SENATE

Tuesday, July 22, 2014

The Senate met at 1.30 p.m.

PRAYERS

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Vice-President: Hon. Senators, I wish to inform you that the President of the Senate, Sen. The Hon. Timothy Hamel-Smith, is currently acting as President of the Republic of Trinidad and Tobago.

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Marlene Coudray who is out of the country.

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Timothy Hamel-Smith:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH, Acting President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/Timothy Hamel-Smith
Acting President.

TO: MS. ASHAKI SCOTT

WHEREAS Senator Timothy Hamel-Smith, the President of the Senate has temporarily vacated his office of Senator to act as President of the Republic of Trinidad and Tobago:

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ASHAKI SCOTT, to be temporarily a member of the Senate, with effect from 22nd July, 2014 and continuing during which period Senator Timothy Hamel-Smith has temporarily vacated his Office as President of the Senate to act as President of the Republic of Trinidad and Tobago.

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 22nd day of July, 2014."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH, Acting President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/Timothy Hamel-Smith
Acting President.

TO: MS. KEITHA SMITH

WHEREAS Senator the Honourable Marlene Coudray is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KEITHA SMITH, to be temporarily a member of the Senate, with effect from 22nd July, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Marlene Coudray.

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 22nd day of July, 2014."

OATH OF ALLEGIANCE

Senators Ashaki Scott and Keitha Smith took and subscribed the Oath of Allegiance as required by law.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE (APPOINTMENT TO)

Mr. Vice-President: Hon. Senators, I have received correspondence from the Deputy Speaker on the appointment of a member of the Public Accounts (Enterprises) Committee (PAEC):

"Appointment of a Member of the Public Accounts (Enterprises) Committee.

I wish to advise that at a sitting of the House of Representatives on Friday July 11, 2014, the House agreed that Mr. Chandresh Sharma, MP be appointed to serve as a member of the Public Accounts (Enterprises) Committee.

I respectfully request that you convey this decision of the House to the Senate...

Nela Khan, MP

Deputy Speaker of the House"

JOINT SELECT COMMITTEE REPORT

Insurance (No. 2) Bill, 2013

(Presentation)

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. Vice President. I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Report of the Joint Select Committee appointed to consider and report on the Insurance (No. 2) Bill, 2013.

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (**Sen. The Hon. Ganga Singh):** Mr. Vice-President, the Government is in a position to answer question 87, and we will be circulating a written answer to question 95, and we ask for the deferral of questions 91 and 104 to tomorrow.

The following questions stood on the Order Paper:

VMCOTT

(Details of)

91. With respect to the Vehicle Management Corporation of Trinidad and Tobago, could the hon. Minister of Transport please inform this Senate as to:

a) whether the CEO contract at VMCOTT was terminated by the new Chairman of the Board;

b) if the answer to (a) is in the affirmative, on what basis was it done;

c) whether the Chief Operating Officer position at VMCOTT was an existing position prior to 2010;

d) whether the Chairman of VMCOTT is an Executive Chairman; and

e) have the Managers at VMCOTT met the minimum qualifications for their positions? [*Sen. A. Singh*]

Health Care Professionals Medical Indemnity

(Details of)

104. A. Could the hon. Minister of Health state whether medical indemnity is provided for doctors, nurses and other categories of health care professionals employed by the Regional Health Authorities in Trinidad in the event they are sued for negligence;

B. If the answer to (A) is yes, could the Minister say if this medical indemnity applies to both legal costs and damages that may be awarded;

C. If the answer to part (A) is yes, would the indemnity apply to criminal negligence as well; and

D. If the answer to part (A) is no, could the Minister say why? [*Sen. Dr. V. Wheeler*]

Questions, by leave, deferred.

Atrius
(Details of)

87. Sen. Dr. Lester Henry asked the hon. Minister of Finance and the Economy:

With regard to Atrius, could the Minister inform the Senate:

(i) what is the status of Atrius;

(ii) what are the impediments to the transferring of the assets from Clico to this new entity; and

(iii) what activities has the Board of Directors of Atrius been engaged in and are they being paid?

The Minister of Finance and the Economy (**Sen. The Hon. Larry Howai):** Mr. Vice-President, the first part of the question is: What is the status of Atrius? The Government had initially agreed to the transfer of selected assets and liabilities from Clico to a new company Atrius Limited. The decision was subsequently changed and the company is in the process of being dissolved.

With respect to part (ii), an evaluation based on the requirements of the new Insurance Act revealed a capital requirement of approximately $1.5 billion for the new company. Government's fiscal position constrained it from making such a large investment. In the circumstances, it was decided to address the management of the assets and liabilities of Clico in a different way. The final decision on the disposition of the assets and liabilities awaits the results of the actuarial valuation now being undertaken.

With respect to part (iii), the board is now in the process of being dissolved.

Sen. Dr. Henry: Supplemental, Mr. Vice-President. Could the Minister say on whose advice it was that the plan was changed to scrap Atrius and sell the assets?

Sen. The Hon. L. Howai: Mr. Vice-President, of course Clico is under the control of the Central Bank, under section 44(d) and that needs to be borne in mind. The Central Bank and the Ministry of Finance and the Economy, after appropriate consultation and discussion on the matter and after the computation of the requirements for capital, using the new Insurance Act, it was decided by mutual agreement between the two sides that we should not pursue that particular course of action any longer.

Sen. Dr. Henry: Further supplemental, Mr. Vice-President. Could the Minister elaborate further on how the $1.5 billion figure was arrived at? As far as I am aware, the actuarial valuation has not come in as yet or, at least, it was not there when the Minister initially made that statement.

Sen. The Hon. L. Howai: The actuarial valuation is probably not going to be received until sometime, perhaps, in about mid-September or so. However, what we did was a computation using the requirements under the new Insurance Act for capital. What we did was an estimate based on our own in-house actuarial resources of what we thought the actual net asset value of the company would be. What would happen is that we would need to do two things: one is we would need to pay the net asset value in order to acquire the asset itself, because that money then goes to CL Financial which will then use it to pay back the Government. So the net asset value would have been computed based on our own in-house actuarial resources, and we would also have used the requirements of the Insurance Act to pick up the difference as to what we thought the estimate of the capital would be.

Sen. Dr. Henry: Further supplemental, Mr. Vice-President. Is the Minister aware of any noncash alternative to capitalizing Atrius, and did you consider these if you were aware of them?

Sen. The Hon. L. Howai: Mr. Vice-President, we have looked at a number of other options. Included in that is also the possibility of maintaining Clico under section 44 and continuing with Clico under section 44. Now, that is not something you would necessarily want to do, but we have had precedent where some institutions have remained under section 44 for an extended period of time and have continued operations. Therefore, it is entirely possible that that can happen. So that is also one of the options that will be considered as we go along, and as we complete all the evaluations and as we determine how we should go forward on the basis of the information that we get from the Towers Watson evaluation.

1.45 p.m.

Sen. Dr. Henry: Further supplemental, Mr. Vice-President. Could the Minister update us or apprise us on the status of employees and the management of the Clico operation as it is due to be sold off?—and we have seen the workers protesting in public. Could the Minister give us some information as to what is the state of play?

Sen. The Hon. L. Howai: Yeah. Mr. Vice-President, I do not have the exact details of what exactly is happening with the workers, but there has been an agreement that there will be a gradual winding-down of the labour force, and certain amounts of payments will be made, the details of which I do not have at the moment. And exactly how many persons are actually going to be severed, I do not have those details with me at the moment, but the intention is that it would be wound down. However, some of the employees will be kept on as part of the process of continuing to manage the portfolio, pending the ultimate decision as to where we proceed from there.

Sen. Dr. Henry: Further supplemental, Mr. Vice-President. Is the Minister willing to put on the record that I warned about this last November when this question was asked, [*Desk thumping and laughter*] and is the Minister willing to state why it took eight months to answer this question? [*Crosstalk*]

Sen. The Hon. L. Howai: I would not bother with that question. [*Laughter*] I hear the question, Mr. Vice-President.

Hon. Senator: You have to answer.

Sen. The Hon. L. Howai: No. I do not have to answer. [*Crosstalk*]

Sen. G. Singh: It is within the time frame of the session. [*Crosstalk*]

Hon. Senator: To say that he told us so. [*Laughter*]

STATEMENT BY MINISTER

Food Production Sector (Status of)

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Thank you very much, Mr. Vice-President. Mr. Vice-President, it is indeed a privilege to rise in this august Chamber once again to deliver a statement on the food production sector, a sector which I know that Sen. Faris Al-Rawi is very much interested in.

Sen. Al-Rawi: Very much.

Sen. The Hon. D. Maharaj: Mr. Vice-President, the facts are that for the first time in 20 years this country has recorded significant growth in every sector. The economy is growing despite the global economic turmoil and the unemployment levels are at historic lows. How did we achieve this, Mr. Vice-President? The Government's framework for sustainable development provided the policy framework for the successes being enjoyed by all citizens everywhere.

Mr. Vice-President, with regard to food production, worldwide there is growing concern by governments surrounding the issues of food and nutrition security, rising food prices, food price volatility, declining production levels due to climate change, rising demand due to economic and population growth in developing countries, and pressure on food supplies due to increased demands for biofuels. As such, since 2010, this People's Partnership Government has been rolling out its policies and activities for the agricultural sector so as to mitigate the external economic shocks, whilst at the same time, providing a sufficiently sound enabling environment to promote growth in the sector.

More specifically, Mr. Vice-President, the various policies and programmes developed by the Ministry of Food Production recognized that agricultural development depended on the simultaneous growth of the agricultural production, and the value chain to which it is linked.

Mr. Vice-President, please permit me to demonstrate, by way of example, the successes we at the Ministry of Food Production have had to date. With respect to the increase in production in the agricultural sector, the Ministry of Food Production noted that the dominant mode of production was the family farm, and understands that it was their investment in this sector that drove agricultural production. As such, the Ministry set about to build the capacity of this cohort of farmers, and to provide the enabling environment to facilitate easier access to credit and sustainable linkages to markets.

Further, and as was reported in a previous statement to this Senate, the Ministry has formed a state company called Caroni Green Limited to buttress the drive for increased production by cultivating underutilized land.

Mr. Vice-President, these two policy directives have produced significant results. Indeed, for the first time in 21 years, due to these policies, the Government of Trinidad and Tobago has been able to keep the food price inflation rate at single digits for the first time [*Desk thumping*] in five consecutive months for the year. Just to elaborate, for January 2014 it was—and that is food price inflation rate—3.2 per cent. For February 2014, it was 5.2 per cent, for March 2014, it was 6.7 per cent, and for April 2014, the figures came in at 4.1 per cent, and for May, the food inflation rate stood at a low 3.8 per cent. [*Desk thumping*]

[SEN. THE HON. D. MAHARAJ]

Mr. Vice-President, in order to sustain successes, we have been experiencing on the production side—the Ministry of Food Production has been strategically linking local production to local markets. You will note that the Ministry has been aggressively promoting the consumption of locally grown foods via our Eat Local campaign. This attempt to brand locally produced foods as a preferred option has begun, pardon the pun, to bear fruit.

I am happy to report to this honourable Senate that the Ministry is at the tail end of negotiations, with the following companies, to provide local inputs to their product lines: National Flour Mills, Nutrimix, Universal Foods, and the National Schools Dietary Services. These initiatives have been crafted in such a way as to enable as many small farmers as possible to link to these market opportunities.

We at the Ministry of Food Production are confident in the success of this strategy because the empirical data that we have from partnering with the School Nutrition Programme demonstrates this fact.

The Ministry of Food Production partnered with the School Nutrition Programme with the following mandate:

- to utilize as far as possible, local produce/products for the preparation of school meals;
- to use the further processing approach to obtain a high quality product, in sufficient volumes, with proper post-harvest handling, food safety, and packaging at a competitive price; and,
- to build capacity among local farmers thus increasing their participation in the School Nutrition Programme at a community level.

The results coming out from this initiative have been very heartening to date. Permit me please to share with this honourable Chamber some of our findings:

> The yearly usage of cabbage went from 296,700 pounds in 2010 to 593,400 pounds in 2014. [*Desk thumping*] Dasheen went from 28,463 pounds in 2010 to 51,750 pounds in 2014. Pumpkin went from 292,860 pounds in 2010 to 488,100 pounds in 2014. [*Desk thumping*] Tomatoes went from 77,862 pounds in 2010 to 153,000 pounds in 2014. [*Desk thumping*] Cassava went from 82,800 pounds in 2010 to 207,000 pounds in 2014. [*Desk thumping*] And sweet potato—which Sen. Singh has an interest in—went from 96,600 pounds in 2010 to 138,000 pounds in 2014. [*Desk thumping*] I am sure we would have purchased some of those from Sen. Avinash Singh.

Mr. Vice-President, in short, farmers were able to either double or triple the local food input over the last four years for 21 commodities identified by [*Desk thumping*] the School Nutrition Programme as part of its Eat Local campaign.

And we have a pioneer in this House of the School Nutrition Programme in the person of Sen. Anthony Vieira [*Desk thumping*] who was part of the initial committee that saw its introduction under the NAR administration.

This increase of these 21 commodities and the success of the strategy overall, saw a translation into a 70 per cent increase in the local food content in the menus of the School Feeding Programme up from 30 per cent in 2010. [*Desk thumping*]. This success is in part due to the development and promotion of the School Nutrition Programme's local menus such as hot cassava salad, cassava pumpkin muffins, ground provision in the vegetable soup, frozen spinach used in rice and spinach, and wholewheat spinach and cheese pies, frozen bodi used in vegetable combos, more fruits used for breakfast service.

Mr. Vice-President, the success of the Ministry of Food Production over the last four years has been in large measure due to the Ministry's policy in developing appropriate agricultural development strategy for promoting investment in the sector. These strategies simultaneously seek to stimulate the increased production of food, whilst expanding the value chain and strengthening and deepening markets.

Mr. Vice-President, all the indicators point to continued growth and expansion of the food production sector. As such, I wish to acknowledge the highly motivated and productive staff of the Ministry of Food Production for the work and dedication they continue to offer the people of Trinidad and Tobago.

And I give you the assurance, Mr. Vice-President, that this People's Partnership Government led by Kamla Persad-Bissessar, Prime Minister, will continue to work towards making Trinidad and Tobago a more food secure nation. I thank you. [*Desk thumping*]

ARRANGEMENT OF BUSINESS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you Mr. Vice-President. Mr. Vice-President, as required by Standing Order 20(4), I seek leave of the Senate to consider Government Business instead of Private Business.

Agreed to.

MISCELLANEOUS PROVISIONS (PRISONS) BILL, 2014

Order for second reading.

The Minister of Justice (Sen. The Hon. Emmanuel George): Thank you very much, Mr. Vice-President. Mr. Vice-President, I beg to move:

That a Bill to amend the Prisons Act, Chap. 13:01, the Criminal Offences Act, Chap. 11:01, and the Mental Health Act, Chap. 28:02 be now read a second time.

Mr. Vice-President, this Bill embodies one further element in the Government's continued thrust towards the modernization of the criminal justice system of Trinidad and Tobago and, more particularly, the transformation of the current penal system to bring it on par with contemporary international norms and best practices. The intention is to develop a system that provides an environment in which prisoners have a real opportunity to turn their lives around, thereby reducing the revolving door syndrome.

Mr. Vice-President, this Bill serves three main purposes. The primary purpose is to amend the Prisons Act, Chap. 13:01, to introduce the platform for certain new administrative regimes. In that regard, the Ministry of Justice has been engaged in the formulating of the new Prisons Rules which are soon to be tabled in this Parliament. The new Prisons Rules, Mr. Vice-President, provide for the introduction of revolutionary approaches to the overall administration of the prison environment. However, for some of those provisions to have proper legal foundation, it is necessary to ensure that they are made effective by way of measures contained in primary legislation.

2.00 p.m.

The second thing the Bill attempts to do is to provide for increases in fines and periods of imprisonment for offences under the Prisons Act and the Criminal Offences Act, Chap. 11:01 for criminal offences connected with prisoners and the prison environment. And the third thing that the Bill seeks to do is to provide for amendments to the Mental Health Act, Chap. 28:02, consequent upon the transfer of responsibility for the prison service from the Minister of National Security to the Minister of Justice. Because I might go over the time that I have allotted for speaking, Mr. Vice-President, I think I want to summarize the items that I would be addressing this afternoon to this Senate and I will return to give greater detail thereafter.

So, Mr. Vice-President, the Bill serves to introduce the following significant measures. The first is the creation of an Inspectorate of Prisons, which would be a body corporate and managed full-time by the Chief Inspector of Prisons, assisted by the Deputy Chief Inspector of Prisons, and the provisions governing the Trinidad and Tobago Inspectorate of Prisons would take the place of the current provisions which provide for a single Inspector of Prisons who alone is responsible for the inspection of prison facilities and providing reports thereon.

In that regard, I would like to indicate that there are a total number of current inmates in our prisons amounting to 3,176, and there is one person who has to oversee the functioning of the prisons and how all of these inmates are treated. That is the current Inspector of Prisons. It is really a lot of work for one man and that is one of the reasons we are attempting to put in an Inspectorate of Prisons, which would put in a unit, a grouping of persons with the necessary skills that would address the needs of the prisons and the inmates.

The functions of the Trinidad and Tobago Inspectorate of Prisons include the inspection of prisons and other similar facilities for detention of prisoners and the investigation of the treatment of prisoners, the review of the programmes and facilities, the services and opportunities that are being made available at prisons, and investigation of complaints made by prisoners.

Of significance also—secondly, Mr. Vice-President, is the fact that this Bill seeks to establish an Appeal Tribunal to address appeals made by prisoners against decisions of the prison disciplinary tribunal. Now, in the current situation, the Commissioner of Prisons is the one who would institute penalties or punishment on inmates for breaches of the Prison Rules; and this measure is to seek to put in the hands of an Appeal Tribunal, separate from the Inspectorate of Prisons, the responsibility for addressing appeals made by prisoners concerning the decisions of the Commissioner of Prisons in instituting measures or penalties against them for breaches of the Prison Rules.

This new proposed tribunal will be able to act independently and would not be saddled by any other consideration associated with his role and function within the prison system, and it also, of course, leaves the Inspectorate of Prisons independent also to proceed to carry out its own functions.

The third measure that is being introduced via this Bill is the increase in fines and periods of imprisonment for offences under the Prisons Act, Chap 13:01 and the Criminal Offences Act, Chap. 11:01, for criminal offences connected with prisoners and the prison environment. For example, the current fine and penalty for the offence of landing on Carrera without authority is $200 and imprisonment for three months. And it is proposed that that penalty be increased to a fine of $5,000 and imprisonment for nine months. For the offence of aiding escape of a prisoner, the current fine is $400, and the intention is to increase that penalty to a fine of $30,000 and imprisonment for seven years.

And, in the case where that particular offence is committed by a prison officer, police officer or a member of the defence force, the penalty is even harsher, and it is to serve as a deterrent, and the penalty is increased to a fine of $50,000 and imprisonment for 10 years. For the offence of assaulting or obstructing or resisting a prison officer, the current penalty is a fine of $1,000 and imprisonment for six months. The proposed penalty is a fine of $15,000 and imprisonment for two years. For the penalty of interfering with a prisoner, the current penalty is a fine of $200 and it is proposed that the penalty be a fine of $10,000 and imprisonment for one year; and finally, Mr. Vice-President, for the offence of assaulting or obstructing the chief inspector or deputy chief inspector, agent, employee or member of the Inspectorate of Prisons, the penalty goes from a fine of $1,000 and six months, which is the current penalty, to a penalty of a fine of $15,000 and imprisonment for two years.

The fourth area that this Bill seeks to address is the amendments to the Mental Health Act, where in the Mental Health Act, wherever the name of the Minister of National Security is mentioned in matters concerning the prison service, there is an amendment that will put, instead of the Minister of National Security, "the Minister with responsibility for the prison service". So, that is to correct that little lacuna, because of the transfer of the responsibility for the prison service to the Minister of Justice.

Also of note, Mr. Vice-President, is that sections 4 and 11 of the Act, concerning the establishment of the Inspectorate of Prisons—in the Bill, when passed—be proclaimed on a date to be fixed by the President, and this, of course, is to ensure that the infrastructure, both hard and personnel, will have to be put in place before the Act can be proclaimed. So in summary, Mr. Vice-President, those are the areas that I would be addressing in my presentation this afternoon.

I now turn to the specific provisions in the Bill, and the Bill, as my colleague, Sen. Al-Rawi is wont to say, is comprised of 13 clauses.

Clause 1 would provide for the short title of the Bill.

Clause 2 would provide for commencement provisions, as indicated just now regarding sections 4 and 11, where the Act would come into operation on a date to be fixed by the President, to allow for the relevant infrastructure and personnel to be put in place to ensure that the Act could have effect.

Clause 3 is an interpretation provision, which would provide that all references to the Act would be references to the Prisons Act.

Clause 4, of course, is the definition section, and I want to make mention regarding the definitions of "former inspector" and "inspector", which would be deleted, and one of the provisions, which I will elaborate on further in the presentation, is the introduction of this prison inspectorate. This is the entity that would be responsible for the role currently performed by the Inspector of Prisons.

The intention, therefore, is that the office of Inspector of Prisons would no longer exist, hence the requirement to excise references to it in the existing Act. So that clause 4 will introduce the following definitions of "Chief Inspector of Prisons", "Commissioner of Prisons", "Deputy Chief Inspector of Prisons", "Industrial Institution"—and in this case an industrial institution would mean: an institution established by the Minister under section 2 of the Young Offenders Detention Act. Also defined would be Prison Commissioner, prison officer. Prison officer would mean a person, holding or acting in an office established in the First Schedule of the Prison Service Act.

There would also be a definition of service provider, which would mean a person other than a prison officer, who provides a service to a prison or any industrial institution. There would also be defined "young offender". All of these definitions are necessary in order to facilitate ready and consistent interpretation of the new provisions that are to be inserted in the Prisons Act.

As indicated earlier, clause 5 of the Bill would amend section 9 of the Act to increase the penalty on summary conviction for landing or attempting to land on the island of Carrera.

Clause 6 of the Bill would repeal section 10 of the Prisons Act and substitute a new section, which treats with the offence of aiding escape, and accordingly it would be provided that on summary conviction for aiding the escape of a prisoner from prison or from the custody of any person in charge of such a prisoner, that person would be liable to a fine of $30,000 and imprisonment for seven years. As I indicated earlier, this increases the penalty for this offence from a mere fine—the currently existing fine is $400. I did indicate too that the penalty for that offence, if you are a prison officer, a police officer or a member of the defence force, that the penalty would be even more severe.

Clause 6 would also provide that nothing in section 10 would affect the powers of the High Court on indictment for a similar offence under the Criminal Offences Act, and in that regard clause 12 of the Bill is relevant.

Clause 7 of the Bill would amend section 11 of the Prisons Act to increase the penalty on summary conviction for having assaulted, obstructed or resisted any prison officer, and the penalty would be increased from a fine of $1,000 and imprisonment for six months to a fine of $15,000 and imprisonment for two years.

Clause 8 of the Bill would amend section 12 of the Prisons Act to increase the penalty on summary conviction for interfering with a prisoner from a fine of $200 to a fine of $10,000 and imprisonment for one year.

Mr. Vice-President, it is necessary to note that the increases in penalties provided for in clauses 5, 6, 7 and 8 are intended to be consistent with the increases in penalties provided for in the Prisons (Amd't.) Act, No. 3 of 2010. That 2010 Act amended section 8 of the Prisons Act to increase the penalties where a person brings in or carries out, or endeavours to bring in or carry out, or knowingly allows to be brought in or carried out of any prison, any prohibited article. It also increases the penalties for contravention of any of the rules made under the Prisons Act.

Accordingly, Mr. Vice-President, the penalties under section 8 were increased from a fine of $1,000 to a fine of $25,000 and imprisonment for three years, while the penalty under section 17 was increased from a fine of $100 to a fine of $2,500. At the time of those increases in 2010, commensurate increases were not made with regard to other offences under the Prisons Act. This created an incongruity, an imbalance in the Prisons Act that the Government is now attempting to correct by the proposed amendments to this Bill.

Clause 9 of the Bill amends section 13 of the Act by inserting before the word "officer", "prison", so that I spoke about the fact that we are now going to have "prison officer" in the definition.

Similarly, clause 10 of the Bill amends paragraphs (o) and (r) of section 17(1) of the Prisons Act to insert before the word "officers" the word "prison".

2.15 p.m.

Clause 11 of the Bill provides for the most innovative of the amendments contemplated under this Bill, as it would seek to repeal sections 19, 20 and 21 of the Prisons Act and substitute new sections, and would insert further sections from 22 through 26.

The new section 19 will provide for the establishment of:

> "'…a body corporate to be known as 'the Trinidad and Tobago Inspectorate of Prisons'…'"

And, Mr. Vice-President, this section, this body corporate is patterned in the vein of the inspectorate of prisons in the UK and will take the place of the Inspector of Prisons. It is intended that the inspectorate will be a well-structured and a well-manned entity that would be an operationally autonomous office independent of both the Trinidad and Tobago Prisons Service as well as the Ministry of Justice, though it will be provided with financial support through the Ministry of Justice.

Accordingly, the current regime of oversight of the prison environment, which sees the single inspector being tasked with the onerous responsibility to inspect and report on all the prisons in Trinidad and Tobago, would be replaced by a regime driven by a body comprising varyingly qualified and experienced persons ably buttressed by support staff.

The new section 20 would provide for the appointment of the Chief Inspector and Deputy Chief Inspector of Prisons who are appointed by the Minister. These persons shall be appointed on a full-time basis for a period, not exceeding three years and shall be eligible for reappointment. Section 20 will go further to provide for other administrative measures associated with the appointment, remuneration, resignation and removal of the Chief Inspector and the Deputy Chief Inspector.

Mr. Vice-President, on the point of the Chief Inspector and Deputy Chief Inspector, in the other place when this Bill was presented and debated, an issue was taken with the fact that in the Act there are no specific academic qualifications identified for the Chief Inspector of Prisons. And if one goes back to the Act, the original Act, there is no stipulation in that Act regarding the qualifications of the Inspector of Prisons.

In fact, over the years inspectors of prisons have been chosen, and I could give a few names and their professions from the information provided by the Commissioner of Prisons. The current Inspector of Prisons, Mr. Daniel Khan, is an attorney. The inspector who preceded him was one Mr. Bernard Sheperd, who was also an attorney; preceding him was one Evans Maundy, who was also an attorney; the one preceding him was A. B. Austin, also an attorney. Preceding Mr. A. B. Austin was Earl Jones, a Chief Magistrate and preceding him was Vermont Celestine, also a Chief Magistrate.

So historically, even though there has been no stipulation in the Act regarding the academic qualifications of the Inspector of Prisons, that person has traditionally been nonetheless a person of good academic standing. Because as I said, this matter was raised in the other place, I did request of the officials in my Ministry to do some research regarding whether that provision in the Act should include specifically matters concerning, or a stipulation regarding, the qualification.

In the current recommendation, it simply says at clause 11(3) that:

"The Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons must—

(a) be persons of good standing;

(b) not be the holder of any other office of emolument whether in the public service or otherwise; and

(c) not have served in the Trinidad and Tobago Prison Service."

So there is no academic qualification specified there.

The view was expressed that this gave too wide a choice for the selection and that this might lead to some situations where the person selected might not be suited to the position.

But again, I am saying, historically, we have found that even though there was no stipulation regarding the qualifications that persons who were always selected were persons of good standing and significant academic qualification.

In discussing the issue, the technocrats in the Ministry did inform that section 19(1) of the Prisons Act, Chap. 13:01 provided that:

> "The Minister may appoint such person as he thinks fit to be Inspector of Prisons."

And section 90(2) of the Constitution of Trinidad and Tobago provides that:

> "There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office."

And section 91(1) of the Constitution also provides that:

> "There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office."

So even for those very high offices there was no stipulation regarding academic qualification.

Those provisions, on the advice that I have received from the technocrats in the Ministry, those provisions go no further to prescribe specific qualifications for what are very important posts, and demonstrate that Parliament has in the past been very willing to rely upon the belief that good reason and discretion would prevail during the appointment of persons to certain offices, and every effort would be made to appoint an individual who would aptly fulfil the mandate asked of him or her. Accordingly, it is not in every instance that qualifications for appointment to certain offices need to be codified in statute. Further, the provisions of analogous, United Kingdom and Canadian legislation are noteworthy.

The United Kingdom's Criminal Justice Act 1982 provides at section 5A(1) that:

> "Her Majesty may appoint a person to be Chief Inspector of Prisons."

No detailed minimum qualification of this appointee is prescribed.

The Canadian Corrections and Conditional Release Act of 1992 provides at section 158 that:

> "The Governor in Council may appoint a person to be known as the Correctional Investigator of Canada."

The Canadian legislation also does not detail the minimum qualifications for this appointee.

During the drafting of the Bill, Mr. Vice-President, reliance was placed on the South African Correctional Services Act 1998, which also provides for the establishment of an entity similar to our proposed Inspectorate of Prisons.

The South African equivalent is called the Judicial Inspectorate and is headed by the inspecting judge who must either be a judge of the High Court in active service or a judge discharged from active service having reached retirement age or having resigned with unblemished record. Of significance is the fact that the South African Judicial Inspectorate and Inspecting Judge have unique powers and responsibilities including powers equivalent to that of a Commission of Enquiry. It is therefore easy to discern the need to specifically prescribe that the South African Inspectorate is to be headed by a judge.

The Trinidad and Tobago Inspectorate is expected to have a very wide mandate that the proposed section 22 as provided under clause 11 of the Bill provides that:

"The functions of the Inspectorate are to—

(a) inspect—

(i) prisons;

(ii) Industrial Institutions;

(iii) any area in a police station or a court building where a person is detained; or

(iv) any other place where a person is detained and to report to the Minister on the findings of those inspections;

(b) investigate and report to the Minister on—

(i) the treatment of prisoners and young offenders;

(ii) programmes, facilities, services and opportunities available to promote the rehabilitation of prisoners and young offenders and the accessibility of these programmes, facilities, services and opportunities to prisoners and young offenders;

(iii) matters connected with a prison and the prisoners held therein;

(iv) any complaint made by a prisoner or young offender where the Chief Inspector of Prisons considers it necessary to do so; and

(v) any matter arising out of the management or operation of a prison or Industrial Institution where the Minister so directs..."

So his responsibilities are very wide.

However, there seems to be no specific mandate that necessarily calls for the Chief Inspector and Deputy Chief Inspector possessing certain qualifications. And it is the view, to summarize, that in the grouping of persons that would be employed to work in the inspectorate, the necessary skills and competencies would provide the technical support to the Chief Inspector and Deputy Chief Inspector to enable them to carry out the functions of the inspectorate fully.

Having regard to the extensive and varied mandate, it was believed during the drafting of the Bill that there would be some difficulty in attempting to prescribe the specific qualifications and expertise that should be held in order to fulfil functions of the Chief Inspector and Deputy Chief Inspector.

Therefore, the current wide formula was adopted with the belief and expectation that consistent with the legacy of past appointments to the post of Inspector of Prisons, due reason and discretion would prevail in the appointment of suitable nationals to the posts of Chief Inspector and Deputy Chief Inspector.

The concern also existed that should the specific qualification be prescribed, the Minister might have some difficulty finding persons with that specific set of qualifications who are willing to serve as Chief Inspector and Deputy Chief Inspector, thereby creating a risk of rendering the inspectorate impotent simply because suitable appointments could not be made. And as indicated, Mr. Vice-President, the Bill goes further to provide for the possible appointment of assistants who themselves would hold specified qualifications and skill sets, thereby allowing the inspector to be able to benefit from those specific skills where needed.

So, Mr. Vice-President, on the basis of all of this we are recommending that this clause in the Bill, regarding the Chief Inspector and Deputy Chief Inspector, remain as is. And that new section 20(3) where the Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons must:

"(a) be persons of good standing;

(b) not be the holder of any other office of emolument whether in the public service or otherwise; and

(c) not have served in the Trinidad and Tobago Prison Service"

—should remain as is.

Also, Mr. Vice-President, in my own experience in the public service, I have found that in making legislation one has to be careful not to put legislation in place that tends to bind or tie the hands of those who are to administer it. So, I am fully in support of the recommendations made by the technocrats of the Ministry that this clause should remain as is.

The new section 21 will treat with the appointment by the Chief Inspector of Prisons of officers and other staff of the inspectorate and will prescribe general administration, administrative measures for the operation of the agency and also their qualifications and their remuneration packages. In that regard of particular significance and in support of the argument just presented:

"(1) The Chief Inspector of Prisons may…appoint—"

(a) one or more persons with legal, medical or penological training as an Assistant, to assist him in the performance of his functions or duties…"

The ability to appoint these assistants allows the Chief Inspector the opportunity where deemed necessary to acquire and utilize the training and experience of such individuals to assist and guide him in his overall mandate.

2.30 p.m.

The new section 22 will codify the functions of the Inspectorate and include the responsibility to inspect and report on the conditions in prisons, industrial institutions and any area in a police station where prisoners are held.

The new section 23 will provide other powers of the Inspectorate and under the new section 24 will be the requirement for:

"The Chief Inspector of Prisons…no later than March 31st of every year or such later date as may be determined by the Minister, submit a written report to the Minister on the performance of the Inspectorate during the previous year and on such other related matters as the Minister may direct."

That report, of course, will also address the general management and efficiency of the prison or industrial institution, and the condition and general health and welfare of the prisoners and so on. And the Minister will be required to cause a copy of that report to be laid in the Parliament although he may have the power to omit any aspect of the report that in his opinion, the disclosure of which, may be prejudicial to security.

The new section 25 provides for an offence where a person assaults or obstructs the Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons. Mr. Vice-President, by creating this inspectorate, Trinidad and Tobago will not only be maintaining, but improving upon its current adherence to the United Nations' standard minimum rules for the treatment of prisoners, wherein it is provided that there are to be regular inspections of penal institutions and services by qualified and experienced inspectors appointed by a competent authority.

The new section 26 will provide for the establishment of an Appeal Tribunal. The Minister will be empowered to appoint this Appeal Tribunal for the purpose of hearing appeals in disciplinary proceedings against prisoners. In the current regime, it is the Inspector of Prisons who undertakes this particular responsibility of addressing disciplinary charges brought against prisoners. Under the new Prison Rules, however, these powers have been removed out of the need to ensure that the entity responsible for hearing and adjudicating upon appeals is seen to be independent.

So that in the new Prison Rules, the Inspector of Prisons will no longer have the function of hearing appeals from prisoners, and that is to ensure that the appeal process is seen to be independent and free from any apparent or actual bias, so that the Inspector of Prisons is not hampered in any way in his ability to be fair and impartial in his quasi-judicial role. It is because of this removal of this appellate process under the proposed new rules that a lacuna would have been created, and so it is because of that lacuna, to fill that lacuna, that the Appeal Tribunal has been conceptualized and placed in the Bill.

The Appeal Tribunal, just by expansion, shall have the power to hear and determine an appeal from a decision against a prisoner in disciplinary proceedings conducted by a Prison Commissioner and such other matters as may be prescribed by rules made under the Prisons Act. This clause will give the Minister the power to remove from office at any time a person appointed to an Appeal Tribunal for misbehaviour or if, in the opinion of the Minister, the person has become incapable of effectively performing the functions of his office.

Just to shift a little bit, Mr. Vice-President, clause 12 of the Bill provides for an amendment to section 4 of the Criminal Offences Act, which provides for the offences of breaking out of prison and the rescue of, or aiding and abetting in the rescue of any prisoner. Again, as I mentioned earlier on, all the penalties will be increased, both in terms of fines and prison term.

With regard to the amendments to the Mental Health Act, clause 13 of the Bill will provide for amendments to various sections of the Mental Health Act. These amendments have become necessary in light of the fact that the prisons and the associated responsibilities no longer fall under the purview of the Minister of National Security. So that at section 6(e) of the Mental Health Act, which makes reference to the Minister of National Security, that would be amended. So too will section 14(1) and 14(3) of the Mental Health Act, where mention is made of the Minister of National Security. And I could quote from section 14(1) of the Mental Health Act. It says:

> "The Minister of National Security"—and that is to change—"on receipt of the medical certificates of two medical practitioners, one of whom shall be a psychiatrist, to the effect that the prisoner, named in the certificate is suffering from mental illness, may by Order direct that the prisoner be transferred to a hospital and that he be kept therein until the Psychiatric Hospital Director is satisfied that he is no longer in need of care and treatment in a hospital."

And it is the intention to amend this to change it to read: "the Minister with responsibility for the prisons" in 14(1) and (3). So, too, section 18(1)(b) is going to be amended to make that change, and also sections 25(2) and 26(2) regarding the transfer of prisoners. So the Mental Health Act, Chap. 28:02 would have to be amended to address the shift in responsibility and portfolio regarding the prisons.

Mr. Vice-President, before I move on, I think I should take the opportunity to thank the Chief Justice and the Law Association for their input into this particular Bill. We had sought their input before the Bill was finalized, and I want to quote from the letter from the Chief Justice addressed to me, as Minister, dated March 10, 2014. That letter dated March 10, 2014 and signed by the Chief Justice, Ivor Archie, conveyed the comments of the Judiciary of Trinidad and Tobago on this Miscellaneous Provisions (Prisons) Bill. The letter reads as follows:

> Dear Minister,
>
> Re the Miscellaneous Provisions (Prisons) Bill, 2013.
>
> I refer to your letter dated December 23, 2013 and apologize for the delay in responding. I have enclosed for your perusal the comments of the Judiciary of Trinidad and Tobago on the Miscellaneous Provisions (Prisons) Bill, 2013. If you have any questions regarding the Judiciary's comments, please do not hesitate to contact me to discuss same.

So that the Ministry did consult with the Judiciary, and the Ministry did also consult with the Law Association, and the Law Association did respond via Ravi Rajcoomar, senior member, Law Association of Trinidad and Tobago, where they supported the creation of the inspectorate and it says here—and I just want to quote the particular paragraph:

> With regard to the creation of the inspectorate, the association fully agrees that this is correct and complies with modern international requirements.

So that both the Chief Justice and the Law Association were in support of the legislation, and I want to say a very heartfelt thank you to them on behalf of the Ministry and of the Government of Trinidad and Tobago for their input. But it would be remiss of me if I did not thank, in particular, the Chief Parliamentary Counsel and his staff for their input into the drafting of the Bill and its amendments. Very often we do not give compliments to the persons who work very, very hard in the background, those unseen faces and minds that work on these pieces of legislation; also, too, the Commissioner of Prisons and his staff for their invaluable assistance.

A lot of the recommendations that have come and formed part of this Bill, have come because of the experience of the various Commissioners of Prisons and their staff who have provided input into this legislation, and, in particular, to thank them for the work that went into the design of the new Prison Rules. I think that some weeks ago, a copy of the Prison Rules was handed to the Leader of the Opposition Bench and one was also handed to the Leader of the Independent Bench, but we will do the needful in due course by laying it properly here in this Parliament.

We want to pay to the current Inspector of Prisons, Mr. Daniel Khan—we want to give him thanks, too, for his input into this entire exercise and thank him for his report that he submitted last year, as Inspector of Prisons, and thank him for his yeoman work that he has done in bringing to the fore, issues involving the prisons and its functioning.

As indicated, the Law Association and the Judiciary did send in their comments; to the Prison Officers Association, they, too, in fact, for their patience and support in the efforts of the Ministry of Justice [*Desk thumping*] in pursuing this particular matter as well as other matters having to do with the operation of the prisons.

Mr. Vice-President, the Inspectorate of Prisons is timely, in the sense that it is a more modern approach to the running of the prisons. It also falls in line with our initiatives to reform the justice system. The Inspector of Prisons has, in a manner of speaking, outlived his—not his usefulness as such, but the prisons have grown and the numbers in the prisons have grown so that one person can no longer address the myriad of issues, as well as the number of prisoners that now—persons on remand and persons in the prison system that we now have to see and take care of.

Sen. Drayton: I just needed to get some clarification, through you, Chair. You made reference to consultation with the Chief Justice—[*Interruption*]

Sen. The Hon. E. George: The Judiciary, yes.

Sen. Drayton:—which I find very peculiar. So if there is a matter pertaining to this very Bill, how does the Chief Justice get involved? I am asking whether that was appropriate.

Sen. The Hon. E. George: Well, we did get a response from him and, specifically, it was to do with the issue of—there was a suggestion at one time that DNA testing be compulsory, and on that particular matter, I think the Chief Justice—well, the Judiciary—was at pains to point out that we would be stepping way beyond our bounds of the constitutional rights of persons to seek to make compulsory HIV testing of prisoners, to put it in the law. And on that specific item, I think he did present a very, very cogent argument, sourcing other jurisdictions and what they had done, as well as indicating that persons had taken issue on constitutional grounds in other jurisdictions regarding the placing of that particular requirement in the law. So on that particular issue, we did value the input of the Chief Justice. Again, as I said, we did speak with the Law Association so that they were comfortable with the Inspectorate of Prisons coming into being.

2.45 p.m.

Sen. Prescott SC: Minister, may I interrupt you?

Sen. The Hon. E. George: Yes.

Sen. Prescott SC: Minister, I suspect that you may not have quite grasped that what you have heard from my colleague is that it may have been inappropriate to provide us with the benefit of the consultation that you had had with the Chief Justice. And in your responses now, you have gone further to tell us the areas in which he has spoken. By way of elucidation, I suppose, would you care now to tell us the full benefit of his advice. It is already out in the public domain that the Chief Justice has committed to a way of thinking and we thought that was inappropriate in the first place. So I am saying now, either you tell us all that he had said, or tell us why it is we are being exposed.

Sen. Al-Rawi: Hon. Minister, I did not hear that you had said that there was necessarily a confirmation. What I heard you say, for the record, was that you had received correspondence. You gave your gratitude for receiving that, but perhaps it may be very easy to come out of this situation by simply providing the correspondence. What I heard you say is that correspondence was given and that submissions were made, but I do not know if what you said and what actually happened may have been the same thing. So perhaps you can clarify, and particularly with the copies of the correspondence.

Sen. The Hon. E. George: I do have, but it is pretty lengthy. So I do not know if I will want to read it, you know. [*Crosstalk*] Mr. Vice-President, I could circulate a copy of this, you know.

Mr. Vice-President: You can circulate it, Mr. Minister.

Sen. The Hon. E. George: So, Mr. Vice-President, I was seeking to place on record the appreciation of the Ministry for the input of all these agencies into this particular legislation and, in particular, to indicate that the provisions in the Bill are in keeping with Government's general thrust towards the adoption of a process that facilitates restorative justice. The intention is that the prison environment would be made more humane, taking into account the physical education and psychological needs of offenders. This humane environment automatically makes the facilitation of restorative justice possible and will lead to the transformation of prisoners, aid in their successful reintegration into society and reduce the risk of reoffending.

In addition, the existence of a more humane environment also redounds to the possible positive well-being of prison officers who are tasked with the responsibility to hold and treat prisoners. Other officers will therefore be less stressed and be able to deliver services of the high quality expected of them.

In that regard, Mr. Vice-President, I place this Bill for the consideration of the Members of this Senate, and hope and expect that it will receive unanimous support.

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

Question proposed.

Mr. Vice-President: Senators wishing to speak may do so now.

Sen. Camille Robinson-Regis: Thank you very much, Mr. Vice-President. I rise to make my contribution to this legislation that has been brought by the Minister of Justice, and from the outset let me indicate that, like my colleagues on the Independent Bench, and my colleague, Sen. Al-Rawi, I am quite concerned that the Minister has brought into the parliamentary debate the correspondence received from the Chief Justice, and indeed my concern is heightened by the fact that the Minister has read one line of that correspondence into the record.

Furthermore, Mr. Vice-President, if the Chief Justice and members of the Judiciary have expressed no concerns over this piece of legislation, then it heightens my concern with regard to what is taking place in the criminal justice system. And the issue is that this particular piece of legislation, as far as we in Opposition are concerned, is fraught with problems and issues that need to be addressed more fully by the Minister. As a matter of fact, we on this side are of the view that the Minister has actually skirted over the real issues that are of concern to prisoners, prison officers, and indeed to the criminal justice system in Trinidad and Tobago.

Mr. Vice-President, our side is of the firm view that—and I will go through some of the clauses in the legislation, but I would like to state from the outset, that we on this side are of the firm view that despite the fact that the Minister is saying that on previous occasions persons of a certain calibre were brought in as the Inspector of Prisons, and despite the fact that the Minister is saying that in other jurisdictions the Inspector of Prisons, there is no designation of what qualifications he must have, we on their side are very wary of the fact that the Minister—in this case the Minister of Justice—will appoint someone as the Inspector of Prisons without reference to either the CPO or any other human resource agency in terms of making this appointment. [*Desk thumping*]

In addition to that, Mr. Vice-President, we are also very concerned by the term "a person of good standing". Mr. Vice-President, our concern is born of the fact, what is a person of good standing?—especially in circumstances where this

person is to head this new inspectorate and he is also to have below him a deputy and staff, and this staff is to be appointed by him. A careful examination of those particular clauses in the Bill bring that strongly home to us on this side.

Mr. Vice-President, the Minister has given his history of who are the types of persons who have been appointed on previous occasions. When the current Inspector of Prisons was appointed, we in the Opposition objected based on the fact that the practice of that person—when I say that, the legal practice—was a criminal practice, and we on this side said that we should stay away from persons who had an active criminal law practice operating as Inspector of Prisons. We were very firm in our objection to that particular person being appointed and, Mr. Vice-President, we are firm in our objection to this clause in this piece of legislation based on the fact that the Minister, without reference to any other agency, is going to be charged with the responsibility of selecting the person for this particular function.

We feel that the Minister should have reference to an agency or to the CPO or some other functionary before such an appointment is made, and we are very firm on this. We are also firm in our belief that there should be a certain categorization of what specific qualifications the Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons should have.

Mr. Vice-President, all this legislation says at clause 11 is that the:

"Sections…are repealed and…substituted:"—that

"19. There is"—now—"established a body corporate to be known as the 'Trinidad and Tobago Inspectorate of Prisons'…"

That—"20(1) The Inspectorate shall be managed by the Chief Inspector of Prisons who shall be appointed in writing by the Minister.

(2) There shall be a Deputy Chief Inspector of Prisons who shall be appointed in writing by the Minister.

(3) The Chief Inspector of Prisons and the Deputy Chief must—

(a) be persons of good standing;"

What is a person of good standing, Mr. Vice-President? Is that a person of good standing in his profession? Is that a person of good standing in the community? Is that a person of good standing economically? What does it mean in such an important role, where the prison system is an integral part of the entire criminal justice system? And even when the prisons were hived off from the Minister of National Security, we objected based on the fact that the prison system is an integral part of the national security system.

As a matter of fact, because of the high rate of recidivism in Trinidad and Tobago in the prisons, the prison system and how it is managed and how it is inspected is an integral part in determining how the criminal justice system moves forward in this country.

Mr. Vice-President, I move on.

"20(3) The Chief Inspector and the Deputy Chief Inspector must—

(a) be persons of good standing;

(b) not be the holder of any other office of emolument whether in the public service or otherwise; and

(c) not have served in the Trinidad and Tobago Prison Service."

That is all that is required. That is all that is required, Mr. Vice-President, and we on this side say that that cannot be enough. [*Desk thumping*]

The legislation goes also on to—I mean, this is a total farce, Mr. Vice-President. It says:

"(6) The Minister shall determine the remuneration and other terms and conditions of service..."

The Minister shall make that determination, Mr. Vice-President?

Mr. Vice-President, we cannot in all conscience agree with this legislation, and I repeat: if the letter that the Minister has and the letter from the Law Association is in fact accurate, then I am concerned about those two institutions in Trinidad and Tobago. And what this goes on to lead us to believe, that in the interpretation of this legislation at any time, would it be prejudiced by what we have just heard? Would there be a level of bias by what we have just heard? [*Desk thumping*] These—[*Interruption*]

Sen. G. Singh: Mr. Vice-President, on a point of order. Standing Order 35(8).

Mr. Vice-President: Standing Order 35(8) is quite clear and it reads as follows:

"The conduct of the President of the Republic of Trinidad and Tobago, Members of the Senate or the House of Representatives, or of Judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion moved for the purpose; and in any amendment, question to a Minister, or debate on a motion with any other subject"—may—"reference to the conduct of any such"—[*Interruption*]

Sen. G. Singh: "Any reference."

Mr. Vice-President: "...any reference to the conduct of any such person as aforesaid shall be out of order."

I would ask hon. Senators to please refrain from making statements relative to those positions. Thank you.

3.00 p.m.

Sen. C. Robinson-Regis: Mr. Vice-President, I thank you for your ruling, and in those circumstances, I will just ask the question: given what the Minister said, if therefore, it should be expunged from the record? I am just asking the question because I think it really placed the Judiciary in an embarrassing position, so perhaps, we can examine whether that may be necessary.

Mr. Vice-President: My own explanation, when the Minister, he explained the reasons why that was mentioned, I was not of the view then that he was imputing based on an infringement of 35(8). So, therefore, I rule that I do not see the reasons why it should be expunged, but then I would ask that hon. Senators refrain from continuing making remarks to those offices mentioned in 35(8). Thank you.

Sen. C. Robinson-Regis: Thank you very much, Mr. Vice-President. I intend to cast no aspersions on the judges but I do have a concern about the administration of justice, and I will abide by your ruling, but I cast no aspersions on the judges themselves. I express my concerns about the administration of justice.

But, Mr. Vice-President, I go on to—[*Interruption*] Sorry.

Mr. Vice-President: Hon. Senator, let the notes state quite clearly, I never indicated that you were doing so. I am just asking that we should refrain ourselves from mentioning based on what was expired earlier. Thank you.

Sen. C. Robinson-Regis: Thank you very much for that elucidation, Mr. Vice-President. I appreciate that because I did not intend to do that in any way, but I thank you for your advice.

As we examine this particular piece of legislation and I maintain the view of this side with regard to the appointment of the Chief Inspector and the need for a clear definition of the type of person that we need to be the Chief Inspector and the Deputy Chief. Particularly, where the Chief Inspector is going to be appointing persons subject to the approval of the Minister, and it is very clear what type of persons the Chief Inspector can appoint. There is no indication what type of person the Minister must appoint, but the Chief Inspector, at section 21, it says:

"The Chief Inspector of Prisons may from time to time and subject to the approval of the Minister, appoint -

(a) one or more persons with legal, medical or penological training as an Assistant, to assist him in the performance of his functions or duties; and

(b) such officers and other staff as may be necessary for the effective operation of the Inspectorate."

Now, Mr. Vice-President, interestingly, the Minister is not asked to appoint someone with any specific qualifications, but the Chief Inspector must appoint assistants with specific qualifications. Now, this is almost farcical. This situation is almost farcical and I think the Minister must properly examine the type of legislation that he is bringing to this House for us to approve because this is a farcical situation.

In addition to that, it does not say how many officers—I do not know if it is going to come in rules and regulations—and other staff will comprise this inspectorate. I mean, you know, I know this is going to be legislation that will come in by proclamation but, really, we should be given much more than this. Is it that in the normal way of this Government that they have to complete 10 pieces of legislation, or 15 pieces of legislation, so they just bring legislation—whether it makes sense or not, whether it can be proclaimed at some point or not, whether it can be implemented at some point or not—and just say, "Here, look at this and agree with this". It is not a situation like that. If they really had the interest of the people of Trinidad and Tobago at heart, they will bring proper legislation to the Parliament [*Desk thumping*] so that we can really get this country moving.

Mr. Vice-President, I said this before and I am saying it again, the criminal justice system, the administration of the criminal justice system, is important for the movement of Trinidad and Tobago socially and economically. [*Desk thumping*] We cannot be standing in this Parliament, getting these pieces of legislation that really are almost verging on improper pieces of legislation and being asked to agree to this type of legislation. We on this side cannot, in all good conscience, agree to this situation.

As a matter of fact, in the United Kingdom, the person who is appointed as the Chief Inspector of Prisons is someone who has a PhD in sociology. In Scotland, it is a former chief of police. In Ireland, it is a former judge. We must make sure that certain standards are maintained and even if the previous situation was that there was nothing in the legislation that said what qualifications the Chief Inspector must have, we, on this side, are saying that does not mean that we have to continue with that. We are saying that there is a need to be more careful with the appointment of the Chief Inspector and also with the qualifications needed for that particular post.

Mr. Vice-President, we say that based on a background where, at present, the prison system is in a state of degeneration. It was in 2001 that former Prime Minister Basdeo Panday appointed a team of persons to examine the prison system. It was a Cabinet-appointed task force on prison reform and transformation. That team which comprised—and I will give you some of the names. The committee Chairman was Mr. Cipriani Baptiste, former Commissioner of Prisons; it included Mr. John Rougier, Assistant Commissioner of Prisons; it included Mrs. Claudia Groome-Duke, Director of Social Services, Tobago House of Assembly, as she then was; it included the stakeholders: the Trinidad and Tobago Prisons Service, the Ministry of National Security, the Ministry of Social Development, Bishop the Rt. Reverend Calvin Bess, Anglican Bishop from the IRO, the Chamber of Industry and Commerce, and, Mr. Vice-President, they produced a task force report that formed the basis of—the Government of which I was a part—the Government's move to get the prison system working in a particular direction.

I will admit that a number of their recommendations were put into operation but the prison system has become so dysfunctional that the recommendations were overwhelming, were of a nature that would have resulted in a total revamping of the prison service. I take this opportunity to ask the Minister of Justice whether any of these recommendations are still being pursued by the Ministry of Justice. Because when we look through this document, it would seem that in keeping with what this Government has had a penchant for, whether good, bad or indifferent, anything that was being used by the previous Government—like the OPVs which they now call the long range patrol vessels, e TecK which they are now claiming that they started e TecK—any of those institutions or policies that were used by the previous administration, they have totally ignored and are now trying to reinvent the wheel but doing a very poor job at it. [*Desk thumping*]

In fact, in terms of the penal system, the recommendations are for restorative justice. What we have seen coming out of the Ministry of Justice is, in fact, just a holding pattern as it relates to the prison system. The Minister has come here today and has said absolutely nothing in terms of what are the actual facts on the ground as it relates to the penal system in Trinidad and Tobago. The "Trinidad and Tobago 2013 Human Rights Report" says and I quote:

"Prison and Detention Center Conditions"

This is the:

"Country Reports on Human Rights Practices for 2013"

—from the:

"United States Department of State. Bureau of Democracy, Human Rights and Labor"

And it says, under the rubric:

"Prison and Detention Center Conditions

Conditions in some of the prison system's eight facilities continued to be harsh.

…The country's prisons, with a design capacity for 4,886 inmates, held an average daily population of 3,800. Of those, approximately 1,700 were convicted inmates, and 2,100 were in pretrial or other status. Pretrial detainees often waited six to 10 years before their cases went to trial. Some prisons suffered from extreme overcrowding, while others were not at full capacity.

Observers often described the Port of Spain Prison and the Golden Grove Remand Yard as having particularly poor conditions and severe overcrowding, with as many as 10 prisoners kept in 10-by-10-foot cells. The Port of Spain Prison, designed to hold 250 inmates, held 600 prisoners, and the Remand Yard, designed to hold 600 inmates, held 1,156 prisoners. Prisoners at both prisons had…access to medical services, but caregivers often lacked sufficient medical supplies. Medical professionals visited the prison two or three times a week."

3.15 p.m.

Mr. Vice-President, we would have thought that when the Minister said that this was an important part of the transformation and modernization—this particular piece of legislation was an important part of the modernization and transformation of the penal system—it was aimed to reduce the revolving door syndrome, that the Minister would have given us some indication of what is the current situation in all of the prison facilities that exist in Trinidad and Tobago.

Mr. Vice-President, I posit this afternoon that this piece of legislation does not enhance the prison system. It does not add to the modernization and transformation of the penal system. It does not reduce the recidivism. In fact, what it does, Mr. Vice-President, what the Minister's presentation did for us, was to take us no further as it regards what is happening in the penal system in Trinidad and Tobago.

We stood in this Parliament and we were told that the prison boss—this is November 23, 2013, it is headed in the *Guardian*:

"Prisons boss' stunning claim: 5 percent of service corrupt"

Mr. Vice-President, is this piece of legislation going to weed out corrupt officers? If it is, tell us how. How is it going to weed out corrupt officers? It says nothing about that.

Then we have a situation where there is a so-called prison hit list where it is said—and this again is the *Guardian* of November 20, 2013, and I quote:

> "The trouble within the prison system escalated to another level yesterday, after a list of names, addresses and telephone numbers of several prisons officers was found hidden inside the wall of a cell at the Maximum Security Prison in Arouca."

What is being done to ensure that this does not continue?

We also have the situation where cell phones are being found in prisons and other contraband articles are being found in the prisons. Is this piece of legislation going to deal with that situation? It is not going to deal with it. As a matter of fact, this piece of legislation is based on information that we do not even know whether it is accurate or not.

We have a situation here, where the Minister has said to us that the fines and penalties for attacking a prison officer or assault on officers is going to be increased. The Minister has told us that, but what are the statistics, as it relates to assault on prison officers? What are the statistics, as it relates to attacks on prison officers outside of prison, where it was said that in 2013, prison officers protested after the murder of one of their own? In 2014, another prison officer was murdered, and it is also said that there is a prison hit list. Mr. Vice-President, how is this particular piece of legislation going to deal with those concerns?

There has also been a concern raised by the Prison Officers Association that they want their own firearms after they leave duty, so that they can take home firearms. They have also indicated that they would like to have bulletproof vests. They have also indicated that they would like special housing. The Ministry of Housing and Urban Development and the HDC have said that 5 per cent of HDC housing is allocated to the national security officers.

Sen. G. Singh: Ten per cent.

Sen. C. Robinson-Regis: Sorry?

Sen. G. Singh: Ten per cent.

Sen. C. Robinson-Regis: Ten per cent. I think I saw 5 per cent, but if you—I will not doubt you. But if that is—has this in fact been happening? Have we been taking into account the concerns of the prison officers? And even more so, have we been taking into account also, the concerns of the prisoners who have said that it is almost a

situation where going to prison in Trinidad and Tobago is a form of punishment in itself; that you are not only going to prison to be punished, but prison itself is a form of punishment. Mr. Vice-President, the Minister needs to tell us what is being done in the penal system to ensure that the system itself is being improved. And we on this side are saying that the system in the prison service is not being improved by this piece of legislation. [*Desk thumping*]

Mr. Vice-President, the legislation has proposed that, apart from inspecting prisons, the inspectorate to be established will inspect prisons, industrial institutions, any area in a police station or a court building where a person is detained or any other place where a person is detained.

We have witnessed in Trinidad and Tobago, recently, a situation with regard to the St. Michael's Home for Boys. I will not go into detail on that because we have heard about it and it is a very sad situation. Under the rubric of industrial institutions, institutions such as the St. Michael's Home, the YTC, the St. Jude's Home for Girls, will be inspected by this inspectorate. The question that we must ask is: What power will the inspectorate have, to deal with situations as occurred at the St. Michael's Home for Boys? What power will this inspectorate have?

We have seen a situation where the Prime Minister appointed a task force to deal with situations involving young children who are subject to these kinds of circumstances, and even while that task force was doing its work, the alleged atrocities that have taken place at the St. Michael's Home have in fact taken place. The alleged atrocities have taken place. And in addition to that, this document, this task force report that I have, indicates that even at the St. Jude's Home, there are concerns about the conditions there for young offenders.

Mr. Vice-President, what is this piece of legislation going to do to assist us in making sure that those kinds of atrocities do not occur, that they are prevented, that if they do in fact occur that the children who are subject to that kind of treatment are removed immediately? The children at St. Michael's, they are still there. They have not been removed. We have not heard that the persons who are there, who are supervising them, have been removed. We know it is allegations, but what is being done to secure young offenders and to secure persons who are truant or who have behaved in such a way that it is felt that they should be sent to these homes?

With specific reference to young girls and young women, in many instances the facilities—as a matter of fact I think it is only the St. Jude's Home that is available for young women and young girls, and in some instances, some of these

young people have been incarcerated in the women's facility and the problem with that is that they have been influenced by the older, more experienced prisoners and in many instances those are the breeding grounds that move these young people into a cycle of repeat offending and behaving in an even more offensive manner. Mr. Vice-President, if the Minister is really moving to try and modernize and transform the penal system, he would come with legislation that deals with those particular instances.

Mr. Vice-President, we are of the firm view that this legislation does not take us very far with regard to the penal system in Trinidad and Tobago. We are also of the view, and we ask the Minister—at this time what is the situation with regard to the Administration of Justice (Electronic Monitoring), Bill, 2011? Mr. Vice-President, you would recall that this Government brought that specific piece of legislation where, instead of incarcerating persons—and this, again, was said to be a modernization and transformation of the penal system—the Administration of Justice (Electronic Monitoring) Act says at section 10:

"(1) Subject to subsection (3), the Court may impose a sentence of electronic monitoring—

(a) for an offence committed; or.

(b) in lieu of a sentence of imprisonment or part of any sentence imposed, after the coming into force of this Act.

2 The Court may, at any time, also impose electronic monitoring as a condition of—

(a) an order for bail; or

(b) a Protection Order made under section 5 of the Domestic Violence Act.

3 The Court shall not, however, impose electronic monitoring in respect of any of the offences listed in the First Schedule.

4 Where a respondent is arrested and charged with an offence under section 20 of the Domestic Violence Act, the Court may grant bail with or without electronic monitoring. But in making its decision the Court shall not request the consent of the respondent.

5 before making a decision under" (a)—and (b)—

"…(2)(a) the court shall request the consent of—

(i) a person where that person is not a child;

(ii) or in the case of a child, his parent or guardian, to impose electronic monitoring and where such consent is not given, the Court shall commit the person to custody."

3.30 p.m.

Mr. Vice-President, we were told that this was a mechanism for modernizing and transforming the penal system, similar words, Mr. Vice-President. My information is that this particular piece of legislation is still awaiting proclamation. Our concern on this side is if, in fact, this Government is truly interested in moving the criminal justice system forward and in the reduction in the revolving-door syndrome—as the Minister says, revolutionary approaches to a new prison environment—legislation like this, which is just languishing, Mr. Vice-President, should be brought forward because it really makes an effort to do something different. We still maintain that all this Government seeks to do is to tick off in terms of legislation. [*Desk thumping*]

Mr. Vice-President, last year when there were reports of a prison riot, and the concerns with regard to what was taking place in the prison, the Prime Minister of Trinidad and Tobago told us that a team would be appointed, and would report in—and I will quote, Mr. Vice-President:

"Prime Minister appoints Special Prisons Committee:

November 18, 2013.

Following a series of incidents and protest action by prisoners at the Golden Grove State Prison, the Honourable Kamla Persad-Bissessar SC Prime Minister…has appointed a special committee to investigate and address issues emanating from both prison officers and prisoners themselves.

The Prime Minister said she had been personally monitoring the on-going situation at the Golden Grove State Prison and stated that she was deeply concerned over recent and continuing developments related to the prison and to the situation in general.

The Prime Minister has also been advised that some of the urgent issues…included concerns about overcrowding in prisons, a lack of available transportation to court, no airing or recreation time for prisoners, and the cancellation of visitation rights of families…"

The committee was appointed and was asked to bring "a speedy resolution" to the situation:

"1) Professor Ramesh Deosaran - Chairman

2) The Commissioner of Prisons

3) Inspector of Prisons

4) Minister of National Security

5) Minister of Justice

6) Commissioner of Police

7) Attorney at law, Mr. Wayne Sturge

8) A representative of the Prison Population

9) General Secretary of the Prisons Officers' Association-Mr. Gerard Gordon."

Mr. Vice-President, what became of this committee and what have they reported? As usual, with this Government, they scamper to appoint committees and task forces and then we hear nothing further from them; nothing further. So again, we hear in May 2013:

"…Illegal cellphones biggest challenge in prisons"

And the Minister of Justice and—Mr. Vice-President, we have a real concern about this Ministry of Justice because we are not sure exactly what the Ministry of Justice does. [*Desk thumping*] We are not sure what the Ministry of Justice does. We are of the firm view that this Ministry was created for former judge, Mr. Justice Volney, and we are sure that it was created just to deal with section 34, Mr. Vice-President. It moved from Minister Volney to Minister Christlyn Moore who—[*Interruption*]

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

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

Question put and agreed to.

Sen. C. Robinson-Regis: [*Desk thumping*] Thank you very much, Mr. Vice-President, and I thank my colleague, Sen. Al-Rawi and my colleagues in the Senate, for this extension of time.

Mr. Vice-President, I was saying that we moved on to the appointment of former Minister Christlyn Moore who was, after the THA election, unceremoniously discarded by the head of the Government, then we saw the appointment of Minister—the current Minister of Justice. And we continuously ask the question, Mr. Vice-President, two questions immediately come to our attention, what is the actual function of the Ministry of Justice? And secondly,

and perhaps even more pressing, what is the situation where previously, the Commissioner of Prisons sat on the National Security Council, because the issue of prison recidivism, the issue of what intelligence can be garnered in the prisons, as it relates to the crime situation, it was important to have the Commissioner of Prisons as part of the National Security Council, and our understanding is that that no longer obtains. Neither the Minister nor the Commissioner of Prisons sits on the National Security Council. And if, in fact, I repeat, if, in fact, we want to deal with the criminal justice system, the prison is an integral part, [*Desk thumping*] because in many instances crimes are hatched in the prison, Mr. Vice-President. So we ask the question, what is the function of the Ministry of Justice?

Mr. Vice-President, as we talk about that committee that was set up, we still await their report, and that was set up in 2013. We see the Minister of Justice saying that—and this was in June 2014:

"Cellphone jammers and security vests for prison officers are on the way,…"

On the way from where Minister? Where are they coming from that they cannot get here as yet? Cell phone jammers which were promised several years ago by this particular administration, and in response to that, the President, again:

"Prison officers still waiting for cellphone jammers"

And this is an *Express* article dated May 07, 2014:

> "PRESIDENT of the Prison Officers Association (POA) Cerron Richards wants to know what became of the promise made by Prime Minister Kamla Persad-Bissessar a year ago for cellular phone jammers to be installed in the country's prisons.
>
> Richards yesterday said that while he was unaware as to whether it was true that a prisoner may be involved in the death of attorney Dana Seetahal, the POA believed that government should do more to have the system in place."

Mr. Vice-President, would the Minister be telling us what has become of the issue with the cell phone jammers? And whilst he is at it, Mr. Vice-President, would the Minister also tell us what has become of the hundred acres of land that had been allocated to prisoners, so that they could form an agricultural industry, and not just be sitting in the prisons?

I recall the then Minister Volney, had indicated that prisoners would be allowed to do work outside of the prison. What is the situation with that, Mr. Minister? Additionally, we are hearing that the acres of land that had been allocated to the prisons have been taken back by the Ministry of Food Production. I do not know if that is, in fact, true, and I would be grateful to find out.

Mr. Minister, could you also tell us what is the situation regarding what Minister Christlyn Moore had said about Carrera being removed as a prison? Could you also tell us what the situation is as it relates to the Santa Rosa, so-called, prison? Are there prisoners in Santa Rosa? What is the situation with regard to the Santa Rosa Prison, where there is so much overcrowding? My understanding is to refurbish that particular prison, the Government paid over $60 million to do that refurbishment, and it is just sitting there idly doing nothing. [*Interruption*] It is sitting there doing absolutely nothing.

And, Mr. Minister, whilst you are at it, could you also tell us what is the situation regarding prisongate? Mr. Minister, we are in dangerous times in Trinidad and Tobago. [*Desk thumping*] The issue regarding prisongate is a serious—very, very serious issue. Our understanding is and, Mr. Vice-President, with your leave, I would like to indicate that I am calling it prisongate. But prisongate, Mr. Vice-President, is the situation that involved an allegation or a concern raised by then Solicitor General Eleanor Donaldson-Honeywell with regard to apparent collusion between private attorneys-at-law, and prisoners with regard to claims for excessive force being used by prison officers in dealing with them.

In fact, the claim was that prison officers were beating prisoners, and private attorneys-at-law appeared to be in collusion with officers of the State, in terms of coming to a resolution of these legal matters, Mr. Vice-President. And, Mr. Vice-President, we have a concern because this matter which was raised by the Solicitor General, as she then was, directly to the Prime Minister where the concerns were raised, and—if I may, I would want to take this opportunity to quote from the letter of the Solicitor General—that we have heard nothing about. The Prime Minister had sent this issue to the Attorney General and a small team to investigate, and we have heard absolutely nothing about this issue again. [*Desk thumping*] It has been buried.

The letter which is dated August 30, 2013, and addressed to the Prime Minister, from Solicitor General's Chambers, and it says:

> "Report proposing the need for investigation into litigation against the State arising from incidents in the Prison Service
>
> My purpose in writing is to bring to the attention of the relevant authorities the need for investigation into circumstances that may amount inter alia to breaches of professional ethics by the Attorneys involved and may have the effect of perverting the course of justice in litigation against the State."

3.45 p.m.

> "The overarching concern that must be addressed is whether there has been in existence for some time an unethical business venture engaged in by Attorneys at Law, purportedly on behalf of Prisoners alleged to have been assaulted by Prison Officers and whether there has been over the period from mid-2010 a conflict of interest in certain key office holders increasingly taking action to support the said unethical business for direct and/or indirect financial gain."

This is a letter from the Solicitor General to the hon. Prime Minister. She goes on to state:

> "This matter has severe implications for national security and for the integrity of the Civil Law function of defending the State and by extension its citizens and taxpayers in litigation brought against entities such as the Prison Service. These implications are manifest in the demotivating effect of the situation on State Attorneys and Prison Officers, the diminishing of the reputation of State Attorneys and Prison Officers in the eyes of the public, increased lack of confidence and/or animosity in relation to Prison Officers thereby making their jobs more difficult and jeopardising the safety of all concerned."

And, Mr. Vice-President, the Solicitor General as she then was, highlighted the following: this alleged unethical business venture is as follows:

> "1. The retainer of Attorneys at Law previously engaged on a large scale basis in Prison Litigation against the State to instead represent the State in defending certain civil law claims, while they continue to act against the State in Prison Matters."

Mr. Vice-President, it is so clear.

> "In at least one of the matters in which such an attorney acts against the State, the Civil Law Department Attorneys with conduct to defend the Prison Officers brought to my attention that there has been evidence of 'cut and paste'..."

The attorney wrote a letter to the hon. Attorney General when the state attorney brought this to the attention of the court.

Mr. Vice-President: Senator, you have two minutes.

Sen. C. Robinson-Regis: Thank you, Mr. Vice-President.

With a view to striking out the claim, the attorney wrote a letter to the AG threatening to report the state attorney to the Law Association. The recommendation from the Attorney General was that one of the legal officers in the prison service

responsible for collating information be allowed to do his in-service with the Attorney General's Office. This is the person responsible for collating information. He, however, opted to do his in-service training with one of the attorneys who is alleged to be involved in this unethical behaviour.

Mr. Vice-President, the letter goes on to state, and, if I may:

> "Attempts to have the record corrected by publication of a Release have however met without the required timely and effective support of the Hon AG."

And it also goes on to state:

> "It was felt that this type of PR"—as it relates to the prison service and the prisoners and prison officers—"would help to discourage the dangerous trend of unfounded litigation against the Prison Service for financial gain. Regrettably there was no support for this initiative by the hon AG and Attorneys on the other side have continued to have…successes against the Prison Service reported…."

Mr. Vice-President, as I bring my contribution to a close, I end with deep concern with regard to this whole issue of so-called prisongate because, if we want to truly deal with the criminal justice system, we must deal with all aspects and we on this side cannot support this legislation as it is. We cannot support what is happening as it relates to the governance in terms of this particular situation as it relates to the prisons and we are very concerned that young offenders are not being properly managed in the prison system.

Mr. Vice-President, I thank you.

Sen. Helen Drayton: [*Desk thumping*] Thank you, Mr. Vice-President. I will be brief. Let me open by saying that I heard what the hon. Minister said with respect to this legislation in that it is part of Government's overall policy to overhaul the penal system. But I want to say, with all due respect, if for 60 years inspectors and successive governments have presided over a deteriorating prison system, I really fail to understand how replacing the current inspectorial system with one of a chief inspector and bringing additional bodies would make any substantial difference to what is a problem of a lack of accountability.

It is for 60 years we have had successive inspectors who were supposed to be inspecting and reporting to their Minister on the state of the prison service; and the prison stations, maybe minus one or two other instruments or an additional building, has not changed since independence.

In reviewing this Bill to replace the existing structure for inspecting prisons and other institutions where prisoners are kept and also juvenile delinquents or young offenders are held, I call to attention, once again, the need for appropriate institutions to house young offenders and those children needing protection from brutality and also needing rehabilitation. [*Desk thumping*]

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

This is underscored, Mr. Senate President [*Laughter*], Senator President, by the unwholesome reports on activities at the St. Michael's School for Boys. Now, this school houses young offenders and children, who have not broken the law, but they are there because there was nowhere else to send them, like the late Brandon Hargreaves.

Now, the school falls under the Children Act, Chap 46:01 and is the responsibility of the Ministry of Youth, Gender and Child Development and for many, many years, this school, which was once called an industrial institution, has drawn the attention of the media and the general public. Reports usually feature abuse, neglect of the juveniles, including rape, stealing of the institution's property, frequent running away of the children, disturbances in the residential neighbourhood and other problems, which point to the serious issues of management.

I want to mention that it goes to the heart of management because I am reading reports about removing boys from the school, just as this piece of legislation seeks to get around the issue of holding people accountable for poor performance by simply creating other systems and bringing laws to deal with what are systemic and people problems.

Now, the obvious question is why the complaints of abuse and bad management only get action following press reports and a public outcry and that is a fact. That has been so for years and it is not only unique to this school, it is everything else to do with governance. Unless there is a public outcry, unless there are media literally pounding them every single day with negative reporting, there is no action except for the perennial task force and commissions of enquiry.

Now, it is appreciated that the Government has appointed a task force with respect to children's matters and it is making an effort to expedite the mandates under the Children's Authority. Now, this is 15 years; 15 years after the Children's Authority legislation was approved and it is necessary to say these things because Governments—and in response one would talk about how caring the Government is—but for four years nothing was done to address the needs of

children which are there in the public limelight every single day. And the task force came about after public outcries over the deaths of children by murder, abuse and other means. It did not come about as a result of a decisive plan and overall strategy where funds were laid out to deal specifically with those issues.

[MR. VICE-PRESIDENT *in the Chair*]

But be that as it may, it is nevertheless a sad performance by successive Governments who spend billions every year, yet none, not one Government in the history of this country has seen it fit to build one single holistic institution for our children; not one. All the institutions have been built by NGOs—and granted, the Government funds these NGOs.

I have heard all about the Children's Life Fund. I have heard about the children's hospital—although we know there is a children's hospital at Mount Hope, which is underutilized because of issues of resources. But not one Government in 60 years and this is where we have reached. This is where we have reached with the deaths every other day of children.

There is a lack of specialized juvenile courts and we have little programmes specifically targeted at young offenders. There is a need to transform, yes, the current justice system to one that is guided by the principles of restorative justice, but that cannot happen if we are not holding people accountable for bad performance. The laws are not going to make a difference. The systems are not going to make a difference. A change in Constitution is not going to make a difference.

Now, the Minister said in his presentation that, yes, this Bill is aimed at achieving the goal of restorative justice, but when all is said and done, after all the public relations spin, the fact remains that there are no appropriate institutions, more so for female juveniles who are often housed with adult offenders, as said earlier on.

No inspector is needed to tell us that that is wrong. No law is needed to tell us that is wrong. So why, when you came into office—you knew that because it was in the public domain; but with all the buildings that are going on; with all the infrastructure, why was not something done?

Of course, then, there is the shortage of professionals trained in dealing with the psychological needs of young offenders. In short, the current systems as they are designed, they promote the continuation of crimes by juveniles and, sadly, this Bill could do nothing to keep our children from adult jails.

4.00 p.m.

This Bill can do nothing to unplug the pipeline of children entering the rooms of crime. This week the media made public, again, alleged abuse of children at the St. Michael's Home for Boys, but it is to be noted that the law governing young offenders at industrial institutions—although I know that the St. Michael's School for Boys falls under the Children Act—sanction the whipping of children. The Young Offenders Act, 13:05 facilitates punishments with a rod between nine and 18 lashes, and up to 18 by the Inspector of Prisons; that is in the law.

Now, one may say, "Well, probably it is not used", but then that is not the story we are hearing coming out of the St. Michael's School for Boys. That law speaks to corporal punishment, but there is a boundary line between corporal punishment and abuse, and in today's world corporal punishment does not have the same meaning as the meaning of years ago. Today, it is a cuff, it is kick, it is "planass" with a broom, shovel or even cutlass, often inflicted on children by frustrated, over-the-top, out of control single mothers and other callous adults, like those at the St. Michael's School for Boys.

So we are going to move the boys, but who will be held accountable. Then we wonder how our society has become so violent and why so many children are falling prey to criminal gangs.

The Government also mentioned that it plans to allocate $250,000 to renovate and upgrade children's homes. I want to be balanced, and one has to be thankful for small mercies and that there is some compassion and, hopefully, those institutions will spend the sums wisely to improve the physical environment to benefit the welfare of the children.

The children and workers who attend to them are conditioned by their environment. The shabby, poorly maintained buildings even the schools—it is not only the St. Michael's School for Boys but all our schools, it is brick, mortar, glass. There is no greenery. There is nothing friendly about it, and then, of course, we have these aged buildings where our children are supposed to learn, and the juvenile centres, like so many other public institutions, are badly maintained, and the same applies to the adult prisons.

It is true that prisons and detention centres are not supposed to be dream homes, but places where people who enter would prefer to get out as soon as they can but, strange enough, they are going back, and that is an indictment, again, against successive governments. Prisoners still use pails. In the 21st Century, just imagine the smells and the conditions. The prisoners, that is one thing, but it is also the workers who have to endure those conditions. So if those workers stood

up tomorrow, the prison officers, and say, "We down tools", this very Government would say, "It is not a health and safety issue, it is wages they are looking for", and the public who are inconvenienced would turn around and say that they are heartless. But unless they did that, there will be no improvement.

Those are the conditions workers, employees of the State, have to endure 24/7, and who cares? Not the Government. Not the previous governments because these have done nothing about it. The inspectors did nothing about it and no one was held accountable. So when we speak about justice and restorative justice, they are nice phrases and they are the pretence of doing something. This Bill is a pretence at doing something, as long as prisoners are still taking out their pails, and as long as the workers in those prisons have to endure those conditions, it is a pretence. It is a smokescreen.

There is a philosophy underpinning environmental psychology which suggests that behaviour is affected by the surroundings in which it occurs, and there is a symbiotic relationship between the physical environs and all creatures. So if the environment is toxic, then we become ill, and people will be stressed, and the artificial character of all this concrete and mortar, and fencing and burglar-proofing, it induces anger, mental disorders and contribute to crime. So the environmental psychologist will tell you that, particularly when we are dealing with children, there should be smart spaces if we really intend to rehabilitate them and prevent them from re-entering detention centres or, later, the prison walls, and we need people who are properly trained, who have, what you would call, the "emotional intelligence" to understand that they are dealing with human beings.

As a matter of fact, one should say just "beings", because most of us treat our animals better than that, than we treat our prisoners and we treat our children in those centres. So while this Bill is about establishing a body corporate to be known as the Trinidad and Tobago Inspectorate of Prisons, and while it has a mandate to investigate and report to the Minister on the treatment of prisoners and young offenders, I remain doubtful that this body corporate would make any difference in the treatment of juvenile offenders. Anything that has to be done to improve the lot of the children can be done without this piece of legislation.

Anything that has to be done to fix the environmental conditions within the prison can be done without this, [*Desk thumping*] we know what the problems are. I am not saying that you should not bring modern and up-to-date legislation; that is not what I am saying. What I am saying is that we do not seem to get our properties right. We do not get our priorities right because children cannot vote, but it is a pity, though, that those who have raped the Treasury, and it is a pity that those who have misappropriated investors' funds and savings of people, some of whom have died waiting for it, it is a pity they are not smelling what is in the pail, 24/7.

So someone should be held accountable for the inhumane treatment of children at St. Michael's School for Boys where they are supposed to be protected and rehabilitated. The death of Brandon Hargreaves warrants urgent attention, and I want to call again upon the Government, in the budget that is coming up for 2015, please set aside the funds, give us just one centre, one state-of-the-art centre, and buy from, wherever we could get it, the talent we need and use it as a model with respect to children.

I want to reflect again on the statement the Minister made with respect to improving the justice system and, specifically, in that regard, I wish to mention that how the police and soldiers are going about the pursuit of gathering evidence to prosecute criminals, impacts the entire criminal justice system. So if either the activities on the part of the police, or soldiers, are such that these behaviours could undermine the process of justice because of the perception of the illegal targeting of citizens, then it should be high on the agenda of the Government and, in that regard, it has been placed in the public domain by several people, including editorials, the recent operations of soldiers. It was also placed in the public domain by the Commissioner of Police, but what struck me was what a retired Major General said, which was Major General Ralph Brown, and simply, he said, if soldiers are in fact patrolling independently, it would be interesting to know who ordered the patrols, and it follows that if the Commissioner of Police did not request the patrol, independent patrol that is, and the Chief of Defence Staff did not order them, then the patrols are in fact illegal under law and the Commissioner has stated, they should be arrested.

What also struck me was the response of the Minister of National Security, or the alleged response to that particular letter, which goes to the heart of the criminal justice system, because of where that alleged response came from. Well, in the first instance, I read a report where he allegedly said that he believes the criminal element is courting the media to create a negative public perception of the patrolling soldiers. He also went on to say in another telephone interview, when he allegedly criticized Major Brown, he said:

> It appears that General Brown has a problem with understanding the difference between an operation and an independent patrol.

So there is an independent patrol. He said:

> As far as the patrols go there is nothing illegal about them and, as such, the statement made by Brown without any knowledge of what was taking place was irresponsibility to the highest degree. Thankfully, he does not hold any position of authority, because if he did then he would have turned the situation into a big mess.

With all due respect, Sir, if you did say that, you were highly disrespectful of a retired senior of the defence force who came to the rescue of this country in 1990, during the attempted coup, and who has served this country with courage, dignity and humility, a humility that is lacking in the Ministry of National Security. There was no need to attack the integrity of this retired and honoured soldier, more so when he was right in his statement.

The issue is not one of soldiers operating with the police, they have done that for years. It is not an issue of whether Laventille is sleeping more peacefully with the soldiers there. It is an issue—are they operating illegally or legally, that is the issue. So, if the Commissioner of Police has said what he has said, and if the head of the defence force is silent on the matter, the public has every right to form their own conclusions. And if civilians are going to the media instead of the police, or the rightful authority to lodge their complaints, then, again, that is an indictment of the criminal justice system, when civilians are afraid to lodge complaints with the official authorities and feel they must do so first through the media. So the Minister of National Security should take note. It should send them a message that, in fact, it would appear that the Ministry of National Security is missing in action, it has gone AWOL on the public and that is why soldiers are operating independently of police outside of a proper legal framework.

So that let me close by saying, the Minister of National Security, as a junior to the retired Major Ralph Brown, was out of place and out of sync with a public reality, and the fact that such behaviours create negative perceptions with respect to the criminal justice system. I want to close by thanking you, Mr. Vice-President, for this opportunity to say a few words. [*Desk thumping*]

4.15 p.m.

Sen. Faris Al-Rawi: Thank you, Mr. Vice-President. I rise to join in this debate, which is a very important one, but seems a little simplistic. Mr. Vice-President, I sometimes think that Trinidad and Tobago, as seen through the eyes of this Government, is in a very dangerous place.

We are discussing legislation here today to amend the Prisons Act. We are doing so in a situation where every citizen would probably say, "Look, the quality of my life is what is more important to me than the quality of prisoners' lives"; and they say so, from my perspective as an attorney, until they or someone in their family or one of their close friends happens to pass through a detention centre, be it in a police station, or actually spend time incarcerated. I will tell you, there is nothing more brutish, gory and filthy than the prisons of Trinidad and Tobago.

It is true, as Sen. Drayton says, that successive Governments have not stepped up to the plate. We can offer loads of explanations, one way or the other, as to why that may not have happened, but we are going to focus today on the propriety of this particular legislation. Suffice it to say there is a legitimate aim before this Parliament, one which we can support. The legislative intention is a good intention, that is, to make some sort of amelioration to the prison situation in Trinidad and Tobago. The prison situation is, after all, part of the inter-articulation of the systems which comprise the criminal justice system as a larger whole.

We are looking at the passage through the courts. We are looking at prosecution by the State in the DPP's office. We are looking at police prosecutors. We are looking at the Children Authority in dealing with juveniles that may pass through their halls. We are dealing with the Legal Aid Advisory Authority. We are dealing with detention centres, as sometimes we deal with the Constitution of Trinidad and Tobago, as we do when we have a state of emergency, as this Government called one. We are dealing with the defence force. We are dealing with the Trinidad and Tobago Police Service, and the prisons have received a lot of academic and judicial attention, being as Madam Justice Gobin put it, hell holes in Trinidad and Tobago.

Not only are the prisons hell holes, but it seems—and I stumbled upon it in looking at what the hon. Minister had to say. The hon. Minister told us that the statistical information today is that there are—and if I want to get the figure correct—3,176 prisoners incarcerated today. I looked at the data arising out of the Inspector of Prisons report—and permit me to state for a moment, whilst the PNM had objection to a practising criminal attorney, as Mr. Daniel Khan is, occupying the position of Inspector of Prisons, I have to say reading his report, all 516 pages of it, that he has produced an excellent piece of reporting and he has done some excellent work. I want to pay him significant tribute to the work that he has done, because I think that he has put our country to a better place. I invite all Independent Senators, as I always do, please read the Inspector of Prisons report, Mr. Vice-President, through you, because it provides the statistical information that the Government does not give.

When I looked at the figures coming out of this report of the Inspector of Prisons: 1958, there were 1,043 prisoners; 1959, 1,066 prisoners; 1960, 1077. We jump now to 2011, 3,721; 2012, 3,656, and now we go down, 3,176. So we have gone from 3,700-odd to 3,600-odd, now we are at 3,100-odd. That is quite interesting. It actually resonates perfectly well with what I have been saying in the Parliament, time and time again, that we are actually dealing with a situation where the detection and conviction rates in Trinidad and Tobago are at an all-time low. [*Desk thumping*]

I have put onto this record statistical information which demonstrates that the conviction and detection rate for murder—I am dealing with the most important of the events—in 2008 was 15.9 per cent. It rose in 2009 to 26.8 per cent. In 2010, when the Government came in, it dropped to 22.8 per cent. In 2011, it dropped again to 21.9 per cent. In 2012, it dropped again to 16.6 per cent. In 2013, it dropped to 10.3 per cent. Mr. Vice-President, I say again that the detection and conviction rate lies somewhere around 3 to 5 per cent. [*Desk thumping*] And I do not say that with any pride; I say that fully conscious that it is the citizens of Trinidad and Tobago that have to suffer for the incompetence, ineptitude and misrepresentation by this Government as to the true statistical information. [*Desk thumping*]

I want to spend a second on statistics. I heard my learned colleague—soon to be running for Couva South as he is, or Couva North, Sen. Devant Maharaj—[*Interruption*] I heard him in a statement again today quoting statistics, and my jaw nearly fell open to the public, because this is a Government that spends a massive amount of time feeding distraction to the country. It gives gross misrepresentation to the country, and let me tell you why I say this. [*Interruption*]

It is a fact that the Central Statistical Office is shut down in its main division. [*Desk thumping*] The employees of the Central Statistical Office, from whom we should have statistics, are, in fact, attending to work only at 10.00 a.m. every morning, at the corner of Park Street and Abercromby Street I think it is, when they turn up to handle a protest every single day by signing the register. They have not come to work for a year plus, and this Government instead seeks to rely upon statistical information, from themselves onto themselves, for the people of Trinidad and Tobago, telling us that the unemployment rate is 3 per cent; telling us that the inflation rate is some ridiculous figure. Mr. Vice-President, we do not trust the Government. [*Desk thumping*] This is a Government that is capable of spending vast amounts of taxpayers' dollars on public relations to distract the public. Let me tell you what I mean.

The last time we dealt with a serious issue that I brought out, it was the existence of a report that confirmed a flying squad, an illegal flying squad. That was met with the Attorney General going up and down Trinidad and Tobago to say I had committed treason. We dealt with another distraction when "prisongate" reared its head, saying that the PCA had leaked confidential information. Last week as we dealt with the gripping situation in LifeSport, where crimes are being committed in Trinidad and Tobago, the conversation changed to personal attacks.

You do not find that very convenient, that as we marched towards a report on the LifeSport programme, where the newspapers in Trinidad and Tobago tell us about the LifeSport—[*Interruption*]

Sen. Maharaj: Mr. Vice-President, 35(1). Is this debate about distractions or about the prison debate?

Sen. F. Al-Rawi: You are not allowed to stand on your position. You can rule, of course, Mr. Vice-President. [*Laughter and crosstalk*]

Sen. Singh: "Do so eh like so."

Sen. Griffith: "Dat only happen to you!"

Mr. Vice-President: Senator, let me just ask that you keep in line. Please continue.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President, as we move quickly along.

When we look to the situation of crimes and detection and where we are putting people into jail, when we see in the *Express* newspaper:

"No LifeSport schools for 25"

An entire article, papers back and forth, telling us about corruption, about defrauding the State, about stealing money. When we deal with a situation where contracts are given out for catering services to members of the family of the—[*Interruption*]

Sen. Maharaj: Mr. Vice-President, again 35(1). The Bill before us is Miscellaneous Provisions (Prisons) Bill, 2014. He is getting into the LifeSport programme.

Sen. F. Al-Rawi: We do not need your explanation. Have a seat.

Sen. Maharaj: You alone must be able to explain.

Sen. F. Al-Rawi: Yes, it is my turn to speak.

Sen. Maharaj: You are a practitioner that is why?

Mr. Vice-President: Hello, Senators, please, please, please. We cannot afford this bantering as we had on the last occasion. I want us to remember that we are exemplars for those who are listening out there, and we must conduct ourselves in the particular manner. I am asking that, Senator, please keep in line and continue.

Sen. F. Al-Rawi: Mr. Vice-President, I am perfectly in line and I thank you for supporting that position. My friends opposite get very upset that I am diligent in pointing out their faults, but they cannot stop me. [*Desk thumping*]

I was saying in dealing with crime: Sherwin Creed, Darryl Moses, Shanice Pollonais, all children of the family of the three various associations of Mr. Creed, all receiving contracts for catering services, in what I am told and what I am advised are corrupt circumstances—lies under the nose of this Government. I am absolutely confident that there are attempts to distract this population from the realities of crime happening under the noses of officers and Ministers in Ministries, is something that upsets them deeply, because there is an open war between the Minister of National Security, it seems, and the rest of the Government. It is no wonder therefore that my learned colleague, Sen. Maharaj, finds it difficult to keep himself in his seat, because it is not a pleasant thing to hear the truth coming out at you. [*Interruption*]

Mr. Vice-President, I want to put this in the context of the budgetary allocations that the prisons authorities would have had to receive. I want to connect the dots for the members of the listening public. [*Interruption*]

Sen. Maharaj: This is a kindergarten, connecting dots now.

Sen. F. Al-Rawi: We are dealing with—Mr. Vice-President, you know, Sen. Maharaj has the option to contribute to the debate. He will not contribute, as is his habit, but those of us in the Opposition that come prepared every time will always contribute. [*Desk thumping*]

But anyway, I took a look at the budgetary allocations, and what would have dealt with the criminal justice system including the prisons, for the Ministry of Justice, for the Attorney General and for the Ministry of National Security, the three arms of State which deal with this particular issue of the criminal justice system.

Mr. Vice-President, it is a staggering $17,527,279,017, close to $20 billion of money. When one appreciates that you are dealing with a Ministry of Justice which has received $2.24 billion itself. Being the first of its kind, being in 2012 the Ministry appointed for certain specific points of law, specific pieces of legislation, and the prisons in particular, we have to ask ourselves: If this Government can in four years spend the equivalent of nearly 10 to 12 years of budgets back to back, how is it we have not seen any amelioration in the prisons system? [*Desk thumping*] [*Interruption*]

Mr. Vice-President, I see we are on the cusp of 4.30.

Mr. Vice-President: Thank you, Senator. Hon. Senators, the time is now 4.30. I intend to take the tea break and return at five o'clock; therefore this sitting is suspended until 5.00.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed*.

Mr. Vice-President: Hon. Senators, when we suspended the sitting, Sen. Al-Rawi was on his feet. So, Sen. Al-Rawi, you have 30 more minutes.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. [*Desk thumping*] Mr. Vice-President, thank you for the opportunity to continue the debate on this very important piece of legislation.

As I was saying before the break, Mr. Vice-President, the Opposition very much supports the legislative intention behind this Bill, but has problems with the particulars of the prescriptions which we feel ought to be in the law, and we hope to address the Government on these issues so that we can together find some degree of solution to this dilemma that we find ourselves in.

Mr. Vice-President, I was saying that in the context of having spent, in total, between the Ministry of the hon. Attorney General, the Ministry of National Security and the Ministry of Justice, some 18-odd billion dollars in a four-year period, Mr. Vice-President. I was saying that it is staggering when one considers that that budgetary allocation of roughly $18 billion by far outstrips nearly 10 years of budgetary allocations for three Ministries, leaps and bounds. One wonders what the result has been in terms of finding a solution to the one cog of the wheel that the prison system represents in that whole machinery that is the criminal justice system.

Now, Mr. Vice-President, the particular legislation that we are dealing with is the Prisons Act. It is an Act entitled Act No. 27, of 1900; so it is some 114 years old as a piece of law. And, Mr. Vice-President, it is interesting to note that the Government, when in Opposition, and in particular in 2009 and in January 2010, when debate on an amendment to the Prison Rules was heard in this Parliament that there was chapter and verse prescription by then Opposition Members who now sit as Government Members, telling us, Mr. Vice-President, what should have been done in Trinidad and Tobago to fix the prisons situation. A gentleman by the name of Roodal Moonilal, sitting in the Lower House as he did back in 2010 and 2009, went through every form of prescription as to how the UNC saw the solution to the prison system.

He went through cell phone jammers. He went through scramblers. He committed to being a "tech buff". He said that he could use a Bluetooth device alone for a headpiece, and find every bit of equipment that was hanging around inside of the jail cells. And he wondered why the Government could not find an easy fix to the solution. He talked about, and he chastised the Government then for coming up with a piecemeal

approach. He very well knew that the 2010 Prison Rules, the 2009 Prison Rules were in full production and had been produced. He knew that they were being the subject of consideration, and that there was consultation in respect of the Prison Rules. He knew that the criminal justice system was being moved forward and advanced in every aspect of the situation but, in particular, he could have witnessed the crime situation through the lens of detection and conviction in watching gang-related activities, have a conviction—a detection and conviction rate of up to 39 per cent, Mr. Vice-President.

So, one wonders—having outstripped the PNM and past governments by spending, in four years, more than 10 to 12 years of budgets put together, back to back, in these three Ministries—how the Government has not come up with the solution, Mr. Vice-President.

Mr. Vice-President, when we looked at the Inspector of Prisons Report there is a very startling observation that the Inspector of Prisons notes. He notes, Mr. Vice-President, that it is spectacular, he says here at paragraph 36 of the report submitted by him, The Republic of Trinidad and Tobago Inspector of Prisons 2012 Report. He says at paragraph 36:

> "What is perhaps most startling are the statistics that reveal the obvious overcrowding. At the Port of Spain Prison, Carrera Prison and Remand Prison"—which is—"(Golden Grove) the number of inmates is more than double the institutions' capacity.
>
> While the 1943 Prison Rules state that no more than two (2) prisoners should occupy one cell, the stark reality is that six (6) to eight (8) prisoners occupy one cell in Port of Spain…
>
> On the other hand,"—he says at paragraph 38—"statistics provided in the Overview of the Maximum Security Prison show that this prison is severely underutilized, with only 25% of the prison cells being used."

He says:

> "The simple solution would be to transfer prisoners from overcrowded prisons into the Maximum Security Prison. However, there are technical difficulties in over 25% of the 600 cells and 50% of the 600 cells are unoccupied because of staffing issues."

Mr. Vice-President, how is it this Government, who is blessed with an Attorney General who tells us that his visit to the Maximum Security Prison shows "happy souls looking at movies, growing barbadine and having a jovial time", as he told us in the Bail (Amdt.) Bill, Mr. Vice-President; how is it that this Government having built a

correction facility in the east, having spent $80 million in renovating a facility which they do not own; having built a facility which the residents have objected to and have no form of consultation in respect of; how is it that this Government can watch us, having spent close to $17/18 billion of revenue; and tell us that they have not transferred the overcrowding capacity in Port of Spain and wherever else into the Maximum Security Prison at Golden Grove, 25 per cent occupied, and also into the Santa Rosa facility, Mr. Vice-President?

Where we paid Wala Wala Limited close to almost $2 million a month—if I remember the figure—$2 million a month for the rental of the facility, $80 million spent on outfitting the facility for a state of emergency where thousands of people were herded up and released, as the Attorney General says all the time, "like a dose of salts back into the system". We find that, in the Opposition, reprehensible and shameful, Mr. Vice-President, because the statistical evidence, the recommendations coming out of the Inspector of Prisons demonstrate that this is something that can be done.

You, I am sure, Mr. Vice-President, wearing another hat as you do, are aware that the trade union movement would be very pleased to support proper terms and conditions. They would be very pleased to see the hiring of more prisons officers. They would be very pleased to see part of the $300 billion spent by this Government passing through to the general public and the hands of the employed persons in this country, rather than the select few contractors who are privileged enough, as they are, to receive close to $2 billion, some of them in contracts by themselves, Mr. Vice-President and, of course, I mean people like SIS.

Now, Mr. Vice-President, when I looked to the structure of the legislation itself and I watched the amendments that are proposed, I want to address the hon. Minister's statement to the Parliament that we should find comfort in he having supposedly dealt with the issue as to whether the prescription of qualification ought to be contained in the legislation, in these amendments that we propose. And, Mr. Vice-President, what concerns me is that the hon. Minister in seeking to hide, quite dangerously I believe—not wilfully I think on his part, I think he caught himself unwittingly—behind giving accolades to the Chief Parliamentary Counsel, in giving accolades to the Law Association, and in giving accolades to the Judiciary, quite unfortunate as I think that slip was, I think that he missed the point entirely. He said to the Parliament that we are patterned after the UK.

Now, Mr. Vice-President, after saying that we are patterned after the UK, he said that we should find comfort that firstly, the existing law does not have the prescription for qualification set out. And secondly, that we should find comfort

in creatures who are clothed by the Constitution of Trinidad and Tobago without qualification. And he referred to two of them in particular, the Ombudsman and the DPP. Let me deal with those three issues.

Number one, Mr. Vice-President, I took a tour of the laws referred to by my learned colleague. I specifically dealt with the laws in the United Kingdom. I specifically looked at the laws in Scotland. I looked at the laws in the United States and the laws in Ireland. If anything, I think we are closer to the prescription of the Irish law and their 2007 legislation, more so than the English prescription. But what I found shocking is that the hon. Minister did not tell the Parliament that in England, whilst the legislation permits the Minister to make the appointment, Mr. Vice-President, the House of Commons Justice Committee appointment of Her Majesty's Chief Inspector of Prisons is specifically charged with the responsibility of scrutinizing the proposed nominee, Mr. Vice-President.

So it is definitely not the case that it is just the Minister of Justice in England, who he says that we are patterned after in these proposed amendments. It is not that Minister of Justice that just makes the recommendation. The research is clear. The report of the House of Commons Justice Committee is in green and white, not even black and white, and it says specifically, pre-appointment hearings were recommended in the liaison committee report, shifting the balance select committees, and that there are a list of posts by the Government—proposed by the Government—as suitable for pre-appointment scrutiny; and that has been published.

And specifically on March 03, 2010 for instance, the Secretary of State in proposing Mr. Nicholas Hardwick, Chairman of the Independent Police Complaints Commission as he then was, in his new proposed post of Chief Inspector of Prisons, that—

> "The preferred candidate for this post is subject to scrutiny by Parliament Select Committee prior to appointment."

5.15 p.m.

So, it is definitely not the case in reforming the law as we hope to move to a better position from the law prescribed by Act No. 27 of 1900, that is the Prisons Act, in wanting to move forward and in adopting a model which is the UK approach. The UK law is clear, there is parliamentary scrutiny of the appointment. So, it is not true to say that it is just the Minister that appoints. Mr. Vice-President, the literature arising out of the United Kingdom, also points to the fact that Her Majesty's inspectorate in England has a further level of filter, and that is the prison's ombudsman for England and Wales.

So, Mr. Vice-President, our system is not equivalent to the United Kingdom system. This Government has had the experience in this Tenth Parliament, in the first session of Parliament, of prescribing someone by the name of Resmi Ramnarine as the head of the SSA. They proposed a telephone operator to rise to the position of the head of the SSA and they expect us to be comforted in the tradition that usually good appointments are made. Mr. Vice-President, after Resmi Ramnarine, after section 34, after watching the vetoing of the appointment in the FIU position, as it happened, we are not convinced that this Government is to be trusted. [*Desk thumping*] Far from the truth be that position.

Now, Mr. Vice-President, my learned colleague, the Minister of Justice, sought to find comfort in the offices of the DPP and in the Ombudsman. I wonder if he bothered to flip to the legislation, the Constitution, the supreme law of Trinidad and Tobago. The Ombudsman:

> "There shall be an Ombudsman"—section 91—"for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of the office.
>
> The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition."

Does he not appreciate, and I am sure he does, that that is scrutiny in and of itself?

The Director of Public Prosecutions, section 90 of the Constitution, falls within a category of a movement of a legal officer up the ranks through the DPP's department, where there can be a consistent approach by the Prime Minister in exercising her veto, if necessary, or in otherwise having public scrutiny to the position of the Director of Public Prosecutions. How do we compare those two posts to what the hon. Minister said to this Parliament, Mr. Vice-President? Most respectfully, it just does not add up.

Mr. Vice-President, the position of the Chief Parliamentary Counsel—I want to delink the Chief Parliament Counsel from any kind of culpability that this Government suffers unto them. [*Desk thumping*] The Chief Parliamentary Counsel drafts laws based upon the policy given to it by the Government. When we criticize the Government and we say that this Government is guilty of bringing the worst thought-out legislation to Parliament, until we spend time in trying to fix it as an Opposition and as a Senate, we can never pour blame or scorn on the good officers of the Chief Parliamentary Counsel.

They could not take the blame for the Defence (Amdt.) Act; they could not hold the responsibility for soldier/police Bill. Look at what is happening in Trinidad and Tobago today. You have a position where Major General Ralph Brown is saying to our Minister of National Security, who is a hard-working man, the Minister of National Security—you are hearing a situation where you can say, soldiers cannot act by themselves.

Sen. Maharaj: Mr. Vice-President, 35(1), what is the relevance of Major Ralph Brown?

Sen. F. Al-Rawi: This is not permitted, you know. This is not permitted. We will both sit and he will rule. You have a habit of exercising the wrong privileges.

Sen. Maharaj: And you exercise the right one?

Mr. Vice-President: Senator, please! Please, continue.

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. [*Desk thumping*] Keep your seat, Sen. Maharaj, do not—[*Interruption*]

Sen. Cudjoe: Sip your porridge cool.

Sen. F. Al-Rawi: Sip your porridge cool, as my learned colleague Fitzgerald Hinds used to say here.

Mr. Vice-President, that interruption by itself is evidence of the Government's intention to distract the population. [*Laughter*] That interruption which seems to make no sense, because I cannot say it is nonsensical, but it seems to make no sense, is proof in the pudding that when you come close to dealing with the real issues, be it the rampant corruption in the LifeSport Programme. I said here a little while ago, Mrs. Creed that I referred to a couple weeks ago, being Mrs. Creed number three—[*Interruption*]

Mr. Vice-President: Senator, now this is something that was in the public domain where, I believe, that Mr. Creed had refuted the statement. It was publicly advertised. I would prefer that you would keep aligned with what we are doing and keep away the name of—[*Interruption*]

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. I would just like to clarify, in the privilege of exercising my freedom to speak in this Parliament on point and with relevance, as I do now, and as I shall link for you, Mr. Vice-President, that I do not accept a word of the attorney's letter written here because the evidence forward is that there are three Mrs. Creeds. But I was dealing with crime and I was dealing with conviction in people who end up at prisons, and the Government's attempt to distract this population from the truth. [*Interruption*]

And I am saying, Mr. Vice-President, categorically, that the evidence of corruption standing against the other Mrs. Creeds is there in the corruption that lies in the catering contracts. I am saying that fully well aware of the responsibility that I have as a parliamentarian. [*Desk thumping*] Now, Mr. Vice-President, chapter and verse of the proof exist and we can deal with that on another occasion.

Sen. G. Singh: You cannot make the allegation where people—[*Interruption*]

Sen. F. Al-Rawi: I am stating it with the responsibility that I am aware a parliamentarian bears when he says something. I am not making an idle position. Now, when we look to the legislation and we deal right now—[*Interruption*]

Sen. G. Singh: Three Mrs. Creeds.

Sen. F. Al-Rawi: Yes, and I am using that in the Trinidad sense of outside woman and outside woman, right?

Mr. Vice-President: Senator, Please! Please!

Sen. F. Al-Rawi: Yes. Mr. Vice-President, sure.

So, when we look—I have just dealt with debunking the Minister of Justice's position that we should find comfort—[*Crosstalk*]

Mr. Vice-President: Senators, please! Please allow the Senator to continue.

Sen. F. Al-Rawi: Do not get too excited. Take it. Right? So, Mr. Vice-President, I have just dealt with the debunking of the Minister's submission to the Parliament, that:

(a) we are modelled after the English precedent—far be it from the truth. The wording of the law may be the same, but he has not told us about the ancillary provisions which support the operation of scrutiny of the person to be appointed;

(b) I have dealt with the issue of the Ombudsman, and I have dealt with the issue of the DPP. [*Interruption*]

Now, Mr. Vice-President, I stand here very quietly, you know. I am listening to them, eh. So, Mr. Vice-President, when we looked to the sections that are proposed to be dealt with here, what is of immediate concern here, is that we are proposing a system of delegation. We are saying in this Bill that you can appoint—[*Interruption*]—sorry, I think Sen. Hadeed wants to talk about outside children. Do you have some you want to talk about?

Sen. Hadeed: I do not have any outside children. [*Crosstalk*]

Mr. Vice-President: Senators, I have ruled on that, could we please conduct ourselves, and let the Senator please make his contribution.

Sen. F. Al-Rawi: If he wants me to give way for him to talk, sure. [*Crosstalk*]

Mr. Vice-President: Well, he would indicate that. He has not indicated that. Please allow the Senator to make his contribution. Thank you.

Sen. F. Al-Rawi: If he wants me to give way I will be very happy to give way on the issue as to any outside children he may want to talk about in his camp. But, anyway—[*Interruption*]

Mr. Vice-President, it is hard when one mumbles to appreciate what they are saying, but anyway. [*Interruption*]

Mr. Vice-President: Senators! Senators, please!

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. This Bill proposes a system of setting up an Inspectorate of Prisons; it proposes that there be a delegation system; it proposes no form or prescription for qualification, which I think ought to be in the Bill, which we as an Opposition think, ought to be in the Bill, and it goes along a very dangerous line.

It says in the Bill here, that the Chief Inspector of Prisons and the Deputy Inspector of Prisons, they shall be appointed on a full-time basis. But, it says that they may appoint assistants—if you look to the proposed new section 21, and it says in the new 21(2)(b):

"An Assistant appointed under subsection (1) shall—

(a) hold office for a term not exceeding eighteen months;"

no explanation as to why just eighteen months, but that he shall—

(b) "have the powers and functions of the Chief Inspector of Prisons;"

So, we are allowing someone to come into this particular provision, step into the shoes of the chief inspector—the deputy—no prescription for the assistants, but we are giving them all the powers of the Chief Inspector of Prisons.

Now, Mr. Vice-President, I looked in the English law, I looked in particular at the Irish law, which is deemed to be sort of best in class when you are looking to reform of legislation, and that delegation of authority does not exist in those laws. And I wonder, where I am permitting assistants to come through the back door of the legislation with no kind of tenure other than 18 months' prescription, where

they are beholden unto a Minister for their pay, for their ability to be hired or fired, and I am giving them this kind of authority; I am wondering whether we would have a Resmi Ramnarine. I am wondering whether we would see the host of people that had presented themselves on behalf of this Government, on their state boards, with questionable issues in relation to their qualifications and bona fides.

I am truly worried because the delegation of that kind of power must be balanced and checked. After all, this legislation also proposes, in the functions of the inspectorate, that they shall have wide-ranging powers to investigate and report to the Minister on any complaint made by a prisoner or young offender. Let me put this into context. My learned colleague, Sen. Robinson-Regis, raised the issue of what is called, "prisongate", and I want to state openly, the attorney who has been named in that particular matter, Gerald Ramdeen, is somebody who I have a great amount of like for. I want to declare that.

I want to say, Mr. Vice-President, that I am anxious that he should have the opportunity to clear his name as well. He has been referred to in the Sambury judgment by Master Sobion Awai, as finding himself in a very terrible situation. That is not the only case. The Sambury case in which Master Sobion Awai made observations, which are damning in the extreme, is not the only case. There are other cases. If the Sambury has copy and paste allegations of a certain level, the other cases have.

But, what I found very unusual, and I am drawing the analogy to the appointment of the assistants inside of here and the need to have scrutiny, because we are moving beyond the appointment of one person. We have an Inspector of Prisons right now; we are saying, create an inspectorate, create a deputy and create many assistants, unlimited in number. What if I have a situation as the Prime Minister created?

The hon. Prime Minister, in seeking to get to the bottom of the prisongate issue, said to the Attorney General, an allegation has been made, "I have received a letter from the Chief State Solicitor, from Eleanor Donaldson-Honeywell. I have received a letter from her, so I am going to send it back to you, Attorney General, to check yourself". How do we find ourselves in a situation where any complaint to be dealt with under this legislation is not going to find any assistant with a very convenient purpose as this Government has?

Mr. Vice-President, I am sorry to put it this way. There are a lot of hacks hired by the Government to carry out the Government's purpose, being paid with state resources. That is a fact. I am very concerned that in creating this inspectorate, in allowing the ability for assistants to come in, unlimited in number, unfettered by

qualification, that we are going to find ourselves in a situation, like the hon. Prime Minister has suggested, where she saw it entirely fit to ask the Attorney General to investigate his own issue. The statement from the hon. Kamla Persad-Bissessar, SC as she is, Prime Minister of Trinidad and Tobago, dated April 30, 2014, refers. She says:

> "Subsequent to the submission of a letter from the Solicitor General advising that an investigation be conducted into matters involving lawyers engaged in prison litigation, I immediately addressed the matter with the Honourable Attorney General. My efforts in this regard met with the satisfaction of the then Solicitor General through a subsequent letter in which she states:"—and she goes on.

You just heard Sen. Robinson-Regis read out that letter, Mr. Vice-President, which said, in specific words of the Solicitor General—

5.30 p.m.

Mr. 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. G. Hadeed*]

Question put and agreed to.

Sen. F. Al-Rawi: Sometimes I am left speechless [*Laughter*] and I must say with great gratitude that I thank Sen. Hadeed for moving the extension of time and my learned colleagues for supporting it, and then I do not feel like an outside child now, Mr. Vice-President [*Laughter and desk thumping*] as a result of his Motion. So thank you, hon. Senators.

Sen. Robinson-Regis: "In here you is an outside child?"

Sen. F. Al-Rawi: Well, it is true I am half-breed, but let me not go that way. So, Mr. Vice-President, you heard Sen. Robinson-Regis speak to the issue of the Solicitor General's dissatisfaction that, in her words—and we do not know where the truth lies yet—but in her words she felt that the Attorney General had not acted in the manner which she expected. But yet the hon. Prime Minister proceeds to say:

> "notwithstanding the above, I have noted the current concerns… I have further noted the recent calls by the Prison Officers Association for the matter to be probed further.
>
> In this context I have advised the Honourable Attorney General to meet…the Acting Solicitor General, Commissioner of Prisons, Inspector of Prisons, the Minister of Justice, Chief State Solicitor to address the said concerns raised…"

Mr. Vice-President, really, are we going to find ourselves in operationalizing this law, where we have delegatees with full powers of the Chief Inspector, dealing with a situation of a cover-up? I do not know. The present law has one person acting as the Commissioner of Prisons. By the way, the Irish law has one person acting as the Commissioner of Prisons. They have, Mr. Vice-President, a similar situation to other jurisdictions. In the United Kingdom, 85,000 people are in prison; not 3,000 people. They have a lock-up rate of 153 per 100,000. The United States has 743 per 100,000. The United States has 2.2 million people incarcerated.

So, Mr. Vice-President, it is not unusual as we see in the Irish legislation to have one Inspector of Prisons. The question is the resources given to the Inspector of Prisons and the ability to hold that appointee to account. I fear that by opening the door for a system of delegation to assistants, as we see in this proposed Bill, that we are inviting ourselves—unless there is the prescription of qualification, not only for the Chief Inspector and deputy, but also for the assistants—I fear that there is room for mischief. And there is mischief potential, in particular, because there is no security of tenure. There is mischief, in particular, because it is the Minister's appointment and the Executive ought to always be fettered in its operationality. And if we are seeking to better the system that exists right now, and move to a broadening of the system, I dare say that we are putting the system into further jeopardy than exists right now.

Whilst the current Inspector of Prisons may have limited resources and be one man, it is not an impossibility that one man can do the job. Look to the Irish 2007 Bill. What is required is for some of the $2.3 billion that the Ministry of Justice has spent to be paid across to ensure the operationality of prisons. What is required is part of the $18 billion that has been spent between National Security, Attorney General and the Ministry of Justice to have some of that spent in relocating the prisoners out of the Remand Yard, into Golden Grove where there is a 25 per cent occupancy rate; to have them also fill the Santa Rosa facility if it is indeed going to be a facility and indeed going to be acquired—we would like to hear from the Minister on that—so that we can balance out the distribution and hire more officers. That is the cry inside of the Inspector of Prisons Report, that there is not enough capacity of officers.

But, Mr. Vice-President, when you look to what the Prisons Association had to say, the press release issued by them in relation to the prisongate matter again, the press release under the hand of Ceron Richards as President, quite flatly refused to deal with Attorney General; quite flatly refused to deal with a situation

where they perceived from their press release that it would be a situation of the Attorney General and, should I say, the office of the Attorney General investigating itself. So, Mr. Vice-President, we need to be very careful as to how we proceed there.

Now, Sen. Robinson-Regis raised a very interesting position inside of the Bill. And I do have quite a bit to say about the Bill in committee stage, Mr. Vice-President, in particular in relation to the operationality of the Interpretation Act, and section 39 of the Interpretation Act, Chap. 3:01, and why it is we as a Parliament feel the need to prescribe how somebody can be dismissed when the power to appoint under the Interpretation Act also includes the power to revoke. But anyway, I will save that for committee.

Sen. Robinson-Regis raised the issue of the qualifications, the bare qualifications prescribed, that the Chief Inspector of Prisons ought to be a person of good standing. Is that really good enough? Let me put it into another example. We have a situation where we have nationals of Trinidad and Tobago detained in Venezuela. The detention of those persons in Venezuela has happened as a result of this Government's representative saying to SEBIN, the Venezuelan authorities, that the persons that they have in custody, that some of them were facing an issue under the state of emergency where there was an assassination attempt against the life of the Prime Minister. We heard stories in the public domain that Muslim men were arrested because of a plot—the news media abroad from Trinidad and Tobago—were arrested in a plot where there was an assassination attempt against a Hindu Prime Minister. We in Trinidad and Tobago do not feel that way.

But, Mr. Vice-President, when you look to the fact that the Government of Trinidad and Tobago has received certificates of good character—certificates of good character from the Ministry of National Security—we ask the hon. Prime Minister and the Government, how is it that they have not acted with alacrity to clear the names of the persons who are detained in Venezuela in circumstances where their family members are crying for their freedom, if it seems, that the only reason that they are being detained is because of the criminal charges—[*Interruption*]

Sen. Maharaj: Mr. Vice-President—[*Interruption*]

Sen. F. Al-Rawi:—that stand against them.

Sen. Maharaj: Standing Order 35(2), a judicial decision is pending on this matter outside the jurisdiction.

Hon. Senator: That does not even apply.

Mr. Vice-President: Is it a fact that that is happening and you are being—

Hon. Senator: Yes, it is in the courts in Venezuela.

Sen. F. Al-Rawi: May I assist you, if you need me?

Mr. Vice-President: No, I am fine. Standing Order 35(2):

> "Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto."

As far as I am aware the matter, is true and in fact, is pending, while there are still some of them in Venezuela. So I would rule that you would refrain yourself.

Sen. F. Al-Rawi: Sure, Mr. Vice-President, if I may on a point of privilege, the privilege to speak here—[*Crosstalk*] hold on, I am not challenging your decision, but if you would just hear me, Mr. Vice-President—[*Interruption*]

Mr. Vice-President: Allow me to listen.

Sen. F. Al-Rawi: In relation to the point of privilege and the freedom of speech in this Parliament under section 55 of the Constitution as well, I am referring to Trinidad and Tobago. The Standing Orders that prevail here [*Desk thumping*] are prescriptive in two ways: one, that I should not refer to the matter in such a way as to prejudice it, and secondly, there is no court of Trinidad and Tobago with binding or persuasive authority other than the courts of Trinidad and Tobago. [*Desk thumping*] And there is no matter before the courts of Trinidad and Tobago. I cannot be fettered, respectfully, and I ask you simply to consider, I cannot be fettered by a court in Timbuktu—[*Crosstalk*]

Mr. Vice-President: Please, please, please, the Government of Trinidad and Tobago did in fact intervene in the particular—so therefore, indirectly the Government of Trinidad and Tobago is therefore—so I am asking, I am ruling based on your interpretation that you should not continue calling reference to the people there. Thank you, I have ruled.

Sen. F. Al-Rawi: Mr. Vice-President, I will have to be guided by your ruling, but I just want to say that I will address the matter with you, perhaps, after, at the arm of your Chair, because I consider that my friend is boldfacedly wrong, and he knows it. [*Interruption*] My friend, my friend, I abide by your ruling, Mr. Vice-President.

Sen. Maharaj: Mr. Vice-President, 35(5).

Sen. F. Al-Rawi: He is wrong! You are not, Mr. Vice-President. [*Interruption*]

Mr. Vice-President: I have ruled on the matter, please.

Sen. F. Al-Rawi: So, Mr. Vice-President, I would abide by your ruling and have a chat with you after as I ought to, and I hope I get some injury time for his interruptions. So anyway, in the circumstances that I am speaking about, I call for the Government to act with alacrity in finding a solution to an untenable situation.

Sen. Maharaj: You gone back there again?

Sen. F. Al-Rawi: Now, Mr. Vice-President, yes and I will go there every time, you cannot shut me down, Sen. Maharaj, never, not you. So I want to raise a very important issue: the detention centres that exist at the airport are very critical in this whole structure.

Mr. Vice-President the state and condition of our detention centres at the airport, and the cells under which this legislation operates, is in a terrible situation. And I want to put on record a very bold statement now: as a result of the state and condition that our airport is in and our security system is in, in the airport of Trinidad and Tobago, we are at the cusp of being given visa restrictions to the United Kingdom. Let me repeat that for all the world to hear: the Government of the United Kingdom, the Home Office of the Government of the United Kingdom is about to put in restrictions on the citizens of Trinidad and Tobago to enter the United Kingdom, and the Government is aware of this, unless we do something about the security systems at the airport, the detention centres at the airport. And our citizens ought not to be placed in such an invidious circumstance, with massive expense, with implications to trade, to tourism, to travel, such that Jamaica can tell you of the woes that they face under the same restrictions.

And, Mr. Vice-President, the Minister of Finance and the Economy needs to act with a hurry in his step to take the Ministry of National Security out of the predicament that it is in. Because the Government is well aware that the resources to fund the kind of security upgrade that we need to have in our prisons and at our airport in position, is available right now and it only takes a stroke of the pen of the Minister of Finance and the Economy to equip the Minister of National Security with the ability to spend good money in the right place.

Our citizens are facing a scourge of criminality. The Government will do everything in its step, as I am sure any Government would do, to try not to be labelled and pinned with the allegations that surround any position of corruption. The LifeSport Programme must be burning the Government badly, Mr. Vice-President.

Sen. Maharaj: You gone back there again.

Sen. F. Al-Rawi: Yes, I will come there every time. The state of emergency burned them, the loss of security systems, Mr. Vice-President, $1 million in security cameras destroyed in a month.

Sen. Maharaj: Rowley burning you.

Sen. F. Al-Rawi: One million dollars in security cameras, the blimp is looking awfully cheap right now. The blimp is looking awfully cheap right now when one security camera cost $60,000 to replace.

Mr. Vice-President: You now have two minutes remaining. I have taken care of the situation where you requested. Please abide by it. [*Desk thumping*]

Sen. F. Al-Rawi: Thank you, Mr. Vice-President. So I wish to say in summary that the situation of this legislation, this legislation is dangerous. The dilution by way of opening the back door for an 18-month period for assistants is a terrible deviation away from where we ought to be. The English law precedent, the Irish model, the Scottish model have different systems of scrutiny and support.

5.45 p.m.

I am saying that circumstances of criminality where our detection and conviction rate is as low as it is—coming out of the Minister's own mouth—where we have less people in prison now with a higher amount of criminality going on, where we have less detection and conviction, causes concern.

Those who are engaged in wrongdoing, in particular the current issue of the LifeSport Programme, better be wary because we are waiting on the report. When that report comes out, we will deal with the information that we have, that we have sent to the right places as well. But the situation at the airport of Trinidad and Tobago, where you can pass, unfettered, through security, in an inadequate circumstance—which may result at the cusp of it happening in us as a nation receiving visa restrictions from the United Kingdom—can be avoided if the Government allows for proper expenditure, for proper resources.

I thank you for the opportunity to contribute. [*Desk thumping*]

Mr. Vice-President: Sen. Dr. Wheeler. [*Desk thumping*]

Sen. Dr. Victor Wheeler: Thank you, Mr. Vice-President. I will be very brief in my contribution on the Miscellaneous Provisions (Prisons) Bill, 2014.

Now, I do share similar concerns to previous speakers regarding section 20(3), where it speaks to the Chief Inspector of Prisons and Deputy Inspector of Prisons must be persons of good standing, and no specific qualifications are placed. The other area where I have a little concern is at subsection (9) where it refers to:

> "The Minister may at any time remove the Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons from office for misbehaviour or if, in the opinion of the Minister, the person holding such office has become incapable of effectively performing the functions of his office for any reason."

Mr. Vice-President, this, I believe, is open to too much subjective interpretation.

The other area I would like to comment on is the situation in Tobago where, as has been commented some years ago, there is no youth detention centre in Tobago. Now, I recall an instance of a 16-year-old and a 14-year-old boy who witnessed the murder of their mother by their father, and subsequent to that, they were the subject of a custody battle between their grandmother and their aunt, I believe. The magistrate, at the time, decided to place them in a state home, and as there was none in Tobago, they were remanded into the youth detention centre in Trinidad.

I checked on the website to see what that facility is for:

> "The Youth Training Centre is an institution which falls within the ambit of the Trinidad and Tobago Prisons Service and caters for Young Offenders between the ages of sixteen (16) to eighteen (18) who have transgressed and sent here by the Courts for a period of training in lieu of imprisonment for a period of not less than three (3) nor more than four (4) years."

So you had a situation where two boys were not found guilty of any crime. Their only problem was they had no one to look after them and they found themselves being placed among other young men—in the case of the 14-year-old, boys much older than him, who would have been found guilty of various crimes.

My concern here is that the young—the children in Tobago are at a major disadvantage when, for whatever reason, they have to be placed in a youth facility, and when they are placed in these facilities in Trinidad, it makes it very hard for their families to visit them because it means they will have to go by air or sea, and when they have to be placed among bigger boys who, in some cases may be criminals, I think this is a serious disadvantage.

Now, I spoke to the Minister of Justice on this and, apparently, there are no immediate plans to have a facility constructed in Tobago, and I am urging the Government to take some steps to have a facility in Tobago constructed so that this matter would not be a recurring decimal, Mr. Vice-President.

As others have said prior to me, this Bill seeks to address some of the deficiencies in the supervisory functions of the prison service, but unless serious steps are taken to address the actual conditions of the prisons—you can have a very efficient method of

detecting problems in the prison system, detecting abuses by prison officers in the prison system, but unless you actually address the infrastructural problems, it may not make a whole lot of difference to what we are hoping to achieve.

And with those few words, I thank you, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: Sen. Baldeo-Chadeesingh.

Sen. Diane Baldeo-Chadeesingh: Thank you very much, Mr. Vice-President, for the opportunity to contribute to this debate. I wish to make a contribution in the debate today and will focus on two areas: one, the amendments to the Bill changing existing penalties of fines and imprisonment for breaches; two, the Prison Inspectorate, encompassing authority, structure and duties—that is, including function and quality of oversight, human resource and process for appointment and reporting. So those are the areas which my contribution will navigate.

The proposed changes regarding increases in fines and imprisonment are not supported with evidence that this intervention was effective in another jurisdiction in actually a reduction of breaches in the law. And regarding section 10(1) of the Act, section 10(1) was repealed and is substituted by these fines and imprisonment.

Assisting prisoner to escape, the fine and imprisonment for a private citizen is $30,000 and seven years' imprisonment. For a member of the national security, police, army, prison officers, according to the new substituted section 10(2), $50,000 is the fine and 10 years' imprisonment. Mr. Vice-President, where did a fine and imprisonment reduce the number of assisted jailbreaks effectively? Where? Are all jailbreaks—some might prefer "prison escape"—assisted by way of breaches in security?

For instance, how is a private citizen assisting when inmates are held, to be treated?—because when prisoners are held, the police service has the motto, to hold and treat. So there are private companies, as well, transporting prisoners. I ask a question: Would they be subject to the private citizen category in this instance? Amalgamated Security, for instance, does the inspector have authority over this institution? A jailbreak from an ambulance or a hospital, is the staff at the institution to be charged?

The proposed inspectorate, as its name implies, is to act as an oversight body since the details of the functions are not listed. The proposed function, is it to be oversight or compliance?—because it is quite different with authority vested in

staff who manage inmates. The inmates are managed by a range of staff in the institution: prison officers en route to court, police and transportation staff, and the list goes on.

But, Mr. Vice-President, from the penal institution to the hospital, court or any other supervised movement to any other place, would be a developed approved plan, and the requisite number of prison officers should be assigned. There should be some sort of ratio in terms of the officers and the prisoners.

Is the Inspector of Prisons to assess the compliance with a spot audit, or is that function one that is on a cycle or even predictable, or is it on a time routine? How effective would the observation be if it is not flexible and left to the individual assigned to this very job?

The intent to have ongoing inspecting of the institutions to ensure compliance and effective service to inmates is to be commended. But I wish to ask, as is referred to in section 20(8), can the inspector, his deputy or if they are not in the country—the inspector or the deputy, if they are not in the country—the Minister can, according to section 20(8), appoint someone to act. But can this person, or persons, qualify to do the job? If the inspector, for instance, is hired on good standing, then, pray tell, what qualifications would his standing have?

I also wish to look at, as my colleagues have done to some extent—Sen. Robinson-Regis and Sen. Al-Rawi. There is another point to the UK model, and this is the Operating Context in the UK model, and it says, 2.3, according to the responsibilities of the Chief Inspector of Prisons—his responsibilities:

- "inspect or arrange for the inspection of prisons and young offender institutions…
- in particular, report to the…treatment of prisoners and conditions in prisons
- report on matters connected with prisons…
- submit an annual report to be laid before Parliament."

But in addition to those responsibilities, and according to the Police and Justice Act, 2006, section 28, added to the 1952 Act—and this is in the UK context—their further responsibilities—the inspectorate is to:

- "delegate any of his functions to another public authority
- prepare an inspection programme and inspection framework…

- ensure inspections by other bodies do not place an unreasonable burden on organisations within his remit
- cooperate with other Inspectorates"—for example the Health

Inspectorate and other Inspectorates—

- "…other public authorities where it is appropriate to do so for the efficient and effective discharge of his functions
- act jointly with other public authorities where it is appropriate to do so for the efficient and effective discharge of his functions."

But additionally, Mr. Vice-President, in doing my research, I also learnt about OPCAT, and I am wondering if the hon. Minister might find this interesting because the UK is a party to the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It is OPCAT, in December 2003.

> "OPCAT is an international human rights treaty designed to strengthen the protection of persons deprived of their liberty. Acknowledging that such persons are particularly vulnerable to ill-treatment and believing that efforts to end ill-treatment should focus on prevention, OPCAT provides for a system of international and national visits to all places of detention."

So that might be something that would be of interest to the hon. Minister.

6.00 p.m.

But additionally, Mr. Vice-President, in doing my research and particularly when I heard Sen. Robinson-Regis' contribution, I thought that this particular article by Geisha Kowlessar, published on Friday, July 13, 2012, titled, "Who's in charge of Prisons Service?"—I thought it was particularly important in this debate to share with you some excerpts from this particular article. This was written on July 13, 2012:

> "The Prisons Officers Association wants an urgent meeting with National Security Minister Jack Warner and Justice Minister Herbert Volney to chart the future of the Prisons Service. The association's president Ceron Richards said yesterday that members remained confused as to whether the service fell under the National Security Ministry or the Justice Ministry.
>
> He said the rehabilitative and restorative aspect of the prisons fell under Volney, but it was not clearly identified whether the Justice Minister would also be in charge of the security arm of the Prisons Service. Prisons officers need to be told what is happening because at the end of the day they are the ones who are carrying out the decision. 'There is no consultation of the matter'." And—"Richards also listed several other problems affecting the officers which, he said, needed to be resolved."

And it goes on, this article:

> "Many times there is no water for inmates to bathe or brush their teeth... This has created a very tense situation and has made operations very difficult'..."

And he further added:

> "...Prisons officers continued to be subjected to death threats on a daily basis and there have been instances where hits have been put on their lives."

Mr. Vice-President, I ask you: will the Inspectorate or the Inspector of Prisons solve these problems, [*Desk thumping*] being hired especially on the basis of good standing? Can these problems be solved? In addition to that, I also wish to refer to articles like "Jail conditions shock Deosaran" as reported by Joel Julien, a newspaper article created on November 21, 2013.

> "DESPITE the hellish conditions at the nation's prisons, Prof Ramesh Deosaran said the most shocking thing he saw during his tour of two jails yesterday was the look of hopelessness in the eyes of innocent men."

It goes on:

> "Cells are 'congested and unsanitary'...
>
> Deosaran spoke of buckets being used by inmates to defecate with no running water. 'Inhuman conditions is too mild a way to describe what we have seen'..."

This information is out in the public domain.

> "Deosaran also called on the Judiciary to visit the prisons and see the facilities they are sending individuals to. He called it a"—grave—"'…injustice'."
>
> And—"He spoke of remand prisoners waiting as much as 13 years to face a trial to determine guilt."

But, Mr. Vice-President, there are so many articles like this one, including another article by Julien Neaves, written on Saturday, November 30, 2013, "Deosaran pleased Cabinet accepts prisons recommendations" And again, Mr. Vice-President, I quote for you:

> "CHAIRMAN of the Special Prisons Committee, Professor Ramesh Deosaran, said he was pleased that Cabinet accepted almost all of their recommendations on improvements..."

But he goes on to say:

> "…Remand Facility, improvements to the current facility in the interim, cellphone jammers"—to be established.

Sen. Al-Rawi spoke to that.

> "stab-proof vests and safe houses for prisons officers, and families under threat."

Mr. Vice-President, and also, I wish to share with you another article out in the public domain, "Special committee on prisons recommends: New remand yard in 18 months". This article was published on November 23, 2013:

> And a—"special committee"—let me read this part—"was set up after the shooting death of off-duty prisons officer Andy Rogers in Malabar on November 7, which started a chain of events, including a protest from prisons officers and riots amongst the prisoners.
>
> The committee said the system had 'collapsed and is running on auto-pilot,' and it was thus critical to probe why it had reached to this stage."

But also very interesting in this article is the fact that it said:

> "In a brief interview with the Guardian after the handing over, Martinez and Minister of Justice Emmanuel George said the closing of the Carrera Island Prison, which was scheduled for the end of this year, would be pushed to the middle of next year."

Which I think this is the middle of this year. This is the next year they were talking about.

> "They were commenting on how the problem of overcrowding would be addressed while one prison is being closed. The men also stated that the Santa Rosa Correctional Facility is a possible option to house prisoners."

Perhaps the Minister could tell us what is the status of the closing of Carrera Island because I have not heard anything about that. The prisoners were supposed to be absorbed all now because we are in the middle of this year. But, Mr. Vice-President, the process of the hiring and the educational level, competencies and professional training for such a position are not clearly identified in the proposed amendments, not even as an appendix.

The Bill seeks to authorize the Inspector of Prisons to access not only the penal institutions, but also the police holding areas where persons are detained as they are processed through the justice system. Is this inspector authorized to verify how an individual is kept and how the police interact with that person? The

detention of an individual is covered in law, and during the detention from my research, I asked: will the police be bound by a law to open detention areas to the Inspector of Prisons? And these institutions—and I talk about the industrial institutions—are licensed by the State to also hold and treat a different group of offenders.

Sen. Wheeler alluded to this in his contribution—the St. Michael's Home, YTC and that sort of thing—but the range of individual movement and level of supervision for all individuals held by the justice system, Mr. Vice-President, would require the inspection to be undertaken within the scope of that institution. For instance, the hospital, the mental institution, official youth institutions and on assignment in the field, where inmates may be out with the prison officers. Is this supervision in that context, or does it extend to these areas for quality of care as well as risk reduction in jailbreak? What is the Inspectorate or the Inspector of Prisons going to tell us? The same things Prof. Ramesh Deosaran and the Special Prisons Committee reported?

Given the method of appointment with no supporting information of the hiring process can create the following issues:

1. The Inspector of Prisons and his selected team will not be independent in operations since they would be appointed by the Minister.
2. The reappointment of the inspector will depend on the Minister's approval and not a non-partisan assessment of quality of service.

Mr. Vice-President, investigation and reporting are two major duties for an individual who, as stated, must not have been in the prisons. On what skill and experience would the inspector rely to undertake such an important task; and would he investigate the police if there is a breach? If that is the instance, will this not be in conflict with the Police Complaints Authority—the PCA—or even the division or Police Complaints Division of the Commissioner of Police? Will it not?

Mr. Vice-President, further, is the scope of the authority to investigate extend into the hospital, for instance, where an inmate is receiving treatment? Is the inspector not in breach of the confidentiality of the patient even if such person is an inmate; and can the inspector seek access to the files of an inmate to verify or get an update on any area of information on file?—because as far as I know, there is patient/doctor confidentiality. What happens in that instance? And is the medical team duty-bound to assess the inmate to the inspector for such assessment of quality of care; and is the inspector competent to assess methodology of health care delivery?

Mr. Vice-President, the current alleged claims of ex-inmates made in court and where claims have been approved for payment should guide this Bill. The flags that alerted the Master of the court revealed the most unsavoury state of affairs. Would the inspector intervene in such a situation, and would he make such report to the Minister or to the court? The inmates' cases of abuse should guide this very intervention which will not prevent this from happening repeatedly.

In closing, in establishing an inspectorate to report to the Minister on the range of areas outlined, is such a body in conflict with the independence and respect of constitutional rights even when citizens are in custodial care of the prison system. And with those few words, Mr. Vice-President, that was my contribution and my take on this particular Bill.

Thank you. [*Desk thumping*]

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Given the time of the evening, I wish to take the opportunity in accordance with Standing Order 9(8) to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

MISCELLANEOUS PROVISIONS (PRISONS) BILL, 2014

Mr. Vice-President: Sen. Prescott SC.

Sen. Elton Prescott SC: Thank you very much, Mr. Vice-President. [*Desk thumping*] I thank you. Mr. Vice-President, I am very pleased to join in this debate on the Miscellaneous Provisions (Prisons) Bill, 2014, and given all that has gone before, I would not be surprised if the Minister would wish to reconsider his position on this matter and perhaps present to us a more fulsome piece of work. Because there really are some significant failings in what has been presented, in my view. He will have an opportunity no doubt to respond and he may well put everything in place. But perhaps we could start by looking at the two clauses that are really of any moment in this Bill, which are clauses 4 and 11, I think it is—clauses 4 and 11.

Clause 4 speaks to the definitions and clause 11 seeks to repeal sections 19, 20 and 21 of the Prisons Act, Chap 13:01. Clause 4 is unremarkable really, so my focus is going to be on what is provided in clause 11.

Mr. Vice-President, I want to start firstly by returning to the base from which we started, which is, the Office of Inspector as contemplated by the Prisons Rules. These rules were made in 1838 by the Governor and Executive Council—pardon me, 1947—under the West Indian Prisons Act, 1838, and it spoke to the Inspector of Prisons and gave wide powers to that person. They are to be found at Chap. 11, No. 7 in the old laws.

Among the powers that the Inspector of Prisons is given by those rules—and I imagine that those rules remain intact because there is no pretence in the Bill before us to repeal any of it—he was required to make monthly inspections of the Royal Goal, the Female Prison, the Carrera Convict Prison, the Youth Training Centre, at least once in each month.

6.15 p.m.

He was required to investigate every complaint or application made to him by any prisoner and to give opportunity to such prisoner to lay complaints or to make applications before him. He was required to enquire into and determine the cases made before him of repeat offenders within the prison in a summary manner and order punishment. He was required to investigate all complaints made against subordinate officers, that is below the rank of chief and deputy chief, commissioner and deputy commissioner. He actually had the power to reduce such officers to a lower place in rank if he found them guilty and/or to inflict a fine not exceeding one-month's salary on such a person.

Now, I am saying none of this appears to have been removed by what we have done here and you may recall the Minister started out by saying, in his presentation, this was an effort to modernize the penal system. So I am going in the light of saying, have we addressed what we were doing in 1947 or are we content to allow it to apply to today's modernized system? [*Desk thumping*] I am proud to say I was not born in 1947 [*Crosstalk and laughter*] but "ah close". [*Laughter*]

So I am reading on with the Prison Rules. In rule 9:

> "He shall submit to"—then colonial secretary—"the Minister as soon as possible after the 31st March in every year, a report on the prisons…together with the Annual Report of the Commissioner"—then called the superintendent of prisons—"and shall specify in such report all defects in the construction, management, or discipline of the said prisons, and all improvements which are, in his opinion, requisite for maintaining and improving the government and discipline of the said prisons and for promoting the reformation of the prisoners."

Now, it is that statement that gave birth to my concerns because, if I may read it again, it says that:

"He…"—the inspector that is—should make recommendations for—
"…improving the government and discipline of the said prisons…"

I paused at "government" thinking that certain people would become concerned.

"…and for promoting the reformation of prisoners."

Now, in that light, if he is to be so qualified to make recommendations for the reformation of prisoners, one wonders what qualifications he should bring to the job. In order to make recommendations for promoting the reformation of prisoners, one would assume a certain practice in one of the professions, be it sociology or psychology or what have you, but we do not hear that coming out of today's modernized approach to the prison system and it begs the question: have we really given thought to who should be the Chief Inspector?

The Chief Inspector—the Prison Rules go on:

"shall sit"

Well, this is not taken from the Prison Rules but I will mention it anyway. He sits on the board of management of the youth training centre. Youth training centre, board of management, unqualified in any area or discipline that we know of in Trinidad and Tobago; he sits also on the discharge board in the youth institutions. So that one is tempted to say that such a person must be of greater preparedness to sit in that lofty position. Instead, what we have in clause 11 by way of the proposed section 20 is the following:

"(3) The Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons must –

(a) be persons of good standing;

(b) not be the holder of any other office of emolument whether in the public service or otherwise; and

(c) not have served in the Trinidad and Tobago Prison Service."

Now, much has been said already about this question of who is a person of good standing, and my question firstly is: good standing where? An honour prisoner has good standing in the prison; that is why he is regarded as an honour prisoner. [*Desk thumping*] Who is a person of good standing? Section 21, as is proposed, does not exclude a former prisoner. So, in fact, section 20(3)(c) could

actually say, "must not have served time" as opposed to "must not have served in the Trinidad and Tobago Prison Service". An ex-convict who is in good standing, both where he came from and in today's prison, may well by chance—and I repeat, by chance—become the Chief Inspector.

You see, there is a young man today who is receiving much reputation and celebration who proudly tells us that he has served his time in prison, he is a reformed man and he is taking care of persons who are coming out of prisons without a place to go. Nothing in this Act prevents him from becoming Chief Inspector [*Desk thumping*] and from my view of him, he is blessed with the ambition to make the application, [*Laughter*] and he is blessed with the access to the corridors of power that might well find us saluting him as the Chief Inspector of Prisons. There is nothing here to prevent it and he is so well-versed in what is transpiring in the prisons, he may well be the ideal person—good standing. And it may well be that whereas those who have gone before me may not think he is of good standing in the community, there may well be communities in which he is in good standing. So that section 20(3)(a) really needs to be addressed again. It could not be that a person of good standing, wherever that standing may be, could become the Chief Inspector of Prisons.

I would have gladly recommended that this Bill ought to have included certain categories of persons who do not qualify and I would exclude from among them a former police officer. Can you imagine a police officer who has spent his life—well, his life as a police officer—pursuing offenders, causing some of them to end up in prison, and then turning up as the Chief Inspector of Prisons? What will become of the peace and good order that we would like to see in the prisons?

Non-nationals: does this Bill not feel—do the framers of this Bill not feel that the person ought to be a national or are we going to open our borders and say, "Come in, whomsoever you are, once you could satisfy us that you were of good standing where you came from."? What about—well, I have already said it: should former prisoners not have been excluded from this Bill? Do we really want to be seen in that light outside of Trinidad and Tobago or in Trinidad and Tobago in some quarters? So that, it is a recommendation I make to the Minister, through you, Mr. Vice-President, that he might want to go away and consider whether he should not include in this Bill a category of excluded persons from among the likely recruits to the position.

Then, thirdly, should such a person not be debarred from engaging in any other occupation or employment? It is said here that the position is meant to be full time, but full time alone does not cut it. One ought to say that he should not be engaged in any other occupation or employment and for certain that he ought not to be a legal practitioner at the criminal bar. He ought not to be a legal practitioner at the

criminal bar. The reasons are obvious. The possibility of such a person using the position of Chief Inspector to recruit—that is not the word I would like to use—"to tout" is not very remote. You do not want, in any event, the appearance of bias in some cases to come to the fore. So that one would have assumed that it would be good if we were to say, in the Bill, at the proposed section 23, that such a person should not have any business in the criminal bar as a practitioner.

Mr. Vice-President, I then come to this other aspect of it. Those who have gone before me have made observations about the lack of a criterion of academic qualifications to back the potential Chief Inspector of Prisons. Now, I am sure we are talking about academic qualifications really as a platform for professional training and experience because it would not be enough merely to say that he has had his CXCs, et cetera. So such a person comes to the task—let us say he was a former parlour keeper—he has been appointed Chief Inspector of Prisons because he satisfied the three criteria set out in the proposed section 20(3). He satisfied the three criteria: he is of good standing, he has not held office of emolument in the public service or otherwise, he has not served in Trinidad and Tobago Prisons Service. But we have empowered him to appoint Assistant Inspectors of Prisons who must have the following either:

"…legal, medical or penological training…"

So immediately one finds the incongruity in it, that the parlour keeper goes out there and interviews, no doubt—I think I heard Sen. Robinson-Regis make the observation—no HR component is included here, and he determines among candidates which of those who are trained in law, medicine or penology, if that is a word, should perform as assistant to him.

The Minister told us that such a person was to assist and guide the chief in his original mandate, but they will take advantage of him. Section 21(2)(b) goes on to say, moreover, that such persons shall:

"have the powers and functions of the Chief Inspector of Prisons…"

The assistant to the chief shall have the powers and functions of the chief, they should be more trained than the chief, have more experience than the chief. Do you imagine who would be the chief? There used to be a saying "long time" about there are more chiefs than Indians. This will be a case with plenty, plenty—"everybody is ah chief". The chief, the deputy chief and the assistant "chieves", if that is the plural of chief.

Hon. Senator: Chiefs.

Sen. E. Prescott SC: Chiefs. "Ah like chieves." Somebody needs to give this some more thought. The assistants cannot come from the trained world to assist and guide the chief, have the power to exercise the powers and functions of the chief and not remove the chief.

May I just, through you, ask the Minister what precisely is meant by a person with legal, medical or penological training? Is a nurse intern not trained in medical? Is a paralegal not trained in legal? Is that what we were thinking when we wrote this, that the person must be trained—let me read it: persons with legal training; persons with medical training. Those are paralegals, nurse interns, nursing auxiliaries and those things. That is not big, that is easy to find. So we are creating this large corporate body managed by these unfinished people and, by unfinished, I am cynically referring to their not having achieved in our system, and that is what we go by, certain levels of education and training which would commend them to any human resource—any interviewer for a position of this magnitude.

6.30 p.m.

Mr. Vice-President, I am urging the Minister to look again at what he has put forward for us in that light and seek to avoid the absurdities that are likely to flow from such appointments.

You may recall Chief Justice Hyatali, I think it was, speaking about watering the brandy in the Judiciary, at one time? What we are encouraging here leaves no brandy in the water goblet at all. The thing lacks substance. What is this chief inspector? And coming after 60 years of persons who have been trained in the law, as inspectors. The foundation having been laid, we now weaken the foundation, discount the base from which we have ascended? Should we not be aiming to modernize the system by going for higher, if I may say that, H-I-G-H-E-R? Should we not be looking forward, as opposed to backward? This is, indeed, a retrograde approach to modernizing the system. It just does not seem to work for us.

Mr. Vice-President, may I say, just recently my colleague here spoke of using retired judges, you may remember it, to assist the Legislature in preparing legislation. Might this not be the kind of case where the Minister might have thought, maybe I should legislate for retired judges only? And I know that would never go down well with anybody but that calibre of person. And as in South Africa, with an unblemished record, should such persons not be given consideration? South Africa uses a judge or a retired judge with an unblemished record who can sit as the chief inspector, give some oomph to the position of inspector in the prisons.

You see, the prisoners are not all lacking in intellect. They would understand that this chief inspector, really, is not suited to the position. And remember that I read that he is the person to whom some of these prisoners have to come to air their grievances, and they are not stupid. The longer you stay in prison, the more law you learn. Well, I say no more.

Let me just shift gears a bit, Mr. Vice-President. The Bill proposes that there should be established a body corporate to be known as the Trinidad and Tobago Inspectorate of Prisons and I observed that, quite unlike some pieces of legislation where bodies corporate have been established, that there is no provision for a chief executive officer or somebody who has executive functions. I suppose that is what is intended for the chief inspector; no position for a corporate secretary. Not unusual to find in legislation of this nature; no provision for the seal of this corporate body. I am sure that there are people who would say those are not essentials to the functioning of a body corporate, but I would recommend that some consideration be given to it, if that is what we intend, that there ought to be something called a body corporate, looking like a body corporate and those trappings do go a long way to identifying it as different from some other ad hoc tribunal of sorts.

Mr. Vice-President, I now turn to the Prison Rules, rules 15—32, rule

> "15.The Superintendent of Prisons"—which is the commissioner—"shall have charge of and be responsible for the proper management of all prisons…He shall take care that the prisoners are humanely treated, that discipline and security are strictly enforced and that everything is done to encourage and promote the reformation of the prisoners."

It appears that we are now duplicating those functions in the chief inspector and I would encourage some caution when we revisit the language used as to the functions of the inspector, to ensure that there would be no open conflict over their duties as between the Commissioner of Prisons and the chief inspector when and if that position should become effective.

Rule 33:

> "The Commissioner"—formerly the Superintendent—"shall arrange that offences against prison discipline shall be promptly dealt with and shall, as soon as possible, investigate any complaint and attend to any application from a prisoner and shall ensure that any prisoner desiring to see the Inspector…shall have an opportunity of doing so."

So, we note immediately that the Chief Inspector, it is proposed, will have the power to discipline prisoners when and if the Commissioner of Prisons has come to the view that he cannot determine the issue involving any particular prisoner.

I am making that observation to reinforce my view that we need to return to the criteria for identifying the Chief Inspector of Prisons, to ensure that we raise the bar to a point where certain people will be excluded and we would only give consideration to others.

I move now to another point. In clause 24 of the Bill, we note the following: that a report is required of the prisoner, annually, to the Parliament. Clause 24 states:

> "The Chief Inspector of Prisons shall, no later than 31st March of every year or such later date as may be determined by the Minister, submit a written report to the Minister on the performance of the Inspectorate during the previous year, and on such other related matters as the Minister may direct."

He shall include in the report the methodology used in performing its functions. He shall report on the general management, effectiveness, efficiency, general health and welfare of prisoners, general conduct and effectiveness of prison officers and service providers.

Then subsection (4):

> "Subject to subsection (5) the Minister shall as soon as reasonably practicable after receiving"—the report—"cause a copy of the report to be laid in Parliament."

The Minister, strangely enough, is permitted to omit any part of that report that he wishes if it is his view that disclosure of the material may be prejudicial to the security of the prison or industrial institution. He is reporting to Parliament and he is empowered to remove from the report matters which, in his view, may be prejudicial to the security of the prisoner or contrary to the public interest.

In today's world where the demands for transparency are widespread, this tells us something that we do not want to hear too much of. One cannot imagine the Minister taking it upon himself to simply remove large snatches of the report and merely endorse on the paper: This has been removed because it is contrary to the public interest. All that is required of him, they say in subsection (6):

> "Where any aspect of a report…is omitted under subsection (5), a statement to that effect shall be attached to the report."

It is cause for concern in this modern lexicon that we have of politics and governance—transparency. That does not seem to sit well with those approaches today and I will urge that we give some consideration to it.

Mr. Vice-President, I wish now to look at the Appeal Tribunal to be established under clause 26. Clause 26 says that the—pardon me, this is clause 11, the recommended new section 26:

> "The Minister may appoint in writing, one or more Appeal Tribunals for the purpose of hearing appeals in disciplinary proceedings against prisoners."

He may appoint one or more. The Appeal Tribunal really comprises one person as clause 26(3) says:

> …who shall either be a retired judge or a retired magistrate or an attorney-at-law of at least seven years standing.

I think seven years gives you a good start in the practice. It does not compare well with a retired judge or a retired magistrate, each of whom would, no doubt, have served in excess of five years. Judges are required to have 10 before they go on to the Bench, that is. But nonetheless, that was not the focus of my point.

We are now establishing a new layer of bureaucracy in the prisons, the Appeal Tribunal, and it appears to me that the Minister can make ad hoc appointments. That is to say, in respect of each appeal he may choose whosoever he wishes, so long as that person is either a retired judge or a retired magistrate or an attorney-at-law of at least seven years standing and given an appointment. Why do I say that? Because clause 26(4) says:

> "The appointment of a person under this section shall be for a term not exceeding three years…"

That is to say, there is no minimum time during which such a person may serve as an appeal tribunal. He may be appointed in respect of each occasion of breach of rules or some other deification and that would be the end of his appointment. And, that power in the hand of the Minister does not sit well with me. An Appeal Tribunal suggests, by its name, a permanence, an institution of balance and strength meant to spend years doing the work and increasing their ability and their capacity for good judgment. And so, therefore, this ad hoc arrangement that is allowed by section 26(4), ought to be reconsidered if we are going to be moving towards the modern prison system.

The Minister really, too, ought to have given us some data on appeals. What quantum of appeals are there coming out of the prisons now, that would require us to go to the length of my appointing an appeal tribunal? And that is only to deal with proceedings against prisoners.

In the rules, which I have referred you to, 1961 rules, the inspector's function includes hearing appeals by subordinate officers. If you would permit me, the 1961 rules, rule 9 says the commissioner may take certain disciplinary proceedings against an officer and he may refer those proceedings to the inspector. That is rule 6.

Rule 9 says:

> "An officer may, within seven days from the date of the determination of the case by the Commissioner, appeal in writing to the Inspector against the Commissioner's decision and shall submit his appeal to the Commissioner to be forwarded to the Inspector."

So the inspector sits in appeal on matters pertaining to breaches by the officer of discipline.

> "(3) The Inspector may allow the appeal and dismiss the charge or he may confirm the disciplinary award or substitute therefor a caution to the officer or any disciplinary award which would have been within the power of the Commissioner.
>
> (4) Before coming to a decision on an appeal"—it says—"the Inspector may hold an enquiry."

I seem to recall the Minister saying that this inspector does or does not have the powers of a commission of enquiry. I cannot remember how he put it.

Sen. George: This inspector?

Sen. E. Prescott SC: Yes. The proposed inspector has the power of a commission of enquiry? I forget what you—

Sen. George: No.

Sen. E. Prescott SC: No such reference?

Sen. George: No. In this legislation, the issues that the prisoners raise regarding their complaints against punishment are brought, not to the chief inspector and deputy chief inspector. They are brought to the tribunal. I said that we are separating the chief inspector from matters having to do with assessing complaints, so that he is independent to do his work that is set out for him in the law, and the Appeal Tribunal will deal with appeals that the prisoners make, as a result of penalties imposed on them by the Commissioner of Prisons.

Sen. E. Prescott SC: Thank you very much. So I wanted to bring to the attention of the Vice-President that in the Prison (Amdt.) Rules, 1961, at rule 9(4), there is provided a power in the Minister to hold an enquiry and it says that:

> "…at any such inquiry the officer shall be allowed all the facilities for his defence…"

—and he may select a friend to represent him, an officer of the prisons department.

So that, I have raised this provision so that the Minister may consider whether the Inspector should continue to have these powers, whether he should be sitting in judgment over matters pertaining to allegations of indiscipline against prison officers themselves and be given the power to fine, reprimand or admonish.

6.45 p.m.

Mr. Vice-President, I do wish to bring to your attention also that, in order to ensure impartiality in the Appeal Tribunal, that one-man body, that there ought to be some built-in provisions, to avoid apparent bias on the part of the tribunal. Some consideration should be given to introducing a provision that would not allow for that. So such people, as I said, like police officers, retired police officers, or retired commissioners of prisons or even prison officers, it may be good to consider excluding them from contemplation, even if they are now practising as attorneys-at-law or have sat on the Bench.

I think I am almost through, if you would just bear with me, Sir. If I could return just briefly to clause 22. In clause 22—pardon me once again, clause 11, the proposed section 22—the following is to be noted:

"The functions of the Inspectorate are to –

b) investigate and report to the Minister on –

(iii) matters connected with a prison and the prisoners held therein;"

You may recall that I was observing that there is room for encroachment by the inspector, on the duties and functions of the Commissioner of Prisons. That (iii) is one of those key places where one ought to be very cautious that we are not taking away from the Commissioner of Prisons, the function that he has to perform by law or worse, allowing for some collision between him and the Chief Inspector of Prisons. And finally, in that same (b) at (v):

"any matter arising out of the management or operation of a prison or Industrial Institution where the Minister so directs;"

And there too we see the opportunity for a chief inspector to bypass the Commissioner of Prisons and take measures directly to the Minister and, no doubt, allow for some confusion among the men over whom the Commissioner has authority.

Mr. Vice-President, in those few short words, I have managed to address the things that trouble me about this Miscellaneous Provisions (Prisons) Bill, 2014. Not unusually, it is rather short on words, but I suspect that you will find that it is going to be greatly difficult for us to arrive in committee stage at anything that is acceptable by way of legislation. And I would recommend, therefore, that the Minister, as I have said before, look at it again before returning to the Parliament with it.

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

Sen. George: Thank you very much, Mr. Vice-President. [*Crosstalk and interruption*]

Sen. Dr. Mahabir: Yes, I—

Sen. George: Catch his eye. [*Laughter*]

Sen. Dr. Mahabir: My apologies, Senator, I think there are some Members of the Independent Bench who do wish to—[*Interruption*].

Mr. Vice-President: I was looking around and I just did not see you, sorry.

Sen. Dr. Dhanayshar Mahabir: Okay, continue? [*Crosstalk*] Thank you very much, Mr. Vice-President. [*Desk thumping*]

I shall be very brief in my own comments on this particular Bill, and like all others who preceded me, Mr. Vice-President, clause 11, with respect to the new office that is being contemplated is, I think, the clause that is piquing the interests of all the Senators. The issue, Mr. Vice-President, with respect to this new concept of the inspectorate is that, in my opinion, there has to be an underlying philosophy, with respect to our approach to the penal institutions of our Republic.

Is it, Mr. Vice-President, that it is the view of the Government, and I was not clear—is it the view of the Government that the mere fact that someone has committed a crime, has been apprehended, has been tried in the courts of law, and has been sent to prison, is being sent to prison itself the punishment? Or it is that the punishment will occur when the individual is in prison? I think, we need to get very clear what the punishment is.

If I could persuade the hon. Minister that, in my view, the punishment should be simply going to prison, because being in prison means that someone has lost his freedom, and the liberties that he normally enjoys.

In addition to that, Mr. Vice-President, the dependants or the family members, those who are close to the incarcerated prisoner, themselves also face a certain loss of welfare on account of the incarceration of the individual prisoner. The prisoner may

have family members, he may have a spouse, he may have children, he may also have brothers, sisters and parents, and these individuals are in some way affected by the fact that he has been incarcerated.

If it is we can accept that simply going to prison is the punishment, the loss of one's normal liberties and rights, then it has to be that in prison, the objective will be focused on the rehabilitation of this prisoner, so that he can see the errors of his ways, can commit to reforming, and can leave the prison system sometime after he has served his time, an individual who is able to easily be integrated into society. It is for this reason we have the halfway houses, we have some make-work programmes, which are meant to provide jobs for prisoners, and we do have, I would imagine, some other programmes at the level of the State. So that the prisoner, upon release, will find it easier to adjust to the life on the outside and, therefore, to become a productive tax-paying member, law-abiding member, and also an exemplar to others in the society who may be contemplating breaking the law.

So if we are to focus on, Mr. Vice-President, the rehabilitation, which I see as what is being contemplated here in the law—in the amendment that is being proposed. It says, Mr. Vice-President that:

"The functions of the Inspectorate are to–

Under 22(b):

"investigate and report to the Minister on –

(i) the treatment of prisoners and young offenders;"

And then 22(b):

"(ii) programmes, facilities, services and opportunities available to promote the rehabilitation of prisoners and young offenders and the accessibility of these programmes, facilities, services and opportunities to prisoners and young offenders;"

So under section 22(b), my reading of it is that the Government is explicitly looking at the opportunities available to promote the rehabilitation of prisoners. If this is the emphasis of having this new institution of the Inspector of Prisons, then it would appear to me, Mr. Vice-President, that the State would want to have an individual who is particularly well trained. I want to echo the sentiments of all Senators who preceded me with respect to the type of person we would want to have in this office. So I support the Government's position in having an institution, where the institution is called the Inspector of Prisons, and a primary function of the Inspector of Prisons is to ensure that prisoners are rehabilitated. If that is, in fact, the intention of the Government, then I go back to clause 11, where it says:

"The Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons must –

(a) be persons of good standing;"

By that I assume it to mean that they have no criminal record. I do not know what the Interpretation Act says. I heard there is something called the Interpretation Act which would tell me what "good standing" means, but my colleague, Sen. Prescott, indicated that there may be some ambiguity here. But I agree: the person must be a person of good standing, he must not be the holder of any other office of emolument, whether in the public service—that is, he must not have a second job—and must not have served in the Trinidad and Tobago Prison Service.

Whether he should be an ex-prisoner or not, I think, is open to debate. But what I would put for consideration is that if the Government wishes for this particular Inspector of Prisons and his deputy to focus on reform and rehabilitation, it would appear incumbent that this particular individual should be someone who has training and experience in reform and rehabilitation, and the professions which are ideally suited for this particular office and function would be the profession of sociology.

It is no accident, Mr. Vice-President, that the most recent commission of enquiry we had was headed by Prof. Ramesh Deosaran. It was not headed by a lawyer or an ex-judge or a magistrate or someone who has worked in the prison system for a long time. It was headed by a sociologist where that particular field has a long and a distinguished history in analyzing the reasons for criminal behaviour, and what can give rise to it, the sources of criminal behaviour.

You have the classical theories, you have the modern theories and you have the theories of anomie. I mean, my sociological training ended in first year university way back in 1978. But it is a field for which I have had the greatest amount of respect when it comes to understanding criminal behaviour, and also how one can go about reforming the criminals. If not a sociologist, then someone who is a specialist in social work.

The social workers work with individuals who have had a troubled past. They have worked with individuals in the prison system and elsewhere, an established field. I would be very, very pleased if the Government can indicate that, yes, they are focusing on rehabilitation, yes, the institution is meant, Mr. Vice-President, to ensure that we are making a positive change in our penal system. We are no longer punishing the criminals in prison. We are educating them. We are rehabilitating them.

It is with some regret, Mr. Vice-President, that I am making this contribution having never even visited a prison. I would like at some time to be able to see what the conditions are like when—[*Interruption*] my fellow colleagues, Senators, have told me I do not wish to go there. But I really would like to go and see the conditions under which the prisoners have to function on a daily basis, to satisfy myself that they are being trained and retrained to be reintegrated in society, which is in the interest of the wider society.

The public interest is going to be best served when the prisoners who are released, see the errors of their ways, and they are able to obtain formal employment, and then make a commitment and a pact with society that they will no longer break the law.

In this regard, Mr. Vice-President, the office itself, while it reports to the Minister of Justice, the individual, one hopes that when we look at some regulations on how this office is going to function, certainly, it cannot simply be to report to the Minister only. Because according to the amendments we have here, the Inspector of Prisons is someone who will report to the Minister whatever infractions he is seeing on the inside of the penal institutions

7.00 p.m.

But once the reports are made available to the Minister of Justice, it has to be that the Minister of Justice will act upon them, so that the conditions could be ameliorated. If there is going to be no action, no amelioration of the prison conditions, then all we will have, Mr. Vice-President, is an individual, an agency, the Inspector of Prisons and his staff, simply providing a catalogue of the wrongs which exist in the prison.

What we want is not only the catalogue, but we want to ameliorate and to right those wrongs. We want to right them because of this emphasis on rehabilitation and it would mean, therefore, that we need to get, again, the philosophical underpinnings of the Government, not only with respect to the first position that I have raised—is it that prison is to be rehabilitative? Going to prison is the punishment, but is it that we are looking at the following: plea bargaining, which the Attorney General has indicated to us is something that is on the horizon? We are going to plea-bargain, so that there will be lesser sentences if a prisoner were to plead guilty and not waste the time of the court.

And then once the prisoner has found himself in the prison system and he has shown that he can be rehabilitated and he has shown a measure of contrition for his actions and that he is quite willing to right his wrongs—ameliorate his wrongs

to society—then are we looking at the wider picture of a system of parole where individuals who have exhibited good behaviour will be obtaining early release from the prison?

So that, when we are looking at the legislation itself, it is certainly very vague with respect to what are some of the important issues which ought to be contained. I would recommend strongly to the hon. Minister of Justice that he give serious thought to the fact that the head of the organization and the deputy should both be individuals who are certified and trained professionals in the fields mentioned; because if it is that they are not, then we will not know the direction of the organization. It would be vague. It would be nebulous. It would be imprecise. We need to understand the direction where we are going, how we are going to achieve it, what the philosophy of the Government is.

And finally, Mr. Vice-President, it is indicated that the Minister may, if he is satisfied, it is here, again in clause 11, section (20)9:

> "The Minister may at any time remove the Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons from office for misbehaviour or if, in the opinion of the Minister, the person holding such office has become incapable of effectively performing the functions of his office for any reason."

I hold the view, Mr. Vice-President, that while the Minister may remove, there should be some process—a process does not have to be lengthy—it should be that an individual who has been accused of misbehaviour should be given an opportunity to plead his case before some tribunal or some other entity, before the Minister acts. Because if this power is contained here, then misbehaviour in public office can be a very wide term.

Is it that the individual so concerned is running afoul of some of the directives of the Minister? What does it mean? Does it mean criminal conduct on the part of the individual? We have other laws to take care of that. But the removal of the individual in this manner, in my mind, is something that I think the hon. Minister of Justice should look at where we want the rules of natural justice to be applied in this particular situation.

So, Mr. Vice-President, I think it is certainly a step in the right direction that the Government is taking when we are looking now at reforming our penal institutions. It is certainly a step in the positive directions where we are contemplating the possibility that simply incarcerating more and more people will not solve our high incidence of crime in Trinidad and Tobago. We are looking at the possibility where rehabilitating individuals—as moneys spent in rehabilitation may provide a greater amount of social benefit than moneys spent in keeping people in prison for a longer period of time.

I think we are looking at the stage—it is a start of a stage where we are looking at how the Ministry of social welfare can, in fact, play a critical role in assisting the prisoners to be rehabilitated, so that their families, perhaps, who did no crime, their children who did no crime, may be assisted by the State and, with the quid pro quo of the prisoner upon his release, really following the straight and narrow path.

I think we do need to ensure that the institution that we build starts on the correct footing. We do need to identify the philosophy of the institution and we do need to ensure that this particular organization and its director—that particular Inspector of Prisons—are individuals and an institution where they possess, not only the responsibility to examine the wrongs in the prison, but they must have some authority as well, so that they will be able to take some quick action to achieve their objectives. I think if we do that, we would be able to have a well-functioning institution.

In closing, I was intrigued to hear my colleague, Sen. Prescott, indicate that the particular Prisons Act of Trinidad and Tobago was first passed in the year 1838. I recall, from history, that a few years earlier, slavery was abolished and upon the abolition of slavery, there was the appointment of these agents known as the Stipendiary Magistrates.

The Stipendiary Magistrates had a function and that was to ensure that, in the interregnum, in the interim, the slaves were going to be prepared for freedom; at the same time they were not going to be ill-treated. But the system had failed. It was a normal history essay to be asked: Why did the system of Stipendiary Magistrates fail in its function? And the response was that these magistrates had a great deal of responsibility, but they had no authority to make any difference in the institution of slavery.

I do not think we want to go there with respect to the prison system. We would want to give the Inspector of Prisons some authority as well to make some difference so that the prisoners who are under his charge, when they are released, subsequent upon their release, they will become productive members of society.

I thank you very much, Mr. Vice-President. [*Desk thumping*]

Sen. Avinash Singh: Good evening, hon. Senators. Mr. Vice-President, I thank you for this opportunity to contribute very briefly on this Bill before us this afternoon, the Miscellaneous Provisions (Prisons) Bill, 2014.

Having listened attentively to all the previous speakers, I saw a need for me to intervene and also give my few comments and recommendations where this Bill is concerned. This piece of legislation, as it appears to be a simple piece of legislation, I think that this legislation, the mere drafting of this legislation was very poor and I

categorically state that the Government, at this point in time, should probably realize that the comments made by all the previous speakers allude to the fact that the intention of this Bill is good and while we have that yearning to support the intention, the substance of the Bill is lacking.

I would like to delve into just a few recommendations and comments. Suffice it to say that most have already been dealt with by the previous speakers. Moving on, the general intention of this Bill, as it appears from my understanding, is basically to increase the penalties and delegation of powers and functions by high officials for the efficiency and effectiveness of the criminal justice system in our country. By this I mean the intention is really to deter criminal conduct from those involved in the criminal justice system.

I turn your attention now to an amazing finding from my reading and it is the *Hansard* record from last month, when this Bill was piloted in the honourable august Chamber in the other place. The hon. Minister of Justice, in his piloting indicated—and I would just like to quote one paragraph of his presentation to get an idea as to the general purpose of this Bill. On *Hansard*, June 13, 2014, I quote:

> "Mr. Speaker, by creating this inspectorate, Trinidad and Tobago will not only be maintaining, but improving upon its current adherence to the United Nations Standard Minimum Rules for the treatment of prisoners. In that United Nations Standard Minimum Rules it is provided that there should be regular inspections of penal institutions and services by qualified experienced inspectors appointed by a competent authority."

Mr. Vice-President, this was the statement by the hon. Minister of Justice in his piloting of this Bill and I do not know if the contribution or the general gist shifted from that day when he was piloting because from my reading of the *Hansard*, it must also be noted that the Opposition took a very strong position and indicated their willingness to support the intention, but did not do so and they raised the same factors that we are here discussing today. They asked the hon. Minister to consider these amendments and they were told that they were going to be considered and they were supposed to be brought here today.

I say this to say, that paragraph where the hon. Minister admitted that the penal institutions and services must be manned by qualified, experienced inspectors appointed by a competent authority, I do not know if somewhere along the line that thought got simply faded away or watered down because we are here faced with a piece of legislation and nothing has changed from the clause because we all argued that it is not good enough for the two high officials, the Chief

Inspector of Prisons and the Deputy Chief Inspector of Prisons to be just simply be a person of good standing; not be a holder of any office of emolument within the public service or otherwise; and not having served in the Trinidad and Tobago Prison Service.

Many persons are looking on at what we do here in his august Chamber—many graduates out of the universities, many people who have aspirations to join the criminal justice system. It may not shock you to know that I also had aspirations to join the criminal justice system.

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

I also had aspirations, Mr. Presiding Officer, to get involved in the functioning of our justice system because I saw the need to have that level of professionalism and pride in my country, to serve at that level where the justice system is concerned.

7.15 p.m.

I am basically stating this, Mr. Presiding Officer, to state that what example are we setting for those individuals looking on, who would someday have aspirations to become the next Chief Inspector of Prisons or Deputy Chief Inspector of Prisons, are we telling them that you do not need to have any sort of qualification or experience for a position this high? This is definitely going to reach the ears of all these young persons looking on who would like to be here one day.

So I am saying this as a recommendation that the Government should really step up and include some characteristics of, as the Minister would say it in his contribution, some qualified, experienced characteristics that we should see for an effective criminal justice system. [*Desk thumping*] Mr. Presiding Officer, the qualification and experience in the explanation given by the hon. Minister when piloting this Bill here is simply not enough again, because in section 26 of this same proposed legislation, there is explanation in terms of experience and qualification, so if it was good then there, I respectfully think that it should be good here as well.

Moving on, Mr. Chairman—Mr. Presiding officer. I have never addressed a presiding officer so I am addressing you wrong, but let me move to clause 6 of the Bill which seeks to amend section 10 of the Prisons Act and to increase the fine and term of imprisonment. I would like to ponder here, I would like to pause here for a second. This section, as I read it, I really paused here in terms of realistic and

reality, as we know it, in our criminal justice system. I say this because many times we have to deal with the fact that persons of high authority are the ones committing the crime, and somewhere along the line, these individuals when, you know, they have to face the criminal justice system, the magistrates Court, the High Court and so on, they simply get away.

[MR. VICE-PRESIDENT *in the Chair*]

They fall between the cracks and, Mr. Vice-President—welcome back:

"Where an offence under subsection (1) is committed by—

(a) a prison officer;

(b) a police officer; or

(c) a member of the Trinidad and Tobago Defence Force, that person shall be liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for ten years."

Is this really deterring the fact that these people, you know, can commit crimes? I would simply recommend here—and this is just my opinion—that we should also include termination of their employment if we really want to deter that action that they may want to commit a crime, being the high officials that they are. Too many times we hear about or we read in the newspapers where high officials, officers of the State are suspended for pending matters and so on, and, as I said earlier, they really fall between the cracks. You end up hearing about situations where persons who would have been suspended, they get a lump sum pay, they get pay with interest and so on. So this is normally the case when these individuals try to take legal action and the system may not always work in favour of the victims.

Mr. Vice-President, moving on to another area which I would like to comment, I have heard Carrera Island mentioned a few times during the course of this debate, and having recollected and also researched for this Bill, it was also evident that that island is due to be closed, and it should have been closed already according to the relevant information that came with that story in the past, with all the Ministers and so on that went by throughout the position. I am raising this on a different note, in a different light, where that island is concerned.

If we were to increase the penalty and the imprisonment time for persons entering that island without authority, I would just like to draw your attention to a real case scenario that could happen in our waters. Having some level of interest in fishing as a sport, or even having a recreation or entertainment interest in the

famous bay, Mr. Vice-President, as we call it Scotland Bay, and I am sure you probably would have visited Scotland Bay, and, as you are aware, the only way to reach Scotland Bay is via a boat, or probably a helicopter, but we are not fortunate like the Government to be getting helicopter rides and so on. I am saying this because many persons would like to venture "down the islands", as we call it, and I am saying this because if you were to go to that venue you have to pass, or, in most cases, in most scenarios you have to pass that so-called "prison island", as we call it.

I am saying this to raise a flag, Mr. Vice-President, times have changed; problems at sea are very much realistic problems on our shores, in our seas, as we speak. Just last week I read in the newspapers where a massive ship was boarded by four small pirogues, by pirates, if you want to call it that. So the fact remains that these things could happen out at sea. Fishermen at sea, probably around that island, could encounter difficulty and, in so doing, if, by chance, unfortunately, they were to swim to Carrera Island then are we going to tell them that you are going to be charged and convicted?

I am just saying this—I mean, yes, it is a joke for those on the Government side—but, to me, I am telling you, it is actual, a realistic, real case scenario that could happen. The fact of pirates and shipwrecks is something we must bear to understand, seeing that our borders are porous, thanks to this People's Partnership Government. Our borders are very, very vulnerable, [*Desk thumping*] and this situation is very much prevalent in our neighbouring islands and it can come back to our own islands.

Mr. Vice-President, moving on in terms of the interfering with a prisoner, and I see hon. Devant Maharaj is interfering with me while I am speaking, [*Desk thumping*] but I would not let that deter me in my intention of commenting on this Bill. In the proposed legislation, clause 12:

> "Any unauthorized person holding intercourse or interfering with a prisoner while in any prison or public place is liable on summary conviction to a fine of two hundred dollars."

That is the law as it stands. We are now proposing that that be changed to $10,000 and one year imprisonment. So, clearly, we can see we are including the fact that people are going to be imprisoned and now we are going to have situations where we will have to need space for prisoners. I refer back to an article which was also raised by my colleague, Sen. Robinson-Regis, in her contribution, but I will not go into all the details; I will just go into one line, if you permit me, Mr. Vice-President, and it is the country's report on human rights practices for 2012, and it went on to say—it speaks to:

The "Conditions in some of the prison system's…continued to be harsh."

There is extreme overcrowding, and some of these prisons in our system are full to capacity.

I am saying this to indicate to the Government that priority should really be focused on the infrastructural development in the criminal justice system and the administration of the criminal justice system. And, yes, it will have a time and place for this Bill to come and, perhaps—I know it was mentioned earlier—where the rules would also have to come that would be guided accordingly to this piece of legislation. Mr. Vice-President, I am saying this because we are now going to put additional strain on our criminal justice system, and our locations, our Magistrates Court simply cannot handle the influx. It cannot even handle the backlog of cases. So I am saying, please move that stroke of grass and start, at least, construction of the promised courthouses and so on, to help and aid in this criminal justice system, the problems that we are facing.

Mr. Vice-President, that article I mentioned earlier also spoke to the fact that there were 2,200 prison officers in our system, and this was in 2012, and it also mentioned authorities charged a number of prison officers for offences including larceny, drug trafficking, possession of marijuana and smuggling of contraband to prisoners, and this was done by the Bureau of Democracy, Human Rights and Labor at the US State Department. So we are here having foreign authorities tell us what a lot of our population already know. It was also indicated by the Commissioner of Prisons in 2013, as he indicated and admitted in an article that surfaced where it was assumed that 5 per cent of the service is corrupt.

So whereas we have this Bill that is trying to prevent wanton corruption in our criminal justice system, if the Bill is simply not drafted properly, there will be loopholes that these individuals in high offices can use at their disposal; and we have seen that in real examples by previous speakers, where the Constitution and the requirements for the person of good standing, and so on, were explained by most of the speakers before me.

Mr. Vice-President, moving on, I have a few other comments to make and it relates to the appointment of officers and other staff of the inspectorate. Mr. Vice-President, 21(1):

> "The Chief Inspector of Prisons may from time to time and subject to the approval of the Minister, appoint –
>
> (a) one or more persons with legal, medical or penological training as an Assistant, to assist him in"— performing his duties and functions.

If we look at the functions of the inspectorate, you would see the first one being inspect—inspect prisons, industrial institutions and so on—and my humble recommendation is that, are these persons or these characteristics of these persons really qualified to inspect prisons, industrial institutions and so on?

7.30 p.m.

Maybe it should have had someone trained in OSHA or EMA or, perhaps, a structural engineer, because some of these buildings—and we are seeing it every day in our newspapers, where the President of the PSA is going around and closing down these buildings and so on. So what I am saying is that it is not different with our public justice system and our prison system, where some of these buildings can be deemed, you know, structurally unsound and so on. A simple recommendation is to have characteristics of persons like these to help or aid the Chief Inspector in carrying out his duties and so on.

Mr. Vice-President, earlier, the hon. Minister of Food Production gave a statement, and I was very happy to hear some of the stuff he had to say in terms of programmes and so on. This is something I am very passionate about, and I really would like to raise this as it relates to the criminal justice system. It is something I have mentioned to Ministers past and Ministers present, whereby it seems as the agricultural sector—although the figures were stated as probably 3 per cent, I think, for the unemployment rate—the agricultural sector is in serious, serious problems where labour is concerned. I am saying this because there is provision here in the Act whereby prisoners or convicts who are incarcerated, and some of them actually have to serve hard labour, this is a system that can be installed in aiding the programmes to rehabilitate our criminal justice system to enable these individuals with some sort of training skill set—[*Interruption*]

Sen. Maharaj: Will the hon. Member give way?

Sen. A. Singh: Sure.

Sen. Maharaj: Thank you very much, Sen. Singh. Cabinet approved last year the very said model that you are advocating, whereby persons incarcerated for hard labour would be incorporated in some sort of farming vocation, either on the prison or off, on to state farms. A committee was set up, including the Commissioner of Prisons as well as other individuals, in order to conceptualize how it would be operationalized; so that is the stage of that. It is something we have taken on board and it is in progress.

Sen. A. Singh: Thank you, hon. Minister of Food Production, and like most Senators here, that news is also new to me, seeing that I do not sit in Cabinet and,

perhaps, the information did not trickle down to the layman or the normal citizens of the country, but again I applaud your idea. [*Laughter*]

Sen. Maharaj: We say it at post-Cabinet, it is just that the media does not carry what is going on in agriculture.

Sen. A. Singh: I did say that I lobbied for a programme of that nature both past and present, so yes, Minister. But I am eagerly awaiting the implementation of that brilliant idea. It will definitely reap benefits.

As I am on that, Mr. Vice-President, the Minister also—perhaps that system can really be used in the Caroni Green Initiative, because I know personally there is a very high demand for labour in that industry. Being a farmer myself, we are in serious shambles. If we really want to achieve a food secure nation, we really need to do something about the labour. My policy would have probably been, once you are convicted and you have to serve time there, you must be able to give back to the community and, at least, indulge your time in producing food, at least in terms of even serving your own needs. With that being said, Mr. Vice-President, I now move on to my last point on this Bill.

In reading this last clause, I was a bit confused when the phrase "reasonably practicable" was used in clause 5 of the new section 24. Having not known probably the legal definition of "reasonably practicable", I researched it and I was amazed by the definitions that came up with it. So I suggest that probably this phrase is really used when you really do not want to do something—to be honest. That is just my understanding. [*Laughter*] In a judgment in *Edwards v National Coal Board* in 1949, that same phrase was used and, in fact, it is in English case law and they explained what that definition meant—reasonably practicable is a narrower term than is physically possible. So my interpretation is, you know, you have this scale, a similar scale I would use to probably weigh sweet potatoes and so on, that I do not rob. One side you put a quantum of risk, it is placed on one side of that scale, and the other side you put the sacrifice involved in the measures necessary for averting that risk. So, whether the risk is time or money or trouble, whatever it is, the proportionality will have to be tested for that basis.

That is to say, what I indicated earlier, that use of that phrase in that section is really to indicate to people, "Yuh doh bound to do it, yuh doh have to do it. It is not necessary." [*Desk thumping*] I think something of this importance must be at least laid in the Parliament. At least, we would know, the Opposition would know, the Independents would know what is taking place in our criminal justice system, and we can all make recommendations, because that is why we are here,

to help in good legislation. You have heard, time and time again, we have, as a dedicated Opposition, contributed and we have debated and supported some 89 to 90 per cent of the Bills brought by this Government, that is to say, we will support good legislation. I must say that this legislation is very poorly drafted, and it should go back to where it came from and be redrafted and brought again to suit our requirements as a developing nation, to aim, you know, to have a developed status in the near future.

Mr. Vice-President, I humbly thank you again for these few minutes, in which I got to lay a few of my recommendations and comments on this Bill. I thank the hon. Members for listening. [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Mr. Vice-President. In debating this Bill, I would like to consider it in the context of human rights and the deficiencies and problems facing us today in our prisons and industrial schools. Let me say straight off that I consider this beneficial legislation and I support it.

I recognize that it cannot be a panacea for all that is wrong in our criminal justice system, but I do think it is a significant step in the right direction, and I commend the hon. Minister.

I am particularly heartened by clause 11, which seeks to establish an inspectorate of prisons. This will provide an assigned body with the power to inspect and report on the state of our prisons and industrial institutions, and to deal with the complaints of prisoners, something which is not properly provided for in the current legislation.

The establishment of an appeals tribunal for the purpose of hearing appeals in disciplinary proceedings against prisoners, I also consider significant and important. I do not share the view of my colleagues that this will not achieve much. I believe this is a step towards institutional building and the bettering of our penal institutions.

I agree with Sen. Al-Rawi that the legislative intent is good, and what I think is also good about this Bill is that it affords us an opportunity to consider our prisons and our prisoners, both adult and juvenile. It calls on us to reconsider the purpose of our prisons and the objectives behind sentencing.

Mr. Vice-President, the object of the State is to make good citizens of its children; that is, to make them productive and serviceable members of the community. Traditionally, prisons and industrial institutions were places to hold offenders with a view to saving them. These institutions were, in fact, called penitentiaries because it was hoped they would lead prisoners to reflect on their mistakes and see the correct way to behave. The inmates would grow penitent about their crimes, while reflecting on their lives.

Later on, the idea developed that prisoners could be put to work and taught to become law-abiding citizens by instilling in them a work ethic. We have heard today one example of that, where you could put them to work in the agricultural fields and so on. Today, however, in Trinidad and Tobago, incarceration seems more about punishment and less about rehabilitation and saving prisoners. It seems more about keeping offenders off the streets and less about their being reintegrated back into our society.

It seems to be more about the so-called deterrent effect that the possibility of prison might have on would-be offenders, though numerous studies have shown that this is of no consequence where crimes of passion are involved. "When the blood rush to yuh head, you eh studying prison or capital punishment." You just doing what you are doing. Right? Most research, in fact, has found no evidence of either the death penalty or the possibility of prison has any apparent deterrent effect.

In any event, I deeply believe that when the State has custody of a person, that person should come out a better person, not worse. That is not happening in our institutions.

Sen. Karim: Mr. Vice-President, not very often I rise to add to what my colleagues are saying, but I want to thank you for the opportunity and thank Sen. Vieira. He did make mention of the fact, and in like manner with Minister Maharaj and Sen. Singh, about the State's intervention in rehabilitating our inmates. I want to also advise that for very many years, since I was the CEO of the Youth Training Employment Partnership Programme Limited, and I was CEO there from 1977, and we continued that when I continued as CEO at the National Training Agency and up to now we persist in that. YTEPP Limited has been involved in prison rehabilitation, both in the female and male prisons and the young offenders. We continue to do so through a variety of skills training programmes and, in fact, we see them as very important, restorative programmes for re-entry as worthwhile citizens into our society. [*Desk thumping*]

Sen. A. Vieira: Thank you, Minister, and I am heartened to hear that, and that philosophically resounds with me, and I want to encourage those initiatives. But I do think that from my own experience, the sad reality is that as matters currently stand, instead of coming out rehabilitated, ex-prisoners tend to leave our institutions bitter and angry, victims of abuse. Abuse does not only have to be sexual abuse, it could be demeaning treatment being meted out—lack of sanitation facilities, invasions of privacy, material deprivation—conditions as Madam Justice Gobin has described, as "hellholes".

When our first-time offenders are exposed to seasoned offenders, our prisons become schools of crime. When prisoners who have served their time and have paid their debt to society come out, find that they have no place to live, that their families and friends' lives have been fractured, they have no work to get because nobody wants to hire an ex-con, they fall easy prey to the wrong elements, and so our prisons become recruitment centres for the worst types of elements in our society.

I think, too, this is a cause for us to reflect about who we are as a society and about how we treat with those who fall. You know, there is a tendency to write off those who are in prison, to treat our prisons as black holes into which we jettison those elements of society we regard as harmful—a case of out of sight, out of mind—until of course their prison term is over and then they come back into the society and pose a threat to us. That attitude—this attitude of prisons being black holes, out of sight, out of mind, that is misplaced and counterproductive.

The fact of the matter is that prisoners and ex-cons are part of our society, and when we fail them, we fail ourselves. The backlash is recidivism, gang recruitment and persons who are angry and resentful towards the wider society.

7.45 p.m.

So, I see this legislation, Mr. Vice-President, as a step towards resolving this disconnect. We need to recognize that just as law-abiding behaviour is learned, criminal behaviour is also learned. Both types of behaviours take place in face-to-face interaction with other people, and our task as lawmakers is to put measures in place that would foster a higher ratio of positive rather than negative interactions.

Many of the people who end up in prison are there because of unfortunate circumstances, but they can be turned around. Prison and industrial institutions are an opportunity to give them the everyday skills needed to lead law-abiding lives. And, Mr. Vice-President, we must never lose sight of the importance of human rights, the need to respect the inherent dignity and worth of each person, even those—I would say, especially those—who are in prison.

The denial of human rights in our prisons is not only an individual and personal tragedy, they create the conditions of social and political unrest. They sow the seeds of violence and conflict within society. So, I very much welcome and support the establishment of an inspectorate of prisons, one that now has access to persons with legal, medical, and penological training; to be able to investigate and report on the treatment of prisoners and young offenders and to deal with complaints made by prisoners and young offenders, something significantly lacking under the Prisons Act and the Prisons Service Regulations.

I very much welcome, as I have said, the establishment of an appeals tribunal for the purpose of hearing appeals in disciplinary proceedings against prisoners; this is forward-looking, this is healing and this is in keeping with best practice. The fact of the matter is that justice does not stop outside the prison walls. There must also be justice within prisons with required standards of conditions. And I see this as a sacred role and responsibility of the prisons inspectorate and appeals tribunals to be established. Our prison population should not feel that they have been regulated to subhuman status. If anything, they need more care.

Mr. Vice-President, when I first started practising as a lawyer, I did a lot of work at the Criminal Bar, but one of the reasons I gave up practising at the Criminal Bar was because of the negative effect that prisons had on me. When I used to go to a prison to take instructions, it wore me down. And I can tell you, after I left, for weeks after I would be depressed.

Hon. Senator: The stench.

Sen. A. Vieira: It is not just the stench, there is a psychic oppressiveness about the place, and I feel, you know, this is something Dr. Mahabir was saying about, he would like to see it; yes, you should see it because it really is deplorable what is happening. You know, there is a point of view that prisoners have somehow forfeited their rights because they have shown little regard for the rights of the civil society, but I believe that is short-sighted and misguided. Unfortunately though, that seems to be the order of the day, and I am hoping that we can change this mindset.

My hope is that this legislation will put human rights principles on the radar of our prison authorities when making the decisions about the rights of inmates. Human rights must form the basis of all policymaking. Under this Bill there will now be a body charged with the duty to properly investigate and to deal with offences against inmates. And I think that is revolutionary; that is important.

Now, we have all heard about reports of our prison conditions—unsanitary, overcrowded, prisoners not getting medical treatment, concerns about transfers to and from courts or to other prisons, poor food and inadequate clothing—conditions, in my view, amounting to cruel, inhuman and degrading treatment. Now while our courts apply the ordinary civil and criminal law to prisoners, in protecting prisoners and prison staff, the tendency of the courts, until recently, has been to regard the operations of the prisons as largely an internal and administrative matter.

This Bill puts the rights and treatment of prisoners on the front burner. It gives a kind of a standard now. This is an important first step, I think, towards providing a readily accessible and objective complaints procedure. So again, I commend the Minister and those advising him for recognizing that because a person is in prison or is in an industrial institution, that is not sufficient to strip him of his human rights and dignity.

I wish to turn now to the reports engaging the minds of the public regarding the St. Michael's School for Boys, and what, I think, is the cause of the problem, and what, I think, perhaps needs to be done. Now, I can speak about the St. Michael's School for Boys because, I think, Sen. Maharaj had indicated that in the NAR administration I was retained by the Minister of Education to be his legal consultant. And in that context I first came across the St. Michael's Home; so you are talking '89, '91. And at that time there were already complaints going back to 1978 about institutional abuse.

Now when you are looking at St. Michael's Home for Boys that is really the bastard child of the system. And I think you need to contextualize it. There is an important difference between industrial institutions which are defined under the Young Offenders Detention Act, and the Young Offenders (Male) Detention Regulations. We have one industrial institution, and that is the Youth Training Centre, and that deals with young adults, young males between 16 and 18 years, as opposed to what is an industrial school, which is what St. Michael's is. The industrial school is a certified school or orphanage defined under the Children Act, as a school for the industrial training of youthful offenders in which youthful offenders are lodged, clothed, fed, as well as taught.

Now here is where the problem started. Because, under the Act, the expenses attendant on the establishment, conduct and maintenance of such schools were to be paid out of money provided by Parliament, somewhere along the line the Statutory Authorities passed a legal order basically stating that all management and staff would be public employees.

I am going to come back to that, but let us look at some of the allegations currently floating about the St. Michael's School. Fourteen-year-old Brandon Hargreaves found dead, allegedly killed during a fight; attempts at a cover-up. Allegations of rampant institutional abuse, including criminal wrongdoing, blatant sexual abuses being meted out to inmates at the home. Boys being stripped naked and beaten. Boys being taken by staff members to hotels to have private rendezvous. Staff taunting and emotionally abusing boys. Boys not being given medical attention when ill. Supervisors hitting, slapping, punching and kicking boys. Boys being denied the opportunity to attend school consistently. Infestations of bugs on boys and the environs. Boys being used to commit crimes in the area.

These are serious allegations. And when you talk about human rights, and we are talking about prison reform, right under our nose, in what is supposed to be school for the reform of boys, we have not one allegation, but a series of very serious allegations going back many, many years, rampant abuse, incompetence and mismanagement.

The St. Michael's School was originally called a reformatory school with the intention of reforming wayward boys. The St. Michael's Home was actually built in the late 19th Century, 1889, as a collaboration between the then governor and the Anglican Church. It is in fact a home for boys sent there by the courts—boys between the ages of 10 and 18 who are considered as either out of control or who may have committed some crime. It used to be referred to, under the Children Act, as the Diego Martin Boys' Industrial School.

What was the mission of the St. Michael's Home? The mission of the home was to ensure the committals—welfare in general terms—replacing deviant behaviours with positive acceptable behavioural patterns, developing job-related skills to assist graduates in finding employment, preventing deterioration of inmates into hard-core criminals with the consequential negative impact on society. Are these objectives being met? I think not. And why? What is the cause of this? I believe it has to do with the inchoate status of the school—the fact that the school is an anomaly within our system. As I have said before, it is the bastard child of the system.

Look at the key stakeholders. The Anglican board purportedly runs the school. The board is entirely voluntary. Members receive no remuneration for services rendered. I want to make this point because the Anglican Church has been getting a lot of stick about these abuses, but the Anglican Church gets no material benefit or financial benefit for running the school. And I also want to point out that not a single Anglican priest teaches at the school. So if there is sexual abuse, it is being perpetrated by others.

Now, we know the State gives a very hefty subvention which goes towards the operation of the school: food, electricity, contract workers, that sort of thing, and then you have the management and staff at the school. Now these are paid government workers. The Chief Personnel Officer is perceived as being responsible for the conditions of service of employees at the home, most of whom are members of the Public Service Association—so a highly unionized environment. Well, the church has repeatedly complained—from when I was with the Ministry of Education all those years back—about the fact that they have little or no say over who is employed, and being able to exercise any disciplinary or managerial control. They have, in fact, no power over the people handling the day-to-day affairs of the school. They have no control over the operations of the school.

So, the board formulates plans and procedures for the home. The board frames policy, but it has no actual control over operations of the home. The board, in fact, depends entirely on the goodwill of the management team—that is, the workers at the home, who are essentially unionized government workers. In fact, the church has complained that attempts to institute programmes such as music, singing and religious-

type activities are often met with non-cooperation and their efforts being frustrated. And when workers are complained against, they are not disciplined, they are simply relocated to another home because we are talking about four homes: St. Michael's, St. Jude's, St. Mary's and St. Dominic's. So, you are just recycling these abusive workers and these offenders; a case of the tail wagging the dog, in my view, Mr. Vice-President.

The institution seems more geared towards protecting the rights of the workers, than the boys who are actually housed there. And the problem is further compounded by the quality of staff. Three O'levels, three O'levels is the requirement to be a boys' home supervisor, and yet to teach at a regular school you should have a degree—far less, I think, for when you are now dealing with troubled and emotionally disturbed boys. Something is wrong here! Everybody is frustrated. The juvenile courts, the boys, their families, the religious authorities, the probation department. When children are placed in institutional care, they must be safeguarded. The State has a responsibility to protect these children.

As I said, there is an anomaly. The home is not a state organization. It used to be treated as a school under the purview and the responsibility of the Minister of Education, but those who run the school and have responsibility for it, do not have the authority to employ staff, to determine their pay and the conditions of service.

8.00 p.m.

There is a misconception by the people working at the school that they are public employees, and that has been reinforced over many years by letters of appointment from the Statutory Authorities Service Commission and by virtue of Legal Notice 21 of 1980 which declared the following institutions to be subject to the Statutory Authorities Act: St. Michael's, St. Dominic's, St. Mary's and St. Jude's. But that Act, that Legal Notice, is null and void because none of these institutions fall under the category of statutory authorities. They are not incorporated by an Act of Parliament; they were schools being run by churches.

So here we have this long-standing misconception being institutionalized and you are placing employees of the industrial schools and orphanages under the jurisdiction of the service commissions which is entirely misconceived and wrong in law and it is also outside the scope of the enabling power. From time to time, Sen. Al-Rawi will talk about the drafting errors. Well, here is one of the classic drafting errors, where legislation which is secondary legislation is being passed, but there is no provision in the parent Act to allow for it.

So these misconceived interventions have created, in my view, a systemic gridlock and is at the heart of this absurdity; it is at the heart of this obscenity. The school itself has been bouncing about all over the place. At one time it was under the Ministry of Education, then it went to the Ministry of Social Development; now, it is under the Ministry of Gender, Youth and Child Development.

I seriously recommend—the Report on Operations at the St. Michael's School for Boys has recommended that all 38 children be removed from the institution. I want to go further than that. I recommend that the institution should be closed down and I would invite the Anglican Board to so consider. Alternatively, and here is where it nicely dovetails with this Bill, if the St. Michael's School for Boys could be declared a detention institution, right? under the Young Offenders (Detention) Act—placing it under the supervision and direction and control of the Commissioner of Prisons and then under the monitoring of the Prison Inspectorate and the Appeal Tribunal, that could be an alternative.

But the point I want to make here, Mr. Vice-President, is that the State has a responsibility to make persons in custody better, not worse, whether you are in a prison or you are in a home or you are in an industrial institution. This is a failure of the system. It is a national disgrace and I think it is time to do something about it. So, I agree with the hon. Minister of Justice that this Bill will provide new approaches and it has the potential for transforming the current penal system. This is not sexy legislation. It is not going to win votes. It is not going to provide opportunities for largesse and money to be made, but for those who are in prison and their families, I believe this is going to have great significance and importance. I hope it will lead to a more just and humane society. Mr. Vice-President, I thank you. [*Desk thumping*]

The Minister of State in the Ministry of Gender, Youth and Child Development (Sen. The Hon. Raziah Ahmed): Thank you very much, Mr. Vice-President. I rise to join the debate to respond in particular to concerns by Senators with respect to youthful offenders, raised in particular by Sen. Dr. Wheeler, Sen. Drayton and Sen. Vieira, about the condition and the situation that these young offenders find themselves in and the current very unhealthy and unhappy circumstances that we now have to treat.

I am very glad that Sen. Vieira gave us the historical account of what has happened with the evolution of these institutions from reformatory homes to now in our current situation where they are actually catering to a cohort of young people that was not contemplated in the original legislation but which—and I want to pay particular credit to the role of the Anglican Church and the Catholic Church in the work that they have done for over 100 years, I think, in trying to maintain a place of safety for these young offenders, both males and females.

What has evolved, as was alluded to by Sen. Vieira, was a piece of legislation that happened around 19—Legal Notice No. 21 of 1980 and Government Notice No. 171 of 1978, which led to a situation that created confusion in the mind of the stakeholders and it created basically a human resource arrangement that impeded the development and the operations in an efficient manner of all of these institutions.

In the year 2000, the Children's Authority Act, under the then Government under former Prime Minister Basdeo Panday, understood what was happening in these institutions and recognized that there was an urgent need to remedy the misconceptions with respect to the role of the State, the role of the church, the role of the board and the management system that was created by the legislation in 1980 and 1978. And so the Children's Authority Act as well as the Children's Community Residences, Foster Care and Nurseries Act of 2000 were assented to in the year 2000.

The contemplation of those pieces of legislation was to bring a new protection system for children who find themselves on the social margins, bordering on beyond control or minor offences or even criminal offences in an adolescent stage and to try to bring best practices into the system. That was contemplated since the year 2000. Unfortunately, between 2000 and 2009, nothing happened. Those pieces of legislation were thrown into the dustbin of cobwebs and dust and not a single effort or initiative was undertaken by the then Government to bring any solution to the repeated allegations of abuse in all of the institutions. Nothing was said, nothing was done and it was simply swept under the carpet by the Government of the day.

Come 2010, a new Government, with a vision and a direction to look after the best interest of our children, and that legislation was resurrected, brought back with the Children Act of 2012, the establishment of employees under the Children's Authority and a fast-track system to now try to bring, as quickly as we possibly can, some remedy to the abuses that were perpetrated for upwards of 30 years, and I think one of the headlines, front-page covers, of one of today's newspapers carries it very aptly—30 years of abuse.

We need to be careful that we do not use this as a political football because these young people are wards of the State and it is the responsibility of the State to look after their welfare. Since 2012, when these institutions fell under the Ministry of Gender, Youth and Child Development, in the two years that we have had to work with these institutions, we have actually experienced what I would call under-reporting.

So, when Sen. Drayton alluded to the fact that it was the media that exposed this last fiasco, I want to just say that it was a statement by the Attorney General who had indicated that a report commissioned by the Ministry of Gender, Youth and Child Development that had now brought this thing back into the media limelight. It is the Ministry of Gender, Youth and Child Development, recognizing that there was a need to really send investigators into the institution,

St. Michael's in particular, to find out what had been happening, that led to the report; and so the Attorney General in this Government made a statement to the effect that the report was now being sent to the office of the DPP and to the Police Commissioner and also made recommendations that certain steps be taken.

Subsequent to that, we have had at least one person go forward to the newspapers—it has been all over the newspapers—claiming that this kind of abuse was perpetuated for decades. And so, what are we doing?—which is the question that Sen. Vieira asked. What are we doing?

Let me just say that the protection service that is contemplated under the Children's Authority Act—and let me also say that the Children's Authority Act brings the Children's Authority into being. It exists, it is waiting on proclamation of the regulations and these regulations are going to be coming to both Houses very soon and we look forward to the support of those Senators who have been distressed at the situation that has caused this particular slant to the debate. We look forward to your support in having the regulations passed so that the Children's Authority can become fully operational. [*Desk thumping*] Thank you, Sen. Al-Rawi.

Currently, we have the assessments centres. The objective of an assessment centre is to discontinue the current system of where a youthful offender appears before the court and is sent to an institution that is not suited to do any kind of rehabilitation work with that young person. What will happen now is that an order will be generated to send these children to the Children's Authority which will begin an immediate assessment of the needs of each individual child that comes before the Authority and whether that child will be best suited to foster care or to being positioned in a centre where the child will continue an assessment or will receive psychological or medical or other types of assessment or whether that child needs to be committed; whether the child is on remand or simply committed for unruly behaviour.

The assessment will be done in an environment that is now child friendly, unlike the current system that obtains where the child is just dropped off in a management operation that has been very loose between church, State and management, where the systems that are supposed to have been managed were not being managed, where the operations were not being scrutinized on a daily basis because nobody seemed to know who was really responsible for looking after the day-to-day.

In our minds, in the minds of the Ministry, it is clear where responsibility lies in terms of the day-to-day management of the institution and our recommendations are very clear; but going forward, the legislation, when it is proclaimed, contemplates the individual assessment and an individual care plan for each offender and the necessary

rehabilitation that will attend. It also contemplates getting these young people back into the home environment, whether it is a foster care environment, whether it is back into their original home environment. It contemplates getting these children back into these environments as quickly as possible so that they can lead as normal a life as possible. It also has provision for a number of institutions that have to be built.

8.15 p.m.

There are three assessment centres that are currently on track to come on board by September of this year, as well as by the end of this year, early next year. There are also workshop centres that are being built. These workshop centres are places of safety where children who have to be kept as wards of the State will be placed. And they are being called workshop centres because the syllabus or the programme at these centres will be actually to rehabilitate these young people and to work on things like self-esteem and all of the character building aspects of personal development that are important.

In addition to that, we have transition homes, because when the young people reach a certain age and they need to transition out into the society there is a special type of training and exposure that they must meet in order to transition them out to a working situation and to be as well-adjusted as possible. And so, it is the vision and the mission of the Ministry of Gender, Youth and Child Development to ensure that the transition homes, the assessment centres and the workshop centres are commissioned and operational in the shortest possible time, [*Desk thumping*] and our projects are on course, some of them have gone past the tendering stages and are about to break ground.

It is a very exciting time for us because we are seeing light at the end of the tunnel, and we are seeing that with the Children's Authority being operational by September, with the opening of the doors of the first assessment centre at Mount Hope, that a new dawn, a new era of child protection [*Desk thumping*] will enter into the landscape, and abused children, children who end up before the courts, children who are simply referred by the school system or the church system will all now have the opportunity to be properly assessed on an individual basis, so that the true psychosocial needs of these young people will be analyzed.

In fact, some of the reports we have from the children placed at St. Michael's, for example, is that these children really do not belong in that environment. But because of the breakdown in the system that was created by Legal Notices, the ones that I quoted before, Legal Notice 171 and Legal Notice 21 of 1978 and 1980, respectively, that created a confusion, we are now going to be able to

rationalize the system and have proper protection and care for all of our children who are victims, whether it is abuse; whether it is crime; whether it is having witnessed crime, all of our children will be assessed by professional people. Our assessment centres are going to be so designed, so that we have the social worker, the pediatrician, the psychologist, working in one environment. It is like a one-stop shop, and it is very unlike the current system where a child is taken to a DMO and to a police station, and the child is further traumatized in the current environment.

We now envision that in our assessment centres, which will be child friendly, there will be a reduction of trauma. It will be a one-stop shop where social worker, doctor, nurse, police, everybody will be working out of one unit to bring a holistic assessment and a proper care programme to allow for these children to now come back into the normal family environment, so that we reduce the level of delinquency that has been perpetrated by a default really.

Quite frankly, prior to now or prior to 2000, with that legislation, no Government had ever contemplated the emerging needs of this cohort of young people, where the behaviour now borders on something that in our meetings with the Anglican Church and the Catholic Church, they have declared that they are really not trained to deal with the level of gang interaction, illicit drug interaction, substance abuse that have sort of mushroomed in the last 15 or so years—all of the smuggling and all of the predatory elements in the society that have now seen these young people as very vulnerable and are now taking advantage of them to do the mule work with the drugs and the guns and the gang warfare and so on.

And so, we are saying with the commissioning of our first assessment centre in September, by the grace of God, other things being equal, we would be on track and on board with a new system of looking after the welfare of those of our young people who find themselves on the social margin and who border on deviant behaviour and delinquency. And therefore, we will reduce the trauma on these young people, and so in the medium term reduce the level of delinquency in society as a whole.

In closing, I want to say that as a Government we remain grateful to the work of the NGOs that have traditionally looked after these young people [*Desk thumping*] and the work of the church, all of them, all of the churches: the Anglican Church, the Catholic Church, the Presbyterian Church, the Hindus, the Muslim communities where they—and oh, the Baptist community, and every other community, not that I want to leave out anyone, I want to include everybody. Time does not permit me to call out the name of every single NGO and religious body that has helped with trying to provide for a need that was never envisioned by a Government and has never been provided for.

In the year 2000, legislation came that went into the dustbin because the Government that came into power did not think it was important; they did not think that our children were really important, they could not see what was happening to the children of this nation, and by the grace of God we were given that opportunity in 2010 to come back and bring it back out. It is back on board, it is on stream, it is on track, and by the grace of God come September, a new dawn; a new dawn for the children of this country. Mr. Vice-President, I thank you. [*Desk thumping*]

Sen. David Small: Thank you, Mr. Vice-President. [*Desk thumping*] Thank you for the opportunity as I rise to make a contribution on this Bill. I respectfully seek your indulgence in extending my thanks to the Government for making public the findings of the investigations into the HCU matter.

Mr. Vice-President, for too long and too many times innocent citizens have been taken advantage of, by charlatans and thieves, masquerading as business persons with the sole objective of fraudulently and permanently separating citizens from their hard earned savings through well-disguised Ponzi schemes.

As we debate here today amendments to the Prisons Bill, I trust that the prison officers are making the necessary room to accommodate the new residents who would soon be housed at the State's pleasure. [*Laughter*] In the same breath I anxiously await the report on the FCB IPO scandal, as well as the Clico investigation, because if I were a betting man I would wager a large sum that many more persons would be experiencing the full weight of the State's prosecuting apparatus as well as soon thereafter begin enjoying their new accommodations at the State's penal institutions.

Mr. Vice-President, in that vein I want to take a moment to say thank you to the brave men and women who work at the prison service. [*Desk thumping*] These are people who work every day to ensure our communities are safe and that the people confined to the correctional system remain there and do not pose a threat to honest law-abiding citizens. I would like to acknowledge them today and congratulate them for the work they do and would continue to do.

Mr. Vice-President, the ultimate aim of what we are trying to do here is to have an improved prison system that looks after the well-being of prisoners, prison officers and the general public at large. One of the challenges that we face is that having been here a little while, we continue to be seeming to be dealing with what I consider to be failing or non-performing institutions. I do not want to call other names, but I am not sure, necessarily, if creating new ones is the way to

go to fix all of the problems. But I am supportive of the thrust to recognizing that the institutions that have been charged or the authorities that are in charge of some of these things have not been able to deliver on their mandate; they failed in delivering their mandate. And you look at ways in which we have tried to do this, the continuing challenge is finding the resources, both people and financial, to get all of the things done.

If you look at the experience to date of the OSH Authority that essentially replaced the Factory Inspectorate, really, really, impressive line-up of things that they are supposed to do, but they continue to not be able to deliver properly because they just cannot find the resources, or they cannot keep the resources. And I suspect that the new planning authority would probably face some of those similar instances because we have a finite pool of resources in the country, and those are some of the challenges that are going to be difficult to overcome. So while we come and we try to create legislation to fix some of those problems we will be creating other problems.

Mr. Vice-President, as I continue, I have been a Member of this Senate for coming up to a year, and I have been pleased to make contributions on several Bills that contain provisions, increasing jail terms for a range of offences. In looking at prison reform, a holistic approach is required that addresses such matters as drug addiction, mental illness, gangs and overcrowding. In addition, we have to be cognizant that prisoners have no control on who they live with or share space with and are exposed to many communicable diseases. As matters stand now, weaker individuals are easily victimized by other inmates. And by general agreement most are inappropriately housed. Overcrowding is endemic, and assaults against both officers and inmates continue to rise.

Mr. Vice-President, perhaps we should consider a system where prisoners are assessed at intake into the prison, so that addiction and other problems can be identified and there can be better preparation for their rehabilitation or treatment. This would be a step change in the way in which inmate management is dealt with, as we would be treating with problems when they enter the prison. To really address drugs and other wellness problems in the prisons, many things are needed, but the two most critical things are that, we cannot have drug-free prisons without the application of appropriate resources and having systems in place for appropriate rehabilitation.

I noted that the hon. Minister of Justice launched a programme that will kick off in 2015—a three-year programme, and I want to congratulate the Minister on that initiative where there is going—to begin the process of putting something in

place to rehabilitate prisoners who were dealing in drugs. And I think that is some of the things that we really need to be looking at, because we have heard from other Members about the recidivism rate.

I looked at an article in the *Trinidad Guardian* of July 18 by Ian Ramdanie and, according to his information, he is saying that the last study in recidivism was done in 2002, and at that time the rate was 56 per cent, which meant almost six out of every 10 persons who were in jail go back to jail. So something is fundamentally wrong, and it speaks to the general failure or general collapsing of the criminal justice system. It speaks to a general failure, almost six out of every 10 prisoners who went to jail end up back in jail. Something is fundamentally wrong somewhere.

Mr. Vice-President, as I continue I want to understand the Government's intentions or thoughts regarding a programme of conditional release. Under such a system inmates in custody can be presented with conditional release options with conditions, such as orders to not leave a specified area or associate with certain people. Prisoners will be offered this type of release after they have served part of their sentences. This does not mean that their sentence is shortened. It means the remainder of the sentence may be served in the community under supervision with specific conditions. Because of the endemic overcrowding we have in the prison system, and when we look at the profile of the persons who are currently in the prisons, I think that there needs to be some consideration for this in the general way in which we try to reform the entire prison system.

8.30 p.m.

Of course, for such a system to really work, we need to have a proper system in place to assess the offenders' risk as they become eligible for any type of conditional release because overriding everything, the protection of the society is going to be the most important consideration in any such programme.

I will not repeat, I will simply endorse all of the comments that have been made about clause 11, and on all the issues I will not, in any way, try to repeat those, other than to say that I endorse them, and I have a fundamental challenge with zero transparency of process because I do not understand the process. There is no process, and I understand, as a participant in the administrative system for many years, you do not necessarily want to prescribe everything for those in the system who have to administer it, but I cannot see a Minister having complete and total latitude in engaging people and dismissing people, and I am not seeing what is the process.

What I would have liked to have seen is that there would be some sort of an independent assessment. You are going to create this institution for the inspectorate and you say the Minister is granted the authority to engage the services of a consultant who will sit with the Ministry and come up with a plan to say: this is the terms of reference of the organization; what is the optimum staffing level and what types of staff, and then the qualifications that are required. You need to have some rigour built into it. As it is now, I am not seeing that and I do not think that that is rocket science. That is something that—lots of HR consultants are out there; you can get that done in a couple of months: this is the terms of reference; this is what we need it to do. What do you suggest is the optimum structuring; how many staff; what types of staff; and then, what types of skillsets are required. I do not think that that is something too difficult; that could it be done and could be easily added.

I think that would allow—I have no problem with the hon. Minister signing off on the appointments. I have a challenge with how it is structured here now, there does not seem to be any—I do not understand the process, and I am a process person. I like to understand the process.

Mr. Vice-President, in wrapping up my contribution, it is clear that as a result of the amendments made, the Government is hopeful for a better and improved prison service. However, as I have outlined, there are many and several matters to be addressed in making a really deep and lasting change to the currently overburdened system. And let me make it clear, I am not laying the blame for my next comment at the door of the current, or any previous administration. What is required is a complete overhaul of the criminal justice system. We need to have a clear plan that describes all of the challenges and then outline strategies, actions and resources needed to address each with clear timelines for delivery.

Of need, such a plan will very likely overlap a five-year period which brings with it unique challenges in our current system, and probably explains why no party has yet done so—no pun intended. In this way, what will actually happen—and I make no apologies—I think a lot of the things we are doing sometimes, we are in what I call SRC mode, where we act only when prodded, and then only produce piecemeal outcomes that are not holistic and are not able to deal comprehensively with the systemic problems that we are facing. You cannot deal with a systemic problem in a piecemeal manner by fixing bits and pieces. You need to overhaul the entire process. It needs a complete and total overhaul, and it is not going to happen in any kind of short time frame. You cannot get it done in 18 months or a year. It requires the application of the resources and recognizing it needs a complete overhaul.

Mr. Vice-President, I continue to be an optimist about the future, but I am deeply fearful that unless we have a step change in the entire criminal justice system, we may have more crime, less justice, less protection and voice for victims, and less protection for the society. But, as the saying goes, where there is life, there is hope; and this is why, despite what other people think, all of us in this Chamber here, we spend the time, firstly preparing for and then, secondly, contributing to the debates on the various matters that engage our attention. All of this we do in the fervent hope of improving the quality of life for all citizens of our blessed country.

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

Sen. Rev. Joy Abdul-Mohan: Thank you, Mr. Vice-President. I am truly grateful for the opportunity to participate in this debate, especially coming down to the end just before the hon. Minister, Emmanuel George, speaks. And like my colleagues, I want to focus specifically on the amendments to the Prisons Act, Chap. 13:01, making reference to clause 11, which seeks to repeal sections 19, 20, 21 of the Prisons Act and substitute new sections, such as 22, 23, 24, 25 and 26.

Now, whenever changes are proposed regarding a Bill like the Prisons Bill, my hope is that these changes would not only be administrative, but transformative, especially in relation to human beings, very much related to what Sen. Vieira spoke about earlier. Therefore, I do agree with the general intentions of the Bill, but like all other speakers, I do have my concerns. And, when we look carefully at clause 11—section 20—we find that that phrase "persons of good standing" has appeared before when we discussed other legislation. I think it was the Nurses and Midwives Bill. My understanding of this phrase, which is used sometimes interchangeably—"persons in good standing" or "persons of good standing"—must reflect a combination of competency, qualification, objectivity and experience in a particular field or organization, and without being repetitive, we want to really emphasize that this section needs to be spelt out and refined, and more detailed to reflect the expertise needed for this appointment and the responsibilities that are required. You see, it cannot be an open-ended appointment, but the qualifications should be clearly itemized.

Further, I have a concern that the Inspectors of Prisons must not be persons who have served in the Trinidad and Tobago Prison Service, if we look carefully at that section 20(3)(c). I say this because I am assuming that this section was proposed to ensure that there is no conflict of interest, and to encourage utmost objectivity. But I am wondering how this will affect the Inspectors of Prisons in fulfilling their role adequately and effectively as persons of good standing, or in good standing. If we should ever go into committee stage regarding this matter, I hope the English legal professionals can determine which phrase is preferable.

From the Minister's contribution—the hon. Sen. Emmanuel George—I am thinking that section 21, where:

> "The Chief Inspector of Prisons"—subject to the approval of the Minister—"may from time to time…appoint one or more persons with legal, medical or penological training as an Assistant…in the performance of his functions or duties; and
>
> (b) such officers and other staff as may be necessary for the effective operation of the Inspectorate."

—may take care of any constraints, I believe, the inspectors may have in executing their functions and duties in a professional and timely manner. But, I do not believe that this is adequate enough. I can be guided by the Minister as to the criteria for (c) except that which I have already stated regarding the conflict of interest.

As I reflected on section 21, I also share the concern of some of the other speakers that this level of autonomy of the Chief Inspector to choose as he well pleases worries me a bit, and therefore we need to be more specific regarding this matter.

Secondly, Mr. Vice-President, I refer to section 22, to the functions of the inspectorate, and I am pleased that included here in (b)(ii) as one of the functions:

> "investigate and report to the Minister on—
>
> (ii) programmes, facilities, services and opportunities available to promote the rehabilitation of prisoners and young offenders and the accessibility of these programmes, facilities, services and opportunities to prisoners and young offenders;"

I am aware that prisons obliterate the landscape, intimidate communities and create a financial burden for governments. You see, these forbidding structures are also a constant reminder of the increasing crime rate and of our inability to solve this troublesome problem.

Today, issues of crime and punishment are paramount, and it is difficult to envision rapid changes in a prison system that has historically been seen as one of warehousing and punishment. Having served as a prison chaplain for over 10 years within the Trinidad prison system, as well as for a short stint at the New Jersey Correctional Institute, USA—[*Interruption*] Not as an inmate. [*Laughter*] I make my position clear, Sen. Mahabir, not as an inmate. I was privileged to share

in a ministry in collaboration with the Council for Prison Chaplains and Ministers, better known as COPCAM, and other non-governmental organizations (NGOs) and/or faith-based organizations (FBOs) in planning and implementing programmes within the prison service that engaged in anger management, seminars, counselling sessions, conflict resolutions and mediation classes.

Ironically, there was a level of freedom within the prison walls notwithstanding the challenges with which we conducted rehabilitation and self-awareness programmes that aimed at personal growth, character formation and reintegration into society. It is all well and good to have all these programmes, but without the supportive mechanisms, structures or resources—for example, a proper counselling room—NGOs and FBOs, those who have a passion and sincere interest in the rehabilitation and reformation of inmates, cannot effectively and efficiently fulfil their roles.

Maybe some of these concerns will be taken care of in regulations or in prison rules, I would hope, but volunteers to prison ministry always served with limited resources. The churches would receive maybe a prison grant of $3,000 per year and $300 per month to do its work. So the churches themselves, and these organizations, NGOs and FBOs, would sponsor programmes.

And when we look at the system itself, many may ask: what sense is there in giving voluntary service or time to persons who have destroyed and taken lives? Very often we are asked that when we go into the prisons: "Why are you wasting your time?" But working with inmates—men, women and young people—has always been a challenging but fulfilling experience. That is the hope that the incarcerated look towards. And so through its prison ministry, we have seen a tremendous change in the lives of many inmates, those still incarcerated and those released.

However, be that as it may, entering as a prison chaplain into the prison system of Trinidad and Tobago, we found that MSP, (Maximum Security Prison), seemed like a university, but in other centres, state prisons like Frederick Street, Carrera and Golden Grove, you know, we are shocked and dismayed.

8.45 p.m.

However, with a lack of resources and the proper facilities, not only for inmates, officers—prison officers or volunteers—the prison chaplaincy faces the challenge of maintaining continuity, aftercare and follow-up sessions with those who have re-entered society, and we heard some of the other speakers mention that.

Without the proper structure in place, it becomes difficult, Mr. Vice-President, to help former inmates to integrate into society and to stay clear of a life of crime. But in leading and teaching these classes, I always kept in mind—and this is what I want to emphasize this evening— I always kept in mind the new approach initiated by the then Commissioner of Prisons, Mr. Cipriani Baptiste, who planted the concept of restorative justice, used in many other countries, and his successor, Commissioner Mr. John Rougier, who developed the concept and encouraged volunteers, like me, to engage in a ministry that was rewarding, even in the midst of an environment that perhaps was not as conducive as perhaps would be required. But the commissioners always stressed that those who work within the prison system, and the community as a whole, should take the restorative justice approach rather than the retributive justice approach.

Suffice it to say, there were those who did not support this approach including prison officers. Thus training is fundamental to all stakeholders to create an alignment between government policy and prison staff. So training is mandatory. Further, Mr. Vice-President, restorative justice seeks to deal with the victim and the offender. This approach calls upon the offender to take responsibility and be accountable for what has been done, being made aware of the hurt of the victims and making reparations. Restorative justice, therefore, understands that the purpose of discipline is to enable the offender to become more and more what the person was meant to be, and I want to share with this august body what the Chaplaincy Division of the 2003 Correctional Services, Canada states and I quote:

> "Relationships are at the heart of restorative justice, and when we actively use a restorative approach in which people are included and heard, there can be understanding, healing, accountability and a strengthened community."

And so, that section 22, it really states for me—and I hope there will be a re-emphasis on looking at programmes within the prison system, using the restorative justice approach because the focus is on the pain of taking responsibility, the positive shaming of the deed—not the person—and the mediation in the context of supportive communities.

You see, Mr. Vice-President, restorative justice is grounded in the belief that no one is disposable, and the vision that human conflict and harm can be more effectively addressed by attending to the healing of all those affected. And this is different from our current justice system, which focuses on punishment. The 2003 Correctional Services of Canada continues to state clearly that the community should be at the heart of the justice equation, because when a crime is committed its members have an interest in everyone regaining a sense of safety. Doing justice differently means viewing crime differently.

Crime is almost always a sign of brokenness within individuals and between people—a fracture or rending of community life usually with real and painful impacts on the lives of those victimized, the offenders, their families and other community members. And when such brokenness occurs, the restorative approach asks: what is needed for the community and its members to heal and live successfully together again? How can a community assist in the support and healing process of the victim? How can the community help the offender understand the impacts of the behaviour and encourage the offender to accept responsibility and make amends?

So whenever legislation is being implemented, the human aspect must be taken into consideration—how to make persons better—and we heard that being shouted out by many of the Senators and our learned colleagues.

Mr. Vice-President, prison clergy are faced with every conceivable problem, all of which demand some manner of response. Working with inmates has led me to examine my own emotions. The demands placed on chaplains are a test of character and spirituality, and through honest self-examination I have learned some displeasing truths about myself—intolerance of certain personality types stands in the foreground. Prison clergy and those who give voluntary service spend a considerable time with many objectionable people, and it is easy to build walls against particular types of individuals, but I have learned to be tolerant and maybe that is why I feel so comfortable in the Senate. [*Laughter*]

Anyway, it is imperative that the inspectorate together with all stakeholders examine the motives of programmes to ensure that through the regulations the programmes are suitable and relevant to the needs of both inmates as well as prison officers and workers within the prison system. We know that inmates are changed not by their confinement, but by choosing a new way of thinking and living, a new character as it were. Thus programmes based on this concept of restorative justice, in my humble opinion, will bring about positive changes in the prison system and I believe as well in the criminal justice system as a whole which we need so badly.

Thirdly, I do appreciate the introduction of this new section 26 regarding the appointment of appeal tribunals, but I want to ask that great care, Mr. Vice-President, be taken in appointing such tribunals so that individuals will have the opportunity to air their grievances and seek restitution or be disciplined, where necessary. There must be a level of transparency that is unquestionable, and it is my hope that the regulations will ensure utmost objectivity and impartiality with the appointment of individuals, whether it is a retired judge or magistrate or attorney-at-law. Mr. Vice-President, I want to humbly suggest in section 26(1) that the word "may" be replaced with "shall" to emphasize that it is not an option to appoint a tribunal, but a necessity to hear appeals in disciplinary proceedings.

And so, Mr. Vice-President, any legislation regarding prison reform should always aim at reforming the individual and ensuring better conditions for humans, despite their mistakes in life. And so I thank you for the opportunity to share these concerns and comments and hope that, like all other comments, they will assist in bringing positive changes to our prison and justice system, and prison reform will be ongoing.

I thank you. [*Desk thumping*]

The Minister of Justice (Sen. The Hon. Emmanuel George): Thank you very much, Mr. Vice-President. I rise to close this debate. Mr. Vice-President, we have been debating this particular Bill since around two o'clock this afternoon and it is now 8.54 p.m. I have listened attentively to all of the contributions and to the very important imputs and insights and suggestions that have been made by Senators, and we undertake to examine all of these suggestions and changes as appropriate to the legislation, perhaps at the committee stage.

I want to underscore, though, to this honourable Senate and to the national community, that the context of this legislation is that it is another item in Government's multipronged strategy to improve the penal system and the criminal justice system of Trinidad and Tobago, and that there are several other prongs that we are attending to simultaneously to cater to these improvements. Sen. Small did allude earlier on in his contribution to the fact that only last week a Note was taken to Cabinet, by me, to introduce and implement in the prison system a process by which we will address the drug use and drug trafficking by inmates, so that we can attempt to draw them away from a life of consumption or a life of peddling of illegal substances.

So, this, is as I said, one of the prongs in a multipronged strategy to improve the penal system. There are others. There is the parole Bill which is currently being finalized and via which it is the intention to introduce a parole system. There is also the Bail (Amdt.) Bill. The intention is to amend the Bail Act that will seek to introduce a new regime for persons accessing bail. The Ministry is also pursuing the compilation of a justice policy. All of these would serve to improve both the penal system and the criminal justice system.

Recently, Mr. Vice-President, the Miscellaneous Provisions (Prisons) Bill was passed in the Senate, and this included provisions for the protection of witnesses, jurors and court officers, et cetera, and protecting them against threat and coercion. This Parliament has also addressed amendments to the DNA Act, the Jury Act, the Police Service Act and so on, and created a new offence of obstruction of justice. So with all of these measures, the Government is seeking to improve and make better the penal system and the criminal justice system.

I had indicated in my address that the new legislation is also a precursor to the introduction of the new Prison Rules. And I want to refer to the contribution of Sen. Prescott who quoted extensively from the old rules, but I want to suggest that the old rules are being replaced by the new rules and the operations of these particular amendments are predicated on the new rules coming into play and, in fact, a lot of the old rules are a lot more in the breach than in the application. A lot of the persons mentioned, for example, in the old rules do not exist. The Superintendent of Prisons has been replaced long ago by the Commissioner of Prisons. So that I just want to refer to the fact the new Prison Rules have to be laid right after this legislation is passed hopefully, and that will give teeth and a greater effect of this legislation and the old rules will be completely thrown out. So I just want to make that particular correction.

A lot of discussion went on this afternoon in contributions, particularly on the part of the Opposition Bench, regarding the state of the prisons, and I want to say that the Prime Minister in establishing the Deosaran committee late last year, gave tangible proof and testimony to her commitment and the commitment of her Government to the reform of the prison environment and to helping the inmates, as well as the prison officers, to have a better experience in the prisons and to become, as a result, better persons.

9.00 p.m.

So, to say that this Government is not doing much to change the operation in the prisons is not at all to be telling exactly what is happening in this particular situation as we progress in the area of reform of the penal and criminal justice system.

But, Mr. Vice-President, I just want to beg your leave to stop here and to continue my wrapping-up at another time so that via arrangement already made, the work of this House could continue on another matter. Thank you very much. [*Desk thumping*]

ARRANGEMENT OF BUSINESS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. Vice-President. Thank you, hon. Member. In accordance with Standing Order 36(3), I beg to move that the debate on this Bill be adjourned to tomorrow, Wednesday, July 23, 2014.

Agreed to.

Mr. Vice-President: Let us take the opportunity to welcome the Minister of Housing and Urban Development and Leader of Government Business in the other place.

LAND TENANTS (SECURITY OF TENURE) (AMDT.) BILL, 2014

Order for second reading read.

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Vice-President, I beg to move:

That a Bill to amend the Land Tenants (Security of Tenure) Act, Chap. 59:54, be now read a second time.

Mr. Vice-President and Members of the Senate, thank you very much for the welcome this evening. Before I make my presentation, may I indicate it is a pleasure, yet again, to visit this very distinguished Chamber to present a Bill and to share in discussions with very illustrious citizens, Senators and nobility. [*Laughter*] I may remind you that it was the Chamber I began my own parliamentary career several years ago, in the Senate, and do have very pleasant memories of very intense debate and solid contributions by several very prominent citizens of this country over the years. So, it is always a pleasure to return to this House. Having said that, it is not a House that I may wish to return permanently at this time, [*Laughter*] but it is a pleasure to be here. [*Crosstalk*] I do not have an intention to return on a more permanent basis.

The Land Tenants (Security of Tenure) Act, Chap. 59:54, was passed on June 01, 1981. The main purpose of this Act was to protect land tenants who had houses on rented lands from being evicted by owners of the land. Currently, there are approximately 4,000 land tenants throughout Trinidad and Tobago, and Mr. Vice-President, when we say land tenants, we mean persons who are renting on private lands, not state lands. The said Act stipulates that where a tenancy existed at the appointed day of commencement of the Act, that is June 01, 1981, it was automatically converted into a statutory lease for 30 years.

During the period of the statutory lease, the tenant has the option to renew the lease for a further period of 30 years or purchase the parcel of land at half the market value of the land. In order to exercise the right of renewal prior to its amendment in 2010, section 4(3) of the Act provided that the tenant was required to serve on a landlord written notice of renewal at least six months before the expiration of the original term of the statutory lease. This meant that tenants were obliged to serve notices by November 30, 2010. Upon service of the notice by the tenant to the landlord, the statutory lease was deemed to be renewed for a period of 30 years subject to the same terms and conditions and to the same covenants, if any, as the original term of the statutory lease.

However, our Ministry at the time, the then Ministry of Housing and the Environment, recognized the dire need to assist land tenants by allowing them more time to serve notices of renewal on landlords since only service would have enabled them to secure another 30-year lease. In fact, the last 30-year period which would then be determined in the year 2041. The result was the passing of Act No.10 of 2010 whereby section 4(3) of the Land Tenants (Security of Tenure) Act was amended to extend the time for notices of renewal to be served on landlords to June 01, 2011, the end of the first 30-year statutory lease, instead of November 30, 2010; that is, six months prior to the expiration of the 30-year statutory lease.

In 2010/2011, in order to sensitize the land tenants to the requirement to serve notices of renewal on their landlords, our Ministry, in collaboration with the Ministry of Legal Affairs, embarked upon an extensive public relations campaign which took the form of radio and print media. We were very successful in that many land tenants across the country served the required notices of renewal on their landlords. However, there were some of them who experienced the problem of not knowing exactly who their landlord was, the address or location of the landlord, if any, and also the existence of multiple landlords for the same parcel of land. In such circumstances, service of renewal notices on the landlord was virtually impossible.

A tenant who did not serve a notice of renewal on the landlord could be evicted from the land, could lose the protection of the Act, in that he or she would no longer have the option to purchase the land at half the market value and, in essence, would no longer hold the land as a statutory lease. Such a person would now be at the mercy of the landlord and would have to enter into some other form of arrangement to purchase the land should the landlord decide to sell.

The Ministry, thus, recognized the urgency to assist land tenants who, through no fault of their own, were experiencing the above problems of service. To alleviate this problem, the then Ministry of Housing and the Environment in collaboration with the Ministry of Legal Affairs collected the said renewal notices from the tenants within the stipulated time period—that is, up to June 01, 2011, based on the legal principle that the State is the residuary owner of all lands.

The tenants, having effected service on the State as land owner, were then able to derive the benefit of automatic renewals of their statutory leases, which many are currently enjoying, together with the option of purchasing the land at half the market value. The Ministry is aware that there was not and still does not currently exist any provision for service of the renewal notices on the State in the Act. But, as I said before, the Ministry had to implement some initiative to allow tenants to exercise their legal rights to renew their leases.

The tenants having served their notices on the State and the State having accepted them, it is now necessary to validate the initiative taken by the then Ministry of Housing and the Environment by amending section 4(3) of the Act retrospectively. In this regard, an amendment to section 4(3) of the Act is being proposed in the following form:

"(a) by inserting after subsection (3), the following subsection:

"3A Where a tenant is unable to serve a written notice of renewal on the landlord under subsection (3) for any of the following reasons:

(a) the identity, address or location of a landlord is unknown; or

(b) there is more than one landlord in respect of the same parcel of land,

the notice may be served on the State as landlord by serving it on the Minister."; and

(b) in subsection (4), by inserting after the words "subsection (3)", the words "or (3A)".

The validation clause, Mr. Vice-President, would read:

"(6) The service of a written notice of renewal of a statutory lease on the State, as landlord, under section 4(3A) of the Act during the period commencing on 30th November, 2010 and ending 1st June, 2011 is hereby validated and deemed to have been lawfully done."

Mr. Vice-President, in light of the foregoing, I recommend that consideration be given to this Bill to amend section 4(3) of the Land Tenants (Security of Tenure) Act, Chap 59:54.

Mr. Vice-President, as you will agree, this matter is a matter of some urgency. While it is a small amendment in terms of the numbers, it is for us a very significant amendment, and I do hope that the Senate will consider this matter and conclude that it is a matter that should be determined at this time. Mr. Vice-President, I thank you. I beg to move. [*Desk thumping*]

Question proposed.

Sen. Faris Al-Rawi: Mr. Vice-President, thank you. At this late hour, at 9.00 p.m., may I, as a first order of business, with your permission, welcome the hon. Leader of Government Business in the House to this Senate? I think it is the second time we have seen the hon. Leader of Government Business pilot legislation. Oddly enough, the last time he was here in the Senate was, in fact, on November 29, 2010 when he piloted the amendments to this very piece of legislation.

Permit me one further deviation to express a heartfelt congratulation to the hon. Minister and to his family and to his wife on the birth of his son. I think that it is wonderful that there is a continuation of a dynasty. [*Desk thumping*] I ask the Almighty to shower blessings upon him and his family and that there will be good health. Certainly, the birth of his son has brought a very, very welcomed change because I did not recognize the Minister sitting in the back. [*Laughter*] He literally is half the man, in some senses, that he was before, but I must say that he wears it very well. So congratulations to you and your family, hon. Minister.

Hon. Dr. Moonilal: Thank you.

Sen. F. Al-Rawi: Mr. Vice-President, my learned colleague, the hon. Minister, on November 29, 2010, piloted what seemed to be a very small amendment. Indeed, his run-up to that wicket then was, perhaps, as short as it is now. Back in 2010, we were amending the legislation by amending section 4 of the Act. In particular, we were amending the section for the requirement in subsection (3) by removing the words "before six months" and instead replacing them with two simple words "on or".

In doing that, Mr. Vice-President, we in the Opposition, as we were pleased to support the legislation then, asked the hon. Minister to take careful note of what we saw as important consequences which flowed from the amendment of the legislation. If I may, for the public record, invite the hon. Minister and through you, Mr. Vice-president, the nation who may be listening, to reflect upon the fact that when this law came about in 1981, as it did, it was as a result of nearly seven years of consultation in the period 1970 to 1977. The Parliament of Trinidad and Tobago, and some very distinguished and learned minds in our society, engaged in excellent consultation to a very serious position of reform of the laws of Trinidad and Tobago, on the one hand; and meeting and addressing a very urgent, social need, on the other hand.

In that period of consultation, the nation was gifted with a White Paper produced, which had some 17 documents in terms of reflection. That White Paper produced and distilled an answer to a very critical issue which, in fact, was born about upon the abolition of slavery and the introduction of indentured labour in Trinidad and Tobago. That problem, of course, was the fact that land ownership was vested in very few people in this country and we as the children of indentured labourers and those descended from those who were brought across the dark channels of slavery, we found ourselves in a situation where we could not find land to build upon.

9.15 p.m.

And so, we entered into something which is a very Caribbean experience, something which is in Antigua, which is in Barbados, which is throughout the islands, where we came up with the idea of something referred to as a chattel house. A chattel house, as classically described, is a movable entity which a tenant of land—which land owners allowed us the

children of indentured labourers and slaves—allowed us, to come on to their land and to build home. The law of the land is actually very clear and precise and the legal maxim in Latin is *quic quid plantatur solo, solo cedit*—whatever is attached to the land becomes part of the land. So the tenant ran into a risk. If a tenant engaged in the construction of something which had a degree of permanence, in terms of it being affixed to the ground, then that was deemed to be something which ran with the land.

And so the tenant engaged in a type of construction in the Caribbean, which involved building a non-permanent structure which, literally, could be moved by the village. And the word "chattel" was ascribed to this type of house, in recognition of valuable property, valuable property being, in fact, cattle, and chattel was used as a description to the home.

In 1977 and in 1981, the legislators that sat then engaged in some very far-reaching exercise, by way of reform and we came up with a package of legislation, after sincere consultation, to all persons that used the lands which now comprise the Jesse Henderson Estate, the Belmont Estate, a number of large estates in this country. And by way of petition to the legislators, the persons charged with finding social solutions to legal problems came up with the idea that in recognizing that we had moved from low-grade chattel homes, which could be moved, that we would instead come up with the recognition that those temporary homes had become with some way of permanence, now on to land, and the more and more that people become dispossessed by the application of the Latin maxim that whatever is affixed to the land becomes part of the land, is the more and more that the legislators were moved to finding a solution such that, in this particular legislation, we came up with a definition of a "chattel house" which, in fact is the opposite of the common-law description of what a chattel house is.

There is a very famous piece of case, which all of us who attended Cave Hill would be familiar with, and that is the case of Mitchell. In the case of Mitchell it was decided that you had to have the mobility and you could not have the permanence of affixion to the ground. This legislation, the parent Act, in fact, reverses that squarely and acknowledges, in the definition of chattel, in the interpretation section, the fact that it includes a building erected by a tenant upon land comprised in his tenancy—and I make those stresses linguistically on purpose, with the consent or acquiescence of the landlord and affixed to the land in such a way as to be incapable of being removed from its site without destruction.

Now, I have stressed the words there "includes a building comprised in his tenancy with the consent and acquiescence of the landlord" because the legislation is very clear. Only property which had existing—immediately before the proclamation of this Act in 1981—a chattel house as described, could take benefit of this. The legislators, in passing this law, were very conscious that they were engaging in a balancing of rights

and the balancing of the rights in this interest, and hence the prescription of a section 13 exception under the Constitution was in recognition that we were derogating away from the right of the landlord to own his property. This law prescribes that, not only will one be required to recognize the statutory lease, which is created by this law, but it must relate to something which pre-existed the passage of the legislation—number one.

Number two, it prescribes a right for the tenant, who is lawfully possessed of a statutory lease, in the circumstances, to demand of his landlord, the right to purchase his property that he has built upon at 50 per cent of the market value. The legislation goes further to say that you must have, as the definition I have just read suggests, the consent of the landlord if you are building anything else, and it goes further, in section 16 of the Act, to say that if you do not have the consent of the landlord that you are building something new on, then that specifically does not fall part of the premises.

Now, Mr. Vice-President, it is very interesting that the legislation did not seek to define boundaries by way of prescription of size and did not seek to prescribe whether the land could be used for mixed use or not. What I mean by that is a lot is 5,543 square feet, more or less. The law did not prescribe that. It does not prescribe that it must be that the land only has a dwelling house on it. That is why I have stressed the words "that land comprised in his tenancy". It does not prescribe rights of way, easements, passages and roads. What it does provide is that you must simply have had a chattel house, within the meaning of the description, before the commencement. And there has been a plethora of litigation dealing with the issue of the interpretation of this Act and I would come to three cases which intrigued me quite particularly and which are relevant to this debate, and which I hope the hon. Minister will think about.

One is a case coming out of the Privy Council, in fact as recently as 2012, and it is the case of *David Gopaul on behalf of HV Holdings Ltd. (Appellant) v Vitra Imam Baksh on behalf of the Incorporated Trustees of the Presbyterian Church of Trinidad and Tobago (Respondent)*, and I see my learned colleague, Sen. Rev. Joy Abdul-Mohan, smiling as I mention this case. It is an appeal to the Privy Council from the Court of Appeal of the Republic of Trinidad and Tobago and there are two other decisions of the High Court. One, which I will come to in a moment, is a decision of Mr. Justice Hamel-Smith as he then sat. And the other is a decision of Mr. Justice Lucky, as he then sat, they having ascended to the Court of Appeal and since retired both.

Mr. Vice-President, what is of interest inside of here is that the amendment, though it seeks to prescribe something which seems to be simple, begs a few questions. The questions that are begged—perhaps, I should jump directly to the judgment of Mr. Justice Hamel-Smith—arise in particular in that particular point. Now, I want to say that in 2010, we cautioned the hon. Minister, the same Minister, that he should be anxious in dealing with the number of persons that fit the circumstance of being statutory tenants, to deal with the situation where landlords could not be found.

Sen. Pennelope Beckles-Robinson, Sen. Fitzgerald Hinds, as they both sat then, and me for my small part, invited the hon. Minister to think very carefully about the circumstance of landlords who could not be found. I pointed out in the debate in 2010 something which I hope you would indulge me in refreshing the memory of Senators in respect of. The first thing that I raised was the decision of Mr. Justice Hamel-Smith in High Court case No. 3598 of 1987 and that is the case of *Lesaldo and Others v Vidale and Others*. Mr. Justice Hamel-Smith speaking then, in particular, noted at pages 4 and 5 of his judgment, and permit me to put it on the record again, he said:

> "Attorney for the applicants has submitted that as long as I was satisfied that the first applicant was a 'tenant of the lot' I could give directions under section 15 of the Act and have the property vested in the applicants…He submitted that there was ample evidence before the court to hold that there was a tenancy…"

On page 5 of the judgment, skipping somewhat along, he said this, Mr. Vice-President.

> "I do not see the matter as being"—as simple as that—"One purpose of the Act is to allow the tenant to purchase the lot from his landlord at 50 percent of its value. The tenant simply serves notice on the landlord of his intention to purchase the lot and if the landlord does not agree on a value an application can be made to the court to have that determined. Section 15 is intended to assist the tenant where the landlord cannot be found or ascertained."

He went on to say further at page 5:

> "On a reading of that section I am of the view that it does not contemplate an occupier simply establishing that he or she occupies the…lot as a tenant. On the contrary, in my view, that section presupposes that the person invoking its aid is a tenant with a bona fide landlord. It need not be said that one cannot be a tenant without a landlord. The landlord must exist and, to exist he must have had some valid claim to the reversion, whether it be freehold or leasehold. Such ownership is necessary in order to ultimately pass the title to the tenant on the provisions of this Act.

> Further, the Act is not a 'one sided' Act; it does not pretend to look simply at the rights of the occupier of the lot only. It takes into consideration the rights of the landlord. In its preamble it recognizes that it is depriving a landlord of certain rights; not only does the Act force him to sell his property to the tenant but he is forced to sell it at 50% of the market value. Consequently, before depriving an owner of such rights it is incumbent on the Court to ensure that there is clear evidence that not only a landlord tenant relationship exists but the landlord is entitled to the reversion, whether it be by way of ownership of the freehold, a leasehold interest or even by way of a possessory title."

I want to explain what I have just read because it is very critical in this debate. This Act, the parent Act, in creating a system of statutory tenancies, did not create a requirement that you must register your interest, it did not. Your legal interest, which is when you fill out the form and you register your interest and the memorandum of that agreement is in place, did not extend to making it compulsory that all persons who wanted to take avail of the Act had to in fact register. Therefore, equitable ownership was also in the lurch.

Now there is a difference between equity and law. If I could put it simply, for those listening on, through you, Mr. Vice-President, the law is the technical legal aspect, and the equity is the fairness. If I were, by way of example, to say to you, Mr. Vice-President: please would you deliver a cheque to Toyota for me?—I am buying a car from them. You delivered the cheque, they asked you what your name was, they said thank you and then, after getting your name they put the certified copy in your name with my money as the cheque. You would be the legal owner of the car as the certified record says but I would be the equitable owner of the car, because it is my money that paid for it. And the law is that where there is a conflict between law and equity, that equity prevails. And, therefore, Mr. Vice-President, Mr. Justice Hamel-Smith was referring to a very, very important concept, that the equitable and legal titles of the landlord are as equally important as the tenant.

And what we are doing in this proposed amendment is to say that we are retroactively validating notices, which, apparently have already been given to the State. So the State has collected notices in circumstances where the hon. Minister has told us that the landlord could not be found, or that there were multiple landlords.

9.30 p.m.

That seems innocuous thus far but, Mr. Vice-President, it does not factor the situation contemplated by the learned judge, Mr. Justice Hamel-Smith. It does not at all factor the circumstance of the position of the landlord, and how the State will have to

act. The question which must be answered, and this is by no way or intent, intended to be to put a foil in the hon. Minister's approach, but the question which must be answered is, what has happened to the normal operation of the law by itself?

This Act has been amended four times up to 2010. The Act itself, in section 14 and section 15, has a clear and pellucid mechanism, set out in the law which deals with what one is supposed to do, when you cannot find a landlord or a notice cannot be given. Let me put that on the record, Mr. Vice-President. Section 14 of the existing law says—the side note is:

> "Service of notices
>
> Any notices or documents required to be served on any person may be served by delivering it to that person, or by leaving it at his usual or last known place of abode or business,…"

And it goes on, subsection (2):

> "If the person is absent from Trinidad…"

It then goes on to prescribe how you can deal with the person when they are absent and where you should serve it:

> "If he is deceased the notice may be served in any such manner as aforesaid on his personal representative."

Subsection (3) is very important:

> "If the person has no known agent in Trinidad and Tobago or is deceased and has no personal representative, the notice or document may be served in such manner as may be directed by the Land Commission."

Section 15 of the parent Act says:

> "Where the landlord cannot be found."

That is the side note. It says:

> "Where a tenant having a right under this Act to purchase the land is unable to give notice of his desire to purchase the land because the person to be served with the notice cannot be found or his identity cannot be ascertained then, on an application made by the tenant, the Land Commission may give such directions to the applicant concerning the giving of the notice and upon the applicant's compliance therewith the Land Commission may make such order as it thinks fit with a view to the land being vested in the tenant, his executors, administrators or assigns for the like estate and on the like terms (so far as the circumstances permit) as if he had at the date of his application to the Land Commission given notice of his desire to purchase the land."

Let me translate that. The existing law in section 14 prescribes specifically what one should do when the exact circumstance presented by the Minister has happened. The existing law in section 15 prescribes what should happen when you want to purchase the land.

Now, Mr. Vice-President, it seems a good legislative aim to say, let us ease the burden. One may perhaps find the argument that you are saving the tenant expense, because one would have to make an approach, not to the Land Commission, but instead to the High Court; there not having been an appointment of a Land Commission, one is required under the law, to approach the High Court instead of the Land Commission. And it would be a valuable argument to say, look, there would be expense in approaching the High Court. But, Mr. Vice-President, what concerns me in giving support to this, as to the legislative intention is, are we balancing the rights carefully? Are we sure, to use the terminology of Mr. Justice Hamel-Smith, that the landlord whom we have supposedly accepted notice from, actually has the capacity to give the tenant that extension or renewal? That is the first question. It is a question which occupied the mind of Mr. Justice Hamel-Smith in the case that I have quoted.

Secondly, in the circumstance where the tenant wishes to acquire the property, if the State is assuming the role of the landlord, without the aspect of title being checked, what do we do with the money that is to be realized when the 50 per cent of the market value is to be paid? Who is it paid to? That is a critical point.

Now, Mr. Vice-President, if this, in fact, followed the existing law—if the circumstance that my learned colleague has put out—followed the existing law, the court would not have a problem. What the court would do is that the court would authorize an investigation on title. Perhaps it may take avail of Part 33 of the Civil Proceedings Rules, it may allow for an expert to be appointed to assist the court. It would have the advice on title produced, and all land is capable of being traced. There is no such thing, or there is very rarely the thing, where you can find absolutely no one fitting the circumstance. In those circumstances where you cannot find someone, the land may or may not become bona vacantia or the land of the State.

But, Mr. Vice-President, if we allow the State to accept the notice, the issue of where the money ought to go becomes the issue, but the court would have allowed for the payment of that money into court. It would have been that the Registrar of the High Court would have been permitted to receive the 50 per cent, to be paid by the tenant for the acquisition of the land, and that the Registrar of the High Court could, in fact, perfect the titling issue by signing the conveyance in accordance with the Act, for and on behalf of the landlord who cannot be found.

My fear in relation to the operationalization of this particular law is that we are creating a burden to be sorted out later. Similar to our cautions in 2010 that we ought to consider the situation where landlords could not be found—in 2010 we made that observation—we as a Parliament sat together and supported the law, because the hon. Minister came on the very last day. He was only six months in the saddle at that time. He would no doubt have received something which would have come to his immediate attention.

So, coming six months as he did into the saddle to pass that law, one could excuse him then. One could say that the extension of time and the amendment of section 4, as we did then, deleting the words "before six months" and replacing it with "on or", that simple amendment was perhaps necessary then, because the Act was actually proclaimed. We sat in the Senate on the 29th and at midnight, on the 30th, the law became operative and the assent was, in fact, given on November 30, 2010.

But, Mr. Vice-President, we are now coming back to the Senate, a full four and a half years later, and the very circumstance that we warned should be interrogated has come before us. If we pass this law without understanding the ramifications of what we are doing, we are definitely creating a dilemma, not only for the landlords who may be potentially dispossessed, but also for the tenants who require the services of some agency that can perfect the title. Because I do not think, with the greatest of respect, that one can avoid going to the court to perfect the title.

Anytime between now and 2041, when the 30-year leases will expire, any tenant who has been deemed to have served notice and, therefore, entitled to a further tenancy of 30 years under the auspices of the existing law is going to have to get into the situation of saying, number one, who will I pay the moneys to, that 50 per cent market value of the land? Secondly, who will stand in the shoes of the landlord to perfect the title? And if there is nobody to sit in the shoes of a landlord, either because he cannot be found, he is deceased, or that there are multiple landlords and there is confusion, you would have to go to the High Court, there being no Land Commission.

So I am very concerned, Mr. Vice-President, that we do not make a mistake here tonight. I know the House of Representatives and the People's National Movement supported this law in the House. Our Leader of Opposition Business did speak in that debate, but having some degree of experience in conveyancing as I do, and in court work as I do, Mr. Vice-President, I am very concerned that we are shifting the goalposts, and that we are not actually going to ensure that the tenant gets a goal, or that the landlord gets his just due. I am very concerned.

So I do hope that the hon. Minister would pay very close attention to how the State intends to operationalize the sale of lands, if a tenant steps forward and says, I want the land, I will pay my 50 per cent market value. How do we do that other than through the auspices of the court? And if it is that the court is going to be the ultimate arbiter in those circumstances to sort out the dilemma of title, to sort out whether the landlord and tenant relationship existed, then we must also ensure that the second case which I referred you to, and that is the judgment of Mr. Justice Lucky, Mr. Vice-President, has been satisfied. Mr. Justice Lucky, in the case of *Emmanuel v Samuel*, and that is High Court Action 508 of 1991.

In short, at page 5 of his decision, it dealt with the fact that you must have a chattel house, and that we are denying the landlords a fair shake in this legislation. The Bill which became law in 1981 was originally brought to the House of Representatives and was originally phrased as something other than the Land Tenants (Security of Tenure) Bill. In fact, when it was brought, it was called the Chattel Buildings Bill. It was met with opposition in the Senate, and after a joint select committee was appointed, in the Senate they changed the name of the Bill, and sorted out the bugs.

But as the Privy Council has recognized in the dicta of Lord Hope, Lord Walker, Lady Hale, Lord Brown and Lord Wilson, this legislation was a once and for all piece of legislation. This Act was intended to provide a balance between the rights of the landlord and the rights of the tenant. We are infringing upon a property right under section 4(a) of the Constitution, and we cannot glibly look past the infringement of rights.

In the dicta of Mr. Justice Lucky, he dealt with the situation of the need for the court to be satisfied that a chattel house existed prior to the commencement of the Act, and that chattel house is very, very important. So not only are we looking to the circumstance described by Mr. Justice Hamel-Smith in that case that I have quoted, where he says that you must be sure that there is a landlord and a tenant, that there is a relationship of landlord and tenant, that there is a title to be dealt with, even if it is the worst of title—which is what we call possessory title—not only must we deal with that, but we must satisfy ourselves that the circumstances which resulted in the issuance of a statutory lease, under the primary legislation, were satisfied prior to the commencement of the Act in 1981.

That is what the Privy Council decided in the appeal from the Court of Appeal of Trinidad and Tobago. It made its decision and supported the case at the Bar brought forward, because the facts of the case were put before the Privy Council. The fact that there was a chattel house in existence, the fact that there was a relationship of landlord and tenant, that the two could be identified, and the fact that the invocation of the right to purchase the land could be exercised.

So we have not had—with the greatest of respect, as much as I want to support the legislative aim of this Bill—we have not yet had—I hope the Minister can do it in his wrap-up—an explanation as to the operationality of section 14 and section 15 of the parent Act, and where we stand vis-à-vis, the rights of the landlord in seeking to derogate that interest. It is not that every notice which was issued is bona fide. It is not that the State, in accepting and collecting these notices as it did, as the hon. Minister has told us that it did—it is not (a), that it was authorized to do that; it is not (b), that there should not have been a caution and a notice that sections 14 and 15 of the Act existed; it is not that the State would have had the capacity to confirm that the chattel house existed prior to 1981, or that it had the capacity to verify that the relationship of landlord and tenant existed, as the case dealt with by Mr. Justice Hamel-Smith has demonstrated.

9.45 p.m.

In those circumstances, therefore, Mr. Vice-President, I am cautious that we do the right thing and I am not necessarily anxious to pass something unless I have had the full scrutiny of the facts and circumstances and consultation and explanation in relation to the operationality of the parent law, after we made the amendment on November 29 and 30, 2010. I say so with the greatest of respect.

We in the PNM are very, very, very concerned that the rights of the downtrodden and poor are protected in the society; but it is not. It would be wrong to presume that this Bill now, today, in 2014, is only to protect the rights of the downtrodden. Far be it from the case. The parent Act permits assignments of interest and in the period 1981—2014, there have been multiple assignments on multiple occasions, lawfully exercised, where wealthy and affluent people have come into the shoes of once impoverished people where lands that stood on the outskirts of Port of Spain as it was in the Jesse Henderson lands just around Long Circular Mall.

If you look at the Jesse Henderson lands alone, no property there is not worth millions and millions of dollars and that in mind, it would be an unfair shake in terms of constitutional law and it would be disproportionate, an exercise of legislative authority, for us to glibly put into effect a section 13 exception to a derogation of the landlord's right, under section 4(a) of the Constitution, to the enjoyment of his property.

The landlord would be denied the opportunity to have exercised his rights to put the tenant out by bringing him for not paying his rent, even though the law allows that tenant to make good the rent even after an order is made. It would be denying the landlord the right to get his 50 per cent now by crystallizing the right of the tenant to act to purchase as it is.

So I am very, very cautious that we are not protecting only the rights of the downtrodden and poor as prevailed in 1970 to 1977, when the White Paper was being produced and as certainly prevailed in 1981 when the law was being passed. We need some more information. We need to be mindful of this position. We are passing legislation, which is ex post facto legislation—that means retroactive legislation.

Now, it is not that every bit of retroactive legislation is automatically deemed to be unconstitutional; far be it the case. The case of Liyanage, classic case coming out of Sri Lanka as it then was, is a prime example of the judicial attention that is given to ex post facto or retroactive legislation.

In the case coming out of the court of appeal in Belize, the judgment by Mr. Justice of Appeal Mendez is very, very clear as supported by the dicta of our own court of appeal in the section 34 case, which dealt with the Northern Construction case, which dealt with the retroactive application of section 34 when we repealed it. All of those cases point out that you can, in fact, pass retroactive law. It is just that you must be specific and clear in your intention to deal with it.

But in this circumstance, where we have an identifiable group of people; we have 4,000 potential landlords that are being affected. Those 4,000 potential landlords are having a right of property affected. The law is potentially putting them at a disadvantage and, therefore, one can say, even if it is a stretch of argument, that there could be a challenge that the law was ad hominem and that the law is designed to prejudice an identifiable group of people away from their proprietary rights.

So we run into a proportionality rule. We run into a due process argument in court. We run into a rule of law argument in court. We run into a separation of powers principle in court. Those are all constitutional grounds that an applicant can present to the court to set aside this legislation.

On the separation of powers point, we are dealing with the fact that the legislators, as we sit here now, would have stepped into the shoes of the court because the Land Commission not having been appointed, sections 14 and 15 of the parent Act existing, we as legislators would be invited to say that we are taking away the discretion of the court, which exists in sections 14 and 15 of the Act, to make a determination as to the bona fides of the tenancy and the situation by which the tenant argues that he or she is in fact a statutory tenant, bearing in mind there is no requirement to have registered.

A person could have gone 30 years along, never registered under the Act on or before the State picks up the notice when it had no authority to do it and automatically we are now depriving a landlord of an interest. This is a very serious point. Whenever we set aside the judicial inspection into something, we run into a separation of powers argument. We run into a rule of law argument. We run into a due process argument. Where is the due process in the State accepting the notices? What is the process that the State has engaged in? It is not, as I pointed out, as I have sought to persuade and argue, a similar circumstance to the Land Commission, now court, exercising a jurisdiction in the circumstances of the material considerations which a court would have taken into account.

So, Mr. Vice-President, I know I have given a lot of law. I know I have given a fairly thick argument. I am very concerned that the law is carefully balanced and that we do not simply vote on a Bill, on its long title. There is a tendency amongst us all to say that the long title, which suggests the bona fides of the legitimate aim, the first limb of proportionality as our courts have set out, that the long title in suggesting the legitimacy of the legislative aim, it is persuasive to say that DNA is a good thing to take; it will deal with crime. It is persuasive to say we are dealing with the poor and downtrodden supposedly in this Bill. I have demonstrated that is not the case.

So, we cannot just vote on legislation because we think it is a good idea. This is a complex legal issue. It is not a simple issue. I would have preferred if my learned colleague had come with some degree of opinion of counsel; with some degree of reflection that the Government has considered the legitimacy of what it has done.

We would like to support the thing, but my alarm bells as a lawyer are ringing, and they are ringing loudly. I pour no scorn into the Minister's effort; I pour none. I listened to a very excellent contribution tonight by Sen. Raziah Ahmed. I was warmed to hear her contribution in relation to the joint enterprise which we as an Opposition share with the Government in operationalizing the Children's Authority and in bringing the Children Act—I give her a lot of picong at times. I do not mean it intentionally. Sometimes it gets the best of me, but it was an excellent contribution. We share similar goals.

I do not think that the hon. Minister means to deceive us; I do not think that. I think this may be a case of going along with the long title. I really think that. It sounds good, but I do not think we are in the zone of proportionality. I do not think so and I would invite the hon. Minister to tell us whether not supporting this Bill, what prejudice would be caused, if any; whether we can come back with the

benefit of some better protection in terms of our reflections on the law. To this, we would like to hear what the prejudice would be if this thing were to lapse and whether we could deal with it because we would like to find some way to help the Minister out of the conundrum that Trinidad and Tobago is in.

Mr. Vice-President, I hope that I have provoked some thought amongst all Senators present here tonight and I invite Senators to tread carefully and let us get together to make good law. I thank you for the opportunity to contribute. [*Desk thumping*]

Mr. Vice-President: Sen. Vieira, your timing was excellent.

Sen. Vieira: Mr. Vice-President, through you, I just wanted, in the vein of getting more information, to ask certain questions of the Minister which would help me in my deliberations and I suspect the Bench. I wish to reserve my right to speak after.

I have three questions of the hon. Minister. The first one is, how many tenants are actually unable to serve landlords? You had said that the Act was originally intended to protect around 4,000 persons.

Hon. Dr. Moonilal: I do not know if that is permitted. Mr. Vice-President, for clarity, is the Senator making a substantive contribution?

Sen. Vieira: No, I am asking questions. I am asking you three questions.

Hon. Dr. Moonilal: I would love to hear your questions, but—

Mr. Vice-President: I have been so advised that it is not correct that you ask the questions and then ask to reserve the right to speak after a speaker has completed. It is either you want to go into the debate, and then you will ask the questions during the period. I have been so advised.

Sen. Anthony Vieira: All right. Well, I will be very short. I entirely agree with Sen. Al-Rawi and what troubles me is that it may well be that we are talking about a couple hundred tenants, the Minister having indicated that many had been able to effect service and I also have no information on where these tenants might be. Are they clumped in one geographical region or several geographical regions or are they separated and scattered throughout Trinidad and Tobago?

The other thing that troubles me is section 15 allowed the Land Commission to be served and to give directions and what happened to the Land Commission? What is the status of that Land Commission?

Lastly, there is the whole point about the landlords were—the way it was set up, the tenants were likely to have been displaced. This Act comes and gives them an opportunity to acquire the land on very favourable terms and even to pay half the price and spread out by instalments. Those who did not acquire the land, then had the opportunity to get a long lease—30 years and then another 30 years; very favourable for the tenant, not so favourable for the landlord.

Those instalments that were being paid, is there any mechanism if it is being paid to the State for the landlord to get back his money? What is the mechanism or process in place? I tend to agree with Sen. Al-Rawi. I think that this is a very one-sided piece of legislation.

Hon. Dr. Moonilal: Thank you very much, hon. Senator. I could actually ask you a question. What instalment are you referring to, if you could just repeat that point, please?

Sen. A. Vieira: Under the Act, you had the opportunity to pay, via instalments, to the end of the tenancy and I believe there was provision that if you could not find the landlord, you could have made those payments, I think, to the Land Commission and it was the right of the landlord to recover.

Now, if it is that there is no Land Commission, the State is acting as the agent and the person who is entitled and, assuming you actually have a tenant making the payments, does the landlord get an opportunity to get back his payment?

10.00 p.m.

You see, the way I look at it, in 1980, 1981, the situation was very different to the situation today. Today there is an opportunity for people in these areas to assign their rights, to transfer, and for some land-grabbers to take place. Why should the State want to continue tilting the landscape in favour always against the landlord? The landlord has been beaten twice down, the opportunity to have his land sold, compulsorily acquired at half price, then an opportunity for long tenancy. If the tenant has had 30 years, another 30 years he must get? So what happened to the landlords' rights? As Sen. Al-Rawi said, the legislation was never intended to be one-sided, the landlord also has rights. Who is looking out for the landlord?

So, as I said, I tend to agree with the hon. Senator, and that would be my contribution. Thank you. [*Desk thumping*]

Sen. Avinash Singh: Thank you, Mr. Vice-President, I intend to be very short in my contribution. I would like to start by saying, in Trinidad and Tobago land is that one emotional attachment to almost every single mature-thinking person, and it deals with a

cultural traditional heritage bestowed in our history and given to some by their forefathers, and so on. So the aspect of land touches chords on every single person's well-being, so what we are about to do is intervene in that legislation that controls land and, in so doing, I also wish to state my concern in which we are about to pass this legislation.

My colleague, Sen. Al-Rawi, also indicated our position, and the intention of this Bill is really to secure or give tenants security, land security, which they can use in their lives for reasons of loans, mortgages and so on, but the hon. Minister indicated that public consultation was well undergone for this piece of legislation. I wish to indicate that in my view, in my opinion, I do not think that public consultation really trickled down to everybody in society where land is concerned, because we still have a situation where persons are confused as to which Ministry they can go to get clarification on land matters.

I say this because I have had to deal with questions from colleagues and friends, relatives, about land issues, because, as you know, in the past we had the Ministry of Agriculture, Land and Marine Resources as one cohesive Ministry dealing with various aspects of land and other things, and now we have moved to different Ministries in the form of the Ministry of Food Production, the Ministry of Land and Marine Resources and the Ministry of Housing—all have some intervention or some interest where land is concerned. So you have normal individuals in society having that sense of confusion as to which Ministry they can turn to, to have their questions answered.

Mr. Vice-President, if the State—and that is the general intention of this Bill—if the State is really to act as the landlord where a tenant is unable to be served a written notice or renewal of the landlord under the following sections as indicated by the other Senators, I wish to state one of my burning concerns—in fact, my main concern, where that land is concerned. Many cases arise or there are many situations where the landlords are really not known and sometimes the beneficiaries are not even known. The beneficiaries at that point in time may not even know that there is a will and that this land that is being rented to tenants actually would be their inheritance.

So this Bill really did not take into consideration persons, or relatives of the landlord who perhaps probably would be studying abroad, or who would be in missions in different countries and so on, who may not know the time the land was bestowed on their name and so on, in the form of a will. So the Bill really does not concentrate on somebody having that inheritance and seeking that land as their own when the time arises.

So, Mr. Vice-President, with these realistic cases, I would like to know how the Government, or how the agencies are going to treat with this. Let us say—and this is a real-case scenario—where the Government now becomes the landlord of a parcel of land, because for some unforeseen circumstance that landlord could not be identified at that point in time or perhaps the landlord probably died. They would have had their rightful heir in a different country, and the landlord now becomes the State, and the transaction, you know, is undertaken where the tenant either extends the lease for another 30 years or purchases the land for half the market value, and I have now learned that, you know, he can choose to pay in instalments or he can choose to pay in lump sums, and who really gets that money?

As we know it, most private land, when you go to purchase private land or when you lease, rent, private land, the infrastructural development on those lands are solely the responsibility of the landlord. So my concern is, are we saying that these 4,000 cases of privately-owned land that is now going to be bestowed, or these land tenants are going to take possession, whether, legally, in the form of another 30-year lease, or, legally, in the form of purchasing rights? Are we also saying that the State will be held responsible for the development or the infrastructural works to put on those lands to have it in acceptable standards in terms of development of land? So my concern really is whether the State is going to take that responsibility and deal with that.

Mr. Vice-President, I know this Bill really seeks to address private property that has tenants, and my other concern is that there are many situations currently where large privately-owned agricultural estates and land consisted of traditional small dwelling houses that families have been on for generations. My concern is that these families who have now been on these lands for a period of time, generations, as I said, they are not being taken into consideration where the Act does not apply to tenancies of agricultural land.

Now, we must know the history of why some of these people go on establishments in the form of agricultural estates, and sometimes the landlord gives the family a plot or a little parcel of that land to put up a dwelling house and they call it home. So my concern is that, are these people—although it is private agricultural estates and we do have laws governing private agricultural estates and land where land is concerned, in the administration of that land—are those families and are these individuals left out of this Bill? Or left out of the intentions of this Bill? So I think that the Bill really seeks to not bring too much information to us legislators here, in that it is a simple amendment but it has very, very drastic resolutions and results where land is concerned.

Mr. Vice-President, moving on: land in Trinidad and Tobago, like most developing countries—in fact, Trinidad and Tobago's land, in some cases, the land valuation or the price of these lands has doubled or tripled, or, in some cases, revalued in the tune of 1,000 per cent increase. I am talking from experience here because some 19-odd years ago when my parents would have purchased land, where I am living currently, they would have paid TT $5,000 to TT $6,000 for a five-acre parcel, and now, Mr. Vice-President, just 19 to 20 years later, that same parcel of land, the valuation has gone up in the tune of hundreds of thousands of dollars, or probably millions, as a matter of fact.

Now, most of these lands situated in central Trinidad would have been in the form of estates or agricultural plots; agricultural parcels meaning five-acre parcels, 10-acre parcels and so on, and, by law, one dwelling house was allowed to be placed on that land. Now, there are situations, even in my community, where land is left vacant and the grass, or the shrubs are overgrown, and I know the Borough of Chaguanas has to take responsibility and maintain the sanitation of those plots. If the State is to take possession of these lands, I would like to know, at least, are members of the community or members of the public willing to probably purchase or lease these lands that seem to have no owners for the past 20 years or so?

So I would like to know if situations like that—it may be rare, but it is present where the lands do not have tenants and it is left vacant. It is simply, you know, it would be in the interest of many businesses, people in real estate and so on, to enhance and aid in the development of the community and so on. So are those lands, private lands, also to be taken into consideration where the land administration is also concerned?

Mr. Vice-President, I think I have dealt with my major concerns where this Bill is concerned. I would have really liked to at least get some sort of statistics where public consultation, who was consulted and, you know, just some statistics as to who and how effective that communication was because, as I said, a lot of people do not know who to turn to where land is concerned, and I ask that that be taken into consideration.

There is a situation also taking place in this country where persons or tenants on private property, and it falls directly linked to this Bill, even persons on state property who would have been granted lease and so on for 99 years, as we know it, some 30 years and so on, they have moved on to sell, not the land, but I do not know if it is legal, but they have sold their—we call it "goodwill" of that parcel of land, the rights. I would like to know. As I said, I stand to be corrected. I would

like to know what mechanisms are in place by the State to treat with these situations where persons have taken it among themselves to sell either state property or sell private property without the landlord's permission, if we have a structure or situations in place where the administration of that can be manned.

10.15 p.m.

Mr. Vice-President, I have gone through just a few of my concerns. I said at the onset that the intention of this Bill is a very noble one and it would help, it would seek to give that sense of security to a large percentage of our population. I must say that it is the Opposition's intention to support this cause but, as my colleagues said, the drafting needs to be looked at again and then we can see if we can support this piece of legislation.

With those few words, I thank you again once more for this opportunity to contribute on this Bill.

Sen. Elton Prescott SC: Thank you very much, Mr. Vice-President. May I first say that the principle of disclosure requires me to inform the Senate that I represent a landlord whose lands are subject to statutory leases. It is a family property, so that I have very close connection with it.

Secondly, may I say that I unabashedly agree with the legal opinions expressed by Sen. Al-Rawi. I think he was quite right in his assessment of what was intended by this piece of legislation and the parent legislation, and what has been achieved so far. His concerns are concerns that I myself have about the validity of what we are about to do.

The retroactivity lends itself to an allegation of unconstitutionality, and I suppose it will be tested in the appropriate place. But for now, I am concerned that the Minister should feel—and that is to say, acting on behalf of the State—that it owes a duty to landlords who are prospectively affected by notices having been served on the State in respect of their lands, clandestinely.

It must be that the State would have given a landlord an opportunity, if notice had been served in respect of his lands, to address the notice, to challenge its validity, in the first place to identify himself as being the landlord. That is not an impossibility because the State could have advertised that it is holding notices, it has received notices from a number of persons identifying the land, as best as they could, and the names of the persons who had served the notices. If that were done in my case, then I would certainly have identified the tenants whom I know and would have sought to challenge the validity of their notices all together.

[*Sen. Small in the Chair*]

Between November 2010 and June 01, 2011, there are many who would have taken the opportunity of saying to the State, without proof, from all appearances, "I am the tenant of certain lands, and I cannot find, cannot locate, cannot identify the landlord, and I am serving notice on the State". If, as it seems this piece of legislation is intended to do, that takes away the power of the landlord, the right of the landlord over his land, then clearly we are treading on very, very uncertain grounds in terms of the constitutionality of this piece of legislation. I am certain that when the opportunity arises, I myself will be testing it.

The notice of renewal of a statutory lease on the landlord, you may recall, in 2010 when we passed the legislation, the requirement that there should be six months' notice was removed, and the tenant was simply required to ensure that he had served notice on or before the expiration of the original term of the lease, which was May30, 2011, because the 30-year period ran from June 1981 for a period of 30 years. So what I will call a delinquent tenant was given a reprieve in 2010, moments before—if you like—his right to purchase the land had expired or his right to renew his lease had expired.

Now we come four years later to deal with another state of delinquency on the part of such tenants, and saying notices that have been served will retroactively affect the landlord; no opportunity for the landlord to challenge it; no opportunity for the landlord to come forward and say, "Here I am; I have been here all the time"; no opportunity for the landlord to say, "This person has not been on my land from June 1981 or at any time". One ought to be troubled that the State should take such a position in this, to assist a tenant who either, (a) has been delinquent in pursuing his own rights, or (b) does not in fact qualify under this piece of legislation to take the benefit of the rights granted by the statute.

So that I rise only to make the observation that there is bound to be some constitutional failing in this piece of legislation, and for those reasons I am not supportive of it. I trust that the Minister, by the time he has wrapped up, would have been able to satisfy me that this is, indeed, good law.

Thank you very much, Mr. Presiding Officer.

Sen. Diane Baldeo-Chadeesingh: Thank you very much, Mr. Presiding Officer. I promise to be quite short this evening, and I will be.

Sen. G. Singh: Perhaps it is jet lag from New York.

Sen. D. Baldeo-Chadeesingh: Perhaps it is jet lag. [*Laughter*]

The Land Tenants (Security of Tenure) Act, Chap. 59:54, is an Act that provides security for any residential tenant who on June 01, 1981 was occupying tenanted land on which they had erected, or was in the process of erecting, a house, with the consent of the landlord or where the landlord has not objected to the construction thereof.

[MR. VICE-PRESIDENT *in the Chair*]

By section 4 of the Act, all tenancies which were subsisting immediately before June 01, 1981 were converted into a 30-year statutory lease. I also discovered very interestingly in my research that the Act does not apply to a tenancy of agricultural land, tenancies of land owned by statutory authorities, the Borough of Point Fortin, the Tobago House of Assembly, the State, or where the unexpired term of the existing lease exceeded 30 years.

The terms and conditions of any existing lease at the time would be the conditions of the statutory lease, insofar as they are not inconsistent with the Act. But statutory leases would have expired on May 31, 2011. Renewal notices should have been given, at the latest, by November 30, 2010. Failure to give such notice would result in the proposed loss of the statutory tenancy, and this sets out general guidelines. All legal rules have exceptions and variations. How the law applies to you depends on the facts of your case and what you say, because it is going to vary. How do you recoup that?—is my question.

The failure of the Government to have dealt with the renewal promptly by November 2010, Mr. Vice-President, has led to the current amendment which has serious implications for both the landlord and the tenant.

In the Government's proposal of the tenant in seeking to renew, where a landlord cannot be located or where there are multiple landlords, the tenant can deem the Government the landlord, register the intent to renew with the Government and the lease will be renewed, is a very serious breach. It is very much like a very hostile takeover, with loss of title by the owner.

Mr. Vice-President, once the tenant continues occupancy of the land with no notice to quit by the landlord, the lease continues. But if the landlord is not available to be advised that the tenant wishes to end the tenancy, the onus is on the tenant to make every effort to legally end the tenancy agreement with the landlord and arrange a handover of assets on the land, if required, to the landlord or to his agent.

For the Government to facilitate a landlord's role, by mere notification of a tenant, is appropriation of the property and presumes the role of the owner. This is a Chavez approach, almost, to the acquisition of property and land in countries like Cuba or China, where they owned everything. The State is the country and owns it all.

Mr. Vice-President, the right of a landlord must be protected to prevent the Government from assuming landlord rights, by using a tenant's claim that the landlord is a violation of the owner's rights and the existing lease contract between two citizens.

The proposed amendment is one that will create confrontation, and given the issues that arose in the Lopinot land disputes, which arose from a rehabilitation estate, police had to intervene when subleases were given out under strange circumstances. As I recall, it was "pooiyaa" and police at the time, as it was reported in the newspaper.

Mr. Vice-President, it is difficult to disinherit landowners, and the Government cannot pass a law to take over landlord rights of an existing landlord and of his property. In conclusion, the landlord has rights. Who is seeking his interest?

I promised to be short, and with those few words that is the end of my contribution.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President. This being a very short amendment, I was under the delusion that this particular Bill was innocuous. Upon hearing that the Minister—[*Interruption*] I was advised that whatever is short is never harmless—but the fact is the Minister is using the powers of the State to interfere with private property. This is a serious problem.

It is not the Minister using the powers of the State to interfere with state lands, which might raise a different set of legal issues. But when I examined the reasons, very clearly outlined, it says that when a tenant is unable to serve a written notice on account of the fact that the identity of the landlord is unknown or his address—it means that from a point of view that is strictly not legal, the tenant ought to have been paying rent. That is the nature of tenancy. He ought to have been paying rent on an annual basis to someone.

I wonder who was collecting that rent. If it is not the landlord or his agent, were rents being paid to an individual who was not legally authorized to collect it? If rents were being paid to this individual, and the tenant is aware that at the end of a 30-year period he needs to make some kind of arrangements with the landlord, should it not be incumbent upon the tenant to make enquiries well before the expiration of the 30-year lease, so that he could determine the whereabouts of the landlord?

So he knows the landlord. Where is the landlord located? He is in some foreign jurisdiction. Well, the landlord is identified, and he may be outside of Trinidad and Tobago. It should not be difficult to send the notice via FedEx to the landlord, should it? Once we know the address of the landlord, we should be able to notify him. But even if we do not know the address of the landlord, the fact is it is possible that the landlord is alive, and the landlord exists.

It should be, therefore, the responsibility of the individual collecting the rent or it should be the responsibility of the tenant to make the enquiries as to the location of this landlord, and to demonstrate that he has exercised every effort to locate his landlord. The question arises more importantly with respect to the identity of the landlord.

Since we are dealing with long periods of time, it is quite possible that a landlord may have died. So someone renting land in 1981 from an individual may have found a decade later, two decades later, that the landlord would have died. The death of the landlord does not mean that his interests in the land would die with him.

10.30 p.m.

This landlord would, no doubt, have been able to pass that interest in that parcel of land to someone, either a relative or any individual close to him, and the identity of the landlord may not be clear at the particular time, but that does not mean that the identity of the landlord is never going to be known. At some time if the new landlord is, say a young individual or a minor, that individual may not have been aware that this parcel of land was bequeathed to him or her. He may be studying, he may be young, he may be a minor and I think it is important before the State acts in this way for there to be some register somewhere electronically, in the newspapers, to indicate that we are looking and searching for the owners of these properties.

I see notices, the whereabouts of so and so, by bill collectors all the time asking for the whereabouts of individual A, B, C—do you know the location of this individual? And, I think, in the interest of fairness, it is important before the State acts, for there to be some publication somewhere—it can be electronically—we are looking for the owners. Do you think you have an interest in this particular parcel of land? Were you related to anyone who would have been the original landlords of this land, if they had died or if they had moved on? Then, I think, we would know who the owners are, and we would take necessary steps to communicate with them.

Without that process, simply indicating that, well a landlord did not come forward, and therefore, the State will act on his behest, it is very draconian, especially when you are dealing, Mr. Vice-President, with parcels of land which are going to be worth huge sums of moneys, and properties of which may be deprived from the legitimate owners.

So, we do need a mechanism, before we get to the intent of this particular Bill, where anyone with an interest in the land, either a landlord who may be elderly or way past retirement or bedridden, or a landlord who is about five years old having been the beneficiary of this land, but is now a minor, I think we need to identify who the landlords are. Owners of lands simply do not disappear into thin air. It is unlikely that of the 4,000 parcels of land that you would have had landlords who disappeared without leaving an heir. It may not even be a written will, but it has to be that there are the heirs out there somewhere, and we simply need to locate them in the interest of fairness.

What also concerns me, Mr. Vice-President, is where it states in the Bill that there is more than one landlord in respect of the same parcel of land. So, we know the landlords. It could be that now this particular land, the interest therein, was passed on to two people or three people or four people, what this particular Bill is stating is that we know who they are. They happened to be more than one. The original landlord has died. He has passed on his interest to four of his children or his descendants, but since he has done so, what the law is prejudiced against is that you are saying is that the landlord should pass on his interest to one individual. If he passes it on to four individuals, then clearly the State is going to act now as the agent for all of these legal processes. This has to be doubly unfair.

In the case where, Mr. Vice-President, we know where the landlords are, the landlord may not have known the intention of the State in not having more than one beneficiary to his piece of land, and therefore, before he made his will or his titled deed, he would have, no doubt, put it on one person's name. The fact that he put it in three does not mean he should have been penalized. And he is being penalized here specifically because he has placed his land in the names of two or more individuals. In the case of two or more individuals, then it simply means that the tenant will file whatever documents he has to file to the three new owners of the land without the State intervening.

So that in summary, Mr. Vice-President, I think this second position ought to be removed entirely—where we can identify the owners of the land—they could be five or six or a dozen, file your legal documents and notices to renew with all of them. We know who they are. We know where they live. In the case where the landlord cannot be identified, I am not convinced that it is going to be fair for us simply because we cannot find them, to act as though they do not exist and that they have disappeared, and therefore, we will simply use the State as a repository for these legal documents.

Mr. Vice-President, I would like to hear what the Minister will have to say, but on the face of it, this law does not seem to be fair to me at all. Thank you very much. [*Desk thumping*]

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Thank you very much, Mr. Vice-President, and thank you to colleagues on the other side, both benches who contributed on this measure.

Mr. Vice-President, we have heard a few very important arguments raised by Members opposite, and we have had the benefit of a good tutorial on law, land law, and the origins of the parent Act. I just want to deal with a few points and to

indicate a bit more information I will share with colleagues opposite. But, Mr. Vice-President, what has also emerged, the tenor of the debate is quite interesting, and it is an interesting observation for me to make as someone who is not in this House is that, we have heard colleagues speak on the possible imbalance and disproportionate position adopted by this measure, that the measure may really disadvantage landlords, and the issue of the denial of property, and the right to enjoyment of property. I found that that was a common theme by my colleagues.

Hon. Senator: The mobility.

Hon. Dr. R. Moonilal: Well, yes. But, Mr. Vice-President, the other side of the coin, I did not really have a good argument from anyone on the opposite side—all good colleagues—on really the disadvantage faced by the tenant, someone who has been on that land for 30 years, and today, pursuant to the law, is trying to serve a notice and cannot serve the notice, for one reason or another, and that person runs the risk of being excised from the protection of the law. And because of where I come from, for better or for worse, we talk a lot about the rights of the tenants, and the rights of ordinary people or "property-less" people, and landlords are also people, and it is good that we have that contribution here. Because landlords are people, you know. People who own property are people. If you own property in some part of Trinidad, millions and millions of dollars—as my friends say—you are a citizen. You must enjoy the protection of the law.

Hon. Senator: One Alexandra Place.

Hon. Dr. R. Moonilal: But, Mr. Vice-President, I am informed that we have received on the State over, more or less, 200 notices from persons east, west, north and south, there is no one geographical area that seems to be overpowering. We have worked very closely with the Land Tenants and Ratepayers Association on this matter. As you know, Mr. Vice-President, that National Land Tenants and Ratepayers Association included persons of the calibre, over the years, deceased Abdul Wahab, Karl Hudson-Phillips SC, deceased, Mr. Butcher, and now I think, Mr. Mohammed—[*Interruption*]

Mr. Hadeed: And I was there.

Hon. Dr. R. Moonilal:—and the very distinguished Sen. Gerald Hadeed. And the Land Tenants Association has been working with the Ministry of Housing and Urban Development on this matter. Of more or less 200 persons—and we can profile it, if that is necessary, we can profile it—they include, from our Ministry's instructions, many people who would be considered in the lower income bracket, who themselves, some of whom may not have had the benefit of higher level

education and so on, are on parcels of land on certain estates, and estates that are named. And both the tenant, and indeed officials from the Ministry, had difficulty in finding the landlord or those with that right and authority. And a few estates have been named. I will get the full information.

Now in the circumstances, what do you do as a State? Do you, on the night of November—and I will come to that November issue in a little while—disenfranchise those tenants, lower income people on a parcel of land for 30 years, seeking to effect their right according to the law?—and say, "look here, you cannot find your landlord; I am very sorry. I leave you out there in the cold. The State has nothing to do with you." So these 200 people, more or less—"look, you all fend for yourself, you could not find the landlord". Multiple landlords, two in Trinidad, two in Canada, a sister has a brother in court, they are fighting over something, find them in Toronto, find them in New York and Miami, and serve. What do you do as a State to protect these tenants?

Now my colleagues are right. They are right. Landlords and property owners have rights, and they have a right to challenge, as the case may be, persons who are claiming to be tenants. They have a right to sell at the 50 per cent of the market value, as per the law. They have that right. But we are—that thinking allows us to disadvantage, and really cast away about 200 tenants, more or less—it might be more, I do not think it is less, it might be more—and those families who, if we do not pass this measure, will not enjoy the protection of the law that was established to protect them. They will not. What do you do as a State?

Now my friend, Sen. Al-Rawi, reminds me of a saying I learned years ago, "the law is everything, but everything is not the law"; everything is not the law. And I felt, in a way, ambushed almost by the contribution, and I know you never meant to ambush us that way because, you know, colleagues working in a caucus every Monday, I felt, in a way, robbed that you would not have shared that concern with your friends and your colleagues in the other place. So when we came there for a debate, those issues could have been raised, it could have been resolved, discussed, debated, before taking it further.

Now, your Monday caucus or whatever that you have religiously, it was really unfortunate that these issues could not have been raised with your colleagues who would have given us maybe an early warning shot, and prepared us really. And no problem. I thank you incidentally for your very kind remarks and so on. I am sure to pass on that to Mrs. Moonilal, and my descendant. [*Laughter and crosstalk*] I know you are very, very interested in these matters now. So, I will pass on that, and I thank you very much. Thank you very much. [*Interruption*] Thank you so much for that. Thank you.

We did not get that benefit in the other place, which we got here. But I want to indicate that, our thinking on this matter is for the State to intervene, protect tenants in those conditions, Mr. Vice-President, where they cannot be found or multiple landlords arise. [*Crosstalk*]

Mr. Vice-President: Just a minute, please, Mr. Minister.

Hon. Dr. R. Moonilal: Sure. Sorry.

Mr. Vice-President: We had a situation with the President of the Senate indicated that last week, and we continue with the example. When someone is speaking, we turn our backs, and with a long conversation, and well, that is a disrespect. And I would like you all to refrain yourselves from doing that. Thank you. Go ahead, Mr. Minister.

Hon. Dr. R. Moonilal: Thank you very much, Mr. Vice-President. I did not even take notice. Where I come from we have much louder disturbances. [*Laughter*] Mr. Vice-President, I thought this was quite peaceful.

10.45 p.m.

Mr. Vice-President, I want to come back to Sen. Al-Rawi, that we need to intervene to protect the rights of these tenants, but also acknowledge the rights of property owners and landlords, and it is not my intention to push legislation down anybody's throat if a better formula can be found, a formula that we can build consensus on, because I am sure no Member opposite me has an intention to oppress poor people. I am sure. You have no intention that someone is a tenant, they are there 30 years, they try their best, and I want to say, you have no intention of oppressing them. That is not your intention. Your intention is really to seek after the interest of landlords, property owners, to ensure that they are not oppressed, and that is very noble. That is fine.

I wanted to address that matter. In 2010 when we got into office, you would know that the 1981 legislation that was passed, gave rise to certain institutions that were never properly effected in law. They were never effected, so we met that. The law states that on the night of some day and before that you must serve notice. Who really would be following that?

When we got in we found ourselves with this deadline that was upon us, persons did not know what was happening, because a lot of the people who are affected here are really the downtrodden, a lot of poor people, and they did not know, so we sought to extend the time and then we had a campaign. But, Mr. Vice-President, the campaign was not targeted at tenants alone. It was targeted at

landlords as well. It was a campaign to the national community. It said: "tenants, landlords"—the Act specifies this—"please, Mr. landlord be warned, be alert, please tenant"—Mr. Vice-President, do you know in some of the country areas the advertisement was by loudspeaker?

Hon. Senator: Really?

Hon. Dr. R. Moonilal: Because where we were going in those areas, I mean, people do not buy newspapers like that.

Hon. Senator: And they do not read.

Hon. Dr. R. Moonilal: Some may not be able to read for that matter, and that is a fact.

So, you take a bullhorn, you took—what you does call them, the Indian-wedding kinda mike—the loudspeaker, and you go into a village and you drive up and down and you announce that this law is here, and in a simple way, please serve notice on your landlord. But you serve notice how? What? Why? What is a notice to serve? Tell somebody that. You go somewhere—I would not call name—and tell someone, serve a notice. What does that mean? No, well, go and get some money and pay a lawyer and find out what a notice is. You cannot do that as well. We publish in the newspapers, we had handouts in the mike car, this is the notice to full out. Try your best to full it out. If you yourself cannot read and write, maybe there is a child in the house who can read and write, maybe there is a neighbour, an uncle, get these things organized.

So, we had to take the extension to alert persons, educate, inform that this was the law and this was your right, because having a right means nothing if you cannot give effect to that right. If you have a right and I do not tell you anything about it, you have no right. So we went through that process. We also advertised on radio, and a lot of the smaller radio stations where we believe if there are 14 indo-Trinidadian news stations, we advertised on all, because, maybe 10 houses might listen here, 20 houses there. And all radio stations we used. We did not use too much television, it was a bit expensive, so we felt the radio and newspaper and loudspeaker.

So, we got to the point of June 01, and then discovered as we went along, which we had an idea before—the Opposition did raise that matter, and when they raised that matter, we indicated that if need be, we would seek a further amendment so that, again, we protect. So, we also served notice that we would seek to amend, to protect, in the event that landlords cannot be found.

Mr. Vice-President, I also have a personal experience, like Sen. Prescott SC. My mother and father had a piece of land somewhere. I remember as a child going to this land. My parents passed away some time ago. If you ask me where this land now, I do not know. "I doh know where to find it, I doh know where it is". I know there was somebody there. I do not know who that is. I remember when I was small somebody used to come and pay $5, once a year or something like that, to my mother.

Mr. Vice-President, for better or for worse, I really do not have any business with this piece of land. I really do not. In fact, that land could now have Courts on it, I do not know, or Massy. [*Laughter*] But, what I am saying is that I could probably be one of those persons they are looking for and I do not know. But, I am not sure that one could disadvantage and oppress that person who was there on private land and today cannot find someone—and you are right, you should know, everybody should know. I mean, the whole country should know.

Sen. Dr. Mahabir: Only the tenant should know.

Hon. Dr. R. Moonilal: The tenant should know. But, there are persons over time who are on private land and they do not know, and they cannot find.

Now, it is all fair and well to say, listen, people should know and people should this and people should that. All that is fine. You know, that is great. In practice, in reality, it does not work like that. You think people would leave Cedros and Barrackpore and Siparia and Penal to come to Port of Spain in the Ministry of Legal Affairs because they like to pay money and come in a maxi-taxi. You do not think they would like to know the landlord living right nearby in a house somewhere that I could go and give him this. You think they expense themselves to come into Port of Spain because they like to do that? No. They came because they were educated that they should be protected.

In my own constituency, I am elected, there are persons like this. They come to our office. Like the Ministry we took steps to ascertain what is the status of this, what is the status of that. We got names. I sent out officers. We have paid officers by the Parliament. I said, could you please go in this trace and see if you locate these persons or family relatives and so on? Two months pass, three months pass, report come back with, we cannot find anybody. Because, we have discovered that a family member migrated to Canada, he does not come back here, he does not take care of nothing, they cannot even find him, he has a sister somewhere living in the country, "she doh know nothing about this, she doh want to get involve". Now, that is the reality.

Now, the failure to act on this matter means that those families are now exposed without the protection of the law for a further 30 years, where they have been for 30 years, and that is the danger we face. And, Mr. Vice-President, persons have been there. They are not squatters in the sense that they moved in last year, year before. Some of these people actually have a good-sized house; three-bedroom concrete house on the land and living. We have to take steps as a Government and as a Parliament to protect those persons.

Now, I have taken note and I am prepared to share with the Senators who have raised the matter, and maybe others interested as well, the database of these people and of the letters of service received by the Ministry. We are prepared to share all the information on that.

Sen. Prescott SC: Minister, would you permit me, as a matter elucidation. Are you content to let the public know rather than just individual landlords, the database? Thank you.

Hon. Dr. R. Moonilal: If need be. This is not a secret. We can share this information with the public, to say this is the person who has applied to serve notice, cannot find landlord, multiple landlords. Public—we can put ads in the newspapers, persons can trace, maybe somebody else can jump up and show up, maybe somebody can sort out their business. We have no difficulty with that because it is not our intention to oppress a landlord or property owner by doing this as well, as much as we are very passionate about protecting the tenants.

Sen. Prescott SC: Actually, I was inviting a commitment from you.

Hon. Dr. R. Moonilal: You are what?

Sen. Prescott SC: I was inviting a commitment from you.

Hon. Dr. R. Moonilal: I accept your invitation. [*Laughter*]

So, Mr. Vice-President, it is a commitment. If it is 200 names—I am told 200 more or less. I do not think that is so difficult to make a newspaper ad with.

Hon. Senator: No.

Hon. Dr. R. Moonilal: I do not think that is so hard. We would like to satisfy our colleagues opposite with data, with information. We would also like to consider a point raised earlier that the State takes this action, and for 30 years—I think, either Sen. Al-Rawi or Sen. Vieira made the point—you oppress the landlord, because somebody claimed I served on the State so the landlord says whenever he or she appears, "But look at that, I had no opportunity to initiate some action; I am oppressed". I think that was a serious concern.

We would like to look further at any device that is possible so that the landlord—though cannot be found now, or multiple landlords as the case may be—has another avenue to protect their interests. [*Interruption*] We would like to take a look at that. It is something that cannot be done tonight and cannot be done in a way that is too hurry, then we may get it wrong.

Mr. Vice-President, my friend Sen. Singh, also spoke, but, understandably drifted towards the problems on state land, which I do not think raised any query for me, but there were useful issues as well, I am sure. I am not sure that we want to be in a position where we advocate to tenants, and particularly the reality, this group of tenants that we have profiled for you, an approach where we tell tenants, "look, go to court, initiate court action, sort out your business in the court". We all know the hassle. Many of us know the money, the resources. Many of us know that.

We may not be in a position where we want to tell tenants go to the High Court, initiate legal proceedings against A, B, C. So, I am not sure we want to take that approach. What I will say is that at this stage information was asked for. I think we should get some information in detail to share with the colleagues opposite and with all colleagues.

Also, we can, and I give the commitment that those persons who have filed their service notice on the State can be published, and indicate not only their names but the circumstance and whatever particulars that are relevant to this matter, and allow, if you want, another period for persons who would have an interest.

These things are normally on Internet sites and so on. We can put it on the Ministry's Internet site, so somebody who is abroad and may not be buying or reading the newspaper every single day, on the Internet they can look at it, so we can clarify. But, we would like, Mr. Vice-President, to look at some other device that we could probably attach to this amendment, so that persons and the landlords and the property owners are not immediately oppressed by the passage of this piece of legislation in this form.

So, with those words, I would like not to close, but to pause, while the Leader of this House initiates the appropriate procedure.

Thank you for this moment.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. Vice-President. At 10.58 p.m., I beg to move that this Senate do now adjourn to Wednesday, July 23, 2014 at 10.30 a.m.

At this appointed time we would continue the debate on a Bill entitled an Act to amend the Prisons Act, Chap. 13:01, the Criminal Offences Act, Chap. 11:01 and the Mental Health Act, Chap 28:02; and, secondly a Bill entitled an Act relating to committal proceedings in respect of indictable offences by Magistrates and for ancillary matters, and also, thirdly, the House amendments to the Securities (Amd't.) Bill, 2013; and if the information is available in time, we would also continue the debate on the Land Tenants (Security of Tenure) Bill.

Thank you very much, Mr. Vice-President.

Question put and agreed.

Senate adjourned accordingly.

Adjourned at 10.59 p.m.