so when you factor the previous clauses of the Bill which say you are only going to have proclamation after you make regulations.

If the hon. Minister was serious that specific resources were invested into this creation, he would have been serious to bring the regulations at the same time, particularly when you reflect upon the kind of language in section 11. So, we have another entire miss. But then again, we all know that miss is a term common to the PP: misstep, mistake, misstatement. [*Desk thumping*] I dare say that this is misunderstood legislation; it is poorly prepared; it does not meet the muster of answering the type of thresholds which we must prescribe unto ourselves.

We are obliged as makers of the law sitting in the Legislature as we do, to wear a veil of ignorance. The veil of ignorance is a concept prescribed when one considers justice in the broader ideological sense. What does that mean? We must as lawmakers consider the fact that we are neither male nor female, that we do not know if we will be for or against the legislation; we must consider that the tables may be reversed; we must consider the concept of fairness very, very carefully, and we cannot shirk our responsibilities with respect to the burden put upon us to make sure that we protect our citizens from arbitrariness in particular.

Now, the hon. Minister said in his contribution that citizens would enjoy the right if they felt aggrieved by the action of the Minister, that citizens would enjoy the right of approaching the court. That may be true, but, how many of our citizens have the resources, the capability, the consternation and will to approach the courts? How many, particularly when there is no equality of arms in the presentation of cases?

We made a plea of the hon. Minister of Justice to consider the equality of arms when we were looking at the Legal Aid Act. We said to him; “Please allow better discretion to the Legal Aid Authority to assist indigent persons.” When you see

the type of resources which the hon. Attorney General pours into litigation, hundreds of millions of dollars into litigation, how could there ever be equality of arms to indigent people who would more likely than not be the victims of poorly administered law? How can we contemplate that? For that reason alone we ought to prescribe unto ourselves the higher standard set out in the Anti-Terrorism Act.

Now, Madam Vice-President, when you look at the amendments made to the Anti-Terrorism Act in the United Kingdom, they include in particular, the very form of Bill that we are considering now. When I looked to case law relative to the application of the Biological Toxins 1974 Act, there was very little case law in the United Kingdom. There is a lot of case law, however, in the anti-terrorism position, and the anti-terrorism legislation contemplates biological weaponry and toxins.

In 1996 the United Kingdom enacted further legislation to deal with the chemical weapons aspect of the United Nations Treaties, and dare I say that their anti-terrorism laws, when amended subsequent to that, also factored that. So, there is the no bona fide explanation by the Minister of National Security yet—I am sure he would speak—or by the Minister of Foreign Affairs and Communications who piloted this Motion, and we cannot move into the abyss of the lack of specification, in particular, as to the committee.

Let us factor, for example, by way of a realistic approach, the experience which Trinidad and Tobago enjoyed in the fiasco of the Financial Intelligence Unit. When you look at the Financial Intelligence Unit, we saw the hon. Attorney General bring the most poorly drafted form of legislation to this Parliament, seeking to cover an error in law that he had made, perhaps not him, but the Government had made, in relation to the appointment of the director of the FIU.

We were promised in February last year and in 2010 a proper compliance with section 28 of the FIU legislation. That section 28, I remind you, Madam Vice-President, was a proper review of the Act. I agitated on my own Bench support for the Attorney General to ensure that Trinidad and Tobago was not blacklisted; the Independent Senators, I see their faces still, looking at me saying, “Are you sure?” When you let a government off the hook it never happens. Today I am here to say sorry to them, because it never happened. It never happened!

The hon. Attorney General has run along his merry way. The hon. Attorney General has stood and said, “I am bringing a note to Cabinet to deal with the Anti-Corruption Investigation Bureau” happily under his reign for some two years, when the Member for Siparia, in debating the Anti-Terrorism Act, specifically

complained that she would do something about it. But, Madam Vice-President, we must accept now that that is all “ole talk”, because they are very happy when sitting in Government to do nothing about the very things that they complained about.

I dare say without fear of contradiction that the Bill before us is a terribly drafted Bill. It is poorly thought out. It is an attempt to cut and paste legislation from the United Kingdom, making an amendment to it, which is nowhere to be factored by the introduction of the committee in the English legislation. It does not contemplate the new law of the Anti-Terrorism Act, it prescribes a very low threshold that we cannot, in the recent history of Trinidad and Tobago, tolerate as a body of legislation makers. We cannot tolerate it, because the experience is that we do not have the resources to outfit these measures.

The hon. Minister sought to persuade us, in dealing with the aspect of the committee, by saying—

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. S. Cudjoe*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Madam Vice-President, and thank you, colleagues. [*Desk thumping*] Madam Vice-President, I was saying that the hon. Minister of Foreign Affairs and Communications sought to persuade us that prescribing qualifications and certainty of office, if I could use that phrase, with respect to the members of the committee, would be to invite a duplication of resources. That may well be the truth, but we must be guided by the very Act which we seek to put into effect, the international legislation which we seek to embody into our laws.

When you reflect upon the protocols of the Convention, that protocol is dated April 03, 2001. At Article 17 of the protocol, we are told what the national implementation measures must be. And, we were also told at Article 18 what the relationship of the protocol is to the Convention. We are also told at Article 15 what confidence building measures there should be had, part A and part B, national legislation and regulation. Here is what it says, Madam Vice-President, with your permission?

“Each State...may at its own discretion provide a list of the number, dates, titles of legislation, regulations, directives, orders or other administrative and legal measures that govern, regulate, provide guidance on or otherwise control;

(a) access to buildings...

(b) access to areas...”

Flip now to Article 17. Article 17 is entitled “National Implementation Measures General Undertakings”. At part B, specifically, paragraph 4:

“In order to fulfil its obligations under this Protocol, each State Party shall designate or establish a National Authority and shall so notify the Organisation...”

So, that is where, perhaps, a committee may come in.

Madam Vice-President, Article 1 general undertakings of Article 17. It says: “...each State...shall, in accordance with its constitutional and legal processes, take any measures required to implement its obligations under this Protocol.”

That feeds exactly back into the argument that I had presented for consideration. That feeds to the argument that we must be cognizant of reasonableness and proportionality as recommended by the *Suratt* case, the *Northern Construction* case, the *Galbaransingh* case; the *De Freitas* case; all of which embodied the concept of proportionality set out in the case of *R v Oakes* and *R v Daley* in the United Kingdom, *Oakes* being a Canadian case.

2.45 p.m.

We must factor that proportionality and reasonableness in the specific context of Trinidad and Tobago’s peculiar circumstance. Madam Vice-President, this Bill when compared with the Anti-Terrorism Act, in particular, simply does not hack it.

I would like to make one further point. When you look at the drafting of the Bill, the hon. Minister of Foreign Affairs and Communications sought to tell us that we should notice how warm people were in dealing with this. I dare say that they were sweating and that he misunderstood warmth or appreciation for the People’s Partnership as sweating for fear by the citizens of this country. When you look at the manner in which the offences are drafted at section 10, I dare say, if I could speak for him at all, Sen. Prescott’s SC blood must be crawling. When you look not only at the ubiquitous semicolon as we now come to appreciate in

that context, when you look at the architecture of clause 10, it sets out, at (a),(b) and (c), a person who does something. So you do something at (a), (b) and (c). But paragraph (c) has inside of it, at five lines from the bottom:

“...commits an offence and shall on conviction on indictment be liable...”

So one could argue that the establishment of an offence occurs only in subparagraph (c) and does not relate to paragraphs (a) or (b).

I cannot accept that somebody seriously sat and drafted this thing. The architecture of the creation of the offence is foul. It is indeed, bearing in mind that this Bill has stood for two years on the parliamentary agenda of this Government, two years. They could not have paid attention to this thing. I am forced to believe that legislation is done by “vops, vaps and *vaille que vaille*”. [*Desk thumping*] I am forced to believe that.

The hon. Minister of Justice persists in coming to this Parliament and this Senate to persuade us that he has done serious law and he brings the most tragic form of legislation each time. The hon. Attorney General is a man of his word and I hope that he would remember the solemn undertaking given to this Senate in relation to the FIU. The hon. Minister of National Security I am sure remembers his obligations under other bits of legislation which we have passed.

But, Madam Vice-President, we are not seeing well-thought-out laws coming to this Parliament, and, if they are, we are being asked to accept them in “vacuo” without rationale, without explanation, without particulars as we saw happen—and I am not going to run afoul of the anticipation, and I have spoken already on the TTPost legislation. I will say in fairness to the hon. Leader of Government Business that he has since provided documentation to seek to answer some of the concerns. But my point is you cannot be serious in coming to this Parliament to say we are working hard and doing a good job when you lay the thing, you pilot the Bill in a vacuum. The vacuum is not good enough.

There is a further area of vacuum that I must protest again. That, Madam Vice-President, is the constant and bitter refusal of this Government to give any form of legislative agenda. [*Desk thumping*] How do we, with the limited resources that we enjoy, hope to pass good law by interrogating it in the manner that the courts constantly say we must. The courts use this phrase, “Parliament in its wisdom”. How can there be wisdom in the creation of laws when you just do not know what is coming around the corner.

You may get a stack of legislation. You may get Bills with hundreds of clauses. You may cause massive reflections upon the law with ramifications, but how do you do that with one week's notice? How does a responsible government saying that it wishes to change the modus operandi of previous governments, come here and expect to be taken seriously if it engages in this form of difficult and obstinate behaviour.

I implore the Leader of Government Business and the hon. Attorney General to do better than has come previously, to publish their agenda, to go back and consider this Bill, because I am not satisfied in the context of appreciating the Anti-Terrorism Act which stands as law in this country let alone the issues on drafting, let alone the potential that regulations as stated in section 11 are going to create offences, subsidiary legislation creating offences. Leave those aside. Go back and do your work. Be serious about the work of this country. Come with laws which properly reflect the kind of work which is required to go into it.

Madam Vice-President, I am confident that there is a lot to be said in relation to this Bill. I ask all Senators to pay careful heed to their obligations as makers of the law and to the quality of work put before us and the paucity of policy prescription provided by the Minister of Foreign Affairs and Communications and to pause and demand that this Bill be reconsidered.

I thank you.

Sen. Prof. Harold Ramkissoon: Madam Vice-President, this Bill, the Bacteriological (Biological) and Toxin Weapons Bill, which has been on the Order Paper for so long, has finally come to this Senate for debate. [*Desk thumping*] I am indeed pleased to take part in this debate. But first let me commend the hon. Minister for bringing this Bill to the Senate and also commend Sen. Al-Rawi for his significant contribution. [*Desk thumping*]

The Bill, Madam Vice-President, is intended, as we have heard, to give legal effect to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Biological and Toxin Weapons and on their Destruction. We have heard history of the Bill and the Convention. The Convention was opened for signature in 1972. Three years later it was entered into force and 32 years later Trinidad and Tobago acceded to the Convention in 2007. Five years later, we are now trying to enact legislation to bring this into force.

So what we are now attempting to do once more is to enact legislation to honour our commitment as a responsible member of the international community, to honour the Convention and enforce the Convention. What is this Convention,

Madam Vice-President? It is, in my view, the first treaty to ban an entire category of weapons of mass destruction, the so-called bioweapons. And what we are dealing with here is not the conventional weapons of engagement, we are not dealing with guns, we are not dealing with bombs, we are not dealing with missiles; we are dealing with bioweapons, for example, bacteria. This I shall say is a part of a larger effort to deal with the desire of any individual, any groups of persons or any country who wish to bring about mass destruction on people or its people.

In terms of weapons of mass destruction, there are in my view three major categories of such. The first category, nuclear weapons of mass destruction, for example, atomic bombs, chemical weapons, poisonous gas and thirdly, toxin poisonous substances.

Some, Madam Vice-President, say there is yet another category of weapons of mass destruction—a fourth category of weapons of mass destruction, and there is possibly some justification. When you look at countries such as Angola, Liberia, Cambodia, Libya and now Syria, you get the point that is made concerning the fourth category of weapons of mass destruction.

Some of us are aware of the tragic events of 1945, when bombs were dropped on two cities in Japan, Nagasaki and Hiroshima. Within hours 200,000 people were killed. It was a very horrific event that touched the consciences of many people. Many people questioned the use of such weapons. Many people vow that we should never see a repeat of a nuclear bomb being dropped on any country or any people. Hence, it is not surprising that in 1968 a non-proliferation treaty, when it comes to nuclear arms, came into being.

Nuclear weapons posed the greatest threat to mankind then, and even today. Nuclear weapons can wipe us all out if not in minutes, in hours. And I think we all need, as individuals, to voice our concerns pertaining to nuclear armament and our support for nuclear disarmament. You may be pleased to know, Madam Vice-President, that there is a group of individuals that has been for years now working on this objective, nuclear disarmament, a group of individuals, mainly academicians and public figures, from around the world whose main objective is to have the nuclear arms race come to a halt. But they go beyond that.

The general objective is to make the world a much safer place for all of us. That association of individuals is called the “Pugwash Conference”. That body came into existence in 1955, and has done a tremendous amount of work with respect to the nuclear disarmament. It is not therefore surprising, Madam Vice-

President, when in 1995, that association jointly shared the Nobel Peace Prize with one of its founding fathers, Sir Joseph Rotblat. I am indeed honoured to be a member of that association. [*Desk thumping*]

Madam Vice-President, why do I mention the Pugwash Conferences? Well the first reason, of course, is the tremendous work that they have done. But also because the Pugwash Conferences played a major role in the drafting of the Convention that is before us. Apart from the Convention on nuclear arms, you have heard somebody mention that there is another Convention that is on chemical weapon. That is of more recent vintage. It came into being in 1997, but it is a more detailed document.

I want to just spend a few minutes talking about bioweapons, because this is what this Bill is really all about. It is about bioterrorism, bioweapons. The bioweapons are intended to spread diseases among human beings mainly, on a massive scale. Examples of bioweapons are: bacteria, viruses and toxins. Examples of bacteria would be the E. coli bacteria, salmonella and anthrax.

3.00 p.m.

I would use the word anthrax in two different contexts. I would use the word anthrax to mean the disease and also the bacteria. There is an official word for the bacteria, but I think I will stay away from that and just use anthrax in two different senses, depending on the context.

So I gave you examples of bacteria. Viruses, well we are very familiar with a number of viruses: the influenza, for example; the HIV virus, the H1N1 virus, SARS, a number of viruses; toxins or poisonous substances. But I want to come back to viruses. Viruses are not very easy to deal with, for the simple reason that they mutate rapidly. They adapt to their environment earlier naturally or through genetic engineering. So viruses are moving targets. They are not easy to get at.

I want to mention a recent experience to highlight the potential of bioterrorism.

[MR. PRESIDING OFFICER *in the Chair*]

Mr. Presiding Officer—we have a change there now—the year is 2011; the month is May; the country is Germany. Pandemonium sets in. Initially there are 16 deaths; 1,150 persons fell ill in 16 European Union countries. Spanish farmers are asked to destroy their cucumbers. In the process they have destroyed their

income. Nationals of a certain country have been advised not to travel to Germany. The final toll was 53 deaths; 51 in Germany, one in Sweden, one in the USA, and over 4,000 people falling ill. I ask the question: had this happened in Trinidad and Tobago, how would we have been able to cope? That is the first question I ask myself.

The second point I want to make here is that this was the deadliest E. coli outbreak in the history of mankind, the deadliest outbreak. After months of trying to find out the source of this outbreak, it was discovered, or traced back to a batch of what they call fenugreek seeds from Egypt, and not the cucumbers in Spain. Fenugreek sprouts are used in salads. If this E. coli was planted by an individual, then this would have been a bioterrorist attack, and the bioagent would have been the E. coli bacteria.

There are two major observations we can make with respect to this incident in Germany. The first one is that bioterrorism can wreak havoc on a society. The second point is that in this globalized world, not only goods and people are being transported in a rapid way, but also viruses and bacteria, and that is cause for some concern.

I want to quickly go into the history of bioweapons, and I think the hon. Minister made some mention about the history. The history of bioweapons is almost as old as the history of war. Way back in the period 11th to 18th Century BC, the Hittites, a group of people, used the victims of plague to enter enemy territory. So that was way back in the 11th to 18th Century BC. The ancient Romans used dead animals to pollute the water supplies of their enemies. The bubonic plague, a contagious bacterial disease, was used in Europe in the 14th Century as a bioweapon. Once unleashed, it was not only concentrated on the enemy, but it also created problems for those who unleashed the weapon of mass destruction. It was not under their full control.

I want to come to more recent events. Let us come to 1984. The disciples of a group, the Bhagwan Shree Rajneesh in Oregon, used Salmonella, produced in their own medical clinic for peaceful purposes, to poison salads in a number of bars in the Oregon state. As a result, 751 persons fell ill. One of the things to note is that it is very difficult, as with the case of the E. coli outbreak, to trace the source of the bacteria or the virus. In Oregon, they had trouble determining the source; where it came from. They were only able to discover the source because someone from within that group, one of their disciples, came forward and, in fact, gave the information to law enforcement officers.

An incident that some of us may have remembered: in 1995, a Japanese cult used nerve gas in the subways of Tokyo. Fortunately, it was not very effective. There were no deaths with respect to that attempt, but that same group went to Africa trying to obtain the deadly Ebola virus.

I want to mention here, the greatest pandemic in the history of mankind, the Spanish flu in 1918. The Spanish flu in 1918 did not originate in Spain. In fact, even now they are not sure where the source of that flu started.

Hon. Senator: From American soldiers.

Sen. Prof. H. Ramkissoon: Okay, American soldiers, but they were not quite sure exactly where it came from, but not in Spain; a rather interesting reason why it is called the Spanish flu. But, anyhow, between 50 million to 100 million people died in that pandemic, and when you look at the population of about—I think it was how many million people you had there—two billion at the time, it meant that somewhere between 2.5 per cent and 5 per cent of the world's population fell victim to the Spanish flu. The events are documented in the New York best-seller called *The Great Influenza* by John Barry. I should mention that that Spanish Influenza was caused by the H1N1 virus, which resurfaced again in the Far East in 2009.

Let me just go to the bioweapons programme. Bioweapons are not something of the distant past. A number of countries, even until recent times, have had bioweapons programmes. In the 20th Century, the major nations of the world—the USA, Germany, Japan, the Soviet Union—had active bioweapons programmes. Some countries still do have bioweapons programmes; some countries do have bioweapons. Syria is one of those countries that is suspected of either having bioweapons or having a bioweapon programme.

The person who played a central role in curbing the bioweapons programme is a former President of the USA, Richard Nixon. Now, we all know the name, Richard Nixon. Richard Nixon, in 1999, ordered the closure of all offensive bioweapons programmes. I want to quote what he then said.

“Biological weapons have massive, unpredictable, and potentially uncontrollable consequences... They may produce global epidemics and impair the health of future generations.”

It is not surprising, then, that in 1972 he transmitted the bioweapons convention to the Senate in the USA. President Nixon has had some commendable achievements during his term in office, but what he is remembered for is the

so-called Watergate scandal. That is the first thing that comes to mind. But he did have some commendable achievements, as I said, curtailing the bioweapons programme in the US, and globally. That reminds me that there are people who have been able to achieve a lot in life but who have committed grave sins in life. They are remembered in most cases for the sins they have committed rather than their major achievements, and it reminds me of a famous line from Shakespeare, and I quote:

“The evil that men do lives after them;
The good is oft interred with their bones.”

I want to now quickly turn to risk factor and local implications for the region. Bioterrorism is a real threat more so for some countries than others. Ours is a multi-ethnic, multi-religious, fairly stable State, spared the many problems that so many countries face today. However, there are minor political and geographical risk factors. The political risk factor: we are a producer of gas and oil, albeit a minor producer of gas now to the USA, but we do have close affiliation with that country. Hence, there is a possibility, however remote, of a proxy bioterrorist attack.

Then I look at the geographical risk factor. We are a twin-island state with porous borders. We are a minor travel hub, with links to Europe, to the Americas, and the chances, therefore, are high of an infectious person entering Trinidad and Tobago. The few cases of malaria that we have had were controllable, but if perchance we have a case of an E. coli outbreak, then we do have a problem. An E. coli outbreak is not easily controllable.

If, therefore, there are situations that we cannot control that easily, common sense demands that we put in place precautionary measures or prevention measures. What are some of these measures that we can put in place? Well, the first one is good surveillance. Our national security, working closely with their counterparts in other countries, must monitor the movements of terrorists, bio and otherwise. Those who protect our borders, the coast guard and immigration, also have a role to play here, and then there must be good public health surveillance to monitor the situation if there is an outbreak in any part of the world.

3.15 p.m.

Some years ago, I had an experience told to me. A friend of mine returned home to Cuba after attending a conference in a country where there was a dengue fever outbreak. The day after he returned, there was a knock on his door, it was

the public health official, who questioned him and directed him to a centre, so he could be monitored. Cuba has one of the better health surveillance systems in the world. So, we need to look at surveillance.

We also need to look at information sharing. This is very critical in our battle against bioterrorism. There must be an international network that shares information in a rapid and timely manner. Last, but not least, is preparedness for such an event. If perchance it happens, is our public health system prepared for the situation that arose in Germany where over 4,000 people fell ill?

Would CAREC be involved? Would the Office of Disaster Preparedness and Management be involved? Would the proposed bacteriological and toxins weapons committee be linked to the existing National Surveillance Unit and to Trinidad Public Health Laboratory. Would CAREC be involved? Do we have an incident command system, a centre that takes immediate control to contain the effects of a bioweapon, if it is unleashed in our society? Or do we, Mr. Presiding Officer, continue to believe that God is a “Trini.”

Mr. Presiding Officer, I now want to come to the Convention and the Bill but first I want to differentiate between the Convention and the Bill. The Convention is basically an agreement between the State and the UN. The Bill is an agreement between the State and its people. The Convention was three years in the making and it requests state, to undertake not to develop, produce, stockpile or otherwise acquire or obtain biological agents or toxins for non-peaceful purposes, as well as weapons and equipment associated with their production and/or delivery. As I said previously, it came into being in 1975. To date, I believe 19 countries have not signed or ratified the Convention. One of the good things about this, Mr. Presiding Officer, is that there are regular conferences every three years to discuss weaknesses of the convention, and I think the last conference to discuss the Convention took place in 2011.

Mr. Presiding Officer, I would like to congratulate the UN for the work they did in drafting and in fact completing this Convention. I also want to congratulate the UN for the many conventions and treaties that have gone before this one and that have come after this one. I also want to commend the UN for the good work that they are trying to do in trying to bring peace to this rather troubled world.

It is not an easy task, as we witness the atrocities committed by the brutal regime on its people in Syria. As I said, Syria is suspected of either having a bioweapons programme or having bioweapons. This brings to the fore the limitation of the UN and leads to the question, is the status quo at the UN

desirable? Do we, for example, need to revisit the veto power? What options or influence do we as small island states have within the corridors of decision making of these UN boards to influence resolution of this a burning issue? Has, for example, Caricom—assuming that it still exists—taken any initiative? Maybe this is an opportunity for Caricom.

Mr. Presiding Officer, I want to look at some of the inadequacies first of the Convention. There are no provisions for onsite inspection, and one can understand the difficulties here. Any nation with a developed pharmaceuticals industry has the potential to make bioweapons, so it is not very easy to have onsite inspection. What can be a weapon for the benefit of mankind can turn out to be a weapon of destruction for mankind. This is the duality of science. We have nuclear energy for peaceful purposes on one hand and, on the other hand, we have nuclear bombs for the destruction of human beings. And, as we see in Iran, there is a thin line that separates nuclear energy from nuclear bombs.

Another example of the duality of science is in biotechnology. Biotechnology can be and has been used to boost food production. It has been used widely in agriculture; it has been used widely in producing pharmaceutical drugs. It has been used to improve the quality of life, that same biotechnology can be used to produce weapons of mass destruction—bioweapons. So, we see, Mr. Presiding Officer, the duality of science.

I want to talk about some of the inadequacies that I spotted in the convention itself: as I said, no provision for onsite inspection, no verification provision. The term, “Other peaceful purposes” is not very clear. As I said, what can be used for peaceful purposes the next day can be used for non-peaceful purposes. There is no provision for restricting biological research activities and they do not explicitly prohibit the use of bioweapons. We talked about the development, production and stockpiling of bioweapons but no mention is made of the use of these weapons.

With respect to the Bill, Mr. Presiding Officer, I have some comments. Again, like the Convention, it talks about developing, producing, stockpiling, acquiring or retaining bioweapons but, again, no mention is made about the use of such weapons. With respect to the functions of the committee to be set up by the appropriate Minister—clause 7 of the Bill—Mr. Presiding Officer, would this include the formulation of a contingency plan in case of a bioterrorist attack?

Mr. Presiding Officer, what are the prospects globally of an attack by terrorists using biological weapons? One intelligence source estimates that 15 terrorist groups have expressed an interest in developing or obtaining bioweapons.

However, the same source states that very few of them have actually attempted to develop bioweapons and even fewer have succeeded. It is a challenge developing a bioweapon. However, I do not think we can be complacent given the fact that information, expertise, equipment and materials are now easier to access and with advances in science, particularly in genetic engineering, a bioterrorist threat is a real threat and must be treated as such.

In addition, the expansion in the biotechnology industry increases the risk of viruses and bacteria getting into the hands of the wrong individuals. I recall, about two years ago, I visited a biotechnology lab in Malaysia and I saw refrigerated *E. coli* and salmonella viruses. So, one has to be careful. Once you have a thriving biotechnology industry the chances are that some of these things can get into the hands of the wrong people.

We live today in a world that is becoming increasingly more strife-torn, dangerous and chaotic, bordering, as some would say, on anarchy. Science has produced capacities as I said, to do good and to do evil. How can we address the international security threat that would then arise in the maluse of science?

Well, I have in fact identified a couple. We need to keep dangerous pathogens, that is, bacteria, virus and equipment out of the reach of criminals. We need to monitor laboratories closely, ensure that only scientists with legitimate needs can access them. We need to train law enforcement officers in detection and we need to encourage covert intelligence and international cooperation.

Mr. Presiding Officer, every state has responsibilities when it comes to bioweapons and must for a start criminalize the development, production and stockpiling of bioweapons. That is precisely what this Bill is all about, and I commend the Government for its introduction in this honourable Senate.

To summarize, there is a real possibility of a bioterrorist attack in the world; however, in my view, the chances of this happening in Trinidad and Tobago are rather slim. Nonetheless, we cannot be complacent, we have an international obligation to pass the necessary legislation and to work with other countries to control bioweapons and minimize the chances of a bioterrorist attack becoming a reality. Let me end by quoting an expert on bioterrorism, Prof. Barry Kellman:

“Disease and strife are the Achilles’ heels of our age; bioviolence is where they intersect.”

I thank you very much. [*Desk thumping*]

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. Presiding Officer, for allowing me the opportunity to participate and contribute in this ever important Bill before the Senate today. I am indeed grateful for the opportunity to offer my brief contribution, and in so doing, I wish to commend my colleague, the Minister of Foreign Affairs and Communications, for bringing this Bill to this honourable Senate today.

Mr. Presiding Officer, before I get into my contribution, I wish to refer to just a couple of the points made by my dear friend, Sen. Al-Rawi. Initially he referred to the wide range of substances identified and implied in the Bill and quite appropriately so, particularly having regard to the various compositions that could prove to be destructive if not lethal, and I would come to that a little later and elaborate later in my contribution.

Then he referred to the nameless committee. It is not unusual for a Bill to be brought to the Senate or to the House of Representatives and such personnel and attendant qualifications that would make up committees would be referred to and dealt with in regulations, and I am almost certain that my colleague, Sen. Al-Rawi, understands that and would accept that.

Also, he identified a number of concerns, some of which are quite valid. In the manner in which we on this side operate, we accept—and this is the reason the Bill is brought to the Senate, so that we can share ideas, we can argue, we can discuss and, in the final analysis, come up with a document that is worth being accommodated by all and accepted by all. So, I would say to you, Senator, having regard to your contribution and the observations you have made, I am certain that coming from a brilliant legal mind like yours some of them would be accepted here by my colleagues.

3.30 p.m.

Mr. Presiding Officer, please permit me to underscore some of the pertinent areas that lend themselves to the Bill before us on this occasion. I, myself, attempted to go into the history of biochemical biowarfare but most of the areas were dealt with extensively by Sen. Prof. Ramkissoon, as well as my colleague in his piloting. But, I have one observation, and it has to do with Tokyo 1995—the subway where the sarin gas was used—and my information is that nearly a dozen people were killed in that incident. I heard the Senator say that there were not any deaths, but my information is that nearly a dozen people were killed. One area I would want to mention as well is in 1983 in the Iran-Iraq war where Iraq used the mustard gas extensively in their onslaught on the Iranians.

Mr. Presiding Officer, the devastating effects of biochemical operations prompted the 1925 Geneva Protocol for the prohibition of the use in war of asphyxiating, poisonous and other gases, and of bacteriological methods of warfare. But, unfortunately the 1925 Protocol did not prohibit storage, production and transfer of biological agents. So it was in 1972 the world witnessed the signature of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxins Weapons, and on their Destruction. Our Government, and our nation, is now in the process of undertaking a situation where we shall not develop, produce, stockpile, acquire or retain microbiological and other biological agents, toxins or types in the quantities referred to earlier on.

What is frightening and scary about this, Mr. Presiding Officer, is the fact that these biological toxins are odourless, difficult to recognize, and, to use a military term, it is anti-personnel. We refer to a grenade as anti-personnel because when it is launched—a hand grenade that is—you as the launching operative need to take cover as well. Similarly, in a biological weapon, when it is launched, dependent on where it is launched, it may come back to bite you and this is what makes it so dangerous.

Primarily, because we have what we refer to as a borderless world and we realize that only three years ago with the H1N1 virus where we saw people all over the country, all over the world, wearing their masks and so on, it is unfortunate that Trinidadians seem to take these things lightly. Every year, around Carnival time, there is some kind of virus. There is a name they called this one—because every year they would find names for it—I do not remember what the name is but everybody made a joke of it. “Yes boy, the freshwater Yankees brought down some virus”, and everybody laughed and they called it a name, and this is how we deal with situations like that. So it only goes to show, Mr. Presiding Officer, if we were at all—God’s willing that it does not happen—to be exposed to any kind of bacteria or virus, it would be difficult for Trinidad and Tobago to deal with it as effectively as we want because in the early stages, if not detected, then it would spread like wildfire because of the manner in which we deal with things.

As a youngster, I had never heard anything about the Sahara dust. Sometimes you look up now and you see that it is cloudy and you say it is Sahara dust. What does that Sahara dust bring with it? We do not know. There is the possibility, albeit remote, that that Sahara dust that is coming across the Atlantic could bring a virus, and these are the things that we have to deal with. We also need to be aware of our surroundings globally and educate ourselves as far as viruses of this ilk can interfere with, not only the social fabric of our country but would diminish our human resource.

Mr. Presiding Officer, when we look at the possibility of terrorist utilization of biological inputs, we look at the classification of weapons that could come as a result of that. There are five classifications identified. They refer to the explosive which is like the firearm and grenade that I spoke about a while ago, and, of course, there are low-intensity, high-intensity explosives, those that would probably devastate just a small area like a hand grenade, and then, of course, there are the bombs that would deal with much broader areas.

Then there is the incendiary which are the burning explosives. These are missiles that ignite, and, because of the gases they carry with them, they explode and do more burning than anything else; the chemical which is, of course, nurtured by kinetic energy and we know what happens with chemical explosions; the nuclear, which utilizes the destructive force, atomic force, and the good Sen. Prof. Ramkissoon mentioned our experience or the Japanese experience in Hiroshima and Nagasaki. I remember the pilot who dropped the first one, when he saw, he said words to the effect “Oh my God”, because he, himself, never envisaged that kind of devastation. And, of course, the biological which we are dealing with a little more extensively here today.

We focus on biological weapons and the main concern is the ease with which they can be manufactured, in this era of technological advancement with our Internet and the ability for youngsters, for instance, to sit in the comfort of their homes and being taught on the television or on the Internet how to make these things. When we thought that television shows like MacGyver were bad, now there are how-to-do instructions on the Internet teaching you how to make certain things. Even in school in the chemistry labs, youngsters put certain things together. *[Interruption]* You are quite right, we used to make stink bombs. They do not make that anymore. *[Laughter and crosstalk]* “Yeah, waste a time”. That is archaic now. So now our youngsters, with these how-to-learn episodes, can decide what they want to do and how they want to do it. This leads us to the fundamentalist who can communicate with people all over the world and showing how these things can be made.

The other challenge resides in the fact that some of these ingredients can be bought over the counter to make other things, to do legal things and herein lies one of the challenges, because someone can go to any hardware store and purchase some material that they can put with something else to cause that explosive input. This makes it difficult—particularly if one is suspected and you are searching them—to determine whether they are using that for illegitimate means.

We remember, as youngsters, Christmas time, we used to burst carbide. We would put the carbide in the tin and put it over a fire and so—that in itself was an explosion. And to come back to what was said earlier on, now that is archaic; they are not going into that anymore. “Very rare you see youngsters bursting carbide at Christmas time.” Probably they burst bamboo. But the chemistry labs in schools have overtaken and they allow that facility, little things like pepper spray—all these little things that contribute to that biological input.

I am sure that you are aware, Mr. Presiding Officer, that there are unconfirmed reports that the HIV/AIDS virus was planted somewhere in Africa—I said unconfirmed because it is not confirmed—but we have heard that and we have read that on so many occasions. You know, sometimes you hear things often enough and you want to believe them. How can we forget, Mr. Presiding Officer, following 9/11 in United States, the anthrax scare with the letter bombs—that is what they were calling it—but what they did was put the fear—as we speak about here in Trinidad and Tobago all the time, the fear of crime—of crime into the United States public in that people were scared now to open packages, they were scared to open letters and things like that because of that anthrax scare. While only five people were killed and 17 people fell ill, more than 10,000 people had to take the antibiotics just to be safe and to ensure that they did not fall to the anthrax scare.

That fear element is one that I can refer to because in 1990, one of the things that we were being told, somewhere around the Saturday afternoon, is that we needed to check the WASA installations because they were poisoning the water. I am sure people around here who would have been around at that time would remember. They said, “Yes, they are going to poison the water”, so people were fearful about drinking water from the tap. They said, “No, you got to boil the water. Do not drink water from the tap, use bottle water” and things like that. So there is that fear that is developed when something like this happens.

3.45 p.m.

It leads me to some time ago when, in Trinidad and Tobago, there were two reporters from the *Express* who had gone south, Darryl Heeralal and Johann Joseph. If I may read excerpts from this report, dated January 26, 2003:

“Reporter Darryl Heeralal and photographer Johann Joseph were picked up at a location in Central Trinidad. Both were blindfolded for the entire journey but, by their calculation, it seemed they were taken south along the Solomon Hochoy Highway until a turn-off before San Fernando.”

It further states:

“In a prepared statement given to the Sunday Express and addressed to the US and Britain, a spokesman for the group said”—this is the group that invited the photographer and the reporter to see their lab and what they were preparing—‘With our weapons we are going to reach you. We will reach you where you sleep, we will reach you where you take your baths, we will reach you where you take your meals and have your drinks, even a glass of water you hold in your hand to drink may not be safe.’”

Whenever I speak of crime, I speak of the fear of crime. When something like this is reported that you have to be careful of the water you drink, it means therefore that people in Trinidad and Tobago would be worried as to whether they have already drunk before. This perpetuates the fear.

The report further states:

“A man in the ‘lab’, wearing surgical gloves and a gas mask, described the substances as chemical compounds including potash and borax, heavy metal pellets and sulphate of heavy metal pellets, carnauba wax, amatol and tetryl, talc, non-ionic reddening, activated sand and a carbohydrate compound used in the petrochemical industry.”

Some of these things you have in your homes and they are not illegal.

“The ‘chemist’ explained that the talc, the carbohydrate compound, the heavy metal pellets and carnauba wax are all base materials which, when combined with chemicals, make them deadly.”

What is even more frightening, in this respect, is the response from the Customs.

“An official from the Customs and Excise Long Room confirmed that the agency has no special method for checking chemicals, many of which were imported without a licence and required no import duty.

The official said in some cases, chemicals were passed on to the Pesticide and Toxic Chemical Division of the Ministry of Health but that because of the present structure within Customs and Excise, most chemicals were stamped ‘Exempt’ and allowed through.

The official said under the law, Customs has no way of testing every single substance entering the country to ensure that it is what the invoice says.

‘Anybody can import anything to use for any purpose and the Customs is helpless. We don’t pay much attention to many chemicals because there are no duties attached.’”

That is the framework in which we operate, Mr. Presiding Officer, and it lends us to the possibilities of terrorist attacks that we fear so much and we most times conclude that it will not happen here. We hope it will not happen here. But, having regard to what has happened in Trinidad and Tobago over the last decade and having regard to what is happening in the global community, we cannot be complacent. We must be prepared.

We would recall in 2005, in what we refer to as our dustbin explosions, one female from Arima lost her leg. These things are frightening. There were five of them. They happened in a frequency and people were saying: "Let us not assemble at certain places." I remember there was one in St. James by Smokey and Bunty. There was one on upper, Henry Street, close to Specktakula Forum. People were scared to assemble in certain areas because of what was happening. To some extent, I think if we were in a situation where those with that kind of intent were exposed to the wherewithal and the facilities to make these bombs, if you can call them that, we would have much more problems on our hands.

Two Thursdays ago, my colleague, the hon. Minister of Science, Technology and Tertiary Education, was driving along the Beetham and ahead of him there were Molotov cocktails being thrown at cars in the street. He had to reverse and "head back" down the highway. Were it a situation where those people had the capacity to make something more lethal, they might have done it and you would have found that there would have been some casualties as a result of what happened.

Based on his report, they actually hit some of the cars with the Molotov cocktails. There would have been voluminous fire in the road. Most people had to turn back and go around. Those who were close enough had to go around it rather than reverse to get out of it. This is the kind of thing that is happening in our beloved country, while we are making efforts to bring this Bill to fruition so that we can take care of situations that would not develop to cause our country grievous harm.

In this regard, we are also communicating and participating in not only conferences but training activities with the Inter-American Committee on Terrorism (CICTE) out of the Organization of American States, with respect to the anti-terrorism aspect of it. As you would appreciate, what we are trying to prevent here lends itself to the arsenal of our terrorists and those involved in terrorist activity worldwide. It is our intention to raise the awareness of the people in Trinidad and Tobago, and, in so doing, to treat with not only the mitigation aspects of it but also to improve the coordination and communication among our people, with respect to any item dealing with biological or chemical warfare.

Of course, you are aware we collaborate and coordinate with our brothers and sisters in the Caribbean and because we are so closely knitted if, for some reason, there is, God forbid, any biological attack on any one of us, it could spread like wildfire. We travel so freely within the Caribbean, so this is something we need to take full cognizance of as well.

We need to look at the training aspects of what we do because even bomb threats—I know for a fact that there are insufficient operatives in Trinidad and Tobago to deal with any number of bomb threats coming to the fore at the same time. You will find that the defence force may have a few, the police service may have a few and the fire services may have a few. But if it is a concerted effort, remember a situation of a bomb threat, you cannot take it for granted, you must check. Let us assume someone decided, “We would call a bomb threat on a number of areas”, and they may probably put a device in one area, we have to check all. We need to get our training developed as well, because they ought to lend themselves to a national response framework, not only in the realm of biochemical and other agents, but also in natural disasters as well.

If and when the biological hazards present themselves, we can have a unified and integrated national response to anything like that. It requires government’s trust, all the other ministries playing their respective parts, the Ministries of Health and Public Utilities to ensure that concerted effort, not only to inform our people but to ensure that we put things in place to deal with any possible attack that we may have to deal with. When I say attack, it might not be intentional. It could be something like the H1N1 that we have to deal with and we must be prepared to deal with anything like that, because we would be too vulnerable were we unable to nip whatever it is in the bud.

Mr. Presiding Officer, we recognize that the challenge is there. We need, as well, quite apart from the training aspect, to be prepared, for instance, in response drills. There are so many organizations that do not do evacuation drills out of their buildings. If something like this occurs, let us say it is a five-storey building, there would be utter chaos. Everybody would be trying to get out at the same time because there is no evacuation plan. We need to do things like that.

I remember some years ago, at Riverside Plaza, there was a senior official who never responded to evacuation drills. When that happens, if you are the boss and you do not respond, it means your subordinates would not respond. If there is an evacuation drill—this is something for the entire national community—senior people in any organization ought to be the first to respond. We understand it is a

drill, yes, but you have to carry out the drill and evacuate the building. Yes, you have lots of important work to be done, but that is more important because we are talking about the lives of your subordinates, your members of staff. If that senior person does not evacuate, the subordinates would not.

We had an incident where that senior government official refused to evacuate. On one occasion, around Christmas, a little package was brought for him, a present purporting to be from one of the embassies, and he accepted it. He did not open it. He took it home and his wife opened it. It was a bottle of water. He said: "How can this happen?" A few days after he was told: "Listen, this came to your office, it was brought to you. It could have been a bomb. It could have been any explosive device when you opened it." Then he understood the seriousness of the security threat that could visit him. There was no problem after that. He would always evacuate. I am making the point so that people must understand that these issues are serious issues.

Mr. Presiding Officer, too many times we take things like these for granted and say: "Okay, it is just a drill" and we would not bother. This is part of training for our entire country and we must take notice of this and ensure that we are proactive and whenever drills like those are called, we would participate, because we cannot wait for an incident to happen to get into action.

4.00 p.m.

Mr. Presiding Officer, there are some areas of this Bill which are pertinent to the Ministry of National Security, and, with your leave, I wish to refer to them.

Clause 2 provides for the Act to come into operation by Proclamation, to facilitate the establishment of administrative mechanisms to optimally implement this legislation. Such steps will include but are not confined to the selection of persons to comprise the bacteriological and toxin weapons committee, as well as the targeted training of police officers and other appropriate persons.

Our police officers will be trained not only in dealing with the toxins and the bacteriological residue, but they will be trained as well in dealing with the equipment which they will be exposed to.

Clause 6(1) provides for a bacteriological and toxin weapons committee to be appointed by the Minister of National Security and this is something that the hon. Sen. Al-Rawi had spoken about, which we will look into, I am sure, a little deeper later on.

This Committee is led by a chairman and shall comprise a deputy chairman as well as such other members that from time to time the Minister may wish to appoint. Mr. Presiding Officer, this is an advisory as well as coordinating committee, and there are other enactments which provide for technical assistance to be provided to the Minister.

[Madam Vice-President in the Chair]

So the Minister would have the authority or autonomy, based on what we are dealing with, to select those members of the committee dependent on what he is dealing with at the time.

The divisions of the Ministry of National Security, customs division, Ministry of Finance, Ministry of Justice, port authority, Ministry of Labour, and Small and Micro Enterprise Development, Ministry of Health, Ministry of Food Production, Land and Marine Affairs, among others, would be at their disposal dependent on what is being dealt with. The provisions for clause six 6(2)(3) are administrative and they pertain to terms and conditions of the committee and making rules governing its proceedings.

Clause 7(1) delineates the functions of the committee and my colleague has detailed those, Madam Vice-President, but in that regard, I will like to add that biosecurity is a complex and wide ranging issue, so it is expected that deliberations of the committee will include matters such as prevention, surveillance, diagnostics, detection, compliance with standards, destruction of agents, public health, food safety and recovery from attack.

Clause 7(2) allows the Minister to give general and special directions to the Committee, such directions will be aimed at promoting a biodefence system. But, Madam Vice-President, when we look at:

Clause 8, it pertains to the powers afforded to police officers. They are allowed to search buildings, vessels, aircrafts, carriages, boxes, motor vehicles and other conveyances. This is most important “other conveyances,” because that tends to encompass anything that is not taken care of early.

During the search exercise the police, by virtue of the warrant, is authorized to perform those seven actions delineated in this clause. They were raised earlier by Sen. Al-Rawi and I will simply run through them quickly—take samples and examine things he reasonably believes are used and are capable of being used for the manufacture or storage of any biological agent or toxin. Therein lies the challenge for that police officer. As I said earlier on, there would be some items that you have stored in your home or in your lab, if you would call it that, which are not illegal, but the combination results in a lethal weapon.

“Open and examine any receptacle or package that”—he reasonably—
“believes to contain biological agents or toxins;”

And, Madam Vice-President, this is done in any normal search. We know what we are looking for on this occasion, but in any search, if you are looking for drugs, a similar exercise pertains.

“Examine any book, document or other records...he reasonably believes is necessary to obtain any information on...agents or toxins that are manufactured or stored;”

Now, I remember some years ago a warrant officer from the defence force went on an anti-terrorism course and on coming in with one of the books he was arrested. Finally they found out who he was and what he had gone to do. Sometimes you may innocently have literature stored at your home and you may be breaking the law. This is why I am saying our citizens need to be educated as to what pertains in this case.

“use or cause to be used any computer or data processing system to examine any data contained in or available to any computer system used;

reproduce or cause to be reproduced any record from data contained in or available to any computer system used...”

use or cause to be used any equipment at the building...or...conveyance to make copies of any data or any record or other document obtained;...

seize and retain...equipment...biological agent or toxin and weapons.”

Madam Vice-President, the remaining subclauses allow for a suitably qualified person named in the search warrant to accompany the police officer in order to assist him in taking the steps identified in the warrant. This is a highly sensitive and technical operation taking into consideration the nature of the agents, so it must be someone who is capable of identifying these items.

Rest assured, Madam Vice-President, that law enforcement officials will be appropriately trained and outfitted for these activities. We know that sometimes there are incidents that would give the impression that there is excessive force being used, as had happened in the not too distant past, but we must give recognition to the fact that each situation presents a different story. I am sure you understand that sometimes certain actions cause reactions, but in the whole scheme of things this is what training and education are all about, to try and circumvent incidents that are not in keeping with the legislation and how we want our law enforcement officers to operate.

Clause 8(3) and (4) persons on the premises are required to provide reasonable assistance to allow the police officer and anyone accompanying him to achieve the objective of the search exercise. In other words, there ought not to be any hindrance but there ought to be cooperation by anyone who is there.

We must treat biological agents and toxins in a very careful manner; we cannot afford to be lax, and that is what is frightening. This is why the training is necessary because we may take up some item and probably just shaking it causes it to become explosive. Little things like that need to be taken into consideration because you may be in a situation where you are among persons and they are endangered because of that. This is why it is said here that, whenever an item is identified and located to any area, it must remain there until someone who is qualified to make the necessary arrangements to have it removed, because we are talking about inhalation, ingestion and skin absorption.

I remember the Minister of Foreign Affairs and Communications making the point about—this flower that gets on your skin—[*Interruption*]

Hon. Senator: “Cow-itch!”

Sen. The Hon. Brig. J. Sandy: “Cow-itch.” I remember as a recruit and even as a training instructor and—I see people in this room smiling because they probably remember—“run the recruits through the cow-itch.” I mean it is not that you are punishing them for anything—[*Interruption and laughter*]*—but they must* [*Interruption and laughter*]*—no, no, that is part of the training because, yes—* [*Interruption*]

Sen. Deyalsingh: “If Sen. Hinds was here he would say, run de Government through de cow-itch.” [*Laughter*]

Sen. George: “Like all yuh went through it, boy.”

Sen. The Hon. Brig. J. Sandy: The occasion will present itself where you are in an operation and you have to make your bed in “cow-itch, so you gotta” get accustomed to it, and that is the reason behind it, there is nothing wicked. We would not “run de Opposition through de cow itch.” [*Laughter*]

Hon. Senator: “De Government would not do that.” [*Crosstalk*]

Hon. Sen. George: “De population do dem dat ah ready.”

Sen. The Hon. Brig. J. Sandy: Madam Vice-President,

Clause 9 outlines the manner for disposal of the biological agents and toxins I referred to a while ago. As Minister of National Security, I must be aware, based on the advice I got from the experts as to how we should go about doing this. As well,

we must appreciate that agents seized could indeed be deemed weapons dependent on their construct and it is, therefore, most appropriate to give directions on these biological weapons, subsequent to advice received from the experts.

Madam Vice-President, though the clauses are simple, the actions to be taken pursuant to them are colossal. My Ministry will work closely with the Ministry of Housing and the Environment to ensure that any national environment strategy in existence or being developed speaks to the issue of handling and treating with biological agents. We shall also collaborate with all appropriate entities to fulfil the objectives in this legislation, because we are dealing here with an invisible agent, one, as I said earlier on, is odourless and that is what makes it ever difficult.

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. E. George*]

Question put and greed to.

[*Desk thumping*]

Sen. The Hon. Brig. J. Sandy: Thank you, Madam Vice-President. Thank you, colleagues. I was saying we are dealing with an invisible enemy which can be passed from person to person without even knowing it. So detection, risk assessment, diagnosis, mitigation and disaster management can be complex issues and processes. We must accept that challenge and, in so doing, ensure that we do not expose the citizens of Trinidad and Tobago to more than is necessary. We need to nip it in the bud. As such we need to put things in place—so to speak—to ensure that this does not happen to us and that we are able to take care of it, if it does. We hope that it never comes to pass, but as a scout we need to be prepared for any eventuality.

4.15 p.m.

Madam Vice-President, we must understand that this leads to silent death, one that could be uncontrollable if the steps we are attempting to take here today in this honourable Senate are not taken. If those steps are not taken, that can easily happen. The potential harm is frightening.

Bacteriological and Toxin Weapons Bill, 2011
[SEN. THE HON. BRIG. J. SANDY]

Tuesday March 13, 2012

It reminds me of the song done by Swamp Dogg, long before your time. [Laughter] It is not *Sam Stone*. He did a song called *The World Beyond*. The lyrics were—I probably do not have it dead on—but he said:

“I dreamed that I was living in the world beyond
That I was born after they dropped the bomb”—meaning the nuclear bomb—
“I dreamed that I was sitting on my father’s knee and he told me of a world
that used to be”

Then he is telling his father:

“Tell me again

about sunshine and rain

What was a boat and what was a train? Were there people like me?—That
must have been something to see.”

He goes on to say:

“What was a tree?”

What was the sky? And things like that.

It awakened us to the possibility—those were the days when there was a lot of talk about nuclear war and so on—of what could happen in the world beyond. We would not want that to happen in the world beyond. Madam Vice-President and my friends on the other side, commence this process.

We did not deviate too much from the blueprint. We on both sides, therefore, are, I assume, in unison on the need to implement this legislative framework to treat with biological weapons. We as a nation are deadly serious about advancing antiterrorist programmes as well as legislation. We ought to be. This Bill is just one of the components of our strategy to promote public safety and security. There is, therefore, no reason for anyone to oppose this effort to prevent the attack on and unacceptable risk to our safety as we attempt to ensure that the people of our beloved country continue to live in peace, with limited risks to this type of onslaught.

Accordingly, Madam Vice-President, we on this side, I want to state emphatically, fully support this Bill to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

I thank you. [*Desk thumping*]

Sen. Terrence Deyalsingh: I thank you, Madam Vice-President, for allowing me the opportunity to contribute on this Bill. As you know, we were without the presence of the females over the past half an hour or so. I think all the females in the Senate—

Sen. Baptiste-McKnight: You missed us?

Sen. T. Deyalsingh: Yes, we missed you. You had a tea to attend in celebration of International Women's Day. I congratulate you.

Whenever I think about International Women's Day and the strides women have made, I am often reminded of the 1964 film, *Mary Poppins*, starring Julie Andrews and Dick Van Dyke. That film was set in 1910 and when Julie Andrews, Mary Poppins, went into the new home where she was to be the nanny and was introduced to the banker, who was to be her new boss, the banker's wife hurriedly rushed into the house and the banker asked her: "Where have you been, my dear?" She was out protesting for the right to vote, for adult women's suffrage. That is how far women have come from 1910 to now, and I congratulate you all.

By the same token, it will be remiss of me if I did not say, concurrent with the ascension of women has been the backward slide of men and I think that the United Nations or whoever should take cognizance of that. Women are far surpassing men in many aspects. [*Interruption*]

I turn to the Bill now. I will not be distracted by the Leader of Government Business.

Hon. Senator: They are upsetting you?

Sen. T. Deyalsingh: Yes, they are upsetting me. I was trying to be magnanimous, but the Leader of Government Business, as usual—[*Interruption*]

Madam Vice-President, this Bill gives effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. Trinidad and Tobago assented to this Convention on July 19, 2007, but we have not yet ratified it. When one reads the literature about this Convention, Trinidad and Tobago is not alone in not ratifying it. As a matter of fact, severe reservations have been expressed by many countries; many of our Caribbean neighbours, Antigua, Bahamas, Dominica; China and even France, have not yet ratified this Convention. There are many reservations I will not go into, but just to state on the record that there are reservations as to why many countries have assented to it, signed on to it, but have not yet ratified it.

Bacteriological and Toxin Weapons Bill, 2011
[SEN. DEYALSINGH]

Tuesday March 13, 2012

The hon. Minister of National Security made a very dangerous contribution today, in that he acknowledged Sen. Al-Rawi's contribution. I will tell you why it is dangerous. It is the habit of the Government always to say we are the voices of discontent or that we engage in theatrics when we make contributions, but when the Independents echo what Sen. Al-Rawi says, it is good. So I want to alert the hon. Minister of National Security that he should have waited until the Independents said the same thing. You are a gentleman. We move on.

Much of this Bill—[*Interruption*] You see; you have woken up from the air of somnolence that pervaded this Senate recently.

Much of this Bill is based on the UK Act of 1974. There is nothing wrong with cutting and pasting Acts which are relevant to our situation today, but I propose that a 1974 Act is irrelevant, out of time and out of sync with what has happened with terrorism and biological weapons from 1994 to 2011. [*Desk thumping*]

The hon. Minister of Foreign Affairs, when he was piloting the Bill, made much ado that he had a team of lawyers and doctors advising him, pouring scorn on my comment that, "You know some medicine now." I am sorry he is not here today because clause 4 of the Bill, where the definition of "biological agent" is given, when you look at other Acts around the world, this particular Bill is deficient in its definition of "biological agent".

We say here:

"'biological agent' means any microbial, infectious substance or virus capable of causing—

(a) death..."

The doctors who advised the hon. Minister of Foreign Affairs would have known that there are two classes of organisms that in 2012 have proven to be more toxic than microbes or viruses. I refer specially to a class of substance called prions and to fungi. Prions, hon. Attorney General, are a protein that causes spongiform encephalitis and are responsible for Creutzfeldt-Jakob disease. That is not included in this Bill.

So if you have doctors advising you, I suggest, hon. Attorney General, that you include prions and fungi. [*Desk thumping*] I will tell you why. When you look at other Bills and Acts around the world, they have a catch-all phrase, which encapsulates new agents that we do not know about. That phrase, hon. Attorney General, I recommend to the drafters is "whatever their origin". That is my first recommendation to this Bill. [*Desk thumping*] Have a catch-all category, "whatever their origin".

If one reads clause 4 literally.

“‘biological agent’ means any microbial, infectious substance or virus capable of causing—

(a) death, disease...”

On a very superficial level, a very literal interpretation of this means that if I have the flu with a virus and I spread it around, under this Bill I will be guilty of an offence.

Other Acts around the world have recognized that and have incorporated into their Act where these substances are used purposefully for a particular cause. I suggest to the hon. Attorney General and to the drafters to include a phrase like that.

I move to clauses 6 and 7 of the Bill. This Bill is, quite frankly, dangerous for many reasons. Clause 6 speaks to the Minister, and I think it is the Minister of National Security, for the purposes of this Bill, may “appoint a Committee to be known as the Bacteriological and Toxin Weapons Committee”.

Clause 7 talks about the functions of the committee. Sen. Al-Rawi made the point that the committee is nameless and faceless. That was rebutted slightly by Sen. The Hon. Brig. John Sandy, Minister of National Security. Our problem is not really with the namelessness or the facelessness of the committee. Our problem is with the pattern that has developed over the last 22 months of ministerial missteps, misjudgments, whether it stretches from Reshmi, to the SoE, to that abominable piece of legislation, the original DNA Bill, being brought here—the gross misjudgments in bringing pieces of legislation that do not suit our condition as we see fit now. It also has to do with the gross misjudgments in the use of government property like credit cards.

I am suggesting that under clause 7—

Sen. Ramlogan SC: What does that have to do with bacteriological toxins?

Sen. T. Deyalsingh: I will link it now. Do not forget that you yourself, hon. Attorney General, now want to get rid of the ACIB, which now falls under your portfolio—a committee. *[Interruption]* You will get your chance.

This committee, to be named by a Minister, will now make regulations under this Act. This Bill speaks about regulations later on. We have not seen the regulations. We do not know what the offences will be. We do not know what this committee will recommend as offences. We do not know who comprises the committee. I want to know, is it a “Reshmiesque” person who is going to be on this committee telling me what I cannot and can do and what I will be liable for?

Clause 8 talks about a magistrate who is satisfied, et cetera, et cetera and authorizing a police officer to search a building. The police service has come in for a lot of criticism in recent times in the way the whole SOE was handled and people who are at the wrong end of police action, who before had a champion in the labour movement, who would object strenuously to workers being beaten, union headquarters being broken into by police, we are now seeing you are giving an authorizing police officer, under clause 8, this type of authority. Nobody speaks for the unionized worker now. Nobody speaks for TIWU, but we are allowing these police officers to do things against people who are now defenceless.

With the few moments I have left, before 4.30 p.m., I want to put on record my thanks and appreciation for two offices in this country that are saving us from total anarchy: the DPP and the Police Complaints Authority. [*Desk thumping*]

Madam Vice-President: I propose we 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: Before we broke for tea, hon. Senators, Sen. Deyalsingh was on his legs. By my count you have 33 minutes of your original 45 minutes. [*Laughter*] [*Desk thumping*]

Sen. T. Deyalsingh: Thank you, Madam Vice-President. It is amazing how the Government side always listens to me with rapt attention. Now that we have all been suitably fed and watered, I go back to clause 8. [*Crosstalk*]

Sen. George: Your colleagues are still feeding. They do not want to hear you.

Sen. T. Deyalsingh: Madam Vice-President, clause 8 of the Bill, as I said, deals with a police officer being authorized to search a building, place, vessel, aircraft, carriage, box, motor vehicle or any other conveyance. I was making the point before the break that in recent times there have been searches under the state of emergency, there have been searches under the alleged assassination plot. No one has been formally charged; no one has gone through the legal system; no one has been incarcerated, even though we have a \$54-million facility to incarcerate—no one.

In recent times, the police have been searching the headquarters of the Transport and Industrial Workers Union. This Bill covers a building. The union building (TIWU) was broken into and no one—the unions no longer have a champion, workers no longer have a champion in this country to air their concerns when the police,

according to them, act in contravention of their rights. My question is, what is going to happen to ordinary citizens who are wrongly accused of storing biological weapons? Who speaks for them? Because the partner in the Government who is supposed to speak for them has surely fallen silent.

Sen. Al-Rawi: “Nah man. He wake up now, man.”

Sen. T. Deyalsingh: That is my question. That is why I say, Madam Vice-President, thank heavens for the Office of the DPP, [*Desk thumping*] and I hope he stays long in that office and has a long reign. [*Desk thumping*] I say thank heavens for the Police Complaints Authority. I give thanks every morning for its director, Miss Gillian Lucky, and I wish her a long reign. [*Desk thumping*] Because these are the only two institutions, as we celebrate 50 years of independence, in this country in 2012 that stand between us and total State domination.

Madam Vice-President, I move on to further clauses of the Bill which will give me cause for concern. It has to do with clause 9(2), again, “The Minister may”. We have dissected ad nauseam in this Senate the powers given to a Minister. And I refer specifically to the DNA legislation where the Government wisely listened to us and took away the powers given to the Minister of National Security. Again, we come back to it here, and I am concerned that, under clause 9(2), the same objections we raised for the DNA Bill are still valid.

Madam Vice-President, I turn to clause 10(d):

“fails to ensure that adequate measures are taken for the safety and security of any biological agents...”.

I have stood in this Senate on one occasion, and have bared my soul to the national community of one of my failings in life—I was born with a stutter. Although people felt I should not have said it, many people who, like me, are similarly afflicted, have come up to me, in the public domain, and said thank you. Because society abhors people who are different, who are born with certain afflictions. And at least three people who are similarly afflicted have said to me that if I could stand here with that speech impediment and bare my soul, it gives people with other—I do not want to use disabilities but you know what I mean—some courage to go on.

Hon. Senator: Like Jack Warner.

Sen. T. Deyalsingh: Yes! And the Hon. Minister of Works is one. I salute Minister Jack Warner. People make fun of him, I do not, because I could empathize with him. Unless you are in that boat you do not understand what it is like.

Hon. Senator: Like a Cortina. [*Laughter*]

Sen. T. Deyalsingh: The reason for my bringing that up, and the relationship to the Bill, at hand, is that I would bare my soul again on another childhood incident. This is a general thing for children and I am sure Sen. The Hon. Verna St. Rose-Greaves would like to hear this story.

We as a society are too careless with the way we store chemicals. I think the hon. Minister of Foreign Affairs and Communications was making the point when he was piloting the Bill; we are too flippant, lackadaisical with the way we store chemicals especially when we visit agricultural shops. And you see farmers using chemicals with no protective equipment. Sen. Bharath could probably agree with me there. Even in the home, how many children “land up” in the hospital because they swallowed bleach and other toxic chemicals?

My personal experience—and here I am baring my soul again, so I am giving the Government ammunition to hit me back with. [*Crosstalk*]

Sen. George: “Nah”, we would not take advantage. “It doh make any sense.”

Sen. T. Deyalsingh: When I was about five years old, I went to visit my grandfather’s home in Grand Couva and in a Solo bottle there was some pitch oil. [*Crosstalk*]

Hon. Senator: Oh gosh!

Sen. Ramlogan, SC: “No wonder yuh on fire.”

Sen. T. Deyalsingh: Yours truly drank it because it was not properly stored.

Sen. George: “Dat is why yuh stammering now.” [*Laughter*]

Sen. Al-Rawi: “Yuh jus say you would not do that, eh.”

Sen. T. Deyalsingh: I had to be rushed to the Couva health facility to pump out my stomach. My father was not at that visit, and my relatives showed no concern for my health, you know. You know what their concern was, “how dey going to tell Deyalsingh that his son just drink pitch oil and dead”? The concern was not for me. But the point is, storage of these things is critical, a point that, hon. Sen. Verna St. Rose Greaves could empathize with.

Hon. Senator: “Yuh take it for Cream Soda”.

Sen. T. Deyalsingh: Yes, I took it for Cream Soda, true. Anyhow, I move on. We talk about the penalties under this Bill, clause 10(d).

Sen. Ramlogan, SC: “All yuh” move that bottle of water from there for me please? [*Laughter*]

Sen. T. Deyalsingh: I thought they would have been magnanimous today, Madam Vice-President.

Hon. Sen.: It is in their DNA, man.

Sen. T. Deyalsingh: It is in their DNA.

I come to the penalties. Madam Vice-President, there is no doubt that we need to incorporate the Convention into local law. But I think the point that Sen. Al-Rawi was making in his earlier contribution was do we need to do it via a new Bill, or could it not have been done via an amendment to the Anti-Terrorism Act? That is the question. Because, hon. Attorney General, this Bill, as Sen. Al-Rawi has pointed out and I have pointed out, certain parts of it are not in keeping with good law.

So my question is: could the intention have been achieved by a different purpose? I throw that out for the drafters, and for the hon. Attorney General. I will explain to you why in a short while.

Madam Vice-President, moving on to clause 13(2), the hon. Minister of Foreign Affairs and Communications in piloting the Bill spoke about how serious this issue is, and yes it is a serious issue, but we are asked to pass this piece of legislation, which is serious, draconian, has a fine of \$1 million, and it has to have a three-fifths majority because it offends sections 4 and 5 of the Constitution. We have not seen the regulations. I would have thought so serious is the Bill that the regulations would have come with it, so we could have at least have seen the regulations. But it says here, under clause 13(2):

“Regulations made under this section shall be subject to negative resolution of Parliament.”

Madam Vice-President, I have a very serious concern with that particular provision. And for the benefit of members of the public who may want to find out why I am making a fuss about negative resolution, I know we all know in this Chamber what negative resolution means, but I think it is incumbent upon us to let the average person know what is the importance of negative resolution versus positive resolution.

Negative resolution has a part to play in any Legislature which is, you bring something, and unless somebody opposes it within a certain period of time without debate, it goes forward. It has a very useful purpose in Parliaments around the world, because so many pieces of legislation come to a Parliament, not all need to

be debated, not all need to have the full scrutiny of a House of Representatives or a Senate which is what affirmative resolution is. It comes here, it is debated, and we vote on it, as opposed to bringing it, it is laid, and if no one reads it, and no one objects to it within 40 days, it passes.

I will suggest to the Leader of Government Business, Sen. The Hon. Emanuel George, Sen. The Hon. Anand Ramlogan SC, and Minister of Foreign Affairs and Communications who piloted this Bill, if this Bill is so important, imposes such heavy penalties, is so draconian, and we have not yet seen the regulations; it requires a three-fifths majority, it offends sections 4 and 5 of the Constitution, it may also offend section 13 of the Constitution, I would like to suggest to the honourable Senate that this be subject to affirmative resolution and not negative resolution. I think it is a very reasonable request and I hope it finds favour with the Government, because I will find it particularly difficult to support this piece of legislation via negative resolution when I have not yet seen these regulations to be made by a Minister. [*Desk thumping*]

So Madam Vice-President, the last point I want to make has to deal with clause—if I can go back briefly to clause 7 of the Bill, which is the functions of the committee. The functions of the committee are laid out here: to advise the Minister, to monitor the implementation of regulations of the Act, and to coordinate the activities of agencies involved in the implementation. I have yet to hear from the Government how this clause of the Bill fits in with sections 4 and 13 of the Constitution. I say this because I want to delve very briefly—and this is my last point—into the issue of necessity and proportionality. Because I would not like to see what we are doing here is struck down because it is disproportionate. If you permit me, just to read briefly from a document written by Christian J. Tams—

“The Necessity and Proportionality of Anti-Terrorist Self-Defence”

He is a Professor of International Law at the University of Glasgow. His entire contribution deals with the test of necessity and the test of proportionality with regard to the antiterrorist self-defence. That is when states are using self-defence as a defence for like a pre-emptive strike.

5.15 p.m.

If you will permit me, Madam Vice-President:

“The ‘necessity test’ requires a comparison between the conduct under scrutiny (in the present case: an act of forcible self-defence)”

So we are being attacked, whether extraterritory or within our borders, and the potential alternatives. What are the alternatives available to us as opposed to all-out attack?

“...necessity thus concerns the choice between alternative modes of response.”

I would like to suggest that this Bill be taken back, redrafted, address the issues raised by Sen. Al-Rawi and myself, and to include in the regulations, or in some part of the Bill, how the Bill would satisfy the necessity test and the proportionality test.

“In contrast, the ‘proportionality equation’ amounts to a balancing exercise juxtaposing the interests harmed by the conduct under scrutiny (in the present case: an act of self-defence) on the one hand and the factors justifying it on the other...”

So what justifications will the State use in this argument of self-defence? It is not about alternatives but questions whether necessary forms of responses are unlawful because they entail disproportionate consequences.

My concern is that, in the future, if we are really under attack and we do not know what our responses are, in the international court, under international law, would our responses be held unlawful because they entail disproportionate consequences? And this ties in to the whole test of reasonableness as Sen Al-Rawi alluded to in section 13 of the Constitution.

Madam Vice-President, in closing, I want to reiterate that there are other means of incorporating the Convention—as I have said, an amendment to the Anti-Terrorism Act. We need to look at the whole issue of proportionality, necessity. We need to be comforted that, under section 8, authorities like the police would not be acting in the way they have been prone to act, and that people would have valid defence. We need to address section 9, and these are fundamental issues that would prevent the Opposition from supporting this Bill; fundamental issues that need to be addressed before we give support. With those few words, Madam Vice-President, I thank you. [*Desk thumping*]

Sen. Dr. Victor Wheeler: Thank you, Madam Vice-President, for allowing me just a brief intervention into this debate after the contributions from Sen. Prof. Ramkissoon, Sen. Al-Rawi and Sen. Deyalsingh. They have contributed in some areas that I wanted already to express, so I will just be brief.

This Bill is to debate the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. The Convention is simply known as the Biological Weapons Convention or Biological and Toxin Weapons Convention. As I have said before, it was opened for signature in 1972 and came into force in 1975, and it is the first multilateral disarmament treaty ban on an entire category of weapons. As mentioned before, the treaty prohibits the development, production, acquisition, transfer, retention, stockpiling and the use of biological and toxin weapons.

This is a key element in the international community's effort to address the proliferation of weapons of mass destruction, and remember this was the reason NATO invaded Iraq, some years ago, looking for weapons of mass destruction and that was the start of that war. The treaty itself targets both the biological agents, that is the microbial agents as well as toxins and products thereof, and it also targets the means of delivery of these agents. So it targets the equipment used and the weapons used to deliver these agents. The treaty is really geared towards targeting the use of these agents for hostile purposes in armed conflict, but it does not apply when the same biological organs/agents are used for protective uses, for peaceful uses, for prophylactic uses. My question, therefore, is, who really determines that a biologic agent is used for good or evil?

According to the Bill, this determination seems to be made by the committee, and according to section 6 of the Act, this committee, which is now referred to as the bacteriological and toxin weapons committee, is appointed by the Minister, and we have seen where the Minister referred to here is the Minister of National Security. Section 6, says:

“the...Committee consisting of a Chairman and Deputy Chairman and such members as the Minister may from time to time appoint in writing under his hand.”

As has been said before, there is no mention of the qualifications or the competencies of the chairman or the deputy chairman, or the competencies of the committee. Sen. The Hon. Brig. Sandy has said that he has at his disposal all the various agents from different Ministries: Ministry of Health and various other Ministries, but it is not clear from what he has said if these Ministries are going to provide their technical expertise to be members of the committee, or if the committee is just going to have access to these experts. I think this is one area of concern for me because we have already seen where, under the same Ministry of National Security, persons have been appointed to be directors in which their

qualifications have been questioned. For me, I would certainly like more clarity on this area, and I would certainly want it expanded on, the qualifications and competencies of the chairman and deputy chairman.

The other area I would like to mention, and was mentioned briefly before, is section 8(1), where a search warrant is generated:

“A Magistrate who is satisfied, by proof upon oath, that there is reasonable ground for believing that there is in any building, place, vessel, aircraft, carriage...”

My question is of what does this reasonable ground consist? And the Magistrate, himself or herself, is not a technical person. Is the Magistrate, herself or himself, going to be provided with technical expertise that he or she can rely on in determining that what is presented to him or her is actually reasonable grounds for issuing a search warrant? And this is because we have had the experience where police officers have conducted searches on buildings, for example, we have heard of media houses and union offices where searches have taken place.

This power given to the hand of a police officer is certainly a source of potential abuse, and from my point of view I would certainly like some more clarity on this. This Bill as presented, certainly, in my opinion, leaves too much potential for abuse, and I would certainly like the Minister and/or the Attorney General to give me some clarity before. I will be happy to support it.

The aim of this Bill is certainly good. It is something that we must implement, and I hope that efforts will be taken to safeguard the potential abuses that, certainly, the Bill in its present form will pose, and I am hoping that there will be some drastic adjustment to this. Madam Vice-President, I thank you. [*Desk thumping*]

Sen. Danny Maharaj: Thank you, very much, Madam Vice-President. It is indeed a pleasure, once again, to contribute in this sacred Chamber; the Senate of the Republic of Trinidad and Tobago.

Madam Vice-President, when we talk about biological warfare and toxin warfare, what comes to mind is a sciencefiction movie—popcorn, a cinema room, and probably the movie *The Rock* or *Contagion*, because in the imagination of the average Trinidad and Tobago citizen, it is something they see far-off, far-fetched and not really realistic in our context as an island in the Caribbean and, generally, you know, something of the imagination.

As the contribution by Sen. Prof. Ramkissoon was very enlightening and insightful in terms of the history of biological warfare and toxin warfare, and these types of substances and agents that are used to cause death, destruction, damage to life, crops, animal life also, it is very significant when you trace the history that man, mankind and humans, have placed a focus in endeavouring to pursue developing a path, of using these types of agents to cause destruction through history thus far. Sen. Prof. Ramkissoon gave some examples to which I would like to add.

When we look at the French and Indian war in the 18th Century, we saw where smallpox was attempted to be used by placing smallpox on blankets and given to the Native Americans there. Also, in World War I, the Germans attempted to use the plague and so on, to cause death and destruction to their enemy; the Russian soldiers in St. Petersburg. Additionally, in World War II, the Japanese had a covert unit, unit 731, that did a lot of experiments and biological testing on prisoners of war and so on. More recently, remember, in 2001, the anthrax situation where there was not only a scare in North America but within our Caribbean region and globally as to the potential of the dissemination of that disease on a worldwide basis. So these are real threats, they are clear dangers and we must view them as such in a global and holistic vision.

So what is the purpose of this Bill? This Bill we have committed through the agreement in the Convention. I would just like to read a part from the schedule where it states:

“The States Parties to this Convention:

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control.”

The people of Trinidad and Tobago, the Government of Trinidad and Tobago and the Parliament of Trinidad and Tobago support this concept and, as such, this is the reason we are here today in this Parliament, to say, “That is the essence of the Bill. That is the spirit of the Bill, and we are going through the parliamentary process to ensure that we have the refining taking place, ensure that we have proper Bills coming out that would support the essence and spirit of our commitment to world peace and harmony in the globe overall.”

Madam Vice-President, we must understand that with investment into the bioengineering field—and there have been many countries that have invested over the years; the United States, Russia, China, many countries, and there are new countries such as Malaysia and Singapore that are investing heavily into biotech and bioengineering development.

5.30 p.m.

I would like to quote from the *Asian Times*:

“Malaysia’s new dream: Biovalley

Biovalley was officially launched this year after three years in gestation. The government is pouring in...(US \$26.3 million) initially to build the infrastructure and facilities by 2006...”—this is from 2003—“that will house 150-200 new biotech companies that will support biotechnology activities as well as coordinate and promote the commercialization of research findings.”

Madam Vice-President, we see in Singapore the concept of One North. This is from *Business Week* June 01, 2009. Here it states:

“Clusters of Innovation

The showcase of Singapore’s future ambitions is One North, a 500-acre district close to the National University of Singapore, National University Hospital, and Singapore Polytechnic. It is expected to cost some \$7 billion over 20 years.

One North houses several interconnected research ‘clusters,’ for biosciences, interactive media, physical sciences, and health care.”

So definitely there is heavy financing and investment for scientific research in this field. With new developments and new outcomes, as things can be used for good, they can also be used for bad.

This type of legislation would ensure that we have institutions in place, we have mechanisms in place and we have the authority systems in place, so in case anyone uses new developments and current pathogens, viruses, germs or bacteria for non-peaceful purposes, we can go after them and eliminate such threats.

I want to also indicate that our Prime Minister in the 23rd Inter-Sessional Meeting of the Conference of Caricom Heads of Government in Suriname recently said:

“The Government of the Republic of Trinidad and Tobago remains steadfast in its commitment to address security threats. ‘Through its security and intelligence infrastructure Trinidad and Tobago continues to monitor crime and security developments nationally and internationally.’”

We stand by this statement as the Government of Trinidad and Tobago. We have a responsibility both nationally and internationally to minimize any threat to the citizens of Trinidad and Tobago, our region and generally.

Furthermore, you would realize that through the Piarco International Airport and the ANR Robinson International Airport, we are servicing passengers. We have American Airlines, British Airways, Caribbean Airlines, United Airlines, Copa Airlines, Liat, Surinam Airways and REDjet in Trinidad. In Tobago we have British Airways, Caribbean Airlines, Condor Airlines, Monarch Airlines and Virgin Atlantic. One would appreciate with this high contactability with the outside world how interconnected we are.

If we use, for example, the H1N1 virus, we saw the movement of that virus globally. Within weeks or months in Trinidad and Tobago we had incidences of the H1N1 virus. Our citizens were suffering from that virus that originated elsewhere. So too in the circumstance, if some biological weapon or agent is devised, it could easily be transmitted in a short period of time to affect our citizens right here in the lovely paradise of Trinidad and Tobago. So we cannot take an isolationist approach, we cannot take a distance approach or a separate approach from our international partners. We must join with them. We must support them and stand united with them to cooperate and work to ensure that any threat of this nature is minimized, because we are not excluded from the damage to mankind, to crops, to vegetation and animal life that it could cause.

This is not something like a machine gun or a pistol or a grenade that would just take the lives of one or two. This is something that will spread via the air, via contact. One person goes to a party and everybody in the party ends up with the virus. They go home to their families and everybody in those families end up with the virus. They go to a function and it spreads. What is the response mechanism we have to deal with something of that nature?

Countries globally do not really have any biosecurity systems in place. Those are probably steps, as the Senator indicated previously, we need to look into subsequently, to see how best we could have biosecurity systems in place to deal with something like that and ensure what agencies are ready to respond to those types of threats, if ever they occur.

Madam Vice-President, to continue I would like to also indicate that there were experiments conducted in the United States of America, simulations in Pennsylvania and Oklahoma, where they released something into the city, a harmless agent. Through the simulation it was identified that the response mechanism, even within the United States, was unable to contain a virus of that nature. Over 16,000 persons, through the simulation, would have died within two weeks. So we see how severe the impact of bioweapons could be to mankind.

This is a serious Bill. It is a Bill that the Government of Trinidad and Tobago, our Parliament and our people are committed to ensure that we have a peaceful world. We agree, Sen. Al-Rawi, that whatever refining needs to take place to ensure that we have the best laws that emerge for our people, the Government is always willing to listen. We have listened and we will continue to listen to work together to develop the best laws for the people of Trinidad and Tobago. [*Desk thumping*]

Madam Vice-President, that is my very short contribution just to say that we are here to work together to ensure we support our international partners, and also to create laws that mesh well and gel well for the people of Trinidad and Tobago. We stand proud and strong to work in the interest of Trinidad and Tobago and our international partners.

Thank you.

Sen. Shamfa Cudjoe: Madam Vice-President, I must say it is a pleasure to come right after Sen. Danny Maharaj. I actually enjoyed his contribution today. [*Desk thumping*] [*Laughter*] He set the stage for me to make my contribution, because he asked a very important question. He asked: what response mechanism do we have in place, should something like this happen? This is also linked to Sen. The Hon. Brig. John Sandy, when he brought up the Swamp Dogg song. I was not around in Swamp Dogg's time. I know of Snoop Dogg, I do not know of Swamp Dogg. [*Laughter*] [*Crosstalk*]

Hon. Senator: A dog is a dog.

Sen. S. Cudjoe: Swamp Dogg sang: what if this happened? What if they dropped the bomb? He sang that he would not know what trees were and what the skies would look like and so forth. In truth and in fact, today, what if something like this happened to us here in Trinidad and Tobago? What if this happened to one of our brothers and sisters in the Caribbean region? For the most part, we are so interrelated and interdependent in the region, that what happens in Barbados or to somebody next to us affects us almost directly, because we are so small. We

are travelling back and forth between the islands each day. I think this is a very important topic, not just nationally but regionally too. I really wish that Caricom gets its act together, because issues like these transnational threats and transnational criminal and terrorist activities need to be treated with on a regional basis also.

In listening to the contributions, I want to point out that full implementation of this legislation calls for serious improvement in our security infrastructure and our security expertise. I wonder, just like Sen. Maharaj: what response mechanisms do we have in place to treat with it?

Madam Vice-President, in doing some reading to prepare for this debate, I came across a newspaper article where the Prime Minister would have gone to a United Nations conference, and it was based on weapons of mass destruction. She explained to the gathering that our problem was not so much weapons of mass destruction and biological warfare. I am not saying that we are insulated from these activities, but our problem, our challenge here is not really weapons of mass destruction. She spoke to the United Nations and explained to them that our problem really is—[*Interruption*]

Sen. Hinds: The UNC!

Sen. S. Cudjoe: Apart from the UNC, [*Laughter*] our problem really is small weapons like guns and those kinds of things, and treating with those kinds of crimes. [*Crosstalk*] So when I listen to that and I take a look at what is happening today, and I look at what we are called to do in this Parliament today, I believe it benefits countries like the US more than it benefits us here in the Caribbean.

Very often we are called to the Parliament to ratify some Convention and to enact and implement some things and some international legislation, which really are our international obligations. But when you get down to the nitty-gritty of the legislation and what it is intended to do, sometimes it does not even relate to what is going on in our region, in our nation. We are asked to digress from our plan of national development and indulge in this legislation or in this plan or Act for a better world, international peace and all those wonderful things.

I recognized the Members of Government tapping on their desks when another Member said that we got involved in this thing in 2007, and it is still on the paper, and now this Government has brought it. That is true, but you do not sign on to Conventions and sign on to agreements just to say you are a good little boy or a good little girl. When you sign on to something you have to ask: how does this benefit Trinidad and Tobago? It is not just about signing on to the

agreement. It is about implementing the agreement, because at the end of the day we end up enacting a whole lot of rules, regulations and standards, which have nothing to do with us, and we do not have the technical, financial or human resources to bring the plans to life.

This issue of national, regional and international security is critical, not just to us here in Trinidad and Tobago and the region, but also to the US. I see the US having some serious influence in this piece of legislation and what we are called to the Parliament to do today.

Every time we speak about national security, I always say that we are located in a very sensitive position on the world map. We are in the middle. We are wedged by the drug-producing south and the high drug-consuming north, in North America and so forth, so we are a trans-shipment point. The fact that we are located where we are, makes us very important to the US.

5.45 p.m.

I think that any move or any action to beef up security in the Caribbean is a plus not just for the Caribbean but also a plus for the United Nations. I wish the Minister of Foreign Affairs and Communications was here, but anyway, I think it is something that he would know, I hope, that when we are negotiating with the US, the Caribbean Basin Initiative, the Caribbean Basin Security Initiative, that we need to put this in our pockets, this is one of our weapons that, because of where we are located, it is in the interest of the US also to contribute to security measures within the Caribbean.

Madam Vice-President, I like to look at us as the third border, and the US has also looked at us as the third border as of April 2001. We are the third border along with Canada and I think Mexico being the first and second border. So, in April 2001 the US recognized the Caribbean region as playing a critical role in its homeland security. The US calls on us to impose these rules and regulations, and as Sen. Al-Rawi would have mentioned, he said this is a dualist law. I would like to say that dualist laws require a dualist funding too. [*Desk thumping*]

Sen. Al-Rawi: Well said.

Sen. S. Cudjoe: Because we are called upon to implement some legislation, rules, regulations and standards that fly way high over our heads, and I do not see the US from my awareness, reading and so forth, putting its money where its mouth is. The US calls on us to do this and to do that and to implement all these security measures in the area of drugs and terrorism, and I really do not see the US passing the bucks.

I point to the third border initiative that was launched in 2001, and then four years after at the American Summit, the Declaration of Monterrey which recognized the Caribbean region as susceptible and vulnerable, and these areas are very much prone to national security threats, and if something happens there then something worse can happen in the US I do see, from what I have seen and researched, the US standing up to what it has been promulgating in the public.

This is 2012, this is six years after the Monterrey Convention, this is about 11 years after the third border initiative, and this is two years after the Caribbean Basin Security Initiative, and Caribbean countries—actually the regional threats—a document done by Caricom entitled Regional Threats: Security Capacity Imperatives in the Caribbean, spoke about the U.S. implementing and asking us to implement and imposing all these regulations on us, and they really have fallen short.

Madam Vice-President, I think before we adopt this thing, enact it, implement it, and do all the necessary things to say that, we are good boys and girls, there are some things that we need to consider.

Now, just as Sen. Maharaj said, what response mechanisms do we have in place? When you think about biological weapons, bombs, chemical weapons, this is a very technical issue. It calls for serious cooperation in the area of technology, training, human resources, and it calls for serious funding, and I do not remember seeing this item in the budget. So for Sen. Maharaj to make the pronouncement that this legislation puts institutions and the authority in place for us to treat with weapons of mass destruction and these kinds of threats, the legislation is just that, the legislation. After we walk out of here we would still be vulnerable, still be susceptible to these kinds of threats, and I am sure that we do not have the capacity as it relates to national security, healthcare, emergency management, and being quick in our response to treat with something like this.

I want to warn this Government that the legislation is just that—the legislation, and we have to find some way to get our regional brothers, sisters, and the US that impose all these things upon us to put their hands in our hands, and walk hand in hand with us.

I want to bring a few points to this Parliament in treating with biological weapons of mass destruction. Let us say, for instance, Ebola or E. coli—I heard Sen. Ramkissoon speak about E. coli. Let us talk about anthrax, or if H1N1 was a weapon of mass destruction, how ready are we to respond to this kind of thing? Is NEMA—the National Emergency Management Agency—ready? Is TEMA—the Tobago Emergency Management Agency—ready?

Is law enforcement equipped to deal with these kinds of issues; the fire stations, the police officers and the different personnel in these areas? Do we have somebody within Trinidad and Tobago who knows how to deactivate a bomb? We probably do, but I am not aware, so I do not feel confident saying, “Okay, when I implement this legislation today, it puts things in place to get going”, because if something happens tomorrow, we do not have the necessary resources to respond effectively.

So when we go to the negotiating table and the multilateral forum, we need to speak up when we negotiate trade and health care because all this talk about national security and weapons of mass destruction has an effect on every aspect of our daily lives in society and also on every aspect of government.

Do we have the doctors and the health care professionals to respond? If somebody came in on a flight and is infected with some kind of biological threat, how equipped are we to identify this person, as quickly as possible, to ensure that it does not spread? I do not think that we have the resources right now; the tools, the vehicles, the human resources, the technology, the stuff like chemical protective gear.

We talk about storage and destroying weapons of mass destruction, biological weapons and so forth. Do we have the facilities to destroy them, in such a manner so as to ensure that they do not spread to others either in the storage or the destruction procedure? I think with this our public health surveillance cannot be overemphasized, because early detection and rapid response are very critical if there is supposed to be an outbreak. So we need to speak to the US and the other bigwigs in the international community about training epidemiologists and quarantine specialists.

I remember when we had H1N1 threats in Tobago, and in Trinidad too, we had to separate those patients from the others to make sure that it did not spread. Do we have quarantine specialists and the different professionals that are experts in communicable diseases? I am no health guru so I would not go on too long on that one. So, our ability to respond very quickly and efficiently is critical in fighting weapons of mass destruction that are of a biological or bacteriological nature.

When you call NEMA or TEMA, whether it is on a weekend or a weekday or late in the night, you want to know that they are going to respond as quickly as possible. Even when you call the police—let us say somebody left a bomb at the airport—God forbid—or left a bomb somewhere, you call the police, you want to

make sure that they respond, and not just respond but in a timely fashion, ready to get the work done and to solve the issues. I do not know about the ability of our police force to treat with that kind of thing.

So there is serious need for technical cooperation, even in updating and improving our technology. I will give you a simple example—calling 999, that is the number for police. In Tobago when you call 999, somebody in Trinidad answers and then channels the report back to Tobago. Now, that takes time. As simple as it sounds, that takes time.

I know of a very recent incident where a foreigner who owns a villa in Tobago was raped. While she was in the house she saw when the criminals came to the yard, so she called the police. These gentlemen—I do not know if to call them gentlemen—but these guys had the chance to make it into the house, rape the lady, take her belongings, request her bank card, she gave them the wrong PIN code for the bank card, they went to the bank and recognized it was wrong, came back, got the right PIN, and then left again, and to this minute the police have not gotten to this lady's house. When she felt like she was sure that they had left and were not coming back, she walked down to the police station. Madam Vice-President, there is need for improvement in simple things like—[*Interruption*]

Sen. Hinds: She should have carried Devant Maharaj the first time.

Sen. S. Cudjoe:—being able to respond, the police and the emergency systems. The Tobago House of Assembly, having talked now with the Minister of National Security about this issue of calling the 999 number, I hope that we have some improvement with this.

Madam Vice-President, we are being told by national security that the problem is, this is just the way the technology is made. We have a serious problem in this country by using and creating technology, and we are working for the technology rather than the technology working for us, or we are working to make legislation work rather than creating legislation to work for us. I hope at the next meeting at least that we have some leeway. Maybe we can think about instituting a special 999 number for Tobago, probably 888 or 998 or whatever. I do not know the specifics of the technology but I am sure there is something that we can do.

I am almost sure, that foreigner who was raped, I do not think that she would want to come back to Tobago or probably might want to sell her villa or whatever, but we have to do better as to our response time. If it is stressful treating with day to day crimes in our local national community, to treat with weapons of mass

destruction and all these other technical, sophisticated, highfalutin kinds of threats, I am not sure that we have the capacity on our own to treat with that, hence the reason for serious technical cooperation in this matter.

Most of our security imperatives are imposed upon us by bilateral pressures, again I say from the US, and added to these imposed requirements there are new security standards and best practices. So, we have to always have the money ready and waiting to make these changes.

6.00 p.m.

For instance, when 911 happened, September 11, 2001, after that event the United States Government implemented some new legislation, different terrorism Acts and so forth, and then they called upon the international community to rally with them. If you did not adhere to these rules, and adopt these rules and regulations you were seen like an enemy or somebody encouraging terrorism. Because you did not want to be blacklisted or prevented from doing business with the US or prevented from flying into the US, you had to implement these rules and regulations.

Now, I am sure some of us can remember the different rules for withdrawing and depositing in the banks, and, if you are wiring money, the rules have changed a bit since September 11. In some cases the rules have changed in a very, very major way. I know, for example, the flow of passengers through the airport, the US would have implemented a rule that the passengers coming in cannot interact or should not use the same pathway as the passengers going out. So, here we are forced to make drastic changes to our airports, to our port system and so forth, and in some of those areas we are behind. But these rules and regulations came flying at us and you had to find the money to be a good boy or girl so that the US would not put you in the bad house.

Madam Vice-President, one major one was, as I said, the new terminals and new flow of passengers through your airport terminals. Now, I think that Piarco might be big enough to handle that kind of flow of passengers, but I do not know if it is built to suit the structure that the US has recommended. I was just on the TSA website and there is a structure that you are supposed to follow in the building of your airport. These rules change so often and you just have to have the money. They expect you to have the money to make these changes right away.

Now, I know in Tobago our airport is so tight—I know over the years the PNM administration would have invested some money in the airport and made some changes and did this new terminal which local travel uses, but there is still much work to be done on the Tobago Crown Point Airport, now the ANR—[*Interruption*] yes the ANR—Arthur Napoleon Raymond Robinson Airport.

Sen. Deyalsingh: Whose son was never a travel companion.

Sen. S. Cudjoe: Whose son was never a travel companion, I am told by Sen. Deyalsingh.

Sen. Maharaj: Madam Vice-President, Standing Order 35(1), please.

Sen. S. Cudjoe: Are you kidding me?

Madam Vice-President: Senator, I am going to rule that you seem to have wandered a little off from the discussion. Standing Order 35(1), rules for relevance. While there are aspects of relevance, I think you have wandered a little too far. Kindly tighten your argument, bring it to the point and avoid as well a little repetition of some of the points raised earlier in the debate. Thank you.

Sen. S. Cudjoe: Thank you, Madam Vice-President. I would be guided. I got these points from the—*[Interruption]*—a study that was done in the US, it is called “Airport Passenger Screening: Background and Issues for Congress”.

In this report the different sections speak about having your airport built to facilitate the flow of passengers. Because, if somebody is entering the country with Ebola, or, let us say, H1N1, or some bad disease or virus or whatever, you do not want them to cross with the people who are going out so that it could be a threat to your national security. I do not know how irrelevant that might be, but we are talking about biological weapons. So, Madam Vice-President, I would go on in that regard. I was saying if we are implementing this law in Trinidad then we are obviously implementing it in Tobago, so I do not see it irrelevant to talk about the impact on the Tobago airport. Please guide me accordingly. Thank you.

I am not sure that we have the space for—the US is asking us to have good screening efficiency. We have to have the space for advanced technology X-ray machines to see bombs and so forth, and these machines are significantly wider and taller than the ones that we used to have before. The report is saying that most of these pieces of equipment in the developing countries are outdated, so in time to come you may have a problem with passengers flying to the US because of these gaps and deficiencies in national security. So, we have to find ways to improve our security at the airport. The report also speaks about explosives trace portals, puffer machines, explosive detection systems, and they call this one puffer machine and EDS, explosives.

The point that I was making as it relates to Tobago and the Tobago airport is that our terminal cannot accommodate these things. It is just too small. As I was saying, the past Government—the past administration—would have committed to

giving \$500 million, half a billion dollars towards improving that terminal. Now, since this new Government has come into power it seems like those plans have been—no, I should not say that because when the ANR Robinson Airport was opened—when was it—last year, the Minister of Works and Transport at that time made an announcement—I have the newspaper article right here. It is May 26 and it is by Anna Ramdass. This, actually, is the *Tobago News* and it says, “Airport renamed after Robinson” and the second paragraph said:

“Adding good news to the occasion, Works and Transport Minister Jack Warner announced that Cabinet will soon approve a budget of \$500 million for the expansion of the A.N.R. Robinson International Airport.”

This expansion was to facilitate these things, because the size that we have right now simply cannot work.

Madam Vice-President, the then Minister of Works and Transport even went as far to tell us that works should begin in December 2011. Now we are in March 2012 and nothing has happened yet, but in the media you hear the Minister of Transport speaking about renovations and refurbishment to the existing terminal and he is committing—

Madam Vice-President: Senator, I have given you quite a wide leeway. I have yet to find—you just have about 15 minutes again to complete 45 minutes. I know that you have raised one or two points, but I would like to remind you that this is a Bill, an Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. Kindly contain your arguments and your points on this particular Bill. We are not debating a transport Bill.

Sen. S. Cudjoe: No problem. Madam Vice-President, thank you very much. This Bill speaks about the transfer of weapons of mass destruction and also biological weapons. It speaks to things happening at ports.

I know this Convention is old, but I have been following the debate on the international stage about updates Hillary Clinton and the other professionals and ambassadors, are speaking about new things like trade controls and so forth. *[Interruption]* The legislation speaks about—this is clause 13(a):

“...ensure the security of any biological agent or toxin manufactured, stored or used in any building, place, vessel, aircraft, carriage, box, motor vehicle, or any other conveyance.” *[Desk thumping]*

So, the airport is a building and a plane happens to be an aircraft, but, I am irrelevant. *[Desk thumping]* Anyway, Madam Vice-President—

Madam Vice-President: Senator, I am going to invoke Standing Order 43(1) in this particular instance and, simply because there is a word “building” in it does not refer—or airport—does not mean that you can carry the entire debate on that particular word. There is, in fact, the word “Parliament” in the Bill, but this is not a Bill on the Parliament, neither is it a Bill on the airport or on Tobago for that matter, so I am invoking Standing Order 43(1). Could we have the next speaker, please?

Sen. Hinds: What? What? Madam Vice-President, I am shocked at your ruling. I am not challenging it, but, as a Senator of this Senate, I want to place on record that I am shocked at your ruling. [*Interruption*] I am not challenging your ruling. I just want to place on record on behalf of my colleagues that we are shocked at your ruling and cannot easily understand it.

Madam Vice-President: That is noted. Do we have our next speaker please? Thank you.

Sen. Hinds: Madam Vice-President, we have freedom of speech in this Parliament.

Madam Vice-President: I am invoking Standing Order—

Sen. Hinds: Madam Vice-President, we are here to express our views.

Madam Vice-President: Excuse me.

Sen. Hinds: This is shocking.

Madam Vice-President: I would urge all Senators to acquaint themselves with the Standing Orders of this Senate. I had requested repeatedly, please, kindly make your contributions—you just have a few minutes again. Sen. Ramkhelawan.

Sen. Hinds: This is ridiculous!

Sen. Subhas Ramkhelawan: [*Desk thumping*] Madam Vice-President, I rise to make my contribution, but as I do so—

Sen. Hinds: What!

Sen. S. Ramkhelawan:—I would like to make an appeal for some level of calmness, and maybe if you could reconsider your decision—

Sen. Hinds: Absolutely! [*Crosstalk*] and [*Desk thumping*]

Sen. S. Ramkhelawan:— and allow the speaker 5, 10 minutes— so that we can continue in the vein that we have continued in this Parliament since the

beginning of its term. I appeal to you, Madam Vice-President, please, to reconsider—

Sen. Hinds: Well said. [*Desk thumping*]

Sen. S. Ramkhelawan:—and I would take my seat and give way if you are so minded.

Sen. Al-Rawi: “Nah, nah, nah; that is draconian, man”.

Sen. Hinds: No, but this is ridiculous.

Hon. Senator: Folks, calm down “nah” man.

Sen. Hinds: No, but this is ridiculous.

Sen. Al-Rawi: But she demonstrated her relevance, man.

Sen. Hinds: This is ridiculous! That is an extreme measure in these circumstances. Ridiculous!

Sen. George: Calm down.

Sen. S. Ramkhelawan: That being your final decision, Madam Vice-President, I will begin my contribution.

Sen. Hinds: It is ridiculous, man! [*Crosstalk*]

Sen. S. Ramkhelawan: I want to commence my contribution by addressing this Bill to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. [*Interruption*]

Previous speakers have already covered a number of areas, which I have no intention to repeat, but only to touch upon, if only for the sake of building upon my contribution. I want to first of all endorse the views of some of our previous speakers in this debate, and some of the points raised were that, one, we are passing legislation that is inconsistent with sections 4 and 5 of the Constitution.

[*Opposition Senators leave Chamber*]

In so doing, there is a greater duty, a higher duty, of care to ensure, as Sen. Al-Rawi spoke to proportionality, but I would use the term checks and balances, to ensure that the legislation is of such a nature that persons who may feel that their rights are abrogated in some form or fashion could take comfort that there are the correct checks and balances in this draft legislation.

6.15 p.m.

As I go forward in my contribution, I want to highlight some of those areas in terms of the checks and balances that ought to be considered before this piece of legislation, this Bill, can be translated into an Act. So that is the first point.

The second point is that by clause 6 it is envisioned that the Minister can appoint a chairman and a deputy chairman. But it has been raised before, and this I think is an important point that needs to be resolved and we must address it, because it can be a sticking point for those who are concerned about compromising the rights of persons under 4 and 5 of the Constitution.

So the question is, do we leave that particular clause 6 in such a form that the Minister of National Security has carte blanche authority to determine who he would appoint as chairman; who he would appoint as deputy chairman; whether or not there is a maximum number of persons to be appointed to the committee; whether or not there ought to be a quorum for such committee and the decisions of that committee; the qualifications of those persons who would sit on that committee in making such far-reaching decisions that, as I said, could abrogate the rights of citizens of this country if the legislation is in fact passed, the conditions under which persons serving in the committee can be terminated?

We have had previous legislation in this Parliament that would have provided us a template by which to set the goalpost, if I may, to ensure that there is proper ring fencing and there are sufficient checks and balances to ensure that the undertakings of the Minister of National Security in the context of this piece of legislation would meet all of the requirements.

Now, let me say that I have full respect and great respect for the current Minister of National Security. [*Interruption*]

Sen. Brig. Sandy: Thank you, Sir. [*Desk thumping*]

Sen. S. Ramkhelawan: But we are passing legislation for posterity until such time as the Parliament seeks to change that legislation. I dare say that the Minister of National Security may be changed before this piece of legislation is changed, [*Laughter*] and we do not know, we cannot foresee what would be the nature of the new person who might be sitting in such a position and—[*Interruption*]

PROCEDURAL MOTION

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, I beg to move that this Senate continue to sit until 8.00p.m. If the debate has not ended, we could adjourn the sitting.

Question put and agreed to.

**BACTERIOLOGICAL (BIOLOGICAL)
AND TOXIN WEAPONS BILL, 2011**

Sen. S. Ramkhelawan: Thank you, Madam Vice-President. And so what we as a Parliament must contemplate and what we as a Parliament must do, I put to hon. Senators through you, is ensure that there is continuity and a level playing field—if you want to call it that—at any point in time, whoever the Minister of National Security is. That is our role as a Parliament. Our role is to provide scrutiny and oversight for the Executive of which the Minister of National Security is a member. So one of the things that I would like to see, is that that area with regard to the committee is properly fleshed out in the legislation and the various aspects which I have already spoken to are implemented, before I can give full support to this piece of legislation.

Let me say, Madam Vice-President, that I have no reason to not support the notion of ensuring that legislation to come in line with our accession into the Convention. I have no reason not to support that idea. But certainly I want to be assured that the legislation that gives effect to this is in a manner and form that are proper and in consonance with the highest traditions and expectations of the Parliament and the people of this country.

Another point that was raised which I also support is, the question of a warrant issued by a magistrate given to a police officer under oath. I want to endorse the view of Sen. Al-Rawi that it should be at a higher level in the high court by a judge with proper evidence and I support the notion, as well, that it should be by an officer of a rank above that of a sergeant. Because I think much of the legislation that we have passed that requires a three-fifths majority, to my recollection over the past three or four years, have moved towards this level of higher scrutiny and therefore I want to support that.

So I move now to some of the aspects which I would want to raise additionally. In the legislation under clause 6, the clause points to the Minister of National Security:

“...may, for the purposes of this Act, appoint a Committee...”

But “may” suggests that the Minister can or cannot. But in order for the Minister to properly undertake his duties and to give certain directions in writing to miscreants or those who are afoul of the law, he needs to give these directions in writing upon the recommendation of the committee. And therefore, it makes sense rather than say the Minister “may” that the Minister “shall”. Because if he does

not, it then limits him in terms of the authority that he would have based on recommendations which, perforce, must come from a committee appointed by him. I would like the Minister to take note that this is something that needs to be looked at under clause 9(1), and make the adjustments that are necessary.

Another point which I want to raise in this piece of legislation comes under 9(2). Under 9(1):

“The Minister may, upon the recommendation of the Committee, give directions in writing—”

But under 9(2):

“The Minister may in giving directions...

- (a) specify the manner in which, and time that the biological agent or toxin must be disposed of; and
- (b) require the owner or occupier to produce the biological agent or toxin to a specified person.”

While this clause makes provision for the Minister to give directions, there are no penalties applied for non-compliance.

So the Minister may give directions, but if the person to whom directions are being given decides not to comply, the legislation makes no provision for specific penalties in that regard, whether in this clause or anywhere else, and, therefore, I think that the legislation may be deficient in that it does not apply penalties when directions are properly given. I think that it is something that would have to be carefully considered in order to address this issue, because if you establish legislation and there are no penalties for enforcement or lack of compliance, then the legislation is useless. So I bring this to you and I am sure you would take it to the mover of this particular Bill.

Again I move to clause 10 of the Bill, and clause 10 of the Bill identifies persons who would commit offences in terms of the production or stockpiling, amongst other things, of quantities of these toxins, who would transfer biological agents and who would fail to ensure that having toxins and so on, fails to ensure that there are adequate measures taken for safety and security of those biological agents or toxins. But what the legislation does not do, it does not address those persons who aid and abet in the production, in the storage and in the transfer of biological agents or toxins. I recall that we would have passed in this honourable Senate some time ago, the Anti-Gang legislation. In the Anti-Gang legislation—this is Act No. 10 of 2011—specific provisions were made for persons who would have:

- (1) aided and abetted in the carrying out of certain offences; and
- (2) for persons who assisted in the concealment of certain offences—in this case the concealment of activities relating to the production of biological agents or toxins.

I want to raise before this honourable Senate that we give due consideration and I would bring them in terms of the suggested amendments at the committee stage, but I wanted to put it in context of the structure, the organization, structure and management relating to the Bill.

Clearly we must give thought to those people who aid and abet, and those people who conceal, and very importantly in terms of making their actions or lack of actions an offence, that there must also be the application of penalties in regard to those persons who aid and abet or who conceal. It is a clear lacuna in this piece of legislation that we do not have the provisions. So what you could have is, you could have exists, through the side doors of persons who are aiding and abetting, but there are no penalties and it is not necessarily, in this piece of legislation or draft legislation deemed to be an offence, a concealment.

So I want to bring to the attention of the drafters that we would need to bring this into this piece of legislation, because this is a very, very serious piece of legislation. When it was first put on the table, it was tabled in the manner that, okay, what we are doing is we are simply seeking to put legislation in place to give effect to our accession to the Convention in July 2007.

6.30 p.m.

But if we are going to put legislation that cannot be enforced, then what sense does it make in any event? Therefore, we need to very carefully, in the flow process, address all of these side exits through which perpetrators may escape.

I want to address also, again, the question of penalties under clause 10(c). Why is it that if an individual, under the clause 10(c)—and what clause 10(c) really speaks to is the question of an individual receiving a life sentence for the production of biological agents or toxic weapons. So if you are an individual under clause 10(c) and you commit an offence, conviction on indictment will be imprisonment for life, but in the case of a body corporate, \$1 million.

But it goes down further, under clause 11, to recognize the liabilities of directors, managers, corporate secretaries or firms that would be engaged, shall we say, in this offence. But if somebody who is, let us say, the sole employee and the manager/director of a corporate body, the maximum penalty is imprisonment

for 10 years for directing that action, whereas the individual will be subject to imprisonment for life. I think what we need to do is to simply arrive at some equity as far as that is concerned, under clause 10(c) and clause 11 with regard to penalties, whether it is an individual or whether it is a person acting under the cloak, shall we say, of a body corporate.

This really brings me to the point as to what we have been doing since I have been here over the past four years or so. We have been applying a different set of penalties across the board under different legislation, and I think we have questioned at times whether there is any sort of equity in terms of the penalties that are being applied for different types of crimes. I want to call, through you, Madam Vice-President, upon the Attorney General to address this matter and have this matter reviewed so that we could get proper equity in the penalties that are being applied for various offences across the board, because we seem to be all over the map in terms of a scattershot diagram, and it is time now as we bring, really, what is essentially new legislation—not amendments to legislation, new legislation—data protection. This particular piece of legislation; anti-gang legislation; what we have brought since the beginning of the century, we need to create equity in the penalties that now apply.

One, that the penalties are consonant with the nature of the crime, and the extent of the penalty, or the severity of the penalty, must be such that it really provides for the society and for those who may wish to commit those crimes, some form of effective deterrent and that people could see that maybe white-collar crimes, and blue-collar crimes, and any other collar crimes, would be treated with the severity that the crime deserves because of the negative impact on the society, because of the negative impact on life and limb, because of the negative impact on persons' savings and investments. So we cannot have one rule for white-collar and another rule for blue-collar, unless there is some levelling, and that is the point that I want to make to the hon. Attorney General with regard to the penalties.

Madam Vice-President, I do not want to incur your ire, but there is a matter on which I believe, as we speak about biological substances and toxins, that, with your permission, I would like to digress for a moment or two. It is this matter that seems to have caught our citizens and the airwaves by storm. Every day I turn on my radio, driving to work, I hear of a range of miraculous drugs that people can take that will cure diabetes, that will cure cancer of every kind, that will cure AIDS, that will cure everything under the sun, and there seem to be no rules or regulations governing these promises to unsuspecting people.

When people are sick and they are desperate, they look for any branch to hang on to in search of a solution and, through you, Madam Vice-President, I want to call upon the Government to put in regulations as early as possible to ensure that persons are not taken advantage of in the way that they are being taken advantage of by these promises, by these persons who are hucksters. They are hucksters of drugs that may be toxins. I say that so that I may not be accused of digression—drugs that may be toxins; biological substances that are causing danger to those persons, and the Attorney General needs to look at that through his Minister of Health.

But the Minister of Health, if I may digress for one moment more, is concerned about energy drinks only, but that is really at the bottom of the chain. People are paying their hard, cold cash to be damaged. There is no proof; there is no support that this drug will work or not work and they are going on the radio and television and they are making promises that cannot be supported.

Madam Vice-President, after that minor digression I come back to the Bill. It has, to my mind, become something of a practice over the past two years or so, that when we have legislation that requires a special majority, in this case a three-fifths majority, the question of regulations being passed by negative resolution has been put out of the window, and that instead we have affirmative resolution for those regulations.

It is an important check and balance, because what you do not want to find is that you have regulations that come at you that may not have been, shall we say, fully in consonance with the spirit of the law that was being passed. The idea has been that we should have affirmative resolution, so that those regulations come back to the Parliament, especially in a special majority. And, certainly, if I am going to give my fullest support to this Bill, it will be on the basis that the regulations are subject to affirmative rather than negative resolution.

These are some of the concerns which I have with regard to the structure of the Bill and the particular pieces and clauses of the Bill that may, at times, require a stronger level of checks and balances put in place by the Parliament to ensure that the scrutiny which we are required to apply can be properly applied, and the Executive will have the powers that are necessary for enforcement.

Madam Vice-President, I thank you.

Sen. Terance Baynes: Thank you, Madam Vice-President, for the opportunity to make, what I would deem, a quite brief contribution on this Bill. I am of the view that all of us here present will concede that we are living in

Bacteriological and Toxin Weapons Bill, 2011
[SEN. BAYNES]

Tuesday March 13, 2012

dangerous times, and hence it is of paramount importance that responsible jurisdictions, in the construct of their security and safety architecture, make every effort to put in place legislation that will be comprehensive, and also be sensitive to the global climate as we aspire to develop a climate, an environment of safety and security for all our people.

Giving effect to this particular legislation, I am thinking that though we may not, or cannot, take all the credit for this as it is because it is about five years old, as far as I understand, but I am encouraged that this Government has seen it fit to bring this legislation to this Senate now and to prioritize it.

Sen. Cudjoe was making some points about whenever the US says a thing some of us in the smaller states have to run to conform and so on. There may be credence to that, but a matter like this must be treated with the utmost importance, because I would shudder to think how this country, and perhaps those that are critical of the Government, would respond if we do not operate in a proactive manner and something were to happen, how critical they would be of the Government and how much blame we would have to take if we do not put something in place.

So while I agree that there is need for a massaging of the legislation—and I think that is what we do in this Senate—I am of the view that we are among erudite men, and I mean that in the generic sense; that there are great minds here, and our aspiration is to produce good legislation. So while the legislation has come to the Senate, I would rather think that instead of being highly critical of the legislation and the persons who bring it, that we should all together sit and give our contribution so that we can enact the best legislation, because all of us want to be secure in this nation.

So I commend the hon. Minister for bringing it at this time, and like I said, I do not have a problem with saying that we should not take all the credit for it. You know, Sen. Cudjoe made another point about—I mean, I do not even want to go there too long—what we do not have and the moneys that we do not have, and all the different things. But we cannot sit back and do nothing. She talked about us not having trained personnel and so on. In fact, the Minister of National Security made the point about training for the various individuals who are going to be involved in this matter.

So I think that we have to do something. We have to effect this legislation, because as a Jewish Nabi or seer said, the hearts of men are deceitful and desperately wicked; that in these times that we live, men find a way to concoct and to engage in things that are evil, for some reason, so we have to always be prepared as responsible legislators.

6.45 p.m.

So, Madam Vice-President, the issue of the global perspective—I believe, the hon. Prime Minister at the last UN General Assembly in 2010 expressed these sentiments, and I found them to be really, really important. She said:

“No nation will be safe, no democracy will prevail if there is not mutual cooperation towards global stability...”

I think these words pretty much describe the Government’s resolve, to ensure that though we have our acute local security issues, we must also be just as resolute in engaging safety matters in a global context.

I think sometimes in this country we fail to appreciate how blessed we are. You know, you think about some other jurisdictions and what is everyday life for other people. I have a very good friend who went to a particular nation to engage in clergyman’s work. When he got to the airport and realized that everywhere around him were men with guns and all of that, he had a culture shock, because, he was reared in an environment where you take everything for granted.

So, I think it is critical for us to be sensitive to these possibilities, that on any given day, some debased mind can be thinking about concocting some kind of biological weapon and launch it against our people. We must never, ever think that this is a remote possibility. On the global scene there are some jurisdictions—that I was thinking today, all of us who were appalled when we saw that terrorist act in that tourist destination, I think it was Bali, that was some years ago. That was not a place where the average person would have expected to see that kind of devastation. So, there is no telling when evil of that nature can strike in a particular jurisdiction. Hence, we have to always be prepared. So, I am heartened that we are assenting to this Convention, we are agreeing—and this Bill is quite relevant at this particular time and I am in support of this Bill.

I also want to say that I am encouraged by the purpose of this Government—the Government’s purpose. I say that because, despite the criticisms, Government this really wants the best for the people of Trinidad and Tobago. [*Desk thumping*] There are many people of PNM persuasion that have been trying to proselyte me over the last few months. In fact, there are some people who have operated so boldly as to give the impression that God is a PNM. I am telling the truth. By the sentiments that they express, they are almost telling you, “Even if you have to be a politician, why you have to go to the PP? You should at least be a good PNM politician.” They give the impression that no one else can have a heart for Trinidad and Tobago.

I am proud to be a part of the People's Partnership. In fact, when I got involved in this, I did not get involved with my eyes wide shut at all. I was clear about what my responsibility was, because I see that this Government has a heart for the comprehensive development of our people.

And so, Madam Vice-President, I want to say that this particular piece of legislation and the other bits of legislation that are brought to the Senate are legislation brought with the idea, with the goal, of developing our people. And so, the Government's purpose to me is very, very important and very heartening. The issue of security is always a challenge. It is one that we contend with, it nags us and dogs us on every side, but I am also encouraged.

I cannot be a pessimist as a lot of the persons who speak in this Chamber. I just cannot. We cannot afford to throw in the towel and do nothing. We have to face these challenges head-on and find a solution to them. [*Desk thumping*] I am sure the jury is out on some of the things that have been said, some of the nefarious activities that we see in the society and so on, and the blamings can go back and forth.

You know, when I come here, my intention really is to be a part of an uplifting, edifying discourse. I know that one of the lamentations of the Senators opposite, a lot of times, is that we go into the political time tunnel and go back. I listened to Sen. Al-Rawi as he stood in his Napoleonic style today and I said, "This is a great mind," and I was listening for some contributions. Yes, there was the citing of some of the flaws of the Bill, he saw that some things needed tweaking, but, I was listening for some solutions. We are supposed to be about solutions in this Senate, and that is one of the things that really concerns me. I feel there comes a time when we have to put the political agenda or perhaps even the caucus plan on the back burner so that the good of the nation can be advanced. I think that that is an important issue.

Madam Vice-President, it is my intention to be brief. But, despite the dissenting sentiments of some in this society, safety and security are front and centre on the agenda of this People's Partnership Government. We shall not be daunted by the growing security challenges that confront us nor the debilitating anxieties that attempt to circumnavigate our people, as a result of them, but rather, we shall bravely engage our security issues, tactically and with the greatest of innovation both locally and abroad.

Trinidad and Tobago has the trappings to become a world-class and a first-class nation, and this is what I would like to think we are working towards. And, I dare say that though the PP Government may be leading the charge, because it is now

walking in the corridors of power, if we aspire together despite which side of the divide we may be on, we shall be able to achieve it together. Effecting legislation as this Bill is just another step closer towards accomplishing this goal. I support this process and I thank you for the opportunity just to share a few words on it. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Madam Vice-President. I hope to make a short contribution to the debate regarding a Bill entitled:

“An Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.”

I suppose, a good place to begin is to note that attacks or scares involving the kinds of agents that would be the subject of the Convention on the Prohibition of the Development, Production and Stockpiling of these kinds of weapons, occur more frequently than we realize, and sometimes it takes many years for information about them to come to the public’s attention.

Most recently, and I suppose this is sort of a perverse example, but, you had the case of syphilis and other STDs being deliberately introduced in to the bodies of innocent Guatemalan citizens by the US some decades ago. We saw before the anthrax attacks in the US, there was sarin gas in Tokyo, which killed as I recall it, 13 people in 5 coordinated attacks, seriously injured 50 and rendered blind more than 1,000, although that loss of sight was in most cases, temporary.

There are in the Convention some interesting inclusions and my eminent colleague, Sen. Prof. Ramkissoon, pointed some of those out. There are also some very interesting exclusions. Aside from the countries identified by Sen. Prof. Ramkissoon, there are others of a more prominent nature that are yet to sign up. Most interestingly, perhaps, is that the stockpiled chemical and biological capabilities of the US and Russia are scheduled to have been destroyed by the year 2012 and it is now deemed to be less likely that that would occur, the current estimation is that they will succeed with the destruction of their weapons stockpiles by 2017 for the earliest.

So, when we were thinking about this Bill, to my mind the fundamental underpinning of it is not so much about the use of these weapons here in Trinidad and Tobago but about the principle governing the use or the retention of chemicals or bacteriological or biological agents that can be used as weapons of this kind. And so we are legislating basically here on a principle about how we feel, amongst other things, war should be fought.

That having been said, there are a number of just very small suggestions that I would like to put forward to the Government for its consideration as we think about improving this Bill. The first is to draw attention to clause 6 of the Bill as proposed. I would recognize that—and I did hear the hon. Minister of National Security say that the appointment of a committee would normally be the subject of regulations or come out of some regulatory device or privilege that the Minister has. In this instance, however, I think it is a little more than that, since the committee and the powers of the committee would be what appear to trample on the sections 3 and 4 of the Constitution that we are requiring a special majority to treat with.

My suggestion would be that the constitution of the committee be more expressly identified. My recommendation would be that the membership of the committee be no more than seven and that should include a medical doctor, a toxicologist; a geneticist and a microbiologist. That, of course, is subject to the Government's consideration. But, in my research these were the competences that I was able to unearth that appeared to most regularly feature in teams of this of kind.

Clause 8, Madam Vice-President, I had two difficulties there, the first being that I felt that the powers given to the magistrate may or may not reside perhaps more properly in the hands of a judge of the high court.

7.00 p.m.

But I am really agnostic on the point given that magistrates handle many, very important, grave, serious matters in the criminal justice system of this country, so I saw no difficulty really in the retention of a magistrate in this clause. However, what I would suggest is that further on in clause 8(1), close to the end, says:

“...under his hand authorizing a police officer...”

I want to suggest that that be changed to reflect the idea that it should be a police officer acting under the clear instruction or authorization of a sergeant or higher rank in the police service. The sergeant may not himself, or the inspector may not himself or herself, be able to go to the magistrate but certainly there should be some sort of clear involvement by someone. Typically, at the level of a sergeant, you are running a police station and an inspector would normally be there but on an 8.00—4.00 basis, so if it happens outside of those hours, I think a sergeant is good enough. So, I would suggest that change or that amendment to clause 8(1).

I looked at clause 9 and it occurred to me that subclauses (1) and (2), in particular, made suggestions about certain aspects of the operation of the committee, and that the hon. Minister may, for example, direct someone on how they ought to store some of these agents, but there is no consequence if you did not accept or take the direction. I believe that my colleague, Sen. Ramkhelawan, made a similar point, and I think it is an extremely important point and one which ought to be captured, either by an amendment under clause 9 which treats specifically with what should be done or what the penalties would be in the event of non-compliance, similar to what you are seeing under clause 8(4) after subclause (c). But certainly, penalties for non-compliance are absolutely essential for the proper operation of this Bill when it becomes an Act, if it does.

Under clause 10, Madam Vice-President, I would respectfully suggest to the Government that the word “conceals”—because concealment is a very significant part of the activity that surrounds this kind of weaponry—be included in clause 10(a), (b), as well as (c). In other words, clause 10(a) would sound something like “develops, produces, stockpiles, acquires, retains or conceals” and the same thing for clause 10(b). Clause 10(c) would say, not just “transfers any biological agent or toxin” but “conceals it for themselves or someone else”. I think that is important because of the way that these toxins travel, and they very often travel in modes, or using modalities, or forms that require some active human interventions. You have it in your pocket, you are going through an airport; you have it in a suitcase, a bag or in a canister. So, it is very important, this notion of concealment.

In clause 10(c) and (d), there is an imbalance and it also occurs in clause 8(4) with the penalties, where failure to ensure that adequate measures are undertaken for safety attracts a fine of \$100,000 or \$250,000, but if you transfer anything yourself, you know it attracts a fine of up to \$1 million. The same thing would apply in clause 8(4) just before clause 8(5), and it says that if you have not complied with subsection (3) or makes any false or misleading statement or removes anything, that you pay a fine of \$100,000. So I think there is a disconnect there with the penalties that the Government might want to revisit.

In looking at clause 10, it just occurred to me, particularly with clause 10(d), to ask the question: where does culpability begin and where does it end? When you say someone fails to ensure that adequate measures are taken, can a public officer or a member of the protective services find themselves unwittingly ensnared by a clause—soon presumably to be a section—of this type?

Because, for example, if you are dealing with hazardous biowaste in a hospital and the hospital has not taken appropriate care or what is the standard for appropriate care, then, who is responsible for that? Is it the members of the board? Is it the active management? Is it the supervisor? Is it the person who actually has the keys? So I think there is something here that you would want to take special note of. I had not heard it earlier so I kind of assumed that it is going to be dealt with in the operationalization of this.

I would like to know, in the Minister's winding up, what are our hazmat capabilities. Because if a situation arises that is governed under this Bill and if you are not yourself capable of dealing with the situation, which, more than likely, you would not be, you would need to be able to call someone—for example, with a hazmat capability—to treat with the matter, and I think that is something I would like to hear a little bit more about in terms of our capabilities there.

Under clause 11, there is an extension of the argument that we saw in clause 10, and that is, first and foremost, is there a risk, for example, to the Regional Health Authorities, staff coming out of this?

“11. Where an offence is committed...”—but said it—“...is proved to have been done with the consent, connivance or acquiescence of a director, manager...secretary or other similar officer of the body corporate...”

Now, the RHA Act actually gives immunity to directors of a regional health authority for actions taken while they are directors. However, it gives them no protection—as far as my reading of the Act is concerned—after the fact, so that a boomerang can still come and get you after. I am not sure why this burden of proof is required. It is very difficult to prove that a corporate secretary or a director, or someone who is not involved in the day-to-day operations of the business, has actively assisted in the commission of an offence as we have identified under this Bill.

The other thing that I observed with this, in researching for this discussion, was that I noticed that, and Sen. Prof. Ramkissoon pointed it out, this is reviewed every few years, and in the Fifth Review Conference, what they came up with was a code of conduct for scientists. At that point, it occurred to me that we are passing this piece of legislation, but I wondered what the implications for UWI or a teaching hospital might be. Surely, the UWI in St. Augustine would have some of these materials, and so it ought to be drawn to their attention.

We ought to make sure that we read this piece of proposed legislation and ensure that it does not stymie any attempts we may have to build a genetic research capability here in Trinidad and Tobago, and it does not. I think there are enough safeguards there and the Minister will say yea or nay, but it is something that UWI needs to be aware of, particularly having regard to the kinds of fines that we are talking about here if you do not take good care of the materials that you have custody of.

My final note or suggestion would be under clause 14 where I had great difficulty understanding why, if an amendment to a Convention is made, the Minister of Foreign Affairs and Communications gets to amend the schedule.

Hon. Senator: National Security.

Sen. Dr. R. Balgobin: No, it is the Minister of Foreign Affairs and Communications. I thought that if anyone has to amend the schedule, it ought to be the Minister of National Security. The reason for that being that the Minister of Foreign Affairs and Communications would have, of course, the responsibility for signing treaties and entering into national agreements on our behalf. But, since the Minister of National Security owns just about everything else in this Bill, I think that it is only appropriate that the Minister of National Security be given the responsibility for changing the schedule. I am assuming that the schedule, as it is put forward here, really is for information only, and that nothing in the schedule is binding on us in law, so that we are not changing the law through the back door by permitting the hon. Minister to have this power.

If, as my colleagues' promptings would suggest, I am correct in that assumption, then I would have no difficulty with it, save and except to suggest that it not reside with the Minister of Foreign Affairs and Communications but with the Minister of National Security since the Minister of National Security has ownership of everything else to do with this Bill.

I also wish to join with some of the other concerns expressed, so I would not repeat them, with Sen. Al-Rawi in particular. With those few words, Madam Vice-President, I thank you for the opportunity to speak. [*Desk thumping*]

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Fazal Karim): Thank you, Madam Vice-President, for the opportunity to join in this debate which is a Bill entitled, "An Act to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction."

Madam Vice-President, it is very unfortunate that some of the comments that I want to make are really in response to some of my colleagues on the other side who opted to go home a little bit earlier. I would not say that they have abdicated their responsibility but some may have interpreted that as such. I want to, in starting my contribution, respond to Sen. Al-Rawi, and I think there are a couple of other Senators who made reference to the fact and which supported, in a way, Sen. Al-Rawi's contribution in which he said that the members of the committee were nameless and faceless.

It is my view that, while it may have been written like that in the Bill, the intention certainly of the Minister of Foreign Affairs and Communications, who piloted this Bill, might have been otherwise thought of. I am saying yes, it is not spelt out there, but I am saying that the intention, description and the composition of that committee may have been so indicated in his presentation. How did I arrive at that? I see one of my colleagues shaking her head. I am saying, again, repeatedly, that he may not have said so prescriptively, but, intuitively, what he was saying is, and I am reading with your permission, Madam Vice-President, from my colleague's *Hansard* presentation. He said:

“The active exploration and experimentation in this area is not limited to Germany and the United Kingdom.”

And he was making reference to what influenced the contents of the Bill.

“You see, Senator,”—he was responding to one of my other colleagues who said—and that Senator had said, in response to hon. Dr. Rambachan's contribution:

“You are a doctor now.”

He was responding to that contribution and he said:

“You see, Senator, when we prepare for a Bill like this, we have a team of doctors...”

7.15 p.m.

I just heard Sen. Dr. Balgobin indicate that one of the recommendations he would like to make is to see a doctor in the composition of this committee.

“...we have a team of people dealing with biological matters...”

I also heard Sen. Dr. Balgobin indicate just now, I wrote that he said maybe we should have a microbiologist on this team.

“...we have a team of lawyers...”

Maybe that might be one of the indications, in terms of who can contribute to this.

“...so we are surrounded by many teams. And, therefore, when we involve people like this in the business of Parliament, we bring participation by the widest community in the affairs of governance...”

I think that is certainly one of the things we are talking about. That is the extent to which Sen. Al-Rawi, my colleague on the other side, was talking about, people being warmed up by this Government, in response to Sen. Dr. Rambachan.

I think Sen. Dr. Wheeler also raised the issue of competencies on the committee. That was, in a sense, responded to by Sen. Dr. Balgobin. I want to, however, say at this stage that there were some comments that were made by Sen. Cudjoe, which I would want to elucidate on.

I indicated my Cabinet colleague and the Minister of Foreign Affairs and Communications, in the other place, in his contributions to the Parliament of Trinidad and Tobago, quoted the hon. Prime Minister, Mrs. Kamla Persad-Bissessar. I think reference was being made to that by Sen. Cudjoe, when she said that the Prime Minister spoke at the United Nations conference. Really, it was at the General Debate of the 65th Session of the United Nations General Assembly on September 27, 2010. If I may quote her contribution, because I think Sen. Cudjoe made reference to it, maybe not in its entirety. I think it is important for us to locate the contribution of the hon. Prime Minister at the General Assembly of the United Nations. I quote:

“No nation will be safe, no democracy will prevail if there is not mutual cooperation towards global stability, fashioned by opportunity for all, equity and the ability to feed, provide health care, clothing, housing and education for people everywhere.”

In retrospect, the statement is proof of the Government’s commitment to what we are delivering here today and what we would have delivered for the past 22 months to the people of Trinidad and Tobago. [*Desk thumping*]

If I may continue in this vein, I want to say that this statement by the hon. Prime Minister validates the fact that our leader, at the highest level of Government in this country, is an advocate for multilateral cooperation, and that is testimony to what we are talking about here today. Today, our Prime Minister demonstrates her commitment towards eradicating weapons of mass destruction and promoting legislation that would perpetuate peace in our country, peace with our neighbours and peace and prosperity among all our citizens in the world. [*Desk thumping*]

Our Prime Minister confirms her place—I want to say this very publicly—therefore, in the context of what I have said so far, as a peace champion and will take all the necessary measures to ensure the peace, prosperity and security of Trinidad and Tobago towards social and economic development.

Madam Vice-President, Members of the Senate, that, to me, and that for us on this side, is leadership confidence that is being displayed at the highest level of government of Trinidad and Tobago.

I also want to speak a bit about the International Convention of the United Nations, which talks about what the Bill is really about, in terms of the prohibition of development and production, and so on, of biological and toxin weapons and on their destruction. As has been said before by contributors this evening, really this Convention came about as a result of prolonged efforts by the international community to establish a new instrument that would support the 1925 Geneva Protocol.

If I may, with your permission, read a little about that Protocol, the Convention opened for signature on April 10, 1972 and entered into force on March 26, 1975 and that is what we are being told today and that is what we are proposing in support of this Bill. Since that date, seven review conferences on the Convention have been convened between 1980 and 2011, towards reviewing the Convention and towards reviewing it towards important and effective implementation and examining relevant scientific—as you would have heard from Sen. Prof. Ramkissoon. He mentioned some of the scientific and technological developments that affect this Convention. These conferences, we are advised, also aid in monitoring the progress of states becoming signatories.

I would not rehash some of the things that were said by some of my other colleagues, but I think it is important for us to place in context the fact that what we are debating here today would have been influenced through the legislative frameworks and works of other jurisdictions. I make reference here to the fact that in Dominica, they have enacted the Biological Weapons Act. In Antigua and Barbuda, they have enacted the Biological Weapons Act, Chap. 52. Jamaica has enacted the Terrorism Prevention Act and recently amended this legislative framework.

You would have heard my colleague, Sen. Maharaj talk about Malaysia which has also enacted a suite of legislation to address the issue of biological and toxin weapons. Some of these are included in their Poisonous Act of 1952 and the Biosafety Act of 2007. Again, within recent times, the Malaysian Government, through their Prime Minister, Razak, also recently announced that his Government was confident that the resulting legal framework would help develop a secure and safe regime for handling hazardous biological material.

We are also reminded of the United States of America and the fact that they passed the Public Health Security and Bioterrorism Preparedness and Response Act in 2002, better known as the Bioterrorism Act. The United States has also enacted the Export Administration Regulations to prevent the proliferation of chemical and biological weapons.

The Public Health Medical Countermeasures Enterprise Strategy in the United States of America has also been instituted to determine the requirements for countermeasures, handling product development and procurement and establishing the use and deployment strategies for the Strategic National Stockpile. What we are witnessing here in Trinidad and Tobago is not only emanating from us alone, these are practices, these are Acts, these are pieces of legislation from which we have examples and from which we can take these best practices that will influence our Bill that we are proposing here today.

I did indicate what I wanted to do was to focus on some of the fallout of non-action on this Convention. That is very important for us. If we do nothing or if we continue to simply debate this, what is going to happen? One of the effects of this fallout, as a result of not putting this squarely on the agenda and ensuring that this legislation is passed, is in terms of the events of a biological nature on Trinidad and Tobago's ecosystem. As a matter of fact, let us examine them very briefly. You may want to do that in your own time. I would mention them in passing. We would have had the hibiscus mealybug; the giant African snail, which we still see advertised and we are cautioned of regularly on the television; the imported mongoose that would have been brought here to control a lot of the snakes in the cane fields, when they existed and when they were thriving.

As a matter of fact, as we speak about the cane fields, subsequent to the closure of Caroni (1975) Limited, we still have, at the Camden runway in Couva, chemicals that are wasting. I think that is something my colleague, the hon. Minister of Food Production and Marine Affairs will soon be addressing as we talk about the importance of toxicity and the effect on the environment. I just mentioned to you the fact that our ecosystem can be threatened and substantially so, if these things are not put in place; if this type of legislation is not put in place.

Trinidad and Tobago was recently acclaimed as the world's best tourism destination for 2012 by the European Union Council on Tourism and Trade. One of the reasons that Trinidad and Tobago received this prestigious international award was the fact that we are involved in the promotion of environmental protection, especially our east coast natural patrimony of wetlands, beaches and ecological and geographical biodiversity, which makes us unique in the region. In

this regard, I wish to join with my colleagues in congratulating the Minister of Tourism for the achievement of this very significant award in Trinidad and Tobago and the world at large.

It is my view, and I am sure it is the view of colleagues on this side, that tourism and terrorism cannot coexist and in fact this Bill will ensure that, to some extent, it will give protection to those persons and to the economy of Trinidad and Tobago. What are some of these areas that would be impacted upon? I spoke about tourism. In fact, some of the areas are as follows, in my view:

1. The impact of the airline-related business directly impacting on hotels, restaurants and tourist attractions.

We have seen a few years ago where there was a terrorist attack on a tourist ship in Europe and the consequences of that. Those types of effects, again, that would have negative effects on the tourism sector in Trinidad and Tobago and, indeed, on the economy of Trinidad and Tobago. We have seen with impacts like these the border clearance costs rose and will rise, in terms of delays and tighter restrictions.

Speaking about border controls and restrictions, some of us who travel to foreign destinations and our most recent experiences since 9/11, would have seen increased restrictions on our travel. I am sure, I would have heard it here from colleagues before, some of the kinds of difficulties and challenges they go through when their names are supposedly on no-fly lists or when names like those appear on no-fly lists.

The cost of insurance has increased as well; the increased spending, as we indicated, in terms of border control and airport security. I think that was mentioned this evening, in terms of the airport security, including technology and the military along with intelligence and law enforcement, which lead to increased passenger fares. This decline, as a result, in air travel since terrorist attacks, as I indicated, influences a number of the subsectors of the economy of Trinidad and Tobago.

I want say as well—and this is really an impact assessment study that was done by Kaufmann, Meltzer and Schmid in 1997, all from the center for Disease Control and Prevention. They estimated the economic impacts of biological terrorism and warfare and they gave some theoretical models on assessing the economic impact of the theoretical bioterrorist attack on a city with a population of approximately 100,000 persons or residents.

They said that they estimated the cost to be, in the case of 100,000 persons, US \$26.2 billion if persons were exposed to, for example, an anthrax scenario. If you were exposed to a brucellosis scenario, they estimated that per 100,000 persons, the

estimated impact cost would be US \$477.7million. When you look at these kinds of figures one understands the kind of effect and impact things like these will have on your economy, judging from the models that we would have had.

I also want to go quickly to another area that is really related to this Bill before us. I am going to also, with your permission, Madam Vice-President, refer to an article by Jessica Stern 1999, entitled “The Prospect of Domestic Bioterrorism”. I do not want to go back and rehash what was said before but I want to add some information and give support to my colleague and my other colleagues who have contributed. This writer explains that bioterrorists are motivated by various factors. They are motivated by the fact that they can get attention. Getting attention is one of the factors—they are saying and surmising and assessing why people engage in these kinds of bioterrorist attacks—where terrorists resort to biological weapons, based on the premise that it will generate more attention than conventional attacks.

7.30 p.m.

When you read the literature and see the analysis, some of these things are coming out as conclusions to those studies. She also proposes that there is economic terrorism, quite apart from getting attention, whereby terrorists use:

“...radiologic, chemical, and biological agents to destroy crops...”

You would have heard some of this from the Minister of Food Production, Land and Marine Affairs previously in this Senate—

“...poison foods, or contaminate pharmaceutical products...kill livestock...”

Some years ago that activity or that kind of attitude has changed a bit. What had happened was that we would have witnessed in this country people putting poisonous substances in schools’ water tanks, where children had to be exposed to the drinking water. [*Interruption*]

ADJOURNMENT

The Minister of Public Utilities (Sen. The Hon. Emmanuel George): Madam Vice-President, with the leave of my colleague, Sen. The Hon. Fazal Karim, I beg to move that this Senate do now adjourn to Tuesday, March 20, 2012 at 1.30p.m., when debate will continue on the Bill to give effect to the Convention on the Prohibition of the Development, Production and Stockpiling of

*Adjournment**Tuesday March 13, 2012*

[SEN. THE HON. E. GEORGE]

Bacteriological (Biological) and Toxin Weapons and on their Destruction. If debate on that Bill should be concluded next Tuesday in good time, we would proceed to debate the Act to amend the Trinidad and Tobago Postal Corporations Act, Chap. 47:02.

*Question put and agreed to.**Senate adjourned accordingly.**Adjourned at 7.32 p.m.*