

**SENATE**

*Tuesday, May 10, 2016*

The Senate met at 1.30 p.m.

**PRAYERS**

[MADAM PRESIDENT *in the Chair*]



**LEAVE OF ABSENCE**

**Madam President:** Hon. Senators, I have granted leave of absence to Senators Daniel Dookie and David Small who are both out of the country.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T., S.C.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, O.R.T.T., S.C.,  
President and Commander-in-Chief of the  
Armed Forces of the Republic of Trinidad and  
Tobago

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.

President

TO: MR. ROHAN SINANAN

WHEREAS Senator Daniel Dookie is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me

**UNREVISED**

by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ROHAN SINANAN to be temporarily a member of the Senate, with effect from 10<sup>th</sup> May, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator Dookie.

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 6<sup>th</sup> day of  
May, 2016."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND  
TOBAGO

By His Excellency ANTHONY THOMAS  
AQUINAS CARMONA, O.R.T.T., S.C.,  
President and Commander-in-Chief of the  
Armed Forces of the Republic of Trinidad and  
Tobago

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.

President

TO: MR. JUSTIN JUNKERE

WHEREAS Senator David Small is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JUSTIN

JUNKERE, to be temporarily a member of the Senate, with effect from 10<sup>th</sup> May, 2016 and continuing during the absence from Trinidad and Tobago of the said Senator David Small.

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 10<sup>th</sup> day of May, 2016."

### **OATH OF ALLEGIANCE**

*The following Senators took and subscribed the Oath of Allegiance as required by law: Rohan Sinanan and Justin Junkère.*

### **ORAL ANSWERS TO QUESTIONS**

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, today the Government will be answering question 36, question 43, question 44 and question 52, and we kindly ask for a deferral of question 47 for two weeks.

*The following question stood on the Order Paper in the name of Sen. Wade Mark:*

#### **National Gas Company Group of Companies (Details of)**

- 47.** Could the hon. Minister of Energy and Energy Industries provide the Senate with details of the monthly board fees and allowances currently being received by Mr. Gerry C Brooks in his various capacities as Chairman/Member on the following National Gas Company Group of Companies:-
- i. National Gas Company;

- ii. National Energy Corporation of Trinidad and Tobago;
- iii. Phoenix Park Gas Processors Limited;
- iv. La Brea Industrial Development Company Limited;
- iv. NGC , CNG Company Limited;
- v. NGC, NGL Company Limited;
- vi. Trinidad and Tobago NGL Limited;
- vii. NGC Petrochemicals Limited;
- ix. NGC Pipeline Company Limited; and
- x. National Enterprises Limited (NEL).

*Question, by leave, deferred.*

**National Insurance Scheme  
(Coverage to Self-Employed Persons)**

**36. Sen. Wade Mark** asked the hon. Minister of Finance:

- A. Could the Minister of Finance inform this Senate as to whether the Government intends to offer coverage to self-employed persons under the National Insurance Scheme of Trinidad and Tobago?
- B. If the answer to (A) is in the affirmative, could the Minister provide the Senate with a specific time frame for the incorporation of these self-employed persons under the National Insurance System?

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):**

Madam President, I report to answer this question on behalf of the Minister of Finance as Leader of Government Business in the Senate.

The Government is currently in the process of reviewing the pros and cons of the proposed extension of coverage to self-employed persons under the National Insurance System. It is important to note that this review has become necessary in

light of new information on cost arising from the most recent Actuarial Review of the National Insurance System. The Ninth Actuarial Review indicated that the inherent cost of the proposed measures may be significantly more than originally anticipated.

In response to section B, the review of the feasibility of the proposal is expected to take six to nine months at which time a decision will be taken as to the way forward with respect to this matter.

**Parliamentary Accommodation  
(Establishment of a Joint Select Committee)**

**43. Sen. Wade Mark** asked the hon. Prime Minister:

Given the recent announcement of the establishment of the Cabinet-led Committee to supervise restoration works on several of our prominent historical buildings, could the Prime Minister state whether there is any intention to establish a joint select committee on Parliamentary Accommodation to specifically oversee the restoration and rehabilitation of the Red House?

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** I answer this question not as the acting Prime Minister but as Leader of Government Business in the Senate.

The Cabinet-appointed committee for restoration is chaired by the Prime Minister and provides oversight for construction projects pertaining to the restoration and renovation of historical buildings, particularly those around the Queen's Park Savannah, including the President's House. The restorative work to be done on the Red House would include the inputs of the Joint Select Committee of Parliament. At this point in time consideration is also being given to re-establish

the Joint Select Committee of Parliament to monitor the progress of the work associated with the restoration.

**Sen. Mark:** Is the hon. Minister aware that the Prime Minister is on record as saying that a Joint Select Committee will be established to deal with Parliamentary Accommodation and if you are so aware, could you tell us when that Joint Select Committee on Parliamentary Accommodation will be established?

**Sen. The Hon. F. Khan:** I cannot give the specific time but I can almost say without fear of contradiction it will be very shortly.

### **Trinmar Platform (Off-shore Spill)**

**44. Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries:  
Could the Minister confirm that there has recently been an off-shore spill, of approximately 25 barrels of oil, near a Trinmar platform that has left a six-mile trail along the coastline?

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):**  
Madam President, I will answer this question in my capacity as the Acting Minister of Energy and Energy Industries.

The Petroleum Company of Trinidad and Tobago Limited has advised that on the morning of Tuesday, February 11, 2016 an oil spill was reported east of Riser Platform No. 1 in the Soldado main field, Point Fortin. The company further advised that approximately 27 barrels of oil were recorded spilled due to a leak on a 12-inch trunk line between Riser Platform No. 1 and Riser Platform No. 5. The spill was approximately six miles long with intermittence streaks half mile in width.

The leak on the 12-inch trunk line was subsequently isolated and repaired.

Clean-up and containment efforts were completed in approximately two and a half days and normal operations resumed. Shoreline surveys were conducted on beaches between Point Coco and Columbus Bay during the clean-up exercise. I am pleased to report that no shoreline and near-shore ecosystem were impacted as a result of this incident.

**Sen. Mark:** Madam President, could the hon. Leader of the Senate indicate when the oil spill occurred of that particular coast that you mentioned, and did I hear you say that it was February 25—[*Interruption*]

**Sen. The Hon. F. Khan:** February 11.

**Sen. Mark:** February 11. Could you share with the hon. Senators as to when the oil spill actually occurred?

**Sen. The Hon. F. Khan:** Well, my information is that the leak was developed on February 11 so the oil spill is simultaneous with the detection of the leak, because if it is a leaking pipeline it just takes hours for the spill to build.

**Sen. Mark:** Madam President, could the hon. Leader of the Senate indicate when did Petrotrin issue a public statement informing the national community of this particular oil spill. Was it on the same day or was it a couple days later?

**Sen. The Hon. F. Khan:** I am not seized of that specific information, but I can provide it subsequent.

**Senior Cabinet Minister  
(Enquiry into Bank Transaction)**

**52. Sen. Khadijah Ameen** asked the hon. Prime Minister:

Could the Minister state whether the Government intends to hold an inquiry into the \$93,000.00 transaction involving a senior Cabinet Minister which recently occurred at a major commercial bank?

**The Attorney General (Hon. Faris Al-Rawi):** Madam President, I rise to answer

this question on behalf of the hon. Prime Minister and Acting Prime Minister as well. The matter of the bank transaction has been investigated and resolved. There is no intention of or need for an enquiry on the part of the Government.

**Sen. Mark:** Madam President, may I ask the hon. Attorney General, who conducted this enquiry into this matter and why is the Government not intent on pursuing a proper enquiry into this transaction?

**Hon. F. Al-Rawi:** Thank you, Madam President. As the hon. Leader of Opposition Business in the Senate would know, a public statement to this effect was, in fact, carried and the hon. Prime Minister and the Office of the Attorney General investigated this matter, a full description of which was provided to the public in an open address to the media at which questions were taken and answered.

**1.45 p.m.**

There has been, since that date, no enquiry on behalf of anyone in relation to this matter. As a result of the full report that was provided there has therefore been resolution of the matter.

**Sen. Mark:** Madam President, could the hon. Attorney General indicate whether the First Citizens Bank conducted an enquiry and whether, for instance, that enquiry cleared the hon. Minister in question?

**Hon. F. Al-Rawi:** I am very pleased to, again, inform—having done so in the public domain already—that not only did First Citizens Bank produce written documentation clearing the hon. Minister of certain enquiries made on behalf of a newspaper reporter, but so, too, did Republic Bank also put into writing its position, and that therefore there being independent confirmation from two commercial banks, being the two commercial banks in question, the matter has been resolved.



**STRATEGIC SERVICES AGENCY (AMDT.) BILL, 2016**

[Second Day]

*Order read for resuming adjourned debate on question [May 03, 2016]:*

That the Bill be now read a second time.

*Question again proposed.*

**Madam President:** The Senators who have spoken on this Bill are listed as follows: Hon. Faris Al-Rawi, MP, Attorney General, mover of the Motion; Sen. Wade Mark, Sen. Dr. Dhanayshar Mahabir, Sen. W. Michael Coppin, Sen. Gerald Ramdeen, Sen. H. R. Ian Roach, Sen. The Hon. Clarence Rambharat, Sen. Khadijah Ameen, Sen. Justin Junkère, Sen. Melissa Ramkissoo. Those Members who now wish to join the debate may do so at this time. Sen. Cummings. [*Desk thumping*]

**Sen. Foster Cummings:** Thank you, Madam President, for the opportunity to join in this debate on the Strategic Services Agency (Amdt.) Bill, 2016. Let me take this opportunity to welcome the students who are joining us here this evening in the Chamber, and to say that a lot has been said in the public domain about the amendments to this Bill and it certainly has drawn a lot of public attention; unfortunately, a lot of it misinformation.

What we are here today to deal with, Madam President, is a Bill that is intended to amend the Strategic Services Agencies Act, Chap. 15:06, by expanding the functions of the SSA, or the Strategic Services Agency. And let me just put into context what this discussion is really about because it is clear that the Opposition has decided to peddle fearmongering and to promote this Bill in a way that would cause citizens of Trinidad and Tobago to think that we are dealing with a spying Bill.

What are we dealing with here today? The SSA was established, Madam

President, way back in 1995, with responsibility for centralizing information that could assist in the detection and the prevention of the illicit traffic in narcotics. That is what the SSA was set up to do. And the main functions of the agency centred around facilitating as an information centre, to assist, as I said before, in the detection and the prevention of the illicit traffic in narcotic drugs. And therefore the Bill before us, which we started last week and continue today, is really to expand the remit of the SSA. It is not to deal with spying on anybody; it is not to deal with interception of communication. There is a separate piece of legislation for that and we will talk about that. But what has been peddled in the public domain is as though the Government has come to the House to somehow bring legislation to spy on, if you are talking to your grandmother in Toco about the Christmas function last year. That is not what we are about here today.

If we have an agency that has been set up to treat with narcotics and information-gathering around that, and we have a problem in the country with serious crimes—many other serious crimes—and the State has at its disposal an agency such as the SSA and the Government did not seek to provide to the security agencies the kind of support for other serious crimes that the SSA can provide in relation to narcotics, then we would be an irresponsible Government. [*Desk thumping*]

By including broader law enforcement coordination and intelligence functions, Madam President, the scope and functions of the SSA will be expanded in clause 3 by shifting the focus to include all serious crimes. So that instead of just narcotics, the following offences which are listed here will now fall under the remit of the SSA. And I think it is important for me to mention and list them so that the public listening to this debate could understand exactly what we are about here.

Some of the other offences now defined as serious offences which will now be captured will be offences related to homicide, treason, terrorist acts, terrorist financing, cybercrime, chemical and biological and nuclear weapons, money laundering, weapons of mass destruction, trafficking in children and persons, gangs, illicit trafficking in narcotics—which was there before—corruption—which I think is why the Opposition is so uncomfortable—offences which carry a penalty of not less than five years' imprisonment, firearms and ammunition, and smuggling.

So that the agencies involved in national security, the agencies involved in crime-fighting, will now have at its disposal the SSA gathering intelligence to lead them, because other than that, it is the blind leading the blind. And if we are serious about dealing with crime in Trinidad and Tobago, a responsible Government will make sure that the security agencies get the required strategic support that they need. That is what we are about. [*Desk thumping*] But some people like theatre, and some people like to rile up the population and make everybody scared of their own shadow.

People talking to you on the phone—you call a pizza man to order a pizza, and he says, “I ain too sure we could talk on this phone. We not too safe” Riling up the population! Almost a large percentage of the phone calls you get now, nothing illegal people discussing. “Is this line good?”

**Sen. Ameen:** How you know that?

**Sen. F. Cummings:** Because they say it to me. “Is it safe to talk to you on this phone?” I say, “Yes.” “Do you want to discuss something illegal?” “No.” But if you want to have a conversation, it is fine to talk. We are not committing crimes here.

The criminals are the ones who need to be afraid, and that is what the Opposition needs to say to the population. We need to say, jointly, in a joint voice to the criminals in society, “You should be afraid of conducting criminal activities on your phone”; not the average law-abiding citizen going about their business. They require us, in the Parliament, to pass legislation that will make sure the police know if a crime is committed in Toco, Matelot, Manzanilla, Tobago, that the police have the support. [*Desk thumping*]

Whereas the SSA was previously responsible for maintaining a database of manufacturers and suppliers and people who are importing illegal drugs into the country, the database will now be expanded to include all persons involved in criminal activity across the country. There will be nowhere to hide. So that it is the criminals—I expect some criminal association to be marching up and down Port of Spain saying, “We do not want this Bill”, not the people who were in government just recently and who brought to the Parliament the Interception of Communications Bill. [*Desk thumping*] What a level of hypocrisy!

You are in Government and it is good; you get into Opposition and everything the Government does you cannot support because you, all of a sudden, love all the citizens of Trinidad and Tobago and you want to make sure and secure everybody’s interest. Take the mask off. The PNM, in Opposition, behaved responsibly and supported legislation and I could name a few—lots of legislation brought by the UNC, with some amendments because they do not always do it right. The Bail (Amdt.) Bill was supported by the PNM Government, the Anti-Gang Bill, the Anti-Terrorism Bill, and, of course, the Interception of Communications Act. That was brought by the UNC Government, and today they come to the Parliament and want to give the impression that whilst the Government

is merely trying to expand the remit of the SSA, that this Bill is somehow about interception of communication. And they know better, Madam President. [*Desk thumping*]

Speaker after speaker from the Opposition Bench saying to Trinidad and Tobago that they are here to protect the interests of the citizens. Well, if you are here to protect the interests of the citizens, be a responsible Opposition and support this Bill, [*Desk thumping*] because the country, the citizens, have their eyes on you. It is no longer a case when we speak in Parliament and one has to wait to read the newspaper or look at the news to get a clip. We are live and the Channel 11 is one of the most watched stations in the country. Citizens are looking at you to see whether you have matured, to see whether you have grown up.

The agency, Madam President, will, as I said, provide invaluable support to law enforcement agencies, providing them with intelligence to assist them in the detection and prosecution of serious crimes. Madam President, it is well known that we have a serious crime problem in this country, and a lot of people like to portray crime as a political problem. Crime is not a political problem. But if you are in government, you have a responsibility to the citizens to make sure that there is a safe place for all of us to live, and that is what the PNM Government is all about, to ensure that we do the right thing, even when other people feel that they must go out there and create panic within the population. A serious government will introduce policy and support to our law enforcement agencies to improve their capacity and their operation that could lead towards improved detection and prosecution. That is what we want. This will serve as a deterrent to would-be criminals.

It is the would-be criminals, as I said before, who need to fear the security

agencies, not the law-abiding citizens. This Government is committed to providing our security agencies with the necessary support in intelligence gathering and that is why we are here to broaden the functions of the SSA by expanding the definition of serious crimes and bringing all of those other serious crimes under the remit of the SSA.

**2.00 p.m.**

Madam President, it would be in our best interest, in Trinidad and Tobago's best interest, if when it comes to matters as important as this that we put aside partisan interests and think about Trinidad and Tobago where all of us must live and live in peace. But somehow, and I have mentioned it here before, when in Opposition, the UNC sees itself as in the real terms of the word opposition which is that we must oppose, oppose, oppose without carefully considering the implications of opposing good legislation.

Madam President, unfortunately for the criminals in our society, this Government is not going to sit idly by. This Government is not going to sit idly by while criminals run loose in this country. National security is now driven by intelligence gathering and by giving strategic support to our arms of the security services. We have to ask ourselves: what are our friends in the Opposition really so concerned about? What could have happened between 2010 and 2015 that could have some people so disturbed that they wish certain things to remain secret? Because there is a well-known saying: who do not have cocoa in the sun need not fear the rain.

*[Desk thumping]*

**Sen. Ameen:** Madam President, does 46(6) apply here? I am asking. What are you trying to suggest?

**Madam President:** Sen. Ameen. Continue, Sen. Cummings.

**Sen. F. Cummings:** Thank you, Madam President. Only the criminal minds need to fear this legislation. Only the criminal minds need to fear being probed by the authorities. Those who do the crime must pay the time. A lot was said about privacy as there was an attempt in this debate to shift the focus of the very simple piece of legislation before us from what its intent is to cause persons to think, as I mentioned earlier, that somehow their personal information, their emails, their phone calls, the 1.3 million citizens that we have in Trinidad and Tobago, the impression was given that should we pass this piece of legislation that from tomorrow morning, the 1.3 million citizens that we have in Trinidad and Tobago, all of a sudden, like “kazam”, your emails and your phone calls will somehow be monitored by the SSA, and that is not the case. That is not what is before us.

Even in the Interception of Communications Act, there is strict procedure as to how communication can be intercepted. It is spelt out here. It is not that anybody can wake up any morning—it is an offence actually in the Act. It is an offence and there are three authorities that can authorize the interception of communication: the Commissioner of Police, the Chief of the Defence Force and the Director of the SSA. And even so, there is a procedure to follow. So this fear that people are trying to put out there in the public domain, it is just misplaced and intended to stir up the population and cause people to become fearful, so that you drop your cell phone, you stop using your phone and you would probably go back to penning letters before we had emails. A lot of fear being put out there in the public domain. There is a critical role for the security services to play in any democracy and we have laws in this country and the PNM is a law-abiding Government. [*Desk thumping*] In so doing, we will preserve the rule of law and we will make sure that the protective services have the eyes and the ears that they need to fight against all

serious crimes.

You know, Madam President, somebody mentioned to me before this debate here today, the amount of things that the last Government would have allowed to happen under their very nose is possibly the reason why they are so scared to have all serious crimes captured in this piece of legislation and you hear stories. You hear stories of former Government officials buying mansions. The Tobago Plantations, I heard there is a villa 111 that somebody needs to check out and see who owns it. Somebody probably needs to check that out. Maybe that is a reason why because somebody does not want who the beneficial owner of villa 111 in the Tobago Plantations to be known to the public. We will check that out. The public needs to know what happened in this country for the last five years.

But as I listened to the debate last week, I wondered whether we were debating the original Bill of 1995 or whether we were debating the amendments before us. And let us just look, therefore, at what is said in the notes that attend to the Bill, as to the purpose of this Bill, so we can put this discussion into some context. Clause 1 contains the title of the Act. Clause 2 provides for the coming into force of the Act and the date of proclamation, et cetera. Clause 3 will amend section 2 of the Act to delete the definition of “drug trafficking” and to provide the definition for “serious crime”. Clause 4 seeks to amend section 6(1) and (2) of the Act to expand the functions of the SSA, and clause 5 seeks to amend section 9 of the Act to provide the funds and resources for the SSA and that is what the Bill is about.

Not all the drama, not all the theatre. Somebody said this debate should have lasted one hour but we have to respond to what is said by the Opposition to ensure that the public knows and the public also knows that the UNC will not want to support legislation like this. But sometimes you must surprise the public.



[*Interruption*] Sometimes you must surprise the public and act responsibly. Surprise the public. [*Interruption*]

Madam President, I know that my friend, you know, would not like a lot of things—[*Interruption*] A lot of things can be said here today. You know, a lot of things. Somebody told me earlier on today that some information coming out of the Panama situation might be causing some people some sleepless nights. [*Desk thumping*] And I understand today that an attorney who worked for the CDA was named as an intermediary in one of the latest Panama Papers leaks. We need to probably check that out. Lots of things that they would like to keep secret.

We have a real problem with criminal conduct. Everybody knows that. Trinidad and Tobago knows that and we have heard the Attorney General spoke of the amount of cell phone calls that were jammed out of the prisons. We have heard of criminals from behind bars “calling shots” as they say, on citizens outside, innocent citizens. We have heard this, we read it in the newspapers and therefore, the Government has a responsibility to ensure that the law-abiding citizens of this country are not terrorized by the criminal elements.

And I have been trying to wrap my head around some of discussions following this debate and Madam President, it would be useful, possibly, for us to come back to what the Bill really is about. As long as a citizen of Trinidad and Tobago is law-abiding, as the great majority of our law-abiding citizens are, they need not fear anything from the security services of this country. And so I want to restate, Madam President, that this Bill before us, for the purposes of the record, is not a spying Bill. It is not an Interception of Communications Bill. We already have an Act to deal with that. It will not give an open window to permit any agency to spy on innocent citizens in our population. The Opposition is engaged in fear-

mongering to whip up support for their dying organization, riding on this wave because clearly they know that people will be concerned if they feel that their privacy is going to be invaded. So taking that window, they put a bomb in that window and exploded it to cause citizens to feel afraid. This is not what this legislation is about and so, it is our responsibility to expose the hypocrisy of the Opposition.

This Bill does not give the SSA power to intercept communication. The Bill will empower the SSA to coordinate and gather intelligence from all intelligence-gathering agencies of the state. All intelligence, Madam President, relating to serious crimes as opposed to just narcotic-related offences. The law, as it is now, allows for the interception of communication and this is spelt out in the Interception of Communications Act, Chap. 15:05s and this is done in specific circumstances.

So that in wrapping up, there are certain things that we need to make clear in terms of the Bill before us: let us stick to the Bill. [*Desk thumping*] We are not debating the Interception of Communications Act. We are debating the SSA amendments and that is what the population must be told. So I call upon all Members present here today to join with the Government as we organize to support the security services in a meaningful way, to provide the kind of strategic support that they would require in this on-going fight against the criminals who feel that they have an upper hand in this country. I thank you very much. [*Desk thumping*]

**2.15 p.m.**

**Madam President:** Before I call on the next speaker, may I join in welcoming the students of the San Juan North Secondary School who are in our Chamber today. [*Desk thumping*]

May I ask who is going to speak next? Because if someone does not—we call on the Attorney General to wrap up. Who is to speak next?

**Sen. Dr. Mahabir:** May I, Madam President?

**Madam President:** Yes, Sen. Mahabir, briefly.

**Sen. Dr. Mahabir:** Yes. Thank you very much, Madam President. I was under the impression that there will be a speaker from the Opposition, but in any event, Madam President, two speakers from the Independent Bench are ready to speak at this time if the Opposition is fielding no one.

**Madam President:** All right. When the time comes for speaking, people are free to just gauge my attention and I will call on speaker. So may I just ask: who is the next speaker?

**Sen. Dr. Mahabir:** Sen. Shrikissoon.

**Sen. Taurel Shrikissoon:** Thank you, Madam President, for allowing me to contribute to this very interesting debate at this very interesting time. Over the last week, a lot has happened and as Sen. Roach pointed out last week during his contribution, he did indicate that some documents were given to the Independent Bench, with the respect to, coming from the Office of the Leader of the Opposition with prepared briefs as to their position on the SSA Act.

And so too even over the weekend we have had correspondence coming out of the Government and out of the Office of the Attorney General inviting us to a meeting which we saw in the media. I just want to say at this point in time that as an Independent Senator, I appreciate any opportunity to provide all relevant information as it pertains to the advancement of Trinidad and Tobago. [*Desk thumping*] However, I would have preferred, as in the case of the Opposition, that the information being presented before the commencement of the debate would have been the same, with respect to the invitation extended by the hon. Attorney

General. [*Desk thumping*] So I know, and I am assuming here, there was no real ill intent but the Office of Attorney General, through you, Madam President, use the opportunity to try to get all information relevant out. But I am just thinking that in the spirit of the debate and that the debate had commenced that it would not have been in the best interest to serve that invitation at this time. So, through you, Madam President, hon. Attorney General, I thank you for the invitation but I really think that it was untimely.

It is no doubt, as Sen. Cummings was saying earlier, that Trinidad and Tobago has an issue of crime and criminality, which has been plaguing our country for many years, and understanding that this Bill being brought before us here today provides an element of intent to reduce the level of crime and criminality in this country, I would like to say at this point in time, given the intent of the legislation, the hon. Attorney General and his Government need to be commended for at least taking a step towards reducing the level of crime in our country, or at least addressing it.

As a citizen of this country, I have been a victim of crime in many different ways. As a school boy going to school and traversing the southern city, I have been mugged several times. As a business owner my parents have been mugged and robbed several times. As an employer now and in one of the family businesses, I have been robbed at gun point. As a family business again we have been victims of kidnapping. So if it is anyone that knows how it feels to be violated in any way, it is this Senator and my family, and I am sure that my sentiments would be echoed through many Members of this honourable Senate and the wider public. We are victims of crime and it is the responsibility of the Government to provide some element of security for the citizenry. And if this Bill is meant to provide some

element of security, or increase security, increase detection, then my intention is to clearly give some support to the Bill because the Bill is meant to provide an increased level of security to our citizens.

What we have been seeing here, over the past years, is that an increase and a runaway level of crime, and we are seeing increased expenditure on national security. We are seeing manifestos carefully crafted to highlight the urgency with which national security is going to be addressed, and yet still, as citizens, we still remain victims and we still remain susceptible.

And just as a point off the Bill, with respect to serious crimes, robberies in Trinidad and Tobago have been on the rise and it accounts for probably about 50 per cent of the crime in Trinidad and Tobago with a detection rate of probably 12 or 15 per cent. Serious crimes and robberies in this case are not being addressed by the legislation, probably for due cause or because of the law or because of the penalties associated with it, and I am okay with that, but it also needs to be addressed. Robberies need to be addressed, because the definition of serious crime does not allow, say for robberies or break-ins to be included in it.

So I really wish to commend the hon. Attorney General for bringing this legislation and it really tells me that at least the Government is considering crime and criminality in our country and bringing legislation as a priority for the security of our citizenry.

Further, the hon. Attorney General, in his presentation, highlighted the fact that the information or the strategic intelligence that has been collected is being used or stored in silos, and what I am interpreting that to mean is that agencies were hoarding the information and that there was lack of sharing. And, therefore, this legislation also allows for the information to be shared across agencies.

So, again I would like to give kudos to the Government for at least trying to integrate the information. And with this information the goal is clearly towards empowering, detection and crime prevention. So, again, the Bill has a lot of positives attached to it, because if it is that it could improve detection as well as prevention, then clearly the Bill, again, has a great element of positivity in it.

And finally, the new Bill, under this Act, it is saying that the SSA now has the remit or the capability to share information across global agencies. And Trinidad and Tobago is clearly not insulated from terrorists and global criminal activity. So it is again a positive, as it seeks to deal with the global issue of crime and terrorist activity. So the Bill in itself, the intent of the Bill, clearly has some positives attached to it. So we could see the intent of the Bill. However, when I carefully go through the Bill, I have recognized as a citizen and I am speaking about now, that this Bill has some areas of concern that I would like addressed. I want to reiterate the point shared by Sen. Mahabir, my colleague, and Sen. Ramkissoon, that with respect to the performance of the SSA, and while they have cited different areas, different situations, with respect to the functioning of the SSA, I would like specifically to go back to the drug bust of 2005, at Monos Island. What happened in that case, six were found guilty. But when you read the judgment delivered by Justice Alice Soo-Hon in that particular case, she is saying that, and I quote:

“Justice Alice Yorke Soo-Hon yesterday questioned why the main house at Passy Bay, Monos Island was not searched...”

So here we have an intelligence agency moving in with the responsibility for drug trafficking; capturing, performing and obtaining a seizure at a cabin house at an adjoining house. This agency is meant for strategic intelligence but the main house was not searched; intelligence.

As Sen. Cummings was saying, this is about the functions of the SSA, and here it is we have a judge saying: But listen, your basic form or your area of evidence to be gathered you are not going there. And she further says:

“...she was puzzled as to why the owners of the house, co-owned by Hue Patrick, Grace Rosemarie Fitzwilliam and Helen Forbes, ‘never appeared to be interviewed...’.”

So how can an SSA, and the term “S” is strategic, for in terms of drug intervention and narcotics, with basic information before it, not exercising its primary function? And, therefore, in this case, as Sen. Mahabir pointed out and Sen. Ramkissoon pointed out, if the SSA is incapable of providing—[*Interruption*]

**Hon. Al-Rawi:** Thank you, hon. Senator, for giving way. May I just to assist you only, point out that the SSA has no operational function and never did? It is only under our laws that the police can obtain warrants, do searches and conduct interviews and conduct raids. So to suggest that the SA's efficacy is to be gauged by the police action, is to compare apples and oranges, most respectfully.

**Sen. T. Shrikissoon:** Thank you, hon. Attorney General, but the issue here is intelligence, intelligence, not the functioning of the police service. Where was the intelligence? And if it is that this agency is meant to collect intelligence, then what is the finding of the intelligence? And did the finding of the intelligence inform the services that you now like to be integrated or to work with similar information? Why not? And here lies a tremendous issue. [*Interruption*] Thank you, Senator, of silos. So that is the situation, with respect to the performance of the SSA. Why is the intelligence not coming forward?

And if I am to reflect on the Attorney General's contribution in the other place, he said that this legislation was meant to expose the big fish. In Trinidad

and Tobago, of the three drug busts that my two colleagues and myself have spoken of, totals roughly \$2billion. If you asked the Minister of Finance what is \$2billion, he is going to say to you 25 per cent of the overdraft at Central Bank. That is the value, and yet still, at this point in time, although there were convictions, there is no owner. And this is the function of the SSA, to provide intelligence. So the function of the SSA is to provide intelligence and share it. So we cannot operate in silos, as the goodly Minister is saying. There needs to be some element of sharing. But where is it coming from?

So now that we have examined the performance of the SSA, I now wish to look at this Act specifically, the SSA, in alignment with the information on the Act suggested by Sen. Cummings, which is the Interception of Communications Act. So, according to Sen. Cummings, he said that an authorized agent, according to the Interception of Communications Act, is one of three, the Chief of Defence, the Police Commissioner and the Director of the SSA, and, therefore, the Interception of Communications Act does not allow operationalization of the law, it just is the law and so an agency or a person has to implement the law and hence we have one area, one agent or one agency being the SSA.

**2.30 p.m.**

Now, as I said before, there are three authorized agents that can intercept communication. So we have a situation here today where you have the SSA Director, the Police Commissioner and the Chief of Defence, having the authority to intercept. But with the expanded function of the SSA, and the expanded definition of serious crimes, I am seeing that there is a clear overlapping of responsibility, between the police service and the SSA, in terms of gathering intelligence. Why am I saying this? Because the Police Commissioner or the



police service, has the authority or in their capacity, can actually function and investigate and seek to acquire information, with respect to serious crimes. And now, the Police Commissioner according to the Interception of Communications Act, is an authorized agent to intercept. Now we are seeing the same function under the SSA to intercept for the same crimes.

So, I am seeing here an element of duplication, and if I am wrong, I stand to be corrected, but I am seeing an element of duplication here, between the role and function of the Police Commissioner and his service, as compared to the SSA. We are saying that we no longer want to operate in silos, but we want to have information shared, but inefficiency is still being duplicated when both functions are being given the same privileges, and both heads, the Police Commissioner and the SSA Director, have the same authority and power, to intercept according to the Act. So then the question is, why are we giving two individuals or two agencies the power to investigate, or the power to intercept and the functions are overlapping? I have some concern with that.

The next area that I have a little bit of concern about, is the privacy of information with respect to the information collected. According to the Interception of Communications Act, Chap. 15:08, section 2:

“This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.”

Which tells me that, “Aye, there is some element of privacy here, but it is somewhat relaxed in the context of national security”; Interception of Communications Act. And I am—*[Interruption]* Sorry?

**Hon. Al-Rawi:** And property records.

**Sen. T. Shrikissoon:** And property. So I am understanding that the Act, although

it recognizes that it was being somewhat close to probably infringing on the rights, gave an element of first disclosure, and then saying, “Okay, by the internal controls later on, you will still seek to secure or to keep the information confidential, in whatever way we can, according to the Act”.

So important was this privacy to be guarded, section 8 of the same Interception of Communications Act says:

- “(1) Subject to this section, an authorised officer may apply *ex parte* to a Judge for a warrant authorising the person named in the warrant—
- (a) to intercept...
  - (b) to disclose...”

So that Act is saying through a warrant, the authorized officers can: (a) intercept and (b) disclose. I am good with that through a warrant, but when we come to the SSA Act now, we are seeing under the functions of the agency through 6, number 6 according to the Act (e) and (f), it says the SSA has the power to:

- “(e) disseminate information and intelligence to the appropriate Services;”—and point—
- “(f) provide intelligence and analytical support for the appropriate operation and intelligence arms of appropriate Services;”

So the agency has the power to disseminate this confidential information to the relevant services, and the keyword here is “Services”. If we choose to define what services is according to the parent legislation,:

“‘Services’ means the Ministry of National Security, the Customs and Excise, the Trinidad and Tobago Police Service, the Trinidad and Tobago Defence Force and any other Ministry or Department so declared by order of the Minister.”

So here we are seeing under the Interception of Communications Act, the guard for privacy and the requirement of a warrant to (a) intercept and (b) disseminate. Whereas the SSA Act is saying as a function of the SSA, we can now disseminate to a person, agency, department, or Ministry as so declared by the Minister. Which is defined as “Services” in the SSA Act.

I am particularly concerned as to why it is the Interception of Communications Act would require a warrant for an authorized agent to disseminate, while the SSA Act allows the agency the freedom at will to disseminate by order of the Minister. How can the SSA Director under the Interception of Communications Act operate in one way, and under the SSA Act, has the freedom to do otherwise? How can— then it tells me, that the SSA Director, has the choice as to whether or not he chooses to guard the privacy of the information collected through obtaining a warrant, or go through Minister and share the information? That is very critical in my mind. If nothing else is remembered here today, I am concerned about the freedom of the SSA Director, through the permission of the Minister to willingly dispense of information as the Minister sees fit, when this treatment of information, according to the Interception of Communications Act is not permissible; very, very, very, very much concerned about that. Therefore, I am asking at this point in time, that this be somewhat considered.

Now, according to the section 8 of the SSA, it also guards the information through an oath of secrecy by the employees or agents of the SSA. Such is the confidentiality of the information, but when the information hits the SSA, and the SSA chooses to dispense to third parties, there is no obligation by the third parties to treat with the information confidentially. So the oath of office at this point in time according to the Act here, is saying that there is an oath of secrecy for the

agents, but as the Minister or the agency dispenses with it, I am not sure, and I am not seeing where privacy of information is still guarded as it hits the public domain; third parties.

So if a person now becomes aware that there is information about them, I am sure that they will not be able to access this information, because more than likely, the Freedom of Information Act would guard the information as that of national security. So the treatment of information, the subject cannot access the information, but third parties have access to the same information, that the Minister can so direct. Where is the equity and fairness in the treatment of the information? I am very much concerned with respect to that.

Now, we have another situation here with respect to executive power and centralized power. The SSA Director, the Police Commissioner has a particular order to follow, to intercept, a particular order to follow to disseminate. But the SSA Director here, somewhat, has some element of intervention or some element of control or influence by that of the Minister. If we compare the Police Commissioner and we compare the SSA Director, the Police Commissioner, if he acts outside of his bound, is liable and can be disciplined by the Police Commission. If according to the Act, it says, if I could find it quickly:

That the Police Commission actually appoints the Police Commissioner, and the Police Commission has the authority to discipline a police commissioner if he acts outside of his remit.

But here, the SSA, who has the same privilege of—the Director of the SSA has the same privilege to access this information, if he chooses not to act with it in accordance with law, then who is he accountable to? He is accountable to the Minister, and it is saying in the legislation, the SSA legislation, that the functions

of the SSA Director is to advise the Minister, and further in my SSA legislation, it says the Minister has the authority to direct the actions of the Director.

So we are seeing here collaborative leadership, where the SSA Director advises the Minister, and the Minister still has the freedom to act and instruct the Director. The last time we saw such a relationship, when the Minister advocated a particular position, and the Director or the head of that institution did not really comply, what happened? The Ministry of Finance, present issue before this country, where the Minister gave a directive, the person in charge was really not too happy with it, and it ended up in a fiasco.

I am still saying here, in my budget of contribution of 2015—2016, one of the pitfalls of this country is institutions. If we have the power to intervene and implement and do what we please with executive authority, our institutions would never be credible. Here it is in this same institution, the SSA, we are seeing direct influence from the Minister. Why? And so with that direct influence into the SSA, the SSA no longer has to act independently in the interest of the public, because he is carrying out the will of the Minister. But this agency that is responsible for private information, cannot be given the sole and the executive power to do as it pleases, from the agents that govern it, which is the Government. They just cannot do that, people are involved.

Where is the independence and where is the protection? So let us follow the chain of command. The Minister gives the SSA Director an instruction, and the SSA Director intercepts communication and dispenses freely with it. How is the citizenry going to respond to that? Whereas if it was gathered under the Police Commissioner, under the Interception of Communications Act, the treatment would be different. We cannot do that.

So I am saying that there are very serious concerns, duplication of responsibility. There is a situation where the information collected can be treated differently, the same information under two separate Acts, which governs the same person, in terms of a director, it cannot be.

The last point I want to raise before I conclude, Madam President, is that the hon. Attorney General cited at the balance to Executive power, is through the Officer of the Auditor General, and that is how we are going to balance it. In my understanding and my interpretation of the role and function of the Auditor General, it says:

That the Auditor General is required by law to examine and report annually to Parliament on the accounts of Ministries, Departments, regional health authorities and so on. The portfolio includes accounts of projects, all pensions and gratuities, and the grant of credit on the Exchequer Account.

Financial oversight can never be used or substituted for internal controls, as it pertains to the execution of executive power. [*Desk thumping*] It could never be used, and if we are to follow any element of the financial crises of 2001, 2002, 2003 where the largest corporations in the world suffered from accounting scandals, Enron and Xerox to name a few, through which combined codes of corporate governance have been issued to deal with internal controls. That is not present in this legislation. It is not.

The functioning as an auditor for financial accounts, cannot be substituted as an internal control mechanism, for the way in which Executive power is wielded or yielded and used in this country. It cannot be. So, if we are recognizing that there must be a balance of power, and the office of the Auditor General does not have the capacity to govern on internal controls, then “fix it nah”. Fix it, because you

are using the Office of the Auditor General to execute and say to that this is the check and balance on Executive power, when clearly they do not.

**2.45 p.m.**

If I am to say I recall a newspaper article only last week where the Auditor General said that there was mass wastage of public funds when it comes to the rental of properties—only last week—over the period I think 2010 to 2013. We are in 2016. So even the findings of the Auditor General, although may be true or can be true or is true, we cannot correct it, but we have a situation where the SSA Director has the executive power or has the authority through its Minister to collect and disseminate information as the Act says. Why?

And so, I am saying that the possibility of executive power—Minister, SSA Director—to collect, intercept, whatever the relationship is, really boils down to an element of trust. Can the public trust this arrangement? Can the public trust this arrangement that has existed so many years in so many different forms and so many different situations and Ministries? I want to just recall a few.

Former Speaker of the House, under house arrest; former CJ charged, case crumbled within one week; Point Fortin Highway—through Sen. Khan and his information—the inappropriate or ill-quality work cannot really be addressed because of addendum II, Executive power signing off on it. The financial dashboard of our country, nobody ever told this country that the overdraft was so high, but they had the executive power to do it. LifeSport, nobody knows about it, but they had the executive power to do it. David West and the chairmanship of the Police Service Commission scandal, mass resignation, even probably new Government, Executive power wielded and yielded. So, can Executive power really work in a situation where you are asking us to trust this arrangement? The

answer is clearly no, because past performance, if it is an indication of what is to come, clearly says that it did not work in the past. There are no internal controls, no amendments to ensure that the desired result of the future is what we are looking for.

If I am just to use an analogy of the ISO certification—not too sure how far it is—when a product is ISO certified, it is saying that the product is of a certain quality, but it is not the product that is certificated, it is the process that is certificated, which says that if the process is of a certain standard it guarantees that the outcome is clearly what we want it to be. In this case, if the process is flawed, the end result could never be what we are looking for. Madam President, I thank you. [*Desk thumping*]

**Sen. Paul Richards:** Madam President, I thank you for the opportunity to contribute to this fervent debate. Looking on in the last week or so, I think that this debate and the engagement of the national community shows that democracy is alive in Trinidad and Tobago and I think that is commendable. [*Desk thumping*] I also want to commend the Attorney General and by extension the Government for putting their money where their mouth is and showing that crime and crime fighting is a priority for this Government [*Desk thumping*] because it is one of the two major challenges facing this country.

Interestingly enough, in the last week since the amendments to the Bill were piloted last week, the fact that you know the Independents have become a point of focus and whether or not Government should be lobbying through invitations to meeting and/or the Opposition sending information to the Independents and others, to me are really non questions, because when you think about it, all information that can be gleaned in the interest of making a decision in the best interest of



Trinidad and Tobago should be welcomed. The timeliness of the meeting is of question, but I think the indication or the intention is one that should be commended.

I also want to focus in my contribution in a different sort of way because fortunately, I guess, I can be judicious in the use of time because so much has been said and disseminated from several Senators, both on the Government Bench, the Opposition and from the Independent Benches that there is no need to repeat a lot of what has been said, but I want to take a different kind of approach in terms of trying to present a holistic approach to crime fighting and juxtaposing the amendments to the Bill, where I think a lot of focus needs to be placed, and that is failing institutions in Trinidad and Tobago that is at the heart of whether or not amendments to Bills and laws can succeed in their intention.

I think anyone who has the interest of Trinidad and Tobago at heart can agree that the intention of the amendments are noteworthy and commendable and must be commended. We may have differences of opinion as to the aspects of the Bill, aspects of the amendments and that I think can be distilled and discussed in a sober manner which has, for the most part, been happening in this honourable Senate and in the other place.

My contribution will focus on balancing those two in terms of us taking a hard look at fixing, remedying those institutions without which no amendments or no new laws can succeed in this country, and that has been our biggest challenge in Trinidad and Tobago. We have what I can describe as an almost stagnant or failing education system; we have question marks over the Integrity Commission; we have concerns over the Teaching Service Commission, the Police Complaints Authority and several of the institutions that have been designed and instituted to

facilitate fighting crime and bettering Trinidad and Tobago.

We complain year after year about the Judiciary, Remand Yard, the backlog of cases—every year. Are we going to sit and look at the opening of the law term next year and listen to the honourable Chief Justice complain about the same issues that he complained about last year without any forward motion at all in the interest of the people of Trinidad and Tobago? Well, I hope not.

I want to start by voicing my concerns and, you know, laws are made, according to Sen. Mahabir, for the people of Trinidad and Tobago for their protection and for the furtherance of their interest and no matter who sits on the Government Benches now or in the future, these laws will apply to those persons. So the laws must look forward and the laws must protect the interest of the people of Trinidad and Tobago not now, but for five years down the road or 10 years down the road.

I want to cite several points in our history where what I would call the possibly dangerous intersect between the Executive and law enforcement has caused us to raise our eyebrows. I know it has been a beaten and flogged example, but I think it is important to continuously remind the population about these cases. The first I want to cite—I know Sen. Rambharat spoke about it—is yes, the Resmi Ramnarine case, because it has to be reiterated because of the danger it posed to democracy and to the institutions, because I am yet to be convinced that someone with that abject lack of qualifications and experience could simply fall into a position like that, the critical nature of the position. If it is the Executive did not know about it, that is also an abdication of responsibility and duty, and that is of concern in terms of the possible dangerous intersect between the Executive and law enforcement and the criminal justice system.

We also have situations that we can cite including as highlighted in the *Barbados*

*Free Press* February 11, 2012: "...Police storm...offices, journalist's home".

"Nine police officers raided the *Newsday* offices and journalist Andre Bago's home on Wednesday—seizing at least four computers, two mobile phones and several external storage drives. The police say they are looking for evidence of Bago's sources for his December 20, 2011 story about the row between Integrity chairman Ken Gordon and deputy chairman Gladys Gafoor."

Also "MATT slams spying on journalists" where in 2005 concerns about how names of journalists, I do believe the hon. Chief Justice, comedians, several persons in society including myself and other colleagues in the media, ended up on this list of persons whose communications were being held under surveillance.

**Hon. Al-Rawi:** 2010.

**Sen. P. Richards:** 2010, sorry. There was also one in 2005, I believe. We also have, most recently, the nebulous nature of the "New Flying Squad" denied by then Minister of National Security, Jack Warner, and information coming from I do believe a former Inspector Cordner. We have, if we are old enough to remember, the old Flying Squad under Randolph Burroughs that suggested that Mr. Burroughs, then commissioner Burroughs, only took instructions from the then Prime Minister, Dr. Eric Williams, and concerns about that sort of intersect and the dangers that it poses. So I think that history is replete in this country with a long list of concerns about that type of arrangement.

I say that to elucidate the point that has been made several times about the mechanism for appointment of the Director of the SSA which I think, while the hon. Attorney General has done a great job in elucidating the Government's side, there have been several valid concerns voiced by not only the Opposition, but

members of the Independent Benches and members of the general public about that mechanism for appointment, and the lack of checks and balances that can occur. Sen. Shrikisson also went into quite a bit of his concerns which really bring the point home. I think if we are to move forward in terms of making these amendments palatable they need to be seriously considered. Alongside those issues, to me, if we are to really use the amendments to this Bill—if these amendments are passed and they become law—we really need to take a hard cold look at the possibilities that exist if these amendments become law.

Commending the Attorney General, once again, because it is the first time in my memory in Trinidad and Tobago that I have had the disaggregation of the numbers of the moneys spent. He was discussing the issue of prison reform recently at a forum with Inspector of Prisons, Daniel Khan, during a public consultation at City Hall in Port of Spain. It had been revealed that over \$10 billion has been spent in the last year, and I think that sort of information being divulged is commendable because it resonated with me, that \$10 billion. According to the AG, it cost an average of \$20,000 to house an inmate per month and also \$15 million a month to maintain 2,235 remand prisoners in Trinidad and Tobago.

Let us presume for a minute that the amendments are passed and these amendments become law, we already have 2,235 remand prisoners in Trinidad and Tobago some awaiting trial, I understand, for over 10 years. Let us just say under the extended remit, including homicide, treason, terrorist acts, terrorist financing, cybercrime, chemical biological and nuclear weapons, money laundering, weapons of mass destruction, trafficking in children and persons, gangs—which I would come back to later, because I have such sour memories of the state of emergency and what that did to parts of our population—illicit trafficking in narcotics, drugs,

psychotropic substances and precursor chemicals, corruption, offences which carry a penalty of not less than five years imprisonment, firearms, ammunition and smuggling that the law is moderately successful, and provides intelligence that identifies, detains and arrests 1,000 people in the next year: is the criminal justice system ready for that or are we just going to have further backlogs? Is the police service ready for that in terms of the extended categories? That is when I spoke about the institutions that must support any amendments or laws that are passed in Trinidad and Tobago.

If we are doing this, we need to place equal focus on the institutions that support its success, and that is not happening in Trinidad and Tobago. We talk about them over and over and over again, but then we amend and pass more laws that just ends up adding to the backlog. That we need to take a cold hard look at.

**3.00 p.m.**

I also want to add that that \$10 million may be seen as, in my opinion, the sum of our collective responsible failures in Trinidad and Tobago. We have failed. We are failing. It also represents to me, because we tend to look at money in Trinidad and Tobago, in terms of these over 2,000 persons on Remand, an abject waste of human potential. How many Eric Williams, Kamla Persad-Bissessars, Keith Rowleys, Faris Al-Rawis, Dhanayshar Mahabirs have been wasted or are languishing in those numbers, that we did not identify, we did not help through difficult times to realize their full potential? But we accepted, because we sometimes are such a class-driven society that we are happy that it is them, those people, and not our brothers and sisters or our family members. So it is easy for us to dismiss them, "Oh, they are just common criminals." But they are on Remand, they have not been convicted of any crime, and their lives are wasting away. It is

time we look at these issues in a holistic manner, if we are to have success in the intention of these laws in Trinidad and Tobago for a better society for all, and that is not happening.

I also want to look, as we look to amend this Bill or these aspects of the Bill, at the education system in Trinidad and Tobago. Last Thursday 18,215 students wrote the SEA examination, and we wished them all the best. In six or seven weeks the results will come down. In our system in the past we had something called Common Entrance, and because of the way it was structured those who did not make the grade, because it is supposed to be a standardized examination, were either held back—it was also an identification process where they could have been given extra lessons through post-primary, put through vocational studies and some sort of check and balance existed.

Now we have a situation where of the over 18,000 students who write the SEA, only just about 16,000 actually go into secondary schools, leaving a gap of over 2,000 that we have no idea of where they are going or what vulnerable state they are in. Of the just over 16,000 who actually go into secondary schools, just under 25 per cent really did not make the grade to matriculate. No one is identifying why they were scoring below par, or the fact that because they did not really make the grade, and our system just moves you up into a guaranteed spot, that they are going to struggle. They are going to struggle. They are going to have self-esteem problems, and by Form 3 or 4 they have absolutely no sense of self-worth, because the system is not helping them.

Guess where they are going to end up? We are doing this every year. Add 2,000 every year, and you are left to wonder if the education system is not in some instances a direct conduit to the criminal gangs in Trinidad and Tobago, because

we are not helping those students. Every year, and I guess this year will be no different, Education Minister after Education Minister will go to the top three performing schools in Trinidad and Tobago—part of the theatre of our landscape, and there is nothing wrong with commending those who have done well. We are supposed to, they have worked hard and we must commend them. But what about that under 25 per cent who went up from primary to secondary school, who did not really deserve to move up, not because they do not have the potential, but because they simply did not make the grade? They will not be able to cope because they do not have the basic skills in literacy and numeracy, but we have pushed them into secondary schools anyway, and expect them to cope and morph into some performing student by magic. We have to deal with these institutions in Trinidad and Tobago, if we are not going to allow a direct conduit, or many of these laws that we pass, to inadvertently target those vulnerable groups.

In a real sense those are the young people in Trinidad and Tobago who are going to fall victim to crime and criminality, because they simply cannot cope or are not coping in what is the established system. So all of these categories here, including most notably gangs, are going to suck them up, are going to give them an opportunity to survive through some other means, though illegal.

I want to just reference the gang issue because last week temporary Sen. Ramdeen spoke about the fact that the State was successful in not having any damages awarded to it through the office of then Attorney General. But you know what, the State not having damages awarded to it, does not mean there was no damage done. When 7,000-plus young men, primarily of Afro-Trinbagonian origin are rounded up, thrown in vans, thrown in jails, what do you think happens to their psyches, when they feel that the State has trampled on their rights? Two friends of mine

actually who are professionals were part of that debacle, and they are post-graduate university graduates, and they were part of that. They gave up on the system. What do you think happens to their mind or their attitude to society or institutions? They rebel; “If that could happen to me, I doh care about the State. I doh care about laws. Lemme join de gang, because de gang leader treating meh better than de State.”

That is why I take great offence to any statement that no damage was awarded, because damage was done to individuals, to families, to entire communities in this country. Because we are a class society, it is easy for us to distance ourselves from that and not realize that that is also part of the problem that we must fix. This country’s credo is “Every creed and race find an equal place”, but that is not happening. The laws must apply to all.

You know we have a stellar record in Trinidad and Tobago of prosecuting white-collar crime. I think international investors should look upon Trinidad and Tobago as a beautiful investment point, because we have little or no white-collar crime. With the exception of Miss Boodram—I will not call her first name—whose name keeps coming up over and over, we do not have a white-collar crime problem. It is only according to Gypsy the “Little Black Boys” committing crimes. How are they supposed to feel? How are we to really use these amendments or these Bills, in the interest of all citizens feeling that the laws are serving us all and that if you break the law, you are going to be identified and do the time? It is not happening in Trinidad and Tobago.

Madam President, I did say I was going to be short, but there is another aspect of the amendments that to me is noteworthy and worthy of mention, and that is the fact that the check and balance in terms of judicial intervention and warrants being



issued by a judge of the High Court is something that really needs to be considered in this case. If only to give everyone concerned a sense that there is a check and balance and that the political directorate may not—and I am not talking about the present administration—not now, not in the future, abuse the opportunity. I think that is worthy of consideration. It is not that I think that this administration will do that, but you do not know who will be sitting opposite there in five years, or in 10 years, who may have more sinister agendas, and the population needs to be protected against that.

I also want to cite, because it would be remiss of me being a media practitioner not to articulate, through you, Madam President, several concerns that have been raised to me from members of the media, because of the way these amendments are constructed. Take for instance an investigative journalist who, from time to time, will get a call from someone in the underworld because they either want to divulge information of their feeling of abuse from the Trinidad and Tobago police, or they want to comply with an investigative piece, giving a different perspective on why they chose a life of crime, or they may be more inclined to talk to a journalist rather than law enforcement to surrender themselves, and that journalist does several pieces. Does that the journalist now become someone who is aiding and abetting in a gang-related offence if the person is a gang member?

When we had the situation with Andre Badoo and persons are clamouring for what is one of the foundations of journalism, and that is confidential sources, and someone feels the need, “Well you know what, this person writing a million articles or doing investigative journalistic pieces against any particular government and I want find out their sources”, does that mean that the Executive can call the SSA Director or the Minister, to provide surveillance on that person’s

communication devices, and intercept and totally thrash their confidentiality issues? These are legitimate concerns of media personnel. I am not saying it is going to happen, but it can happen. These are things we must consider, because without that level of comfort or security, journalists cannot practise.

I am not saying it is going to happen, but the possibility exists. These are legitimate concerns of journalists in Trinidad and Tobago with the way it is currently structured, because there is no need for the Director to go to a judge of the High Court and say, "You know what, we have real concerns about this person and who they are talking to, and in the interest of national security we need to have them under surveillance". That is vetted by the judge in the High Court and authorization given, and hopefully for a particular period and not indefinitely.

Right now Apple Incorporated, one of the biggest corporations in the world, is fighting the US Government for the very same privacy and confidentiality issues of their clients, billions of persons worldwide. So important is that issue of protection of one's data and one's information. Why should we be any different? Why should our benchmark be any different to information that can, at any time, either serve in the interest of national security or in the destruction of some individual in a more sinister plot? Once again I cast no aspersions as to the Government, but in terms of the possibility and that is of concern to me, and should be addressed. To give some comfort to media workers that they cannot and will not be arbitrarily targeted by someone who feels that they have crossed the line for whatever reason, whether legitimate or not, in the interest of a free, fair and balanced press. Interestingly enough the Bill was piloted by the hon. Attorney General last week Tuesday, it was International Press Freedom Day. Is that not an interesting coincidence? So these concerns, hon. Attorney General, I hope you can take into

consideration.

Finally, one of my suggestions in terms of amendments or possible amendments to the Bill is the issue of including some sort of timeline clause, whereby if a person is legitimately deemed a person of interest by the State, in the interest of national security, that information can only be held for a particular time and not indefinitely. If that information or that intelligence is not turning into something that is prosecutable, I do not think that information on that person should just remain in the repository of intelligence indefinitely. So I am hoping that can be considered in terms of—I do not know if the legal term is a sunset clause for that information. So that it is not a policy, it is part of the law that that information is deleted in the interest of protecting that person's privacy and also security.

Madam President, in closing I just want to add my piece in terms of my interpretation—I am not a legal scholar by any means—of the debate of the issue of privacy. I respectfully disagree with the very learned, very articulate Attorney General in terms of his articulation that we have no expectation to the right of privacy. I think if that is the case and we accept that in Trinidad and Tobago, then anyone can jump over your fence or peep over, as we see in the US, with a camera, in your living room or drive by with a recording device. *[Interruption]*

**Hon. F. Al-Rawi:** Just to clarify. It is not that we do not have a right to privacy. What I explained was that it is a qualified right, and that the Judiciary has recognized that and called for better legislation to deal with privacy. Specifically section 4(c) of the Constitution recognizes the right to private life and family life. Then there are two qualified versions in the common law and in equity which the courts have been doing their best to preserve a right of privacy about, but that it is in need of legislative attention. Thank you very much.

**3.15 p.m.**

**Sen. P. Richards:** You are welcome, no problem. I just wanted to add that. I think every citizen—and as I said before, laws are not necessarily for politicians but for the citizens of the country. And if you go out into the streets of Trinidad and Tobago and you ask anyone, they cherish their right to privacy, of their private lives and their family lives, and that must be protected by all of us here in this honourable place and the other space.

In closing, I saw a really interesting quotation, and I really want to stress on us while we look at amending laws and passing laws in the interest of Trinidad and Tobago. That we really take a hard look at the institutions and find some way of coming together to deal with strengthening these institutions, because without them these amendments and these laws would amount to nothing else. We have seen in the last 15 to 20 years, so we can pass five more years of laws or amend five more years of laws, without the institutions that support it efficiently, it would amount to nothing. The quote I want to leave with is a very interesting quote and it focuses on the young people in the country that says: if a flower does not bloom in the environment do not blame the flower, blame the environment.

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

**Sen. Rodger Samuel:** Madam President, I am excited to take part in this debate. I want to first say that I too want to commend the good intention of the Attorney General and Minister of Legal Affairs. But I want to also state that there is an old quote that says:

“The road to hell is paved with good intentions.” [*Desk thumping*]

And that good intentions alone must not suffice any amendment to the laws of Trinidad and Tobago.

Madam President, for over 50 years I was taught by my father and my teachers that the Constitution of Trinidad and Tobago guarantees the protection of its citizens by having enshrined in that Constitution the components of what we call fundamental rights for all of us, whether we were born after our independence, or whether we were born before independence, the Constitution guarantees those who were citizens after independence and those who were existing here before that they too would become citizens of the republic and that they would be protected by the Constitution of Trinidad and Tobago. And, Madam President, I believed in the Constitution as was taught to me as a child, and I believe in it now. But over the past few weeks I have had cause to question my belief and faith in the Constitution, when I heard flowing out of the fluent lips of the protector of the rights of citizens, the Attorney General, the one who is a defender of the citizenry, flowing smoothly out of his lips, that the citizen of this country has no right to privacy. That was his quote.

Madam President, that blew my mind. It affected me tremendously. I had to pull the *Hansard* from the other place and pull the *Hansard* from this place. I had to ensure that this learned gentleman who is not just eloquent in dress, but eloquent in speech, who appears to be an individual who has a good handle of law stands to tell me, and to dash all of my 50 years of understanding to the ground, when he says “I have no right.” Madam President, that is like saving all your money for 50 years and then one day you go to the bank and you went to withdraw and the bank says you have no money. What a shocking reality that would become to you. What damaging effects if we believe what he says it would have upon all of us, and the citizens are quite concerned. And though the honoured AG attempts to kind of smooth his way out through further explanation, it took—to tell you the impact

such a statement has had—the former Chief Justice who probably heard the statements of the hon. Attorney General and understood it exactly as it was meant by him on the day, the hon. former Chief Justice, and I am quoting in the *Newsday*, Thursday, May 5, 2016, page 11, “De la Bastide: There is a right to privacy”.  
 [*Desk thumping*]

So, it is not Samuel or John Brown who has a misunderstanding or misrepresented statements of the honoured AG, even a former Chief Justice. One of the CCJ’s High Court judge, he and all had to now clarify the issue, and he says:

“Respect for private life looks very much like respect for privacy and that is hardly distinguishable from the right to privacy, the former Chief Justice said.”

He also said:

“But I don’t think that, even on a strict construction of words of the Constitution, that we can come to another conclusion.”

This is the former Chief Justice honoured with experience—

**Hon. Senator:** Privy Councillor.

**Sen. R. Samuel:** A Privy Councillor, we have to understand that he also heard the remarks, and he had to now bring some ease to somebody of my nature who for 50 years believed and had faith in the Constitution, he had to reassure me after the hon. AG had dashed my faith in the Constitution to the ground and trampled on my rights, he had to now assure me that I have rights and the right to privacy. Oh my goodness if I could run and hug him I would do that, because in the state that I was left in after last Tuesday I needed some kind of reassurance, and the former Chief Justice did that for me.

Madam President, so the shock was there and, you know what affected me? This

abrupt destruction of words that said that I have no rights came very smoothly, without a stutter. And then I wonder if the words of Hitler is relevant today, because—*[Interruption]*—do not talk about that. And I quote, Hitler said with regard to people's right to freedom and about freedom. Listen to Hitler and tell me if we are not facing a similar scenario today, because we have instituted certain trigger mechanisms to interfere with the police commissioner's acceptance to all kinds of mechanisms are being put in place. But hear Hitler:

“The best way to take control over a people and control them utterly is to take a little...freedom at a time, to erode their rights by a thousand tiny and almost imperceptible reduction.”—he says—“In this way the people will not see those rights and freedoms being removed until past the point at which those changes can be reversed.” *[Desk thumping]*

I want you to understand this. It is not somebody coming with a crane to move your rights. It is a simple tiny removal by smooth language, and by smooth tongues, and gradually they erode your rights and freedoms, those 16 enshrined rights and freedoms that I was taught as a child. And I ask myself the question, if this is allowed to pass, which other right will go? Which other freedom will go?

And I must comment, Madam President, on the contribution of the hon. Minister of Agriculture, Land and Fisheries, when in trying to bring the point that we have selective memory, that we forgot the issue of the SoE, and I quote, that young black men were being arrested, and I had difficulty with the statement. Because, if a person in Trinidad and Tobago looks like a person from India he is called an Indian; if a person in Trinidad and Tobago looks like a person from China he is called a Chinese; but if he looks like a person from Africa he is called black, and I have much difficulty with that. I have much difficulty with that, because when I

look around I see people of similar colour but they may have a different texture of hair. So, I have difficulty but I am commenting because that was brought up as part of the debate.

**Hon. Senator:** The state of emergency. [*Interruption*]

**Sen. R. Samuel:** Madam President, if you could silence these individuals I would appreciate it? Because I was very silent when they were speaking.

Madam President, so we need to be very careful that the head of the Bar chose to attempt to justify the fact that we have no rights. But, he is so eloquent and always quoting from law history and one of his favourite quotes always comes from Lord Diplock. He always does that. That is his favourite. But, I would quote one of the things from Lord Diplock in a case *Regina v The Inland Revenue*, the 13<sup>th</sup> of the 12<sup>th</sup>, 1979 where Inland Revenue had some warrant to go and seize things from people's houses and stuff like that, this particular person, and the case was at court, and Lord Wilberforce said in that matter.

**Hon. Al-Rawi:** Who was the speaker?

**Sen. R. Samuel:** Well, it was Wilberforce and Diplock who were the quoram. Okay? Because Diplock is your partner. [*Laughter*] Diplock and King, you know, do not worry yourself. Do not worry yourself, I know you like Diplock.

**Madam President:** Sen. Samuel.

**Sen. R. Samuel:** I am speaking to you Ma'am.

**Madam President:** No. Now you are speaking to me.

**Sen. R. Samuel:** I am speaking to you Ma'am. Lord Wilberforce said:

“The courts have the duty to supervise, I would say critically, even jealously, the legality of any purported exercise of these powers”—meaning the powers of the warrant—“[powers of entry conferred on the Revenue].”



They”—that is the court—“are the guardians of the citizen’s right to privacy.”

Lord Diplock. They are the guardians of it. I am really elated that the hon. Attorney General attempted to clarify some points after leaving such quantity of misconceptions in the open space, and I am really elated today.

Madam President, and I pray that the hon. AG still remains open. I hope so, that he remains open minded and that he sits to hear and not to respond. Because oftentimes we sit with the attitude just to respond and we miss hearing what is really intended, and I am praying that he sits really clear, not just to respond. But, Madam President, when we think about this amendment we need to then clarify what the word “amend” means. I like to go into words, because words say a lot.

**3.30 p.m.**

Madam President, according to Webster and according to many dictionaries, to amend means to make minor changes in order to make it fairer or more accurate, or to reflect changing circumstances. I want us to understand that. To improve, that is what “amend” means; to change for the better, to remove the faults from, or to correct. That is what the word “amend” means.

So according to the purpose of this Bill, to amend is to make the thing better, it is to correct the flaws, it is to make sure that the changes that are made may make it more accurate. But, Madam President, it is so difficult that while there is so much in the atmosphere with regard to the errors and the flaws that exist in this amendment of the parent Act, Madam President, something has to be wrong because we are actually not making it better.

Madam President, many had spoken, both here on the Opposition Bench and the Independent Bench and it is clear in everybody’s mind that these amendments are

really not making this Bill better, [*Desk thumping*] they are not. And I am here begging and asking the Attorney General that he probably needs to now withdraw this Bill and then decide here what is going on, let me revisit it with all that has been suggested, look at it and come again so that we can have it done right, because you know something, it is important to know that to deal with the criminal situation in Trinidad and Tobago demands something that—demands urgent attention. But urgent attention does not mean that we must now just accept anything that comes to the forefront. [*Desk thumping*] It is important for us to see that.

The intention to expand the remit of the SSA should not be taken lightly, Madam President. It should not be taken for granted, and the reason for that is that the proposed amendments attempts to reconfigure the SSA into what I term a national intelligence agency. And the moment that begins to happen I began to research intelligence agencies from other regions to see how they operate and what guides them and what governs them, and I found quite a number of things.

As a matter of fact, Madam President, issues of abuse were prevalent in the early days of intelligence agencies. Abuse of national powers has occurred in developed nations. Developed nations, Madam President, including Canada, the UK and the United States, all of which had stringent oversight mechanisms much more intrusive than we ever have and will ever have in Trinidad and Tobago. And you know something, Madam President, they went through their problems. So we just cannot accept amendments and accept it and say well, this sounds good and then—we have got to be very careful because we have the responsibility of protecting the citizens of this country. [*Desk thumping*]

What is proposed in this amendment, Madam President, is really the concentration

of intelligence. It is the amalgamation of all intelligence under one head, under one block, under one agency; something that I have investigated and found that it is not something that is easily accepted across nations. And that is why, what you have across nations is the CIA and the FBI operating differently based on their remit. But what happens, they are able to share intelligence based upon the situation and based upon the demand and the request of whatever agency. So there is a coordinating effort, but the agencies remain separate. And their remit is different because they have to account to different oversight agencies and committees, different oversight intelligence, different oversight mechanisms for each of them because their remit is absolutely different. The FBI as opposed to the CIA, their remit is different and there are certain things that the FBI will investigate that the CIA will not investigate. And it is not that the FBI takes all of their data and sends it to some agency and the CIA sends all of their data to the agency and then—no, it is not like that. They operate independently because they have to answer and account differently.

And it is important for us to see that, Madam President, but when I thought about it, about the concentration of intelligence, I remembered Himmler in the days of Nazi Germany, who became the head of the police service and eventually assisted through one of his second men, those guys that are strong with him, in developing one of the most feared intelligence agencies that Germany ever saw.

Madam President, they created something that brought fear to a society. They kept tabs on everyone. But people talk all kinds of nonsense about—sorry, Madam President, I should not say that. But people talk things that do not make sense. With regard to cocoa in sun and all kinds of things that do not make sense—but, we take for granted what people shed their blood for, their rights. [*Desk thumping*]

We take for granted what nations fight for, their rights. Blood was shed for the rights of people in the world and we take that for granted and people talking about cocoa in sun. “No, no, “yuh doh” have to have cocoa in sun to stand up for your rights in Trinidad and Tobago.” You do not have to have it. [*Desk thumping*] And it does not make sense. It comes out of mouths. It really says out of the abundance of the heart the mouth speaks.

Madam President, shortly after the intelligence agency was formed in the 1930s in Germany, Gestapo law was enforced, incrementally, eh. It started off not looking so bad and then gradually it ended up as Gestapo law and then all of a sudden I am hearing that this SSA and all of the things, there are a lot of questions as to who is accountable to who. A lot of questions. I found some strange things out today, who is accountable to who? And not only that, based on the communication of interception Bill, the authorized officers, the Director of the SIA, the Police Commissioner and the Chief of Defence Staff have to make judicial judgment and they are not qualified to do that. That is why it was necessary for us, because the court has the right to protect me. And that going to a judge who has judicial experience, I feel satisfied that he has my rights in his mind. But when I go to—when there is somebody who can make decisions about interception and who can make decisions without that, and they can make a decision and determine things and they have no judicial experience whatsoever, it brings a scary feeling that these people will do what they want.

Madam President, and it means that democracies can be threatened. Because these agencies will have no serious checks and balances, because ever so often a joint select committee may bring them before them and question them. Ever so often they will write a report and the Auditor General will review it, but what is

happening now? What is happening on an ongoing basis? Who do they report to? What are the agencies and the systems in place that will now keep checks and balances and oversight over these committees?

Madam President, if I may quote based upon what is purported in this amendment, what is purported in the whole scenario because there are interlocking things with this Bill, the Interception of Communications—there are things that we got to look at in unison. Madam President, hear what crept in after having that concentrated intelligence happening in that nation. It says:

“Neither the instructions nor the affairs of the Gestapo will be open to review by the administrative courts.”

It got real bad.

I am not too sure if that was the initial intention. I am not too sure when they formed the intelligence agency that was the main objective, but it grew into that where no court could come against the Gestapo. So they were above the law and that is why we are asking for checks and balances, because fear, the fear that embraced the citizens of Germany then is the same fear that could embrace the citizens of Trinidad and Tobago. [*Desk thumping*] We have experiences, Madam President, we have experiences, experiences in this country where intelligence information has been abused. As a matter of fact, it was Sen. Roach who reiterated in his contribution on the budget where he felt very, very, very, taken aback and affected by the amount of his friends that were saying to him that their phones are being tapped. And he said it in his presentation. And he said that, it is wrong, the rights of people have to be protected. And I remember him clearly when he said that.

Madam President, so it is important for us to understand, maybe, what is coming

next, when all of this has gained ground in our country, is that people will not be able to speak against Governments again. Because maybe, maybe, Madam President, the issue of sedition may step in. Because I remember in 1970 when university students, Aiyegoro Ome, Makandal Daaga and Embau Moheni and all of these young university students took to the streets. All of a sudden the Sedition Act was reviewed, because that was a way of silencing the voices of the oppressed. That was a way of bringing them down. [*Desk thumping*] That was a way of dealing with those people who were willing to sacrifice themselves for them to defend their rights and their freedoms and to stand up against the oppression of Governments that day.

Madam President, it may not happen now, you know. And I say to the hon. Attorney General, and this is not against him as a person, eh, this has nothing to do with him as a person, he is a gentleman. It may not happen now, but whatever we do now with regard to this legislation may clearly give power to some tyrant down the road who is determined to ensure that if he comes to power in this country he never leaves power. We may just be doing that by this legislation. And we have got to be very, very, careful, because then it would reach the point that you do not know who to trust. Sen. Cummings said people calling him and saying, “Boy, you sure I could talk on this phone, boy. I could talk on this phone. You sure this safe.” Well, regardless of what he may have said, that is the feelings of the citizens. And it is necessary to ensure that the citizens of Trinidad and Tobago do not feel that way. And the hon. Attorney General has not been able to really clear the minds of citizens that it is not so. And if that is the case, there is a possibility that if you speak then against Governments, I mean, there is a risk, because they may just be hearing you.

There is a possibility, because it happened in other countries that you do not know who to trust, it might be the milk man, it might be the maid. It might just be your own children who are so influenced by the powers of the day and that they would report to you and say, daddy and mommy were speaking against the Government. That is a possibility. It happened before and it could happen again. Not only that, Madam President, when I looked at the Interception of Communications Act I realized that the Act was binding on the State, it was binding the State. This one is not. And I said to myself, “wow” this is a strange one.

Was that wilfully left out or was it a lapse of the intellectual minds? Because the interception Act was binding, it bound the State, this one is not binding the state. What does that say to us? Where is the recourse? What is happening? Where is the recourse? And those are the questions that we must answer in this debate. There is no aspect of this Bill. But the director of the SSA does not have to be qualified. He is cool to be anybody. He does not have to have no judicial experience, no interception experience. He does not have to have anything.

**3.45 p.m.**

**Hon. Senator:** Resmi Ramnarine.

**Sen. R. Samuel:** And you know it sounds so nonsensical that people keep talking about Resmi Ramnarine. Sen. Paul was 100 per cent correct. That must not happen again, that is why we are speaking. It must not happen again and this is no joke, I am serious. It is a different brain, a different mind eh now, it is a different mind and it is important for us to see that.

Madam President, if we are not careful and we concentrate intelligence, we can find ourselves in difficulty. There was a time in history in 1988, somewhere around there, when, if I have it right, there was what is called the Watergate

scandal. And the Watergate scandal, the learning from it should not be taken lightly because people at the highest level of the CIA were part of the process of the Watergate scandal, and they were in cohorts with the then President Nixon and thank God for effective journalism, who should never be muzzled. Thank God for effective journalism, the Watergate scandal was exposed and we had the resignation of a President but the people at the highest level in the intelligence agency was part and parcel of the mess of the Watergate scandal and then it had the Contragate scandal.

It is important for us to understand that. [*Interruption*] And the mutterings on the other side do not make sense, we are talking serious stuff here. It is important for us to understand that, that if we do not take stock and put the checks and balances—serious checks and balances— and ensure that the director and all of these people who are now people with authority, that they cannot judge or give judgment as a learned judge can do. But yet they have the authority to do that.

It is important that the AG looks seriously at that across the board, not just for the Director of the SSA but with the authority given to the Commissioner of Police in this situation of interception, as well as the Chief of Defence Staff because they have no judicial—and a judge could determine based upon their request and what they are presented—no, no, this is not correct, this is not judicially right. They cannot. They will deal with it based upon how they feel at the time and you know how feelings are? Today, we feel one way based upon situations and the next day, we do not. So, Madam President, it is something that I am encouraging the hon. Attorney General to really, really look at, lest we get ourselves in tremendous trouble. Because it were these intelligence agencies, the CIA, that were criticized for involvement in a lot of stuff.



You remember the Bay of Pigs situation in Cuba, the CIA. Quite a number of those things, the CIA was involved. The Iran situation where they removed the legitimate leader and they have now replaced him with somebody else. All of those things we have to look at, the CIA was involved in that, and immediately, subsequent to all of those periods, the American system began to put serious checks and balances and oversight committees, and they had to report on a continuous basis as to the affairs and what is taking place on a regular basis, not by an annual report.

Madam President, so many nations of the world have kept it kind of apart because in the case of the CIA, the CIA reports both to the Executive and the Legislature branch, and let me tell you how it goes. On the Executive branch, the CIA must answer to three groups: the National Security Council, the President's Foreign Intelligence Advisory Board and the Intelligence Oversight Board, three groups. The National Security Council in the US is made up of the President, the Vice-President, the Secretary of State and the Secretary of Defense. That is according to their website. Not only that, but the National Security Council advises the President on domestic, foreign and military issues that relate to the national security and provides guidance, review and directions as to how the CIA gathers intelligence.

Madam President, on the legislative side, the CIA works primarily with the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

**Madam President:** Sen. Samuel, you have five more minutes.

**Sen. R. Samuel:** Sure, Ma'am. These two committees, along with the foreign relations, foreign affairs and arms services committees authorized the CIA's

programme and oversee the CIA. So there are checks and balances at various levels. It is not the Auditor General, it is not just the National Security Council, but there are far more reaching checks and balances with regard to the CIA. To the FBI, it is of a different nature and they are limited in their capacity as to what they can do and it is only a federal judge who can approve any monitoring or any situation of that nature.

Madam President, the police service today has all kinds of departments, a lot of departments: Anti-Kidnapping Squad, Community Police, Court and Process Branch, Crime and Problem Analysis (CAPA) Branch and hear their remit. It says the CAPA is the cornerstone in the transition to intelligence—the police service—intelligence-led policing currently in the process within the TTPS established in 2007. The branch also is the data processing unit that analyses information from crime reports and other sources to better the crime deterrent, disruption and the detection efforts in the police service. So even within the police service, there is a department that seems to be operating similar to some of the remit of the SSA. So it may be necessary to take the entire SSA and make it a department of the Trinidad and Tobago Police Service and strengthen their internal intelligence mechanism so that they can become a far better agency, a far better police service in Trinidad and Tobago.

Madam President, this must not be taken lightly. We must not just sit by and allow this amendment to pass by and say, well, “is better you do anything and if you aint do nothing, is ah problem”, that is not the issue. The problem is about doing what is right. [*Desk thumping*] The problem is correcting the errors. The problem is as we amend this to make it better. The problem is to ensure that those flaws in the amendment that maybe need to be amended and maybe you need to just pull

everything back and decide let us revisit again.

Madam President, I urge this Senate, do not take the decisions we make today lightly but ensure that this Bill is not approved in its present state and condition. It must be returned and come again or else serious adjustments have to be made to it, and the only way that can be done is to take it away, bring it again and adjust it again. I thank you. [*Desk thumping*]

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):**

Madam President, it is an honour for me to join this debate on what I obviously considered to be—although purported to be just a couple of amendments but it is serious legislation with some far-reaching consequences.

The SSA (Amdt.) Bill seeks to increase the scope of the operations of the SSA initially established in 1995 to deal with drug trafficking only. What these amendments purport to do is to expand the definition of “serious crime”; to provide for some form of information sharing, as was properly articulated here in this Senate. There is the silo effect of intelligence and we want to break down those silos. It also caters for compliance with regard treaty obligations and international agencies for providing single-point contact with the Trinidad and Tobago intelligence system and, finally, it caters administratively for the consolidation of other functions that were performed in the past, in particular the National Operations Centre which was established by a Cabinet Note incidentally, and the National Training Academy which trains the entire ambit of the protective services and intelligence services in Trinidad.

But, Madam President, before I deal with the Bill specifically, I just want to make a couple of comments on the Attorney General’s attempt to contact the

Independent Senators for clarification and the Opposition Senators. We operate a bicameral system here in Trinidad and the system is as such that in the House of Representatives, you have the Government and the Opposition. Both the Government and the Opposition are under the Whip. So, in variably, “doh matter how good you debate” or what points you make in the Lower House, if it is a simple majority and you are operating under the Whip, the legislation will pass. The Government is for; the Opposition against. It will pass once it is a simple majority. And if it is a special majority, if you have a special majority in the House, the Bills will pass invariably.

This brings us to the Senate. The drafters of the Republican Constitution, in particular Sir Ellis Clarke, thought through this process with a great level of clarity. There are 16 Government Senators, one of which goes on to become the President of the Senate, so it leaves 15 of us. There are six Opposition Senators and nine Independent Senators. Nine and six is 15; 15 matching 15, it has to have a decider. Initially, in some years, a decade or so ago, I used to question why it is a Senate should have more Independents than Opposition because it does not reflect the democracy of the country. You could have expanded the Opposition Bench and put four Senators to adjudicate. But in the wisdom of Sir Ellis Clarke and his drafters, they placed nine Independent Senators with six to make 15.

So why are we debating in the Senate? The House is a giver and we may well say, “Oh, we talking to the population”, but the population is not voting on a Bill to pass a Bill, you know. We, on the Government side, are debating primarily to the Independent Bench to ask you, to convince you, that what we are bringing forward is good legislation. So, generally speaking, we will come and raise issues on the floor but when matters become complicated and based on certain responses you

get, it is imperative and it is our prerogative to seek Independent Bench to bring further clarity to the legislation before you. It is as simple as that. It has nothing to do with lobbying or trying—you are independent. You are independent in your own right. Nine of you are nine independent republics under a coordinator. He is not a Whip and that is the context in which this Senate operates. [*Desk thumping*] So the Government is well within its right to articulate to you what the issues are, and if you need clarification, the Attorney General brought the director of the SSA to answer your questions. So I just wanted to put that on the record.

**4.00 p.m.**

Madam President, this amendment deals specifically with expansion of the definition of “serious crime”. It removes the word “drug trafficking” and replaces it with “serious crime” and it says from the Bill itself:

“‘serious crime’ includes offences related to homicide, treason, terrorist acts, terrorist financing, hijacking, kidnapping, trafficking in persons...”

—et cetera, et cetera. This was read out many times here.

Sen. Mark and the Opposition circulated some amendments. Under Schedule I, it goes as follows: do not put serious crime, put See Schedule I. And hear what Schedule I includes: homicide, exactly as the amendments; treason, offences under the Anti-Terrorism Act, identical; hijacking, identical; kidnapping, identical; offences under the Trafficking in Persons Act, identical; offences under the Anti-Gang Act, identical; offences under the Dangerous Drugs Act, identical; corruption, money laundering; offences under the Firearms Act, chemical, biological, nuclear weapons; weapons of mass destruction; cybercrime; and they included a new one here, offences under the Extradition Act.

So, Madam President, there is 80 or 90 per cent similarity in what they call the

schedule and what we are planning to expand in the Bill. So then the Bill is supposed to be approved without much effort. The problem is or the issue is, you know in Jamaica, Madam President, I studied in Jamaica in the late '70s/early '80s, when Michael Manley was in power and there were some hardships in the grocery, in terms of getting basic items and when items were scarce, for example, if corned beef was scarce they had something called they are "marrying the goods". So to get two tins of corned beef you had to buy four packs of soap or you had to buy two bottles of oil because they married the goods. What the Opposition is attempting to do is to marry the goods. Because there is concurrence on the expanded definition of serious crimes but "ah not approving dat until yuh change how yuh appoint the director of the SSA, you form a deputy director, you form an intelligence review committee and you do all sorts of things". It is omnibus legislation they want.

Members of the Senate, through you, Madam President, we are going in a progressive sequence. It is a progressive sequence [*Desk thumping*] and I will show you the progression. Because you cannot bring perfect legislation and always omnibus legislation. You can always find some flaw in the Interception of Communications Act and you can find some further amendments that you may want to purport in the SSA Act. But, Madam President, I would deal with that, the issues raised on the proposed amendments, shortly.

But Madam President, you know, I like what I like to call rewind the tape and put this whole issue in context. Before I do that I just want to do some rebuttals on some of the comments made by other speakers.

Sen. Ramkissoon is one of my favourite Senators. She is so gentle, but she and Sen. Dhanayshar Mahabir articulated a point which I think is flawed in logic.

They claimed that, under the old law, when the SSA was only responsible for drug-trafficking, the performance was not up to scratch, so to speak, and used that as the basis not to support or claim to support the expanded remit of the SSA. Now that is a fundamental flaw, in terms of logic and in terms of common sense.

Let me go back to the local government reform process. We have concluded 14 consultations and we are expanding the role of local government, giving them social service, delivery responsibilities, repairs of schools, a whole new suite of responsibility and do you know with the devolution of power and authority. And some of the comments that came from the floor were: “Dey ain doing wat dey doing good now, why give them expanded responsibility?” You have to fix the organization. But the remit for the responsibility is still there. The remit is still there to have that added responsibility for the thing.

So, today is a technological world. It is like telling the CIA or the MI5 or the MI6 in the UK that you are only responsible for drug traffic intelligence. You cannot survive in a modern world like that. There are now acts of terrorism. There is now terrorist financing, human trafficking. Look how many—they are not even making the papers again, you know—missing persons there are in Trinidad and Tobago and it spares no one, man, woman, child, young and old and it is absolutely no respecter of persons.

And to speak about Sen. Ramkissoon’s contribution, it is the same Sen. Ramkissoon—I would not be harsh on you, Dear—who brought to this House in a Private Motion, cybercrime and asked the Legislature here to do something to close the legislative gap on issues of cybercrime. Cybercrime is now in the expanded list of remit of the SSA [*Desk thumping*] and we as a Government supported that Private Motion. Okay? So we are on the right track. Okay?

However, I just wanted to make that point.

I just want, before I delve into the Bill itself, to rebut my good friend, Sen. Rodger Samuel, former Member of Parliament for Arima. Former is the key word there. Hitler, talking about the SSA, Gestapo. For heaven's sake that is fearmongering. We are nowhere near that. That is the work of a fertile imagination. I want to warn Senators, in particular the Opposition, to stay away from that type of language. Just as when Sen. Gerald Ramdeen spoke about ethnic cleansing. These are terminologies that have international significance. Ethnic cleansing took place in Bosnia and Gestapo is something that Europe had tried to outlive and throw that at a distant memory behind them. Look today Germany, the people who spoke about the great Aryan race. Germany is the only country in Europe that has accepted one million refugees out of Syria. Check the transformation of societies that have learnt from their history. So Sen. Samuel, I want to guide you as your friend. Stay away from that type of language. [*Desk thumping*]

Finally, Madam President, you know I am chairman of the People's National Movement but in these debates I say very few items of raw politics, but permit me for once. Sen. Samuel said Resmi Ramnarine should never happen again and he is right, but I want this nation to know that for Resmi Ramnarine to never happen again the UNC must never get into power again. [*Desk thumping*]

Madam President, let me just put this legislation into perspective now. You see, I always use the phrase "let us rewind the tape". Madam President, I want to draw your attention to September 17, 1998. I challenge any one of you in this House to tell me what happened on September 17, 1998—something very significant in this country that probably has us where we are today. On September 17, 1998, one Deochand Ramdhanie escaped police custody at the Princes Town Magistrates'



Court. He was whisked away to Icacos and sent on a boat to Venezuela. Deochand Ramdhanie escaped police custody and in a very prophetic way the then Opposition Leader, Patrick Augustus Mervyn Manning, took great offence to that. He probably was seeing things that few in this country were seeing at the time. Patrick Manning abhorred that act and he said something is fundamentally wrong with the police service. That was his phrase and he went to the then Prime Minister, Basdeo Panday, and said to him, as a Government and an Opposition we have to work together to deal with crime.

In 1998, Madam President, the murder rate was only 98; in 1999 it was 93. It is from 2000, it started its upward climb. And Mr. Manning went to Panday and said I am willing to work with you on solving the issues of crime, as it relates to legislation in particular. Well everybody knows in 2001, the Government changed. By that time, they were just involved in their speaking.

Madam President, I want to put on record here that two great Prime Ministers, Patrick Augustus Mervyn Manning and Basdeo Panday, worked together. When Mr. Manning was Prime Minister from 2001 to 2007, in particular he worked with Mr. Panday. They brought what was called the police Bills to the Parliament. Patrick Manning bent backwards to make this legislation go forward. He is the first Prime Minister that gave up his veto power as a Prime Minister to facilitate the Opposition at the time. It was under the virtual instructions of the UNC at the time, the Opposition, that this whole appointment of the tortuous and labyrinthical path to appoint a police commissioner. And then the Police Commissioner had to even be approved by Parliament. But the key point here is that the Prime Minister, Patrick Manning, gave up his veto power. The hon. Kamla Persad-Bissessar vetoed the Director of the FIU twice when it came on her desk, until the present

one was installed.

So here it is, a PNM administration—and I peg this point from the Ramdhanie matter, up until today—continues to support legislation in terms of crime as it impacts positively on the society. [*Desk thumping*]

Sen. Cummings outlined the series of Bills that was supported by Dr. Rowley as Leader of the Opposition at the time and he went through about five. Look, I have something like 20 Bills, anti-gang legislation, Anti-Terrorism (Amdt.) Bill, Bail (Amdt.) Bill, Interception of Communications Bill, Miscellaneous Provisions (Kidnapping and Bail), Trafficking in Persons Bill, the Administration of Justice, DNA Bill, Administration of Justice (Indictable Proceedings) Bill, Anti-doping in Sports Bill. You have it. It is all here.

I just want to make the point that if it is one thing I know the PNM stands for is its commitment to dealing with crime and criminality in Trinidad and Tobago. [*Desk thumping*] Our track record supports that. As an administration, in terms in Government and in Opposition, all we can do is make the legislation. It is the implement arm of these issues where the challenges lie; whether it is the SIA, the police service and the intelligence agency. So we are handcuffed to a point because under the current system you cannot instruct the Police Commissioner how to do his investigations. And when they spoke about the Monos drug bust, I think it is Sen. Shrikissoon was talking about it, the SIA cannot instruct the police as the AG said, who to search, what to search and what to do.

So the concept of going through the sequence of all the legislation that was passed and that is being supported by this administration is unquestionable and our commitment to law enforcement and criminality and dealing with crime and justice in Trinidad and Tobago is unblemished.

**4.15 p.m.**

Madam President, let me now deal with some specific issues that were raised in the debate. A lot of speakers dealt with it in terms of the Interception of Communications Act, and who are the—what you call—authorized persons. It is clear that section 6 of this Act says that:

“Notwithstanding any other law, a person does not commit an offence under this section if—

the communication is intercepted in obedience to a warrant issued by a Judge under section 8 or 11;

And then:

“the communication is intercepted by an authorised officer—”an “authorized officer” as being defined as the Commissioner of Police, the Chief of Defence Staff and the Director of the SSA.

“the communication is intercepted...”—on the following grounds:

“in the interest of national security;”

Or, you might say that is a vague phrase, but that is how legislation is drafted, because you cannot specifically, according to a schedule, define what national security is. But you have people implementing the law, and as a nation, we have to start to trust some of the officers we put into these positions. Because you cannot say, the person who has the flexibility in determining what is in the interest of national security must now be guided by six pages of specifically what national security means:

“for the prevention or detection of an offence for which the penalty...for more than ten years;”

“for the purpose of safeguarding the economic well-being of the State;”

You know, I was doing some research and there is a—that was taken verbatim from British legislation, where the MI5 legislation, Security Services Act 1989, which states that:

“There shall...be a Security Service...”—Agency; whatever, whatever. And that it said:

“The function of the Service shall be the protection of national security...”—in particular—“the protection against threats from espionage, terrorism and sabotage...”—et cetera.

And then in (3) it says:

“It shall also be the function of the Service to safeguard the economic well-being of the United Kingdom...”

—exact wording, and what does that mean? Because you have to protect your trade.

So when Sen. Shrikissoon was saying, who you hand over information to, while it specifically said, the police, the Defence Force and law enforcement agency; it gives you the catch-all that for other arms of Government. Because if somebody is threatening your economic well-being, the Minister of Trade and Industry is supposed to know. This is how legislation is drafted. You cannot draft into legislation every specific thing.

So with regard—I know a lot has been said now about whether the Director of the SSA has the same qualification as it relates to the COP and the Chief Defence Staff. I will deal with that shortly.

Madam President, oversight: It was articulated by the Attorney General, and in the Lower House to some extent, that oversight will be provided—a lot has been made out of the Auditor General. We are aware of that. The Auditor General is a

financial audit, and one of the limits of the Auditor General, it is a post facto audit. In fact, we are now talking about having an accounting office out of the Parliament, to have more online audit functions in terms of the budget delivery. So, I agree that the Auditor General is post facto, but having said that, it is still an audit function.

Operationally, it has parliamentary oversight. And I will deal with parliamentary oversight when I deal with the appointment of the Director. But parliamentary oversight can be provided by two joint select committees. One, the Joint Select Committee on Statutory Authorities, and secondly, the Joint Select Committee on National Security. The issue here, Madam President, is that we are constrained by a small Parliament. Joint select is really where you have a large back bench. It works beautifully in the United Kingdom, where there is 300-and-something Members of Parliament, and the Cabinet is 30-something. So you have over 300 or 280-something, 290-something back benchers to use in your committee.

The new Standing Orders provided for a series of new joint select committees. All the Government did, was decided that we wanted to chair four committees. One happened to be national security, but I make the point, when you sit on a joint select committee, you do not sit in your capacity as a Minister. You sit in your capacity as a legislator on the Parliament and you provide oversight. I mean, I do not want to talk up my own self, but Sen. Creese, he chairs the Joint Select Committee on Land and Physical Infrastructure. And ask him, at the last meeting, who was the most aggressive person going after the Ministry of Agriculture, Land and Fisheries? My own colleague Sen. Clarence Rambharat was scared like hell, when his PSs spoke to him, because I had put the question to them in a brutal form. Because there are issues facing the Ministry of Agriculture, Land and Fisheries that

have to be dealt with.

Minister Imbert chairs the Energy Affairs Committee. The two most aggressive questioning came from Minister Imbert himself and myself, who is Vice-Chairman of the Committee. So it is not to say because you are a Minister, you will protect the Government. What will happen is that you cannot be a line Minister with responsibility for that line function, and chair a committee or even sit on a committee like that, but within the constraints of our situation, there is nothing so fundamentally wrong with Ministers sitting on joint select committees because the track record will show that we question in a way that is similar or in some cases superior, if I could say so guardedly, than the Opposition, okay? [*Crosstalk*]

So, Madam President, let me just deal with now, [*Interruption*] the appointment of the SSA Director—[*Interruption*] Madam President, I need some protection.

**Madam President:** Could we hear the Minister in silence, please? Continue Minister.

**Sen. The Hon. F. Khan:** The appointment of the SSA Director. Some amendments were circulated to say that you have to go down and appoint deputy directors and what have you.

**Madam President:** Hon. Minister, may I just intervene here? Any amendments that have been circulated will only be adopted in committee stage. So let us just talk without dealing with specific amendments.

**Sen. The Hon. F. Khan:** I am guided. But the appointment—Statutory Authorities is an institution created by statute, I mean, that is a given. If you look at some of the examples that we already have on our legislative thing, the Water and Sewerage Act, all the Water and Sewerage Act states is that the organization will be run by an executive director. It does not drill down into the organization

because that is an administrative function.

The Civil Aviation Act speaks about a director general, but it does not go down to say whether it should have two or three assistant directors, and how many engineers and flight monitoring people and air traffic controllers you should have. The same way WASA would not tell you how many engineers to employ in the agency. So the Act just gives you who runs the organization, like the director and then the administration will put in the organization deeper down, as we speak.

Madam President, I now want to deal with what I consider the most controversial part of my contribution. So I will take a deep breath before I say what I have to say. There is this growing feeling in Trinidad and Tobago, and it is getting some traction, that the only time a position is independent, it is when it is appointed by the President.

Now, bearing in mind again, historically, how we ended up this form of Government. We had a Governor General who represented the monarchy. The 1976 Constitution changed the Governor General's name to the President, but basically maintained the same format of governing. But as we speak, Queen Elizabeth II of England cannot appoint anybody, you know. It is the Executive, the Prime Minister and the Cabinet, that does all the appointments, and the oversight is provided by the Parliament. But here we have a situation that I see is creeping into the legislative arm of the State and the Parliament, that everything you have to know, hide behind now, independence means it must be appointed by the President at his own discretion, in consultation with the Prime Minister and the Leader of the Opposition.

We cannot continue that way. We are an evolving democracy. [*Desk thumping*]  
Democracy is about going to the people in an election and asking them for their

franchise. You are saying, I prepare a manifesto for you. I offer you good governance. I am asking you to vote for me to become the Executive to run the affairs of the nation. When people give you that mandate, it is a serious responsibility, and there has to be the exercise of executive authority in some form or fashion in governance, otherwise governance will not work, because we will go back to a monarchy.

So there is the feeling now that everything that the Prime Minister appoints or a Minister appoints, something is flawed with that. It is not flawed. It is democracy, and democracy as practised by modern democracies is the Executive has the authority and the oversight is provided by the Parliament.

Look, Sen. Samuel spoke about the CIA, Executive National Advisory Council is who? It is the Executive, Secretary of State, Secretary of Defence, what have you. Then, where does the other three agencies, one is senatorial and one is congressional. So is that not parliamentary? That is what we have here already existing too, and then an executive oversight which is fundamentally the National Security Council. It also includes on the National Security Council, people who are not part of the executive vis-a-vis, the Chief of Defence Staff and the Commissioner of Police. So, Madam President, I wanted to put this whole issue of a presidential appointment into context.

And in closing, I probably have—how many more minutes?

**Madam President:** You have nine more minutes.

**Sen. The Hon. F. Khan:** Nine more minutes, and I will crave your indulgence to take me through the thing there to conclude, before we go for tea break.

The other areas of responsibilities of the SSA, you see, 90 per cent of this debate was focused on the interception of communication aspect of the SSA, but the SSA



does much more than that. The SSA is an intelligence agency where interception of communication is only one aspect of it. There are databases now that the SSA could study. Now, there is something called databases. There is something called search engines. There is something called data mining. You can drill down into the data set, and with sophisticated software, you could pick up trends that no human brain—you could have an IQ of what—could never pick up, good? There is now strategic software in terms of analyzing financial data, to pick up trends that could lead to money laundering and to illicit acts of financial impropriety. There is so much because you live in a data-driven world; we speak about we want to take decisions based on data. The whole world is structured to capture data. Data is no longer expensive to capture.

The first IBM mainframe computer was in a room big like this. That data in the room built big like this in the first IBM mainframe is now on a chip that is the size of my fingernail, and that is the power of data now. So we have to capitalize on that power, colleagues and through you, Madam President, and these agencies not only provide surveillance, they provide analytical support for the major agencies of the State.

If the criminals are using technology, we have to start to use the technology. We cannot possibly get a conviction now without using modern technology in the courts because witnesses are not going to expose themselves to risk and witness protection and what have you. So these are some of the issues that while we skew the debate only on the surveillance and in terms of the interception of communication component of it, the ambit of the SSA is significantly larger.

**4.30 p.m.**

Again, I want to debunk another point. You go to a judge for a warrant, not sign.

There are three people who are authorized to intercept communication: the Commissioner of Police, the Chief of Defence Staff and the Director of the SSA, but the process must be initiated. In more cases than none, nine out of 10 times or probably 19 out of 20 times or 99 out of 100 times—[*Interruption*]

**Madam President:** Minister, you have five more minutes.

**Sen. The Hon. F. Khan:** Okay. Thank you, Madam President. It is an officer investigating a crime that beats a roadblock that says he wants some surveillance in this matter, and he fills the 10-page form and sends it to the Director of SSA or for that matter, the Commissioner of Police, but more likely the SSA Director because that is where the intelligence infrastructure lies.

The Director of SSA does not “ups one day and say”: “I plan to put surveillance on Sen. Dhanayshar Mahabir”. And, obviously, no Minister—and we asked the director that today in his contribution—no Minister could come to him and say: “I want you to have a surveillance on this specific number.” It has to be justified. In more case than none, it is justified through the police agencies because they are doing the investigation on criminals. So this whole issue that it is a big spy network, it is ill-founded, because we feed out of these rumour-mongering that is going on, in particular from the front bench there. So I just want to put to rest that concept that a Minister or some friend of a friend could go to the SSA Director and say, monitor this person, monitor this number.

And, finally, it deals with the consolidation of certain agencies like the NOC, the National Operations Centre, which is an operational component created by Executive fiat, you know, by a Cabinet Note. A billion dollars was spent in procuring equipment from the Chinese on that with no parliamentary oversight of the sort.

Finally, our treaty obligations. We live in a modern world. Transborder issues are the most prominent issues as we speak. Check the Panama Papers, transborder. We have to have a single point accountability in terms of intelligence to deal with our treaty obligations and to deal with international agencies that need to contact us to share information, and we have to share it with an authorized agency, and we now want to deem the SSA—the security services agency to be that agency.

So, Madam President, in winding up, I think I have outlined with some level of clarity the issues that really face us. The amendment is basically to expand the definition of serious crime. I would be the first to admit that there are other aspects of the SSA legislation that probably need amending. There are aspects of the interception of communication that possibly need amending, but we cannot wait to get it 100 per cent right and bring omnibus legislation. This is a step in the right direction and I crave the indulgence of the Opposition Bench but, in particular, the Independent Bench to support this piece of legislation. Thank you, Madam President. [*Desk thumping*]

**Madam President:** Hon. Senators, at this time we will take the tea break. So we will now suspend until five minutes past five for the tea break. So we are suspended until five past five.

**4.33 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

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

**Sen. Stephen Creese:** Thank you, Mr. Vice-President. I must admit that this debate has presented some challenges in terms of coming to an understanding of where we are, both as a society and as a House of Parliament. I would admit that I appreciate the need for some consolidation of our institutional arrangements with

regard to our intelligence gathering and policing arrangements, so that the need for a suitable and apt structure for the SSA is relevant, and the procedures by which they should be guided in their operations.

But I want to suggest that the overall umbrella arrangement needs to be revisited, and there is danger in pursuing some arrangements now without the relevant checks and balances. And like my colleague, Sen. Taurel Shrikissoon, who had raised the issue of ensuring that we have proper checks and not citing, of course, the Auditor General as part of the kind of checks and balances that are necessary for intelligence gathering operations.

We all would recognize that the provision of interception is critical. There is no getting around, in the age of technology, that there has to be that kind of interception and that we have to place that responsibility somewhere in the system. But the question quickly arises about the arbitrary use of power and, in that regard, we have a bit of a checkered history in this country. It is almost like a Twirly and Twisty frame of reference, and the absence of necessary regulations governing disciplinary procedures if there are to be any breaches must be of concern. To me, it takes us back—and I think one of the Government Senators had made reference to Marlborough House and the whole question. I think it might have been Sen. Cummings I think it was—about Marlborough House—and the need for us to recognize that societies are formed around a social contract.

I, myself, have been harping on this theme for quite some time now within this Senate, and I think the goodly Senator on the Government side made reference to the departure from primordial times. I remember that word because I had not come across it in quite a while, primordial times. And implicit in his assertion was the question of redevelopment of a social contract. I always find that amusing in the

sense that I do not know that we here in the Caribbean, we in a post-colonial situation, post-plantation situation, have really developed any kind of social contract. Marlborough House might have been a meeting of a few well-educated elites of our society—the Lionel Seukerans and Ellis Clarke and Williams and so on of the time—and they were not representatives of the grassroots. Certainly, the grassroot leaders before them would have been people like Butler, and people like Cipriani and so on. So that this departure from primordial times into a modern era of social contract, this has not been our history, quite frankly.

So the whole issue of how our society is going to come together, what are the key principles on which it should be based and how we will do that is a critical issue, and left in the hands of Twirly and Twisty, I have serious doubts as to whether we will be getting there soon.

You see, the short history of Trinidad and Tobago is a history of abhorrent legislation. You are talking about the ISA, you are talking about the IRA, you are talking about the Public Order Act and then the one with clause 34 in it—I think it was the amendment to the Administration of Justice Act—we are talking about the anti-gang legislation and now this. These are all pieces of historical legislation, which really do not speak well of our ruling elites, but this has been the handiwork of Twirly and Twisty.

I think it was Sen. Coppin's reference to our emergence from primordial times that forced me to reflect on that and Sen. Ramdeen, of course, referred to Marlborough House and the role of Lionel Seukeran, which brought us back to the whole question of the social contract.

**5.15 p.m.**

I keep saying that in a small island State one of our advantages is smallness, our

size. We are much like the Greek polis or city state, where it is possible in a few meetings, in a few gatherings in main squares, to gather all the politically of age people, and have a discourse on every or anything under the sun, including how we are to build our security systems and what kind of arrangements we should have in place to guarantee our security, to guarantee our safety, to guarantee our privacy, in spite of the comments made by the learned AG on the question of our right to privacy, our expectations of privacy.

In this small classic twin-island State, the issue raised by former Prime Minister Panday comes to light, the question of alienation and inclusion. It is so easy in a small island State where we come to learn each other's name, somebody is related to somebody else in any gathering anywhere, and whatever the nature of the gathering, whether religious, economic or professional.

It is so possible for us to gather and share our fears, our concerns, our differences of history and background and come to an understanding of the common problems, challenges facing us all. Yet we do not do this. Neither Twirly nor Twisty seems bent on that kind of path. So instead, to quote Beckford, we have a persistence of poverty and aligned with that is of course a persistence of autocracy and authoritarianism, which is of course part of the colonial legacy which we seem unwilling to shirk. And put in a nutshell, ours is a problem of the continued rule of opportunistic elites who are yet to come to terms just where they are in the historical context of things, and seem always caught up with governing rather than with concepts of governance. There is a world of a difference between the two.

They seem caught up with hiring and firing. Yes, perhaps we ought to give former Prime Minister Patrick Manning some kudos for giving up the veto power on the position of Commissioner of Police. He was willing to share that in the larger

Parliament. But short of that—it almost comes like an aberration—hiring and firing seems to be what the political directorate is bent on. You see, Twirly and Twisty, in the words of I think it was Sparrow, were two screws, and we have entrusted them with a plethora of units to manage our security apparatus. I will not go through the long list that we are now trying to merge into the SSA so as to tidy it up, but what has emerged was this plethora of units. Even if it gathered the relevant information, which I doubt, seemed unable or incapacitated in terms of transferring that information to policing activity and prosecutionary activity, winding up of course in the courts and hopefully finding people guilty of misdeeds. So that we have not over the years been able to make much headway of that kind of intelligence gathering.

As a matter of fact, what has come into the public domain was that there was some intelligence gathering I think at the DPP's Office, and somebody advised somebody, "Boy, use more drapes, otherwise more intelligence gathering would be taking place at the Office of the Director of Public Prosecutions." Now, is that not a shame? The man who should be prosecuting has to duck and run for cover, lest the files that are before him, those who should know what he is reviewing, in fact not only know what he is reviewing, always know what he is thinking and talking out loud. This is Trinidad and Tobago. Where were this plethora of intelligence agencies and what were they up to when that was taking place, or were they the ones who were carrying out that activity? That is the million dollar questions for Twirly and Twisty to tell us. Of course, they will not be telling us that in a long time to come.

But it reminds me, you know—and I think I mentioned that here already—doing some research about Martin Luther King. At one stage at a meeting with his chief

leaders and generals and so on, four of the five people in the room were in some form or fashion compromised between the CIA and the FBI—four out of five people in the room. The fifth person in the room, of course, was Martin Luther King himself. He was the only person in the room who had not, in some form or fashion, been approached by either the FBI, the CIA or some other intelligence gathering unit of the United States to find out what Martin Luther King was doing. Lately, over the last year, a sixth person who went in and out of that room was inadvertently exposed by the CIA in their declassification of documents. Every 10 years they declassify certain documents, and in that declassification they inadvertently released the name of a photographer who was on their payroll for intelligence gathering purposes, who had won the confidence of Martin Luther King and lots of other black leaders, because he was at that point the most famous black photographer in the United States.

It came out in that declassification document where they failed to scratch out his name. So his name came out, and it was revealed that the sixth person who was in that room, who had access to that room, that meeting of senior Martin Luther King generals as it were, was also on the payroll of the US intelligence authorities, and the US authorities inadvertently admitted to that.

We have to be careful about a nest of spies, because at the end of the day the question always arises about who is paying the piper and who is calling the tune, and to whom their allegiance really lies. Is it to the State? Is it to the political directorate? Is it to the country? Is it to some unnamed account in the US Virgin Islands, Cayman Islands or these days, Panama? Because the Panama papers will be revealed in serial form and fashion, which some of us will not find amusing.

So the question as to the allegiance of the operatives in these intelligence-gathering



units, and the question as to what kind of society we are—the thing is, intelligence gathering is a risky, questionable activity in a plural society just as ours, where the whole question of value systems are still being developed. So what is the mores and values that a goodly Hindu would stand for, that a Muslim would stand for, that a Christian of the conservative traditions would stand for, as opposed to the modern, more liberal, as they say big church traditions would stand for, the beliefs of Rastafarian, the beliefs of the Orishas in our society. When you insert into that the intelligence-gathering mechanisms, you have to be very careful as to the attitudes that would inform the kind of information operatives would want to gather, because of the value systems with which they may have some conflict in understanding.

I think it was David Rudder who said, “How we fete is now not how we vote”. How we spy, how we gather information will that be the way we vote? We spy because of how we voted, to corroborate those things that we voted against or we accused the other side of? So just who are we and what have we become? Are we a one-term government society? Therefore, we have to be careful, lest those things we put into place within these five years trip us up when the five years are up. I think we have had recent experiences of that.

Until we learn our lessons in politics and government 101, till we come to term with the syllabus on that course, and until and unless we see politics as the art of compromise, not just about who gets what, when and where and how, but as the art of compromise. So the emphasis is really on the how, and the how has to be the art of compromise, and not winner take all. For so long as we see it in the context of winner take all and an absence of compromise and negotiation. You see, because in the old relations—and somebody—I think it was hon. Minister Khan—referred

to the old gubernatorial relations, the governor, the queen's representatives. What the governor said that was it. He said who could come where and who could leave here, and the early Premiers and Prime Ministers thought they were governors too, who could come here and cannot come here as long as they are Prime Minister. So that autocratic style has bedeviled our political development, so the winner takes all.

I think there was a reference to the whole question of not just privacy, but encryption. Would a service provider for the mail service, texting service, phone service, who provides an encrypted mechanism, would our laws call for that process to be divulged, so that our secret services could access the relevant information? That is a question we are yet to address, in the battle of course to subdue the drug lords. But very often what we call drug lords are really just hit men, just the soldiers for somebody else's army.

What we call gang warfare is really more like turf warfare, an offshoot of us being a coke transshipment point. I want to postulate that there are really no drug lords in Laventille. If one understands that the Mafia and Sicilian clan, these guys are drug lords. But to be a drug lord you have to have access to US dollars in considerable quantities. So you could take a drive up Laventille Road and show me who up there has access to US dollars in the quantities that they could purchase shipments and deal internationally with drug transactions.

**5.30 p.m.**

So, are we after, through these amendments, drug lords or the foot soldiers? Because, you will have to show me somebody on the road up Laventille who has bags and bags of US dollars to purchase bags and bags of heroin or cocaine. So, it would seem to me that our draconian laws always seem to target the poor. This

has always been our history. Today is Twisty's turn and tomorrow will be Twirly's turn, but they go up the hills, and whether they call them bad boys, black boys, gang warfare boys, hitmen, whatever the latter day term, it seems to me that we have made absolutely no impact on the drug trade with whatever information has been gathered thus far.

As a matter of fact, the only thing that we are sure has been happening in our situation, is the institutional collapse that is around us. Everything is collapsing. And if a better use of our time and energy would be in coming up with prescriptive remedies for these collapsing institutions, rather than amending legislation. Because if you are going to pass this information to the commissioner and so on, and the commandant of the army, and so on, these are the self-same institutions that you are saying has not been able to prosecute anybody of significance in the drug world. I remember some years aback they were interviewing a Commissioner of Police on television about human trafficking and he says, no such thing in Trinidad and Tobago. And dare anybody in this House to tell me that that place down at Penal, something haven, I cannot remember what the name is, what was that?

**Sen. Khan:** Quality Haven.

**Sen. S. Creese:** What was that? And the one in Port of Spain, some blue something or the other? There was one in Port of Spain too. There was one in Port of Spain. Suddenly all these gentlemen in the House cannot remember the name. *[Laughter]* But I could jog their memories, the blue note queens abounded in Trinidad after the petrodollars, and these people—and there is a place in Marabella, just beyond the river that is famous, that has been there for years and years. When I came out of high school it was there, it is still there, it has some

exotic island name it had.

**Sen. Khan:** Villa Capri.

**Sen. S. Creese:** “Aah”, see the gentlemen of the House are familiar with the name. [*Interruption*]

**Hon Senator:** They are not gentlemen if they know the name.

**Sen. S. Creese:** They probably picked it up in the newspapers.

**Sen. Ramdeen:** I never heard of that. [*Interruption*]

**Sen. S. Creese:** So, I want to know if the “employees of those institutions”, if they were here voluntarily, if it is pure idle and “watless Trini” rumour that their passports were held by the owners of these establishments, because you know “Trinis” love to vilify good people, the owners of these nice institutions. These guest houses.

If it is true that the passports of these Spanish-speaking ladies were being held, and I think after that particular commissioner spoke, there was a police officer who was charged. He had in his company some ladies from one of those exotic places in the Central Americas. So, we are really, really either very naive or forgetful, that we who are the descendants of a slave system turned a blind eye to latter day slaves, and I want to know if all this spying, all this nest of spies would be directing their attention, being a post slavery society, to ensuring that never again would we be silent witnesses to enslavement.

You see, while all institutions are collapsing, because, clearly, the police as an institution was collapsing when that was happening. That is why I use that reference to the number one jefe who said there was no human trafficking here, in the middle of the blue queen—what you used to call it?—trade. In the middle of it, think of that? So, the sad thing is that while our institutions are collapsing, that

would have been okay, you know. There is nothing wrong with institutions collapsing if they are decadent institutions. There was nothing wrong with slavery collapsing down south USA. There was nothing wrong with segregation collapsing if you are replacing it with modern progressive arrangements. But in our case, our institutions are collapsing and we are not building countervailing traditions, and a key one of them, of course, within the political arena, is compromised. That is the key one. Traditions of reconciliation and apology sorely lacking.

I think it was Sen. Roach who had shared with us some of his experiences in South Africa and the reconciliation commission there. So, it is easy for us to say, has the British, has the Spanish, has the Portuguese, has the French apologized for colonialism? And while the debate is raging on the whole question of remuneration for centuries of slavery and so on, what about compensation for genocide of the native first people's of these here Americas? And then we could talk about slavery, and then we could talk about indentureship. But, more recently, because I want to fast forward, I do not want to get caught up in historical thing. More recently who is going to apologize for the ISA and the IRA? Who is going to apologize for Prevatt? Who is going to apologize for unleashing Burroughs on the people of Fyzabad? Who is going to apologize for the twin towers of Toronto, where the funding for that came from? [*Desk thumping*] Who is going to apologize for clause 34? For the SoE, state of emergency on Laventille? I said Twirly and there is Twisty, they both had an SoE each of their own. So, we know about the more recent SoE in which they picked up the boys from Laventille. But, there is an SoE that is on our history books now for which no one is yet to apologize. That was the SoE—I think one of the other speakers referred to it—

declared on Occah Seapaul, putting her under house arrest. That SoE, just like the one of Abu Bakr and his band, and I think the then speaker said that the mace was desecrated. That SoE on Occah Seapaul also desecrated that mace. Because it was a political issue, and they abused the power of Parliament to resolve it, and they still had at the end to call an election to resolve it. And that was the proper solution in the first place. Not to temper, to interfere with this institution of Parliament. And I am sceptical as to whether Parliament has ever since recovered. Because without reconciliation, without public apology, the SoE still stands, and that SoE on Occah Seapaul still stands with no apology for it.

I think it was Sen. Samuel who cut some of the wind out of his sails with his reference to the US system. Because that is the point to which I wanted to close, on the core question of oversight, to choose King Austin's words, "Who will guard the guards". I think we are all familiar with that, "Price of Progress", the calypso, Progress. Well, I was amused—and this is the note on which I am closing, Mr. Vice-President—that they were showing on CNN, and by now you would realize that I listen to I 95 and I watch CNN, sometimes simultaneously, and on CNN they were dealing with the killing of Osama, and they were interviewing the chairperson of the house committee and security, and he said, well, he was aware of the overall strategy to go get Bin Laden, and the night when they were about to go for him they called him as the head of the security, as the chairman of the house committee, to notify him.

**Mr. Vice-President:** Senator, you have five more minutes.

**Sen. S. Creese:** Thank you. To notify him that they were about to carry out the raid. And, I say, okay, I wonder if these guys were not concerned that he might divulge the information or carry out some breach or the other. Because, as we all

know, that at time that of that event, the President was Obama and he was a Democratic president, and across the screen, you know the lil ticker tape, had the name and the designation of the chairman of that house committee and security, and it had the two brackets with an “r” in it signifying that he was a Republican chairman. The house committee and security.

And he was saying to us the tele-viewers, that on the night when the fellas were about to leave they called him to tell him what they were about to do. Republican chairman of the house committee. That is the difference between us and them. Between a fledgling force ripe democracy and the real thing. That is the difference. If you want to build this brave new world, then you have to invest it with confidence. And that is the problem we have had with Twirly and Twisty, they have no confidence in us. They really do not. They do not believe in us as a people, so they cannot make the quantum leap from the yesterdays. Yesterdays when we were all nobodies. I think it is Martin Carter out of Guyana who talked about coming from nigger yard and coolie yard of yesterday, coming up against the oppressors, hate and guns, and believing in yourself and your people. We have to invest in ourselves that belief, and we have to invest in this House and in our institutions new traditions, traditions in which the Government recognizes that it cannot as a matter of principle be an oversight body on itself. Thank you. [*Desk thumping*]

**5.45 p.m.**

**Sen. Daniel Solomon:** [*Desk thumping*] Thank you, Mr. Vice-President, for the opportunity to make a contribution on the Strategic Services Agency (Amdt.) Bill, 2016. I am extremely pleased and honoured and humbled to be a part of this debate. I think it has been an extremely interesting and valid debate, both in this

august Chamber and on a national level as the national conversation has now gotten to understand the implications of what we are debating here today and the seriousness of it.

I believe that, through you, Mr. Vice-President, this subject of crime and national security is of utmost importance. I do not believe that it is a place where partisan politics should play their role. I do not think that petty politics should come between getting it right and getting it done properly the first time. I believe the citizens of our country are fed up of the petty politicking and they want real solutions. [*Desk thumping*] As my honourable colleague and brother, Sen. Creese had said, had just indicated about Twisty and Twirly.

I think that it really is time that we take this very seriously and this matter of intelligence gathering is a very serious matter and it is required in this modern world. I do not think that there is any denying that. However we must approach it in a very mature and responsible manner. I think that consultation is required. I think that the best vehicle and vessel for this to be properly ventilated, would be a Special Select Committee where we can sit in confidence, in camera, and have matters discussed as a group of Independent, Opposition and the Government and make proper decisions on very complicated matters, both nationally and internationally. Complicated not only in terms of law but in terms of the implementation, the operationality and the way this entire piece of legislation is going to work in terms of how it impacts the Constitution, in terms of how it is going to impact other forces.

We were told by the hon. Attorney General that this is the tool, this is the way we go forward, this is the way that this is going to help us solve crime. But we are not satisfied on this side that we have the whole story or we have the full



picture. We would like to know for definite, whether this piece of legislation impacts on our country's and our citizens' most sacred constitutional rights. We would like the benefit of a Senior Counsel opinion on these matters commissioned by the Attorney General, which no doubt he probably has already, and I would ask him now, if he does have such an opinion on the impact and I am sure he does. He is an industrious, diligent Attorney General, I am sure he does. Would he make it available to us, to everyone in this Senate, how this piece of legislation impacts on the constitutionality of this country. It would be a matter for open ventilation so that we do not have to argue about it here. This is not a constitutional court. This is the Parliament of Trinidad and Tobago.

We on this side have done our best to put together amendments, to look at the constitutionality, but we cannot use the short time we have here and the limited resources we have in order to determine this. And we do not want it to reach a stage where it is being challenged far down the line causing much embarrassment, not only to the country, but to the Attorney General, the Attorney General's office if it turns out that it is unconstitutional. We must consider the proper imposition of safeguards for the safeguards of our people of Trinidad and Tobago to make sure that they have a right of recourse if things do not go right under this SSA. We were told and we understand and we have researched that this is no easy piece of legislation although it is just a few clauses that are being amended. And if you will permit me, Mr. Vice-President, the impact that this Bill will have, and we have said the Constitution of Trinidad and Tobago will be impacted; the Proceeds of Crime Act, Chap. 11:27; the Trafficking in Persons; the Interception of Communications Act; the Financial Intelligence Unit of Trinidad and Tobago Act; the Dangerous Drugs Act; the Anti-Terrorism Act; the Firearms Act; the Police

Service Act and the Defence Act. And these are to just name a few of the actual laws that are on the books that will be affected by this legislation.

Now, having looked at that, we were also told that in fact there is a lot of surveillance actually going on at the moment. And there is an interconnectedness of these services and the existing intelligence gathering units are: Customs and Excise Enforcement and Operations Unit; Defence Force Intelligence Unit; Financial Intelligence Unit; Financial Intelligence Branch, a division of the TTPS; Integrated Threat Assessment Centre; the Ministry of Foreign and Caricom Affairs; National Coastal Radar Surveillance Centre; the Anti-Kidnapping Unit; the Crime and Gang Intelligence Unit; the Criminal Investigations Division; the Homicide Bureau; the Cybercrime Unit; Special Branch; Fraud Squad; Organized Crime, Narcotic and Firearms Bureau; Prison Service Intelligence Unit; the Counter Trafficking Unit and the Immigration Investigation Section.

So all these units and these forces and services and agencies are actually engaged in intelligence gathering and interception as I understand it. We are told that they exist in silos and therefore everything needs to be centralized so that all the intelligence can be gathered. But how are we to do and understand how this works if we are not given a proper forum where we can request these units, request the head of the Defence Force, request the head of the police, the Customs and Excise, the DPP, the Judiciary and get an opinion from them as to how this will work. Is this the right solution? Is this the right way to go about this? To me the Special Select Committee is the only way that this Bill should be referred and we should sit down in camera as a matter of national security and deal with this Bill. And I assure you hon. Attorney General that if we were to do that we would come to a satisfactory—

[*Cellphone rings*—“Slumburger”.

**Sen. Sturge:** No, “Shillingburger”.

**Sen. D. Solomon:** Then if we were to do that, I assure you that you will have the three-fifths majority for the constitutional motion that is required, because we can all be satisfied and we will support the Motion, but we cannot support the Bill as it presently stands and we do not appreciate the way that it has come about and the way that this entire Bill has been thrown into the public domain. It has now become a farce.

We were invited yesterday to come to a meeting, today, one hour before the sitting of this debate, and we were in a meeting, we were told it was going to be about the SSA. We were told that the Independent Senators had a meeting the day before. We did not have an agenda. We did not know what we were coming to discuss. We attended in good faith, we wanted to ask questions and we were told well look, this is what the SSA does and the good Director was there. And he said look, there is a lot of siloing of information and centralizing of information is what we want to do. As the Attorney General had indicated in the Lower House, in the other place, it is decentralizing of information because a lot of the information exists in silos and we need to share this information. And that was the purpose of this legislation. It was to make it an efficient tool.

So, we had begged the question, we were preparing for the debate today, but where in this legislation does it show that the SSA has the power to compel any of these agencies and services which I just listed, to provide the said intelligence. Mr. Vice-President, the answer to that question was: there is none. There is no mechanism and he the Attorney General himself said so. So then what is the purpose of this legislation? Why are we here? If it is not to develop and fight this

silo system that we have, why is the mechanism not here? What are we hiding? Why can we not sit down and do this in a select committee? What is the rush? If you are going to do it, do it properly. Be forthcoming and get the mechanisms in place. Let us hear from the other agencies why it is, and the reason we were given why it is not there is because there may be constitutional issues.

Of course there are going to be constitutional issues. But if you meet with the Opposition and you meet with us and the Independents you will get the constitutional majority that you require in order to make this mechanism work. We are here to help. We are here to support. This is a problem for the country, but how can we do it if we are not given up front, we are being rushed into a meeting an hour before and the very mechanisms that they are supposed to be fighting are not there. And we are saying, listen, talk to us, let us work with you to get the mechanism going and we can get the special majority that is required.

Then we delved deeper into the meeting, and this is where it really gets interesting because it turns out that the SSA is engaged in activities that have absolutely nothing to do with the legal mandate on which they would operate. Nothing to do with drugs. [*Desk thumping*] Mr. Vice-President, and I do not know if anybody is aware of this, the SSA is engaged in the Tobago Jazz Festival, Carnival, bush fires. SSA fights bush fires or is engaged in fighting bush fires. And 293 bush fires at that.

**Sen. Sturge:** Three hundred.

**Sen. D. Solomon:** Three hundred and ninety-three, I beg your pardon, Mr. Vice-President. Why is it that we must, moments before coming in to debate this Bill on expanding the powers of the SSA learn that the SSA for the first time is engaged in the Tobago Jazz Festival or is engaged in bush fires. But yet still the

very mechanism for getting the information centralized and efficient is not apparent. And this is the part that I have a problem with. Where are the safeguards? Where is the oversight? We ask—[*Crosstalk*]

**Mr. Vice-President:** Hon.Senators, could we allow the hon. Senator to make the contribution. Thank you. [*Crosstalk*]

**Sen. D. Solomon:** Mr. Vice-President, we were concerned, genuinely concerned, sorry—[*Interruption*]

**Mr. Vice-President:** Yes, I just asked that we have some silence while the hon. Senator is making his contribution. Okay?

**Sen. D. Solomon:** Thank you. Another issue that arose is: where are the safeguards and where is the oversight? The safeguards and oversight we are told, is the National Security Council. The National Security Council is the very persons to whom they answered to, they are employed by, they are engaged by, and they receive their directions from. So it is a law unto himself governed by himself. So that is not a proper safeguard in my humble opinion and respectful view.

We went on further, because we understand that this deals with data, it deals with documentation and a significant amount of data and documentation is going to be floating around in the SSA and it needs to be classified in certain ways, top secret, not so secret, however they do it. I do not know, I am not an intelligence officer. But there is no classification at this stage. So these are small but important aspects, in my respectful view. This Bill needs to be referred to the select committee so that these matters can be addressed properly in an all-encompassing piece of legislation.

**6.00 p.m.**

Mr. Vice-President, what was also quite alarming, we were told that the SSA, in fact, does—and I am referring to an Interception of Communications Act 2010 annual report and it says that the number of applications used by the Director of the Strategic Services Agency was 267; the Commissioner of Police had none; the Chief of Defence had none. No warrants were used to conduct these interceptions so no evidence would have emerged because no judicial warrants, no prosecutions, no evidence. So these would have been, as I understand it, generated by the director; and what is interesting is it is not only drug-related offences, he looked at arms and ammunition, state of emergency, human trafficking, counterterrorism.

So the SSA does not appear to be acting within its legal mandate but we are being asked to say, look, let us make this a legally operating unit, let us give it more powers. That does not make sense to me. If it is an unlawful, illegal operating unit, then what we need to do is look deep into it and have a select committee and look at the workings and the inner workings, and have the directors' reports and look deep into what they are actually doing and what they are accomplishing, and then think about how we can legitimize it. If it is, in fact, the correct vessel. So Mr. Vice-President, this is what we find offensive and this should be done collaboratively and I assure the hon. Attorney General and the Government again that if we went to the select committee and we sat down, you will have our support, once it is done properly.

I just want to touch, if I may, on the definitions within the Bill. A lot of them are loose, very vague, very ambiguous and this is not well-drafted legislation with the greatest of respect. We look at section 2, the definition of “crime prevention” means combating serious crime”. Well, there is no legal definition of “combating”. It is too wide, it does not mean anything and it really means that you

can do anything. Combating crime—“combat” is a word that involves violence, physical contact, and it actually is a word that you would expect to see used in police legislation if anything. And what we are led to understand is that this piece of legislation, this SSA, is not operational. This is supposed to be strategic so the word “combating” has no place here.

We look at “serious crime” and this is very, very crucial because this is what the entire piece of legislation hinges on. “Serious crime” includes offences related to homicide, treason, terrorist acts, terrorist financing, hijacking, kidnapping, trafficking in persons, trafficking in children, gangs, illicit trafficking in narcotic drugs, psychotropic substances, precursor chemicals and it goes on and on or any offence which carries a penalty of not less than five years’ imprisonment.

Now, there is no definition for serious crimes in Trinidad and Tobago. There are either-way offences, indictable offences, summary offences. Now, the clincher is that you say serious crime includes offences “related to” and this is what I want my brother, Sen. Khan, to understand. Any offence related to homicide does not mean homicide. [*Desk thumping*] Anything related to drug trafficking does not mean drug trafficking, it literally means anything. So that is a meaningless, wide script and you would not notice it if you did not take the time to drill down and look at that word and think that word “related to”, why is that there? That is not there by accident. That is there to give omnibus powers. [*Desk thumping*]

Now, as I have said before, let us take our time and go to select committee and deal with these matters and stop drilling and forcing and thrusting laws upon us which we know do not sit right. This can be corrected. The manner in which it is done is not satisfactory. This sort of thing must be transparent and people must be accountable for what they are putting in the legislation.

So, Mr. Vice-President, if we say the definition includes terrorist acts, terrorist financing, why not simply state offences under the Anti-Terrorism Act? Why the duplication? Anti-Terrorism Act, Chap. 12:07, covers that. You need to be more definitive in drafting. Trafficking in persons, trafficking in children, why not simply state Trafficking in Persons Act? If you were to then take the word “gangs”, what is that? What is the meaning of gangs? Is it that there are offences under the Anti-Gang Act? Well, if that is the case, why do they not say so? Offences related to illicit trafficking in narcotic drugs, psychotropic substances and precursor chemicals, dangerous drugs, why not simply state offences under the Dangerous Drugs Act? We used the word “smuggling”. Smuggling is a word in law that is an ingredient in a number of other wide-ranging offences generally found under the Customs Act. That might be a way to go forward, to use the Customs Act. So, Mr. Vice-President, you can see the deficiencies in the drafting and they go on and on.

I would like to spend some time on some other factors but this certainly needs to be properly looked at. The fact that you say offences of not less than five years’ imprisonment, that is a peculiar, peculiar addition and you are saying “offences related to”, so once again, you could go to summary offences even. Now, that may sound like serious offences but some of them are not serious crimes, especially if they are related to serious crimes. For instance, section 19(1) of the Dog Control Act says where a Class A dog injures a person, one can actually have an imprisonment of up to five years. So your dog bites somebody and you are qualified to be spied on or you are related to someone who may have had a dog involved in a dog bite, you are going to be spied on. You see where the bad dog is? *[Laughter]*



So, Mr. Vice-President, we looked at the UN best practices for the formation of intelligence agencies and it states in Practice 2 and I quote:

“The mandates of intelligence services are narrowly and precisely defined in a publicly available law.”

In Practice 3, it says:

“The powers and competences of intelligence services are clearly and exhaustively defined in national law.”

So what we see—and we put forward our amendments along the lines of the UN best practices—is that you cannot be ambiguous, you cannot be vague, you cannot avoid being clear in legislation such as this.

The word “involved”, well that one really got me. Involved does not exist in law, it is completely subjective. If you can imagine—a judge would be involved with a criminal if he is sentencing him in the dock in a court of law, he is involved. A journalist is involved with a criminal if he is interviewing him and it is a source. The police, in fact, are involved with criminals all the time. That word “involved” is far too subjective. And as we learned from the meeting we just had, when we asked the Director, he was stumped because it is difficult for him. With the greatest of respect and I know he is a good man doing his best, but it is too much power for him to exercise his personal discretion in interpreting what is “involved”. Perhaps, that is why it is so wide so he can do what he wants: from bush fires to narcotics to smuggling to human trafficking to Tobago Jazz Festival. And these are the things that we need to guard against.

Mr. Vice-President, we have no right of privacy. We are told by the Attorney General in no uncertain terms that that is the basis for which we are coming with this law. We are told in the House of Representatives, we are told in the Senate,

that there is no right of privacy. Well, section 4(c) of the Constitution says:

“It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely—

(c) the right of the individual to respect for his private and family life;”

Now, Mr. Vice-President, on page 11 of the *Newsday* dated May 5<sup>th</sup>, former Chief Justice Michael de la Bastide, quoted the right:

“...for private life looks very much like respect for privacy and that is hardly distinguishable from the right to privacy...”

With respect to the wording of the Constitution, he further stated that:

“...I don't think that, even on a strict construction of the words of the Constitution, that we can come to”—any other—“...conclusion.”

Mr. Vice-President, that is from the former Chief Justice saying frontally—to use the words of the hon. Attorney General, frontally—there is a right to privacy. [*Desk thumping*] And when we raise it and say no, we have a right to privacy, the people of Trinidad have a right to privacy, you cannot come in our Facebook, you cannot come on our emails, you cannot bug our phones, we are accused of being obstructionist. I mean, how bizarre is that? We sit down and we beg and we say come and consult with us, let us do this together—their own words, let us do this together—do they do it? No. So it makes me wonder why you are trying to wither down what you know to be true, that there is a right to privacy. It is because you want to slowly take it away. If you do not know that you have it, then it does not belong to you so when it is taken away, “yuh doh miss it”. Is that the thinking? That cannot be right, Mr. Vice-President, it just cannot be right.

Then we come with this word “proportionality”. Proportionality, proportionality, we hear it all the time. If the hon. Attorney General uses the word “proportionality”, it is because it is proportional to a right which you are infringing. [*Desk thumping*] You cannot say that you have no right; if you have no right, then there is no need for proportionality because you will not be taking anything away. [*Desk thumping*] Again, I would like to see this legal opinion; if it does not exist, then I would like and beg the hon. Attorney General to please, can he obtain a legal opinion on the constitutionality of this Bill before we go any further in this august House.

Mr. Vice-President, Article 8 of the European Court of Human Rights also indicates that everyone has a right to respect for his private life, his home and his correspondence. And there are a few cases which I would like to refer to: *Kennedy v the UK*, as well as *Malone v the UK*. I think they have been mentioned before, but the learning on it is very instructive. As well as *S and Marper v the United Kingdom*, Judgment Grand Chamber, December 04 2008, and if I may quote:

“The protection of the personal data is of fundamental importance to a person’s enjoyment of his or her right to respect for private and family life, as guaranteed by Article 8 of the Convention.”

There is a further case, ECHR case of *Rotaru v Romania*, May 04, 2000, another violation of Article 8, violation of private life and the dicta says:

“Similarly, the law did not lay down limits on the age of information held or the length of time for which it could be kept....there existed no explicit, detailed provision concerning the persons authorised to consult the files, the nature of the files, the procedure to be followed or the use that could be

made of the information thus obtained.”

Now, that is very, very important because that is Article 8 of European Court of Human Rights. It has been violated and it describes how data is to be kept, how it is to be treated, for what length of time. And incidentally, this was a case where a person was imprisoned for his political beliefs. You see, there is nothing in this legislation that outlines how this data is to be treated, how is it going to be handled, where is it going to be kept, who is going to be in charge of it—nothing, and that in itself is dangerous.

**6.15 p.m.**

*Digital Rights v Minister of Communications, Marine and Natural Resources* WLR/1607, restricts the retention of data which relates to public security and in particular restrict retention to a particular time period, a geographical area and suspects or persons whose data would contribute to the prevention, detection or prosecution of serious criminal offences. And it lists how this data is to be handled.

Now, if these safeguards are not met that is a breach of privacy and that is a breach of a constitutional right, which requires a three-fifths majority.

Mr. Vice-President, if you are passing legislation where you are saying that you are going to handle people’s intelligence and data, and there is no description on how that is going to be handled, and the law is silent on it, you need a constitutional majority. [*Desk thumping*]

So, again, again, I repeat my request, can we have the legal opinion at least? Can we go into select committee where we can air these grouses, we can ventilate these concerns and the entire nation can know, yes, our entire Parliament sat down and came to us with the best legislation that they could, they have balanced the

infringement of rights against the need for national security. But we are not getting that. What we are getting are abuses, accusations, obstructionists. That is not how you conduct a responsible government.

UN Best Practice 5:

“Intelligence services are explicitly prohibited from undertaking any action that contravenes the Constitution or international human rights law.”

UN Best Practices, but we are doing it here; flagrantly doing it. Not a problem.

Mr. Vice-President, a lot of noise has been made about the appointment of the director and his qualifications. I think it is imperative that, that is obviously done properly and that there is something in the legislation to say what his qualifications should be.

But there is something that also bothered me about this appointment. I would submit respectfully that in matters such as national security and intelligence, there should be a clause where the director is a national citizen of Trinidad and Tobago of our soil. That is also silent here. As it stands now, there is a possibility that a foreigner could come and be appointed and have complete control over our intelligence. The reason for that is that you need to have an oath of allegiance to the country which you represent. Without that oath, it could go anywhere. Similarly, I think that the Director should be a public officer, subject to the Integrity in Public Life Act, and, obviously, Mr. Vice-President, that would give protections.

If I may now turn to sections 3(2) and 4(5) of the Act and this states where the Director shall take instructions, directions and consultations directly from the Minister. So you have a relationship, without any independent review committee to ascribe or to curb or to investigate what is being done by this director, at the

hand of the political directorate. That is where the danger lies. If that is allowed to continue, the Prime Minister, let us say, could instruct the Minister of National Security: I want you to find out what is the state of affairs in relation to a Cabinet colleague, for instance, and it has happened to the hon. Prime Minister before in 2010, when he was spied upon. He may say: Can you give me any information or the status update on what is happening with former Minister of Housing? Would there be anything to stop that Minister from obtaining that information? Is it proper that that information should be obtained? Who can obtain that information? And that is where the danger lies, and I am not alone in this respectful view.

If I could turn to an *Express* article dated Tuesday 10<sup>th</sup> May by Timothy Hamel-Smith who sat in your former Chair there as President of the Senate and is a renowned legal luminary and it says:

“Fix flaws in SSA Bill.

It’s never too late to do the right thing. It cannot be right to permit:

1. Politicians to appoint the Director of the SSA who is responsible for interception of communications (spying/wire-tapping). (Section 4(1) of the SSA Act).
2. A politician to direct the activities of the director (Section 4(5) of the SSA)”—which I am discussing now—“in relation to his functions under the Interception of Communications Act.”

**Mr. Vice-President:** Senator, you have five more minutes and I just want you to give the year of the article. I think you gave the date but not the year.

**Sen. D. Solomon:** Sorry, 2016; today’s date. Five more minutes you said?

**Mr. Vice-President:** Yes, five more minutes.

**Sen. D. Solomon:** It continues:

“3. Wire-tapping/spying on citizens without first obtaining the approval of a judge by issue of a warrant. (Section 6(2) (b) (i-iv) and (c)...This represents an unacceptable interference of the executive with the fundamental rights and freedoms of citizens granted to them under the Constitution which no ‘society that has a proper respect for the rights and freedoms of the individual’ would consider to be’...”

unjustifiable.

“It is no excuse to say that the SSA has been in effect since 1995 for two reasons:

1. The Interception of Communications Act which came into force in 2010 added to the functions of the SSA, the right to wire-tap/spy, which did not exist in 1995
2. The history of ‘illegal’ wire-tapping which was conducted prior to 2010, a fact which makes these concerns not simply fanciful fears but are rather grounded in reality.

I appreciate that we have to balance the rights and freedoms of the citizens against the obligation of the State to provide for the security of the citizens...

This is not a matter of pointing fingers as to who is to blame. It is simply a matter of doing the right thing.”

There you have it.

Mr. Vice-President, if I could turn to today’s editorial:

“The Attorney General has advanced the astounding proposition that citizens of T&T enjoy no right to privacy. Since the SSA Bill actually envisages an enlargement of the SSA’s capacity in electronic surveillance, this attempt by

Mr Al-Rawi, so shockingly to lay down the law, triggered a higher level of alarm.

Negative responses came from Michael de la Bastide, former chief justice, both of T&T and of the Caribbean Court of Justice. It is also with such a luminary in constitutional law, that Mr Al-Rawi, now apparently dares to pick a fight.

The AG, who notoriously spoke out of turn about marijuana law reform, must somehow be confident that the legal extremism prevailing in his office is shared within the Cabinet of absent Prime Minister Rowley.”

The *Daily Express* today.

“For both from the content of the legislation, and the style of its advancement by Mr Al-Rawi, T&T should have much to fear.”

Can I repeat that, Mr. Vice-President?

“For both from the content of the legislation, and the style of its advancement by Mr. Al-Rawi, T&T, should have much to fear. The absence of adequately credible oversight of a more empowered SSA remains a source of discomfort not only among the official Opposition.

But then, calling in Independent senators, separately from the Opposition, for a secret presentation, with unknown ‘technocrats’ as resource persons, stirs curiosity about just what the AG has to hide...

Even more pointedly, the media have been kept out of witnessing, and reporting on, this questionably desperate rush to pass a disturbing piece of legislation.

The AG should be warned that such approaches could provoke a ‘storming’ of the ramparts of secrecy and executive domination, by participants far



more widely based than those making threats last weekend.”

Mr. Vice-President, are we being alarmists? Are we being obstructionists? We are being responsible. We are here to defend the rights of the citizens of Trinidad and Tobago. [*Desk thumping*] We will do so fearlessly. We will do so diligently. We will do so responsibly. But again, we are here to help. We are willing and I am imploring the Government, let us go to a Senate Select committee, where these matters can be properly ventilated and we can have a proper understanding of this Bill. Thank you, Mr. Vice-President.

**Sen. Hafeez Ali:** Thank you very much, Mr. Vice-President. I too rise to join in this debate on a Bill to amend the Strategic Services Agency Act, Chap. 15:06 to expand the functions of the Strategic Services Agency, Mr. Vice-President.

But allow me to begin by appreciating the officers and the efforts of the intelligence community who work tirelessly on a daily basis to protect the nation of Trinidad and Tobago. Let us applaud all the men and women who keep our borders safe, and I wish to make a commitment that this Government will take seriously the needs and the concerns in developing an enabling legislative and policy infrastructure to bring better results to the intelligence agencies and for some time now there has been a nationwide cry about the high criminal activities taking place in our society and the population really is begging and pleading with the Government to make an intervention.

Mr. Vice-President, I can tell you that these cries have not gone on deaf ears. This Government is responding. This amendment to the SSA Act is just one of the ways in which the PNM Government had decided to respond to some of the cries taking place in our nation.

And as my colleague, Sen. Cummings, has indicated that the then Opposition, that

is the Opposition of the hon. Prime Minister now, Dr. Keith Christopher Rowley, would have made commitments that his team would not be a hindrance while in Opposition and would be a benefit to this country and he contributed positively to support legislation that was positive and meaningful to the people of Trinidad and Tobago.

And Minister Khan mentioned many of them such as the Anti-Gang Bill of 2010, the Interception of Communications (Amdt.) Bill of 2010, which is being discussed a lot in the honourable House, Mr. Vice-President. This is just a few of which the then Opposition would have supported the then Government in. [*Crosstalk*]

**Sen. Baptiste-Primus:** Do not be sidetracked.

**Sen. H. Ali:** No, I am not sidetracked. I am not sidetracked.

Firstly, Mr. Vice-President, this Bill is a simple one and we should have been out of here a long time ago. It merely seeks to widen the scope of “serious crime” which is clearly defined in section 2 of the Act, where “serious crime” includes offences related to homicide, treason, terrorist acts and so on, Mr. Vice-President.

[MADAM PRESIDENT *in the Chair*]

**6.30 p.m.**

Madam President, it is important to note though, that drug trafficking which is being amended—deleting the definition of drug trafficking, which is being amended, does not stand on its own, as it is related to most of the crimes that are listed in this document for amendment, the Strategic Services Agency Act. It really is an expanded tool which intelligence can be gathered and analysed, and resulting in the detection of crimes, hopefully increasing the detection rate—what is it?—in its low percentage of 8.5 per cent, I believe, hoping that it will up to the higher number up to 80 per cent.

But, what is noteworthy, is that Sen. Ramdeen made reference to the Constitution, and if we were to examine rights enshrined where he quoted, that is 4(c), (g), (h), (i), (j) and (k) which states:

“It is hereby recognized and declared that in Trinidad and Tobago... there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion and sex, the following fundamental human rights and freedom, namely—”

—and what I have observed, Madam President, is that (a), which is the most fundamental one of all:

“(a) the right of the individual to life, liberty, security...”

This basic and most fundamental right has not been spoken about to this hour, Madam President. I believe with all the criminality that is going on in the society today, we ought to take steps to try to curb some of those criminalities so that the citizens of Trinidad and Tobago, can have these fundamental rights of their life not been taken away from them, of their liberty, and the security of person and the enjoyment of property. [*Desk thumping*]

Sen. Mark had read from the United Nations, I believe, Declaration of Human Rights, Article 12 and I quote:

“Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

What is more important, Madam President, if you were to turn to the same Convention in Article 3, just like the Constitution, it states:

“Article 3.

Everyone has the right to life, liberty and security of person.”

Again, the point I am making, Madam President, how can we enjoy the right of privacy if we do not have life, [*Desk thumping*] where the criminal activity is taking over the nation? All of us know that crime is a serious problem and we need to deal with it.

He also mentioned from the European Convention on Human Rights, Article 8, and I quote:

“Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime...”

It is the same article from the European Convention, and it goes on to say:

“...for the protection of health or morals, or for the protection of the rights and freedoms of others...”

We know to today’s date, the high levels of criminal activities that are going on in Trinidad, and it is incumbent upon this Senate, that we take steps and create legislative laws, to try to reduce that scourge of crime in the society, Madam President.

In the same Convention from the European Convention of Human Rights, Section 1, Article 2, right to life, it states, and I quote:

“Article 2

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”

So, Madam President, again, I am stating, that if we do not have life, liberty and security of ourselves, how then can we talk about the freedom of privacy?

*[Interruption]*

I am not saying we should be grateful, but we should be mindful. We should be mindful. *[Interruption]* I want to state that the former Partnership Government, they had seven Ministers of National Security, all Ministers in the Ministry of National Security, and which one of them took advantage of the situation? The law was right there, *[Interruption]* they did not—for five years the law was there. You all ignored it, for what reason? *[Desk thumping]* What is the reason? *[Desk thumping]*

**Sen. Ameen:** You all have record-breaking murder rate!

**Madam President:** Sen. Ameen, please, that is not crosstalk. So could you please lower your voice and let Sen. Ali continue, please?

**Sen. H. Ali:** Thank you very much for your protection, Madam President. This Bill before us establishes a critical reform to the intelligence framework to enable more effective and economically viable and quality assured intelligence. The arrangement really facilitates a more coordinated and focused, effective response to crime. This one Bill strengthens the capability of both the strategic and operational level. It responds to the challenges of information collection and sharing among agencies, and creates a more enabling framework for disseminating

the intelligence. So it creates a level of interagency connectivity where information and data can be shared among the different intelligence agencies, so that we can get that critical crime situation under control.

As a responsible citizen, Madam President, I do not think any right-thinking citizens would not want the crime levels to be reduced in Trinidad and Tobago. We must begin some way, we must. We must begin some way. There is a saying to govern effectively, we must secure our people, and to secure, we must govern effectively. [*Desk thumping*]

The emergent technologies and the scope of global communications shift of big data analytics, change of the security landscape, require the integrated and interconnected approach really advanced by the Attorney General. Not so? The technologies are really challenging the law enforcement agencies, that we are not being able to keep up with the times of the changing technologies. The law is trying to enable the agencies, to try to be up-to-date with those technologies, that we will be able to counter the criminal elements in the society. These days, the criminal elements are using the technology and information to create havoc in the society.

For example, only yesterday a member from Barataria, he came to me stating that his credit card has been misused by \$10,000 for Netflix, purchase of phone cards, clothes, but the banks really do not want to hear about that. He has to pay, but what he is saying, Madam President, he wants to know who did that? And this law will give the legislation the teeth, to be able find out what took place in those kinds of scenarios? As Sen. Ramkissoon who brought the—[*Interruption*—]—cybercrime to the Senate.

So, Madam President—[*Interruption*] You have no Cybercrime Unit. Finally,

before I take my seat, I just wanted to bring these points up. It has been mentioned a lot about the Interception of Communications Act, and I want to point out to you a couple of areas in this Act. The first being the judge, which means the High Court judge and then section 8(1) where it states:

“Subject to this section, an authorised officer...”—and all of us know who are the authorized officers.

“may apply *ex parte* to a Judge for a warrant authorising the person named in the warrant—

to intercept...”

—and so on. Then it goes on the say:

“A Judge shall not issue a warrant under...”—certain circumstances.

Madam President, this too is a safeguard in the legislation, if we were to use the terms of the SSA Act, do not stand on its own, but it stands with the host of legislation that the Attorney General had indicated earlier, such as the Proceeds of Crime Act, and even Sen. Solomon read out the list earlier. It stands together with those legislation and Acts, to really create a safeguard in the system. Further to that, Sen. Solomon had alluded to, that while the areas where we need to look at, that is a problem, is section 3(2) which states:

“The functions of the Agency shall be exercised by the Director after consultation with the Minister.”

I want to point out, Madam President, there are other jurisdictions around the world, that, for example, the Australian Security Intelligence Organization, all right? *[Interruption]*

**Sen. Solomon:** Tell us.

**Sen. H. Ali:** Tell us. Tell you. I will tell you. *[Laughter]* I will tell you. The

ASIO is the National Security Services of Australia, which is responsible for the protection and the gathering of information and intelligence. This agency—what I want to point out to you, the ASIO briefs the Attorney General, in our case, the Minister, on all major issues affecting security, and he or she is also informed of the operation when concerning granting of warrants, enabling the special investigative powers of the ASIO. Furthermore, the Attorney General issues guidelines with respect to the conduct of the ASIO Investigation; with respect to the conduct of the AISO investigations, relating to politically motivated violence, [*Desk thumping*] and its function of obtaining intelligence relevant to the security.

**6.45 p.m.**

Madam President, we are taking serious steps to try to reduce the criminal activity that is happening in Trinidad and Tobago. It is clear through the legislative agenda of the hon. Attorney General where there is no less than 19 pieces of legislation carded for this year, Madam President, concerning the acts that relate to crime.

So this Government is moving forward in drafting legislation to assist in reducing the criminal activity in the country and the Bill before us, it is my judgment—excuse me for one second, Madam President—that this Bill will give the SSA director the powers that can help transform the agency and assist in the intelligence gathering in the country and help the operational agencies to get the information to reduce criminal activities.

Madam President, as I said before, there are a host of other legislation the Attorney General will be bringing towards the Senate and Parliament for consideration and with that, Madam President, I thank you very much. [*Desk thumping*]

**Sen. The Jennifer Raffoul:** Thank you, Madam President, for the opportunity to speak. It is always a pleasure being here and speaking on behalf of the population.



I would like to start today with three thank you. Madam President, first to you for your patience with the new Senators and me, in particular, as previously I read my speech. It is not always easy going from a behind the scene technocrat to being in front and centre within a very short space of time, and I thank you for your patience and your compassion.

Second, I want to thank everyone here. I know that we often sit in different places, but I respect that everyone is here out of love for country and [*Desk thumping*] all of the contributions, all of the hours, the weekends, the evenings working and researching, it is out of love. And third to the hon. AG and team, I respect that this Bill was brought in a spirit of protection for our country, our population. The legislative agenda was front-loaded all about expediting justice, and as a citizen I appreciate that. [*Desk thumping*]

So on the Bill today, I feel that the way that it was presented was first appealing to fear and appealing to crime and violence and, second, quoting statistics of support from the Opposition, and I do not think that is quite enough to justify the structure of this Bill and this agency and expanding it. So I am going to give my explanations and my recommendations going forward in terms of four categories of my recommendations. So first, my issues and concerns in terms of economics and public administration; second, impact; third, human rights and fourth is on the well-being of the population because of this Bill.

Please allow me to share a personal story about crime and violence and how it has impacted me personally. The reason I am sharing this story is because it affected my career path quite significantly, and I think it is the reason I am here today. When I was 18 I was planning to go to medical school, and a month before I was carded to go, one of my classmates was kidnapped and I felt quite helpless.

I went to a public secondary school, so I was seven years with my classmates and we all grew up like sisters together. We all had the common enemy of the O-Level and A-Level systems and we all, you know, spent a lot of time studying, supporting each other, laughing together and really growing up, growing into our adulthoods. So when she was kidnapped when I was 18, that caused me to really stop and say medicine is not for me. I had always been called to public service in some way but at that age I did not fully understand where or how. So instead I had decided to pause and look at what a better career path for me would be in service to my country.

Growing up I had always known that Trinidad and Tobago was the most special place on earth and I knew this at three, four and five years old. I cannot explain how, because at that age I did not grow up all over the world, I grew up here, but I just knew that we had this lovely celebration. And there is racial and religious tolerance, and going beyond tolerance to celebration and the fact that in school we learn about Lent and we learn about Ramadan and we celebrate Divali and Hinduism. There is nowhere else in the world like Trinidad and Tobago, and the fact that we are all so unified and so special. [*Desk thumping*]

And then as a teenager in late 1990s early 2000, I saw that there was a lot of inequality, a lot of rise in crime, a lot of problems, a lot of dissatisfaction and a lot of that had to do with macroeconomics. The fact that there was real and perceived inequality and injustice, I felt that crime and violence had to do with that directly and indirectly, because individuals could see that there was a system that was not just towards them; so they felt in a way that it was justifiable to take from others and to steal, because they could not respect what others had and, in that sense, there was justification for crime and violence in their perspectives.

So I decided to study economics, and then into my first year, my undergrad, two months in, I got an email saying another classmate's sister was murdered. Broad daylight she was strangled. A year later, another classmate was murdered. And, as I said, my classmates were my sisters. Two years after that one of my current best friends was kidnapped. We were not very close at the time, because we were a year apart in school, and at that age we were not in the same classes, but when we both graduated and came home, we got quite close, and now, 10 years later, she never makes any reference to it except occasionally in passing. She would talk about the fact that the scars on her feet took so long to heal, because it took her three days to get out of the jungle when she was kidnapped and held; or she would say that when starting a new relationship, intimacy was always quite tricky because of her history of sexual abuse, but she would never go into detail.

And then when I was doing my masters, two years after that—I was at Oxford, I was doing my Masters in Economics—and one of my classmates, one of my schoolmates, she was doing French and she called and she said: “Jen, do not read the newspapers today. Just do not read them. Do not read the online papers.” I read them anyway and it was about the two-year-old baby Faith who was murdered. She was raped by her mother's accomplice—apologies, her mother's companion or her mother's friend—and then her body was left somewhere in a field.

I cried at my desk for that little baby girl who was two years old and I cried for her mother; I cried for the man who had did that to her because what must he have been feeling to feel so disconnected from life and from community; I cried for my country and the collective and individual pain I felt we were experiencing as a nation and I cried for myself because I felt helpless. I felt that doing economics

and macroeconomics was so disconnected and so indirect and that, again, also changed my career path.

When I came back home I had a fantastic job. I was working with national and regional economic development projects. I loved what I was doing, and then on the side I decided to study yoga and nutrition meditation. I wanted to deeper understand well-being of a society from a macroeconomic level looking at societal well-being to looking at well-being on an individual micro human level. So I chose yoga first, because it is commonly thought of as you stick your head, your leg behind your head and, you know, it is fancy moves and poses, but it is really all about understanding the mind, meditation techniques and being able to understand human ego, human self-identification, our fears, our limiting beliefs and what we have within us that holds us back—separation from society—and being able to recognize the basic unity and oneness in all of us and to achieve self—there is a word I am looking for, my apologies—greater self-actualization ultimately.

I then studied integrative nutrition, understanding food and its impact on the body, different healing techniques from autoimmune diseases to looking at balancing the body and, especially, the impact of the mind-body relationship. So the impact of the body on the mind and the mind on the body. And then I was very grateful that I did this path because I felt that it was a very complimentary deep holistic understanding of well-being from a macro level as well as a micro level. So the reason I share this story is because this really impacts how I see well-being, how I see crime and violence, the causes of crime and violence, the solutions and my interpretation of this Bill today and what we can do better.

So first, I want to point out the problems from the four angles that I mentioned before. First, in terms of impact, I have not seen any data that showed us impact.

This agency was created in 1995. In 1998 the murder statistic was 98 for that year. Now we have hundreds more than that, and we have not been able to show that there has been impact in the original mandate of what this agency was set out to do. So the reason to scale it up, given that there has been no impact, I do not see any justification based on that.

Second, in terms of economics and public administration: so within this category I have three sub-points I would like to make. First is that a lot of times the public sector has a terrible reputation, which I think is unfair. I think a lot of times you will hear: “Oh, it is public sector”, therefore public sector employees are lazy, public sector does not work and I fundamentally disagree with that. I have worked in public sector and with public sector and have been served by public sector. For example, the last time I went to the Immigration Office to get my passport the lady said, “Oh, you are back, good. We just opened a box of chocolates, here, have some.” Public sector people to me are good people. We are all good people. [*Desk thumping*] Thank you. I think the problem is the structure of the way our public system is designed, and it is limiting in terms of its capacity to help ordinary people achieve their outcomes.

So I think we need to look at how we structure our public sector and this agency is an example of that. There is duplication within the public sector system. So, we have the police force, the defence force, the SSA agency. The original intent of the SSA, according to the documentation, it is for—6(1)(a) centralizing and collecting information. One of my problems is 6(1)(c) which says that it is about strategy formation. To me, that is an example of duplication, because every single agency is coming up with strategies and policies.

So within the business promotion field, for example, just under the Ministry of

Trade and Industry and Ministry of Finance, there is NEDCO. This is just an analogy, I would get back to the SSA Bill. Within business promotion there is NEDCO, there is BDC which is now exportTT, there is the Economic Development Board, there is the Film Company, creativeTT, et cetera. Each one of these entities is fantastic. I have dealt with each, I have worked with each. Everyone within them is qualified and fantastic. The problem is each one is coming up with their own policies, each one is doing their own methodology creation about how to promote that industry, each one is then limited and under-resourced ultimately, because each one has to spend so much time in administration reporting, financial accounting, et cetera. So everyone in the end is understaffed and implementation is weak, and this cross-cuts everything. So that is an example within the business promotion entities in Trinidad and Tobago.

I am on the human rights JSC, so we had our meeting recently with the Children's Authority and other agencies that are all about helping support victims of trauma and victims of crime. The Victim and Witness Support Unit within the police authority they have their own methodology and their own policy; the Children's Authority has theirs. There are so many different agencies and each one is ultimately being proactive, because they see that there is a greater need to fill, but the problem is each one is creating their own policy, creating their own methodology, spending time on reporting and administration, getting very little done collectively. So we are diluting our net impact because we have too many agencies all doing the same thing.

Back to the SSA Bill at hand. We have the SSA, the police authority, the defence force and all the other agencies—these are the three main ones—and I do not ultimately see the need for the SSA at all. I think 6(1)(a) is about centralizing

information. I do not know why the police authority does not do this in the first place; [*Desk thumping*] 6(1)(c) is policy—sorry, 6(1)(c) is strategy, and I do not think an agency should be in charge of strategy for crime prevention; 6(1)(b) is about policy and, again, I think that should come from a Ministry and not from an agency. So I do not see any rationale for this agency existing whatsoever. [*Desk thumping*]

**7.00 p.m.**

Within the crime prevention—recently I was really surprised. The last time I was here I spoke about the Citizen Security Programme, which is done through the Ministry of National Security, and the fantastic impacts it has had. It has decreased crime in areas of east Port of Spain, from 487 murders per 100,000, in target communities, to 240-ish. It decreased by half. Similarly with domestic violence, the rates have actually gone down within these partner communities in east Port of Spain to a rate which is now below the national average for domestic violence. The rates of trust within the community and the police has now increased from 30 per cent in the base year to 50 per cent. This programme is really fantastic, Citizens Security Programme, because it works with the police, it works with the communities and it works with non-governmental organizations. So it is helping to build community oneness and trust with the police at the same time, in particular, because it is working with all the NGOs that are effective in their field.

So what I would suggest as an economist, looking at this duplication problem, is that we now recognize that what we have been doing has not been working. A lot of countries have moved away from seeing the public sector as the implementation agency to now being the facilitator. So through public/private partnerships,

through social impact bonds. They are moving away from implementation to partnership and monitoring.

I have spoken about social impact bonds and public/private partnerships in the past here, and appreciate the positive response it has gotten. Again I will reiterate those calls that we look at these innovative financial instruments. In terms of money saving they are really fantastic, because we will be using private sector intermediaries, we will be reducing the strain on Government outflows and outputs, and we would be linking metrics to outputs.

Recently I went to another meeting that was organized specifically for entities that are doing work in east Port of Spain. I did not realize until getting to the meeting that it was specifically for NGOs that were working with the CSP project. The feedback from each of the NGOs was so fantastic about CSP and its ability to engender greater networking and knowledge sharing within the NGOs, within the police service and impacts within the community. So again that meeting really reinforced my knowledge from the NGO perspective also about how CSP was having this fantastic coordinating role.

Another agency which I would like to make mention of is Crime Stoppers. This is a non-profit agency. I never realized that until recently. It is a non-profit agency and it is very similar to SSA in the sense of coordination of information, eliciting anonymous information from the public that is safe and trusted. Then people who submit information get some cash value that is left somewhere in a nondescript area, so there is some financial reimbursement for them. But the main thing is that it is completely anonymous, the information that is submitted by the public. In that sense there is a lot less fear of the lack of transparency within the police service and the public sector system. So Crime Stoppers is an example of an entity we can



partner with, that is transparent and impactful.

I spoke about the impact. I spoke about the economics in public administration. From a human rights perspective, as others have very eloquently pointed out, to change the Constitution we would need a constitutional majority, and I feel like this Bill was expanded in a way to divert that, and I do not appreciate that as a citizen. [*Desk thumping*] As a citizen when I read the Constitution I think I have a right to privacy, that is my expectation.

Fourthly, I want to talk about this issue of well-being, which is why I introduced the story in the first place. Well-being is more than just economic welfare. Within western psychology, Maslow's triangle, it kind of defines what is considered as human states of being, human states of consciousness. It starts off with that fundamental survival at the base of the pyramid, and it goes up to higher things like procreation, family, love, communication, self-actualization. In the yogic track, the eastern tradition it is the exact same thing, just 7,000 years older. It starts off with base human survival and then goes to creativity, heart, communication, intuition, self-actualization. The interesting thing to note about both of these is, economics is at the very base of human survival. It is a very base need, but beyond that in 2016, self-actualization, fear, the well-being is so much greater than just economics. My particular concern about this Bill and the SSA expansion is that we will be imposing a culture of fear on our population, and not just in the present but for generations to come. [*Desk thumping*]

There is a fascinating experiment out of the US, where they took rats and imposed on them a stimulus and an electric shock. So they did this several times with the rats, and eventually, of course, they learned to associate that stimulus with electric shock. Generations later they took their offspring and they showed them the same

stimulus without any electric shock and they had the same fear response.

So we in this generation live in fear constantly. Ayurveda, which is the Indian science of health and wellness as well as Chinese medicine, both say that stress is the root cause of all disease. Stress and fear are very interlinked. That is my concern, my biggest concern for our population that they are constantly going to be living in a state of fear.

You notice every time you are on the phone and you are chatting with a relative, they do not say, "Bye, love you", they say, "Bye be safe". Safety is such a focus of our everyday life. By imposing on them and telling them we are going to monitor your phone calls, we are going to monitor your emails, we are going to monitor your WhatsApp, nothing is private. [*Desk thumping*] You do have a right to privacy because you have to live in fear. Live in fear of your neighbours, live in fear of everyone. Nothing is safe and you cannot trust anyone. That also goes to the way that we perceive ourselves in terms of society and societal cohesion.

There is a great author, Marianne Williamson, and she says that when we are born our root nature, our innate self is love; we are fearless. Our amygdala, our pineal gland is open to a state of self-actualization. Through life, through being in this world, we learn fears from the media, from our parents, from society. Around four to seven years is when they kind of start to manifest and start to be visible and observable. So we are imposing on our population fear constantly, and that fear prevents them from achieving a higher state of self-actualization and a deeper state of well-being and purpose.

I will give you two examples and wrap up. There is also something I forgot to mention, the sympathetic nervous system and the parasympathetic nervous system within the body. So the parasympathetic is the rest and digest mode. This is our

non-emergency mode. When we are in our non-emergency mode all is well. When we are in our sympathetic nervous system, this is flight or fight. We constantly think we are in a sense of emergency. This affects our blood pressure, our heart rate, our metabolism and our weight gain. On that note if anyone wants tips on weight loss and switching from your sympathetic to your parasympathetic nervous system, let me know during the tea break. This does impact on an individual level, the physiological response of the body, constantly believing we are in a state of fear, a state of response. That impacts our propensity to disease and our well-being, and that is measurable.

Two examples. Also, real threats are perceived by the body and mind the same way as perceived threats. So I will give you an example. Recently my assistant, she is one of my best friends. She is 23 years old, she is a superstar, she is amazing. We were at a lime, and she said, “Jen, could you do me a favour and follow me home. I did not want to mention it before, but I was driving home the other day and noticed a car was following me.” She said she got in front of her gate, it is not electric so she made a rounds around the block. The car continued to follow her. Did it again, car continued. Drove to a police station, car followed her. Drove out, car followed her. At this point she was panicking. She calls her dad, luckily he was awake—they live in different homes—and he came and followed, until eventually the car in between realized that it was being followed and drove off. When she got out of her car she said she was trembling.

Was that real? Seems pretty real. The week later she called me, and she said, “Jen, I am going to be late for a meeting, I think a car is following me.” This is lunchtime, and she said she just made a diversion, went to Peakes gas station and she was fine. But she was so traumatized by what happened the week before. I am

not sure if she was being followed the week after or not, but her mind perceived it because she was so afraid.

Another example, last one. Two and a half years ago through my work with the World Economic Forum, I started a project teaching yoga and meditation at Success Laventille Secondary School. It is one of the things I am proudest of in my life. It has been wonderful to see the students—they were Form 2s—responding so well to it. So we started it. After discussion with the principal: How can we help support these students? What stresses them out? What can we do? That is what she suggested. So we were quite happy, and we have been working with an entity called “Yoga for Youth”, and they have been doing everything completely volunteer driven and self-funded for the last two and half years. The boys in particular in the class, in the beginning they would kind of sit out, acting all macho like, “Nah, nah, we do not want to do yoga”, and then in the end they would kind of sneak back in, when it was time for the end, for the deep guided meditation, the relaxation. All the other students would pass by and say that they were looking forward to starting yoga too, so that was very nice.

When that was starting, one of my neighbours said to me, “Jen, I do not agree with what you are doing. These children are going to grow up to be murderers and robbers. They are not going to grow up to be CEOs. These children are going to grow up to be murderers and robbers and not CEOs. If you do not care about your own safety, that is one thing, but what about your parents?” My dad had cancer at the time, still does, but she said, “He is already sick. If something happens to you that is going to kill him. Can you live with that?”

My point about the story is that we keep seeing ourselves as different. We do not see ourselves as the same. We do not see ourselves in a state of love. We are

seeing ourselves in a state of fear. That example of what she said to me two and half years ago struck me so much because these are children, and to say that they are going to grow up to be murderers and robbers and not CEO because of whatever fear she had internalized in herself. It is not about her being a bad person, it is just that that is the level of awareness she was at and that was the fear she had received from someone else and somewhere else.

But if we are telling our population, then that is what is going to continue to happen. As Sen. Richards pointed out, if we have a culture of fear, we are going to have a self-fulfilling prophecy where people feel different. They feel that there is something that is wrong with them and they are going to feel that they are not part of the system, and that they do not like the State spying on them, and they are not part of the whole of society. So imposing a culture of fear, I see us having long-term impacts on generations to come and short-term impacts on all of us. That is for me the fundamental reason that I will not support this Bill in its current state.

I do think that the economic numbers also are very noteworthy. As Sen. Coppin pointed out, the allocation was \$600 million one year, \$700 million another year, \$100 million the year after, which I am assuming was because of less financing on physical infrastructure. But how much is going to be spent on this without justification for impact, for effectiveness and for rationale, in the sense of we do not know what the agency is going to be doing, if the police service already exists, and it is doing the exact same thing?

As the hon. Attorney General pointed out earlier, the police service is the one that has the operational mandate and this is just to do intelligence gathering; that is it. Why does the police service not also do intelligence gathering? [*Desk thumping*] That must be within its mandate already. That must be within its remit.

Why do we need another agency, another set of personnel doing reporting, doing administration, wasting time and money and for them to also be in a state of fear? This is our population, could you imagine the people working in this on a daily basis, what it is doing to them?

**7.15 p.m.**

So, in conclusion, Madam President, I thank you for the opportunity to speak. My four problems that I see with this Bill are:

- No justification for impact.
- Economics and duplication of efforts.
- Human rights.
- Imposing a culture of fear that impact on our individual and collective well-being.

And, normally, I really like to come in this House and say, I commend where effort has been made, I give credit where credit is due, I think we are all parts of the whole and the only way we can do anything for our country is to recognize that we all have different levels of experience and exposure, and together if we combine our skill sets we can do more. But I do not come in here with an attitude of, you know, negativity in a sense of just pointing out flaws, not being able to point out solutions. I do not think that is going to take us forward as a country. So, the solutions I can propose are all long-term in the sense of social impact bonds, public-private partnerships, looking at strengthening the role of the State away from an execution agency to a facilitating agency; strengthening the role of the education system, and I think that is it really in terms of my long-term.

In terms of this Bill, the only two amendments that I did like were changing the appointment of the Director and ensuring that warrants are absolutely necessary if

the SSA Bill goes through. That is it. I do not think those two amendments would be enough for me to support this Bill in its current state. I think the entire agency should be completely disbanded. But, for the state of today's Bill, I will not support this expansion. That said, I am still here, I am open to listening. I do not like to say this is my position and I am not open to changing. I am here, I am listening, but I want to be very straightforward with what I think is in the best interest of our population. This is my position thus far.

Also, two things I forgot, quickly. Regarding the suggestion that if everything goes wrong at least it will come in front of a JSC and be accountable to that. We have already seen that is weak. I do not see that as being a best solution. That is the second best, kind of, maybe, you know, could work, second best in terms of economics, what we call them. So, the first best solution is this should be reformed from the get go as opposed to later coming under some kind of scrutiny, which is weak. And, the other solution is the select committee, I am still learning about this, I have not sat on one yet. My understanding is that basically everything that goes to one is automatically passed, so I have some reservations about that. But, that said, I am still learning, and I am open to suggestions and to collective cooperation/collaboration for our country.

Thank you again, Madam President. [*Desk thumping*]

**Sen. Wayne Sturge:** Thank you, Madam President, for permitting to me join this debate. I want to agree with what Sen. Raffoul has just said about us living in a state of fear. And over the last nine months, but within the first six months of this administration's tenure we have had three Ministers serving in the Ministry of National Security, and we have had no ease up in terms of violent crime. [*Desk thumping*] We are living in a state of fear. I agree with Sen. Raffoul on that much.

We are being buried beneath the avalanche of their inadequacies with respect to crime. [*Desk thumping*].

Madam President, this administration came into power on a slogan “Let’s do this together”, and when the speakers on the other side contributed to this debate, and from what we have heard thus far from them, up to this morning in camera, when we met with the technocrats and experts and so on, we see that they are not interested in working together. They speak when they contribute to say that when they were in Opposition they supported 90 per cent of the legislation we brought to this House. I am not going to dispute the numerics of that. But, the thing is, they must recall, the Attorney General in particular sat on this side as an Opposition Senator, and he must recall that when they brought amendments to whatever pieces of legislation piloted by our Government, we entertained those amendments, we listened to them, we got together, and we together passed the legislation. [*Desk thumping*]

So, the only persons who are showing a proclivity to “Let’s do this together”, it appears to be us. Because, now that the shoe is on the other foot and we are asking them, we are taking a middle ground, we are not saying like some of the Independent Senators to withdraw it completely. Although, speaking for myself, I operate under a Whip and I should say, “Let’s have amendments”. But speaking as a lawyer I would tell you this ought to be withdrawn completely. But we are seeing that this slogan, “Let’s do this together”, which they campaigned upon is a vacuous, empty facade. It means absolutely nothing. [*Desk thumping*]

I am very grateful to the Attorney General for inviting us this morning to the meeting with the technocrats and experts, because from that meeting I am now sure that this Bill must be withdrawn. [*Desk thumping*] The Attorney General, Madam



President, came to this House and tried to convince us that this amendment should be passed on two bases. First of all he said, the first basis was that this Bill is to provide for de-siloing of information, and centralizing of information. But, when we attended the meeting this morning and we spoke to the technocrats, the leader of the SSA, he agreed that there is nothing in these amendments brought to this House that touches and concerns anything dealing with de-siloing or centralization of information. [*Desk thumping*]

So we were basically sold a dream. The Attorney General came to this House and sold us a dream that this Bill is for centralization. And when we asked, and he was present, he himself could not point to the form of words in the Bill which suggest that this Bill is for the centralization of information. And that, I think, is most unfortunate. [*Interruption*] Well, I am being reminded that he conceded and he tried not to say it in full language, but he conceded. His words were, we have constitutional challenges. Implicit in that there is a concession, even if it be from his subliminal vibrations that you need a constitutional majority. [*Desk thumping*]

Madam President, the other basis upon which the Attorney General sought to implore us to support this Bill was on the basis of violent crime, and he quoted statistics and sought to justify bringing this Bill, by saying that the detection rate is now abysmally low. Now, before I go into the—and, of course, he went on to say why a three-fifths majority is not needed and I will deal with it eventually to show how it is needed. But, he went on to say things and in my view he sought to frighten us into voting for this and to frighten the population into voting for this. In that vein permit me to read just two lines from the judgment of Lord Rodger in the seminal case of *A and others v SSHD* which can be found at 2005, two criminal appeal cases starting at page 68, and the words I refer to are at page 177 in the

judgment of Lord Rodger, and Lord Rodger said—and they were dealing—so I could put it in context—at the time with certain provisions under the Terrorism Act, because they were faced with the threat of terrorism, and everyone, of course, was fearful of terrorist attacks and so on. And they sought to pass this draconian legislation and use terrorism, and the real threat of terrorism as a justification for passing the Act. And Lord Rodger had this to say when they found that the authorities had broken the law. He said this at page 177:

“...national security can be used as a pretext for repressive measures that are really taken for other reasons.” [*Desk thumping*]

And what he was in essence—I extracted this bit because I only have 40 minutes—saying, is sometimes politicians, particularly technocrats in national security would try to exaggerate, or use the fact that you are fearful, to justify passing measures that are draconian and measures that are totally unnecessary. That is fearmongering. [*Desk thumping*]

So, I read the quote from Lord Rodger, and there is another quote, Lord Walker at page 193 of the very same judgment. If I may be permitted to read with your leave, Madam President. A very short quote, four lines long:

“...a portentous but non-specific appeal to the interests of national security can be used as a cloak for arbitrary and oppressive action on the part of government...can be the last refuge of the tyrant.” [*Desk thumping*]

So—I almost said members of the jury—Madam President, I am not sold on the justification. In fact, if I may, very briefly, refer to things said by the Attorney General when he sought to convince this Senate that this Bill does not need a special majority. He said that a special majority, a three-fifths majority is not required as no enshrined rights are being infringed. Madam President, let me list

what in my opinion are the enshrined rights under section 4 which are being infringed:

1. The protection of the law;
2. The respect for private life which is called the right to privacy;
3. The right to express political views;
4. Freedom of thought and expression;
5. Freedom of the press; and
6. The due process.

Now, the Attorney General said in essence that the Bill also did not need a three-fifths majority, and it was not required because he said the law is proportionate. I wish to, very briefly, read from section 13, with your leave, there are two clauses in section 13, so that we can put all this into perspective. Because, when you start speaking about proportionality, implicit in that is that you have accepted that you are going to infringe rights under section 4. [*Desk thumping*] And once you start going down the road, and I looked at the SSA debate when the Attorney General opened in the Lower House, I looked at his presentation when he closed in the Lower House, I sat here during his presentation on this Bill, and I heard him saying again and again—two things that stood out. One, there is no right to privacy. And he said the case law is replete with cases, and he has not brought one, and I dare him to bring one. [*Desk thumping*]

He said that the law is replete with cases that say we do not have a right to privacy. I looked immediately at the learning from Margaret DeMerieux, which is the sacred text on constitutional Caribbean law and fundamental rights and so on, and she herself indicated as of the date of publication in 2001, there were no decided cases in the Caribbean on the right to privacy. So since the case law is replete with

it I would ask him to bring one, and to be very clear, we are dealing with the right to privacy as guaranteed between the State and the individual. [*Desk thumping*] Not the right to privacy which exists between an employer and an employee where the employee uses private information for personal gain in context of breach of confidence cases or trust law cases. That is not what we are dealing with here. We are dealing with constitutional issues. [*Desk thumping*] So, Margaret DeMerieux up to 2001 could not find a single case in the Caribbean where the right to privacy was—where, any case to support what the Attorney General was saying.

**7.30 p.m.**

So you said there were cases replete with references that we do not have this right to privacy. She says there is none. So what I did with the help of my noble and learned friend who is the expert in this field, Mr. Ramdeen, was to go on to the Judiciary's website, webopac, and look for cases on the right to privacy. And I did not find any. In fact, the total number found, I found zero, zilch, nought, nothing, no cases. [*Desk thumping*]

So the Attorney General also said, when he was dealing with proportionality, that because the law has a legitimate aim, the intrusions that are being proposed are proportionate. Madam President, that statement was indicative of a fundamental misunderstanding of what proportionality is.

**Hon. Senator:** Let him read De Freitas.

**Sen. W. Sturge:** I would not even read De Freitas. I would read the Constitution. Section 13, with your leave, Madam President, it opens with 13(1):

“An Act to which this section”—meaning section 13—“applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect

accordingly”—and this is the operative part here—“unless the Act is shown not to be reasonably”—justifiable—“in a society that has a proper respect for the rights and freedoms of the individual.”

That is what is called proportionality, section 13(1). [*Desk thumping*]

**Sen. Ramdeen:** De Freitas, De Freitas.

**Sen. W. Sturge:** Leave De Freitas out of this. “But we cyah stop dey.” “There”, sorry. “Ah know we in Trinidad.” I would not say “Shillingburger”. We cannot stop there. Section 13(2):

“An Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.”

Well, what does that mean in simple English? It means that you only start considering proportionality as an issue if first of all you achieve a three-fifths majority of the House. [*Desk thumping*] And you achieve a three-fifths majority in accordance with 13(1) if you are going to interfere with rights in sections 4 and 5. So that after you start off accepting that you are interfering with the right to privacy, freedom of expression, and all the rights that I adumbrated at the start, then the next thing you do instead of talking about proportionality is say, do we have the numbers?

So you have to come clean with us and tell us, listen, we need a three-fifths majority. And when—this section 13(2) exists for a reason, because you may have a majority in the Lower House, you may be able to get legislation passed in the Upper House with the requisite three-fifths majority, but the court has a final discretion when looking at it and saying, although you got the majority this is not

the kind of act of Parliament that is reasonably justifiable in a society that has a proper respect for the rights and freedom of the individual. [*Desk thumping*]

So what is proportionality? In essence, let me read briefly from a lovely book that I consult five minutes a day when I am preparing for work and when I have to rest and reflect. And it is by Tom Bingham, *The Rule of Law*. And Tom Bingham as we all know, Lord Bingham of Cornhill, retired law lord who also appeared or presided over the case mentioned earlier, *A v SSHD*, and he said:

“...it is accepted that the rights of the individual may have to be curtailed for the benefit of the wider”—society. It can be done—“only if three conditions are met: the interference must be in accordance with the law...; the interference must be directed to one of the specified purposes; and it must be not merely desirable, useful or reasonable”—and these next two lines I want to put it in bold, underline and italics—“it must be not merely desirable, useful or reasonable”—and hear it—“but necessary in a democratic society and proportionate.” [*Desk thumping*]

So the first thing we have to do with respect to proportionality, we have to look at the Bill and the objectives of the Bill. And the objectives of the Bill must be sufficiently important to justify infringing our rights under section 4 of the Constitution and that has referred to as legitimate aim of the Bill.

Two, the measures chosen in the Bill must be designed to meet the objective and must be rationally connected to it. There are no measures in the Bill if I can just add that before I move on.

And three, the means used to impair or infringe the right or freedom should be proportionate, in that it goes no further than is necessary and whether the interference with individual rights is in proportion to the objective achieved. That

is what we need to look at.

So we have to look at, Madam President, if what the Attorney General said, that this Bill is about de-siloing information and centralizing information if that is a legitimate aim that justifies the interference with rights under section 4 of the Constitution. And if we get past that and we agree, and I cannot see how we could, but if we agree that that is a legitimate aim that justifies incursions into our right to privacy then we must look at the measures the Bill has put forward and to see if they are designed to meet the objective and rationally connected to meeting it. And once we get that out of the way the last thing is we have to know whether this is—if it is simply desirable, effective in achieving the aim or a reasonable measure—that is not good enough. The law says that it must be necessary. So I hope that I managed to convince those who have ears and wish to hear about the proportionality that the Attorney General refers to.

Now, I do not need to go into the right to privacy. The Lord Chief Justice de la Bastide, now retired, former President of the CCJ, has already dropped the bull pistle in that regard, so we all know that we do have Privy Councillor, a right to privacy. And today, on the fourth occasion when the Attorney General referred to the right to privacy was when Sen. Richards raised the issue, and for the first time the Attorney General appeared to have moon-walked away from his original position that we do not have a right to privacy.

So now we do not know from the Attorney General, the guardian of our Constitution, the chief legal advisor of the Government, we do not know what to believe. So is it that the Attorney General honestly believed that—and we have to forgive him, I do not want to say why, but is it that he honestly believed that we did not have a right to privacy. If that is the case then we are in trouble, [*Desk*

*thumping*] because this is the chief legal advisor of the Government. This is the guardian of our rights. So if it is a case of incompetence, we are in trouble and if it is a case that he knows fully well that we do have a right to privacy and he sought to tell us otherwise, to “pull willow” over our eyes, we are also in trouble. [*Desk thumping*] Either way, “dog eat we supper” or as they say in Serrano in Belmont, “crapo smoke yuh pipe”. Either way it is not looking good.

Now, we found out today, Madam President, in the little meeting we had, but we did not have to wait for today to find out, we found out from the Attorney General when he addressed this honourable Senate that the SSA has in essence been breaking the law.

**Sen. Khan:** Procedural Motion.

### PROCEDURAL MOTION

**The Minister of Rural Development and Local Government and Acting Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):**

Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand inclusive of matters on the adjournment.

*Question put and agreed to.*

### STRATEGIC SERVICES AGENCY (AMDT.) BILL, 2016

**Sen. W. Sturge:** I am guided. Madam President, the Attorney General admitted in his opening salvo, opening contribution in the Senate, that the SSA has been acting illegally and then, again, in an apparent moon-walk in a post Cabinet press conference he sought to resile from that position to say well they were not acting illegally because drugs, in the definition of the original SSA Act, drugs meant everything. So drugs meant every offence. Now, if that is true, Members of the



Jury, I mean His Lordship—

**Sen Ameen:** Madam President.

**Sen. W. Sturge:** Madam President. If that is true that drugs means everything, then we do not need to even consider the definition section he brought. [*Desk thumping*] It is a useless surplusage of words if drugs means everything. Now, the sole remit of the SSA from 1995, and I want to just deal with something Sen. Raffoul referred to, because the SSA when it started out, it is not limited to internal matters related to national security, so it cannot be that the SSA can no longer continue to exist. Because of treaty obligations—and was it the Vienna Convention?

**Hon. Senator:** Not Vienna, Geneva.

**Sen. W. Sturge:** Well somebody said it was Geneva, but there is a Vienna Convention on drugs. Because of that convention we need a body like the SSA to share information with certain bodies like the FBI, the CIA; primarily it was meant to share information with bodies dealing with drugs interdiction and so on, more or less the DEA and so on. But that was their original remit. And I have on my desk a whole bundle of papers and instructions and so on with respect to a drug bust that took place down Monos Island, because there is an appeal to the Privy Council and someone else in this Senate successfully represented someone charged in Monos Island.

But there were three notable drug busts that came out of this country: one in the juice tins out of Virginia; one of the biggest drug busts in London, off the coast of England, packaged right here in Trinidad in a yacht; and the biggest drug bust in Spanish history, packaged right here in Trinidad in a yacht. So we have three drug busts, and when we saw this morning the successes of the SSA, none of those were

mentioned. [*Desk thumping*]

So your sole remit is to deal with drug interdiction, and, you know, the thing is, if they were focused on their sole remit maybe we would not have had such a violent and murderous society. [*Desk thumping*] But their sole remit is drugs and those three escaped them. Let me tell you the one that escaped and hurt the most.

Monos Island, one tonne of cocaine found in a businessman's house on Monos Island worth TT \$1 billion. [*Desk thumping*] The SSA did not discover that. That crime was solved because one of the locals who helped to package the cocaine into the house went ashore, got drunk and started to talk and that is how that drug bust took place. It was not the SSA because they would have published it this morning when they gave us the meeting to say Monos Island was one of our big ones. It did not happen. So my thing is, I agree with Sen. Mahabir because if you have failed in your sole remit, why are you asking for more work? [*Desk thumping*]

#### **7.45 p.m.**

But let me regale this Senate as to why I believe they have so failed in their sole remit, for two reasons. It must be one of two reasons. Because Monos Island, the little fellas who got locked up, cannot afford a billion dollars in drugs. "They cyah pay the down payment of 10 per cent" which is, I think, \$100 million. "They doh have that", they could not even pay fees. Most of them are represented by Legal Aid but somehow "big fish get away". Now, I want to ask if the SSA, if that is their sole remit, is it that they are deliberately looking the other way? Is it that the kingpins are deliberate—or somehow benefiting from the failure of the SSA and benefiting deliberately because that is a real possibility? This is Trinidad and Tobago. That is a real possibility.

The second reason why the SSA may not have been fulfilling its mandate is because they were too busy spying on judges, politicians, journalists and everybody else but the drug dealers. [*Desk thumping*] So from 1995 upwards, no success. In 2010, we then heard that they were spying on judges, lawyers, politicians, journalists, trade unions, the former President and the list went on and on and on. So they were acting above the law, that is the first thing. From 1995 to 2010, acted above the law. We brought law, we brought the Interception of Communications Act to this Parliament so that we can rein them in and have them act within the strictures of the law, and we got the support of the other side and we got the constitutional majority and it has not been challenged to say it is in violation of section 13 of the Constitution.

Lo and behold, “yuh breaking the law, yuh above the law, yuh doing yuh own thing, we catch yuh, we bring law” and then the Attorney General stands up in this Parliament, the Attorney General then says “dey breaking” the law again. That is what he said the other day, in essence. So all the fancy language that the SSA is as a fact doing this and as a fact doing that and as a fact doing the other, what they were in fact doing is in fact breaking the law. [*Desk thumping*] So on the basis of principle alone, this institution should either be disbanded or taught a serious lesson. [*Desk thumping*]

You cannot be operating above the law and then come from 1995 to 2010 and then when we put the law in place, you continue to break it and then come here and ask for more power to break the law. [*Desk thumping*] And if your sole remit was drugs and you were breaking the law and if your remit was expanded and you still continue to break the law, then based on your track record alone, we expect you to continue breaking the law. The one success the SSA has had is in breaking the

law. That is the one success of the SSA. So now we come here and we are asked to pass this definition of “serious crime”.

Now, I have always said, Madam President, that a text taken out of context is a pretext for confusion, which, in essence, means that we cannot simply say that this Bill does not need a three-fifths majority because the original Act did not need a three-fifths majority. We cannot say that; that is not how it works. Because sometimes you bring an amendment and the amendment itself interferes with sections 4 and 5 [*Desk thumping*] and that is when you need the three-fifths majority. So that argument, well if the original Act did not need it then we do not need it; that is law clerk argument. That is glorified law clerk argument who is sitting down in a law clerk circle and “doh know what they talking about”.

[*Interruption*] Yeah, law 101. That is not how it is done.

**Sen. Dr. Henry:** “He like that, he like that.”

**Sen. W. Sturge:** Yeah, “ah like—ah love yuh eh, you know, yuh is ah Belmont man.” Yes. [*Interruption*] Not in that way [*Laughter*] but I am wearing my bra. [*Laughter*] So the first thing is you cannot say, well on the basis that the original Act was passed with a simple majority then we do not need more than a simple majority, that does not make sense.

But when we look at the expanded definition, there are problems and for those who understand legal drafting as a science, and it is a science and words are not simply used because they sound grammatically correct. I would draw the Senate’s attention to the definition of “serious crime” and Sen. Solomon referred to “related to”. But the more dangerous word is the word that comes two words before, it says “‘serious crime’ includes”. You see, when you use the word “includes” in a definition section like this, “includes” means it is this but it is not limited to this.

That is the first thing when you use include. So those who have never studied legal drafting, when you see it like this, “‘serious crime’ includes”, it means it includes all that we list after but it is not limited to that, it is much more than that. And let me show you how it is plenty more than that.

“...includes offences related to...”

Well, what does that mean in law?

And this morning, we got an admission from the Attorney General himself that “related to” means that all of these offences, it is wider than that. So it is not limited to these offences, it is much wider. So “we get ah shotgun barrel, ah double barrel”—*[Interruption]*

**Madam President:** Sen. Sturge, you have five more minutes.

**Sen. W. Sturge:** Oh God, and I only now starting to get wax. So “we get ah double barrel”, “related to”, so it is further expanded and then at the end, you have “not less than five years’ imprisonment”. That means nothing. This omnibus clause “not less than five years’ imprisonment” means nothing, but interestingly, it catches—what they call this thing?—sedition.

So it has an effect for those on social media who want to post certain things, they can be caught “buh leh meh tell yuh who else in trouble”. You see all those journalists who want to say a reliable source, there is no such thing as a reliable source anymore because the SSA will know who the source is and all of a sudden, only the sources that expose the Opposition or somebody else opposed to the Government would be reported and sources that seek to uncover certain things in a certain organization quiet. *[Interruption]* Yes, yawn, “yuh learning fuh the first time”.

**Hon. Al-Rawi:** Not from you, boy.

**Madam President:** Sen. Sturge.

**Sen. W. Sturge:** I am sorry. Now, I want to ask if as the Attorney General has said that drugs mean everything and the sole remit in 1995 was drugs, then why were they spying on judges? Did you have information that the judges were involved in drugs? Why were you spying on politicians? You had information that they were involved in that? No. Journalist involved in that? No. But you keep spying and that is a very dangerous thing.

Now, I want to wrap up since I only have a few minutes. Now, if we want to be sure that these measures are designed to criminal activities, in law, there is a simple thing you can put in. It is called the requirement of reasonable suspicion. Because if you have the requirement of reasonable suspicion, then you do not have the authority to be spying on every Jack and “he brother”. So we will ask first if you are willing to put in that requirement and I know you are going to say no and if you are not, I, personally, will not be supporting it. But I want to touch one last thing because like Sen. Roach, in court, we are finding that when you are up against the State, conversations between defence counsels and fellow attorneys, somehow the other side loses and that is a very dangerous situation because it undermines other rights.

Now, I would like to remind you, Madam President, that in the end, if we are all deadlock, that you have a casting vote and usually—[*Interruption*]

**Madam President:** Sen. Sturge, no. There is absolutely no need for any Senator to speak to the Presiding Officer about the Presiding Officer’s responsibilities. So use your last few minutes to deal with other sections of the Bill.

**Sen. W. Sturge:** Yes, I am so sorry. “Yuh chain meh up, man.”

**Sen. Dr. Henry:** Watch him next time.

**Sen. W. Sturge:** Yeah, “ah go watch him next time”. There is one last thing that is very disturbing and it shows the trend of how we are at locally. Quite recently, I think within the last two days, we see on social media a video sharing of a journalist who was under a DUI charge or being held subject to a DUI charge and, all of a sudden, it is in a police station, it is filmed which is in violation of her rights and in violation of the police service Standing Orders. Now I want to know if the police officer filmed this lady violating her right, how did it get out into the public domain? Because that is another concern I have about—because we would not know if we are being spied upon so then we would not have redress. So then if we do not have an oversight mechanism, like Parliament, for instance, chaired by an Independent Senator, so that we will know who they are interfering with and we will be able to protect the rights of innocent citizens who do not belong to the criminal class. Can I ask how much more time?

**Madam President:** A few seconds, Sen. Sturge.

**Sen. W. Sturge:** Well, let me just use that time to thank you profusely for allowing me to contribute to this debate. I thank you, Madam President. [*Desk thumping*]

**Madam President:** Before I call on Sen. Chote, may I just remind Sen. Mark and Sen. Solomon of Standing Order 51(1)(h). Sen. Chote.

**Sen. Sophia Chote SC:** Thank you, Madam President. After the adjournment of this debate on the last date, I was surprised at the number of people who kept calling me and asking me if I were the one. I had no idea what they were talking about. It was only on the weekend that I realized that there was rife public speculation as to who was the one Independent Senator who was going to be voting with the Government. I must say it felt a bit like the garden of Gethsemane

when all the disciples were told by our Lord that one was going to betray Him and they kept asking amongst themselves, who is that going to be.

**Madam President:** Sen. Solomon, the Standing Order that I asked you to have a look at, could you please—yes. Sen. Chote, continue.

**Sen. S. Chote SC:** Now, that is just a little anecdote to get me started but I think that I must start by saying that I do not support this legislation [*Desk thumping*] because this is not a piece of legislation, this is a legislative shell and I will go on to explain why I think so.

Now, when the Leader of Government Business had spoken in his contribution to this debate, he had suggested or he had maintained that we are a data-driven society so we have to look at the data to inform our activities. So, following the guidance of the hon. Leader of Government Business, I tried to look at the presentation of the proponent of this Bill and, in particular, I looked, Madam President, at the presentation on March 18, 2016 of the hon. Attorney General and this is what we got. Several aspects of the operationality went to work. All right, well you will have to forgive me because I have absolutely no idea what that means and, with all due respect, I do not think that I can make any comment on that.

And Trinidad and Tobago, Madam Speaker, had in operation several entities conducting surveillance. There was interception of communication.

**8.00 p.m.**

Okay, so I think we understand we are being spied upon. What possibly the hon. Attorney General cannot say is: “Listen, have been spied upon for many years. We are trying to make it legal.” Now if that is the intention, then by all means say so. [*Desk thumping*] Say so. Spying is an age-old part of policing and intelligence-



gathering. Do you think that GCHQ in the United Kingdom, MI5 and MI6 would think of themselves as anything but spies? No, they accept that is their legitimate profession, but they operate within very tight legislative frameworks, which ensure that when they carry out their operations they are guided by processes and by laws. Closer to home, do you think anyone at NSA in Maryland in the US would deny that they have spies, they run spies in different territories? No, it is a legitimate part of information-gathering. So tell us that. Tell us that. Be straightforward and tell us: "Listen, we know that you have been spied on since the Interception of Communications Act, or perhaps, even before that. We are anxious to have this thing regulated. This is why we have brought legislation to Parliament." And in that case, what I will say to the hon. Attorney General, through you, Madam President, is let us try to make a good law. [*Desk thumping*] Because when you touch a right you have to have a balance or something to set it off. You have to weigh everything and decide which one is more important. In taking away somebody's right to privacy or encroaching upon somebody's right to privacy, you have to weigh it off to see which is the more important in the scheme of things.

Now, I do not really think that it will get us very far to quibble in this honourable Chamber about whether we have a right to privacy or a right to respect for privacy, because I think the average man on the street is of the view that he has a right to privacy [*Desk thumping*] and I think that lawyers ought not to be trying to mince words to create distinctions when there are none. [*Desk thumping*]

Now, when I continue to look at the presentation of the 18<sup>th</sup> March, 2016, it was quite interesting that there were 19 agencies identified as spying agencies, or perhaps I should say specifically intelligent agencies with entities having an intelligence role included and still include and then we have certain names. At the

end of it, it says all of these entities had surveillance issues.

So, I understand that to mean that these 19 agencies were carrying out surveillance on the citizens of Trinidad and Tobago. What is interesting is that 17 of those 19 fall under the Ministry of National Security. So, to me, in this data-driven society, where we must be informed in our choices and our decisions by the use of data, I would have thought that we would have had some kind of information or statistics or data from the Ministry of National Security about the successes of the 17 of the 19, in terms of interdiction of crime. The fact is we have nothing. All that we have is that we have the Government side saying we agree that there has been surveillance and there has been surveillance for a considerable period of time.

Now, what concerns me about this is the impact this piece of legislation is likely to have on independent institutions. Let us look at three: the Police Complaints Authority. That is a civilian oversight body which investigates matters where police officers are alleged to have committed certain crimes against citizens of the country and it is a place that citizens can go to, to get some redress because the Director has the power to refer these matters on to the Commissioner of Police and/or the DPP. Is the PCA now going to be under the umbrella of the SSA? Now this question is unanswered, because as I describe this piece of legislation as a legislative shell it does not address anything with respect to the mechanics of how these agencies are now expected to operate under the SSA.

Let us take another important institution, the FIU. The FIU is governed by its own legislation, which is actually pretty tight and the FIU has to be accountable. It is audited. It prepares or it has to provide annual reports. It liaises with foreign agencies, as appropriate. Now, how is the FIU going to operate under or within the SSA? That is not something which has been explained to us, and, with all due

respect, these are important institutions and if the Government wished to have my support for this Bill I would have thought that the Act would have contained some sort of procedure or some sort of method by which these different agencies would fall under the umbrella, or they may not fall under the umbrella. The fact is we do not know.

The third important one is the Integrity Commission. And I think this one is a little bizarre, because if the Integrity Commission falls under the SSA, which answers to a Minister, then where are we? We might as well say, okay, that is the end of the Integrity Commission. Because the Integrity Commission also has the capacity and the ability to conduct investigations into certain kinds of matters.

So, my concern really is about the absence of significant information with respect to how this piece of legislation can work. I do not think really that Senators ought to hear again, you know, as a chorus, this is framework legislation and we will fill in the gaps afterwards, not in this case. [*Desk thumping*]

The hon. Minister Imbert, Minister of Finance, whenever he comes to this Chamber, reminds us that we must have institutional memory, so that when we look back at what was said it will point us in the direction of where we are to go. So, taking into account that bit of guidance, I look back to the *Hansard* of Friday, March 07, 1997. On that day our Prime Minister, who was then the Member of Parliament for Diego Martin West, brought a Motion before the House and he said:

“*Whereas* it has been reported that the Prime Minister of Trinidad and Tobago at a public political meeting referred to privileged information obtained in his capacity as Chairman of the National Security Council regarding alleged internal problems in the People’s National Movement detected by the Security Services...

*Be it resolved* that this honourable House condemn the political use to which the security services are reportedly being put and the public use by the Prime Minister...”

Who was then Mr. Basdeo Panday.

“in a political capacity of privileged information so obtained.”

And our Prime Minister went on to give some guidance as to how this kind of legislation may be considered. He said:

“...what is the role of security services in Trinidad and Tobago? There have been most of these agencies for quite some time.”

He asks:

“What information should be gathered? The role of security services, as documented in our documents and elsewhere, is to ensure that the security of the state is preserved in the face of local threats of subversion and preservation of law and order on the local scene, and to protect the state from potential threats from outside.

In any properly functioning democratic society, that is the perimeter of the role of the security services.”

But our Prime Minister did not stop there. On that day, in this Motion, he referred to English legislation and in particular he said this:

“Knowing the temptation which could fall to persons who have access to information and security services and, seeing what the world had been like in the 1950s and 1960s...”

—and then he goes on to talk about the English Act. What is interesting or what he wished to bring to the attention of the House was that the English legislation, which permitted spying had this clause. The clause said that the intelligence

service does not take any action to further the interest of any United Kingdom party.

So the legislation stipulated that it could not be used for the benefit—and I would argue the counter to that, the detriment of any political party. So that was a clear safeguard. So you could spy, once you do not use that investigation for political gain.

And our Prime Minister was using that as a good example of what kind of legislation should govern spying in our society. He went on to say this:

“Many countries, whether it is in Africa, Asia, the Soviet Union, Latin America or the Caribbean, have come to grief on this plank of abuse and misuse of security services. The worst kind of human rights abuse in the world has taken place in countries where the security services have not been confined to their proper function, as outlined in the Intelligence Services Act from which I quoted under the British system.”

**8.15 p.m.**

Now, those are important words in my respectful view, and I think they take a common sense approach to how we must look at surveillance legislation of this kind. Now, I must say this area has become so interesting to me that I went out and bought some books on spying, and tried to read them as quickly as possible before today's date. One that I managed to finish, and it is actually quite good is a book called, *Law, Privacy and Surveillance in Canada in the Post-Snowden Era*, and it is edited by Michael Geist. At page 26 of that book, the author refers to a position taken by the Supreme Court of Canada, in the case of *R v Oakes*; the citation is there at page 26. He has this to say, and I thought it is useful:

“Surveillance becomes a malign threat to civil liberties when it is conducted in a way that violates the democratic norms that govern potentially intrusive measures by the state.”

I am not sure if I wrote all of that down correctly, but what that case basically said is, when you have to implement this kind of legislation or bring this kind of legislation to a Parliament, you need to look at four things. One, necessity. Is it necessary?

Now, to me if you have 19 agencies already doing surveillance and spying, why do we need a 20<sup>th</sup>? [*Desk thumping*] The case also said, you have to look at the effectiveness of the legislation. Again, I will say, “Well, this is going to be absolutely ineffective”, because after we have been told that this piece of legislation is intended to articulate with other pieces of legislation—and I am quoting the hon. Attorney General—we are not told how. This Act refers to no other Act, except the Dangerous Drugs Act, where words are taken out and replaced. So how is this legislation going to “articulate”—and I use that word in inverted commas—with other pieces of legislation which are not even mentioned in the Act? The case of Oakes from the Supreme Court of Canada also says that the incursion or the invasion should be as minimal as possible, and it should be proportionate. So, with all due respect to the hon. Attorney General, proportionality is not the only thing that one has to look at, when one considers legislation of this kind. The case law is clear.

Now, the other thing that concerned me, and I do not know if I got this part of it wrong, but it seems as though this Act makes no provision for redress. So we do not know, let us say, what the processes are, that this SSA is going to be governed by. So how are we going to call breach? How are we going to know if there was a

breach of the law? [*Desk thumping*] It essentially means that you are providing a blanket to the surveillance people, under the SSA, and saying to them, “Okay, well, there is a thing in the law, so basically you could make up your own laws, and do what you want, and let us see if somebody can take you to court”. Well, I do not see that as being proportional at all, if we go back to the Attorney General’s test.

And we come back to the basic point. I think we have respect for rule of law in a country where the State recognizes that it too is subject to the rule of law. [*Desk thumping*] I think that is what a civil society is about. It is not only about the State being able to legislate and have powers on to itself, without any sort of review or appeal, and it is the rest of us on the outside looking in. The rule of law must apply to everyone; that is a basic principle. A first-year law student would understand that.

Now, there is one aspect of this legislation that has me very concerned, and it is the definition of what is considered a serious crime. Now, what we have here is we are talking about people who are spying, who are intruding upon your private life, who are monitoring your phone calls, who might be monitoring what you put up on social media. And then you think about the fact that we have a Sexual Offences Act, which essentially makes same-sex relationships open to possible criminality or criminal charges, and these offences carry terms of imprisonment of five years and more.

So, okay, you may ask yourself or I may ask myself, Madam President, these people listening on conversations and looking at social media and so on, are they then going to have these people charged under the Sexual Offences Act? Well, I do not know. They may do so, but there may be another way in which this

information may be used. This is a wonderful way to look at the profiles or the public profiles or private profiles of persons who hold power in any area of our society, and seek to influence that person, [*Desk thumping*] by threatening to reveal private information such as this. So this part of the law actually goes not only into the home, it goes into the bedroom and I think that is reprehensible.

Now, in that same book that I was reading, at page 109, and you will forgive me for constantly quoting from it, because it is just excellent. The author refers to what Edward Snowden told the European Parliament. He said:

“One of the foremost activities of the NSA’s...is to pressure...EU member states to...work very hard to search for loopholes in laws and constitutional protections that they can use to justify indiscriminate, dragnet surveillance operations that were at best unwittingly authorized by lawmakers.”

Now, we cannot now turn around and say that we are unwittingly authorizing anything, because we have seen what this law is about. And, of course, we know the unhappy result of that. The big political fiasco when it was found that the Americans had been spying on—I believe it was the German Chancellor, Mrs. Merkel.

Now, I listened to my young friend, Mr. Junkére, when he did his contribution last week, which was excellent. He said quite candidly, “Listen, I do not feel afraid because of this legislation, because I have nothing to hide”, and what I would respectfully say is, our debate here is not about what you have to hide. [*Desk thumping*] Your private life may include many things. It may include calls to lifelines. Our private lives may include rape victims getting counselling. Our private life may include, medical records of persons who are HIV positive, and do not want it known. So what we are looking here is not simply about something to



hide in the sense of breaking the law. We are talking about the private lives of ordinary people, and the ordinary challenges that they face. [*Desk thumping*]

Now, because I have the honour to sit with the Attorney General on the Whistleblower Joint Select Committee hearings, I am a little concerned about the impact that this legislation may have on a whistle-blower. Because if a whistle-blower wants to give information and wants to ensure that that information is protected in every possible way, then it can bring him no comfort to think that if he talks on the phone, it may be leaked to someone who can cause him harm, or who can cause harm to his family or something like that. So I do not see how these two pieces of legislation can be easily married at all.

I think every time I have spoken in this Chamber I have referred to the Total Policing Report, which may still be up on Parliament's website. The Special Branch of the Trinidad and Tobago Police Service, when asked about whether they had picked up on the fact that there was going to be this kind of activity, the Special Branch said that they did not know that there was going to this kind of activity. Now, these are the people who are supposed to surveilling. These are the police officers who are supposed to be the elite officers doing nothing else but surveilling, and I would imagine sensitive duties. So how is creating the SSA going to improve that? How is creating the SSA going to improve their work product? Quite frankly, I cannot see the link.

Now, when people quote loads of statistics, it always gets me suspicious. So we are told 1,000,535 calls were blocked at the prison for a particular time period. I am wondering whether the prison officers who were on duty at that time knew that their calls were being intercepted, and they agreed to it. [*Interruption*] And what, well, was anybody charged? Surely, if you have all these hits being called from

prison, and all these illegal activities coming out of the prisons—out of 1,000,535 calls, were there any charges?

**8.30 p.m.**

I would have liked to have known, Madam President, if the Attorney General could have told us that so we could say, listen, you are looking at all of these calls that are being made and this is the product. This is what we get from spying. This is what we get from our surveillance.

Now, I have a particular problem with spying, and it is because in my years as a criminal practitioner, one day after a long day in the High Court, I returned to my chambers and before I got there one of the attorneys called me and said: “By the way, prepare yourself, we have the blimp overhead.” I do not know to this day what I had done or what I was thought to have done but, certainly, I had the privilege of having the blimp monitoring me in my office as I did my preparation for the next day’s work. It just shows you that surveillance can be indiscriminate.

Up till now, I mean, the blimp never returned. I would have been quite happy if they had returned during the daylight so I could see, you know, more closely what it looked like, but it spent well over an hour over my office at 122. So I have personal experience with how surveillance can be misused. I was never charged with anything, so I guess the surveillance did not cough up anything.

Now, we must not be afraid—two more points I wish to make before I end, because I know it is has been a long day. I do not know why we have this concern about having a joint committee on this Bill because when I looked at what the English were doing, they had set up a joint committee—*[Interruption]*

**Madam President:** Sen. Chote, you have five more minutes.

**Sen. S. Chote:** Thank you, Madam President—on their new Draft Investigatory

Powers Bill, and they had taken the points of view of hundreds of people. They talked to people all over the country—the DPP, all the agencies and so on—and they were looking very carefully to see how their surveillance legislation could be improved. They were looking at it to say, listen, we have this legislation. We want to make sure that we keep the lines clear, that we do not let any agencies step over the line and we make it clear that if agencies step over the line, then there are repercussions to follow and it is on the Web, anybody can find it. It is December 2015. It is an excellent report.

I close by mentioning a former Senator, my good friend, Dana Seetahal, for this reason. Dana was engaged in a high-profile matter and with these 17 out of 19 agencies under the Ministry of National Security, it seems as though nobody had her calls monitored because nobody from law enforcement was there with her car when the assassins struck. I mention her to remember her, and also because Dana supported law enforcement in every possible way. I do not think any citizen has contributed more than Dana Seetahal to the development of the jurisprudence and the practice of criminal law and practice and procedure in Trinidad and Tobago, and the surveillance laws that we had failed her, and those laws were replete with protections and accountability and audits and so on. So how is this SSA Act going to avail anybody at all?

Madam President, I thank you for permitting me to make these points. I am sorry if perhaps I sounded a little terse, but it is late in the evening. I have to say that I am afraid I cannot in the circumstances support this Bill. [*Desk thumping*]

**The Attorney General (Hon. Faris Al-Rawi):** Thank you. Thank you, Madam President. Madam President, may I start off by first of all thanking all hon. Senators for their excellent contributions. Certainly, it was with great enthusiasm,

sometimes with a little pain, that I received the contributions of my learned colleagues in this debate.

I say so because in discussing this Bill and in wrapping it up now—a Bill which has five clauses long, amends three sections of the parent Act, the Strategic Services Agency Act, and which specifically has a proclamation clause—we have managed to specifically deal with a very touchy issue in our country. You see, this kind of debate has facilitated many members to pour their hearts, emotions and intelligence out and that, Madam President, is certainly an opportunity for democracy to go to work.

If I may, in the very short time that one is permitted to wrap something up of this quality, put it forward this way. Twenty-one Senators have spoken in this debate so far in this Senate. Reference has been made to contributions in the House of Representatives at great detail. I want to firstly state as the wrap-up beginning what the mischief in Trinidad and Tobago is right now.

Right now as a country, we are faced with rampant criminality. We are faced with a situation where detection and conviction rates have plummeted absolutely down to the bottom. We have watched five years previously from 2010 to 2015 and continuing into the six, now seven months of this Government's tenure, we have watched all statistics begin to tank. We have had a National Operations Centre. We have had a National Training Academy. We saw the disbanding of the Special Anti-Crime Unit where statistics were climbing in the right direction for the first time ever. We saw piece after piece of law come to the Parliament of Trinidad and Tobago. We have seen billions of dollars spent on national security; billions in the

National Operations Centre alone, which involves equipment that can be used for surveillance: CCTVs, interception suites, et cetera; all of that, and right now we are being told as a Parliament, well, leave it as it is. Get it right perfectly, not good enough, statistics are not there, let us go to the drawing board, this is an intrusion on privacy, on the functionality.

We heard a short while ago it is year one law schools material to deal with due process. We heard how is this going to deal with the de-siloing of information. We heard judge the SSA by its efficiency and its efficacy. We just heard, very learned colleague, say something which was very important, because in this month of May we are unfortunately recognizing two years since the assassination of Dana Seetahal, this month.

The hon. Senator mentioned something a lil while ago, and I thought twice about saying what I am about to say, but I am going to say it anyway. What has the SSA done effectively or what has interception done in relation to the Dana Seetahal case? Well I can tell you as a matter of fact that it is the SSA's work that has resulted in people standing before the courts today for that offence, and that is a fact. I see a head shake. But carrying somebody before the courts is a matter for the police, the DPP and then for the criminal justice system to work.

Madam President, we are now faced, in terms of looking at the mischief before us that we seek to attend to, having put forward what criminality looks like from an economic perspective. Yes, billions of dollars lost in getting it wrong, man hours lost in ensuring that people stay in jail 10, 12, 14 years. Intelligence-driven

convictions require intelligence to be produced so that when you arrest somebody and you take them through the judicial system, at least you can be guaranteed of some form of conviction.

What does the Judiciary say about that? I have started something which I have not seen others before me undertake, but I have started putting statistics in the public domain. Madam President, would it surprise you to know, outstanding criminal matters before the Judiciary of Trinidad and Tobago Magistracy: at present, 29,090 matters outstanding—murder, 417; attempted murder, 300; kidnapping, 493; arms and ammunition, 5,788; sexual offences, 3,597; narcotics, 5,758; fraud, 5,407; trafficking in persons—robbery, 2,726; wounding, 1,263; larceny, 2,737; just to name a few.

Magistracy: criminal matters pending by length of time as at July 31, 2015. Matters above 14 years, one for murder. Taking murder, matters above five to six years, 24; six to seven years, 14; seven to eight years, five; arms and ammunition matters 14 years old, in the magistracy, 20 of them; narcotics, above 14 years, 14 of them; fraud, matters above 14 years, 13 of them. That is where we are.

Let us look at the Supreme Court. Sexual offences, disaggregated 355 as at July 31, 2015; murder, 366; offences against a person, 349; manslaughter, 55; attempted murder, 103; firearms, 182; dangerous drugs, 109 and others including criminal offences, larceny, forgery, kidnapping, perjury, 617; a total of 2,190 of which 1,180 are over 10 years old. That is some of the statistics.

And so, a Government when it comes in is met with a situation where 51 months

left and counting, criminality running in the wrong direction, detection and conviction going down: are we to stand up now and say, well, most respectfully, let us just leave it as it. Let us continue to do the same thing the same way. Do not worry about it, let us go back to the drawing board as the Opposition says right now: “Let us go to a select committee of the Senate.”

**Hon. Senators:** What do you have against that?

**8.45 p.m.**

**Hon. F. Al-Rawi:** What do I have against that? Standing Orders of the House, similarly reflected in the Senate. A select committee shall consist of no more than six members and may be appointed. Six members—so let us take this to a special select committee of the Senate, and let us have six of us entirely decide the fate of this Bill. Let us now look to—*[Interruption]*

You know, I stayed quiet when 90 per cent of you were contributing, I really did, most respectfully. Let us allow it.

Let us look at where we are. We heard some condemnation, appreciation and condemnation about the Government’s invitation to all Senators to participate in a presentation by some technocrats. I wish to put on to the record the reason why that was offered. Number one, there is a rule against anticipation of Bills, and only after the second reading of a Bill are you permitted to move to a special select or joint select committee, or even to discuss the merits of it. You had to wait for the second reading.

Number two, the second reading was actually one week ago, and it was at that point, hearing some of the concerns of Independent Senators and Opposition Senators, it seemed appropriate to have an information session, particularly when

the Government was made aware that the Opposition had distributed packages to Independent Senators, asking them to consider their position in a particular way. I do not know what it contained; I do not know what it is about. I never got one.

Thirdly, in dealing with a presentation, reflection was had upon the fact that in our jurisdiction, in our Parliament, invitations for it to be held in camera to have sessions like this are not uncommon. They have in fact, been done in relation to a number of pieces of law: the Central Bank (Amdt.) Act, the Purchase of Certain Rights and Validation Bill, the Defence Bill, as it was called, or the Soldier/Police Bill, the Miscellaneous Provisions and Police Complaints Authority (Amdt.) Bill, and lastly in respect of some of the Members of the Senate, certainly the Constitutional (Amdt.) Bill.

This Government decided to make history by being the only government that had the courage to actually invite the Opposition to an event like that. [*Desk thumping*] The event is one where, recognizing that there is a difference between Whip parliamentary practice under Opposition and Government, that the Independents are in a disadvantageous position in that they do not have the ability to caucus and discuss matters themselves, and more particularly in relation to this invitation, matters of national security were going to be discussed and it would not be appropriate to allow members of national security to be identified, particularly when they are conducting sensitive work. It was an invitation for those who wished to accept to attend or not. The Opposition asked for distribution of packages that were given out, they received it.

As I expected, they came here this afternoon and misrepresented exactly what was put to them. Talking, for instance, about bushfires. The slide specifically, in relation to the Tobago Jazz festival and bushfire, said that the National Operation



Centre engaged in those activities. But that is what you get from an Opposition like this. [*Desk thumping*] I did not expect anything else. When an Opposition Senator can stand and say to you, “I specifically advised against giving up a case on Malcolm Jones, and I said prosecute and continue with the case”, when an Opposition Senator can say that, boy, “yuh have to hold yuh head and bawl, as dey say”.

**Hon. Senator:** What about right to privacy?

**Hon. F. Al-Rawi:** I will come to right to privacy in a moment. And the AG did say something close to that, but you misrepresented it, and I will come to that. I have a letter here from the Petroleum Company of Trinidad and Tobago Limited, in writing dated May 10, 2016, which says specifically:

With reference to matters raised by Sen. Ramdeen that to the best of their recollection no such advice that Petrotrin should continue with the litigation was rendered by Mr. Ramdeen at the meeting of 2016, February 16.

And more particularly, they lifted the veil of privilege with respect to advice, and they provided the advice of Vincent Nelson which specifically said you had a bad case, give it up. That is why Sen. Ramdeen could have the temerity to stand and tell the Senate what he said. And more particularly when asked, “Did you put that in writing?” “Nah, ah say it in ah meeting.” But he just raised something further.

You see, Madam President, when I have to listen to people who received \$26,574,235,000 in legal fees, [*Crosstalk*] to advise the Government of the Republic of Trinidad and Tobago, in the period 2010 to 2015, then, Madam President, I have to specifically hold my head and worry, because I have to be concerned.

**Madam President:** Could we let the Attorney General conclude his winding up,

please.

**Hon. F. Al-Rawi:** So it is very convenient to stand here today with luxury on your side, pockets full and say things. I have not named who this person is, I have not said who this person is, but I think people know who they are, and I find it very convenient that people forget where they come from and what they have done.

But, Madam President, I heard across the floor “right to privacy”. I heard a bold and brave statement from a Senator today, telling me to produce one case that talks about privacy, Lord God.

High Court of Justice

Claim No. CB 2014-01948

Between

Therese Ho

Claimant

Lendl Simmons

Defendant

Decision before the honourable Mr. Justice Frank Seepersad

Date of delivery: October 26, 2015.

Permit me to put this on the record, Madam President. The hon. Senators opposite specifically said that they had complication—I am just looking for it. They said that I said that there is no right to privacy, and I wish for the record to deal with this. House of Representatives opening statement that I made specifically on this Bill, I had nothing to say about the right of privacy. Number one, House of Representatives closing statement, I specifically said in relation to the right to privacy—and the paragraph goes this way:

“But on the basis of constitutionality, if one were to disaggregate the arguments presented and say perhaps that there has been an intrusion in a section 4(a) or 4(b) of the Constitution rights, where the Constitution speaks

to the respect for private life.”—I said:—“There is no statement in our Constitution for a right of privacy. This is a matter of fact in the laws of Trinidad and Tobago. There is a recognition for private life, and in recognizing private life there has been a plethora of law...”—and specifically—“and I will put it in summary form...first of all...that there has been no serious local judicial consideration of the right to respect private life, that is section 4(c) of the Constitution.” [*Desk thumping*]

I want you to note two things there. One, in speaking to an alleged three-fifths constitutionality, I said if you accept the argument that there is, in fact, an intrusion, then perhaps you ought to consider something, and I specifically spoke to the right to private life and there being no serious judicial consideration. But I went on to specifically say later, in relation to privacy, that privacy did not apply in relation to the case of *Marper v the UK*, in the context raised in the House of Representatives, because that concerned the retention of fingerprints and DNA data for an inordinate length of them.

Coming back to the point right now, I would also remind that in the Senate, specifically on May03, 2016, I referred to privacy as follows—and obviously the editorial did not get this right in the *Express* so permit me to put it right here:

We say there is no enshrined right being infringed. We say specifically there is a no right to privacy as some people allege exists in this jurisdiction, but which our courts do not specifically recognize. Our Constitution does in section 4(c) recognize the right to private and family life. Our courts are replete with judgments that say that the right to privacy is not a right per se.

And a first year law student would know that “per se” is in reference to an actionable right for damages. When you are speaking about that you come to the

seminal judgment of Mr. Justice Frank Seepersad where he puts out specifically the following:

In this jurisdiction therefore, no action can be founded based on a failure to respect the privacy of a person. Given the rapid pace with which we face the fabric and society has changed and cognizant of the infinite reach of social media, it cannot be denied that the privacy of the person is under attack and there is dire need for the enactment of statute to afford protection for citizens' personal privacy. [*Desk thumping*] It must also be recognized that while the courts in the United Kingdom are now obligated to apply the law in relation to breach of confidence in a manner that is consistent with that nation's obligation, under the Human Rights Act 1988, and its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, no such obligation exists in this jurisdiction.

So, Madam President, most respectfully, if Senators are going to get it wrong, they must at least do so with a little class, and that requires them actually reading what was said and being honest about the contribution about what a per se right is. [*Desk thumping*]

So I take no guidance from Sen. Wayne Sturge and Sen. Ramdeen in particular. I take no guidance from them. And I will certainly not take second-hand information from a reporter who asked a question that I do not know about, and then reports something. Because I put it down that I am confident that Mr. Justice de la Bastide would know what he is saying, provided that the context is revealed to him. Madam President, I think that deals with that.

I would like to know what Sen. Sturge is going to now that he has one case, where the big filibuster is going to right now. He has none, zero, "it doh exist".

Where are we right now, \$24 million later—in some cases. Madam President we are dealing with constitutionality and there is an allegation that there is a three-fifths majority that applies in this case. I heard hon. Senators say, “Produce some advice. Tell us you have advice.” What was the expression used, that that would be some secretarial advice if anybody were to give advice that there is no breach of the Constitution, as put by Members of the Opposition.

Under the hand of Carol Hernandez, Solicitor General of the Republic of Trinidad and Tobago, written advice dated May 8, 2016, there is confirmation that this SSA Bill does not require a three-fifths majority and is certainly not one which infringes any rights. [*Desk thumping*] I do not know that the Solicitor General is a clerk or a second hand student of law, but I am confident that her opinion means something in this country. [*Desk thumping*] We heard many people speak about efficiency— [*Interruption*] regrettably not, time is short.

**Sen. Mark:** No, I will take the document.

**Hon. F. Al-Rawi:** Yes, the document of course. I will circulate the document to everybody here present. Thank you, I apologize.

We heard hon. Members speak about efficiency. We heard them speak about the SSA having produced absolutely nothing, and I want to underscore this point. The only people, officers, entity with responsibility for laying charges and arresting people and taking them through the courts, involves a combination between the DPP and the Trinidad and Tobago Police Service. What they do with information is entirely up to them. It worked in a different fashion when the Special Anti-crime Unit was at work, but I have no explanation for the Trinidad and Tobago Police Service—none at all.

**9.00 p.m.**

I noticed the Opposition beating the desk heavy. I did not see them beating the desk to explain the TTPS's role when the juice and the cocaine were found under their watch. Because I would know that it would be obtuse to say that it was solely a political failure. That is a matter where the operationality of the police must fall under the supervision of a police commissioner who has responsibility to drive his work in accordance with his responsibilities under the legislation and the Constitution.

We heard Members speak to the issue of the Joint Select Committee, and I had pressed pause on that operationality, and I wish to most respectfully suggest that sending this Bill to a Special Select Committee of the Senate where there are only six members permitted, would not be to have the most appropriate ventilation of issues raised in the Bill. And in dealing with that I want to point out that—and I had stuck a pin in this argument a little while ago—the last Government left behind it a policy on the amendment of the SSA Act, a policy on the National Operations Centre, a policy for the establishment of a National Operations Centre Part II, and all of these pieces of policy and recommendation recognized specifically that the SSA's architecture, as framework as it is, is an appropriate form of architecture to be left exactly as it is, specifically with respect to the appointment of a director, and specifically requiring, if one were to get it right, a much broader approach.

But after five years of UNC fulminations on this, we absolutely can record now a note on their product—nothing happened. It went nowhere. The National Security Council spent billions of dollars acquiring assets that went under the Office of the Prime Minister, and we are invited today to keep it as it is. Do not worry to change it. Let us talk some more. Six years was not enough. Let us have some more fulminations. I can say that I do recognize that it is appropriate for us to have a

better structure, and in that regard I am very pleased to say that the Ministry of the Attorney General is specifically looking at the improved access to justice in the Caribbean, worked product dealing with the establishment of an agency of government to be known as the major organized crime and anti-corruption agency to investigate and prosecute major organized crime, serious economic or financial crime, acts of corruption, and cybercrime and matters relating thereto. We are looking at that. [*Desk thumping*]

But, will that help us today if you disaggregate long-term, medium-term and short-term objectives? How do we deal with the criminality that the last Government unleashed by dismantling our border protection, by dismantling our surveillance and security apparatus? How do we deal with the criminality today in the short-term and medium-term? Do we just stand up and take it UNC style and discuss it for another six years? We have 51 months left. We have published a legislative agenda as a Government. We are here before the Parliament to say, let us put together mechanisms to deal with this. We recognize it may not be absolutely right for what our country needs, it may not factor economic reasons, et cetera. We disagree on the functionality aspects and the efficacy ratios, because Peter paying for Paul by the analysis of TTPS versus SSA. But, we say in the short-term we have got to do something differently. And therefore we say it is appropriate to not broaden the functions of the SSA, we are not doing that at all, except for one material point, the one material function we have broaden is the ability to train these services, and not just agents in one area.

We have brought in the ability to train all of the services as defined. And, specifically, in expanding the definition away from drugs and narcotics we are saying, in fact, look, the annual reports of the SSA demonstrate in their report of

2010, 2011, 2012 and 2013, and in the draft report for 2014 and 15, which we have, they say that the SSA was engaged in functions which on the face of it appear to be broader than their statutory mandate. But, we are coming to say that now. The Opposition which was in power for five years said absolutely nothing. They produced report after report on it and had absolutely nothing to say. So, do not come and tell you, listen, there is some concerns about the breadth of their operationality. Do not say that. Just publish a report, hope nobody reads it, and we are good with that, and they are coming to confess an illegality Sen. Sturge says. Really? We are coming here to undress a situation that requires some attention. Where you would hide, we are coming to the light; where you say there is no problem, we say there is time for a solution; and we specifically say that doing it the way the UNC did it is not appropriate, because the results are not there.  
[Desk thumping]

Do you know that section 8 of the current Bill, the current Act, the SSA Act, specifically allows for disclosure of matters of serious crime? The SSA Act, un-amended, in section 8 says, in relation to part 2(b), that you may disclose matters of serious crime. But serious crime is not defined in the legislation. We come today to define it in the legislation for the first time. I heard Sen. Shrikissoon raise a very important point, which I wish to address. He raised, if I understood the submission this way, the potential argument that the SSA Act, because it allows for disclosure, that it can intrude as a back door into a realm that it should not. He says he recognized that the Interception of Communications Act has the ability to collect information, and he says, the SSA has the authorization to disclose it.

I wish to put on the record that is not the way it works. The SSA cannot engage in interception of communication except and under by the Interception of



Communications Act. The Interception of Communications Act was passed in 2010, you can only engage in surveillance, Chief of Defence Staff, Commissioner of Police, Director of the SSA as authorized officers can only engage in surveillance for matters described in that piece of legislation and it criminalizes any disclosure of information. Absolutely criminalizes it, and you cannot disclose it unless you want to face \$250,000; three years imprisonment on a summary conviction basis. And subsequent legislation impliedly has the effect of repealing previous legislation, and therefore the SSA Act is trumped by the Interception of Communications Act. Specifically, section 14 of the Interception of Communications Act says that there is to be confidentiality strictly observed with respect to interception of communication. Section 17 speaks to the sensitive information, Interception of Communications Act. Section 20 says you must destroy information which is intercepted and which does not go to court. It is a strict requirement. You must have the operationality in conjunction with the Commissioner of Police, Chief of Defence Staff, and the DPP, and you shall destroy it strictly. Section 23(2) is where you get the offence for disclosure. Just to address that particular point.

We heard that other jurisdictions do it differently. And I wish to point out to hon. Senators, that I did a tour of all related jurisdictions and I found that those jurisdictions, in fact, the European Union as an entity, United Kingdom, France, Netherlands, Portugal, Romania, Sweden, in looking at all of these jurisdictions, what you see in operation is a balance being provided by authorization by a member of the Executive, for national security and other reasons, an Executive Member. But, the balance is provided more particular by a joint select committee or committee of Parliament. And in all of these jurisdictions when you look at it,

the fine line of dividing balance is now between the rights of the individual versus the rights of the public. As Baroness Hale recognized so well in the case of *Surratt*, no right is an absolute enshrined right. There is a balancing act to be had. And, most respectfully, I wish to put to hon. Senators that this law has to be considered in the context of what is brand new to our jurisdiction, the equivalent of section 93, Standing Order 93 of the Senate and Standing Order 103 of the House of Representatives, and I wish to put it into the record:

“The Committee on National Security shall have the duty of considering, from time to time, and reporting whenever necessary, on all matters related to the national security policy of Trinidad and Tobago. In particular, the Committee shall be authorized to examine—  
the security, safety and protection of citizens;”

Listen to this one:

“the working relationships between the various agencies involved in intelligence gathering, and how they collect, co-ordinate, analyse and disseminate information on how these functions might be enhanced;  
the mechanisms to review the performance and activities of the various agencies involved the National Security...”

This is ground-breaking. This is what provides a proportionate balance, if you do not want to look anywhere else. If you believe that the Auditor General’s product, which resulted in LifeSport condemnation and action flowing from it, was not good enough. Well, then okay. If you believe that the Auditor General’s purview into the IPO into FCB was not good enough, even though there is action flowing from it. Well, then okay. If you do not believe in all of those things look at the Standing Orders here and understand what this is about.

**Madam President:** Ten more minutes.

**Hon. F. Al-Rawi:** Thank you. Madam President, we understand that there is concern in relation to the definition of serious crime. I touched on it there. But, I would to put the definition in the context of the treaty obligations that we face, which attaches on to a mischief. We in Trinidad and Tobago have just undergone our fourth round mutual evaluation of the Caribbean Financial Action Task Force. The final report will be put into the public domain after June 11, 2016, when the plenary is held in Jamaica. The potential sanctions, and I must say potential even though I know otherwise, because I do not want to breach the privileges as the Chairman of CFATF.

But, I would like to say that the sanctions potentially include condemnation for our failure to activate our laws appropriately. And one of the issues that ground us into difficulty have to do with the siloing of information. And these consequences are very time sensitive. These consequences require us to operationalize law right now lest we are determined to be uncooperative in the international arena. But, who put us in the international arena? I want to put it on record. It is Mrs. Kamla Persad-Bissessar, for instance, who signed us on to United Nations Security Council Resolution 2178, which specifically deals with antiterrorism, and guess who was appointed as the prime contact to deal with terrorism. You will never guess who.

**Sen. Ameen:** We all know, so do not pretend it is not—

**Hon. F. Al-Rawi:** The head of the SSA.

**Sen. Ameen:** Well, this is it.

**Hon. F. Al-Rawi:** We just heard a UNC Senator say a little while ago, Sen. Sturge, that the SSA is involved in matters that they should not be involved, one of

them being terrorism. But, yet, his Prime Minister-in-waiting and past Prime Minister, had the good sense to put the director of that SSA as the prime contact for that law.

The United Nations Commission on Narcotic Drugs, who is the prime contact? Director, SSA. The United Nations HONLEA? Director of SSA, prime contact. The EU-LAC Coordination and Cooperation Mechanism on Drug? SSA Director. The COPOLAD? SSA Director. The UN Convention against Transnational Organized Crime? The SSA Director. The OAS Technical Group of Experts against Transnational Organized Crime? The SSA Director, who is in fact the chair. Multilateral Evaluation Mechanism? SSA Director. So, what are we to do? Listen to the Opposition, believe the Opposition, have any conscious reflection on what they say? Really, Madam President? This is the advice that we are being given, Superman flying off into the sunset and all? [*Laughter*]

I heard a Senator today say, yes, he is wearing his bra. I did not know what that meant in this debate, but it gave me some form of reflection as to how seriously the debate was being considered. Madam President, I think it is worth the while specifically to clean up the irregularities in the SSA, do not have them on the footing where they say, look this thing can fall under the definition of drug activity, et cetera, which is what they have been doing, but allow them the opportunity to clean up their affairs. But, no, not the Opposition. Let us not do that. Let us go and talk about it some more.

**9.15 p.m.**

Madam President, we saw specifically, the Opposition—

**Madam President:** Hon. Attorney General, you have five more minutes.

**Hon. F. Al-Rawi:** Thank you, Madam President. Madam President, we are looking to some serious issues. We heard Sen. Richards raise a very important issue about the media. We heard the Opposition try to scandalize the intrusion of the media. I can tell you with certainty, you will see No. 3 on our legislative agenda, the Cybercrime Bill. I have drafted the amendments already to deal with the protection for the media.

I understand Sen. Chote's concerns in relation to the whistle-blowing protection; specifically, the whistle-blowing protection has to factor how national security operates, but most respectfully, we cannot confuse the inter-articulation between the Interception of Communications Act and the SSA Act. They are mutually exclusive on the concept of how one operates under the SSA Act and how one operates under the Interception of Communications Act because you can only intercept communication under the Interception of Communications Act and the person in the SSA who does that is bound to observe those laws.

We heard as well that we are looking to rush something. What is the reason for rush, specifically attaching again onto the mischief. It is incumbent to say that our National Risk Assessment which was delayed under the last Government and which will be produced in a matter of months will speak to the fact that we have a need for rush to get to solution in this country. Most respectfully, Madam President, I think it is time that we stop talking, fulminating, planning to plan again, to plan again, to have a plan to plan again, as the Opposition invites us to consider, and instead understand that if it is all gone wrong so tragically in the past it is time to do something differently.

We believe in summary that this Bill does not require a three-fifths majority at all as confirmed by the Solicitor General. We are confident that the Interception

of Communications Act trumps the SSA Act. We are confident that there is no actionable right with respect to damages as it relates to the right of privacy which is still in a state of development and flux as recognized by Mr. Justice Frank Seepersad. We are confident that the siloing of information can be removed through the cooperation of entities because our international partners tell us they will not share information with Trinidad and Tobago in the current state that it is in, that they require one entity that can be a coordinate entity to act within the parameters to receive information, because foreign terrorist fighters is a big issue for Trinidad and Tobago.

It is a fact, having signed the United Nations Resolution 2178 as Mrs. Persad-Bissessar did, that we have exposed ourselves to odium and we must treat with it, but if we want to get the intelligence and information from our international partners and if we want to get it now we have to make sure that we have the shell, as Sen. Chote refers to it, of laws to allow us for that input.

Madam President, it is not easy to wrap up 21 speakers' concerns. Suffice it to say that ultimately this thing will be put to the test. I wish to thank you for the opportunity to engage very important issues in this Senate, they are certainly very heartfelt, and important issues for us as a country and all that I can say at this point is that I beg to move. [*Desk thumping*]

*Question put.*

**Hon. Senator:** No division, Madam President?

**Sen. Dr. Mahabir:** Madam President, division?

**Madam President:** Is it the normal practice, Sen. Mahabir, to take a division at this stage, the second reading?

**Sen. Dr. Mahabir:** Only if you have noes. Okay, fine.

**Madam President:** May I just point out the ayes outweighed the noes, what I just heard, and it is therefore my—I am now putting it to the Clerk.

**Sen. Mark:** No, even though that happens we will be ready to—and you must take the division.

*[Clerk begins the division]*

**Madam President:** No! A division was not called for in my recollection just now. I posed the question that the Bill be read a second time. Those in favour say aye, I heard ayes, I heard noes, I said the ayes have it. No one called for a division. Is it that you are calling for a division for the Bill to be read a second time?

**Sen. Mark:** Yes.

*The Senate divided:*      Ayes 17                  Noes 13

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W.

Cummings, F.

Baksh, Miss A.

De Freitas, N.

Stewart, Miss N.

Strategic Services Agency  
(Amdt.) Bill, 2016  
Hon. F. Al-Rawi (cont'd)

Huggins, R.

Sinanan, R.

Roach, HRI

Junkère, J.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

Mahabir, Dr. D.

Shrikissoon, T.

Ramkissoon, Miss M.

Chote SC, Miss S.

Creese, S.

Raffoul, Miss J.

Richards, P.

*Question agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

**Madam President:** Hon. Senators, now that we are in committee stage, I will now suspend the committee, the sitting of this committee for 15 minutes. Well, actually we will suspend until 9.45 p.m. and we will come back to committee stage at 9.45



p.m.

**9.25 p.m.:** *Committee suspended.*

**9.50 p.m.:** *Committee resumed.*

*Clauses 1 and 2 ordered to stand part of the Bill.*

**9.55 p.m.**

*Clause 3.*

*Question proposed:* That clause 3 stand part of the Bill.

**Sen. Mark:** Yes, Madam Chair. We have circulated some amendments to clause 3 of the Bill. We have sought to introduce an intelligence review committee which we will elaborate on in section 15 of our amendment and Madam Chair, it is important to note that having regard to the expansion of the mandate and remit of this agency, it has now become important for us to have an independent civilian committee to oversee which is distinct and separate from what we have in the current legislation as was explained earlier by the Attorney General.

The second area that we have put for the consideration of the Senate is the need to insert an information sharing agreement and it is outlined what that agreement would mean in the context of our proposal. We have also suggested that in the definition “crime prevention”, we delete the word “combating” and substitute the words attempts to reduce and deter serious crime. We have also sought to redraft the concept and definition of “serious crime”. We have some reservation, severe reservations about including the language in the current definition. So we are asking that we delete the words “includes offences related to” the various offences outlined and we have placed in Schedule 1 those offences.

So these are the initial amendments that we would like to propose for the consideration of the hon. Attorney General, with a view to tightening up the definition of “serious crime”; removing the word “combating” from “crime

prevention” and inserting the word or the concept information sharing agreement and finally, the concept of this intelligence review committee.

**Madam Chairman:** Hon. Senators, let me just, in going over this proposed amendment, I am seeing, Sen. Mark, that in your definition of committee, you are referring to another amendment later on—that we will be dealing with later on. So I am proposing that we defer the discussions on this amendment until later on in the Bill in the committee stage. [*Interruption*] Yes, yes because you will see that for committee—well, let us deal with the whole clause, the amended clause, let us deal with that, let us defer discussion on it. All right, because of course, it would depend on what happens with your other amendments later down with respect to that intelligence review committee, the section 15 which is a new clause. All right?

**Sen. Mark:** Okay.

**Madam Chairman:** So I am asking that we defer—members of the committee, we defer discussions on this amendment until later on. Yes?

**Mr. Al-Rawi:** Madam Chairman, may I just thank you for that observation. I was just about to suggest to Sen. Mark, because this is the definition section and what may be tweaked in terms of a definition may be considered in a subsequent clause which you will invite us to consider, if we not reject or accept yet but just simply defer it to come back to it specifically until after we have dealt with the place where it will be substantively inserted so that we can consider it from that point.

**Sen. Mark:** Madam Chairman, if you would allow me a moment before you proceed, I just want to ask the Attorney General whether the definition of “serious crime”, through you, Madam Chair, seeing that that is something that we can probably dispose of very early in the definition section, whether you would want to give consideration at this time to the proposed amendment as circulated rather than

leaving all the definitions under the section of interpretation for some time later on in the proceedings or whether you will want to probably consider the concept and definition of “serious crime” at this time and see if we can have a meeting of the minds on that specific definition and then move on to the other section and defer the rest for later on. Just a suggestion I am putting for your consideration.

**Mr. Al-Rawi:** If I may, Madam Chairman. Thank you, Sen. Mark. There is a lot of merit in Sen. Mark’s submission because “serious crime” finds itself repeated in every other clause that is to be amended. Sen. Mark, if I could say without being presumptive that the amendments circulated by the Opposition are very welcomed. There is a great deal of merit in some of the observations made in the suggestions. The difficulty which the Government has in relation to the proposals is that we feel that this is the subject of a more comprehensive amendment package, including in particular potential amendments to the Interception of Communication Act, the FIU legislation and perhaps POCA as well, the Proceeds of Crime Act. It is for that reason that I have informed that we are, in fact, looking at some new omnibus legislation which the international community has helped to draft and which is going to be the subject of direct consideration.

It is for those reasons that the Government’s position with respect to the definition of “serious crime” is to maintain that which we propose in the Bill but I do not want you to walk away with the rejection per se of the fact that the Government will not consider the approaches made, but unfortunately on today’s date, we would not be able to consider, at least from our policy perspective, ameliorating or changing the concept which we have come with. That may have the effect of stymieing obviously consideration which we would like to give on a clause by clause basis because the committee of a whole is intended to look at it that way. So I just wanted to put that out as the background to the manner in which we

intend to engage some of these proposed amendments.

**Sen. Mark:** Madam Chairman, I do understand the Attorney General's view but you would appreciate that the definition as we have it in the legislation is a bit vague, a bit ambiguous and it leaves even the director with a certain kind of unfettered discretion in determining what is serious crime, and how it is related to the offences that we have categorized under "serious crime". I believe that innocent people could be trapped easily by this loose definition given to serious crime, and that is why we were suggesting that the way how it is currently drafted to include offences related to, we found that was too broad, too nebulous and ambiguous.

And it is against that background, we felt that we ought to be a little more clear in law so that, for instance, whoever is applying and interpreting this law, they would be very clear in their minds that there is no discretion or ambiguity insofar as the application of this law is concerned. And that is where we have a serious concern with the current definition, Attorney General. So I know that that is your policy but we too have a serious reservation as the definition currently stands.

**Mr. Al-Rawi:** Through you, Madam Chair, thank you, hon. Senator, for expressing your views as clearly as you have. The one concern that we have to put on the record is that fortunately, the greatest area of intrusion would only be under the Interception of Communications Act and the matters which an authorized officer can intercept, that authorized officer being the director, the Commissioner of Police or the Chief of Defence Force, those are prescribed only by the Interception of Communications Act.

The typologies and the creation of statistics, et cetera, in relation to serious crime is, however, a very different thing which is excluded out of surveillance or interception of communication. And for those reasons, we wish to respectfully

defer from the Opposition's submission and perhaps, we could end it at that point unless, Madam Chairman, with your guidance, we are to put it to the vote or otherwise.

**Madam Chairman:** Hon. Attorney General, Sen. Mark, remember initially I had suggested that we defer this and the reason, you are both speaking about (b) and (c) but we are not talking about (a). And the issue of (a) comes up later down for further amendment and that is why I suggested that we defer this until we deal with the subsequent clause.

**Sen. Mark:** Okay, Madam Chair.

**Madam Chairman:** Yeah, all right.

*Clause 3 deferred.*

*Clause 4.*

*Question proposed:* That clause 4 stand part of the Bill.

**Sen. Mark:** Well, Madam Chair, you will realise that, again, because of the broad remit given to this or the enlarged remit given to this agency, we have sought to bring some further changes to the principle legislation. Now, Madam Chair, through you to the Attorney General, the legislation as currently outlined, that is the parent legislation, along with the current amendment that is before this honourable House, does not provide for the office of a deputy director. So if you look at our clause 4 in section 3, we are suggesting—

**Madam Chairman:** Sen. Mark, I am sorry, but let me just interrupt to say that you have a clause 4. Clause 4 as amended on page 3. So that is what we are dealing with now?

**Sen. Mark:** Yes.

**Madam Chairman:** I think we should be dealing with that.

**Sen. Mark:** No, no, may I correct myself? What we are dealing with is we are

continuing in this section of definitions where for instance—but we have to go to the principal Act, Madam Chair, because as I said, because of the wide remit given to this new agency and because of the new offices that we are seeing appearing every day in the newspapers, we felt it would have been very useful for the Government to consider including a section in the legislation, that is in the parent legislation, to define the role or define the position of deputy director. Right now in the legislation, there is no such position.

**Madam Chairman:** Sen. Mark, yes, I am sorry, but let me just point out that we have to go—we are dealing with the amendment Bill. Right, and we have to go through the Bill clause by clause. So we are dealing now with clause 4 of the Bill for which you have circulated an amendment, so we have to deal—it is on page 3.

**Sen. Mark:** Okay, right.

**Madam Chairman:** Okay, so we have to chronologically deal with it.

**Sen. Mark:** Okay, yes.

**Madam Chairman:** Other Members, are you all—okay.

**Mr. Al-Rawi:** Sen. Mark, Madam Chair, just to remind, just for the assistance of those who may be in committee for the first time, the process is that we take: all clauses first, new clauses after and usually go back to the definition section last as it is impacted in others.

**Madam Chairman:** So, Members, we are dealing with clause 4 of the Bill. Sen. Mark has circulated an amendment to clause 4.

**10.10 p.m.**

**Sen. Mark:** I would ask the hon. Attorney General to consider this particular clause here. That deals with, for instance in paragraph (a), we are deleting the words “illicit traffic in narcotic drugs”. I do not want to go through, Madam Chair, all that is written here. I think I would imagine that Members would have read the

provision, but if Members would like me to go through the proposed amendment I will go through the amendment.

We are proposing that in paragraph (a), we delete the words “illicit traffic in narcotic drugs, psychotropic substances and precursor chemicals for coordinating operations for the suppression of serious crime suppression of” [*Interruption*]

**Madam Chairman:** Sen. Mark, it is quite a few, so I do not think it is necessary for Sen. Mark to read all of the proposed amendments. The amendments are before us.

**Sen. Mark:** As circulated.

*Question, on amendment, put.*

**Sen. Mark:** I would like to hear the hon. Attorney General's views on this proposed amendment to clause 4.

**Mr. Al-Rawi:** Sure. Thank you Sen. Mark, if I may. First of all, the proposed amendments maintain substitution of serious crime as redefined as we will see as proposed in your reworked definition section where you schedule out as a proposal “serious crime”, as opposed to the manner in which it is described there. From that perspective it is quite palatable. Unfortunately, however, the position in relation to the proposals as disaggregated in (b) and (c) of your proposed amendments as circulated take us to a point further than we are currently prepared to move. But, again I draw the caveat that the submissions that have been passed around by the Opposition do certainly occupy our attention right now and are being actively considered, one, in relation to the draft regulations, which are to be brought before the Parliament for negative resolution for this Bill and also the Interception of Communications Act and, secondly, in the proposals for the replacement of this agency as the international corporation with the project, that I described earlier is afoot. So it is something that we have taken into active consideration and I do

hope that it will form part of our work product in the very, very short future, near future.

**Sen. Ramdeen:** Hon. Attorney General, one of the reasons why we have proposed the—through you, Madam Chairman, I am sorry—the amendments at (b) and (c) is because the basis upon which the amended Bill as brought by the Government was that there would be no operationalization in relation to the functions of the agency and we had some concerns about the functions as left in the principal legislation and we tried to tighten it to fall in line with what the policy of the Government was when they brought the Bill to Parliament.

**Mr. Al-Rawi:** Understood and clearly noted in subparagraph C of the proposed amendments where the prescription is that the agency, out of an abundance of caution, be obliged not to carry out police functions or any other type of law enforcement, which is a very laudable point to have noted. It is something that we are actively considering. Right now, we choose to be prescribed by the constitutional guards which would prevent the powers of arrest or otherwise from operating.

But I wish to point out that the complication with the proposed subparagraph C lies insofar as police officers are in fact under the parent Act seconded as are public servants falling into the category of customs or immigration seconded. And if we were to take out the veil of the amendment proposed in subparagraph C now we would have an implied effect upon the powers which move with secondment, as permitted by law. So that has a collision with the constitutionality of the vesting of powers under the police service legislation and also the public service, where the Customs and Immigration also have powers. So it is for that reason that we wanted some more time to consider the impact of that proposal because it would impliedly redound the functionality of seconded officers, as permitted under the



parent legislation.

**Sen. Ramdeen:** Only that the agency will also have the power, not only in relation to seconding people from Customs and Excise and police, but they also have the power independently of the functions that fall under those Service Commissions to employ persons who would be outside of the Service Commissions as well.

**Mr. Al-Rawi:** That is in fact correct, because you are allowed to have contract officers as section 5 of the parent Act allows and it is in that regard that the nomenclature, which is applied to employees, has become an issue raised in the debate. For instance, the use of a phrase deputy director is one which certainly is permissible under section 5 of the parent Act. But really it is the difficulty of not having promulgated regulations that causes some degree of speculation, which is why we are hard at work on the regulations right now.

**Sen. Mark:** Madam Chair, seeing that the hon. Attorney General is very amenable to some of these recommendations and amendments and the Government is actively considering amending legislation further into the future, would you want to probably consider having a sunset clause in this legislation, which would really bring us together within a two-year time span, which would give us sufficient time to review, as you are advancing, the various changes; whether it is the Interception of Communications Act, whether it is the parent legislation to tighten up provisions; whether you would want to consider establishing a provision in the legislation, which we capture, as you know, as a sunset clause, and this amendment will go up to the year 2018 or 2017? Would you want to probably look at that or that is a serious policy issue that you cannot deal with?

**Mr. Al-Rawi:** May I answer that question as follows? The use of sunset clauses are, of course, not uncommon. We will in fact be, very shortly, obliged to debate the Anti-Gang Act and the Bail (Amdt.) Act, which we did in 2010, for the very

reason of a sunset clause. We do have the benefit of a committee of undertakings in the Parliament now under our particular system of the new amended Standing Orders and we are certainly on record as saying that we are going to bring regulations to deal with both the Interception of Communications Act and the SSA Act.

The SSA regulations have not come for 21 years. We intend to bring them immediately and the Interception of Communications Act has not been dealt with by way of regulations for now nearly six years. But we are working on both of them. So it does not go as far as a sunset clause but it does constitute an undertaking on the record, and certainly we are confident that there will be a move to deal with these regulations appropriately. To make the step to commit to a sunset clause, I would have to have had Cabinet approval for such a policy consideration and regrettably I do not have that approval as we stand now.

**Sen. Ameen:** Through you, Madam Chairman, I do appreciate the Attorney General indicating that many of these recommendations are actively under consideration. If they are actively under consideration, the question comes up as to whether we should be voting on it. So am I getting from you, in a short story, that you are not willing to consider this at this time? Because at the end of this process, we have to vote on it, and if it is actively under consideration and you want to consult with Cabinet, and so on, it means that we would not be able to vote on it at this time. I am just trying to get from you in a very short story form, whether the committee is going to vote on this tonight or not.

**Mr. Al-Rawi:** That is as smooth as you can get, Sen. Ameen, and very direct as well, so I thank you for the question. But I can put it this way, it is certainly our intention to move towards a vote tonight. What I am saying very openly is that the Government would not be on the best track to ignore sensible proposals. The

difficulty we have is disaggregating short-term, medium-term and long-term products, and so we accept that we are, of course, open to challenge for the way that we go but we certainly intend to stick to our guns and move towards a vote and run the risk of whatever that vote may be.

**Madam Chairman:** Hon. Senators, I think we have had enough discussion on this proposed amendment. We have even gone beyond the amendment.

**Sen. Ameen:** Shall we go subsection by subsection?

**Madam Chairman:** That is what we are doing, Sen. Ameen. So we are still dealing with clause 4.

*Question, on amendment, negatived.*

**Sen. Ameen:** Madam Chairman, I was asking you, Madam Chairman—

**Madam Chairman:** Just one second Sen. Ameen. So after that vote, clause 4 now stands part of the Bill. Hon. Senators, let us try and stick with the programme here. Sen. Mark proposed an amendment on clause 4 and a vote was just taken on that. The amendment was not accepted.

*Question put:* That clause 4 stand part of the Bill.

**Sen. Dr. Mahabir:** No, division.

*The Committee divided:* Ayes 17      Noes 13

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W.

Cummings, F.

De Freitas, N.

Baksh, Miss A.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Junkère, J.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

Mahabir, Dr. D.

Shrikissoon, T.

Ramkissoon, Miss M.

Chote, SC, Miss S.

Creese, S.

Raffoul, Miss J.

Richards, P.

*Question agreed to.*

*Clause 4 ordered to stand part of the Bill.*

**10.25 p.m.**

*Clause 5.*

*Question proposed:* That clause 5 stand part of the Bill.

*Question put:* That clause 5 stand part of the Bill.

**Hon. Senators:** Division!

*The Committee divided:* Ayes 17 Noes 13

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

De Freitas, N.

Baksh, Miss A.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Junkére, J.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, D.

Mahabir, Dr. D.

Shrikissoon, T.

Ramkissoon, Miss M.

Chote SC, Miss S.

Creese, S.

Raffoul, Miss J.

Richards, P.

*Question agreed to.*

*Clause 5 ordered to stand part of the Bill.*

*New clause 4.*

In Section 3

- A. In subsection (1) insert the words “, Deputy Director” after the word “Director”.
- B. Delete subsection (2) and insert the following new subsection:
  - “(2) In performing its functions under this Act, the Agency shall—
    - (a) do all such things authorized by section 6 of this Act to keep Trinidad and Tobago secure, independent, free and democratic;
    - (b) act—

- (i) in accordance with the laws of Trinidad and Tobago law and all human rights standards recognized by the laws of Trinidad and Tobago;
- (ii) in the discharge of its functions, independently and impartially; and
- (iii) in a manner that facilitates effective oversight.

*New clause 4 read the first time.*

**Sen. Mark:** Madam Chair, we have proposed, as circulated, an amendment, a new clause that would address some very important areas of the legislation. Again, because of the broad remit of this new agency, because of the new mandate given to this agency, we are proposing in subsection (1) that we insert the words “Deputy Director” after the word “Director”, and that—[*Interruption*]

**Madam Chairman:** Sen. Mark, again, you do not have to read out all the amendments.

**Sen. Mark:** Okay.

**Madam Chairman:** Does anyone want to—

**Sen. Ramdeen:** Madam Chairman, through you, I think, without reading it out, the purpose of inserting the new subsection (1) and the new subsection (2) is to really try to tighten the legislation, and bring it in line with what the Attorney General has indicated. The principles that we have set out at A, B, (i), (ii) and (iii) are really principles of general application that will bring us in line with our international obligations and the domestic laws and the Constitution. Therefore, we want to make sure or to ensure that this acts as a safeguard on the functions of the agency. So that that really is the basis upon which we propose this amendment to section 3.

*Question proposed:* That the new clause 4 be read a second time.

**Madam Chairman:** I think the noes have it.

*Questioned put and negatived.*

**Sen. Ameen:** Madam Chairman—

**Madam Chairman:** I am sorry?

**Sen. Ameen:** When you are finished with the vote I will—[*Interruption*]

**Madam Chairman:** Yes.

Hon. Senators, the new clause 4 is not added to the Bill, okay? Yes, Sen. Ameen, sorry?

**Sen. Ameen:** Madam Chairman, I am wondering because the—it is sectioned, you have A, B, C, you have (i), (ii), (iii) of each part and so on. I feel that members of the committee should be given the opportunity to deliberate on each one, and I am asking—[*Interruption*]

**Madam Chairman:** Please, Members, could we hear, Sen. Ameen?

**Sen. Ameen:**—because it seems very clear that there are people who are not receptive to any amendments at all. I am asking that we should give consideration because there may be members of this committee who may agree to A, but not to B, for example. So I am just putting this to you, Chairman.

**Madam Chairman:** Sen. Ameen, yes. Let me just explain. These are now new clauses. The amendments have been circulated. They are in writing. They have been circulated. There is, therefore, no need for each part of a clause to be read. It is just one clause. So we have dealt, hon. Senators, with new clause 4, which was not added to the Bill. Okay? Let us proceed.

*New clause 6.*

In Section 4

A. Insert the words “or Deputy Director” after the word “Director” wherever it appears,



- B. In subsection (1),
- i. delete the words “Subsection (2)” and substitute the words “subsections (2) and (3)”,
  - ii. after the word “President” insert the words “after consultation with the Prime Minister and the Leader of the Opposition”; and
  - iii. delete the words “terminable at any time and shall be eligible for reappointment at the expiration of the term”.
- C. In subsection (2)
- i. delete the word “Where” and insert the words “Subject to subsections (2) and (3) where”,
  - ii. insert the words “Deputy Director” after the word “Director” wherever it appears; and
  - iii. delete the words “not exceeding six” and substitute the words “, such that the aggregate of the terms served by a person in either position does not exceed twelve”
- D. Delete subsection (3) and insert the following new subsection:  
“(3) Section 141 of the Constitution shall apply to the offices of Director and Deputy Director.”
- E. In subsection (4)
- i. in paragraph (b) insert the words “and the Intelligence Review Committee” after the word “Minister”
  - ii. insert the following paragraphs after paragraph (c):  
“(d) take reasonable steps to ensure that the work of the Agency is limited to what is necessary for the purposes of the discharge of its functions;

- (e) take reasonable steps to ensure there are arrangements for securing that no information is obtained by the Agency except so far as necessary for the proper discharge of its functions; and
  - (f) take reasonable steps to ensure compliance with the General Privacy Principles specified in Schedule 3.”
- F. Delete subsection (5) and insert the following new subsection:
- “(5) Upon expiration of the term of office, the Director or Deputy Director shall be eligible for reappointment for a term of not more than five years.”
- G. Insert the following new subsections after subsection (5)
- “(6) The Director and Deputy Director of the Agency shall be Public Officers.
- (7) A candidate for Director or Deputy Director shall satisfy the criteria specified in Schedule 2.
- (8) Subject to affirmative resolution of Parliament, the Minister may vary Schedule 2.
- (9) The President, after consultation with the Prime Minister and the Leader of the Opposition, may terminate the appointment of the Director or Deputy Director if he—
- (a) is convicted of any criminal offence which carries a penalty of six or more months of imprisonment in any Court;
  - (b) becomes infirm in mind or body;
  - (c) fails to perform his duties in a responsible or timely manner;
  - (d) demonstrates a lack of competence to perform his duties;

- (e) misbehaves in office;
- (f) fails to comply with provisions of this Act; or
- (g) breaches the terms and conditions of his appointment.

*New clause 6 read the first time.*

**Sen. Mark:** Madam Chair, again, we have sought to—

**Madam Chairman:** Sen. Mark, just a second. So, the question is Senators—and I just crave the indulgence of everyone. There are numerous amendments, so we are trying get through them in a sort of sequence. All right?

*Question proposed:* That the new clause 6 be read a second time.

**Sen. Mark:** Yes. Madam Chair, we are proposing again, because of the large and extended remit given to the SSA, and this Director who is appointed by the Cabinet, and who takes instructions from the Cabinet, and in this instance the Minister of National Security. We believe that given the wide remit that he has, there is need for some checks and balances. We believe that in a modern civilized 21<sup>st</sup> Century country, the President of the Republic should be the one who should be appointing this particular director, after consultation with the Prime Minister.

We are also proposing, Madam Chair—

**Hon. Senators:** And the Leader of the Opposition.

**Sen. Mark:** Yes. After consultation with the Prime Minister and the Leader of the Opposition. We are also proposing that there is the post of a deputy director, and that is clearly outlined in our amendment.

We are also advancing in these amendments that there be established an independent intelligence review committee, which would be a civilian organization, that will be responsible for receiving complaints from members of the public. And there are other amendments that deal with the expiration the term of office of the Director, as well as the deputy director, indicating that they are

eligible. They should also be public officers. We have also outlined the qualifications of these individuals.

We have also said in our amendments that the Minister, in Schedule 2, can vary the schedule, but subject to an affirmative resolution. And then we go on further to talk about how the appointments of the Director and the deputy director could be terminated. Right now, if a director does not find favour with the Government, he can be summarily dismissed by the Cabinet, and it shows, Madam Chair, that this individual is completely beholden to the Cabinet, the Prime Minister and the Minister of National Security. It is against this background that we have put forward these amendments for the consideration of the hon. Attorney General.

*Question put:* That new clause 6 be read a second time.

**Sen. Mark:** Can I have a division on this one, Ma'am?

**Madam Chairman:** I think the noes have it, and now we will proceed to division.

*The Committee divided:* Ayes 6 Noes 17

NOES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

De Freitas, N.

Baksh, Miss A.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Junkére, J.

AYES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, D.

*The following Senators abstained:* Dr. D. Mahabir, Mr. T. Shrikissoon, Miss M. Ramkissoon, Miss S. Chote SC, Mr. S. Creese, Miss J. Raffoul and Mr. P. Richards.

*Question negatived.*

*New clause 7.*

**Sen. Mark:** Madam Chair, again, we sought to ensure that the Minister, again, does not encroach directly on the operations of the SSA, particularly its employees by directing them, directing its deputy director and the Director, in relation to the operations or administration of the agency.

We have also sought to establish that all the employees and officers should discharge their responsibilities without furthering or harming the interest of any political party, or any particular section of the community. And there is a penalty if there is a contravention of this particular provision in the legislation. And that

the Director, once he becomes aware that an employee of the agency is acting unlawfully, or in contravention of the Act, he shall submit a report to the Minister, who in turn shall forward that report to the Intelligence Review Committee, and the Minister shall approve every information sharing agreement.

So we have put, again, this clause forward, all aimed at establishing the appropriate checks and balances, to ensure that there is no abuse of power, and the intervention of the Minister, politically, could be reduced significantly, Madam Chair.

**10.40 p.m.**

**Mr. Al-Rawi:** Madam Chairman, if I may, whilst we are looking at, in general, many of the suggestions raised by both Independent and Opposition Senators, I wish to point out to Sen. Mark that there is a great deal of danger in the proposed section 5 new B.(4) because to prescribe that:

“Every employee, officer, Deputy Director...of the Agency shall discharge his duties without the purpose of—let us read—harming, interests of any political party...particular section of the community,...religious, ethnic, racial or gender...”

—is so vague that it is dangerous, because it could also run into the equal opportunities and other areas. So, I just wanted to point out a little caution specifically in relation to that one that perhaps that thought could have been refined a little further, but I am just mentioning insofar as there would be a continuing discussion going forward, but not involving today’s vote.

**Madam Chairman:** Hon. Attorney General and Sen. Mark, let me just say that I am struggling with new clause 7 and I am struggling with new clause 7 really and truly, if we have a look at Standing Order 68(3)(a) which says as follows, and I am reading it out for Senators:

“The following provisions shall apply to amendments relating to Bills:

- (a) an amendment must be relevant to the subject matter of the Bill, and to the subject matter of the clause to which it relates;”

Sen. Mark, while I understand what you have just said, it seems to me that this particular proposed new clause is actually, for want of a better expression, inadmissible at the outset. It is not something—because to me it is widening, from what I am seeing here, the scope of the Bill that is before this Chamber and, therefore, hon. Senators, it is my view that in light of what I am saying, this is relevant to the parent Act, but not really to the Bill that is before the Chamber. I would urge Senators to look at Standing Order 68(3) and to what I am saying and, therefore, this clause, this proposed new clause 7, I do not propose to put to the committee. Okay?

**Sen. Ameen:** Madam Chairman, if I may—

**Sen. Dr. Mahabir:** Madam Chairman, on a point of clarification.

**Madam Chairman:** Sure.

**Sen. Dr. Mahabir:** There is nothing which really prevents a Senator, even when a Bill is before us for consideration, from recommending an amendment to another piece of the parent Act. Is there?

**Madam Chairman:** No. And you will notice, Sen. Mahabir, that the previous clause 6, you will notice that that was put to the committee but, in my view, the proposed new clause 7 is really straying really outside the purview of the Standing Orders and, therefore, in light of that, that is why I am saying this is not one. I am really struggling to see how this can be put to the Committee. Okay?

**Sen. Ameen:** Madam Chairman, if you would allow me, this is something that the Opposition did consider in terms of there being new clauses being proposed. The fact is that one of the main purposes of the amendments being brought before the Senate is to expand the functions of the organization. In fact, it affects the whole

functioning of the organization. And so, because the Attorney General has indicated his willingness to have discussions and to consider and to have a meaningful committee session, I trust that we will be able to do just that. While I do hear you with regard to clause 7, I am not getting a sense that the Committee and the Attorney General are really giving meaningful contribution to what the Opposition has put forward.

**Madam Chairman:** Sen. Ameen, I am sorry. At this stage, I cannot deal with that comment.

**Sen. Ameen:** Well, through you, I want to appeal to the Attorney General as we go to the next clause to really give meaningful consideration.

**Madam Chairman:** And the Attorney General is here and, therefore, let us proceed. So, Sen. Mark, I am not proposing to put new clause 7 to the committee.

**Sen. Mark:** Madam Chair, I abide by your ruling.

**Madam Chairman:** Thank you very much.

*New clause 9.*

*New clause 9 read the first time.*

**Madam Chairman:** So, the question is that new clause 9 be read a second time. Sen. Mark. All right. Sen. Mark, I apologize. The question is that new clause 9 be read a second time.

**Sen. Mark:** I thought you have to debate it first and then put the question, because we have not discussed it as yet. It must be put.

**Madam Chairman:** Correct. Yes. The clause has to be read a second time.

*Question proposed:* That the new clause 9 be read a second time.

*Question put and negated.*

**Madam Chairman:** New Clause 9, therefore, is not added to the Bill.

*New clause 11.*



*[Interruption]*

**Madam Chairman:** All right. Sen. Ameen, please, we are still in session. So new clause 11, again, Sen. Mark—

**Sen. Mark:** Yes, Ma'am.

**Madam Chairman:** Sen. Mark, this is also a clause that I am having difficulty with. Again, in light of what I have said before about its relevance. So, once again, it is my view that the new clause 11 is one that is really outside of the remit of the Bill that is before us. Okay? So it is my view that new clause 7 should not be put to the committee—new clause 11, I am sorry.

*New clause 12.*

**Madam Chairman:** And, again, hon. Senators, new clause 12, it is my view again for new clause 12, what I have said about the previous. Again, I really do ask Senators to read Standing Order 68(3)(a) about the relevance of the amendment to the Bill and to the subject matter and to the clause. So it is my view that new clause 12 is not one that should be put to the committee.

*New clause 13.*

*New clause 13 read the first time.*

**Madam Chairman:** Sen. Mark—the question is that new clause 13 be read a second time. You wanted to say something, Sen. Mark?

**Sen. Mark:** Well I thought you were going to put the question because—

**Madam Chairman:** All right. So the question is that new clause 14 be read a second time. Pardon me, I am sorry, new clause 13.

*Question proposed:* That new clause 13 be read a second time.

**Madam Chairman:** You wanted to say something about new clause 13?

**Sen. Mark:** No, no, I am guided by your ruling and just put it, and we will just deal with it and go along.

**Madam Chairman:** So the question is that new clause 13 be read a second time.

*Question put and negatived*

**Madam Chairman:** New clause 13 is not added to the Bill.

*New clauses 14 to 41.*

**Madam Chairman:** Sen. Mark.

**Sen. Mark:** Yes Ma'am. Madam Chair, the key thing here is that because of the broad remit of this agency, we were trying to establish certain safeguards and checks and balances to ensure that the rights and freedoms of the citizens are protected and safeguarded as we balance the security and safety of the State at the same time, and we thought an independent civilian review agency or committee would be very important in providing that safeguard for the citizenry of the country.

**Sen. Ameen:** Madam Chairman, if I may, this is one of the recommendations in my contribution I spoke about, and I strongly recommend. I trust that—there is nothing to lose by having greater accountability, and having a review committee brings accountability into being, especially when you are asking for more responsibility to be handed to the organization. Again, I am looking forward to the Attorney General being honest and fair to his commitment earlier to give reasonable consideration to our recommendations.

The issue of having a review, an independent review committee, Madam Chairman, as you recall during the debate it was mentioned by a number of speakers, and so there are aspects of this particular new clause that I feel we should give consideration to, if only to keep the Attorney General true to his word and his commitment.

**Madam Chairman:** Hon. Senators, we are dealing with new clauses 14 to 41. Hon. Senators, what we have before us, the amendment Bill has five clauses. The

amendments as circulated, we are now dealing with new clauses 14 to 41. Sen. Mark, in just going back to the Standing Orders, however well-intentioned these amendments are being driven and posed, the fact of the matter is that these amendments are really going beyond the scope of what is before us and that these amendments—[*Crosstalk*—]please. The amendments are really widening the scope of what was sent to this Chamber from the other place and, really and truly, new clauses 14 to 41, I am really struggling to see how I can even put this to this committee. It is my view, therefore, Sen. Mark and members of this committee that new clauses 14 to 41 should not be put to the committee. Okay?

*New clause 42.*

**Madam Chairman:** Sen. Mark, now what I have said in respect of the previous proposed new clauses, I could only repeat when it comes to this, because now we are going to another piece of legislation, which was not envisaged by the Bill that is before this Chamber, so I really cannot put new clause 42 to the committee. All right?

**10.55 p.m.**

**Sen. Ameen:** Madam Chairman, I do hear your ruling and decision on this, and I think it underscores what we would have said earlier, in that, there are persons in this Chamber who expressed that they feel that the entire thing should be withdrawn, drafted properly and brought back. Perhaps the fact that so many of these things that are really very important cannot be considered because they were not addressed in the Bill laid by the Attorney General, further indicates the need to properly draft the legislation and bring it back to the House. I want to be on record as saying that the Opposition is willing to participate in such an exercise to bring a wholesome piece of legislation that we could have meaningful discussions on because, as is, we cannot have meaningful discussion if it is not directly related to

the very few amendments that are brought.

Again, I want to submit to the Attorney General that he perhaps could still take the opportunity. I know he did indicate that he intends to consider a slew of legislation and omnibus, and all these things, but at this time AG I think you are losing valuable time, when we have been sitting since April 17th when this thing had been laid. Really when you could have taken the opportunity to redraft and bring back something more wholesome.

**Mr. Al-Rawi:** Madam Chair, if I may just place onto the record that the recommendations offered by Sen. Ameen are not mutually exclusive from the undertakings provided. Where we differ is in our understanding as to how laws are to be brought to a Parliament. To consider the amendments now brought here substantially involves amending two pieces of law and, through a process of adding some 46 amendments and new clauses, requires Cabinet approval for consideration and policy to be prescribed. The essential thing is that this must be well known to the Opposition because for five years they comprised the Government of Trinidad and Tobago.

Again we state for the record that we are looking at the proposed amendments. We believe that proposed amendments ought to be considered in a more fulsome process through the mechanisms which a government must bring amending legislation through. And we certainly will be looking at the amendments proposed by the Opposition and then come back to the Parliament as we may be directed.

**Sen. Ameen:** Perhaps that should have been the first step.

**Mr. Al-Rawi:** Sen. Ameen, we are respectfully the Government and we have the privileges under the Constitution to do as we are doing now. It is a natural and axiomatic function of having been elected as the Government. We also pay the price for what we do or do not do at the polls.

**Sen. Ameen:** As we go along in this committee meeting I am finding that you are drifting further and further away from your commitment.

**Madam Chairman:** Sen. Ameen, hon. Attorney General, this matter has been discussed. Sen. Mark wants to say one final thing and then we will move on.

**Sen. Mark:** Madam Chair, I just want to put on record that we on this side of the House, the Opposition Benches, have been engaged in extensive and very deep research, all in an effort to improve the quality of the legislation and to advance the necessary safeguards as we seek to promote mechanisms of accountability. It has been a lot of hard work that we have engaged in, and this is reflected in the quality of the recommendations.

I understand your rulings in the context of the Standing Orders, but we were quite hopeful that the Attorney General in the period of our debate would have considered maybe having his matter referred to the relevant body, either a select committee of the Parliament or a joint select committee of both Houses, so that we could have given, you know, adequate ventilation where the merits and the principles would have been dealt with in greater detail. And, as you have discovered, the scope, there is a challenge there and I understand your dilemma in this regard.

**Madam Chairman:** Thank you, Sen. Mark. As I said, as well intentioned as the proposals for the amendments may be, we really have to also be guided by the Standing Orders. Okay?

We now move on. Hon. Senators, you may recall that we deferred clause 3, the proposed amendments to clause 3.

*Clause 3 reintroduced.*

**Sen. Mark:** Madam Chair, having regard to the consistency on the part of the Government of not being in a position at this stage, as the Attorney General has

said, to consider these amendments, I would say that unless there is a change of heart you simply have to put the question.

**Sen. Ramdeen:** Perhaps, Madam Chairman, before you put the question I should indicate, clause 3 is perhaps the most important clause that we have debated here today and on the last occasion. It deals with the definition of “serious crime”. We have suggested how that definition could be tightened. The difficulties that we have with “serious crime”, as it stands now, is as we have indicated in the debate, serious crime as is defined includes offences—our difficulty is with the word “includes offences related to” and with respect to the omnibus clause at the end.

Now, we have indicated to the Attorney General and voiced our concerns that with the present definition of “serious crime” being “includes offences related to”, what you virtually open up the entire definition to is every single criminal offence on the law books of Trinidad and Tobago, whether they be common law or statutory. Therefore, we are saying, that having regard to the fact that the Opposition has put forward all of these amendments, and having regard to the fact that the Parliament is bound by the Standing Orders and the manner in which these amendments have been treated, perhaps what we are suggesting is that you just take off the definition of “serious crime” and go back to what we were before.

The aim of any laws that we pass is to regulate the conduct of the citizens, and if the citizens cannot understand what is a serious crime, and the Government cannot define by virtue of the legislation what is a serious crime, then there really is no purpose in moving forward with the legislation in this form. Therefore, we suggest that serious crime, unless the Government can convince us that serious crime can be properly defined for the purposes of the lawmaking process and for the purposes of citizens understanding that there must be some kind of certainty, especially in a definition like this, where the conduct of the citizen is going to be the subject of

further—

**Madam Chairman:** Sen. Ramdeen, I am sorry, but I have to interrupt because I am not understanding whether Sen. Mark is going forward with the proposed amendment, because—

**Sen. Mark:** I am going forward. What I wanted to ask, Madam Chair, earlier on, the hon. Attorney General had indicated that CFATF, based on the enhanced follow-up that is to take place very shortly—am I wrong in drawing the conclusion that from your take, this organization is trying to get us in Trinidad and Tobago to redefine serious crime, so that all the concerns that you have expressed during your contributions could be captured, so that we can have a better reporting mechanism available to us and we will be able to deal with what you consider to be more serious offences that right now go unpunished, and this is why you are seeking to widen this definition? I am trying to understand what you said earlier on in your presentation.

**Mr. Al-Rawi:** If I may, through you, Madam Chair, thank you hon. Senator for your question. I am constrained to answer the question carefully, lest I am deemed to be guilty of revealing information in my capacity as Chairman of CFATF for the year Trinidad and Tobago acts as Chair. So, whilst the “jury” is still out on that point, it is fait accompli once the report is adopted. The observations for Trinidad and Tobago include observations that we have not parked into any specific entity for operationalization, issues including money laundering and terrorism and terrorist financing. Those things have been at sea in terms of operationalization issues. It is for that reason that the proposed amendments help to improve our country’s reflection in the mirror of concerns that CFATF may or may not express, when it sits in plenary in the period June 6 to 11, shortly.

I know it is a rather circuitous answer. I apologize that it is exactly that, but it is

the best that I can offer with the constraints that the COSUNs, or cooperating supporting entity countries, give to CFATF. So, I hope you can read through these lines.

**Sen. Ameen:** Madam Chairman, I just wanted to clarify something that the AG was saying, if you would allow me. Just to be clear, I know you did indicate in your contribution in your winding-up that there is a time limit by which you want to have these amendments because of CFATF and so on. Is that one of the reasons that would have prevented you from going to Cabinet to get that approval before, so that you could have brought more comprehensive amendments?

**Mr. Al-Rawi:** For the record, I went to Cabinet and obtained approval for bringing this Bill which is exactly why we are here.

**Sen. Ameen:** Earlier you indicated that there were a number of things that you still have under consideration that you would want to consult with Cabinet. So I was just asking if one of the purposes for pushing through these amendments has to do with a timeline for the CFATF.

**Mr. Al-Rawi:** I would have to say that there is a mix of issues there. Firstly there are obviously timeline constraints to demonstrate Trinidad's technical compliance, from a legal review perspective; that is, what laws exist, and also efficacy operationalization requirements. That is part. The second aspect is that the country just cannot tolerate the trending downward in the spiral of crime that we are going and where our detection and conviction rates are.

What I certainly am doing is, having received last Tuesday the amendments of the Opposition for the first time, almost a month after the Bill was read in the House, I am certainly actively looking at the proposed amendments by the Opposition. They coincide with amendments which we are considering at the LRC stage in terms of an omnibus revision of certain other things.



I referred you to the model law which we are working in tandem with the Impacts Association which is funded by the Canadian Government on, and it happens to be coincidental what is now proposed by the UNC for the first time is now coincidental with the work that we are doing. So we are looking at it separately.

**Sen. Ameen:** So, is it that—

**Madam Chairman:** Sen. Ameen—

**Sen. Ameen:** I want to know if the AG is giving a commitment.

**Madam Chairman:** Sen. Ameen, I have allowed a lot of leeway in the committee stage, bearing in mind the Standing Orders provide that in the committee stage we deal with details of the proposed legislation. I have allowed discussions to go beyond details.

*Question put.*

**11.10 p.m.**

**Sen. Mark:** We want a division.

*The Committee divided: Ayes 6      Noes 18*

AYES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

NOES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

De Freitas, N.

Baksh, Miss A.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Richards, P.

Junkère, J.

*The following Senators abstained:* Dr. D. Mahabir, Mr. T. Shrikissoon, Miss M. Ramkissoon, Mr. S. Creese, Miss J. Raffoul.

**Madam President:** Hon. Senators, six Senators voted for the amendment, 18 Senators voted against the amendment, and there were five abstentions. So, the amendment—[*Interruption*]

**Sen. Baptiste-Primus:** Sorry, Madam President, how many abstentions?

**Madam President:** Five—did not carry.

*Amendment negatived.*

*Clause 3 ordered to stand part of the Bill.*

*New Schedule 1.*

## **SCHEDULE 1 SERIOUS CRIMES**

Serious crime includes the following offences:

Homicide,

Treason,

Offences under the Anti-Terrorism Act,

Hijacking,

Kidnapping,

Offences under the Trafficking in Persons Act,

Offences under the Anti-Gang Act,

Offences under the Dangerous Drugs Act,

Corruption,

Money Laundering,

Offences under the Firearms Act,

chemical, biological and nuclear weapons and weapons of mass destruction, cybercrime,

Offences under the Extradition Act.

*New Schedule 1 read the first time.*

*Question proposed:* That New Schedule 1 be read a second time.

*Question put and negatived.*

*New Schedule 2.*

**Madam President:** Sen. Mark, with respect to New Schedule 2, and actually let me tell you, New Schedules 2, 3 and 5, I do not see how I can take this to the committee. Again, on the same principles that I advanced earlier.

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

*Senate resumed.*

**Hon. Al-Rawi:** Thank you, Madam President. I wish to report that a Bill entitled an Act to amend the Strategic Services Agency Act, Chap. 15:06, to expand the

functions of the Strategic Services Agency was considered in committee and was approved without amendment. I now beg to move that the Senate agree with the committee's report.

**Madam President:** Hon. Senators, the question is that this Senate agree with the committee's report on a Bill entitled an Act to amend the Strategic Services Agency Act, Chap. 15:06, to expand the functions of the Strategic Services Agency.

*Question put.*

**Sen. Mark:** Division.

*The Committee divided:* Ayes 17      Noes 12

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

Baksh, Miss A.

De Freitas, N.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Junkère, J.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

Mahabir, Dr. D.

Shrikissoon, T.

Ramkissoon, Miss M.

Creese, S.

Raffoul, Miss J.

Richards, P.

*Question agreed to.*

*Bill reported, without amendment.*

**Hon. Al-Rawi:** Madam President, I beg to move that a Bill entitled an Act to amend the Strategic Services Agency Act, Chap. 15:06, to expand the functions of the Strategic Services Agency be forthwith read a third time and passed.

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

**Sen. Mark:** Division.

*The Committee divided:* Ayes 17      Noes 12

AYES

Khan, F.

Gopee-Scoon, Mrs. P.

Baptiste-Primus, Mrs. J.

Rambharat, C.

Henry, Dr. L.

Singh, A.

Ali, H.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

Baksh, Miss A.

De Freitas, N.

Stewart, Miss N.

Huggins, R.

Sinanan, R.

Roach, HRI

Junkère, J.

NOES

Mark, W.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Ramdeen, G.

Mahabir, Dr. D.

Shrikissoon, T.

Ramkissoon, Miss M.

Creese, S.

Raffoul, Miss J.

Richards, P.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

### **ADJOURNMENT**

*Motion made and question proposed:* That the Senate do now adjourn to a date to be fixed. [*Hon. F. Khan*]

**Madam President:** Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised on the Motion for the Adjournment of the Senate. Sen. Mark.

#### **Eastern Regional Health Authority (Conflict of Interest)**

**Sen. Wade Mark:** Thank you very much, Madam President. The first matter I would like to deal with addresses the issue of a possible conflict of interest at the Eastern Regional Health Authority in respect of the appointment of a board member to that particular Eastern Regional Health Authority.

Madam President, I have been advised, and I think that the hon. Minister of Health will have to guide this honourable Senate on this particular matter. I have been made to understand that there is one Dr. Armour who is the County Medical Officer of Health, and who is a public official in accordance with section 3(d) of the Second Schedule which deals with the constitution and procedure of the boards of the regional health authorities. My understanding is that a public health official as defined in the constitution and the Interpretation Act is really a public officer, or a public servant, which I understand Dr. Armour is today as we speak.

**11.25 p.m.**

Section 13(d) states that:

Adjournment (cont'd)  
Eastern Regional Health Authority (cont'd)  
Sen. Mark (cont'd)

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A public official shall not qualify for membership of the Board.

In this case, the Eastern Regional Health Authority. But section 2(b) states that:

A public official can be appointed as an employee of the Ministry of Health thus making him the Ministry's representative.

So, Madam President, the Act does cater for the MOH, that is the Chief Medical Officer of Health to have a representative—or the Ministry of Health I should say—the Act caters for the Ministry of Health to have a representative among the other disciplines as outlined in section 2(a), (i) to (iv) and section 2(c) (i) to (v). So Dr. Armour is correctly appointed as the representative of the Ministry of Health.

Now, the issue of Vice-Chairman of the Board is where we are going. Under section 5(2), in the absence of the Chairman, the Vice-Chairman presides over meetings of the board. Now, this is highly improper, if not illegal, as the gentleman in question is a public officer or a public official who is specially appointed under the Act and therefore Board decisions can be challenged and decisions can become null and void.

Madam President, under section 4(2)(a) of the Regional Health Authorities there is a provision called (Contracting for Goods and Services) Regulations. And the Vice-Chairman of the Board shall be the Chairman of the Tenders Committee of the Board. This will mean, Madam President, that the Ministry's representative who reports to the Minister have control of procurement. And in those circumstances we are worried about the collusion that can take place and in the absence of transparency. So the question has to be asked, who is guarding the guard?

In this regard, Madam President, I would like the hon. Minister to indicate whether he is aware that a major contract was issued crossing some \$20million and there



Adjournment (cont'd)  
Eastern Regional Health Authority (cont'd)  
Sen. Mark (cont'd)

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may be some association with the gentleman who is associated with this particular board at this time, along with another doctor whose name I have and if the Minister wishes I can identify him. The question that I want to ask is, the contract that was handed to that particular doctor, whether inside knowledge was had, did that doctor influence the process in any way, bearing in mind that at the material time, that doctor held the most senior post in the Ministry after the permanent secretary? Was there a conflict of interest or collusion?

Madam President, is this proper as he was and still is a public servant? I raised these matters because we should be concerned that Dr. Armour, a public official, who is a County Medical Officer of Health, reports to a chap called Dr. Naseer who is known to be supplying the Ministry of Health for years from foundation to finish, and apparently was sitting or is sitting, that is Dr. Armour, on the ERHA Board as the Vice-Chairman and also the Chairman of the Tenders Committee. And I raised this matter because I believe it is in the interest of the Minister to clear this matter, to tell us whether there is a conflict of interest with this Ministry of Health official being Vice-Chairman of the Regional Health Authority and being Chairman of the Tenders Committee and who happens to be the representative of the Ministry of Health.

So, Madam President, at this point in time I have information that is very explosive. I will not go into details. I have the names of the people who are involved. I have asked the Minister to come to this place today to clear the air on this emerging conflict of interest and to take immediate steps to correct this matter. After today, if within two weeks this matter is not acted upon by the hon. Minister I shall then bring another matter on this issue and deal with all the facts and lay it before the Parliament. Who the cap fit they will wear. So I just advise this

honourable Senate and the hon. Minister that there is a conflict and he needs to take action on this matter at this time. I thank you very much, Madam President.

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Madam President. Madam President, the hon. Senator raised several issues and some of them need clarification because I do not know what he means when he calls the name of the Chief Medical Officer, Dr. Naseer, and talking about foundation to finish. I have no idea what that means. He raises the issue of procurement of \$20 million. Let me say there is a Contract Review Committee under the Ministry of Health so that any contract over \$1.5 million is reviewed by a Contract Review Committee under the Ministry of Health.

Madam President, what is puzzling is that I received a letter from Mr. Brian Caesar, the Clerk of the Senate, addressed to Sen. The Hon. Franklin Khan. And the matter which the Senator is raising goes like this—and I have to read it into the record because I have to give the answer.

“The possible conflict of interest at the Eastern Regional Health Authority in respect of the appointment of a Board Member as the County Medical Officer of Health.”

That is what I received and that is what I am going to reply to.

The conflict of interest being raised by Sen. Mark is the appointment of a Board Member as the County Medical Officer. That is what the letter says. Great. The Board of the Eastern Regional Health Authority was appointed on February 18, 2016. The members are: Ms. Esme Rawlins-Charles, Chairman, a person with qualifications and experience in business management; Dr. Brian Armour, Deputy Chairman, an employee of the Ministry of Health; Dr. Colin Nath, a registered medical practitioner; Ms. Indra Sinanan Ojah-Maharaj, representing the public interest and welfare; Mr. Avind Moonan, an individual with local government

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Eastern Regional Health Authority (cont'd)

Hon. T. Deyalsingh (cont'd)

experience and nominated by the Minister responsible for Local Government; Ms. Gloria Andrews, a registered nurse; Ms. Sarah Mootoor, a person with qualifications experienced in business management and Ms. Barbara Punch, a person in any other area with appropriate expertise.

Madam President, according to the letter I received from Mr. Brian Caesar which asked about a conflict of interest, with respect of the appointment of a Board Member—so these are the Board Members—as a County Medical Officer, as far as I am aware, none of the members of the Board of the Eastern Regional Health Authority was appointed as the County Medical Officer of Health since becoming a member of the board. And that is the substantive issue raised by Sen. Mark and that is the answer that I am giving. [*Desk thumping*]

So I am really at a loss to understand what it is Sen. Mark is speaking about because none of the members of the board was subsequently appointed as a County Medical Officer and that is the substantive issue raised in the letter that we received from Mr. Brian Caesar and I will read it into the record again:

“The possible conflict of interest at the Eastern Regional Health Authority in respect of the appointment of a Board Member as the County Medical Officer of Health.”

No Board Member since the appointment has been appointed as any County Medical Officer of Health and I thank you for the opportunity to bring clarity to this matter. [*Desk thumping*]

### **Dismissal of SSA Workers**

**Sen. Wade Mark:** Thank you very much, Madam President. Madam President, we have just concluded a very dangerous matter in terms of great powers being given to an agency that we have just concluded on. I raise the matter concerning

Adjournment (cont'd)  
Dismissal of SSA Workers (cont'd)  
Sen. Mark (cont'd)

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this very agency as it concerns the unfair dismissal of several workers. We need answers. We need to know what has happened.

I have been informed, Madam President, that over 75 employees including senior members of staff, directors, deputy directors and very high ranking operatives along with employees, have been disposed of like rubbish, literally, on the instructions, we understand, and that is why I have asked the Minister to be here. They are claiming, a newspaper article that they were dismissed on instructions by the hon. Minister of National Security.

Not only are they saying that they have been dismissed, Madam President, on instructions issued by the Minister but you read all kinds of dark stories and you wonder whether these things are true. Whether the Government of Trinidad and Tobago has embarked on a witch-hunt at the SSA and anybody looking different to the Minister, gone. I do not know, because I am seeing things here which I do not want to really refer to, because I do not want to inflame the situation in this country. [*Desk thumping*]

But all I am saying, Madam President, is that we are seeing headlines after headlines, after headlines, and one is getting the impression that people are being dismissed on grounds of ethnicity. I am hoping, Madam President, that is not so. I am hoping that when I read claiming racial conspiracy to get rid of Indians, I am hoping this headline is wrong.

**11.40 p.m.**

**Madam President:** Sen. Mark, have a seat. You know, Sen. Mark, that if you are reading something, that you are taking ownership of the statement? You understand that?

**Sen. W. Mark:** Yes, I do.

Adjournment (cont'd)  
Dismissal of SSA Workers (cont'd)  
Sen. Mark (cont'd)

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**Madam President:** You understand therefore—*[Interruption]*

**Sen. W. Mark:** Of course, of course. So I am saying that these are statements that are in the public domain, and we need the Minister to clear the air on those matters, because when you read these stories and you hear about these statements, you ask yourself, this agency called the SSA, what is it? Have they embarked on a campaign of political victimization? Is it political discrimination? What is the policy that is being currently pursued at the SSA?

Is the Minister aware that over 75 workers have been dismissed in the last couple of weeks at the SSA? And if that is so, what are you doing about it? What kind of system or mechanism of justice are you putting in place to ensure that people do not end up going to the courts as I am reading, and then having the taxpayers to meet large sums of moneys? Because we knew of some gentleman who was dismissed some years ago and I understand he got a reasonable sum of money from the courts and maybe that is a precedent that is being set for others to follow.

So I am asking, Madam President, that it is important for the hon. Minister of National Security to give us a status report on what has happened in the SSA. Is it true that 75 workers belonging to that agency have been dismissed? Is it true that senior members of staff, former directors, deputy directors, operatives at a high level, employees, have been summarily dismissed because the Minister of National Security has lost confidence in these people? And if that is so, why has that happened? Is it politically—is it a political witch-hunt that the Government has embarked upon? Are you cleansing the stable? What is the purpose? So if someone is working in a particular agency, does that person carry on his forehead PNM or UNC or COP? So when the Minister comes or the PNM comes into office, they cleanse the stable. They get rid of everybody who they believe or they

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perceive to be UNC or COP or PP. I do not know but it sounds very, very unfortunate.

And as you have rightly said, you take ownership for what you say because I verily believe what I am saying, and I have not inflamed the situation, I have been very responsible, [*Laughter*] very, very responsible and I am asking the hon. Minister of National Security to clear the air because I am getting more information on this matter, and he cannot come here and mislead us because I will be accumulating more information and coming back to you. [*Desk thumping*]

So all I ask you to do is to come with a clean pair of hands, lay on the table the truth. Tell the Parliament, tell the President, tell the country, what is taking place in the SSA, and that is all I ask of the hon. Minister. To give us a status report whether these claims that are in the newspapers that I have not read out, whether those claims are true or not, and what steps are you taking to ensure that workers are given justice and not because they belong to an agency like the SSA, you can just dump them as you see fit.

They are human beings, they have rights and they have entitlements, and you have a trade unionist who is the Minister of Labour and Small Enterprise Development who should be governing and guiding you on these matters and, therefore, I call on you to report to this House by giving us a status report on this situation involving employees and workers at the SSA. I thank you very much, Madam President. [*Desk thumping*]

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Thank you very much, Madam President. I heard Sen. Mark's statement a while ago and Sen. Mark is someone who I have utmost respect for knowing where he sat at one time and where he is sitting now, but I believe that that respect is dwindling by his

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very statements that he is making in this Senate. [*Desk thumping*] It appears to me that Sen. Mark has been lost in a time warp. It appears to me that he was nowhere around in this country over the last five years. It appears to me as though this is the first instance of people being dismissed from the SSA. Somewhere along the line, Sen. Mark may have lost his moorings, I believe.

Madam President, the national security imperatives, the intelligence culture continues to change in an ever-changing world. The world has changed dramatically and perhaps materially over the last years. Post-9/11, post-the Brussels bombing, post-the London bombing, post-the Boston marathon bombing. Almost every security institution in the world has changed post these events; Trinidad and Tobago is no different.

When this Government took over in September 2015, one of its first order of business was, in fact, a review of the national security institutions. Review of those national security institutions suggested then that we have to look at people, processes, systems, techniques, tactics and procedures, because the security environment has changed. Not only that, but we had to change the very institutions to face its reality and so you would have had debated in this very Senate, the Strategic Services Agency Act which showed an enhanced Strategic Services Agency to deal with the very issues of intelligence, to deal with the very issues of crime and criminality in Trinidad and Tobago, to provide a better framework to deal with these issues that confront us. And so, in treating with those issues, Madam President, it is important that in going forward, we address the issues of staffing, we address the issues of processes, we address the issues of systems going forward. And part of that restructuring had to do with changing people within the system.

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And so, in going forward, there will always be changes in any institution because there was merging of what we considered to be disaggregated functionalities that we met, with respect to the strategic agencies, the National Operations Centre, the whole disaggregation of the Special Anti-crime Unit. There was a hodgepodge of institutions that the last Government apparently did not know how to put together to treat with the issues of crime and criminality in Trinidad and Tobago. This Government made a decision that in order to do so, we had to restructure the Strategic Services Agency. [*Desk thumping*]

And with any restructuring in any order of business, any kind of business you have any restructuring, any kind of merging, there would be displacement of persons. The Strategic Services Agency is no different. And there was no indication that this was done as being alerted to and I am very much disappointed that Sen. Mark could even make that allegation with respect to the identity or the ethnicity of anyone being dismissed at the Strategic Services Agency. One of the very individuals who Sen. Mark probably quoted in the newspaper, Carlton Dennie, is of my ethnicity. In fact, he is from my constituency of Point Fortin. He also was dismissed. So I do not know what the statistic is showing Sen. Mark that whoever was dismissed had to do with anything with ethnicity. That has never been my calling. As a matter of fact, the SSA Act, section 5 clearly states that the Director is responsible for hiring and he is also responsible for terminating anyone. It has nothing to do with the Minister of National Security.

So that I will simply say that so far as people being removed or dismissed, to use Sen. Mark's term, from the Strategic Services Agency, it had to do with the restructuring of the agency to suit the present security environment to treat with crime and criminality in Trinidad and Tobago. I thank you, Madam President.

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*[Desk thumping]*

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 11.51 p.m.*