

**SENATE***Tuesday, March 20, 2018*

The Senate met at 10.00 a.m.

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

**Madam President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. Paula Gopee-Scoon who is out of the country.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence dated March the 16<sup>th</sup>, 2018, from then 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 of the Republic of Trinidad and  
Tobago and Commander-in-Chief of the  
Armed Forces.

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

TO: MS. AYANNA LEEBA LEWIS

WHEREAS Senator the Hon. Paula Gopee-Scoon is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

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

**UNREVISED**

Senators' Appointment

2018.03.20

by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Prime Minister, do hereby appoint you, AYANNA LEEBA LEWIS, to be temporarily a member of the Senate, with effect from 20<sup>th</sup> March, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator the Hon. Paula Gopee-Scoon.

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 16<sup>th</sup> day of March, 2018.”

### **OATH OF ALLEGIANCE**

*Senator Ayanna Leeba Lewis took and subscribed the Oath of Allegiance as required by law.*

### **REGISTRATION OF TITLES TO LAND**

#### **(AMDT.) (NO. 2) BILL, 2017**

Bill to amend the Registration of Titles to Land Act, 2000, brought from the House of Representatives [*The Attorney General*]; read the first time.

### **PAPERS LAID**

1. Tax Administration Diagnostic Assessment Tool (TADAT) Performance Assessment Report on Trinidad and Tobago. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Agricultural Marketing and Development Corporation for the year ended September 30, 2010. [*Sen. The Hon. A. West*]

**UNREVISED**

3. Ministerial Response of the Ministry of Planning and Development to the Fourteenth Report of the Public Accounts Committee, Second Session (2016/2017), on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the Financial Year 2016 with specific reference to the Ministry of Energy and Energy Industries. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
4. Family Proceedings (Amendment) Rules, 2018. [*Sen. The Hon. F. Khan*]
5. Criminal Procedure (Amendment) Rules, 2018. [*Sen. The Hon. F. Khan*]
6. Children Court Rules, 2018. [*Sen. The Hon. F. Khan*]

## **JOINT SELECT COMMITTEE REPORT**

### **(Presentation)**

#### **State Enterprises**

#### **Education Facilities Company Limited**

**Sen. David Small:** Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in my name:

Seventh Report of the Joint Select Committee on State Enterprises, Third Session (2017/2018), Eleventh Parliament on an Inquiry into the Efficiency and Effectiveness of the Education Facilities Company Limited in Managing the Construction and Repair of Government and Government Assisted Schools.

## **URGENT QUESTIONS**

### **Non-Functional MRI Machines**

#### **(Alternative Arrangements for Patients)**

**Sen. Paul Richards:** Good morning everyone, and thank you, Madam President. To the Minister of Health: Based on reports that the MRI machines at both Mount

Urgent Questions

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Hope and San Fernando General Hospitals are now not operational, can the Minister indicate what immediate, alternative arrangements have been put in place to assist patients?

**Madam President:** Minister of Health, you have two minutes.

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Madam President. I am grateful for the opportunity to put the record straight. There is a programme of scheduled maintenance under the Public Sector Investment Programme (PSIP) for the scheduled upgrade of medical equipment. The MRI at the San Fernando hospital was taken offline in November and December for scheduled upgrades, and all parties were informed. Those upgrades are finished and the machine is fully operational. The MRI at Eric Williams was taken off for scheduled upgrades, where we are upgrading the software, the electronics, we are replacing cabinets, we are changing off boards, we are putting in new coils, and new applications, especially for cardiac interventions. These are scheduled upgrades under the PSIP. In the interim if there is any patient at Eric Williams who needs an MRI they would be facilitated, and are being facilitated, either in the private sector or at San Fernando where the machine has already been upgraded.

Madam President, it is good to note that under the PSIP, for the period 2010 to 2015, only 32 per cent of the funds allocated for these types of works were ever used. Under the PSIP for this administration as of January 2018 we have already used 54 per cent of the funds allocated for upgrade of machines like these. So, this is all part of the scheduled upgrades for both machines. The machine in San Fernando is fully functional after the upgrade and the one at Eric Williams is being upgraded as per schedule. Thank you very much, Madam President.

**Sen. Richards:** Thank you, Minister, for the update. In the interest of public clarity, can the Minister indicate if the scheduled updates occur at specific times,

so that future misinformation and misunderstandings cannot take place? Because, I think you indicated November and December, are these specific times annually or are they as scheduled by the end users or the operators?

**Hon. T. Deyalsingh:** Thank you. They are not annual, they are determined by the internal monitoring and evaluation and maintenance schedule we have, plus directions from the manufacturers as to when end of life for certain parts happen. So they are not annual, but they are known in advance, and we are now advising all our stakeholders, both internal and external, in advance as to when these scheduled upgrades are taking place.

**Sen. Richards:** Thank you again, Madam President. Thank you again, Minister. Can the Minister indicate what methods are used to apprise the public, because, again, thank you for your information, sometimes the information goes out through the wrong channels, unofficial as that, and that is where the confusion sometimes comes in?

**Hon. T. Deyalsingh:** We use both internal communications and external via press ads. That is what we do.

### **Monkey Town Presbyterian Primary School**

#### **(Threat Posed by Bridge)**

**Sen. Wade Mark:** Thank you, Madam President. To the Minister of Works and Transport: What action is being taken by the Ministry to address the threat posed by the approximately 60-year-old bridge adjacent to the Monkey Town Presbyterian Primary School?

**Madam President:** Minister of Works and Transport, you have two minutes.

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam President. The problem with the bridge was being monitored and a decision was taken to close. It would be temporarily closed from tomorrow in

order to facilitate the erection of a Bailey bridge. The construction of the new bridge will now be added to our bridge programme as a priority. Thank you.

**Sen. Mark:** Because of the significance of that particular bridge to the people of that part of the country, can the Minister indicate how long this Bailey bridge will take to be erected, or constructed, or be laid?

**Sen. The Hon. R. Sinanan:** Thank you. Madam President, the history of the erection of Bailey bridges happens within a couple of days and I know the Ministry is mobilizing, as we speak, to have that bridge installed in the shortest possible time.

**Sen. Mark:** Can the Minister give this Parliament the undertaking that the bridge will be installed within the next 10 days? Can you give the guarantee?

**Madam President:** Sen. Mark, I would not allow that question.

**Sen. Mark:** Okay.

### ORAL ANSWERS TO QUESTIONS

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Madam President, the Government is pleased to announce that it we will be asking for a deferral of two weeks for question No. 59 and also a deferral of two weeks for questions Nos. 69, 70 and 71, largely because the Minister of Trade and Industry and the Minister of Sport and Youth Affairs are out of the country on Government business. We will be answering all other questions on the Order Paper.

**Madam President:** So, questions 59, 69, 70 and 71 are deferred for two weeks.

*The following questions stood on the Order Paper:*

#### **Inter-Island Vessel**

**(Details of)**

59. With regard to the recently acquired inter-island vessel, can the hon. Minister of Works and Transport provide the following:
- i. the name(s) of the international experts used in the worldwide search for the vessel; and
  - ii. the fees paid to said international experts? [*Sen. W. Mark*]

**Housing Development Corporation**

**(Eviction of Illegal Occupants)**

69. As regards the Point Fortin e Teck Park, can the hon. Minister of Trade and Industry inform the Senate:
- i. why the Park is vacant at present; and
  - ii. what steps are being pursued by the Government to resume the activities at said Park? [*Sen. T. Obika*]

**Hasely Crawford Stadium/Jean Pierre Complex**

**(Revenue Gained from Rental)**

70. Can the hon. Minister of Sport and Youth Affairs indicate what is the total revenue gained from the rental of the Hasely Crawford Stadium/Jean Pierre Complex over the 2018 Carnival season? [*Sen. HRI Roach*]

**Hasely Crawford Stadium/Jean Pierre Complex**

**(Current State of Disrepair)**

71. Can the hon. Minister of Sport and Youth Affairs inform the Senate of the measures taken to address the following:
- i. the current state of disrepair of both the Hasely Crawford Stadium and the Jean Complex;
  - ii. the water leak to the eastern side of the Stadium, which has been leaking for a number of months; and

- iii. the adequacy of the outdoor track for the kind of preparation needed by athletes during the period before imminent sporting competitions? [*Sen. HRI Roach*]

*Questions, by leave, deferred.*

### **Heritage and Stabilisation Fund**

#### **(Deposit of Additional Revenues)**

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

Given the statement by the Minister of Finance that the Government's revenues are 10 per cent above budgeted revenues, can the Minister inform the Senate whether it is the intention of the Government to deposit the additional revenues into the Heritage and Stabilisation Fund in accordance with Section 13 of the Act?

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam Speaker. Sorry, Madam President. The increased revenues collected in excess of the budgeted estimates for the first quarter of 2018 were from the non-oil sector. However, there was a shortfall in the collection of petroleum revenues during the first quarter of the fiscal year in the sum of TT \$105 million primarily, as a result of the non-remittance of royalties owed by Petrotrin, and curtailment of production arising from maintenance work. In light of the above, section 13(1)(a) of the Heritage and Stabilisation Fund Act, No. 6 of 2007, is not applicable, given that there were no excess petroleum revenues for the period under review, as defined by the Heritage and Stabilisation Fund Act. And as such, there is no requirement for the Government to make deposits to the fund.

### **Galleons Passage**

#### **(Details of Ship Broker/Company)**

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



Can the Minister inform the Senate of the following:

- i. the name of the Ship Broker/Company that sourced and ultimately secured the arrangements for the purchase of the *Galleons Passage*;
- ii. the names of the owners of said Company; and
- iii. the fees paid to the Ship Broker/Company involved in the transaction?

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam President. No broker was used in the procurement process of the *Galleons Passage*. A subcommittee was appointed by Cabinet to identify a suitable passenger and vehicle ferry to service the inter-island sea bridge. During the process of identification of a suitable vessel, an offer for sale was received directly from the owners of the *Galleons Passage* vessel, namely Sealease Limited. Since no broker was used, no fees were paid, and part iii of the question is therefore not applicable.

**Sen. Mark:** Madam President, could the Minister indicate, since an offer of sale was made, could he indicate to us to whom that offer of sale was made?

**Hon. C. Imbert:** The ministerial committee received all the information with respect to available vessels.

**Sen. Mark:** Could the hon. Minister indicate, having regard to the offer of sale and the role of the inter-ministerial committee, what steps did the Ministry take, or the ministerial team take, to ensure that we were not buying cat in bag, as it relates to this particular vessel? What steps would you have taken?

**Hon. C. Imbert:** Madam President, I believe I have answered that question more than once already in this Senate, but since Sen. Mark's memory is deficient I will remind him that I informed this Senate that a number of steps were taken to ensure that the vessel was fit for purpose and represented value for money, including sea trials, inspections by Lloyd's Register of Hong Kong, inspections by an engineering firm out of Australia called Schulte Marine, experts from the

University of Trinidad and Tobago, which I mentioned recently in this Senate, who visited and attended the sea trials, and valuations done by two independent valuation companies, all of which confirmed the vessel was fit for purpose and value for money, and I have said this already twice.

**Sen. Mark:** I want to make it very clear, unlike you, my memory is not deficient. Okay? And I want to ask you—

**Madam President:** Sen. Mark!

**Sen. Mark:** All right, I will—

**Madam President:** Just have a seat! Ask your questions through me, and there is no need for you to—

**Sen. Mark:** Well, tell him do not—

**Madam President:** Sen. Mark! Sen. Mark, please! Just ask your supplemental question, you have two more.

**Sen. Mark:** And if he is using insulting language, you must stop him.

**Madam President:** Sen. Mark! Sen. Mark, please do not point at me! Please!

**Sen. Mark:** I am not pointing at you.

**Madam President:** Yes, you are! Yes, you are, Sen. Mark! Please!

**Sen. Mark:** I am asking for your protection.

**Madam President:** You will always have my protection. But ask for it in the way that is consistent with the conventions of this Senate. Sen. Mark, yes, you have two more questions.

**Sen. Mark:** Okay. I want to ask the distinguished Minister of Finance, through you, Madam President, whether he is aware that two members were recruited by his Ministry, or the Government of T&T, David Brash and a fella called Adrian Beharry, and they were sent and dispatched to that location in order to ensure that the vessel was suit for purpose, and therefore given the green light as a result? Is

the Minister aware of those names?

**Hon. C. Imbert:** Madam President, I cannot use the word “untruth” in this Senate, but that is not true. That is a complete figment of the imagination of Sen. Mark. A total untruth.

**Sen. Mark:** Madam President, is the Minister prepared, once evidence is produced to the effect that I have advanced, to withdraw his statement?

**Madam President:** Sen. Mark, I would not allow that. Next question. Sen. Haynes, question No—

**Sen. Mark:** Why are you here and not the Minister answering the questions? You have something to hide?

*[Sen. Haynes stands]*

**Madam President:** Senator—please take your seat! Sen. Mark, please let us continue in a dignified manner as we begin this sitting. Okay? Sen. Haynes

**Sen. Haynes:** Question No—

**Sen. Mark:** Madam President, I seek your protection? The gentleman is saying why do I lie so. I take objection to that language.

**Madam President:** All right, Sen. Mark.

**Sen. Mark:** You did not hear that?

**Madam President:** I did not hear it.

**Sen. Mark:** Well, I heard it and I am seeking your protection.

**Madam President:** Yes. Yes. Minister. Could you please sit, Sen. Mark. Minister, please. Yes. Sen. Haynes.

**Children of Murdered Victims  
(Details of Counselling Provided)**

**75. Sen. Anita Haynes** asked the hon. Minister of National Security:

- Can the Minister inform the Senate of the following:
- i. whether the State currently provides counselling for the young children whose parents were murdered;
  - ii. if the answer to (i) is in the affirmative, which agency is responsible for the counselling; and
  - iii. how many children have benefited from this service during the period October 2015 to December 2017?

**The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dennis Moses):**

Thank you very much, Madam President. The State currently provides counselling support services for young children whose parents were murdered through the Victim and Witness Support Unit of the Trinidad and Tobago Police Service. Counselling has been provided to 236 children for the period October 2015 to December 2017. During the period October 2015 to December 2015, 28 children received counselling from the Victim and Witness Support Unit of the Trinidad and Tobago Police Service. During the period which followed, that is January 2016 to December 2016, 91 children received counselling, and for the period January 2017 to December 2017, 117 children received counselling. The following information gives a breakdown of counselling provided per division:

- In respect of the Northern Division, 17 children received counselling for the entire period, meaning October 2015 to December 2017.
- For the Northeastern Division—

And allow me with your permission, Madam President, I will offer even more details, so in the same periods meaning October to December 2015 followed by the period January to December 2016, and last period January to December 2017, I will give the figures. So:

- In respect of the Northeastern Division the figures are eight, 11 and

24, giving a total of 43. Relative to the Central Division, zero, 10, 25, with a total of 35 children.

- Eastern Division, zero, five, four, total being nine.
- Southern Division, zero, 14, 23, once more the total, 37 children.
- Southwestern Division, two, one, two, total being five.
- Western Division, five, eight, 19, with a total of 32.
- Port of Spain, 10, 35, 13, with a total of 58.

Madam President, the total figures being 28 for all divisions that is, 91, and 117 in respect of the last period, January to December 2017, giving an overall total of 236 children. Thank you very much, Madam President.

**Sen. Haynes:** Can you state, Minister, is it a one-off service or are there multiple counselling session?

**Sen. The Hon. D. Moses:** Thank you very much, Madam President. The Government of Trinidad and Tobago takes seriously the welfare of its citizens, and accordingly, we offer these services on an ongoing basis. Thank you very much.

### **North Coast Road Landslips**

#### **(Plans to Resolve)**

**76. Sen. Anita Haynes** asked the hon. Minister of Works and Transport:

With regard to the recurring landslips on the North Coast Road, can the Minister indicate if there are any plans to resolve this issue on a more permanent basis?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam President. Major landslip which is one of the most critical on stable slope sites, which exists in that area, is located at 7.5 kilometre mark of the North Coast Road. This has been posing serious maintenance challenges to the Highway Division over the last five years. Heavy rainfall, saturated slopes, the natural slope

of the rock towards the roadway, is composed to the constant weathering and the geotechnical composition plague the roadway with rock slides, slope failures and blockage to paths or even the entire roadway at times.

The Highway Division in an effort to keep the North Coast Road passable during the rainy season of 2017, cleared material and fallen trees from the roadway during the period July 2017 to December 2017. There were two major rockslides and five landslips. These were dealt with in-house with utilizing the equipment and manpower from the Highways Division and some rental dump trucks and backhoes, as well as utilizing the services of bonded contractors who worked constantly to remove fill material to ensure that the road was opened to the community on a daily basis. Madam President, the solution is not one of quick fix because of the severity of the rockslides and the magnitude of the failure which occurred in December 2017.

In moving forward, the Ministry of Works and Transport with the help of experts from the Ministry of Agriculture, Land and Fisheries conducted a preliminary review of the north coast and its terrain and identified some of the major causes of the problem. The team found that there were 267 trees with potential of falling, some as old as 50 years. It is proposed that the Ministry of Agriculture, Land and Fisheries be required to prune and cut, and remove 267 trees. In order to improve the drainage channel in critical areas, construction of curb and slipper drains as well as proper drainage systems were proposed, and construction of two retaining walls is proposed to decrease the effects of surface runoff and erosion, while improve slope stability and mitigation against future landslips.

Additionally, the periodic maintenance of the roadway will be required to be maintained, its level of stability and reduce the impact of vibration along the

roadway and slopes. Dr. Derrick Gay, a principal of Earth Investigations Systems Limited and lecturer of the geotechnical engineering at the University of the West Indies has been engaged to conducted a geotechnical site assessment of the landslips and provide geotechnical engineering advice on a permanent solution. Once the report is received, the Highways Division would prepare a tender document to produce the service required for a permanent solution. I thank you.

**Sen. Haynes:** Thank you for your response, Minister. You listed a number of activities. Would you be able to give me the time line for some of the—so there were temporary activities work coming from the Ministry of Agriculture, Land and Fisheries as well as the geotechnical advice—can we get some time line for these?

**Sen. The Hon. R. Sinanan:** Thank you. Madam President, all indications is that we are trying to have this work completed before the rainy season of 2018. Thank you.

### **Keeping our Culture Alive Project**

#### **(Cost of Implementation)**

**77. Sen. Anita Haynes** asked the hon. Minister of Health:

Can the Minister indicate the cost of implementing the “Ready for the Road- Keeping Our Culture Alive” initiative, hosted by the North Central Regional Health Authority which involved the executive medical screening of 150 local entertainers?

**The Minister of Health (Hon. Terrance Deyalsingh):** Again, many thanks, Madam President. [*Desk thumping*] The total cost incurred for implementing the Ready for the Road- Keeping Our Culture Alive project was \$63,967.76. Thank you very much, Madam President.

**Sen. Haynes:** Thank you for your response, Minister. I would just like to ask, this \$63,967, does the Minister believe this was a priority spending by the Minister of

Health?

**Madam President:** Senator, I would not allow that question. Next question.

**Sen. Haynes:** Is it equitable distribution of spending given that most of these entertainers may be able to afford this health care, this health service?

**Madam President:** Sen. Haynes, I would not allow that question. Sen. Mark.

**Sen. Mark:** Madam President, could the Minister indicate whether this particular exercise is going to be repeated on an annual basis? Madam President?

**Hon. T. Deyalsingh:** Thank you very much, Madam President. Madam President, this is just one of the exercises. For instance, we went to Coryal and Mafeking recently to vaccinate people free against the influenza virus. We went to Chaguanas market, the Tunapuna market, we went to the San Juan promenade on Saturday. We did work with the media. These are all free preventative measures. We went to the mosques, churches and mandirs to do preventative work, and we caught one young man who was appendicitis, who was then sent on an emergency basis, and we saved his life by doing these types of interventions. So, yes, it is value for money. Yes, we plan to repeat it, because of those 150 entertainers, many were found to have problems, which we are now treating preventatively, because if we had left it they will present to the public sector and incur more cost to treat them afterwards. So, the answer is, yes, we plan to do these preventative measures for all citizens, whether in Coryal, Mafeking, San Juan, Chaguanas market, Tunapuna market, Arima market, and everywhere. Thank you very much, Madam President. [*Desk thumping*]

**Sen. Haynes:** So just to clarify Minister, you are saying that you would be providing executive medical services to all these citizens? Because that is what the question asked, it was executive medical services.

**Hon. T. Deyalsingh:** We are providing executive services to 1.3 million people.



[*Desk thumping*]

**Sen. Haynes:** Nice, that is good to know.

**10.30 a.m.**

**Sen. Mark:** Madam, before you move—Madam President, could you advise this honourable Senate, having invoked the relevant Standing Order as it relates to Question 13, could you bring us up to speed with what has been the response thus far?

**Sen. The Hon. Khan:** Madam President, I forwarded the correspondence to the relevant Minister at the time who was obviously—it is known that the Prime Minister is acting as the Minister of Public Administration and Communications, and he is ably assisted by the Minister in the Office of the Prime Minister. I have not gotten any response as yet, but I promise the Senate that by next week, because Minister Young is abroad, as we speak, I will be able to respond in a more definite manner.

### **ANTI-GANG BILL, 2018**

*Order for second reading read.*

**The Attorney General (Hon. Faris Al-Rawi):** [*Desk thumping*] Thank you, Madam President. I beg to move:

That a Bill to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters, be now read a second time.

Madam President, sometimes I forget which House I am sitting in so I apologize in advance if I sometimes confuse the Presiding Officers. Madam President, there was a very famous movie that I found to be quite interesting some time ago, called *The Groundhog Day*. It was an interesting movie where someone

Anti-Gang Bill, 2018 (cont'd)  
Hon. F. Al-Rawi (cont'd)

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lived the same day over and over and over again, waking up every morning in his bed destined to live the same day over because essentially as the plot of the movie went, the soul that occupied that body had to learn a certain lesson before he could graduate out of that circular life of one day repeated over and over. I must confess that this Anti-Gang Bill, the reintroduction of laws into the body of laws in Trinidad and Tobago to discourage gang membership and to treat with criminality has felt like *Groundhog Day*.

Madam President, I say so really, because I think it safe to say that as I stand now in the Senate addressing this honourable House, I think we all agree that we want any law and any law operationalized such as to assist with the scourge of criminality. Criminality has no boundary. Criminality is something that has gripped this country for a very long time and far too long have we wrestled seemingly, almost against a tide that has caused too many of our citizens to retreat. We heard in the inaugural address yesterday, of Her Excellency, Paula-Mae Weekes, not bringing her into the debate, the reflection of someone who now takes position in our society that no one is above the law and that no one is able to escape from some of the consequences of the scourges in our society.

We are here, Madam President, to essentially balance rights. We are bringing forward legislation which interrupts entrenched rights in the Constitution, section 4 rights, section 5 rights. We are here to ask the Parliament to allow for detention of citizens, to allow for citizens to go through a process before they are brought promptly before a court. We are here to ask for the provision of the ability to search premises with or without warrant. We are here to ask for a continued detention cycle for persons suspected of being engaging in gang-related activity or to be gang members. We are here to ask for the forfeiture of property as the Bill

Anti-Gang Bill, 2018 (cont'd)  
Hon. F. Al-Rawi (cont'd)

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proposes. We are here to ensure that the presumption of innocence and due process is treated with by way of an exceptional route in this Bill. All of those are section 4 and section 5 rights, be they contained in the definition section of the Bill, be they contained in the detention provisions in section 16, in the arrest and search provisions in clause 16 and clause 15 or in the forfeiture provisions in clause 17 of the Bill.

But, Madam President, we are here to do that against the rights which other persons in our society enjoy. And, in particular, I wish to put onto the record, insofar as there could ever be interrogation by any court into the constitutionality and proportionality of this Bill, I wish to place on the record that the Preamble of our Constitution and, in particular, the express right set out in section 4 of the Constitution and in particular:

“the right of the individual to life, liberty, security of the person, enjoyment of property and the right not to be deprived thereof except by due process of law;”

Those are essentially the balancing rights now put. The public on the one hand, with the right to life and liberty living in the state of oppression from gang activity as we see in our country, they have rights on the one hand constitutionally and then, of course, we must recognize the individual rights of even those persons who are brought before the court and who are accused in the fashion that they are.

Madam President, it is true that this Bill, as it is set out before us, really sets out its proper purpose. Its legitimate aim is to be found in the very title of the Bill:

“An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity...”

That, Madam President, is tied in the legitimate aim of this Bill.

Madam President, albeit that the Explanatory Notes do not form part of the record, it is important to note that our Explanatory Notes for the purposes of a *Pepper v Hart* construction do form legitimate basis again for the legitimate aim limb of proportionality. And I wish to put into that context that there has been and it is stated at page 2 of the Bill. And it says here, permit me to read it into the record.

“And whereas there has been a rapid growth of criminal gang activity within the Republic of Trinidad and Tobago:

And whereas criminal gang activity infringes on the rights and freedoms of individuals as enshrined under the Constitution:”

So, Madam President, we are here talking as we seemed to have been speaking for a very long while about this balancing of rights.

Madam President, Trinidad and Tobago saw the introduction of anti-gang legislation in the manoeuvring of the last Government in a very commendable introduction of laws for which there was full bipartisan support. A Bill was tabled in the Parliament by my predecessor Attorney General, Anand Ramlogan. A Joint Select Committee was in fact established. That Joint Select Committee comprised Members of both Houses of the Parliament and there was unanimity in agreement in that Joint Select Committee’s work. Indeed, many Members of the current Eleventh Republican Parliament sat in that Tenth Republican Parliament and in fact participated in the production of the Joint Select Committee’s work product.

That Joint Select Committee’s work product is to be found in the records of this Parliament. Indeed the Paper has been laid. It is Paper No. 5, I believe, of 2011, part of the records of this Parliament. The records will reveal that there was a

Anti-Gang Bill, 2018 (cont'd)  
Hon. F. Al-Rawi (cont'd)

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presentation done by the TTPS, Trinidad and Tobago Police Service on criminal street gangs, which highlighted type, number, the categorization of offences and activities against known gang members at the time in 2010. So said, the work went ahead, but it went ahead with a very important limb associated with anti-gang laws, and that was, the debate and consideration of amendments to the Bail Act.

Madam President, it is true to say that from 1994 straight up to 2010 there had been serious and significant amendments to the Bail Act. In particular, in the period 2006 to 2008, there were amendments to the Bail Act to treat with the denial of bail, the judicial ouster for consideration of bail, particularly as it is best known in the circumstance of anti-kidnapping, where if your trial had begun within 120-day period you would not be permitted to access a judicial officer for the consideration of bail. In 2010, the bail amendments were considered alongside the anti-gang amendments and Trinidad and Tobago agreed that it would introduce no bail provisions in similar circumstances to that for anti-kidnapping, where if your trial had begun within 120 days, you would not be permitted to approach a judicial officer. Act No. 10 of 2011, Act No. 9 of 2011 being the Anti-Gang Act and the Bail (Amdt.) Act respectively came into the body of laws in Trinidad and Tobago and the Parliament, the Joint Select Committee, the PNM Opposition, the UNC Government agreed that those laws should form part of the lex corpus for a full five years, due to expire in 2016, August 2016; the 16<sup>th</sup> of August, 2016, would be the day after the expiry. So it went to the 15<sup>th</sup> of August.

Now, Madam President, it is true that the bail amendments which were considered in the period 1994 right up to 2015, because there were several others that came after the introduction of the anti-gang legislation, there was a further narrowing. In particular there was a very interesting experiment in the move away

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from three strikes, to two strikes, to one strike, to charge, charge, matters under the Bail Act. Let me explain that.

Under the Bail Act in 2015 the proposal that last came from the last Government was, if you are on a charge and you appear before a magistrate with another charge you will essentially find yourself with a restriction on the access to bail. In the election passage in 2015, we came upon the need to address the laws which were due to expire some nine months after. Nine months was provided to the present Government to conduct an analysis of the anti-gang legislation and the bail amendments. In fact, we were facing down what can, in my mind, have been expected quite some time before which was a challenge to the constitutionality of the Bail Act, something I have said openly on many occasions. Indeed, some of my learned colleagues present today participated in that, and I do not make any condemnation to that. Sometimes I do give a little picong over it but the fact is that the law is there to be tested and there were tests in relation to the bail amendments afoot. But the records at the Ministry of the Attorney General and Legal Affairs as it was merged, demonstrated that there was no analysis or work product or diligence that was applied in terms of anticipating the return to Parliament prior to August 15, 2016, when the sun would have set on the anti-gang laws and the bail amendment laws.

As a result of which, we came to the Parliament, we asked for a two-year extension to the anti-gang and bail amendments and we came to the Parliament, the House of Representatives, and asked in the circumstance of a disclosure that there was no material in the archives of the Attorney General's office evidencing work on the part of my predecessor Attorneys General, stating that forward, we came with the statistical evidence which was then available to us which importantly

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included sworn testimonial evidence of the Acting Commissioner of Police, Mr. Stephen Williams speaking to the origin and need and importance of anti-gang legislation. We produced that to the Parliament, but regrettably the Opposition in the House of Representatives stated, as it is open to them, that they would not support the continuation for a two-year period further for the keeping of the laws to treat with anti-gang legislation and bail amendments. And so the sun set in August 2016, and anti-gang laws disappeared from the books of Trinidad and Tobago.

The bail amendments cascaded backwards, the Bail Act now stands as the 1994 Act essentially, subject to certain amendments as to the right of appeal in 2005 in particular. But we have essentially taken a step back. There is no longer charge, charge, there is no longer two strikes, we are back down to three strikes in respect of bail. And I heard mentioned in the public domain that the rationality for a two-year sunset period is to be anchored in the Government's proposal in 2016, that we further extend the life of the anti-gang legislation in the bail amendments by two years. And I wish to put a distinction on that point and that is, at that point in time in 2016 when we came to ask for the time to do the work that was not completed, that was then to allow us the opportunity to consider, in particular, whether we should in fact continue with the form of bail as existed under the bail amendments coming up to the 2015 amendments. We are comparing apples with oranges, most respectfully.

Madam President, we took a step further, we then went to work, we listened to the observations of the Opposition and members of the public. We listened to the exhortations and the pleas of the Trinidad and Tobago Police Service, in particular, that there is a need for anti-gang legislation and permit me to say this. The impact and import of anti-gang legislation is really to be found in its power of

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disruption. The mere fact of being a gang member, the mere fact of being a gang leader and remember that is, as is contained in the definitions, clause 4 of this Bill, that is to be related to gang activity, you must be engaged in gang activity. It is not correct to say that there is a strict liability even though one can take that view—and I will come to that in some observations of the Law Association in a moment—but the fact is that the disruptive power to gangs acting in the way that they do is an important take away from this Bill.

We went to work in relation to the anti-gang, we produced some very important operational markers along the way. In particular, the Government recognized that the anti-gang unit, which was the feature of the Trinidad and Tobago Police Service as it operated in the period prior to this Government's tenure, was comprised of a very few members. In fact, it is public knowledge that eight of those members were put on charges for murder and so the unit was significantly reduced in its capacity. We went to work in the formation of a new and improved arrangement at the Trinidad and Tobago Police Service by encouraging the Commissioner to so arrange affairs. We saw the merger of the Organized Crime, Narcotics and Firearm Bureau, the OCNFB and the CGIU, the Criminal Gang and Intelligence Unit into a new entity referred to as the OCIU which comprises of 159 officers. We went to work, we analyzed the statistics; we took a reflective consideration of the legislation as it existed in other jurisdictions; we took a look at the 2011 anti-gang law, Act No. 10 of 2011; we took a look at the litigation prevailing against those things and we came back to the Parliament again asking in November 2017 for a reintroduction of anti-gang laws.

Very importantly, Madam President, we did not ask for that anti-gang law to be articulated on the supporting leg of restrictions to bail; we did not. We left bail



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aside, we are in fact preparing legislation to treat with the bail as a standalone feature. In fact, the laws in Canada give very good reflective position on how bail ought to be treated, because there really ought not to be a difficulty in how one treats with bail, because section 6 of the Bail Act is wide enough to be operationalized. The problem that we have is that the standards in the Magistracy, in particular, vary in considerable measure, one magistrate to the other and, therefore, the harmonization of approach and whether one reverses the burden is the active consideration in the bail laws.

But we came back to the Parliament in November 2017 and unfortunately we did not gain the three-fifths support by the Opposition then. We engaged in a significant amount of consultation to get us to that position. We condescended to the analysis and I do not mean that pejoratively. We went into the detailed analysis of the 2011 anti-gang laws verses the 2017 draft and in fact the draft Anti-Gang Bill 2018 which is before us right now, I will end in a short while in going through the clauses and demonstrating that we are in fact in very similar form, if not, exactly along the lines and prescriptions of the 2011 anti-gang laws.

Madam President, we did in our consultative exercise engage a wide variety of stakeholders. I wish to put on to the record that the Office of the Attorney General wrote requesting comments by way of separate letters dated July 06, 2017, to the Judiciary and the Commissioner of Police and the Director of Public Prosecutions. We wrote by way of letters to the Law Association dated August 25, 2017, and November 10, 2017, and as it is now public record, we did not receive commentary from the Office of the DPP nor did we receive commentary until last night, some seven months later from the Law Association.

I wish to thank the President of the Law Association for actually responding

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to us. Their letter is now in the public domain. I expect it to feature prominently in the course of this debate, there are certain observations that they have made. I am prepared to entertain some of the provisions that have been raised. There are distinguishing points of view onto that. It is not the most tidy arrangement to have the Law Association take a whole seven months to comment on 19 clauses, where the 19 clauses, 15 of them are a replication in large part of the law as it stood in 2011. But nonetheless, I express my gratitude to the members of the Law Association for finally delivering some commentary.

Madam President, we engaged in an exercise with the Leader of the Opposition and the Office of the Opposition and I wish to thank my learned colleague, Sen. Ramdeen in particular, for engaging in the exercise that we did. [*Desk thumping*] It is well known that despite differences that we sometimes banter about between us that I can think it safe to say that we are always unified in purpose as lawyers when we sit trying to come up with laws for the better operationality of Trinidad and Tobago. We went through an exercise, sometimes hard pressed, where I looked at my learned colleague opposite with smiles on their faces trying to justify what was in many senses a bare political argument, because we really essentially came down in that exercise to what the length of a sunset clause ought to be. Because the law as substantially drafted, the 2018 Bill, the 2017 Bill, the 2016 Bill, that groundhog cycle of Bills really resemble Act No. 10 of 2011 with some improvements. Thankfully, we are now at the position where we have a Bill before this honourable Senate and the merit of the Bill is to be considered with the knowledge that all that we do today, even with a three-fifths exception within the parameters of section 13(2) of the Constitution, always makes us subject to challenge into the court as to whether a Bill such as this is essentially

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proportional, that is, is it such that the democracy and rule of law in Trinidad and Tobago ought to support these kinds of intrusions, three-fifths rights, sections 4 and 5 of the Constitution.

Madam President, we have taken note that the Bill is required to articulate against a proper operational structure. Obviously, this Bill articulates on capacity issues that the Director of Public Prosecutions, which I will address in my winding up. Obviously this Bill is intended to articulate with the concept of witness protection and the justice protection programme, because you can have no prosecution without evidence, you can have evidence without witnesses. Obviously this Bill depends upon the intelligence capabilities of the TTPS and law enforcement agencies and making sure that you have evidence to act and obviously some of this is going to depend upon how the courts interpret the very definitions that we consider in clause 4 of the Bill in particular with respect to “gang”, “gang member” or “gang activity”.

Madam President, would you remind me the precise time that I end in 45 minutes, please.

**Madam President:** You will finish at 17 minutes past 11.

**Hon. F. Al-Rawi:** Sorry, 20 minutes past.

**Madam President:** Seventeen minutes.

**Hon. F. Al-Rawi:** Seventeen minutes. Thank you very much, Madam President. Madam President, in terms of anchoring the legitimacy of this Bill, it is imperative that we reflect upon the actual position in Trinidad and Tobago. We have a position where in 2014 the Acting Commissioner, Stephen Williams, presented very important information to the country. Much of that was actually set out in an affidavit filed by the hon. Commissioner in High Court proceedings, which were

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filed in fact on May 17, 2016. And permit me to put on record a few things which come out of the affidavit evidence of the Acting Commissioner of Police, Commissioner Williams. He says this and permit me to quote:

Over the last 15 years Trinidad and Tobago has experienced the development and operationalization of gangs. Their origin is found not only in the commission of criminal activity but in the need of some persons especially youth in high risk areas to have some sense of belonging. Gangs pose a particular threat because of their organized structure and their potential for expansion with the recruitment of new members. Gang-related activity has permeated almost every sphere of criminal activity with a particular propensity for engaging and committing the more violent and serious offences such as murders, kidnappings, and the trafficking of narcotics. Firearms are more likely than not to be used in the commission of these offences. Surveillance by the criminal gang investigation unit has revealed that working allegiances have been formed amongst gangs to facilitate drugs and arms trafficking.

He goes on to say:

As of 2014, 92 known gangs were identified as operating throughout the nine geographical divisions of the Trinidad and Tobago Police Service with an estimated 1,500 in gang membership.

He says:

Whereas in 2014 the highest concentration of gangs was located within Port of Spain and Northern Divisions, in 2016 the Southern Division has seen the largest increase in gang activity.

Madam President, the Government in conducting its exercise of providing

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statistics to the people of Trinidad and Tobago went a step further. Following upon the activities and the garrison type behaviour that we witnessed in the Beetham Estate in October 2017, we revealed that in Trinidad and Tobago the new organization, the OCIU, treating with gang activity had actually completed their surveillance and analysis of gang activity. And as at the 29<sup>th</sup> of November, 2017, the figures produced and stand now, then, as a total number of gangs being 211, with a total gang membership of 2,459. Northeastern Division, 15 gangs, 256 members; Port of Spain Division, 41 gangs, 574 members; Central Division, 10 gangs, approximately 106 members; Southern Division, 19 gangs, 202 members; Eastern Division, 9 gangs, 121 members; Northern Division, 25 gangs, 365 members; Southwestern Division, 21 gangs, 178 members; Western Division, 49 gangs, 525 members and Tobago, 24 gangs with 190 members.

If we take the year on year comparison between 2014, 2016, 2017, the number of gangs in 2014 therefore moved from 92 in December 2016 to 179; in July 2017 to 211. That is a 129 per cent increase over 2014. The number of gang members, 2014, 1,500; December 2016, 2,038; July 2017, 2,459; that is a 63 per cent increase on 2014. Highest incidence per police division, that is of gangs: Northern Division, December it became Western Division with 46 gangs and Port of Spain 31; Western again in July 2017 and Port of Spain, with Port of Spain still being the large central operation. Gang-related murders taken out of the total number of murders that we have seen stood at 35 per cent of murders. Gang-related murders at 35 per cent and that does not include woundings or shootings or possession of firearm which may broaden the pot. Because remember, a murder is often when conducted with a firearm, a shooting gone wrong or gone right depending upon the way that you look at it.

**UNREVISED**

**11.00a.m.**

Madam President, we have looked, since the 7<sup>th</sup> of December, 2017, just a small period when the Bill collapsed for lack of support in the House of Representatives, the number of murders for the period 8<sup>th</sup> December to 6<sup>th</sup> March, 2018, was 131. The TTPS has indicated that the number of gang-related murders for the same period was 39. Again, that is 30 per cent and that does not include the shootings and woundings, or assault or possession matters.

So, Madam President, the fact is, statistically, Trinidad and Tobago is wrestling with a gang culture. Statistically, we are watching garrison-type behaviour across the country. We are watching people emboldened to go onto the streets of Trinidad and Tobago and resist the police. But this phenomenon and culture has gone even further. We are watching schoolchildren behave in a particular way, which resembles a form of criminality or a form of objection—our schoolchildren.

In my day at Presentation College, San Fernando, you got in trouble if your socks were the wrong colour, or you did not have a handkerchief in your pocket. They made sure—your teachers—to insist that you had to have a handkerchief in your pocket—as I still do—and a red ink pen in your pocket, as I still do. As Mr. Mercier, when he walked into the class and asked for production of those two items, you were bound to produce them. To this day, umpteen years later, I am still, every morning, looking for my handkerchief and red ink pen, from the kind of upbringing that we had at school, which ensured that there was discipline and work. [*Interruption*] Got rest his soul. He passed away and we remember him fondly as someone that formed our personalities. Both Sen. Rambharat and I were taught by him.

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**Sen. Obika:** As myself.

**Hon. F. Al-Rawi:** And Sen. Obika.

**Sen. Le Hunte:** And myself. [*Laughter*]

**Hon. F. Al-Rawi:** And Sen. Le Hunte, it seems many of us. So, Madam President, the point is we are watching a phenomenon in our society which causes concern. And therefore we come to the provisions of this Bill. We accept that there is statistical position, but we accept that we are not the first country in the world—we are not the first jurisdiction in this world to treat with the phenomenon of gangs. Indeed, from a sojourn of the laws passing through the United States of America, passing through the federal law system, the individual state law system, passing through the Commonwealth, passing through the Caribbean Commonwealth jurisdictions, Jamaica in particular, countries have experimented with anti-gang laws, and Jamaica more so amongst the rest, quite successfully.

So we come to this Bill, Madam President, and in the Bill we are being asked to consider some certain improvements. And permit me to put on the record in the couple of minutes that I have, that the Anti-Gang, 2011 law and the Anti-Gang Bill which we have before us, provide for useful comparison, and permit me, because that law is well known. Let me start by saying our courts in Trinidad and Tobago have considered the Anti-Gang legislation, in particular the dicta of Mr. Justice Nolan Bereaux. The Justice of Appeal in the Kevin Stuart matter provides for very excellent example as to judicial analysis that anti-gang cases are not slam dunks, as he put it, quite simply; that it requires evidence but that it is not an impossibility.

No court in the 33 matters which stand at the Magistracy right now has poured scorn on the anti-gang law. No court for the entire time since 2011—

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August 21, 2011—to now, has poured scorn. We have been tested coming out of the state of emergency arrests with the 263-odd arrests and more, that were sent by way of releases. We have been tested with false imprisonment and malicious prosecution. But dare I say that the mere fact that this false imprisonment and malicious prosecution, brought against arrest under the anti-gang legislation, demonstrates that there is recourse in that due process cycle for people who are wronged, arrested, taken into detention. Under the old law you were denied bail—full stop. Under this law we do not propose the denial of bail.

Madam President, the short title, the proclamation clause and the inconsistency provisions in clauses 1, 2 and 3 are the same. We get to clause 4 of the Bill. Clause 4 of the Bill, we have modified and revised the definition of “gang”, “gang leader”, “gang member”, “gang-related activity”, and, importantly, we have included the perimeters of schools to include orphanages and 500 metres within recreational grounds, et cetera. That is because in this Bill we propose to treat with the phenomenon of recruiting children into gang membership, or harbouring and concealing.

We have removed the definition of “bullet-proof vests” because we did not need to treat with that, and we have added in “prohibited weapons” because that was unfortunately not included in the original Anti-Gang Act. “Gang membership” which was the old clause 5 of the 2011 Act, we have disaggregated and made it in terms of clarity, a better purpose.

We provided a new clause 5 which treats squarely with evidence in relation to gangs and a new clause 6 which treats with gang membership. We thought it better to model ourselves after the Jamaican, section 6(3) Criminal Justice Suppression of Criminal Organizations Act, 2014, in treating with evidence



separately from gang membership. And very importantly, we have sought to clarify the utilization of the term “gang leader”. We are providing, therefore, clarity to the Judiciary in separating out the evidential issues in the new clause 5 from the gang membership considerations; what constitutes gang membership, the fact that you do not need to have an insignia, or use certain signs, et cetera, but there are other things which the court ought to pay attention to, such as admission, such as publication, such as activities, et cetera.

Madam President, we have also allowed for the coverage of intelligence agencies into these provisions to provide a form of protection for persons engaged in intelligence activities. In clause 7 of the Bill we find ourselves in similar terms to what was section 6 of the Anti-Gang, 2011 Act. Again, we have used the term “gang leader” here to provide clarity, so that persons are caught under the particular section. It is the coercing or encouraging gang membership section, and we thought it important because of the pressure of communities to treat with coercion into gangs and gang membership.

Similarly in the new clause 10, we are dealing with a very important provision which treats with the prevention of gang members from leaving a gang, because there is a social pressure in our communities where garrison-type behaviour is dealt with by way of a direct intimidation of persons who just do not want to be members of gangs or coerced into gang activity. And that is in similar terms to section 7 of the 2011, Act. In clause 9, we are treating with the counselling of a gang. That is in similar terms to section 8 of the Anti-Gang 2011 law, which is participation in criminal activity in association with a gang.

What we have done is to insert that persons who provide background support to gangs that they would be in the aiding and abetting scenario. So that we

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can treat with the people who are hiding behind the gang members conducting their activities whilst promoting them by paying for activities or putting them out to perform “the wuk”—to do the job for the person. In the new clause 11 we are treating with the possession of bullet-proof vests, firearms, ammunition, prohibited weapons, and we are saying in comparison to section 9 of the Anti-Gang, 2011, we removed the words “intends to use”, we removed “prohibited weapons”; and the rationale for removing these is that we are only intending to catch actual use. The section was too open to mischief and therefore we had to cut down the section. “Prohibited weapons” were included because prohibited weapons were something that was left out from the firearms consideration and it was an omission that should not have happened.

Clauses 12 and 13 of the Bill were anchored previously in section of the Anti-Gang 2011 Act. What we did was to split out in clause 12, “harbouring a gang member” and we took it away from “concealing a gang member”. But what we did was, in this version of the Bill, we expressly provided for protections in the form of defences. We expressly provided a defence in a form of reversal of proof, where it is for the person against whom harbouring or concealing is raised, to treat with the proof that he did not know or have reasonable knowledge that the person was either harbouring or concealing a gang member or gang leader. And in particular, we treat with the phenomenon of children, because we put in and we repeated the same exceptions where a person in loco parentis, a person who was acting in the role of the parent of the child, a person who is actually the parent of the child or a person with responsibility for the child, may have taken in the child to try and lead the child away from the gang activity.

Madam President, in the House, we noticed—it is something that we had not

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picked up before, but on the sitting of the House just last week, we noticed that there was an unfortunate inclusion that any law enforcement authority, which would have included people other than the Trinidad and Tobago Police Service, could have asked a question and somebody would have found themselves in the harbouring and concealing provisions, guilty of an offence for not providing the information. But respectfully, the TTDF and other agencies, apart from the Trinidad and Tobago Police Service, had no role in that and so we narrowed it down to just the Trinidad and Tobago Police Service.

Madam President, in the new clause 14, “recruiting a gang member”, it is similar to section 11, “recruiting gang members” of the Anti-Gang 2011 Act. We introduced higher penalties. We sought to make the offences triable either way, in certain circumstances, summary or indictable. And specifically, we redrafted it to ensure that persons can be charged with recruiting a child, because there is a phenomenon having established carefully in our country now that a child is anyone who is under 18 years of age. As clause 4 of the Bill provides, we have made sure to treat with the phenomenon of children.

Again, we have dealt with a shifting of the burden of proof and we thought that that is a responsible point because it provides measure and due process to the scenario. Madam President, we, in the new clause 15, have dealt with similarity to section 12. That is the section which deals with police powers of entry, search and arrest. And I should say, as we go to the new clause 16 which deals with detention of persons, which have been the similar provision to section 11 of the Act—

**Madam President:** Attorney General, you have five more minutes.

**Hon. F. Al-Rawi:** Thank you, Madam President—that it is clause 15 and clause 16 which the Law Association has reflected upon. They have raised issue as to the

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standards that we use: reasonable suspicion versus reasonable cause. They are asking for a harmonization of position. They are asking for clarity in some of the purposes. I do not necessarily agree with the entire submission that they have made but I am confident that it will be ventilated on the floor by other Members to address the honourable Chamber, and our Members will respond and in the wrap-up I will give a more fulsome explanation of the points of view.

But suffice it to say, in the warranting section, we are taking avail of the common law, we are taking avail of the criminal act, we are taking avail, as well, of the Anti-Gang Act as it stood. You can enter in warranted and unwarranted provisions for searches. If you are going into a dwelling house, it must be with a warrant. In the detention provisions that we treat with in the new clause 16, specifically, we have moved to a higher standard. We are allowing any police officer to detain for 72 hours. You must keep a record of the detention. But if you want to continue investigations, you must approach a higher judicial officer, go to a court and say, "I wish to continue with detention", and have the court be satisfied.

Now, the Law Association has raised concern about the practice of the magistrate in the warranting section just being satisfied with the say-so of the policeman, but of course, the highest courts of the land have said that those would be illegal, and therefore the common law itself and judicial practice has grown up to guide what is proper in those circumstances for now. So I think there is adequate protection. But suffice it to say, in the detention, we have moved for a significant amount of due process by having a judge consider further detention.

We have kept the forfeiture provisions in clause 17 of the Bill, which is a replication of clause 14 of the Bill. If your property has been turned out to be

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property used for gang activity, you will forfeit it after conviction, and that is something which says that you ought not to profit. Clause 19, we treat with the sunset clause. There was active debate as to whether two-and-a-half years, two years, four years; we have settled upon 30 months, which is two-and-a-half years and that is for consideration before the hon. Members.

Madam President, clause 18 of the Bill treats with the amendment of the Schedules. One, if you are going to amend the Schedule, which is the First Schedule, which sets out the offences, you have to come to Parliament to do that. But number two, the form, we have allowed for the Minister to amend from time to time by order, because that is more of an administrative act. I should add that the Law Association has added—and we are considering—the introduction of “upon oath” into that further detention form so that there is sworn testimony with, therefore, sanction in the event that you got it wrong. And that is something that we are considering.

The First Schedule treats with the prescription of offences. The Law Association has asked us to remove some of the anti-gang offences from that. I do not necessarily agree with that. We have kept to the formula of the 2011.

Madam President, this law is proportionate. This law is necessary. The impact of this law is to be found in the need to disrupt gang activity. This law is not about a perfect piece of law. This law is not about finding the absolute panacea to treat with crime. This law is about giving a fighting chance for the people of Trinidad and Tobago. This law is not grounded to be articulated with an ouster of judicial consideration for bail as the 2011 law was. There is process provision; there is access to the court on every opportunity and this is something that I commend, genuinely, to the citizens of Trinidad and Tobago, through this

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honourable Senate, for consideration. I look forward to the contributions of hon. Members, and I beg to move. [*Desk thumping*]

*Question proposed.*

**Sen. Gerald Ramdeen:** Thank you, Madam President. It is indeed a pleasure to be given the opportunity in this debate to reply to the Attorney General on a Bill that seeks “to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”.

Having heard my learned friend, the Attorney General, Madam President, who, as he always does, in a very succinct and eloquent way, describe what the provisions of this Bill are meant to do, I was just a bit disappointed in one particular aspect of the Attorney General’s presentation, which is that I thought the Attorney General would have outlined exactly how we find ourselves here today in debating this particular piece of legislation. And I want to pillar that upon a statement that was made by Her Excellency in her speech yesterday to all of us as citizens of Trinidad and Tobago, which is that we should find the light in everything that we do, a very powerful message to each and every citizen in this country. [*Desk thumping*]

And I want to say that it is as a result of the light and the wisdom of the Leader of the Opposition that we find ourselves in this position today, [*Desk thumping*] being able to debate this piece of legislation. Because the Government brought this piece of legislation in early December last year and, for whatever reason, the legislation did not get the constitutional support that it required for its passage. And as a country, the Trinidad and Tobago Police Service, the Government, had indicated—was asking for this legislation. As a Parliament, we

found ourselves in a position where we could not reach agreement as to how we could find a bipartisan mechanism for the passage of this particular piece of legislation.

And while the Government, after the Bill was defeated in the other place, was prepared—and not the Attorney General—the Leader of the Government was prepared to lay the blame at the feet of the Opposition and say it was blood on the hands of the Opposition, the Opposition Leader was prepared to put the safety and security of the citizens of Trinidad and Tobago first and find a way to bring this legislation back to the Parliament. [*Desk thumping*]

And that is not something that should go without mention, Madam President, because when the Bill was defeated there was a degree of disappointment across the country in different quarters, and many persons were saying that it would take six months before we, the Parliament, could review the Bill and bring it back. And that was really not the case. It was actually, we would have had to wait until September, a new parliamentary session, to start this debate all over again.

And it was by the request and the invitation of the Leader of the Opposition that the Government was asked, with the agreement of the Leader of the Opposition, to invoke the Standing Orders 122 and 126 so that with the consent of the Government and the Opposition, we had a united approach to bring this piece of legislation back to the Parliament of this country, so that we could be here today, debating it, putting in place anti-gang legislation—and I say so without apology—due to the efforts of the Opposition, [*Desk thumping*] holding firm to the position that we have always said, we have prepared to support good legislation that strikes the right balance between the citizen and the State and protects the

constitutional rights of is citizens.

And the Attorney General went straight to the fundamental rights provisions, because this is a piece of legislation, on the face of it, that breaches the fundamental rights, but in a proportionate way that pursues a legitimate aim, that as the law presently stands, would pass the constitutional test and the constitutional requirements of section 13 of the Constitution.

But while the Government has brought this piece of legislation, it is important for us to understand where we are today as a country with respect to the safety and security of our citizens. Because this is a piece of legislation that the Government tells us is going to help us fight the criminal element and somehow win the war against the criminal element in this country. And where we are is a place that we have never been before because, as we speak today—the Attorney General was quite right—since this year has started we have had an unprecedented number of murders in this country, of 131, as we speak today—131. We are in the middle of March and we are at 131.

The Government, in all its efforts to fight crime, has spent, budgeted over \$22billion on national security. So there can be no complaint about a lack of resources when it comes to national security and the fight against crime. But every piece of legislation that we pass here, or that we debate here, that the Government has presented to us in the fight against crime, and the whole-of-government approach as the Government describes it, has told us it is going to assist.

We have been hearing that for 30 months, that as we pass each piece of legislation, it is going to assist. The truth about it is that, thus far, the citizens of this country have not gotten that assistance that has been promised to them for the past 30 months and before. Because there have been over 1,200 murders in the last



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30 months. The Attorney General gave us the figures and said 35 per cent of them have been gang-related. Well, that is simply not good enough, Madam President.

And the most that the Attorney General can do is bring legislation. When we pass this legislation, as I will go through the figures and show you, there is a duty upon law enforcement to operationalize it. And as we pass pieces of legislation, Act after Act and debate Bill after Bill, the truth about it is, in the last 30 months we have gotten no results, or very little. Because as we debate this piece of legislation today, whichever side we sit on, the one thing I think we can agree upon is that the people of our country, the citizens of Trinidad and Tobago, are more unsafe now than they have been at any other point in time in the history of our country. [*Desk thumping*] And we have to ask why.

Madam President, the Attorney General made reference about when he was in Presentation College. I can make reference to when I was in Naparima College. The mere fact of what we saw happen on High Street a week ago was unthinkable when we were back in school, that at one o'clock in the day you will have people walk into a business place on High Street, smash the glass cases and take up jewellery that belongs to someone else, and you have the San Fernando police station a stone's throw away on Harris Promenade. And that begs the question: Are we really giving any comfort, safety, security or guarantee to the people of our country by passing legislation? It is the best that we can do, but at the end of the day, are we getting any results for it? After we have spent over \$22 billion on national security, what do we have to show for it?

And, yes, this is one piece of legislation where the Government and the Opposition have worked together. At the very outset the Attorney General, in the first debate in the other place, indicated what he indicated to us today, that he had

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written to the Law Association; he had written to the Director of Public Prosecutions and he had received no reply. And like him, I would like to thank the President of the Law Association for providing a reply, albeit late. Because having studied it last night, which I will also go through in part of my contribution, I think there are some useful suggestions that have been made by the Law Association that can strengthen the legislation.

But, Madam President, the truth is, the phenomenon of gangs that the Attorney General has referred to that plagues our country today did not start in 2015; it did not start in 2010. It has been there for some time. And what we are grappling with today is not a problem that has mushroomed overnight. It is a serious problem that we have been grappling with for years. But like I said before, between the period 1995 to 2000, we had one of the most brutal and brutish gangs that this country has ever experienced. It was called the Dole Chadee gang, and Dole Chadee, during the period of time, and in his criminal trial, the evidence came out, he was referred to as the Gangland Boss.

Between 1995 and 2000, under a UNC administration, and a very, very good Attorney General, that gang was put to an end. They were charged. They were prosecuted and they were executed without any anti-gang legislation. [*Desk thumping*] And you know, there is a lesson to be learnt from that, Madam President. The lesson to be learnt from that is this: Legislation, yes, we need the legislation. Yes, the legislation provides an additional tool to law enforcement. It provides an additional mechanism by which people can be brought before the courts for committing criminal activity, but at the end of the day, if law enforcement does not have the will, the courage or the commitment and dedication to operationalize this piece of legislation, we are going to get nowhere. We are

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going to get absolutely nowhere.

And let me just take the Attorney General's point about disruption, because the Attorney General did refer to the Affidavit of the Acting Commissioner of Police, Mr. Stephen Williams, filed in CV 2016/00074, and in that Affidavit the Attorney General went through the figures which I will not repeat, but only to say, between 2012, 2011 and 2016, we had anti-gang legislation in this country, passed and operationalized. But what the figures show is that there was really little disruption, even though we had the legislation in place, even though the police had the mechanisms, the same 15 sections that the Attorney General talks about—we had an anti-gang unit. The Attorney General tells you where they are now, but the point about it is, the disruption argument holds very little weight because the figures show that between 2014 and 2017 there was a 129 per cent increase in the number of gangs we had in the country.

So if we are going to say that this piece of legislation is going to provide some kind of deterrent to people forming gangs, or forming themselves into gangs, the statistics do not support that. In terms of membership, the Attorney General quoted the figures—between 2014 and 2017 the figures went from 1,500 to 2,459, a 63 per cent increase in the number of persons who have joined criminal gangs.

And in the other place when the debate was proceeding, in what I could call the first rounds, the hon. Minister in the Office of the Prime Minister and in the Ministry of the Attorney General in answering a request for the statistics about murders that have been linked to gang activity provided—and what I am reading from, Madam President, is the *Hansard* of the 6<sup>th</sup> of December, 2017, and the contribution of the hon. Minister Stuart Young—and this is what he had to say:

**11.30 a.m.**

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“Gang-related murders for the period 2010 to 2017, started at 75 in 2010...up to 93 in 2011—there was a state of emergency”—he says. “In 2012, it jumped from 93 to 144 gang-related murders. In 2013, it up to 197 gang-related murders. The highest ever level of gang-related murders took place in 2013... In 2014, it went up to 142. In 2015...141. It dropped in 2016...”

So, Madam President, the figures, the objective figures that the Trinidad and Tobago Police Service provides to us, have shown that when the legislation was in place the number of gang-related murders increased exponentially. So that to say—and it is not a criticism—that the legislation of its own is going to provide some kind of disruptive or deterrent effect on persons who are intent on committing criminal activity, all I want to say to that is that the statistics that we have, which is all that we can go on, does not support that proposition and, therefore, it begs the question: In addition to the legislation what is it that we need to do in order to get this right? Because the only thing that we can say is that whatever has been done before has not gotten it right. We have gotten it quite wrong, and that is why we find ourselves in the position that we find ourselves in today.

Madam President, the reason why I respectfully would submit to this Senate that we find ourselves in this position is because the gang culture and the gangs are more attractive to our young disenfranchised youth, and that is why when you look at the ages of persons who find themselves in these gangs you find that they really comprise the young disenfranchised youth, and that is why in addition to the passage of legislation, we have to understand what is it that we must do in order to come to a position where we can really fight this disease called gang activity. If I can suggest to the Government it cannot be a legislative approach alone, and to

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tackle the issue of gang activity, criminality, and where our youths find themselves in 2018, as a Government between 2010 and 2015, that was one of the major things that were focused on. Almost in every different Ministry there was a whole—if I can borrow the words of the Attorney General—of Government approach with different Ministries to treat with the disenfranchised youth.

Let me just put on the record, Madam President, that in addition to the legislation that was in place, the People's Partnership during 2010 and 2015 brought serious crime down to the lowest in 33 years [*Desk thumping*] and it was not simply—the point I am getting at, Madam President, that it was not simply legislation that did that. When it came to tackling the disenfranchised youth, this is what we did. There were social programmes which existed to help empower young citizens to reach their fullest potential and these were the opportunities that we gave to them: Higher Education Loan Programme, the MIC Craft Programmes, the Helping Youth Prepare for Employment (HYPE), Life Skills Unit, the Multisector Skills Training Programme commonly called MuST, the On-The-Job Training Programme (OJT), Servol, Advanced Skills Training Programme. So, Madam President, the point about it is, is that we empowered our youth, gave them opportunities that would move them away from seeing gang activity [*Desk thumping*] as being something attractive to them, but that alone was not enough. What we did in addition to legislation, we trained 2,000 Special Reserve Police Officers, and we gave the Trinidad and Tobago Police Service a non-taxable special allowance of \$1,000.

Madam President, we launched a community comfort patrol and one thing that is very important and very unfortunate that we find ourselves in today is this: with respect to the Trinidad and Tobago Police Service, the Trinidad and Tobago

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Defence Force/the Trinidad and Tobago Police Service, we increased their fleet of vehicles by more than 500 vehicles. [*Desk thumping*] Those were 500 that were purchased, but we refurbished over 11,000 vehicles for the protected services. [*Desk thumping*]

Now, Madam President, the truth is that the passage of legislation alone cannot help. It simply will not work and that is why in the consultations between the Government and the Opposition on this piece of legislation we asked the Government in that meeting, where Members of the Opposition met with the Members of Government, that what guarantees can they give to us, but not more importantly us, what guarantees can they give to the citizens of the country that we will get the other things right. Madam President, it is of no joy to look in the daily newspaper, and I want to refer the article Sunday, February 4, 2018—that is last month, Madam President—where the headline of the article is “Police work hampered by lack of vehicles”. In this article—I do not want to quote it and read it, but the gist of this article is that the Arima Business Chamber is raising funds to repair police vehicles, derelict police vehicles in Arima, because as we speak—this is what the article says:

“The work of police officers from 12 stations in the Northern Division is being hampered due to limited vehicles. Over a dozen vehicles need to be repaired.”

We cannot be satisfied that as a Parliament we come here, we sit, we will pass this legislation today, the Government will get Opposition’s support in a Bill where they ask for a constitutional majority, and at the end of the day we find ourselves where in Arima the business chamber is raising \$8,000 to fix two vehicles. How could that ever be right? When we have a budget—the Government has told us

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time and time again we do not have, we must get more from less, we do not have the kind of resources we had before, but you spent \$22 billion in national security and you cannot get \$8,000 to fix vehicles at Arima? That “cyar” be right. How are we going to operationalize the anti-gang legislation when somebody calls into a police station with information about gang-related activity, about gang members in their community and there are no vehicles to go to investigate the complaints? How are we going to do that? Where are we going to get when we pass this legislation? And that takes me to another article, Madam President, almost the same subject written two weeks later on the 25<sup>th</sup> of February, 2018, and I want to implore the Attorney General today. It is a matter that I raised a week ago, Attorney General, it is this: the headline of this is “Arima businessmen want licence for guns”.

**Madam President:** Sen. Ramdeen, where you are quoting it from?

**Sen. G. Ramdeen:** I am sorry, Milady. I apologize. This is an article written by Rhondor Dowlath from the *Sunday Guardian*, 25<sup>th</sup> of February, 2018. The article headline is “Arima businessmen want licence for guns” and the complaint that is raised in this article is this:

The “President of the Arima Business Association...Reval Chattaroon raised the issue in the face of escalating crime, not only in Arima, but throughout”—Trinidad and Tobago and this was when the murder toll was 73.

Madam President, we are in March second week, third week we had 131.

“Meanwhile, on February 20 an Arima businessman was shot during a robbery and is still fighting for his life as he remains warded in critical condition at the hospital.”

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This is the important part.

“Chattergoon said this situation in the country has become grave as thousands of illegal firearms”—many used in gang activity—“are being brought into”—Trinidad and Tobago—“on a daily basis and are being used by criminals, while legitimate business operators and other citizens remain vulnerable.”

And this is the quote he says:

“Imagine the frustration of legitimate citizens applying for a firearm users licence more than six years ago, not receiving”—an—“acknowledgment”—or—“response and continuing to live in fear six years later at a time when criminality has escalated.””

Madam President, I implore the Attorney General to take some kind of legislative step. If it is that the Office of the Commissioner of Police is overwhelmed with the criminality that they have to look after every day in the 12 divisions throughout the country, then let us take it and put it somewhere else, but it cannot be. As the Attorney General said last week, guns are coming into this country in containers at the port. While we concentrate on what is happening on our borders, it is coming in illegally in our port before our eyes. Gangs and criminals are arming themselves, and as we saw a week ago at one o'clock in the day, in San Fernando, a security guard is pushed on the ground, faced with a gun butt at his head while a store is being robbed, and the people who own that store, the legitimate businessmen who go to their businesses every single day and take all the steps that they can, are waiting six years to get a firearm. That is just not good enough. It is not good enough. We have to do better than that.

Madam President, that takes me to one more point with respect to the



resources. We have a habit in this country of judging our success in crime fighting against the murder rate throughout the country, and if that is the test that we use there is clearly a great failing on the part of the Government with respect to the provision of safety and security because the one thing that must be very clear from the presentation of the Attorney General is that the rights that are guaranteed in the Constitution to each and every citizen of this country, the right to life, the right to property, and the security of the person is a right that is guaranteed by the State. When one looks at what has happened to our country and where we are today, it is clear that the State has failed the people of Trinidad and Tobago [*Desk thumping*] because the right to life, safety, and security is clearly a right that is not being guaranteed to the citizens of our country, and whereas the anti-gang legislation will go some way to providing a mechanism, a tool to the police and law enforcement to assist in guaranteeing us our safety and security, from the record over the past 30 months we have been failing miserably.

Madam President, going back to the issue about—and I just link it back to the Bill because the number one scheduled offence in the schedule to the Anti-Gang legislation: possession of imitation firearms; larceny; arson; gang membership; number 15, murder.

Madam President, in an article published on Sunday, January 28, 2018, the head of the homicide unit in Trinidad and Tobago, ACP Anthony James, gave an interview about what is the position with respect to the homicide unit, and just to take two items that Mr. James referred to, he said that the homicide unit needed proper training, equipment. They needed to “up their game” to use his words, but the most important fact or revelation that was revealed by Mr. James is this: the most serious crime in our country today that plagues our country is murder. The

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department of the TTPS that has to deal with that is the homicide unit. We spent \$22 billion on national security and the homicide division is operating at 200 staff when the sanctioned strength is 400, so how can we really be serious about the fight against crime and criminality when the most important unit of the Trinidad and Tobago Police Service is operating at half the number of staff that they are required? And this is just one.

The Attorney General made the point and I will say so today, the one murder that shocked most people in this country at the beginning of this year was Joshua Andrews, the 14-year-old who was killed in Trou Macaque, and when that murder took place the Prime Minister said there was blood on UNC hands and UNC are to be held responsible for that. While the Leader of the Opposition was writing back and forth to the hon. Attorney General trying to get a meeting to pass this piece of legislation, the Prime Minister was pointing at the Opposition and saying, “that, is your fault”. Well, let me tell you where fault lies, Madam President.

The Attorney General knows because I met with him confidentially and gave him information in relation to that particular murder, that the person who has the evidence to prosecute that crime is not able to go to the police because the police cannot provide him with any protection as we speak today. So Joshua Andrews, God bless his soul, may he rest in peace, but his mother, and father, and other nine siblings will get no justice because as we speak today, even when we pass this legislation, and it gets assent, and it is proclaimed, it is going to bring no solace to them because at the end of the day without a proper witness protection programme, not only put into statutory form under the Justice Protection Act, that is just not good enough. Unless we resource the witness protection programme, we are not going to get anywhere. [*Desk thumping*]

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Madam President, it was because we had a well-resourced witness protection programme that Levi Morris was able to turn state witness, go into the box, give evidence, prosecute people, convict them, execute them. That is how we win the fight against the criminal element. And as we speak today, the same case that the Attorney General spoke about with those eight officers who are sitting in the Remand Yard now, the witness in that matter, another police officer, who has voluntarily put herself and her child into the witness protection programme needs the help of the—

**Madam President:** No, continue.

**Sen. G. Ramdeen:** So, Madam President, let me move on from that now to what I say, I want to again thank the President of the Law Association, Mr. Douglas Mendez SC, who has provided the Attorney General on the 19<sup>th</sup> of March, 2018, with certain suggestions that I have read through very carefully, and if I can summarize them they deal with the manner in which gang activity, gang member, and gang leader is defined, and in the view of the Law Association they take the view that the definitions leads to a degree of circularity with respect to how you prove the offences. I am sure that the Attorney General will study that suggestion that they have made and we can come up in the committee stage with some form of formula that would help us.

The Law Association raises the issue about strict liability, and having gone through the legislation, Attorney General, perhaps I can suggest that to deal with the concerns that have been raised by the Law Association with respect to the absence of mens rea in some of the offences that have been created by this legislation, we can perhaps insert what you have similarly as clause 13(4) to the legislation that deals with concealing a gang member. If we can craft a provision

similar to that, we might be able to overcome that concern. I think that there is merit in the suggestion as to the different burdens that have to be satisfied by an arresting officer under clause 16(1) and the burden that has to be satisfied by someone who seeks to detain beyond the 72 hours, but I am respectfully of the view that that is a matter that could be cured very easily by virtue of a simple amendment to either of the provisions to bring the burdens in line. Obviously, Attorney General, you would see the merit in finding that an officer who arrests has a higher burden to satisfy than someone who has to detain.

Madam President, there are a number of suggestions that have been made which I would implore the Attorney General for us to find a way before this debate has ended for us to be able to put right what the suggestions of the Law Association are, but while one can lay some degree of criticism at the alacrity with which the Law Association has responded to the Attorney General, and I myself have raised that matter with the President of the Law Association in other pieces of legislation, one of the things that the Opposition had said in meeting and consulting with the Government was that—not to use the words of the Attorney General—to have analysis paralysis over and over again, but there are certain stakeholders that are clearly more important than others in the passage of certain pieces of legislation and we did not want to hold island wide debates. What we were saying was that the Law Association has a statutory duty under the Legal Profession Act to guide this country in legal matters. They may not always be right, we do not always have to accept what they say, but I think it is a move in the right direction for us to actually have something, for the Government to actually have some suggestion as to how we can make the legislation stronger. The point I am getting at is this: sometimes we just need to be a little bit more—[*Interruption*]

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

**Sen. G. Ramdeen:** Thank you, Madam President. Sometimes we probably need to push a little harder or make one more request. I do not expect that the Attorney General will be begging anyone for responses to his request for proposed legislation or suggestions, but I think that the Office of the Director of Public Prosecutions, the Law Association, and the Criminal Bar are clearly three institutions from which all of us can benefit. The Government, the Opposition, and we have the benefit of very learned senior counsel on the Independent Bench which we are lucky to have in the presence of Senior Counsel Chote, but at the end of the day we can all collectively come together for the benefit of the citizens of Trinidad and Tobago to pass legislation in the best interest [*Desk thumping*] and what this exercise demonstrates is that with the right attitude and the right leadership that we can get there and get it done. [*Desk thumping*]

We have gotten here—and I do not apologize for repeating it—and we are here today after this piece of legislation has passed through the Lower House because the Opposition wanted to get it passed. [*Desk thumping*] I want to say one thing before concluding, Madam President. The Government of the day always repeats that while in Opposition they supported 95 per cent of legislation that was brought by the People's Partnership Government and that may factually be so, but we have given to this Government 30 months, two and a half years. The Attorney General made reference and gave reasons why in 2016 he said they wanted two years. They have gotten 30 months from the Opposition, which is more than they asked for in 2016, but I want to remind the country of one thing. When the People's Partnership Government brought perhaps one of the most groundbreaking pieces of legislation that could have fought crime and criminality—and this

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morning when I was doing some research after the case of Watson in Jamaica, one of the first things that the Jamaican Government did was characterized murders—and when we brought the Constitution (Amdt.) Bill while we were in Government, we did not get the support of the Government. Not even for 30 months, we did not. And when we brought the Bill to allow army and police to patrol this country we did not get the support of the Government, and those were perhaps, in my respectful view, two of the most ground breaking pieces of legislation that may, if they were passed then with the then Opposition support, we might not have found ourselves in the position that we find ourselves in today. [*Desk thumping*] So we must not have short memories.

We have today decided, as an Opposition, guided by the Leader of the Opposition, to support the Government and to give the Government the support that they have asked for. They have said the people of this country, the Trinidad and Tobago Police Service needs this legislation and they went asking for it. They will get it with Opposition support, but, Madam President, as I have said before, we will be doing a disservice not only to ourselves, but more importantly to each and every citizens of this country if the Government does not resource the essential departments of the protective services with the resources that they need. The Trinidad and Tobago Police Service, the forensic science centre, the homicide division, the anti-gang unit, if we do not weed out the corrupt elements—because, Madam President, we have a situation going on right now you know, where three officers of the Trinidad and Tobago Police Service are suspended because they did not take a report, and today the persons who suffered the most from that are being buried and put to rest. God rest their souls too. But where would we be when this legislation is passed and somebody calls the Trinidad and Tobago Police Service in

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any police station and they tell you, well we will check on that, or we will come back another day. We are not going to get anywhere and we will continue to lose the girls, the women, the mothers, the fathers, the sisters and brothers. We will be losing all of them at a rate that is unprecedented and we cannot continue like that. Whether we sit here, or we sit there, our main priority is the people of Trinidad and Tobago. [*Desk thumping*]

Madam President, I hope that the Government uses the support that we give them in the best interest of the people of Trinidad and Tobago, for the people of Trinidad and Tobago. I thank you. [*Desk thumping*].

**Madam President:** Sen. Mahabir.

**Sen. Dr. Dhanayshar Mahabir:** Thank you very much, Madam President. As I join in this debate, I could not help but reflect on our Constitution, the Constitution of the Republic of Trinidad and Tobago, and the United States' Constitution which offers a lot of insights for us though our legal system is different. In the US Constitution there is the Second Amendment which offers the US citizen a right to bear arms, the right to bear arms essentially for two purposes. First, so that at the time that that country was being founded the local militias could be called upon at will to defend a state from aggression. So there was a reason for that right to bear arms, and second there was the view that every citizen has that innate right to defend himself if he faces aggression or threat. That right to bear arms does not exist in our Constitution, and under "Rights enshrined", Madam President, 4(a), the Constitution guarantees us:

"the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;"

Our Constitution furnishes that right to ensure that we have a right to be free from aggression and free from threat, but because it does not give us a right to bear arms it means that implicitly there is a responsibility for the State to provide the protection and for the State to bear the arms. [*Desk thumping*] That is the responsibility of the State.

I will touch on some areas covered by Sen. Ramdeen, and I too would like to focus on the fact of where exactly our failure has been in ensuring that rights enshrined 4(a) has often been violated for citizens in Trinidad and Tobago. Key in 4(a) constitutional rights, the right to liberty and life and security of the person is the police force of Trinidad and Tobago, and we need to ask ourselves the following: Is our police service efficient?

And by efficient, we simply mean, Madam President, are they, with the resources that they have, discharging their responsibilities so that the mandate that they have to defend our conditional rights are, in fact, so discharged?

### **12.00 noon**

When I look at the detection rate in the Trinidad and Tobago Police Service, I understand that for the most serious of violent crimes, which is murder, the detection rate is maximum 20 per cent. Sometimes it goes a bit lower but it is one in five. When I compared jurisdictions—I had discussions with individuals associated with the British police force—their detection rate is, within a reasonable period of time, so I was advised, nine out of 10 murders; and the one that they did not detect within a reasonable time is placed on a file so that it is eventually solved. There are very few cold cases so that there are some crimes, murder crimes that they solve quickly, some which take a lot more time but on average, their detection rate is a bit higher. Why is our detection rate so low in comparison?



Again, a point alluded to by Sen. Ramdeen, when it comes to domestic crime, it is true; the police cannot be in a household to prevent domestic spousal abuse, child abuse. However, when a protection order has been issued by the courts, and we were told in a joint select committee, Joint Select Committee on Human Rights, that these protection orders are then subsequently lodged with the nearest police station where the aggrieved individual lives. It means that the police officers are aware that there is a potential perpetrator, someone who is a troublemaker, someone who can do harm to one of our helpless citizens and he has to keep an eye out, she has to keep an eye out, and we were told that there is a process and a procedure. Why is it, time and time again, when reports are made by abused women in Trinidad and Tobago, in general, that the reports are not acted upon promptly and unfortunately, it results in the murder of our fellow citizens? It is the job of the police to keep an eye out on—this is not an unknown individual now, this is someone who has made threats, someone who has acted out his anger in the past and the police is quite aware of who the person is. Why do they allow protection orders to be violated so frequently? That is a job for policing.

Madam President, there is the issue of trust with the police service. Not so long ago, the Police Service of Trinidad and Tobago engaged in a day of total policing which was a subject of another Joint Select Committee enquiry, and they caused untold discomfort to the citizens in the northern part of Trinidad and Tobago. Trust was violated and the police force, the police officers, the police organization is asking for the Parliament to give them additional powers so that they can fight crime. Madam President, the police service has to restore trust. They must become more efficient and they must compare themselves to international best practice.

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We ask ourselves: With less resources in the '60s and '70s, under Commissioners like Tony May and Randolph Burroughs, how come they were able to fight crime with a greater amount of competence? What has happened since the days of Randolph Burroughs to now?

Madam President, there is a problem when we are asked to pass a law such as this Anti-Gang Bill which suspends so much human rights and to give power to an organization like the police force which is not displaying the level of efficiency we would like them to display to the population. And the reason for the concern is that they may abuse this power. We want the power that is given to them to be used against the nefarious forces in the society and we want to ensure that the legitimate law-abiding citizens in Trinidad and Tobago do not fall under this net, so that it is the criminal element which will be targeted and the rest of the population will be immune from any abuse of the law.

Madam President, there was an SSA Bill. I did not support the SSA Bill—it is law but I think it is important to demonstrate why I am supporting this Bill but not the SSA—and the reason I did not support the SSA was clear. I did not think—not that the SSA should not have the powers but I think they had not proved themselves capable, given all the high-profile crimes, which I thought intelligence should have solved—cocaine in juice tins landing in the port of Boston—bringing Trinidad and Tobago in so much disrepute internationally. I thought the SSA should have been doing those things. For this reason, I thought I needed to see more institutional strengthening before they are entrusted with the powers given on the SSA.

But, Madam President, notwithstanding my concerns with the existing state of policing in Trinidad and Tobago, despite the potential for abuse and I do hope

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we will be looking at how we will minimize the abuse of the powers that will be granted to the police with this piece of legislation. Is it now that we need to look at the existing environment and ask ourselves whether we can afford not to pass this law which can be draconian?

When I look at the statistics—the hon. Attorney General did not forward much statistics, I am sure he has it. The statistics I have are only murder statistics. We can trace what has happened to criminality over a 20-year period; 1998 to 2018 furnishes us with two decades of data; and in 1998, I know there were some 15,000 violent crimes, such as wounding with intent to aggravated assaults. But in 1998, there were 98 murders in Trinidad and Tobago; that is, the most serious of the violent crimes.

And today, 2018, given the trend of what we have seen in the first quarter of this year, what we saw in last year, it may very well be 498. Let us hope it is under 500. And this means that from 1998, for the 2000s onwards, we have seen a rate of growth of violent crime, of which murder is the pinnacle, averaging some 9 per cent per annum compounded. Every year, it is 9 per cent more than the previous year and 9 per cent—and so we have moved from 1998 to close in this year, if the trend continues, we may just be around 500.

Madam President, when you see such great growth of any activity, you ask yourself: What could possibly be the underlying causes for this rapid growth? So the '70s, the '80s, the '90s, we saw a stability with respect to violent crimes and then we saw an escalation from 2000 onwards. Well, there is, Madam President, investigation in my own line of work, growth theory, and there is something known as increasing returns. Increasing returns simply says this: If you add 10 per cent more labour to your process and 10 per cent more capital, so you scale up

labour and capital by 10 per cent, output can rise by 15 per cent or 20 per cent. So a 10 per cent increase in outputs can give you a 20 per cent increase in output. What causes that? That is increasing returns. Of course you can get constant returns: 10 per cent labour, 10 per cent capital, 10 per cent output or you can get diminishing returns.

What we have seen in criminality is an escalation of criminal activity in Trinidad and Tobago growing at 9 per cent and it warrants investigation. When we saw that in the post-war era, we observed Germany and Japan growing at similar rates and we asked ourselves what had happened. What had happened was that within the economy, there were changes and the changes there were technical changes. What has happened in Trinidad and Tobago? What has happened in Trinidad and Tobago? And we need to ask ourselves why it has happened but we know what has happened.

We have seen a plethora of organized crime. No longer is it one-on-one crime, no longer is it only the robbery, the theft, the crime of opportunity by an individual who sees an unlocked car with a key and he drives in it, we are seeing an organization. And what does organization do? And the intent of the legislation is really to undermine these organizations. There are positive organizations. It was eminent economist Ronald Coase, 1937, *The Nature of the Firm*, classic article, "Why do firms exist?" He said they existed simply because they are the most efficient form of production. Reason is, within a firm, there is specialization of functions. The CEO does what he does best; the supervisor does what she does best; the worker on the ground does what he does best, and so everyone in his field of specialization will, at the end of a production period, produce much more in that combination than if they were each on their own performing a range of disparate

tasks. So specializations give rise to efficient firms in the formal sector and what we know now is that specialization can also be transferred to the informal illegal sector.

And now we understand why, if there is a group of individuals, we now call them a gang—I want to refer to that because a concern I have, Madam President, is how do you prove—the problem is how are we going to prove some of these things. I leave that to the attorneys with experience in the criminal courts, but coming to what we need to do. We need to understand why the criminality has escalated with increasing returns, because if you are speaking about the theft of an automobile or a group of persons who engage in this activity and you have someone who is able to start the car, that is his specialty—who can go through the hotwiring and do whatever they have to do; someone who can drive a car very carefully; someone who can dismantle it very, very efficiently as well; and someone who can find a sale for the part or who can do whatever he has to do to sell, we know that that criminal enterprise is going to be no different in efficiency from any formal firm in the economy. And when you have these enterprises, criminal enterprises which are so well organized, we now know why the level of criminality is escalating. Organization brings with it efficiency but it is not the type of efficiency that we want; this is destruction, this is disruptive, this is a type of activity that undermines our social fabric and it threatens everything in the formal part of the economy.

And we must do, as a society, understanding why criminality is so rampant, what we must do in the legislative Chamber to undermine the growth of gangs but this is only legislative. My concern shared with Sen. Ramdeen is what is the executive arm, the police, going to do to reform itself to change its structure so that

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taking this piece of legislation, if it is passed, will give them a greater capability to fight the criminal element. A criminal gang is no different from a firm, an organization. You have someone at the top, organizer, that is the gang leader as per the definition in the Bill. You have the supervisors, you have those who are engaged in the foot-soldiering work and the rewards—to which I will come—are going to be similarly situated where, in our world, the CEO can earn many multiples over the worker on the floor, the same applies in the informal sector with respect to the rewards of criminal activity.

But, Madam President, the growth of gang activity is something that if we do not stop, will cause greater and greater harm. Why? Because just as in the formal economy, a firm like Microsoft and Apple, which are firms that we see, are associated with firms like Cisco, Nvidia and Sun Microsystems, we hardly know them, but one industry, the computer industry, will spawn a number of others and it is not surprising to me that one criminal activity, maybe the narco-trade, will spawn other activities because once individuals on the ground see the profits to be made by engaging in group activities by specializing, using their skills, they are going to target a number of areas that I have seen in the First Schedule. So it is not surprising that we are going to have narcotics and we are going to have auto theft, a number of other activities.

I do have some suggestions for the hon. Attorney General as to what we can add to the Schedule but it is also not surprising to me that the detection rate in murder is so low in Trinidad and Tobago. Because if in the criminal underworld, there are individuals who are specialists in enforcing their version of their law, they are going to be so efficient at murder, that it will be difficult to identify since it is not conducted by someone who is a novice in the field, it is a specialist in the

underworld, and unless we outlaw this activity, unless we take steps to ensure that not only are they outlawed but they are eliminated, I do not think we will ever be able to solve this problem of crime in Trinidad and Tobago.

Madam President, let me focus on a few clauses of the Bill and under Part I Preliminary, definitions, I see the definition of a “gang” and I am sure that the lawyers in our Chamber may have views maybe similar to what I am going to advance. A:

“‘gang’ means a combination of two or more persons, whether formally or informally organized...”

A formal organization, as far as I am aware, is an organization that is registered in the Companies Register and you can see exactly that company is a formally registered company. Are there gangs in Trinidad and Tobago that are formally registered in the Companies Register of Trinidad and Tobago? I thought all gangs were informal and that there is no paper trail, they just know who they are and there is nothing for me to prove that they actually have been an incorporated business entity.

So my concern is, if the majority of gangs are not formally registered anywhere, how are we going to prove that two or more persons, informally organized, engage in activities? They can always say, “Well, we were not”, it is their word, it is their say. Is it that we are going to take evidence from some other person who says, “I know that they are together in this gang and I know they engage in the types of activities which are in Schedule 1”? It is taking someone’s word. I do not know if the rules of evidence will have to be changed to enforce this law or whether existing rules of evidence will suffice. But my own concern with the informal gang is because it is informal, the proof of existence, unlike our sector

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of the economy, simply does not exist. I see “gang leader” means:

“...a person who initiates, organizes, plans...”

I always thought someone who organizes and who plans is the same so maybe there is some duplicity in the words. I know what the hon. Attorney General wishes to get at but I think we need to ask ourselves: How are we going to prove all of these things in the court of law?

Again, Madam President, in the First Schedule, I have seen a couple of activities that I am not so sure—evidence to the contrary of course, I am not so sure that they are gang related. I see Item Number 22 “Rape”, Item Number 23 “Grievous sexual assault”. I always thought rape and sexual assault were more one-on-one crime and that the gangs that we are speaking about are more economic gangs, gangs which are designed to usurp resources in the informal economy via extortion and narco-trafficking and so on. But I really do not know whether rape and grievous sexual assault belong in the category. I am sure the hon. Attorney General will let us know whether gangs are established specifically for this purpose.

But the more important concern, Madam President, is that I have not seen in the Schedule what I consider to be a particularly worrying gang-related activity and that is money laundering. Money laundering has to involve an organized structure and money laundering is the money part to kidnapping, kidnapping for ransom. So we do have kidnapping, kidnapping for ransom but once we are kidnapping for ransom, I am not seeing the crime of laundering the ransomed money or the crime of laundering the money from the narco-trade as a gang-related activity, and I think that we would look at the Schedule to determine whether this should not be added into the Schedule and maybe a couple of them removed, but I



wait for the Attorney General, he has the evidence, I do not, but I am sure money laundering should find itself somewhere in this particular Schedule.

There is another crime that I know it is gang related because I actually spoke to someone in prison when I visited recently. This was an individual who was in prison, a person with a BSc in Computer Science and his job was to provide people with cards to steal money from ATM machines, and so you had someone with computer capabilities who was able to do the needful and they would engage in what I consider to be electronic crime. So that that, too, may be a crime that we would want to put into the Schedule.

Let me focus, Madam President, on clause 13, just briefly, and I am looking at clause 13(2). Clause 13(1) and (2), it says:

“(1) A person who conceals—...

(2) For the purposes of subsection (1)(a), a person commits an offence, if in response to an enquiry from a...”—police officer—“as to the whereabouts of the gang leader or the gang member, the person does not reveal the whereabouts to the...”—police officer—“despite knowing where that person is located.”

I know the Bill indicates quite clearly and it recognizes that the definition of a child, someone under 18 but in reading 13(2), I asked myself. Suppose the police officers come knocking on the door and they meet the 16-year-old child of this gang leader or gang member and the 16-year-old child knows exactly where the brother or the father or the mother is, but the 16-year-old decides “I am not telling you, police, because that is my mother, father or brother”. Is it that this particular child will face the same consequences of I think some large period of time or is it that we are going to have extenuating circumstances? It was not clear to me

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because clearly the 16-year-old is fully aware where the gang member is; the 16-year-old has not revealed it is a relative, but the 16-year-old is a child. What is going to be the penalty, if any, in this situation? So I wait the hon. Attorney General to provide some kind of assurance as to what is going to happen, if 13(2) refers to the child of the gang member or a sibling.

Madam President, 15(1). Ordinarily, as I said, Madam President, I will not support this piece of legislation, this is draconian. It reminds of the Public Order Act. There was somewhere in the 1970s that one of the Attorneys General came under so much heavy fire for but the circumstances you see, the circumstances. The hon. Attorney General, in my mind, is correct. We need to ask ourselves where does the balance lie with respect to the responsibility of the State to protect all citizens and the powers to be given by the State in protecting the citizens which may abridge the rights of some individuals deemed to be the perpetrators. So in the balance, I am weighing in favour of the general population.

Under 15(1), it says and this is where the power lies:

“A police officer may arrest without a warrant a person whom he has reasonable cause to believe is a gang leader or gang member or who he has reasonable cause to believe has committed an offence under this Act.”

It says “a police officer”. Any police officer. Is it someone, Madam President, a recruit just out of the training academy and he has reason to believe, but he has no experience, he is only a month in the force? I would have thought this power of arrest, which is such a major power and you are giving the officer the right to imprison someone for three days—that is what the law is going to do. We are giving the officer, without saying who he is, the right to take someone whom he has reason to believe, how he came out this reason has not been spelt out. I

imagine that there is a police protocol so that the reason, it can be well articulated, not that “I do not like this person, I think he is up to no good, I will take him in for three days”. I would like to see some protocols with respect to how you come to the conclusion that this individual is a potential gang member.

But also, Madam President, I am not comfortable with any police officer being given this power to arrest. I would like a police officer of a particular rank just to sign off. So a recruit tells him “I think this person is in the gang and he is doing some really things which are unattractive to the welfare of the society” and I would like a superior officer to say, “Give me the evidence you have”. It should not be cumbersome, bureaucratic. You simply whisper to him and the superior officer says “Yes, I agree, you can go ahead and you can arrest him and interrogate him for three days”. And while he is being interrogated, I would like to think that there is no torture involved anywhere in the police system of Trinidad and Tobago. I want to put that on the record. We are keeping someone for three days, I am not sure what the procedures are but I would like to place on the record that I am not going to be in support of torturing anyone to get evidence. Let us get evidence in a different way. The interrogating without the kinds of activities we have seen in other parts of the world.

I would like to recommend for the hon. Attorney General that there should be a superior officer involved especially when we are issuing the arrest. I think Sen. Ramdeen did allude to that point. And, Madam President, if anyone of us here has to apply for a permit to cremate someone, a relative—it happened to me a few years ago. My aunt, 91 years old, very close to me, I am responsible for the funeral, died at Mount Hope, everything normal. I had to wait for three hours at the Chaguanas Police Station for a cremation permit simply because—and the officers

were very kind and nice to me. They do not want me mixing and mingling with the undesirable; they are really good. But they said only someone of the rank of Inspector and above can sign the certificate. All the documents are in order. So something as routine as that requires an Inspector to sign off but we are giving any police officer, any police officer of any rank, the option to detain someone, arrest him and imprison him for up to three days, and I think to make the thing a little fairer, I would like to see the police officer who is doing the arresting must have a rank or at least he must refer to his supervising officer who has the experience.

**12.30p.m.**

Madam President, this, as I said, is drastic law. But gangs and escalating crime go hand in hand. It does not surprise me that we have seen a rise in gangs over the last 20 years and a 9 per cent compounded annual rate of growth in criminal activity.

At one time it was said that kidnapping was the number one growth industry in Trinidad and Tobago. It had to be, because it was organized. It had to be that you had a structure that would look at this activity and it would be planned, executed and carried out efficiently.

The leaders of these enterprises, we made the error in the past of calling them community leaders. They are the community destroyers. They are not the leaders of any community, because what they do is, they organize and, like in all corporate businesses, the leader at the top gets the majority of the earnings, as the CEO of a company gets the highest pay, and the young people are tempted, via what the leader displays, in the hope that they too can become a leader one day.

The unfortunate reality is that they are tempted away from the John Donaldson Technical Institute. They are tempted away from the training offered by

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the Government of the Republic of Trinidad and Tobago for more than a half a century. They are tempted away from the opportunities offered by our education system, our COSTAATT, our junior sec system, in refrigeration technology. They are tempted away from that, and they are lured into this life and unfortunately they do not become the leaders they aspire to become, the gang leaders. They die at 25.

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

**Sen. Dr. D. Mahabir:** Thank you very much, Madam President. Madam President, as I wind up, we in Trinidad and Tobago have become immune to the violence around us. Some of us who are over 50 and who grew up in the 70s remember what the 1970s was all about. All of us over 50 remember Abdul Malik, Gail Anne Benson and Joe Skerritt. That was the murder of the 70s. Up to 1979, that was the big murder and Randolph Burroughs was the one who was in charge of the thing at the time. And then we forgot what it was like.

So that, within recent times, when you ask someone: Was there anything in the news? In the 2000s, no, just a murder in Morvant, and now nothing in the news. It is a murder in Morvant, central, south, now all over the place. Nothing in the news anymore. That is normal fare.

Madam President, we remember the 70s, and sometimes when we travel abroad, as I did a couple of weeks ago, we walk the streets in peace, in contentment and without a lack of fear. I went into some streets, Madam President, dark. I am the only person there. I met one person on the street, a lady on a mobile wheelchair and she actually stopped me to chat. I said: "But lady you must be mad. I could be a raving lunatic." And her position was: "No, no, no. Just chat with me, I am the only person around here and I have not spoken to someone in quite a while." You know that if there is any harm to that lady on that street there is a

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cruiser not far. There is trust in the police force. And as soon as you return to Trinidad and Tobago, it is as if you have moved into a different environment. You jump into your car from the airport and you keep looking back, looking right, looking at the front, looking all over the place. This is for us, because we have remembered. There is, Madam President, a group of persons who have grown up with fear.

I think it is true, the legislative arm of the State cannot do it alone, but I think we must do what we have to do but we absolutely must now look at the police service in Trinidad and Tobago, and with the power that they now have, we need to hold them to book. Ask themselves, there is a joint select committee in Parliament, I would love to have a public enquiry into why are you all so inefficient? With an inefficient police force, no amount of legislation will eliminate the fear. But once we could reform our police service and once we do what we have to do in the legislative arm of the State, I think gradually, Madam President, we may begin to turn the tide and we would, maybe, get back to where we were in the 70s. I thank you. [*Desk thumping*]

**The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus):** Thank you, Madam President. Thank you for the opportunity to contribute to this debate. You know, Madam President, yesterday was indeed a golden day; a golden day from my perspective because we have seen the first female President's inauguration yesterday and we wish to congratulate her. I wish to congratulate her. I am elated. [*Desk thumping*]

You know, Madam President, Madam President of the Republic of Trinidad and Tobago, in her maiden speech, spoke to us as citizens of this country. And one thing that resonated with me, she said: "Be the light. Be the light and be the hope."

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So my discourse today, Madam President of this Senate, I intend to be that light and to show hope with regard to this piece of legislation.

So, Madam President, gang, it is not a new phenomenon in this country. However, over the last 15 years, we have had cause to become extremely concerned. Madam President, the extreme forms of violence among gangs and gang members is becoming the norm and, therefore, any responsible government must address that issue.

I want to just make this point, Madam President. I heard a previous speaker on the other side speak about the Opposition supporting this piece of legislation. And for the record, I want to point out that it was only based on pressure from John Public, the ordinary citizens of this country demanding that the piece of legislation be brought back to Parliament, that the Opposition decided that they will give it support, but decided they will not give the full support. And I want to put it on record here too, Madam President, that when we were on that side we gave them, who was the then Government, full support, and voted for the same piece of legislation for a five-year period, [*Desk thumping*] a five-year period. And it is necessary that we remind them of that.

But, Madam President, I would like to proceed to indicate that this House may recall the ruthless beheading of a man whose head was found on Nelson Street in Port of Spain in September 2013. The Police Social and Welfare Association was quoted as saying that the beheading represented, and I quote: a message that is sent from one gang or group to another.

Madam President, this incident was specifically mentioned in a 2013 report of the Council on Hemispheric Affairs, entitled *Gangs Are The New Law in Urban Trinidad and Tobago*, which quoted Dr. Max Manwaring, a professor of military

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strategy in the Strategic Studies Institute of the United States' Army War College as stating that gangs in Trinidad and Tobago, and I quote:

“...have become so ubiquitous that they represent a challenge to state sovereignty.”

Madam President, the report further stated that gangs in Trinidad and Tobago, and I quote:

“...specifically in high-risk areas...have become so institutionalized that they ‘pose a threat to—and even control in some cases—the republic’s crucial infrastructures.’... such as

The Unemployment Relief Program”

Madam President, I do not think it is surprising to any one of us in this Chamber, or even out there, to be surprised by the anecdotal stories that are floating around out there. One in particular I recall is a citizen of this country being behind bars but drawing a salary from the URP, Madam President, and that went on for years.

But, Madam President, more recently in January of this year, the nation was jolted mere days into the new year, on the first day of the new school term, by the horrific news of a deadly gang-related attack in Morvant that claimed the lives of two young men and injured two others, when gunmen opened fire on a taxi in which they were travelling, causing it to explode and to burn three of the persons in that vehicle.

So, Madam President, gang-related activity has permeated into almost every sphere of criminal activity in this country, particularly the more serious offences, such as murders, kidnappings— and, of course, we would have been able to reduce kidnapping in this country, Madam President— and the trafficking of narcotics.

Madam President, statistics compiled by the Criminal Gang and Intelligence



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Unit show that as at 2014, gang-related murders accounted for 35 per cent of all murders in this country. As of 2016, this percentage remained fairly steady. Given the aggressive metastasis of gang and gang activity, this figure, Madam President, is expected to increase. And, Madam President, it would increase beyond our wildest expectation if we do not afford the police officers in this country with the legislative tool in controlling gang activity in Trinidad and Tobago.

Madam President, statistics compiled by the Criminal Gang and Intelligence Unit show that for the period January01, 2016, to June30, 2017, this country witnessed an exponential rise in gangs and gang membership. There were 147 gangs and 1,698 gang members in the first quarter of 2016. This increased to 179 gangs and 2,038 gang members by the last quarter of 2016.

By the second quarter of 2017, these figures jumped to 211 gangs and 2,459 gang members, Madam President. The statistics also show us that between 2014 and July2017, there was a 129 per cent increase in the number of gangs from 92 to 211. There was also a 63 per cent increase in gang membership from 1,500 to 2,459 persons. Madam President, this is a situation that warrants the kind of action that this Government has placed in another place and it is before us today.

Madam President, gang violence is becoming more frequent and more deadly. Gangs today appear to be more violent and lethal than their predecessors. My good senatorial friend, Dr. Mahabir, in sharing his experience, he did not tell us which part of the world he was and how safe he felt there and how frightened and unsafe he felt coming back to this country. But in doing so, his last winding up statement to me reflected the need for this legislation. Although he has said he will not support the legislation, his sharing—[*Interruption*]

**Sen. Dr. Mahabir:** I said I will be supporting it.

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**Sen. The Hon. J. Baptiste-Primus:** You will, okay. I humbly apologize. So Madam President, I shall go no further on that point. So that, Madam President, researchers have attributed the increases in both the frequency and seriousness of gang-related crime to the increased availability of extremely sophisticated weapons. The changing nature of weaponry has influenced the very nature of gang behaviour.

And, Madam President, all of us, when we go on social media, we see young citizens of Trinidad and Tobago displaying the most ferocious pieces of weaponry. I mean, you wonder. And you know, as my grandmother would say: you are seeing mothers' milk on these young children's faces. They are your children. They are our children, Madam President. But the boldness with which they display these weaponry and the messages. I heard one particular message sent out to the police service of this country, "what and what" they will not do with the police of this country because they have the weaponry. And, therefore, we have to arm our police officers of this country. We have to empower them to impose the law, to carry out the law. And this piece of legislation is that critical piece of legislation that is required, Madam President.

Gang activity in this beloved space that we call Trinidad and Tobago is no longer confined to the underworld or contained within certain geographical parameters. There is now increased visibility due to a corrosive gang culture that has taken place and has taken root within our youth in this country, Madam President, and we ought to be very, very concerned.

I had an experience recently. A very decent young man, decent, comes from a very good family, decent people, and he got caught up in the gang culture, not at home, Madam President, believe it or not, in school; in the secondary school. The

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entire neighbourhood was shocked because this is a decent young man. But you see the gang culture is such that there are various ways in which they entice and they influence the young people of this country.

Madam President, statistics collected in the Besson Street gang intelligence criminal history project, conducted by Charles Katz and David Choate, in 2006, show that at that time the majority of gang members, and they cited 85.2 per cent of gang members in Trinidad and Tobago, were young adults between the ages of 18 and 45. Only a small proportion, 5.3 per cent, was 17 years or younger. That dynamic has changed, Madam President.

In their 2010 report, that was in 2006, entitled *Understanding and Preventing Gang Membership in Trinidad and Tobago*, researchers Charles Katz, David Choate and David Fox stated that in this country the mean age of first gang involvement was 12.9 years, Madam President. This is frightening. This is frightening, not only to those of us who are mothers and grandmothers. All of us who have young children must be, not only young children, our nieces, our nephews, our neighbours' children, we must become concerned that the gang culture is infiltrating into the schools at 12.9 years, Madam President. The gang culture has infiltrated into the primary school.

This House may recall the contribution of the hon. Fitzgerald Hinds in the House of Representatives in December 2017, in relation to the Anti-Gang Bill of 2017, when he stated that his information received from teachers in the Morvant/Laventille area was that children in the primary schools, children, Madam President, ages six years to 12 years, had begun to manifest the division between the Muslim gangs and the Rasta City gangs, six years to 12 years.

Madam President, gangs pose a particular threat because of their organized

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structure and their potential for expansion with the recruitment of new members. We are now faced with the Internet, a tool of empowerment that is being used as a tool of destruction. The Internet is now a critical recruiting tool. It is a quick and easy means to foster gang size and solidarity by using just a few strokes on your computer. Using the Internet, gangs are able to reach our particularly vulnerable youth who are looking for a sense of belonging.

The 2010 report by Katz, Choate and Fox stated that at the time of their study 42 per cent of youths interviewed stated that they join gangs for friendship. This is not a dream. This is an actual study that was done in this country, Madam President. Twenty-nine per cent join for protection. Eight per cent join to make money. Six per cent join because a family member was in a gang, and 15 per cent join for other reasons. Madam President, gangs have found new power through the Internet. Gang members have become emboldened and they have taken to social media to advertise their nefarious affiliation.

The street graffiti, which serves as a billboard for gang activities in years gone by when I was a little younger, perhaps, as a means for gangs to mark their territory, to mark off their turf, to intimidate, to provoke and disrespect each other rival gangs, as well as law-abiding citizens, have gone viral and virtual with the advent of the Internet, Madam President.

We are all familiar with the videos that are circulating widely on social media in which gang members taunt other groups and brandish and discharge their up-to-date weaponry. In many instances they have more modern weapons than the police who have to protect us, Madam President. The pace and visibility at which social media allows individuals to communicate allows gang members to provoke each other more quickly and publicly than ever before and to exert their

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dominance. Madam President, this fuels inter-gang conflict, which has a propensity to result in many fatalities. We see the bodies dropping, Madam President. Young men, the future of this country, dying at a very young age because they are engaged in gang activity.

Madam President, gangs and gang-related activities and gang violence affect each one of us. This issue is part of the societal ill that attacks both individuals and communities. It matters not if you are UNC, PNM, PDP, MEP or whatever Ps, Madam President. It creates an environment of fear and self-imposed curfews are already the norm in Trinidad and Tobago.

Our beloved newly inaugurated President indicated to us yesterday she too drives with her vehicle locked, windows up, a norm. Madam President, the expiration of the 2011 Anti-Gang Act, on the 14<sup>th</sup> of August, 2016, has literally crippled the police force in combating the scourge of crime as it had stripped the police service of a very vital piece of artillery in the fight against gangs and gang-related criminal activities in this country.

Madam President, the plea for assistance from the police force must be answered. This House may recall that six weeks after the expiration of the Anti-Gang Act of 2011, head of the Central Division, Senior Superintendent Floris Hodge-Griffith lamented the fact that 620 prisoners believed to have been involved in criminal activity were able to access bail as a result of the expiration of the 2011 Anti-Gang Act. The relevant article was published on page A7 of the *Trinidad Guardian* of October 05, 2016. In that same article, Madam President, General Secretary of the Police Service and Welfare Association, Inspector Anand Ramesar was quoted as saying, and I quote:

“...the expiration of the legislation now removed one of the tools in the

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police's armoury in their fight against crime.”

Madam President, this House may also recall that the Organized Crime Intelligence Unit of the police service was launched in September 2017, to pursue, to target, to dismantle, to disrupt, to prosecute organized criminal groups and networks. This unit is a merger of two substantial police agencies, the Organized Crime Narcotics and Firearms Bureau and the Criminal Gang and Intelligence Unit, and serves as a more efficient entity in addressing the issue of gangs.

In its paper entitled the “Reenactment of Anti-Gang Act 2017”, the Organized Crime Unit stated, and I quote:

The now defunct anti-gang legislation of 2011, provided an essential deterrent in the commission of serious crimes committed by violent organized criminal gangs in Trinidad and Tobago.

So that, Madam President, in the absence of anti-gang legislation, an effective tool was lost to the law enforcement agency, the Trinidad and Tobago Police Service, in this country.

Further, Madam President, in January of this year head of the North Eastern Division, Senior Superintendent Surrendra Sagramsingh reiterated the supplication of the police force and was quoted in the *Trinidad Guardian* in an article dated the 11<sup>th</sup> of January, 2018, as saying, and I quote:

“Police officers will have more power to put gang members behind bars if the Anti-Gang legislation is approved.”

Madam President, even the Acting Commissioner of Police himself, Stephen Williams, stated in February 2017, that a renewal of the anti-gang legislation is in the country's best interest.

So that, Madam President, we, law-abiding citizens, we who are in this

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hallowed Chamber, we who are here to create laws for the peace and sustenance of this country, we cannot allow gangs to continue with their warfare on our police force and on our citizens, Madam President. It is our solemn duty as the Parliament to provide reinforcement to those who are on the frontline, our police officers who put their lives on the line, every day they go out there to report for duty on their various shifts. We can do this by the passage of this Anti-Gang Bill of 2018.

Madam President, there are essentially three primary strategies to address the issue of gangs: prevention, intervention, and suppression. Prevention programmes are designed to identify and amend the factors associated with gang membership, for instance by strengthening family and community structures. Intervention programmes are designed to direct youths out of the gang, for instance by gang awareness and youth sporting and entrepreneurship initiatives.

And in that context, Madam President, I would want to commend and highlight the excellent work being done by Clayton Morris, and I am quoting, Madam President, from page 42 of the *Newsday* of Sunday, March—[*Interruption*]  
**Madam President:** Minister. At this stage hon. Senators, we will suspend and we will resume proceedings at 2.00 p.m. So we are suspended until 2.00 p.m.

**1.00 p.m.:** *Sitting suspended.*

**2.00p.m.:** *Sitting resumed.*

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

**Sen. The Hon. J. Baptiste-Primus:** Thank you very much, Mr. Vice-President. Before we adjourned for lunch, I was making the point that there are essentially three primary strategies to address the issue of gangs: firstly, prevention; secondly, intervention; and thirdly, suppression.

And the prevention programmes are designed to identify and amend the

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factors associated with gang membership; for instance, by strengthening the family structure and also the community structure.

Secondly, intervention programmes which are designed to direct youth out of the gangs; for instance, by gang awareness and youth sporting and entrepreneurship initiatives.

Mr. Vice-President, I wanted at this point in time to recognize the tremendous contribution that Clayton Morris, the former Trinidad and Tobago captain from the Strike Squad of 1989 and the Manager, Mr. Ronald Brereton, with regard to this new sport that is called futsal. And Jensen La Vende, in an article in the *Newsday* of Sunday March 18<sup>th</sup>, succinctly captures the contribution, the kind of intervention programmes that can be put in place to divert young people from gangs, even behind the walls of prison. And the article is titled “Prisoners choose sport over war”. And if you would permit me Mr. Vice-President, the article states:

“Futsal is not just a sport, for inmates at the maximum Security Prison at Golden Grove, Arouca, it is a lifeline that they received and one they are willing to extend.”

And Mr. Vice-President, this is a new sport. According to

“Futsal Facts...FIFA”—states—“futsal is a 40-minute game with a 15-minute half-time break.”—and—“20 minutes represent the actual playing time...”

And you could change players even while the game is under way.

But the essential aspect of this programme that is being managed by Clayton Morris and also the Manager of the futsal team, Ronald Brereton, is that they have stated that bringing futsal to the prison has changed, literally changed the lives of those young prisoners. Because—



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“From futsal’s local inception, at-risk men were targeted as the sport was aimed at reforming men from communities deemed crime hotspots.”—Clayton—“Morris was asked to bring the programme to the prison by Prisons Commissioner Gerard Wilson...

...The inmates housed at the Maximum Security Prison were the first to learn the sport.”

Then the women’s prison and then the Youth Training Centre. At a gathering at the maximum prison, one official addressing those gathered stated:

“...one of the men accused of murdering special state prosecutor Dana Seetahal, said when he came into the prison there was a Rasta City and Muslim gang war which evaporated with the introduction”—of this game that is called futsal.—“He said...we have to cut out the war through sports.”

And that is what they have been able to do. In addition another inmate, Brendon De Silva, said that futsal—

“reconstructed’ him and taught him discipline, morals and values in life. Another inmate,”—a Jamaican by the name of—“Christopher Scott said he would take the game back to his island. Scott said Morris”—meaning Clayton Morris—“brought more than a new sport to the prison, he brought...discipline.”

And today, Mr. Vice-President, a war that was under way between the Muslim and the Rasta gangs, even behind prison walls, has been brought to an end. One of the inmates said:

“...the programme should be a testament to the public that there are people in prison capable of changing their lives.

Assistant Superintendent of Prisons Terry Joseph, assigned to Remand Yard,

said he had inmates wanting to go to Maximum Security Prison just to take part in the game.”

—to be part of that reformation exercise.

So, when we look at this entire situation, this Bill, besides the need, the urgency of the police officers as a tool, we have to look at the different types of programmes.

The third level is the suppression strategy which emphasizes supervision, arrest, prosecution and incarceration of known gang members.

Mr. Vice-President, the Anti-Gang Bill, 2018, is a strategic tool which aims to suppress gang membership and gang activity. This is accomplished by criminalizing gang membership, gang promotion, for instance, by uploading of videos on social media, gang solicitation and recruitment particularly recruitment of children, as you would have heard me state earlier. Coming out of a study ages six to 12 years at the level of the primary school, children at those ages are engaging in gang activity. We are looking at support and financing of gangs and gang members. Possession of bullet-proof vests, arms and ammunition by gang members, harbouring and concealing of gang members, prohibiting a gang member from leaving a gang. Because Mr. Vice-President, it is often said that it is harder to leave a gang than to join a gang, because their very life may be placed in danger. And also the taking of retaliatory action against persons by gangs.

Mr. Vice-President, this Bill also gives police officers the power too, without a warrant enter, search, arrest and detain persons for up to 72 hours, while they peruse their files and other sources of information. In certain specified instances, additionally, the Bill empowers the court to make an order of forfeiture to the State, of property used for, or paying in the commission of an offence under

this Bill.

So that, Mr. Vice-President, there is an urgent need for this anti-gang legislation, as dealing with gang-related criminal activity presents unique challenges which are not addressed by traditional criminal laws. For instance, issues associated with gang membership; such as failure to comply with orders, financing of gangs and witness intimidation.

The 2018 Bill seeks to address these issues and will help to serve as a deterrent by announcing to all those out there who are gang members that gang membership and gang activities are substantial criminal acts which will not be tolerated in our society any longer.

Mr. Vice-President, we know that anti-gang legislation is an effective tool, an effective law enforcement tool, on account of the endorsement of the Anti-Gang Act, 2011, by the police service. The exhortations of the police service, for renewal of the Anti-Gang Act is a testimony to the workability of the legislation and the impact it is having on tackling gangs and gang-related criminal activities in this country.

Mr. Vice-President, this Government remains resolute in our commitment to implement the new anti-gang legislation, to address the spiralling crime rate and to close the crevasse created by the expiration of the 2011 Act.

Mr. Vice-President, we are making progress in moving towards increasing police powers and the ability to deal with gangs and gang activity. There have been discussions between the Government and the Opposition on this legislation. The amendments of the Opposition have been made to the 2018 Bill, there has been a compromise with respect to the sunset clause which was a major sticking point and the Bill was unanimously passed in the Lower House on the 9<sup>th</sup> of this month.

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Mr. Vice-President, the first parliamentary stage in the legislative process has been completed and we anticipate the concurrence of this House in the passage of this—

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

**Sen. The Hon. J. Baptiste-Primus:** Thank you, Mr. Vice-President. We anticipate the concurrence of this House in the passage of this Bill to move beyond the parliamentary stage and towards the assent and proclamation. So, we as a Government, and as an Opposition along with the Independents, we can deliver to the public, and in particular, the police service of this country, what they have been so passionately entreating—that is, the legislative artillery to suppress gangs and gang activity.

Mr. Vice-President, I want to thank you very much for the opportunity to contribute to this Bill that is before this House. [*Desk thumping*]

**Sen. Khadijah Ameen:** [*Desk thumping*] Thank you very much, Mr. Vice-President. I take the opportunity to contribute to this Anti-Gang Bill, 2018: “An Act to make provision for maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”.

Mr. Vice-President, we are here today discussing anti-gang legislation because of the insistence of the Opposition to ensure that good legislation comes to Parliament. [*Desk thumping*] It was on the insistence of the Leader of Opposition for there to be provisions to protect the rights of citizens, for there to be accountability from the Government and from the authorities by way of a sunset clause that would allow those in authority to report back to the people of Trinidad and Tobago through the Parliament, and this was insisted on by the Opposition.

So, as we begin I want to put on record that the Opposition's non-support of the Bill initially was in no way out of spite or out of any malice. It was always with the best interest of Trinidad and Tobago at heart. [*Desk thumping*] And we have been called all manner of things, we have been called unpatriotic. In fact, every crime that was committed during that time the PR machinery of the Government was "blame Kamla and blame the Opposition". "If ah ants bite yuh" it was very likely because the UNC did not vote for the anti-gang legislation. [*Laughter*] But we are beyond that and recently—sorry, the speaker before me, the Minister of Labour and Small Enterprise Development mentioned that when the PNM was in opposition and the anti-gang legislation came into being at that time, that unlike the UNC now, the PNM supported.

Well, let me tell you, for the information of the nation, that at that time the UNC/People's Partnership government's approach was very different to that of this PNM Government at this time. In fact, the procedure at that time was for the Bill to be discussed at a joint select committee. So that whatever was produced was a result of consultation; in fact, the Attorney General was a member of the Opposition Senate at that time and played a key role.

So by the time the legislation came to the Parliament everyone would have had the opportunity to participate and to vote in favour, and that was the approach of the People's Partnership—consultation and consolidation to ensure that you get the best result.

### **2.15 p.m.**

So the approach of this Government, initially, was support or else, and it was a sort of PR blackmail that if do not support this legislation, we will blame you for every crime that happens in Trinidad and Tobago rather than coming together and

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coming up with the best solution for this country, and we have to grow beyond the “politricks”.

Mr. Vice-President, I am a firm believer that creating opportunities for young people and at-risk persons is a key in reducing crime. I was anxious to hear from the Minister of Labour and Small Enterprise Development some of the measures that would have fallen under her Ministry that would have had cuts in allocation, in funding, that perhaps maybe she was seeking to replace or change policy to ensure that the at-risk young people are somehow addressed.

Clause 14 of the Bill seeks to create—[*Crosstalk*] Mr. Vice-President, I know you will protect me if I am being disturbed—an offence of recruiting a person to a gang and further provides that where a person recruited is a child, a higher maximum penalty is imposed. That is something I feel good about. And apart from children, you also have many young adults who are at risk and who are targeted.

What we saw from this Government is a reduction in the opportunities that are offered to young people as an alternative to gang membership and, to me, this Government has failed the young people in that regard. [*Desk thumping*] Under this Government, we have seen cuts in allocation to YTEPP, OJT, NESC centres closed, the HYPE, MuST, MIC programme and we have seen the entire UWI South Campus, they have refused to open it. There are opportunities for sports, entertainment and culture to become career paths. I was very happy to hear the Minister of Labour and Small Enterprise Development talk about the effect of the sport of futsal in the prison, but that is in the prison. Do not for one moment believe that the war between Rasta City and Muslims is over because of futsal. On the outside, in those communities that are at risk—

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**Hon. Senator:** Excuse me—

**Mr. Vice-President:** Continue, continue.

**Sen. K. Ameen:** I know you are hearing the crosstalk, I am sure. Mr. Vice-President, the positive effect from sport that was pointed out by the Minister of Labour and Small Enterprise Development must be replicated in communities where you have at-risk young people. I am of the full view that sport and culture are areas that should be explored to have that same effect that she identified as happening in the prison. The engagement of technical and vocational skills as well for our young people, those are areas that I am sure the Ministry of Labour and Small Enterprise Development has some influence when it comes to creating opportunities for young people to prevent them for going off into—

**Sen. Baptiste-Primus:** That is not my remit my dear. That is not my remit.

**Sen. K. Ameen:** Well, there are several programmes under the Ministry of Labour and Small Enterprise Development where there were opportunities for young people that had cuts in allocation, and I feel that that has an impact on the opportunities, in fact, of them joining gangs and going into gang activity. [Crosstalk] However, Mr. Vice-President—

**Mr. Vice-President:** Minister?

**Sen. Baptiste-Primus:** Sorry, Mr. Vice-President.

**Mr. Vice-President:** Thank you. Continue, Senator.

**Sen. K. Ameen:** Mr. Vice-President, I want to refer to a study that was commissioned by the Government of Trinidad and Tobago, and it was published on December 31, 2010, entitled, “Understanding and Preventing Gang Membership in Trinidad and Tobago” and just to point out that the rising concern about gangs and criminal activity in Trinidad and Tobago, led to this country’s

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official request for an examination of its emerging gang problems, and the report draws upon data collected from schools, youth and adult arrestees in Trinidad and Tobago, and it compared with similar persons in the United States to give an idea to examine the prevalence, the nature and the seriousness of the gang problem in Trinidad and Tobago.

Bear in mind that this would have been eight years ago, and I am certain that the figures would have changed, but one of the things I wanted to point out is the fact that:

“12.5 percent of Trinidad and Tobago youth reported gang membership”—at that time—“compared to just 7.6 percent of US youth.”

And you see so much about gun violence in the US, you have to consider the gang membership amongst young people and if it has any impact.

“Trinidadian gang youth were 6.5 times more likely than non-gang youth to be involved in violent offenses, 10.8 times more likely to be involved in drug sales, and 5.4 times more likely to have used marijuana. US gang youth were similar to Trinidadian gang youth in violent offenses...but significantly less likely than Trinidadian gang youth to be involved in drug sales...when compared to non-gang youth.”

Mr. Vice-President, there are, I think, several key findings in this and in several other studies that could be informative as to how young people, even before you reach the stage of them becoming criminals, what causes their recruitment into gangs, and this study also identified some of those. And I think it is important for us to deal with the root causes of gang recruitment.

So, one of the things I want to touch on as well is the fact that our young people, particularly those who are under the age of 18, the troubled teen, how we



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treat with them in our present justice system. There is something called “beyond control”. You know, when there is a young boy or girl giving trouble and their parents are just fed-up talking to them, they take them before the magistrate. They make an application called “a beyond control application”—where there is any problematic behaviour before it escalates into criminal activities.

And what they basically do is take the child before the court—well, to the police and the police will bring them before the court. So, they may not have committed any offences, but they are brought before the court system because their parent or guardian is unable to care for the child or the child leaves home and is wandering and so on, but that child becomes labelled as an offender, and the focal point—well, what ends up happening is that that child goes into an institution.

You do have the St. Michael’s Home for Boys and so on. You have the YTC for those who actually commit offences, but we have to begin to look at alternatives to incarceration because I believe that when many of those “beyond control young people”—teenagers, pre-teens and even young adults—go into the system, the incarceration, in fact, creates criminals and sometimes in those institutions they are recruited into gangs and when they come out they are part of the gangs and so their membership will continue, because there is the need for protection when they are in those homes when they are in those institutions.

So our juvenile justice system, Mr. Vice-President, is one of the areas that I believe that we have to tackle gang activity and where a person would become a member of a gang. I know of numerous situations being involved in mentorship programmes where young people got involved in gangs because they needed protection while being in institutions like the St. Michael’s Home for Boys, the St. Mary’s Home and other places, and they were taken there because they were just

out of control.

So the negative effect of incarceration on juveniles has very little benefit to the State and there is a lot of support for alternatives to incarceration, and that is an area that I think the Government will do well to look at if they want to target gang activity.

Mr. Vice-President, I move now quickly to our confidence in the police. Any legislation that depends on the population having trust and confidence in the police service—confidence for them to operate in an honest and diligent manner—will see very limited success where there exists a police service that is plagued with corruption or even perceived to be corrupt. Mr. Vice-President, the Government must take real steps to weed out these elements. In my view, this Government has taken no steps in those directions, and if it is different, I trust that some Member on other side will be able to share with Trinidad and Tobago—not with us or me—but with the country, what steps you have taken to deal with the corruption in the police service.

The issue of confidence has to do with trust; it also has to do with the ability to do their work, and my colleague earlier, Sen. Ramdeen, spoke about the need for resources, the resources that the People's Partnership would have empowered the police service with. In fact, the construction of eight police stations throughout Trinidad and Tobago, and in several of those areas that were represented by PNM MPs for many, many years where they failed to deliver to the people [*Desk thumping*] and it took a People's Partnership Government to ensure that modern, state-of-the-art police stations were constructed in Arima, in St. Joseph and in several other areas. But the technology, their space, their vehicles and their protection—their bullet-proof vests and so on—I think is very important to the

public having confidence in them to do their work. So the trust issue and the ability to do their work.

Mr. Vice-President, I live at Carapo. Last week, there was an article on the news where the headline was: “Carapo residents allegedly threatened for ‘protection money’”. And in the article, in the news item, the Northern Division of the police was calling on residents to aid in enquires of allegations of extortion in the area. So the criminal element in the area were reportedly forcing people to pay protection money in order to be left alone, and many small businesses—because it is a regular community, so you have a lot of parlours, you have a little car wash, you have people selling vegetables, a lady selling pholouri on a Friday evening—and they too were reportedly targets. The police was calling on the residents to come forward and they recognized that one of the things that they had do was bolster the faith of the residents in the police service. And so they indicated that they would do police exercises in the area, that they will consider bringing a mobile police post as well as doing walkabouts in the area. I am aware that the police have been conducting walkabouts in an effort to build better relationships with communities and, Mr. Vice-President, this will only go so far.

But the truth is, there are many good outstanding police officers in the Trinidad and Tobago Police Service, and today I want to thank them, but sometimes they themselves are at risk from the corrupt element within the police service, and the Government has to deal with the issue of corruption in the police service for crime to be dealt with properly and for any sort of anti-gang measures to be successful. So I trust that the Government would have some consideration for that.

I do not think that any Government, any administration, that is addressing

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the scourge of crime could ever be successful without first addressing the issue of corruption in the police service. Those people who are supposed to protect and serve us, if they themselves are in the bosom of the criminal element, then we can expect very little. There is need to continuously empower the police to protect them—to protect the police—as well as to protect the public and the citizens against any malfeasance by police.

There are policemen and women with criminal association. They can target people who are witnesses and it happens. It happens where they intimidate people who are witnesses against their associations in the criminal world. In fact, with the legislation allowing the detention of a person for a certain amount of time, you can also have police officers who take their own personal matters and decide to detain a person unnecessarily—an abuse of power—and we must protect our citizens from that, but I have a big concern where police officers who have criminal association could abuse this legislation.

So I want to encourage the Government to begin to take steps to address this problem. You now have the anti-gang legislation as you requested to use as a tool in law and order. But there is a sunset clause that ensures that you come back to the Parliament and you come back to the people of Trinidad and Tobago and account for your stewardship on fighting crime and on dealing with gang violence.

I think one of the speakers before me mentioned, or more than one would have mentioned the budget of the Ministry of National Security to the tune of billions. Are we really making any inroads in the fight against crime? We have seen the murder rate go up but, Mr. Vice-President, what is very concerning is not only the number of murders in our country, but in other violent crime—and I think the message has to go that from the top to the bottom, the law is the law and the

law should be obeyed. And I speak of corrupt police officers or the perception of a corrupt police force but, Mr. Vice-President, the perception of those in authority being law-abiding citizens and following the same law as all our citizens goes beyond that. I want to quote, Prime Minister, hon. Dr. Keith Rowley:

“...the Government’s inability”—and not just this Government, any Government—“to properly respond to the threat of criminality”—in Trinidad and Tobago—“is because of a closeness and an association between government personnel and people engaged in criminal conduct.

‘Nothing that supports that is to be encouraged in any form or fashion.’”

I commend him, because I agree with this sentiment. The problem is that this incriminates his own Government and, perhaps, Members of his own Cabinet, and he said that on the occasion of the firing of Ms. Marlene Mc Donald for, I think it was the second time.

But this was a news item on CNC3, and he continued in his interview to indicate that as head of the National Security Council, he would have been privy to more information concerning, Mr. Cedric Burke, who was a guest of the Member of Parliament for Port of Spain South at the swearing in at President’s House. So he was giving an account as to why he had cause to fire her and saying that it was because of her closeness to people allegedly engaged in criminal conduct.

**Mr. Al-Rawi:** Standing Order 46(6).

**Mr. Vice-President:** Member, just make your point and continue along.

**Sen. K. Ameen:** Okay. I just started. But, Mr. Vice-President, if I need to make the point, all I have to do is read over the quote of the Prime Minister, and that is to do with the Government’s inability to properly respond to the threat of criminality in Trinidad and Tobago.

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Mr. Vice-President, this Government's term in office is riddled with instances of double standards when it comes to dealing with crime, with dealing with gangs and dealing with the criminal element in our country. What I have sensed in many of those so-called at-risk communities is a sense of resentment against those in authority and an increasing lack of respect for the law. So, some of the same violence that you labelled gang violence and so on, it comes back to what we see in our leaders.

The Minister of Labour and Small Enterprise Development, the speaker before more, lamented the boldness which young persons on social media are displaying high-powered guns. I, too, lament this trend, but when children of high public officials are photographed with guns, they are protected and there seems to be a different—

**Mr. Vice-President:** Let us not go down that road at all. Okay.

**Sen. K. Ameen:** Well, Mr. Vice-President, this is a matter of public record, so I do not think there is no need to repeat it, because the public knows about it.

**Mr. Vice-President:** Still, still. There is no need to repeat it. Let us just move on and not go down that road. Okay?

**Sen. K. Ameen:** I am not sure of what Standing Order I am violating by raising something that is in the public domain, Mr. Vice-President. [*Crosstalk*]

**Mr. Vice-President:** Sen. Ameen, I have asked you to move on, so just please do so without response.

**Sen. K. Ameen:** Thank you, Mr. Vice-President. There are numerous instances of double standards by this Government, and the list is very long. But, Mr. Vice-President, I think it is incumbent on the Prime Minister and Members of this Government to show that the example starts with them—and meet me outside on

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the payment—and those type of utterances send a certain message to the population when it comes to violence and association of members of Government with the criminal elements also sends a message. The treatment of certain people in society over the treatment of others also sends a message.

But, Mr. Vice-President, apart from the direct involvement of people who are closely affiliated with the Government or people who are, in fact, Government officials, even beyond that, the Government must do all that it can to ensure that even the state agencies where the criminal element penetrate, that the criminal elements are addressed and to ensure that there are no—I do not want to say cover ups, because it sounds as though there is some ill-intent—but that the criminal activities within state agencies are not bypassed.

I want to raise a matter that I became aware of sometime ago, the Clifton Hill Towers. Sen. Mark asked a question in Parliament about gang activities in those areas where it was alleged that the criminal element had taken over apartments, that they were having all sorts of activities in those buildings, and the question came and the Minister of Housing and Urban Development, Hon. Randall Mitchell, came to this Senate to answer the question and I was happy. In his response, he indicated that the illegal occupants had since been removed, that the situation was rectified and that the HDC was working with the residents.

Unfortunately, immediately after his response, I got a call from someone who I did not know who told us and who I subsequently met with—a resident of Clifton Hill who said that the answer given in Parliament by the Minister was totally different from the truth. And he may have provided that answer based on his advice from the officials of HDC, but those gangs and those criminals are still occupying. They are terrorizing residents. The HDC employees have been moved

out of that area for their own safety. So, what you end up having is that the response from the HDC is inadvertently covering up the situation.

And, as I said, the Minister would have given an answer here, based on his advice from the HDC, but we must ensure that those things—I want to take this opportunity to ask if the Minister of Housing and Urban Development, Mr. Randall Mitchell, could properly investigate that situation. I know he would have given an answer based on the advice, but I trust that we will get his commitment that he will take every step to protect the law-abiding citizens of Clifton Hill Towers, and to provide an opportunity for them to have a say as to what sort of protection they need.

And that situation at Clifton Hill Towers is not the only HDC development where gang activity and criminal activity has penetrated. There is need for the HDC to take action to deal with those elements in there. The fact is that because HDC has jurisdiction over those properties there is a lot more that they can do, and the measures in the anti-gang legislation today before us, they are limited, to me. In fact, I want to come to that afterwards in terms of why the existing laws should be implemented in a much more forceful way.

Earlier I spoke about the police. The Attorney General in his presentation said that the Trinidad and Tobago Police Service deserve the law to help them in their fight against crime. He warned that the legislation, I suppose, will not be a panacea or a cure for all of this country's crime woes. Well, I thought the reason for every crime was because the Opposition did not support the anti-gang legislation. So here we are seeing a different tune and I am happy that he is seeing what the Opposition would have said before. It is not a cure all. He indicated that since December 7<sup>th</sup> when the last Bill was defeated, there were 131 murders



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recorded. Well, at the time, he said there were 39, but I think today he said 35 were classified as being gang related.

On previous occasions we would have had some statistics from the Office of the Attorney General and Legal Affairs. I want to refer to this communication from the corporate communications department indicating that the facts—well, the figures presented are based on data by the TTPS and the CAPA with regard to organized crime groups or gangs—and that there were approximately 2,484 organized crime group members and the total number of groups or gangs is 211 and they proceeded to give a breakdown by divisions, Northeastern Division and so on, the number of gangs and the number of gang members. So I trust that with all the data on gang activity, thus far, and with the passage of this Bill that the Government will be able to immediately deal with these problems that they indicated the Opposition was preventing them from dealing with.

And, Mr. Vice-President, while, as the Attorney General indicated, no court has condemned the anti-gang legislation, one of the things that is a challenge in our justice system is the deficiencies of our forensic system. A number of gang-related incidents—whether it is murder, robbery, wounding, as the Attorney General indicated—involves the use of guns, the use of arms and ammunition. The testing for these matters relies on a very deficient Forensic Science Centre. The DPP—I think it was at a joint select committee of Parliament, and certainly it was reported in the newspaper—spoke about the fact that they have to wait two to three years to get information from forensic on matters involving firearms.

**2.45 p.m.**

So that is just one small area where the prosecution of crime that would be perpetrated by people involved in gangs would face a hurdle that is not corrected

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by this legislation. So there are a number of other areas with regard to evidence and so on that the DPP spoke about, and I know that the Attorney General is aware of it, but that solution to prosecuting those criminals is not in this Bill. Mr. Vice-President, I go very quickly to the Schedule with regard to what are the offences in gang-related activities, the offences, many of these are in fact existing offences. The new ones which I do not need to repeat because they would have been spoken to before in the debate, but many of these such as murder, shooting and wounding with intent, robbery with aggravation, robbery with violence, these are crimes. These are violent crimes. There are laws against these offences. What is the record of the police in arresting people who commit these crimes? What is the prosecution rate of our Office of the DPP to successfully prosecute against these criminals? *[Interruption]*

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

**Sen. K. Ameen:** Thank you.

So, Mr. Vice-President, the problems that cause us to have a low conviction rate are not going to be solved by this anti-gang legislation. I have to mention that one of the offences is listed at number 27, offences under the Anti-Terrorism Act, and offences under the Proceeds of Crime Act. Offences under the Anti-Terrorism Act, Mr. Vice-President, I fully agree with that, but I have to mention this. I was born a Muslim, I was raised as a Muslim and I understand Islam, and in some countries—and I think we started to see it here—the fight against terrorism begins to look like a fight against Islam, and we as a cosmopolitan nation must guard against the prosecution of Muslims, especially where criminal gangs use the guise of Islam to do their dirty work. I just must mention that, Mr. Vice-President.

I also want to speak in terms of solution, Trinidad and Tobago is a signatory

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to the Vienna Declaration on Crime and Justice. Part of that is the adequate prevention and rehabilitation programmes fundamental to effective crime control strategy, that you have a fair responsible ethical and efficient criminal justice system, that you have the promise of restorative approaches to justice to reduce crime. And I feel that this is an area where especially young offenders, who, as I say, go into the system and end up joining gangs for protection can be rescued from being recruited by gangs.

[MADAM PRESIDENT *in the Chair*]

Under the People's Partnership Government, there was a plan by the Ministry of Justice to put a court, I remember at Trincity, because I was Chairman of the Tunapuna/Piarco Corporation at the time, and the designs, everything was completed, and the PNM MP for the area, for Arouca/Maloney, Miss Alicia Hospedales, led a demonstration of residents against that court being built. And one of the main things was that it would bring the criminal element into the community. For years, that Golden Grove prison existed, and the back wall is on Waterloo Road where many people have lived for years, and that design had facilities for victim support services, mediation, different protection programmes, safe and effective alternatives to incarceration that I spoke about earlier, and the shortening of pretrial detention. This is something that I hope will become a reality. I am not sure, maybe the Attorney General could confirm, but I think I did hear that there were some plans to go ahead with the construction of those courts.

That is something that I welcome, Madam President, and one of the objectives of this prevention and treatment of crime offenders of this convention is crime prevention strategies that must address the root causes and the risk factors related to crime and victimization through social, economic, health, education and

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justice policy. So what are our education policies? What are our justice policies that would target the root cause? The success rate in numerous states, I mean, they are there, and so we could be very confident of reducing crime through applying and sharing the collective expertise. The United Nations also encourages the development of restorative justice policies, procedures and programmes that are respectful to the rights, the needs and interests of victims and offenders, and communities for all parties.

So we must always keep in mind that the purpose of this legislation is to make a better Trinidad and Tobago. I think that we should be focused, in addition to targeting the offenders, to dealing with the root causes of criminal activity and our at-risk youth. I thank you, Madam President, for the opportunity to contribute.

*[Desk thumping]*

**Madam President:** Sen. Roach. *[Desk thumping]*

**Sen. H.R. Ian Roach:** Thank you very much. Madam President, it gives me pleasure to participate to make a small and brief contribution in this debate on “An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”.

Madam President, what is quite clear to me from being the sixth speaker here this afternoon, already the critical areas of the Bill have been ventilated. I listened to my colleague this morning, Sen. Ramdeen, and he clearly identified a number of issues which also I share with him, and he also made mention to the Law Association letter which identified certain areas of concern in the Bill.

What is also apparent is that there seems to be, if not an already established consensus, or growing consensus that the common objective here is that this Bill

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may be seen as an important tool to assist the police in suppressing gang activities in Trinidad and Tobago. And as the Attorney General has said in his opening remarks is that he recognized early on that this not a panacea for the criminal activities in the country, that is so. And the public at large that is listening to this debate which has been going on for some time—I think this Bill entered and exited and entered again, I think, on two occasions in the other place, and it is now before us, and apart from that a lot has been said about it in the public domain. So one is quite au courant with the concerns of the public where this Bill is concerned. It does have provisions that trespass on the constitutional guarantees, and the Attorney General, I believe, has been attempting to address those concerns because, I mean, there is provision in the Constitution establishing as section 13, which provides that even though laws may seem to transgress the protection, the rights and thing, if they are shown to be reasonably justified in society that has a proper respect for the rights and freedom of individuals, they can pass.

Having said that, I just want to take a different approach. As I said, for the five years I have been in this Senate, most of the laws that I have been part of they are always after the fact, dealing with a mischief, and you know, I am longing to be part of a debate where the law significantly deals with happy law, so to speak, where it is empowering and bringing about some glaring upliftment to society in a positive way. Like when you talk about like in sports, you do not talk about amenities, you talk about opportunities, you know, that is fulfilling that is posing an attraction to the average citizen, especially our young and vulnerable youths in today's world who are, I guess, the focus mostly of this Bill. Because for my time in the criminal arena when I did practise criminal law, which is many years ago, one of the things that was a turnoff for me is that I found that more and more the

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defendants that came before the court were young persons of a certain ethnic background and from a certain social economic class, and that was a sort of depressive type of experience for me. And I had vowed anytime I left Trinidad and I returned, not to get back into the criminal arena because of that. I came back, I returned some 13 years after, 20 years after, and what I have found is that the situation has worsened rather than becoming better.

Now, one of the primary purposes of any state is to provide security for its citizens and those who dwell within its jurisdiction, and the state does that by establishing a security apparatus. In Trinidad and Tobago, like many other developing societies, this consists of the police service, it consists of the prison service, it consists of the defence force and other security agencies, and we here in Parliament our role is to provide legislation that would empower these agencies dealing with the security of our country with the necessary tools where a mischief has been identified. And, as I said, a lot of resources, a lot of time here, and the budgets that we pass, go towards the curative aspect of criminal activity, as opposed to the preventive aspect of it. Sen. Ameen made mention of it. Sen. the hon. Jennifer Baptiste-Primus, Minister of Labour and Small Enterprise Development also made mention of it, she identified Clayton Morris's futsal in the prison as a means of bringing a way, or trying to bring an end to the criminal activities.

I believe that a lot more focus—and this is where I want to spend my time talking—a lot more focus should be placed on preventative aspects, because when you reach to a gang—to me “allyuh” reach “kinda” late eh—you already start to think a certain way, behave a certain way, and there is a support in the system where it would mean the enforcement of laws in Trinidad and Tobago is not that

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certain and it is not that rigorous or, you know, so people are cautious or think twice before they commit a crime. It seems that people just willy-nilly do what they want. I mean, I have heard somebody mention today, and I saw with horror what happened in San Fernando on High Street, 10 o'clock in the day. That was like, "Wow". And then this morning one o'clock when I was preparing for this debate I saw, reading the papers or something, where somebody at 5.30 in Maraval, Hakka was also robbed, and then later on sometime I think in the afternoon somebody was killed in Maraval.

I live in Maraval and, unfortunately, people are living in self-imposed prison in order to feel secure, to feel some level of security. And I believe as much as it is necessary to have probably this piece of legislation to assist the police in suppressing gang activities and the formations of gangs, I think we need to take a much more robust and proactive intervention by supporting those persons who are most vulnerable and likely to become gang members from getting into it in the first instance, and that is by going into the schools and supporting programmes that would find things positive for youths to do, like sports. Sports is a significant thing. I keep saying that over and over and over and over again. I am like a recurring boring decimal that sport holds a big sway, a big attraction if properly implemented, funded and supervised to give opportunities to the young, to the youths of our country.

I see it time and time again when I go down to the stadium, when I go to the Queen's Park Savannah, and many other areas, I see young people wanting to go and do all different things. You see people, you know, probably not university qualified who are trying their best to coach and do different things. Some of them do it out of the love of their hearts, you know, and not for remuneration, and if they

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are empowered, I can see where this can have a significant intervention in having us not pass these type of coercive type of laws. They are coercive because we think they are in a drastic situation where people feel that vulnerable. We have reached the stage where it is necessary to pass laws that would infringe your constitutional rights. I think that more could be done and I am appealing to the Attorney General, even though this may not be his remit, that his colleague, especially in the Ministry of Sport and Youth Affairs, and Social Development and Family Services, and Community Development, Culture and the Arts, while he is passing legislation like this, should also come in right behind him with a plethora of legislation, or some compilation of legislation that can provide for the youths that are vulnerable. I think it is necessary, and I think it will go a long way in helping to stem the easy attraction to criminal activities among young people in our society.

The Bill itself, as I said before—I am glad I am speaking at number six—it has already been highlighted where the concerns are in terms of the police being given powers of arrest and detaining people for 72 hours. We all know, and it has been said time and time again, not only in this debate, anytime a legislation come up to give any security agency, especially the police, more powers, people become very antsy, very concerned, and one can understand that because there is no trust in the police. And where we used to say before, there are a few corrupt police officers, people do not believe that adage anymore. People believe there are a few good police officers now and women, right, and unless we face it frontally and be honest with ourselves, we are not going to solve the problem, because what we are seeing here then is that you are saying that there are a few bad apples, right. We live in a population of 1.3 million people, there are how many gangs, 200 gangs I think has been stated—I do not know what is the total number of persons that will



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make up the 200 gangs, if it is 300,000 people, 200,000 people, but it is a minority of the society. The minority of society has threatened our freedom under the Constitution to live and associate as we like in order to provide some tools to the police to circumvent, prescribe or suppress the violence and the runaway epidemic that crime seems to be in our society, perpetrated by gangs and others.

And as my learned colleague on my right-hand side, Dr. Mahabir said, is that gangs are not only about guns and drugs, it is not only about that, it is also about funding, about money. Actually that is what it is about. At the end of the day, the use of the guns and type of violence is perpetrated towards one end, to get money, to get a means of living in an illegal and unlawful way. And there needs to be, you know, an all-out attack on gangs in all forms and fashion, not only the gangs that we see are the gangs on the street, there is also the gangs in the collar and tie and suits that sits and corroborates as well. So I do not know if that captures gang in this particular Act, right.

For instance, was it, I think, in 1931 when Al Capone was caught, a known gangster in Chicago, Al Capone was not taken down for murder, Al Capone was taken down for tax evasion, and he spent 11 years in jail and that was the end of his gangsterism and the head of the mobs in Chicago. So similarly so, I mean, history repeats itself, we can learn from these things. So apart from passing this type of legislation, we need to look at that type of thing, enforcing those legislation where criminal activity—I mean, people are making money and you cannot really justify the source of the type of opulence they are living in, and yet still they are running the streets and probably fuelling and supporting and financing these very same gangs. So we have to cut it off. We have to cut it where it starts.

We have to cut that blood supply; the blood supply is finances however you

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put it, whether it is coming from the drugs being sold on the streets or it is coming from those who are sitting in the high offices in the air condition, hotels and so on, doing their transaction, it has to be also attacked by that. My thing as well in dealing with this legislation, it is obviously a very significant piece of legislation; it is a very—I do not want to use to word hostile—it is very invasive into your rights and freedom as guaranteed under the Constitution. We need to go back and help the population to have that confidence to assist the police in doing it because the legislation is not—legislation passed, no matter how many legislation you pass here, it is not going to change the tide of things if it is not implemented regularly with certainty and expeditiously. So there is where the court comes in; there is where the DPP comes in, and this is where the Police Complaints Authority comes in.

When you are giving, to whom much is given, much is expected. So when you are giving police this type of powers in an environment where people are not trusting of the police that is there to protect them and serve them, you need to give the body that is there to supervise the police the teeth that it needs to be able to protect, to intervene. As King Austin said in his classic calypso, “Who is to guard the guards”. The Police Complaints Authority is to guard the guards. It is to guard the police at this point in time. And it is high time I will implore the Attorney General in whatever next piece of legislation he is bringing that should be reflected upon, to give the Police Complaints Authority that power by amendments, or what it is, that they are able to bring prosecution directly against police officers who are found errant. Because in disciplining in the police service as opposed to the military, it is more convoluted. It is more convoluted. And they are civilians that deal directly with the civil population, and you expect people to feel more

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comfortable, and more comfortable in outreaching to police officers to assist them to do what they need to do, because at the end of the day, with all the resources in terms of hardware and cars and so, what solves crime is intelligence; people bringing evidence and people being able to confidently tell the police this happened; somebody must see something. Somebody must see something somewhere. But if I am not comfortable that I am going to tell police X man this, and he is now going to call the bandit himself and the next thing before I reach home, the bandit there waiting on me. We will not solve problems like that.

Again, I heard—I think it was Sen. Ameen just spoke about the state of the forensic science department that is woefully lacking in everything. We have so many doctors that are being produced by the University of the West Indies and they are not able to fill the thing. We need to give scholarships to them so that we can have a whole, a really sufficient and efficient department and qualified batch of forensic pathologists or scientists coming out soon to solve this, to help this, because the rate of murders are taking place here, I doubt right now with the complement of pathologists we have can deal with these things in any level of efficiency. And if justice is not done speedily, and which all these things help to make justice speedily, there is a lot of opportunities for it to go amiss, you know, not to reach the court timely and not to preserve evidence that is critical, and all sorts of things can take place. Guns went missing in the forensic science some time ago and I do not think they have been retrieved. We have never heard anything about it. So all these things come up all the time we talk. Anytime you bring legislation like this, people are concerned, you are giving police more power; yes, it is to protect us but the end of the day the person who seems to be benefiting more from this sometimes, as the people say, seem to be the bandits. And you,

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law-abiding citizen seems to be the one who are always on the back. You know, you are always defending yourself against it and they seem to be running wild, right.

So that has to be addressed, I think, not only by bringing the anti-gang legislation to deal with the thing like that, because at this point in time you have enough criminal Acts that deal with a cross board of criminal activities in Trinidad and Tobago that can take place anywhere. We have enough Acts, we have enough thing. I mean, this Schedule here that has 29, I think, it is 29, it does not cover all. So there is enough law even without this Schedule to be able to have people locked up, prosecuted and jailed, [*Desk thumping*] even without this. So this, as much as it is being ventilated and put as a necessary tool to assist the police, I hope it does if it passes, and I have no doubt it will pass because what seems clear to me is that everybody here really wants to live in a society that has some sort of a level of security that you can go about your business without looking over your shoulder every minute, right. Everybody here knows somebody if they have not themselves been affected by crime that does not want that to continue, and therefore will give their support to the Government passing this.

The clinical aspect of tidying up whatever needs to be done are the points raised by Sen. Ramdeen, the points raised by the Law Association, I think certainly would be covered by the Attorney General. I had an opportunity to have a word with him during the recess, and I think his mind is geared towards that, and I am hoping that we do not waste much time at this level because, I mean, all that has gone, so that we can get down to dealing with this at the committee stage. So the key thing that I really, really wanted to say at this point in time is that I think I would not want to have to come here again and in any debate have to make

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mention that I think the Police Complaints Authority ought to be given the teeth that they need to assist in helping the police to stay straight, to having the people to get more confidence in the police. Just like we believe that giving the police the tools to do what they need to do to suppress gangs, and so forth, we also need to give the entity the authority that people seem to have some sort of confidence in at this point in time, the effectiveness that they require to be more effective in having a police service that is really there to serve us all in a professional capacity.

Madam President, again, as usual, there is not much I think I need to say because it is not a Bill that is a virgin that is coming through here, this Bill has been debated before and it is now here again, and I think the population is quite aware of all that the Bill proposes in terms of powers that people are concerned about giving to the police service. The police, as you said, have made a request that they will like to have this to assist them in suppressing gangs, I hope it does, and the Attorney General is quite aware that this in itself, as he said earlier on, this alone cannot do the thing, it is not a panacea for everything. Unfortunately, because the way how debates take place here in a polemic kind of way, you tend to lose, you know, you have to drum out the political rhetoric that goes on, because if you listen to the Opposition they do have significant points to make but sometimes it is coloured with the politics. So sometimes when I am tempted to say, well, I want to adopt what Sen. Mark is saying in toto, when I catch what he is saying, he say sometimes, boy, I cannot do that, you know. Similarly so on the other side, they may be saying something and then they throw in their politics in it. At the end of the day, I know we all have our duty to discharge, and at the end of the day the person who must benefit most from what we do here, and always, must be the public of Trinidad and Tobago. Madam, with that, I thank you. [*Desk thumping*]

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**Madam President:** Sen. Small. [*Desk thumping*]

**Sen. David Small:** Good afternoon, Madam President, I want to thank you for the opportunity to join in this debate on the “Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”. Like my colleague who just spoke before me, Madam President, Sen. Roach has touched on a lot of the issues I want to touch on, and I am on the record here, Madam President—I have said it several times, people are probably tired of me saying it—crime is out of control in Trinidad and Tobago. I live in a regular-people area and I could tell you by 5.30 most afternoons everyone is behind their burglar-proof, and woebegone anybody come knocking your gate because “yuh ain even lookin out”. Like me, I would be looking at my cameras—I do not know who that is, they are on their own. That is the reality of Trinidad and Tobago now, we have to understand that.

I think too, Madam President, Sen. Mahabir made a point, and I—you know, it always reflects on me, my brain suddenly relaxes, immediately as the aircraft takes off out of Piarco my brain relaxes. I am tense moving around Trinidad. In the past year I have been to several US cities, I have been to South America, I have been to Europe, the only place I am tense is home. I am driving around, I am going to the mall, I am wondering—sometime last year I shared. I think Minister Baptiste-Primus told me I must not try to, you know, characterize people who wear hoodies, but I am in a public fast-food place and guys walk in, in a pair of short pants and a hoodie and everybody gets nervous.

I mean, it does not mean it is right, but it is real. [*Interruption*] Yes, it is profiling, but here is what, it is real—it is real. And we have to accept that

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perception often is reality. Trinidad and Tobago is a place where gang activity, as is described here, is something that requires attention.

**3.15p.m.**

So that I want to just preface my brief comments—because I think we have to understand that this did not just arrive here. Trinidad and Tobago is a signatory to the United Nations Convention against Transnational Organized Crime and the protocols thereto. Trinidad and Tobago signed this on September 26, 2001. Okay? As part of being a signatory to this agreement, each party shall adopt such legislative and other measures that may be necessary to establish criminal offences for persons agreeing with more than one person to commit a serious crimes, and so on. Effectively this is an international treaty about managing gang activity. We have been party to this since 2001, so to say that we have dropped the ball is putting it politely. Yeah?

But the key thing with this is that there has been an international global recognition of how serious gang activity is. So that while we are probably playing catch-up here, the world is ahead of us—the world is ahead of us. So that we should not feel too painful here in Trinidad and Tobago about dealing with it harshly, because the world has understood that this is a major and a serious problem.

Madam President, I just want to quote from a document by an organization called the Police Executive Research Forum. They are based in Washington DC. This is a nonprofit organization. It is a police research and policy organization and provider of management services and advice to police enforcement agencies in the USA. They did a report entitled “Gang Violence: The Police Role in Developing Community-Wide Solutions”. It is 2010. It is an old report. So now I am going to

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quote from a 2010 report. This is interesting, I quote:

“...survey respondents indicated that the dynamics of gang activity today are not the same as they were several years ago. Gangs have seen shifts in their basic motivations, structure and activities.

Broadly speaking, respondents reported seeing an expansion of gangs and an increase in gang members’ use of firearms. Seventy percent of the responding agencies reported seeing an increase in gang membership over the past two years, and...reported an increase of the use of guns in gang crimes...Gang influence seems to be”—also— “expanding...”—across the country.

“Furthermore, gangs...seem to be exploiting the popularity and anonymity of the Internet. A large majority of respondents reported that they have seen an increase in gangs using technology to facilitate their activities...including the use of social networking...turning to computers and the Internet to communicate, to coordinate...”—in the commission of crimes—“and to recruit new members.”

This is 2010. Okay? And this is an executive organization that provides policy advice to police services, police forces across the USA. They are based in Washington DC, and they are on the ball. They recognize that gang violence is something that has started to outstrip the capability of the police service to respond.

One other thing, if you permit me, Madam President. They mapped out a series of strategies and activities that the police forces across the USA have started to use to manage gang activity. A couple of them are familiar to us, a couple of them are not. Eighty per cent of the police forces use targeting gang hot spots. So



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you go to the hotspots and you target them. They target known offenders, 79 per cent; use of informants, 79 per cent. Here is where we are missing the point, and goes to Sen. Roach's point. School resource officers, 79 per cent; gang awareness training for teachers, 66 per cent; community education—what they have proposed here, they have mixed activities that the police would normally do with social initiatives to get to deal with gangs before they get out of control. It is a measured approach. It suggests that in managing gang activity, it requires a holistic approach. It requires an approach that requires a mix of strategies.

So make no mistake, Madam President, what we are dealing with today in this Bill is a needed strategy, but it must be complemented by other things. And that is my respectful posit on my initial comments here.

The Bill makes provision, hopefully, for actions that will disrupt and suppress criminal organizations. I continue to say that gang culture dominates the inner cities or depressed communities. I listened earlier in the contributions, and there was a talk about you go to the schools and you get the handkerchief, and you had to wear your handkerchiefs and your red pen. It is unfortunate or fortunate, Madam President, there was also a comment about an activity by some schoolchildren last week, where they were in the streets. It was all over. Those students happen to be students from my old secondary school. Yeah? And I could tell you that we did not have a handkerchief. I was lucky to get a rag to go to school with, because that was just it.

Handkerchief—it just speaks to the societal differences. I am not knocking anyone, but it is the societal differences and challenges. As for the red pen, you were lucky to have any pen, and that is just the reality. I looked at that in shock and horror because those are kids from the school that I went to. Yeah, I went to that

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school; I went to government school. I was not so blessed. So it hurts, because I am seeing young people clearly misguided, clearly not understanding what they are doing getting themselves involved with, lacking direction, and I am not sure how to fix it. I am not sure how to fix it. But what I am pointing to, Madam President, is that a mix of strategy is required, because too many of these young people now do not seem to understand the difference between right and wrong, and there is a fundamental breakdown or a complete lack of respect for authority in this country.

Some of us in this room are here to blame, because it is often very easy to want to tear people down. We always love to look at the negative. Let us look at the whole picture before we cast a negative aspersion or statements. So that what happens is that sometimes young people mirror the actions of those older than them, and we have to accept that—we have to accept that. That is not a supposition by me; that is not something I made up. That is a psychological and well-researched fact.

So that when we talk about managing gang behaviour, I think that we have to understand some of these so-called gang members are just human beings searching for social interaction. They feel ostracized by the society that they live in. They feel ostracized. They look around, we do not look like everyone else; our surroundings are not comfortable, but the gang leader in the area is somebody that, you know, makes me feel like a person. He gives me the opportunity to have a few dollars in my pocket. And we are not dealing with right or wrong, but we are dealing with trying to understand the scale of this societal problem we are dealing with here.

So that sometimes young people get involved in these things because of the lack of social upbringing, the social contact that they are not having, and then these

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people who are ostensibly giving them things to make them feel like a person, it allows for them to get sucked into a life that, if they really had proper guidance at home, perhaps they may not have gotten into that.

As everyone knows here, Madam President, I am a product of the East Dry River neighbourhood. I tell people probably my mother is a saint. She is watching me now, so I always have to speak well of her. But she would always say, listen, when six o'clock, find your— in the house. Whatever else is going on, you need to be in the house. Absolutely not be outside after six. We were of simple means, but there was a lot of love in the house, but I also knew what was right and what was wrong. I could not come home with anything that was unusual or strange, without someone saying, “Where did you get this from?”

So, Madam President, times have changed; I accept it. Those days I had an afro, now you see the condition that I am in. [*Laughter*] But I think that the increased influence of gangs, as Sen. Roach rightly pointed out, the reach of gangs has probably gotten to where we do not expect it to reach. We keep thinking about gangs, guys in the government housing development estates. People might be surprised the extent to which the gang thinking has gotten to. Guys in shirts and ties and in air-conditioned offices are running very, very, very cohesive gangs, ripping people off in more ways than one. But I will not say what I was going to say. I am going to stay clear of that, Madam President.

**Madam President:** Sen. Small, if I may. We are arriving at a stage in the debate when a lot has been covered by the speakers before. And while I am giving every Senator an opportunity to put their contribution in a context, I really need to ask you to focus a little more on the Bill itself at this stage. We have heard about the causes for gang activity. We have heard about, you need more than a legislative

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intervention. So I just want to ask you to focus a little bit on the Bill itself at this stage.

**Sen. D. Small:** Thank you, Madam President. I will be guided. If nothing else, I am an obedient chap.

Madam President, what this Bill does is to create a new set of offences that the police and the Director of Public Prosecutions can use in pursuing criminals. I think that the biggest concern that I suppose most persons have is the expanded police powers; the ability of police to go in and without a warrant detain people. I think that where we are with managing the gang situation in the country, I am probably one of the persons I would say in my view, I believe the majority of the police force is actually trying to get the job done. I think the problem is there is a hard-core minority in there who are making things difficult for everybody else. I would say that being a police officer in Trinidad and Tobago in 2018 is probably one of the most thankless jobs there is, because even if you are trying to do a good job you are packed with everyone else.

So that where the Bill calls for expanded powers of the police in terms of detention of persons, I understand the concern, because these things, using the word of my colleague before me, are draconian. They are draconian. Yeah? Because it infringes on persons' rights according to the Constitution, it requires a special majority, and for good reason. But I think when you look at the social media—I live on the social media just like most other people here, and you see the extent to which gang violence has gotten to in this country. People commit crimes with impunity. They do not seem to have any concern or worry about the effects of what they are doing to people. They are terrorizing people on a daily basis.

Madam President, if you would permit me to share, two days ago I went to

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my local supermarket, and one of the little ladies who is working there I normally have a conversation with, she said, “You know, Mr. Small, I am coming to work this morning”—and she is six months pregnant—and two boys in the maxi, she is fighting with them for her handbag. That is 7.30 in the morning. I mean, your heart—you try to figure out what is really going on, what is going wrong. So that if police have to go to these boys’ residences and detain them for a few days, I support that, because they are terrorizing regular citizens of Trinidad and Tobago. I support that. “They ain’t coming looking for me because I behind my burglar proof; I ain’t moving”, and that is just the reality.

Madam President, there is also a provision at clause 13 of the Bill, and this goes right at the heart about people concealing a gang member. This is the biggest part of the problem in Trinidad and Tobago. This is the good-boy syndrome here. These guys who are in these gangs are performing crimes for the proceeds of the crime. They want whatever the items are to get the cash and then their families and their friends are hiding them. The police come looking for them, as soon as the police are around the corner, they are moving from one house to the next house to the next house, and police cannot find them. This provision here will at least apply or attach a penalty for those who are harbouring criminals. Let us stop calling them “good boys”, because every time there is an activity, all of a sudden the people in the area get, “De police advantaging people.”

This is an opportunity also for me to say that the time has come for us to amend the respective legislation that deals with the materials that the police can use. The police should have tasers. The police should have stun guns. They should have those things because the option for the police now is to stand and take the verbal abuse, or use lethal force. So the police tend to err on the side—they would

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only use lethal force if it is, really, really, really. But I have had the privilege, I have been in other places, and there are public disturbances. The instant you respond back to a police officer you are tased. The police say stop, you had better stop. There is no discussion; you are tased. But we here allow a certain laxity, and it places pressure on the police service to really treat with some of the things that they are dealing with.

So, Madam President, I never intended to be long today because I believe that while I think that the Bill is something that has been here, I would not use the term used by my colleague Sen. Roach. I do not have legal training so I cannot defend myself, but it has been here before. So it is not the first time that this Bill has been here, and we have not had to deal with this in any significant way in terms of changes.

But I do believe something that the hon. Attorney General always refers to, and it is called “proportionality”. So that depending on where you are or where you sit in this society, this Bill is not proportional; we agree on that. But when you mix in the fact that as a citizen of Trinidad and Tobago, I am being deprived little by little of my ability to move around Trinidad and Tobago freely; then, your ability to live your life normally and freely.

I arrive, I get off, jump in an Uber and I move around and walk around other places, and I have no concern about crime—none. But here, as soon as I land and I get picked up, and just like Sen. Mahabir, I am coming in on the late flight and you are looking around to make sure nobody is following you, and when you turn into your street you are looking around. Why am I living like that?

Madam President, as I begin to wind up, I think that I want to echo a point made by Sen. Mahabir that we have been having a situation where we are

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experiencing diminishing returns from our expenditure on the national security architecture. I think that criminality is evolving faster than the capability of our security machinery. We have to understand that gangs and the way in which gangs operate is evolving, it is not static.

I think I had a couple more points, yes. The issue regarding keeping persons in custody for 72 hours. Someone was remarking, I think it was Sen. Roach, that it sounds on paper as if three days is a long time. That should be more than enough time. I do not oppose it; it could have been 96 hours for me, because I think the police need the time. We have a situation where the police are challenged because the criminals have become crafty. The gangs have become very, very crafty, and every time we do something like this they have found ways to circumvent it, through technology and other things.

I think that I support the intent of this Bill. I think Trinidad and Tobago is in a place where, while it is all not as bad as one particular place I went last year and when I arrived and I checked into the hotel, they told me, well listen, you cannot walk around like this. You need to remove everything that you have on you, and if you are leaving the hotel, take a photocopy of your passport page, leave your passport in the hotel, and walk with that photocopy. Do not walk with a wallet. Walk with some money in your hip pocket. I went to that place and that was the closest to home, but the hotel was very clear. This is a place where there is gang violence here, and you have to be careful as a visitor, and this is what we suggest you do.

I do not want Trinidad and Tobago to get like that—I do not want Trinidad and Tobago to get like that. This is a big metropolis, but it is a place where gang violence has taken over the city. The police have lost control. Every year hundreds

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of police die. I do not want to embarrass anyone or any country, but it was an eye-opening experience to me because it shows me the extent to which how bad things could get, where as a visitor the hotel is telling you what to do, what to know for your own personal safety.

So, Madam President, I think those capture my few points that I wanted to make. I think that this Bill is a Bill that I support, but I also say that this has to be part of an integrated effort. There needs to be a target, as I had mentioned from the report from the police executive organization in Washington DC. It is a huge report. It is available, you can find it on their website about what to do, how you mix the strategies. So this is part of the strategy, I support it. But what I am saying I would like the Government to consider that there are other things that need to be put in there, because we have to target the causes of the crime.

Madam President, with those few words I want to thank you. I apologize if I was errant. Madam President, you know I mean no disrespect, and I try my best to cover the issues, and I want to say thank you very much for bearing with me. Thank you very much.

**Sen. Foster Cummings:** Madam President, I thank you for this opportunity to join in this debate on the Anti-Gang Bill, 2018. A lot has been said through the course of this debate on what is a gang, how many gangs we have operating in the country, how many gang members we have, what is being seen as some of the reasons for such activity, and a bit of history was given in terms of what is now the common flip-flop of the UNC.

I want to focus—least I be reprimanded—for a bit, on some real-life situations, because we do have a problem. It might be more apparent to those persons who come from some of the urban areas, as opposed to rural Trinidad. I



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think if the Opposition wants to level with Trinidad and Tobago, they would agree that this Bill which was bought by the UNC, almost exactly as it is now, and which got the support of the PNM while in Opposition is a measure that—*[Interruption]*—I think you had your chance to speak—it was measure that is designed to treat with a problem that affects all of us.

We cannot play politics with crime, because crime is not a political problem. These gangs that have evolved throughout Trinidad and Tobago, which have gotten into our communities, recruiting our young people, mostly young men, involved in criminal activities and training young men to commit crimes, not only against persons within their community, but exporting that crime outside of the community. So this legislation is intended to create an offence for persons engaged in such activity.

Madam President, after the original law expired via the sunset clause, and when this Bill was introduced, in December of 2016 I think it was, the UNC now in Opposition did not support it. In spite of what you hear them saying today, they did not support the legislation. It is only as a result of public pressure, not because as I heard explained by one or two speakers from the Opposition today, that the leader of the UNC loves Trinidad and Tobago so much, and that it was the initiative of the Opposition to ask the Government to join with the Opposition to bring back this legislation, far from the truth. I would not say “lie” because I understand that is not a parliamentary term, but very far from the truth.

It is as a result of public pressure, *[Desk thumping]* and shame when the public poured scorn on the UNC for the position they adopted on this matter, that the Opposition had no choice but to bow their heads in shame, because they saw and they were told that they failed the citizens of this country, they had no choice

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but to come back to the table to work along with the Government, and that is why we are here today. [*Desk thumping*]

**Sen. Ameen:** We will deal with you!

**Sen. F. Cummings:** So no matter what they say to you, the country is looking—  
 [*Interruption*]

**Madam President:** All right, Sen. Cummings. It seems to have a little restlessness in the Chamber right now.

**Sen. Ameen:** After he has given misleading information.

**Madam President:** No, Sen. Ameen, please; no need to add to anything. There is a restlessness in the Chamber. I would ask you if you want to take a walk outside, that is fine, but do not be adding to the restlessness in the Chamber. Listen to Sen. Cummings in silence please. Sen. Cummings continue.

**Sen. F. Cummings:** Thank you, Madam President, for your protection. The truth has a way of getting people uneasy sometimes.

It is only as a result, as I was saying, of the pressure from the public that they came back to the table to discuss this piece of legislation. Although when in Opposition, the PNM gave support to a five-year period for this Bill, all of a sudden the issue of the sunset clause became the back on which the UNC would ride to hide or to try to prevent them from giving full support to a five-year term for this Bill.

Madam President, sometimes when I listen to some Members on the other side, I wonder whether they are really in touch with the reality—[*Interruption*]—  
 Madam President, there is a mumbling coming across there that is really very disturbing. I am trying to make a contribution.

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

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**Sen. F. Cummings:** Thank you. Madam President, I want to share, with your permission, an experience. Because, you see, when we speak from on this side, we do not speak in a vacuum. We speak because we are in direct contact with those most affected. We are not speaking from an academic point of view. The PNM has run this country for many years and we understand the problems. But there are those who feel that they must infuse politics into everything. They lack what is required to be responsible citizens, and so they cannot even be responsible when they come to performing as an Opposition.

Madam President, I have had cause in the past to interact with some young men in the community that I come from. Sometimes when we hear about gangs we get the impression or we feel that it is only related to Laventille or Beetham or Morvant. The problem is real. In the area that I am referring to, during the months of October to December in 2016, five young men lost their lives in a three-month period, three to four months, five young men. Being somebody involved in public life, I said to myself, you know, this is something that cannot go unnoticed or unattended. I must find some way to interact with these young men and find out what the problem is.

**3.45 p.m.**

It turns out that two of the young men who were killed, one 19 and one 21—the perpetrator of the crime is now behind bars, but that person was the second boss in the gang operating in the community. And one of the young men, the one who is 21 decided to sell some illegal drugs in the area that this gang boss was supposed to be responsible for, and the young man who is 19 was the person purchasing the drugs. And so they both lost their lives because, according to the street law of the gang, you are not supposed to sell on their turf. And, I said, but

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something has to be wrong with the way these young men are losing their lives in this senseless manner.

And when we interacted with those young men, you found that they were very fearful of the leader of the gang, extremely fearful, so that they would do nothing unless directed by this gang leader.

This legislation, Madam President, that the UNC had to come kicking and screaming to the table to support, at clause 6:

“...seeks to make it an offence for a person to be or become a member of a gang.”—And—“This offence would carry a penalty of ten years’ imprisonment for a first conviction, and a penalty of twenty years’ imprisonment for any subsequent conviction.”

It is these kinds of measures, along with other things, as Sen. Ramdeen in his contribution would have mentioned, that would serve as a deterrent to young persons for whom the gang way of life has become attractive and some of them see it as the only way.

In our interaction with these young men we also realized that a lot of them would have passed through the school system, they did not qualify themselves for work, because the area that I am talking about borders the Point Lisas Industrial Estate, so if they were willing to work, then work could be found.

**Sen. Baptiste-Primus:** They have jobs.

**Sen. F. Cummings:** There are jobs available. Many of them are users of illegal substances, so they cannot pass the drug test in order to work on the estate, so that they fall back. The position is to work with the gang leader, with the drug lord.

And Sen. Ramdeen in his contribution said that the Government cannot expect that only legislation will work, and I agree with him. And he put forward

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several programmes that he sought to give the UNC credit for, and I know he was not in the Parliament at the time, so maybe he just is a bit mistaken, but the MuST and the HYPE and the OJT, Madam President, are programmes of the PNM, [*Desk thumping*] are programmes of the PNM instituted under the Government of the PNM under Prime Minister Patrick Manning. [*Crosstalk*] These are PNM programmes.

**Sen. Ameen:** And the PNM closed it down.

**Madam President:** Sen. Ameen, Members, Sen. Hosein, Sen. Ramdeen, Sen. Obika you as well, please, if you do not want to hear what Sen. Cummings has to say, you have the option of leaving the Chamber voluntarily. You noticed the word that I am using?—voluntarily, because the next time I get up, it will not be voluntarily. [*Desk thumping*] Okay? Continue, Sen. Cummings. [*Desk thumping*]

**Sen. F. Cummings:** I thank you, Madam President, but I want to remind, since there seems to be a little memory lapse of what the social programme that is supposed to work along with this legislation, what the social programme was that was put in place by the so-called People's Partnership Government during their tenure is something called LifeSport. Have we forgotten that? The Senator did not remember that one to include in his list that he mentioned. But the legacy of the last Government in treating with young people affected in vulnerable areas who would move toward gangs and participate in that kind of activity, the remedy from the UNC was LifeSport. [*Desk thumping*] The State got involved in actually paying persons for being involved.

So, how could you have brought a package of legislation to treat with criminalizing activities related to involvement in gangs, and on the very same hand introduce a programme that rewarded young men for being involved in gang

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activity? [*Desk thumping*] That is government UNC style, and that is why it did not work during that period. You can directly connect the negative aspects of the LifeSport Programme, most of which were negative, to the fact that you did not have any success for the five years or the four years or the three years that this Bill ran from 2015 until you demitted office, you can connect that, because if you are rewarding people on the one hand, then why would they want to leave the gangs.

And then to make matters worse, Madam President, when we experienced an upsurge in crime under the UNC and in one weekend six lives were lost in the area of Arima, the answer to that which the Senator did not tell us, was that the Government then, of which they were a part, their solution was state of emergency, and the state of emergency caused them, which was their crime plan, to arrest young men across Trinidad and Tobago without evidence. And today, there are matters still pending before the court for the reckless action of the UNC Government during their tenure. That is the history. That is what we are faced with today, why we have to come to Trinidad and Tobago to say, listen we are serious about business. And then you have the very persons who were involved in that kind of activity wanting to advise the Government on how we should treat with matters of this nature. I say shame, shame, shame. [*Desk thumping*]

Madam President, Sen. Ameen in her contribution spoke to the fact that the police needed support and more support, almost to suggest that the Government was doing nothing to support the police efforts in their fight against crime. You would recall that it was the PNM Government that took action to ensure that a manpower audit was conducted within the police service. That is PNM. And we need to take note of the fact—

**Sen. Obika:** I will respond to that.

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**Sen. F. Cummings:**—that as the Executive seeks to give support to the police service, let us not forget that the police service is headed by a Commissioner of Police, and that Commissioner of Police reports to a Police Service Commission, not to the Executive. And so while because of the way that our Government is structured, the resources have to be budgeted and provided for by the Government, the Government cannot instruct the police, maybe another government outside of the PNM may attempt to do that, but the PNM knows how to govern and how to govern properly.

Madam President, I do not know whether the persons who have the responsibility on the other side understand or have taken the time—because I know that a lot of the areas that are affected by this problem directly, that they have not had the benefit of representing these areas, they have not been very successful in terms of getting support in certain areas in Trinidad and Tobago. But it does not matter whether you have a Member of Parliament coming from these areas or not, if you are interested in governing Trinidad and Tobago, then you have to take the time to understand the culture, the behaviour and the norms throughout all of Trinidad and Tobago; you have to care about all the citizens of Trinidad and Tobago. And this Bill is not only intended to penalize those persons who take part in gang activity, but it is also intended to protect those citizens who are law-abiding and who abide by the laws of Trinidad and Tobago.

Madam President, what we have noticed is that over time this problem has gotten to the point where some of these persons involved in these types of activities have lost all respect for law enforcement. I think Sen. Small made reference to it earlier, but you would see now very often in social media recordings of police interaction in certain high-risk areas, and the type of antagonism that the

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police is treated with. It shows a sort of breakdown in the respect for law and order, that it is hoped that the measures in this piece of legislation will be able to address. And many persons have taken an interest in what are some of the problems that we have been grappling with over the last two decades or so, and it has become increasingly worse.

Whereas 10 years or so ago they numbered about 100 gangs in the country, as one previous speaker, I think, it was the AG in his opening would have given us information that these gangs have pretty much doubled, we are now in excess about 200 gangs. And these gangs are not only centred in Port of Spain and its environs, you have very small pockets now, it is like the conglomerates. The major headquarters may be in Port of Spain, but you have subsets of these gangs in every community across the country and now they are even infiltrating the rural areas.

So, if the Government does not take action now to address this problem, you may find that exactly where you feel comfortable to live now, where there might be high walls and gated communities, that those gangs would very soon be able to infiltrate those areas as well. Not because the problem is not at your doorstep, does not mean that urgent attention is not required now.

Most of the problems, Madam President, and in particular the criminal activity that this Bill seeks to address is organized around the type of gang activity, pretty much like the mafia that we would look at on TV and so forth that operated in parts of North America in the 80s and the 90s, and they were able to treat with it. New York City had a problem, but I think it pretty much has been brought under some level of control. Jamaica is still grappling with some of their issues, but they were able to put legislation in place. And there comes a time when the politics has to be put aside for the while and people must think Trinidad and Tobago.



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That is all we expect of the Opposition. We do not expect you to change your ways to become like the PNM; we do not expect you to become responsible, we know that is difficult for you [*Desk thumping*] but, at least, when it is a matter that affects the citizens and the security of Trinidad and Tobago, that you man-up to your responsibility.

**Madam President:** Sen. Cummings, can I ask you to—you have spent a lot of time dealing, again, with context and you have rebutted some of the points that have been presented. I will ask you now to focus a little more on the Bill itself. Okay?

**Sen. F. Cummings:** Thank you, Madam President. [*Crosstalk*] Yes, Madam President. Clause 15 of the Bill:

“...seeks to empower a police officer to arrest, without a warrant, a person who he has reasonable cause to believe is a gang leader, a gang member or has committed an offence under the Act, and to enter and search a dwelling house, with a warrant, or to enter any such place or premises, without a warrant, where he has reasonable cause to believe that a gang member may be found.”

And this clause, Madam President, I think will give to the police an ability that they previously, without this legislation, did not have, and would cause them to be able to make a serious dent in treating with gangs and the organization of criminal-gang activity.

As we move further on, Madam President, where in clause 16 the Bill gives the power to the police to detain, I think it is up to 72 hours, and following that to approach a judicial office to get an extension if further detention is required, these are some of the provisions of the legislation that would seek to give the police the

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kind of teeth required to treat with the scourge of gang activity in Trinidad and Tobago. Because I have heard coming from the other side concern about abuse of police power in relation to these two clauses in particular. But, Madam President, where there is a serious problem, serious action is required to treat with it. We cannot recognize that there is a serious problem and not be willing to take serious action to deal with it, and clauses 15 and 16 in particular are geared towards serious action being taken to deal with the problem of gangs.

So, Madam President, this Government is serious about dealing with the problem of crime in Trinidad and Tobago. As I said before, it is not an issue of politics, crime affects each and every citizen of this country, and therefore, as a responsible Government not only this piece of legislation, but coming out of the office of the Attorney General, several pieces of legislation geared towards giving law enforcement the required resources in terms of intelligence gathering, in terms of cooperation with different state agencies, and now at the root of the problem, the situation that we know over time that has facilitated the growth and encouraged these young men in this type of behaviour.

Madam President, I was told recently that even behind the prison bars, so to speak, that the gang activity is prevalent, and that gang members or leaders even behind bars are able to issue instructions to persons on the outside to commit certain crimes. So this is not a laughing matter, this is not a matter to take lightly or to poke fun about, this is a matter that goes at the root cause of the problems that we are experiencing. It can be directly related to the high murder rate in this country and therefore, it is a matter that has to be taken very, very seriously.

In an article that I came upon from the Council on Hemispheric Affairs, a publication from that organization way back in 2013, Madam President, and the

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article is headlined, “Gangs Are the New Law in Urban Trinidad and Tobago”, and the author of the article apparently would have spent some time in Trinidad and Tobago. And whilst some aspects of it I do not agree with, certainly this piece of writing highlighted the way these gangs operate, the way they have infiltrated social programmes, the way they have become involved in drugs, robbery, kidnapping for ransom, illegal guns and ammunition, extortion, kidnapping for ransom, all of these criminal activities that have become the business of these informal gangs that now operate within Trinidad and Tobago.

So, Madam President, what the Attorney General and his team have brought to us this afternoon is a piece of legislation with teeth, a piece of legislation that requires the support of every Member of this Chamber to send a strong message to those who are intent on disrupting the lawful way of life in Trinidad and Tobago, that the State will have none of it, and it will be useful for that joint collaborative stance to permeate throughout the country so that those who are not about obeying our laws, would realize that the State, collectively, is taking a stance against illegal gang activity.

It is my hope, Madam President, that the stance of the Opposition on this matter as they have now come to realize that they must support this piece of legislation, albeit half of way and not the full way, that that sort of behaviour will continue to affect their judgment as we move forward in governing Trinidad and Tobago.

It is also my hope, Madam President, that the young people of Trinidad and Tobago, the young men in particular who have been attracted to this type of illegal activity, paying attention to the posture of both Government and Opposition, will direct their activities to more positive and uplifting behaviour as we seek to build a

better Trinidad and Tobago. I thank you, Madam President. [*Desk thumping*]

**Madam President:** Sen. Obika.

**Sen. Taharqa Obika:** Thank you, Madam President, for allowing me to join the debate on:

“An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”

I want to start this contribution in a very unconventional way by listing the offences, if you allow me to do so, verbatim, from the Bill for the benefit of persons who may not have the time to distil the debate to understand what exactly they could be charged for. And under the First Schedule we have:

- “1. Possession of imitation firearms in pursuance of a criminal offence
2. Larceny of a motor vehicle
3. Arson
4. Receiving stolen goods
5. Gang membership
6. Coercing or encouraging gang membership
7. Preventing gang member from leaving gang
8. Counselling a gang leader, gang member or gang
9. Possession of bullet-proof vest, firearm, ammunition or prohibited weapon for benefit of gang
10. Harboursing a gang leader or gang member
11. Concealing a gang leader, gang member or gang-related activity
12. Recruiting gang member
13. Threatening to publish with intent to extort

14. Demanding money with menaces
15. Murder
16. Shooting or wounding with intent to do grievous bodily harm, unlawful wounding
17. Robbery, robbery with aggravation, robbery with violence
18. Assault occasioning actual bodily harm
19. Possession and use of a firearm or ammunition with intent to endanger life
20. Possession of a firearm or ammunition without licence certificate or permit
21. Trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking
22. Rape
23. Grievous sexual assault
24. Kidnapping
25. Kidnapping for ransom
26. Knowingly negotiating to obtain a ransom
27. Offences under the Anti-Terrorism Act
28. Offences under the Proceeds of Crime Act”

Madam President, many of these offences, save and except the ones that specifically arise by virtue of this legislation regarding being members of a gang or gang-related activity are already covered under the laws of the Republic of Trinidad and Tobago, and this is common and public knowledge, however, we are here regarding the Bill before us. And I want to state and to submit that this country will have proper law on the books because of the work of the Opposition

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[*Desk thumping*] and the patriotic actions of the Opposition under the leadership of Kamla Persad-Bissessar. [*Desk thumping*]

Now, Madam President, in the Opposition we have shown this in the face of accusations about blood being on the hands, in the face of all sorts of attacks in the public space, we have stood our ground in the defence of the citizens of Trinidad and Tobago, that unless good law is created, we will have no part of it. [*Desk thumping*] In effect, what we would have done by taking that stance, Madam President, is provided law enforcement with a better tool which they can use to fight crime.

Now, I want to turn to some of the submissions of our hon. Members opposite. Now, the Minister of Labour and Small Enterprise Development in the hon. Member's usual manner and tenor spoke at length, about the wonders of futsal in the prison, in the correctional facility in Trinidad and Tobago.

Now, having played the sport myself for the UWI as a goalkeeper, I must submit, and being in the whole field version of it, I do understand the importance of sport where the reform of citizens is concerned, and where protecting our young ones from the social ills that pervade in the criminal system. I understand the importance of it. One such organization that uses sport and in particular football is the Marabella Family Crisis Centre. And I, having spent my adolescent years, the larger part of that in Marabella, although I hail from Point Fortin, but when I went to Presentation College as the Attorney General also went to, I spent my days there in Marabella.

#### **4.15 p.m.**

At that time—because this centre was formed in 1992, and I entered Prez in 1994—they were new, and they were finding their feet in what sport will be for

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social intervention. They have many organizations, like the Marabella Family Crisis Centre, persons may know them as being part of the super league, but when I was there at the time there were many young children and adolescents that were part of their programme. However, one must lament that this Government, under the current Minister of Sport and Youth Affairs, has seemed to lose the benefit, and is not in harmony with the Minister of Labour and Small Enterprise Development's contribution about the benefits of sport in fighting crime and in dealing with deterring persons from engaging in the offences that I took the time to list at the beginning of my contribution, Madam President.

So, this Government would really want to heed their own advice, if the words of the Minister of Labour and Small Enterprise Development are to be taken as such where sport is concerned. And I want to leave the mission of the organization. The Marabella Family Crisis Centre says that their mission is to provide education—

**Madam President:** Sen. Obika, while you can make reference, and you are making a point about sport and crime, but this is not about a specific organization, and to list all of the goals and objectives of the organization. You can mention the organization as part of your contribution, but it cannot be the focus. Okay?

**Sen. T. Obika:** I thank you. But I wish to crave your indulgence to explain why I chose the mission of this organization. Because it is in harmony with the role of sport in preventing persons from following with these—

**Madam President:** Sen. Obika, so, we seem to be having a tête-à-tête here. But I have made a ruling and I would ask you even though you have an intention, perhaps try and incorporate it as you move on. But I have made the ruling. Okay?

**Sen. T. Obika:** I shall be so guided. I was only seeking to be of benefit to the

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Minister of Sport and Youth Affairs, who has lost his way where administration of sport is concerned. [*Desk thumping*]

Now, Madam President, there is another Member of the Government's bench that spoke before me, and whilst the Senator's contribution contained much volume, I apologize if much of the substance passed me, you know. I apologize. Now, the Senator, Madam President, spoke about clause 15—

**Madam President:** Sen. Obika, I am so sorry, please just—in the Standing Orders there is a particular standard that deals with how we refer to Members in the Senate. So it is not “the Senator”, it is Sen. Cummings. And when you are referring to a Minister, then you talk about the Minister. Okay? But let us try and keep with the Standing Orders. Okay?

**Sen. T. Obika:** Apologies, Madam President. Sen. Cummings. As Sen. Cummings was “coming to come” with the contribution, mentioned clause 15, and seemed to have some difficulty regarding its application, and I would want to direct the Chamber to the submission of the Law Association of Trinidad and Tobago, dated 19 March, 2018, where they mentioned some things that spoke to that and as well around it—clause 15, regards the powers of arrest of a police officer without a warrant. Now, I do not have time to read the entire part that deals with that, but I will go to the last paragraph where it says:

The law as it presently stands allows the police to detain for a period of time without charge as long as the obligation to bring the detainee promptly before a magistrate is observed. We see no reason why the police should not be required to apply to a judge immediately, if it is thought necessary to detain a person without charge any longer than is already permitted in law.

Now, Madam President, we have persons who possess more intimate knowledge of



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the law to come after me, so I would only leave it there and direct Sen. Cummings—I am so guided—to the Law Association's submission. It is very detailed. [*Desk thumping*] I take it I am doing the Attorney General's work by edifying Members opposite, but it is okay, no problem. You can rest it on my shoulders. A word to the wise is sufficient. If you do not heed the word, well, I cannot force you.

So, I want to speak to a particular issue regarding the Bill that is of concern to me. Now, clauses 14 to 16 speak to the creation of offences, and actually I would wait until the Attorney General is in the Chamber to deal with this part, because I wanted to solicit some response from him. Maybe he would do in the wind-up.

So, the Bill spoke about recruiting a child into a gang. There is an offence for that, Madam President, and I recognize that the drafters or the framers of the law prescribed imprisonment up to 15 years as the punishment for such recruitment. Now, however, I tried but I could not find any part of the Bill which spoke about the minimum age for a child upon which they would not be considered to be prosecuted. That is why I wanted the Attorney General to be here to give clarification, but maybe in the end he would. So, I wish to read this part that I prepared on that, Madam President. Being a gang member receives a penalty of imprisonment for 10 years and on a subsequent conviction of—on indictment to imprisonment for 20 years.

Madam President, the Attorney General said that criminality has no boundary. I would like to add—and rightfully so. However, in this application of law I submit, what about the rights of our nation's children? What about the children who fall into the trap of peer pressure, who inadvertently become

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classified as gang members? I want to submit today that there should be a special consideration for children. Should the child, someone below the age of 16, in my view, be enrolled in deviant behaviour, and I know corrective action should be taken. But placing this child in correctional facilities for a decade at minimum, which will bring that child well into adulthood if they were an adolescent when captured, may result in the reverse of what is desired by the period of custody, which is correction of deviant behaviour. This may result in breeding and, in my view, graduating criminals. I am saying that an adolescent that is caught in deviant behaviour should be corrected, but a special condition for their age and circumstances should be taken into account to ensure that their period of correction, which, according to this Bill will include custody, will correct behaviour.

The grounding of my position, Madam President, is when we take a look at the offences we know that there are offences that cover knowingly counselling, giving instruction or guidance to, financing in any manner, or otherwise providing support to a gang leader, gang member, or gang in furtherance of its participation in, or commission of a gang-related activity with a punishment prescribed being imprisonment for 25 years; and, another aspect of it, preventing a gang leader or gang member from leaving a gang, punishment being 25 years also. Madam President, we do not have to stir our collective imaginations too much to concede that a penalty of death may well face a child who wishes to leave a gang. I am sorry that I did not wait at least five minutes, because the Attorney General is now here with us.

Madam President, could I just recap in 30 seconds what I said? Hon. Attorney General, I was just basically asking that I looked through the law and I

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did not see if there was a minimum age prescribed where children would not be given custodial sentences, because the minimum sentence being 10 years, if you are caught in the offence of being a member of a gang or engaging in gang activity. There is? I am prepared to give way.

**Hon. Al-Rawi:** Okay, there is not.

**Sen. T. Obika:** Thank you very much, hon. Attorney General. So, Madam President, I beg to submit that we can give some consideration for children. Having been a teacher for more than a decade, I believe that we can correct most deviant activity in our adolescents. I believe we should always give them hope for the future.

So if the drafters of the legislation could recognize that a gang or gang leader could prevent someone from leaving against their own will, and we acknowledge that children may act in accordance to the force imposed upon them by persons in authority, we should give those children the space to be treated as victims, if we indeed discover that they are such, that they are really victims of being in close association to a gang. I am saying we should temper justice with humanity, and taking into consideration the rights of children.

I want to continue by sharing some concerns by members of the public, but before I reach there I want to look at the measures to fight crime, fiscal measures to fight crime. My background being finance, I would always look at the way in which a government allocates resources to crime fighting. But in the tenor of my contribution I am trying to focus on corrective measures, reformative measures, as opposed to enforcement. Because I know we have sufficient Senators present who would be able to deal with the issue of adequately prosecuting the law.

So, Madam President, there have been no fiscal measures in the current

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finance Bill that we are under, this financial year, regarding addressing the issue of crime. In Criminal Justice System Reform, in an article from the United Kingdom titled “A new approach to fighting crime”, they discovered that as around half of all crime is committed by persons with previous convictions, any plan to cut crime may also cut reoffending. The Home Office went on to detail that:

“...reforms to the criminal justice system will mean that criminals can expect more effective, tough punishments. Prisons will become places where they will learn the discipline of work, enabling them to make reparation to victims and gain job skills to help them resettle in the community and avoid committing further crimes.”

Whether or not this is a reality in that jurisdiction is one thing, but the prescription, I believe, is relevant for our jurisdiction. They even went on further to state—that is the UK Home Office:

“We will also rehabilitate offenders to tackle the problems which fuel their criminal activity by getting drug dependent offenders off drugs and into recovery and tackling mental health problems.”

So, Madam President, this undertaking is one to elaborate means that, in another jurisdiction, equal to fighting crime is the approach to rehabilitation of offenders, and reducing drug addicts among other preventative measures. So, they are reducing the supply of criminal offenders, and they are reducing the demand for one aspect that drives crime, which is drug users, illegal drug users.

So bringing this to our national setting, we witnessed under the People's Partnership Government the application of social and educational programmes to reform offenders by giving them opportunity in a positive direction. What we see is a reversal of these activities under the GATE programme, under the OJT

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programme, the closure of the National Energy Skills Centre in, of all places, Point Fortin, Palo Seco and Moruga, and the winding-down in Vessigny, in the face of LABIDCO moving up, means that this Government is totally at sea with what is required to reorient persons and to take them away from a life of crime [*Desk thumping*] and make them productive actors in society.

Madam President, may I ask how much more time I have?

**Madam President:** You have 20 seconds until the tea break. [*Laughter*] Fifteen now.

**Sen. T. Obika:** Till lunch. Okay.

**Madam President:** Ten. [*Laughter*]

**Hon. Senator:** You have to pause?

**Sen. T. Obika:** I wish to pause. [*Laughter*]

**Sen. Mark:** No, no, continue.

**Sen. T. Obika:** Okay. The mandate of the police service is what I want to look to, Madam President. [*Laughter*]

**Madam President:** Hon. Senators, at this stage we will suspend the sitting and we will return at 5.00 p.m. So, this sitting is suspended until 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Madam President:** Sen. Obika, you have 19 minutes remaining.

**Sen. T. Obika:** [*Desk thumping*] I am most grateful, Madam President. To continue on my line, given that especially after some discussions I had with one of the Members of this honourable Senate in the break, I think I want to press further on the line regarding anti-gang measures and children. And if you allow me to read a very short part—it should not take more than one minute—from a document

entitled “Juvenile Justice Reform Initiatives in the States, 1994 to 1996”, by the Office of Juvenile Justice and Delinquency Prevention. Under approaches to gang control and intervention it says that:

“Gang problems traditionally have been local, urban problems, and governmental responses to gang problems traditionally have been focused at the local level. Yet, while the past decade has been marked by the spread of gangs and gang-related violence, it has also seen the growing confluence of Federal, State, and local efforts to control gang activity and reduce gang violence. Moreover, it has seen the rise of more proactive, community-based strategies for dealing with gangs.

Three general strategies for preventing gangs have been evaluated, preventing youth from joining gangs, transforming existing gangs into neighbourhood clubs, and mediating and intervening in conflicts between gangs. Of the three approaches, prevention programs that integrate school curriculums with afterschool recreational activities seem to hold the most promise for preventing gang crime and violence.

In areas where gang problems are endemic, such as Los Angeles County, prevention and interventions strategies combined with long-term proactive investigations of entire gangs work better than reactive, short-term investigations and prosecutions of individual gang members.”

So in essence, the focus is three-pronged: preventing the youth from first joining, transforming existing gangs away from the activities, and mediating and intervening in conflict between gangs. And the outcome of this three-pronged approach results in integration of school curriculums with after school recreational activities.

Now, in bringing this back to the context of Trinidad and Tobago and the Bill before us, which, of course, is the work of this honourable Senate, I wish to submit that many of the offences that were cited in the First Schedule, and there are some particular offences that occur as gateway offences. I am not an expert on criminology, and I would not profess to be one, Madam President. But, more anecdotal, we are looking at the low hanging fruits such as larceny of a motor vehicle and receiving stolen goods. If we ensure that we intertwine the prevention of gang activity with the school curriculum, and couple that with special treatment for children in the criminal justice system, which already exists, but regarding the particular provisions of this law, Madam President, I want to submit that at least we may prevent many adolescents from joining or remaining in gang activity

With the remaining 15 minutes or so, I want to go on to another very burning issue, which is the vehicle the State uses to fight crime. Now, Madam President, the mandate of the police service. The police service we all know is very important and they were cited many times in this Bill, and the issues that were taken had to do with the powers of arrest and the ability to detain without a warrant. But, Madam President, in an affidavit, the same affidavit cited by the affidavit of the Acting Commissioner of Police, Stephen Williams, dated April 08, 2016, referred to by the hon. Attorney General, the Police Commissioner states:

The mandate of the Trinidad and Tobago Police Service is to maintain law and order, preserve peace, protect life and property, prevent and detect crime, apprehend offenders, prosecute offences and enforce all laws and regulations with which the police service is charged.

And one asks the obvious question, how much of this mandate is realized? And the second question which has a follow up to that, what is required for the police to

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realize this mandate to be successful in executing their mandate? I want to be very cautious, and I was guided the first time, and I will just be cautious with what I am going to read now. Madam President, I take refuge in the following from Standing Order 103(2), on page 62 of the Standing Orders, which addresses premature disclosure of evidence, where evidence taken from a public hearing of a committee may be published by a member. I wish to make a brief incursion into one of the findings of the Police Manpower Audit Committee Report which was alluded to by Sen. Cummings, to highlight the issue of staffing of the police service, and I quote now, with your permission regarding vacancies:

“The TTPS data shows that there are over one thousand vacancies and mostly at the lower rank, that is, the foot soldiers. This is an urgent problem that must be treated with great seriousness. In fact, when we look at how the vacancies are spread across the various police divisions as well as branches and Units, it exists across all except one or two. Worryingly, vacancies exist in key units and Branches like Homicide, Anti-Corruption Bureau, Special Branch, Child Protection, Rapid Response, Guard and Emergency while there are surpluses in other Units and Branches.”

Madam President, this begs the question: What are we doing here? This legislation must be viewed as the enabling framework for law enforcement. One can easily agree with that. However, recognizing that to operationalize the legislation, the police service needs to be properly tooled. That goes without saying. But when we find ourselves in a situation, we may very well find that we will be fixing one aspect which is the framework for law enforcement, but that may leave exposed the operational tool. It is as if you have cleaned—to use a very local example for persons who may be listening—one room in the house, which exposes the state of



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the other rooms. So in essence, our law enforcement efforts are hamstrung for the beginning.

Madam President, I will not venture anymore into the report, but I will conclude my appreciation of it by saying that there can be no real fight against crime without a proper functioning police services in the nation. So, Madam President, at this point I want to turn to one of the areas—there are many areas in Trinidad and Tobago that this Bill seeks to bring immediate reprieve and relief to, one of which are the citizens that reside in East Port of Spain. And in an article in the *Trinidad Guardian* newspaper of Thursday, February 22, 2018, by none other than Rhondor Dowlat, I want to quote some aspects of the article regarding feedback that the citizens of the area have given. The article starts by saying:

“East Port-of-Spain residents yesterday dared Port-of-Spain North MP...to walk the streets and show them the joint police and Defence Force”—patrol—“camps he spoke of in the Senate.”

Now, Madam President, it is no secret that the United National Congress and the People’s Partnership Government prior, did not get the support of the PNM Opposition for the constitutional reform Bill to categorize murder, the soldier Bill, to give soldiers powers of arrest as they work alongside police officers, despite today there is joint police and army patrol. [*Desk thumping*] That is there. The article continues to say that the MP has not come to see what is happening in the community.

I would stop quoting from this point because the language in the article I cannot quote in the Senate. But in essence, the persons were stating that there is a disconnect between what is said that is to be done and what actually happens on the ground in the hot spots in Trinidad and Tobago. The people of East Port of

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Spain—who I am very familiar with, having sold Liberation newspaper on the streets of Laventille many years ago when I was an adolescent myself—really and truly are faced with a very strange situation. They are seeing all the wealth of Trinidad and Tobago below them as they are on the hills, but they are faced with a very stark situation that runs at odds with that wealth. And they are complaining that their representation is not good enough. [*Interruption*] Madam President, Sen. Cummings seems to be interested in East Port of Spain political seat. [*Laughter*] I am not sure the PRO of the PNM would be happy with that expression.

Madam President, I want to turn to, what good governance means regarding—

**Madam President:** Sen. Obika, even after the tea break I have given you some latitude but you are straying again, and I am going to ask you, in your few minutes, to tie up what you have to say to the Bill that is before us. Okay?

**Sen. T. Obika:** Madam President, I take your guidance, and I am always happy when I get your protection and your guidance. [*Laughter*]

In closing my contribution, [*Desk thumping*] I want to—not as yet [*Laughter*—outline some research that was done that may be of some benefit to this honourable Senate regarding gang activity in Trinidad and Tobago, because we still have the committee stage of the Bill, and some of this research may redound to our benefit. The report that I am reading from is titled “Threat convergence and current transnational crime trends, a Caribbean Perspective, Focusing on Combating the Regional Rise in Gang Violence”, by Paula Llewellyn QC, Director of Public Prosecutions—

**Madam President:** Sen. Obika, you have five minutes.

**Sen. T. Obika:** Thank you very much—Jamaica. Definition of gangs: The United

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Nations definition of gangs:

Any group of persons coming together for some criminal purpose.

I want to go straight to the recommendations, because five minutes—now, what they looked at in terms of the recommendations was how to combat the rise in regional gang violence and transnational crimes, and they stated, and I quote with your permission, that is, how to combat regional gang violence and transnational crimes:

“Attack strategy and plans and disrupt alliances.”

That is, alliances between gangs.

“Deny gangs freedom of action and freedom of movement.

Deny them access to guns and bullets/cut coercive capacity.

Deny them access to financial resources and the proceeds of crime.”

**5.15 p.m.**

We have been dealing with that as you are well aware, Madam President, apart from this Bill.

“Deny them access to civil and political support through the relentless fight against corruption in public and private sector.

Deny them support and legitimacy in community by publicly embarrassing them to a point where they are scorned by citizens.”

I am not sure where we are with that.

“International co-operation between law enforcement and prosecutorial agencies.

Vigorously disrupt enterprise crimes such as drug dealing, extortions, auto thefts, alien smuggling.”

They prescribed a particular law but I would not mention that because we are

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already in the process of enacting this particular law. I want to speak to other laws.

“Communities must be mobilized to show their intolerance to guns and gangs. This can be done through:

1. Public education”—very important.

We know this is being done with many different aspects, the 800-TIPS, et cetera, but, number 2:

“2. Enlisting the support of and co-operation of community members in identifying gang members.”

We have that present in Trinidad and Tobago.

“3. Confronting fear which is the gang leaders’ greatest weapon exemplified by the ‘I don’t want to be an informer’...culture.”

Madam President, at this point I want to state that the role of the Police Complaints Authority and whatever internal investigative mechanism there is in the police service should be—shine a light, should be shined on that. Because that really is where the citizen will get some solace, in that when they do make their appeal to the police, that action will follow.

And, you have to be careful when your emotions are at stake, but there is a gentleman who is close to my family, who passed away as a result of murder in Vessigny. And when you look at the fact that someone reported possible crime and no action was taken to prevent it based on this information it brings to bear the importance of checks and balances on the police service in the performance of their duty, so that best practices, Madam President, is the order of the day. So that no more should we hear that a woman made a report which was ignored for whatever reason, whether it be lack of vehicles at that particular station or lack of officers or lack of appreciation for the seriousness of the complaint.

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I want to submit, Madam President, that the role of the internal investigative mechanism in the police service and the Police Complaints Authority, a light should be shined upon their role to ensure that that does not happen again. That will give citizens solace that when they do come forward action would be taken against the perpetrators of crime and the would-be perpetrators of crime in this country. The report goes on but I have already cited the report for the record.

I want to say, Madam President, in closing, this time I am closing, that this nation must be thankful to the United National Congress and the Leader of the Opposition, the hon. Kamla Persad-Bissessar [*Desk thumping*] for ensuring that good law rests on the books of this nation. Thank you very much. [*Desk thumping*]  
**Sen. Taurel Shrikissoon:** Thank you, Madam President, for recognizing me and allowing me an opportunity as well to contribute to this debate. Before I begin today, I would like to take this opportunity to extend congratulations to our first female President and our sixth President of Trinidad and Tobago, [*Desk thumping*] Madam Justice Paula-Mae Weekes. And I wish her all the best, good success and may God's grace and guidance continue to be with her as she leads this great nation.

Madam President, the Bill before us today is one that I think has very much great relevance to the context or the situation that Trinidad and Tobago confronts at this time. The Bill is entitled:

“An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters”

At the core of the title of the Bill it speaks of gang membership and activity performed by or criminal activity performed by gangs. Sen. Obika quoted from a

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presentation and I too would like to cite some statistics used there and it is from the Transatlantic Symposium on Dismantling Transnational Illicit Networks, presented by Paula V. Llewellyn in 2011, where she cites Trinidad and Tobago as having approximately 80 gangs with 1,200 people or 1,200 members. And that was in 2011.

In 2012 and in an article of December 07, 2017, by Gail Alexander in the *Trinidad Guardian* the hon. Attorney General in providing some statistics to Trinidad and Tobago also said that in the year 2012 there were 95 gangs. So we are seeing an increase and number of persons, 1,269. By 2014, number of gangs, 92, just about the same, with 1,500 members, an increase of 19 per cent. By 2016, 172 gangs and 2,358 members, a 57 per cent increase. And in 2017, total suspected number of gangs, 211—2,458 members, a 5 per cent increase year on year over 2016 but almost a doubling of the 2012 position in five years.

I am saying this to say that gang activity, membership and number of gangs is real, or they are both real in Trinidad and Tobago. And to leave it unaddressed and to not adequately address it or find a solution in confronting it, leaves Trinidad and Tobago exposed to a vulnerability that will just continue to harm us. And it is in that context that I looked at this piece of legislation and said, you know, if it is that it has some element of hope for Trinidad and Tobago, once implemented and operationalized in a proper way, then so be it and I most certainly accept and support it at this time. But jumping straight into the Bill because many Members spoke before I did and I too would like to make a contribution specifically on the Bill and try my best to remain focused so that I could make a good contribution towards it.

Clause 5 of the Bill provides for conditions under which a person can be

identified as belonging to a gang. Part II of the Bill consists of clauses 6 to 14 which deals specifically with identifying offences of the Anti-Gang Bill. Clause 6 says:

“6(1) A person who—

(a) is a gang leader;”—or

“(b) ...a gang member; or

(c) professes to be a gang leader or a gang member, in order to gain a benefit intimidate other persons or promote a gang,

commits an offence.”

And it goes on to say what the penalties would be in 6(2) and 6(3) for a gang member or a gang leader.

However, I am not an expert in gangs nor have I been affiliated with any in any way, [*Laughter*] but what I do know and some of us may be able to identify with this is that sometimes we get text messages on our phones and emails alerting us of some tactics used by others in Trinidad and Tobago or the public who aspire to be in gangs and therefore they commit certain activities. So they throw stones at your car, they throw eggs at your windscreen, whatever it may be, and those are sometimes referred to as tests of initiation where the members have to demonstrate some element of will to engage in an activity in order to become a member of a gang and so their initiation tests.

And so, when I look at clause 6 which identifies or which seeks to specify how a member is identified, if a person is performing an initiation test then he is not really a member of a gang because he has not gained acceptance, but he has committed an offence so as to appease the gang. So his mindset is already there. And so I am asking for consideration today in clause 6, in terms of identifying a

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gang member, if it is we can say that if a person performs a condition prior to membership or prior to becoming a member of a gang, then can they also be considered as a gang member? I am just asking and I am laying that for discussion. If a person performs a condition for membership then would he or she be considered a member of a gang?—and therefore, would fall within the identity or be classified as a gang member.

Clause 7 of the Bill refers to coercing or encouraging a gang membership. It says here, clause 7:

“A person who coerces, encourages, entices, aids or abets another person to be a gang leader or gang member commits an offence and is liable on conviction on indictment to imprisonment for twenty-five years.”

Again, having limited knowledge of gangs there is the position where present gang members can facilitate others or through their network and through their influence to becoming members of the gang. And so I am asking in clause 7 if we can consider the insertion of the word “facilitates”. So it would read:

A person who coerces, encourages, entices, aids, facilitates or abets another person—

So the insertion of the word “facilitates”, or abets another person to be a gang leader or a gang member also commits an offence. So it just introduces another condition for membership where the membership is facilitated by another person.

Clause 7 of the Bill also pertains to encouraging gang membership and carries with it a penalty of 25 years. Clause 9 of the Bill says:

“A person who knowingly—

- (a) counsels;
- (b) gives instruction or guidance to;



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- (c) finances in any manner; or
- (d) otherwise provides support to,  
a gang leader, gang member...”

—will also commit an offence and will also be presented with a punishment or imprisonment for 25 years.

So we are seeing consistency with respect to gang membership in clause 7 and clause 9. But if we drop down to clause 14 it says here, in clause 14:

- “(1) A person who recruits another person to a gang commits an offence and is liable—
  - (a) on summary conviction to imprisonment for ten years; or
  - (b) on conviction on indictment to imprisonment for fifteen years.”

Now, I personally believe and I carry this, that recruitment is one of the most important functions in a gang and without recruitment the life of the gang is restricted because recruitment allows the gang to continue, because the life span as an earlier speaker said, the life span of a gang member is usually reduced so there is a great requirement for recruitment. And therefore, in clause 7 and clause 9 if the penalty associated with clauses 7 and 9 would be 25 years for being a gang member and concealing or helping someone to become a gang member then I would say in clause 14, where a person—which says:

- “(1) A person who recruits another person to a gang commits an offence...”

That penalty in my mind should also be consistent with clause 7 and clause 9 of the 25 years.

So I am asking for consideration here, a harmonization of penalty which brings about the same result which is an increase in gang membership. So I am

asking for that consideration.

Clause 8 of the Bill speaks to a retaliatory action of a gang member. It says here in clause 8:

“(1) A person shall not take...retaliatory action against another person or any of that other person’s relatives, friends, associates or property, on account of that other person—”

And it identifies the seven reasons why retaliatory action should not, or the type of retaliatory actions that should not be engaged in. And to just list them quickly, it would be clause 8:

- “(a) refusing to become a gang leader...
- (b) ceasing to”—become—“a gang leader...
- (c) giving information to a law enforcement authority...
- (d) assisting in an investigation of a gang...
- (e) giving evidence in the prosecution of a gang leader...
- (f) refusing to comply with an order of a gang leader or gang member;”—and
- “(g) refusing to participate in retaliatory action against another person or any of that other person’s relatives, friends...”

So we are seeing here activities being identified as a gang member should not engage in in terms of a retaliatory effort if he or she is involved in gang activity. So, given that we have identified seven, I am asking for consideration of an eighth reason or another action against which retaliatory action of a gang member is prohibited, and that would be a refusal or withdrawal of funding or resources for the gang.

So retaliatory action, according to clause 8, has identified seven and I am

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asking for the insertion of an eighth which says, retaliatory action should not be permitted if there is a withdrawal of funding or resources for that gang. So that person becomes protected if he or she was involved in it earlier on.

Clause 11 of the Bill:

“A person who has in his possession or under his care or control a bullet-proof vest, firearm, ammunition or prohibited weapon...”

And the hon. Attorney General identified this clause in the laying of the Bill and it says here:

“...whether lawfully obtained or not,”—for—“which he uses...in gang...activity”—also—“commits an offence...”

I just recall our past debate or most recent debate where we amended the Customs Act, 78:01, to include firearm accessories. And so I am asking here whether or not firearm accessories, given that we have included it in 78:01 and we are saying that firearm accessories according to 78:01 can now be imported by a person who has a firearm user’s licence without the permission of a Commissioner of Police, then can firearm accessories now be considered at this juncture? And I table it for discussion at this time for clause 11, to strengthen clause 11.

Clause 12 of the Bill:

“(1) A person who harbours a gang leader, a gang member...commits an offence and is liable on summary conviction to imprisonment for five years.”

So that is clause 12, a person who harbours and the conviction is imprisonment for five years.

“A person who conceals”—which is clause 13—

“(a) a gang leader,”—or a—“gang member”—upon conviction—

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“...is liable on summary conviction for ten years.”

In my mind, harboring and concealing, there is a very close relationship between harbouring and concealing. And therefore in my mind, given the close relationship of harbouring and concealing, I think that the penalties should also be synchronized or harmonized. And again, I would like to recommend the harsher penalty in both, which would be for 10 years in this case, so that we would have a synchronization of the punishment or harmonization of clauses 12 and 13 with respect to the imprisonment given that the offence is somewhat related.

Sen. The Hon. Jennifer Baptiste-Primus in her contribution cited a number of research articles that she quoted extensively from and I too had the privilege of also going through those same articles, and in one of her quotations or one article she quoted from, which I also saw, and it was done by the IDB Report of June 2016 on Crime and Violence. It outlined several statistics and to me it was very, very, important and the hon. Minister did refer to it and I think it is worthy of repeating here and it says here, to quote the statistics:

“...51.4 per cent of gang members”—and this is specific to Trinidad—“had been previously arrested...”

“...51.4 per cent of gang members had been previously arrested, with each member having an average of 2.09 arrests...”

So we are seeing a very high incidence of crime being performed by gang members and having arrests to their name. The article goes on to say:

“Not surprisingly, arrest data indicated that gang members had committed a larger number of crimes than persons who were not in gangs.”

The article goes on to say that:

“Arrest data in Table 7”—which is a table that it quoted—“indicate that

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gang members committed violent offences at approximately three times the rate of persons who were not in gangs...Almost 26 per cent of gang members were arrested for firearm-related offences compared with 8.7 per cent of non-gang members.”

What is the point? The point here is that given the statistical data and the report there is a high incidence of crime and repeat offences being performed by members of a gang as compared to individuals who are not members of a gang. And that is what the article is saying. That as a gang member you are so empowered that you commit more offences on a more frequent basis. And given now that the article has demonstrated a strong correlation between crimes committed and gang members, and I say a strong positive “correlationship” in this case, then I am asking the question and I am laying for discussion, can we then treat with a person who commits an offence and is also a member of a gang?

The hon. Attorney General in prior Bills spoke of one strike, two strikes, three strikes probably, where they were repeated offences and then there was denial of bail I think at one point in time. I am asking for consideration with respect to this Anti-Gang Bill, if a person commits a crime or has been arrested once or twice and is a member of a gang, given the “correlationship” between gang membership and criminal activity, then can we consider a harsher penalty and even denial of bail if two offences and gang membership—the person is a gang member and has committed more than one offence or has been arrested more than once. So I am asking for that consideration here, a harsher penalty for gang membership and repeat offences.

Madam President, Part IV of the Bill refers to the powers of the police officers. And these clauses, 15 and 16, have gathered much attention and have

been touched on by several of the speakers before, because these are very sensitive areas and it infringes somewhat on the rights of an individual and hence this Act or this Bill is asking us to relax the Constitution in some areas so as to afford this piece of legislation to go through and take effect. So I do not need to get into it too much but it does say in 15(1):

“A police officer may arrest without a warrant a person whom he has reasonable cause to believe is a gang leader or gang member...”

Clause 16 of the Bill says:

“(1) Notwithstanding any law to the contrary, a police officer may, without a warrant, detain...a”—person for—“not exceeding seventy-two hours, a person whom he reasonably suspects of—  
(a) having committed; or  
(b) interfering with an investigation...”

Clause 16(3) of the Bill says:

“Where a person is detained under subsection (1), the police officer who made the detention shall, without delay—  
(a) inform the person of the grounds for his detention;  
(b) cause to be maintained a custody record relating to the person detained...”

What is a custody record? What is a custody record? If I ask a police officer or if I go to our law books or I tried to research what really is a custody record, and which I have tried to do, I did not come up with a formalized document. So then a custody record, and upon my investigation or my asking about it, a custody record is really an entry made by a police officer. So then, is it that we are saying that we are asking for sections 4 and 5 of the Constitution to be relaxed so as to detain a

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person who we reasonably think or suspect is a gang member and the way in which we are keeping a record of this is through an informal document that is non-standardized. I do not really consent or agree with that approach. If it is that we are relaxing a certain section of the Constitution to enforce police officers to act, then create a legitimate paper trail for which can be substantiated as evidence in the courts of law. [*Desk thumping*]

It cannot be that we ask for relaxation of the Constitution and the process to do—and empower a policeman onto himself to arrest when he thinks or has reasonable cause to do so and the documentation for it is a casual one. Because it is people's rights we are talking about here. And therefore as we included in the Schedule at the end of the Anti-Gang Bill for an increase in detention, then so too create a standardized form and put the just reason [*Desk thumping*] why the person is detained. So that when it has to be queried, the action of the police officer can be questioned and once legitimate it goes through, but if it is not then it can be questioned and the conduct of the policeman becomes questionable.

And so, the citizen is provided with some element of protection that at some—and not at some whim and fancy that he or she is arrested and no corresponding documentation is kept or preserved so as to regulate or preserve the right of the individual. So I am asking for consideration with respect to that custody record when a person is being detained for having been known or because the police officer thinks he or she has been associated with gang activity.

Further, Madam President, with respect to the same clause and the detention record for increase in the number of hours where the person can be detained, if we go to that Appendix here, in Schedule—Form 1 of the Second Schedule, it provides us with a form, “Application for Detention Order” which allows the

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police to apply to a judge so that the person can be detained beyond 72 hours. But the question is, if we look at this form, to whom is the police officer applying? To whom is the form addressed? Who authorizes the form? And who determines whether or not the grounds are substantiated or not? In my mind, all of that is missing in the form.

So if you actually look at the form then there is no way that we know to whom the form will be submitted or whose approval that we are seeking. All of that is absent in the form. And more so, if you are keeping someone beyond the time, the 72 hours, and this is the form, then a clause should also be inserted in the Bill where a copy of the approval is given to the person detained. So that in terms of preparing a defence, that person is fully aware of what he is being held for, the grounds for it and the authorization upon which the policeman is acting, and if he thinks the need arises for him to challenge it then he has a basis for doing so. [*Desk thumping*] So I am asking for consideration for amendments to this form as well.

Madam President, sometimes when I make contributions in the Senate I am told that I cannot read pieces of legislation alongside each other and sometimes I recognize that we can. So when we can and when we cannot, I do not know. Because I remember in my contribution on the Motor Vehicles and Road Traffic Act when we were increasing speed limits and I sought to read it alongside the Highways Act, I was told that I cannot read the Highways Act and the Motor Vehicles and Road Traffic Act together or alongside each other.

Why I am saying this? I am saying this to say that this Anti-Gang Bill provides us with a very unique opportunity to introduce and to collect DNA samples of gang members. The DNA Act allows us to take non-intimate samples, and I think it is in section 12 or 13 of the DNA Act, from a person who is detained



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or arrested. But again, I am unsure if that Act could be read alongside this Anti-Gang Bill. So I am asking if it cannot, I am recommending that, can we insert that a non-intimate sample of a person arrested or detained under gang activity or being a member of a gang also be collected? And this would be able to allow us to store this data in the DNA database and certainly have a direct impact on detection. And so I am asking for consideration of that clause with respect to the DNA.

Madam President, with respect to the sunset clause, the sunset clause is very contentious and I thought that even on the last occasion in the other place it served as the basis for which non-acceptance or the requisite majority that was required was not achieved. But I have two issues with the sunset clause and I would like to take this opportunity to ventilate it. Forgive me here for being a little bit anticipatory but I am trying to think in the normal life of the Parliament.

We are at the end of March 2018 and we are in the Third Session of the Eleventh Parliament. If this Parliament continues as is we should be coming to the end of the Eleventh Parliament around September 2020. And if we check that from now, it is almost exactly 30 months. So that if the sunset clause expires in 30 months it is a very great possibility that the Bill lapses or the Bill will come to an end or the life of the Bill exactly when the Parliament, the Eleventh Parliament, has also come to an end.

More so, under normal and given situations which currently exist now, September or the end of September the budget is presented and October is the month for which we are going to debate the budget. Then if this Bill comes to an end in September then how is the life of the Bill possible if an extension is required, if parliamentary time may be consumed with budget or that the

Parliament comes to an end around that time.

And so, I am thinking the 30 months ascribed as a sunset clause here really needs to be looked at in terms of whether or not the law is possible or whether or not the law can be kept before or addressed before the end of the Parliament or gives the new regime or the same political party in governance at that time sufficient time to extend the life of the Bill. And so, 30 months in terms of a time line has implications. It cannot just be that one said two, one said three, we agree on 24 and 36 and we agree on 30. For the life of the Parliament and the timeline it is creating complications. And I am asking that, can we really address this in a mature fashion?

**5.45 p.m.**

Also with respect to the sunset clause, if you look at this Bill, and in my mind—and I am not a legal person so I stand to be corrected here. If you look at clauses 1 to 14, which really identify gang membership and the offences for being in a gang, I do not really think that that affects someone's rights. Being in a gang or being a gang member, if it is an offence here, does not require or does not affect someone's rights, or does not require relaxation of sections 4 and 5 of the Constitution. Clauses 15, 16 and 17 which deal with the power of police officers, detention and forfeiture of property, that, I think, may have some implications with respect to sections 4 and 5.

And, therefore, I am asking here, is it necessary for a sunset clause to be used where the entire Bill, and the laws in the entire Bill, is completely lost upon expiration of the sunset clause? Or is it possible that clauses 1 to 14 could be maintained so that gang membership and gang offences continue to be a part of the laws of Trinidad and Tobago and just the areas that affect someone's rights, expire

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upon the sunset clause? Can we consider that? I do not know if it is possible, but I am asking for consideration of that; that 1 to 14 continue to form part of the laws of Trinidad and Tobago and the areas that affect the rights of the citizens, that can expire upon the sunset clause, if possible.

And so, Madam President, as I come to an end, Sen. Obika and Sen. Jennifer Baptiste-Primus, quoting from the same article also cited the element of youth involvement in gang activity. And to quote from her exact article as well, it says here—that the hon. Senator used earlier—she says, under a study done by:

“Katz”—I cannot pronounce the surname—“Choate”—or something—“and Fox (2010) have examined a sample of 2,292 youth attending schools in urban areas in Trinidad and Tobago. Their analysis indicates that 12.5 per cent of school-aged youth self-report they have been in gangs.”

So that there is a high incidence of gang activity among the youth in Trinidad and Tobago. If we look at the law that is before us and we look at the definition of a child, in this case, with respect to the law, it is very specific by saying:

“means a person under the age of eighteen years.”

And so, Sen. Obika was very right in asking the question: given the high incidence or the incidence of youth involvement in gang activity and gang activity in schools, where most people, or most children, are under the age of 18, then how does this law that we have before us which is the Anti-Gang Bill, address gangs among those who are under 18 and even in our schools? How is it matched? And if it is that the law does not address it, then can we address it? Because we need to get at the root cause and the root membership of gangs. And if it is originating in our schools and among our youth, then the law that is being drafted should also incorporate that section of our population.

So, Madam President, as I close, in summary, in my usual style, I would usually like to summarize briefly what I would have spoken of. And I have said—the first point that I have raised is, I have demonstrated through data and evidence that gang membership and gang activity, and criminal activity in Trinidad and Tobago is prevalent and, therefore, that, by itself, is just basis for this Bill. I have asked, as the second point, that clause 6, which deals with membership, can we consider inserting those who perform a condition for membership of a gang also be included, or also be considered as that of a gang member?

Clause 7, I asked for the insertion of the word “facilitates”, so that the clause would now read:

“A person who coerces, encourages, entices, aids...abets”—or facilitates—  
“another person to be a gang leader or gang member commits an offence.”

My fourth point, harmonization of penalties with respect to clause 14, clause 7 and clause 9 which all deal with recruitment of gang members. And so I have asked that in clause 14, the penalty would be 10 years on summary conviction and 15 years on indictment, whereas in clauses 7 and 9 they were 25 years, can this be considered to be harmonized?

My fifth point, clause 8 which dealt with retaliatory actions of gang members, can we consider including in that list, retaliatory action against those who would have withdrawn their funding or resources from promoting gang activity?

My sixth point on firearm accessories, that the inclusion of firearm accessories also be included in clause 11 of the Bill.

My seventh point, clause 12, harbouring a gang leader and clause 13, again here, I ask for harmonization of penalties, given that harbouring a gang, according

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to clause 12, recommends five years and concealing a gang in clause 13 recommended 10. I am asking for harmonization.

I also ask for consideration to be given to the inclusion of collecting non-intimate DNA samples in this Bill so that it can be specific. And I asked with respect to the sunset clause, for us to reconsider the 30 months given the timeline of the Parliament and parliamentary activity at that time, associated with the presentation of the budget and debate, as well as at that time the life of the Parliament.

My final point was: How did this Bill address the youth of this nation who may be involved in criminal activity and they are under the age of 18? Can we address this as well? Madam President, I thank you. [*Desk thumping*]

**Madam President:** Sen. Ramkissoon.

**Sen. Melissa Ramkissoon:** Thank you, Madam President. Before starting off on this very, very important piece of legislation which is the Anti-Gang Bill, 2018, it is a very heavy point, or a heavy fact that we have to debate this at this era in our nation's time. But I must acknowledge something great that we have done as a nation. We have strongly stood and we have all matured to the fact to accept our first female President. [*Desk thumping*] And that is something I, as a female, as a young lady, as a woman, am very proud to say that we, the Republic of Trinidad and Tobago, can acknowledge and heed the reigning of a female President.

So with that, Madam President, since I am already on that topic, I would like to say to the outgoing President Carmona that I am extremely proud of his wisdom, his compassion and his humility for the people of Trinidad and Tobago, as well as giving young people a voice amongst the highest office-holders. So for that, I thank him. [*Desk thumping*]

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So, Madam President, we are here this afternoon—we have been here for some time, since 10.00 a.m. this morning—to talk so much about gang-related activities in our sweet isles, Trinidad and Tobago. And the Attorney General placed it really nicely. He said it is the maintenance of public safety. And, unfortunately, many Senators before me have spoken about the frustration with the Trinidad and Tobago Police Service, and it is true that a few bad apples do spoil the barrel. It is a known fact, and to say that we are, as a society, frustrated, and we have now accepted this anti-gang legislation as a way forward.

So we do lend support, or I do lend support, because it is not like we have a choice. We feel that there is no other way right now because we, as a society, have reached to this stage. And as always, I do not like to just say things out of opinions or feelings, but we always have to look at our nation's history, and it dates far back as probably in 1998. But I found an article from 2011, it is the International Conference on Gangs, Violence and Governance. It was held by the University of the West Indies, the Department of Behavioural Sciences. And they hosted it between the period November the 3<sup>rd</sup> and the 4<sup>th</sup>, 2011. And they actually had a welcome page which they posted on the University website. And it was quite interesting, and if you may allow me to quote, Madam President. This statement, I could not get over; this is talking about us in Trinidad and Tobago:

“Gangs have also emerged in the political arena, and more recently have established themselves as major players in state policies related to the creation of job opportunities for the less-advantaged as well as in the distribution of state lands.”

It went on to say that criminal gangs retard the normal process of how good governance runs.

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So after reading that, Madam President, it does play a direct point to how we look at our nation's citizens. It went to say that:

“One gang is more organized in nature and its membership are involved in drug trafficking, money laundering and gun running.”

Now, this is what Sen. Mahabir alluded to earlier with the organization of gangs, and I pray that no one was really listening because it is a business, and how they could form little groups now instead of being in isolation. But he was very correct in terms of drug trafficking, money laundering and guns. And they even went on in this University Article in 2011—we are in 2018—to identify communities. Now, the hon. AG, who is not in the Chamber at the moment, he did identify different districts that have gangs, but this went on to look at communities and it talked about local gang lords being looked at—members in the community that they could look up to. Now we are here to talk about penalties for these respected members in communities, and we have seen the retaliation of gang members when the police tried to intervene just recently.

So I am not sure, Madam President, if this Anti-Gang Bill will now empower the Trinidad and Tobago Police Service to address, or do things with these gang-related activities, or these gang members, that they could not do before. Because they, too, are human. They, too, have family members. They also have a level of fear to know that these young men, or young women, have nothing to fear. They go out there with a level of untouchable and now they are causing a fear around the community and it is also for persons who are part of law enforcement.

So it is something that is very alarming and it is something that we, as a Parliament, are now trying to address. And everyone is right. It cannot only be done in legislation or with this Bill. You have to have the will, you have to have

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the systems in place that are working and you really need to have it functioning to a level that we can all be confident in.

Now, Sen. Shrikissoon just mentioned clause 16 which is in relation to the custody records, and the Law Association did mention it as well. And when I read it, they had it as a minor matter on their proposal. And it is a minor matter, but there are many minor matters that need to be fixed as a society or as an institution, or functioning institutions, to get us out of where we are. And that is one of the points in relation to these records. If it is that it is forms, then these are really things we should be thinking about, futuristic, and should be soft copy and not hard copy. Because they said from their practice, the Law Association's professional experience is that the police officers are not given diaries, so they cannot even record these custody records.

So it is in the Bill. It is in the clause, but maybe it would not be operational because they do not have basic needs as a policeman diary—station diary, as they had referenced it. So that is a simple case, Madam President, that we could easily correct. So what is it that we are not doing? Or why is it that we have to come here to do a lengthy debate on Anti-Gang Bill or anti-gang legislation to now prevent or correct our ways as a society and prevent future gang-related activities?

Sen. The Hon. Jennifer Baptiste-Primus was very, very correct. There are three steps: prevention, intervention and suppression. So this Bill would be suppression. Intervention would be what the administration is trying to do through the police youth clubs and different programmes that they have done. Prevention is really tying it back to the communities and family life. 1 Corinthians 15:33 says:

“Do not be deceived: ‘Bad company corrupts good morals’.”

And we, as a society, need to always remember that. We have different people in



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different leadership roles, or different communities, and if they do not have the moral standing of law-abiding citizens, how would you expect different output?

The Scripture even went on to say that:

“Awake to righteousness, and do not sin; for some do not have the knowledge of God.”

And I remember this time this prison officer had said, the prisoners need God. And it was looked at as a foolish statement, but if they do not fear God, how can they fear man? How can they fear a Member of Parliament coming to the Senate today to pass a piece of legislation that would entitle them to go to jail 25 years if they are a part of a gang? How would they fear that? They do not have any care or understanding because they do not have any alignment or repercussions for the actions that they have been doing for years. So we have to understand, as a society, what we are really asking, or what we are trying to do.

Now, I have said a lot, and we tend to not—I did not hear any of the Senators talk about Tobago, and there was an article from the *Guardian*:

“US State Department: 100 criminal gangs in T&T”

And the date of this was March the 17<sup>th</sup>, 2017, and it was written by Miss Gail Alexander, and this one line I want to quote from it is:

“Crimes in Tobago affecting tourists were noted as murder, home invasion, petty theft, swindling, fraud and theft from hotel rooms.”

So they did not talk about gang-related activities, but they did talk about criminal activities. And, again, we learned today, if we all come together, we can become a gang and perform gang-related activities. So Tobago has not yet been affected, or maybe it is, but it is not in the news; it is not highlighted as an event. And this is one of the areas in Tobago we can look at preventing, gang-related activities. So

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we could start there in terms of the prevention, intervention and definitely we will go easily with the suppression.

So in relation to what I spoke about with the gangs, there was an article also published on December the 7<sup>th</sup>, the one before was March—December the 7<sup>th</sup>, 2017, from the *Guardian*:

“60 % increase in gang members”

And I know the hon. AG did highlight some statistics today with us, and we did learn that in 2014 we had 92 gangs with 1,500 members. This is a lot of people, Madam President. We are a small island of 1.4 million people. Everyone knows somebody or someone. And then also in 2016, he said it grew to 172 gangs with 2,358 members. In 2017, there are 211 gangs and 2,458 members. So that means, it is coming to certain groups or societies that it is better, or it is a viable option to join a gang. This article went on to say that:

“Gang-related murders totalled 998 between 2010”—and 2017—“and the number of gang-related guns seized in T&T stands at 4,674.”

So if we just did like, a little comparison, we have in 2017, 2,458, and the amount of guns we seized, 4,674. So we have a two to one. So every gang member has about two guns, if you want to work it like that. And some of these firearms—and they went on to say how many members. And what surprised me the most is that there are 221 members in witness protection programmes.

And I just want to put a pin there. Two hundred and twenty-one persons are asked to leave their life as they know it to go live a different life: different name, different location. They have to uproot everything they have known since they have been born in Trinidad and Tobago to go another way because they have witnessed a crime. They are known, they are a risk because of a gang-related

activity.

And we also have clauses 12 and 13 that deal with harbouring and concealing these things for gangs. But how many persons want to leave everything to go to this witness protection programme? Day in and day out we hear the Police Commissioner cry out to the public to share information with the police service. But why should they share information with the Trinidad and Tobago Police Service? Are they going to safeguard their safety? Are they going to ensure that they will be safe after they have identified known persons in their community who are members of gangs or performing gang-related activities? Are they going to arrest these persons without evidence, but through your testimony, be enough? This is the kind of risk, and unfortunately, because we are such a small society the known persons who make the report are always known by the criminals. I have no idea how that happens, but it happens.

So, Madam President, we are definitely living in a society where every single member of Trinidad and Tobago has been affected by crime, be it gang-related, be it just some innocent person who is in the wrong place at the wrong time. We have all been affected. And we have to not be ignorant to the fact that children who are growing up in these homes—because I spoke about family life—are not learning to say their name in English, or they are not learning to say a sentence; they are learning how to look out for the police when they are coming over. They are being forced to be look-outs when these members are performing their gang-related activities. And this is the fact that is very much we have to deal with.

And I was very happy to see in this Bill there is a clause—clause 14—that creates an offence for recruiting persons and gangs, and further provides that where

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the person recruited is a child, they have a higher maximum penalty. So clause 14 does speak to children being used to conduct these criminal activities. And I really wanted to point it out because I find this is such a great piece of legislation. I really hope that the law enforcers could really use this clause, and it starts from clause 12 which speaks about:

“A person who harbours a gang leader...or a gang member...commits an offence and is liable on summary conviction to imprisonment for five years.

(2) For the purposes of subsection (1), where—

(a) the gang leader”—or—“gang member...is a child; and

(b) the person convicted is the parent or is acting”—guardian—“of the child...”

And I have spoken many times in this Senate about parents being held accountable for the actions of their child, because they are teaching—the child can only do what they are taught. So, Madam President, it is such a joy to see that in this piece of legislation. But it also gives law enforcement now a kind of difficulty, or judges a difficulty, because how do they now pass a judgment on a parent who is just providing shelter to their “good” child—their “good” child, or a grandparent, or a pensioner?

So all of these things do, unfortunately, exist in our society and how we intend to be dealing with the prevention and the suppression is very, very, very critical. And we will not see change unless we, as a nation, especially the Government, make a solid step and say, this is what we are going to do; this is how we are doing it and the cases are allowed to flow like such.

The enforcement needs to enforce the law. Sen. Roach made it very clear. We have many pieces of legislation that are passed, assented to, that can pick up

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these persons off the streets. For example, children are supposed to be in school, but yet they are not in school. We have legislation that deals with drugs, illegal substances. Why can they not be picked up for that? They are in and out. They get bail, and I think if you get bail three times—sorry. If you have an offence three times you are only allowed bail three times, after that they detain you for a little while.

So, unfortunately, these criminal elements, or these gangs, know the system better than you and I and they play the system pretty well. Unfortunately, we do not pick them up when they are minor offenders, and that is going back to the prevention. Madam President, we are not seeing in this piece of legislation, where Trinidad and Tobago Police Service will take you seriously, and let me give you my brief example. I have asked permission to share this case with the Senate because it involves my parents. I have asked for permission and they have granted it.

A few years ago—they have lived in the same community for over 20 years, so close to 30 years so. So they have literally worked hard and built their home, and neighbours and everybody are very, very close. It is like a village. And recently they had a young man who came to rent in the community and he saw that my mom loves orchids and he liked them more than her, so he would jump over the wall, and for Valentine's Day he would cut all the flowers and jump back over. So being mummy, she was very distraught and she went to the police to make a report that someone jumped over her wall to cut all her orchids. And the police officer looked at her and said, "Ma'am, did anyone die?" "No." "Ma'am, are you hurt?" "No." And that was the end of that. So consoling her was a little bit difficult after that. And her trust now in the Trinidad and Tobago Police Service was not a

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very good one after that.

So my parents decided they are going to install cameras. So they installed cameras. So after living 20-plus years, now they are going to have to install cameras to catch this thief. So I think after Valentine's Day it is Mother's Day or some other occasion, and the young man came back. So we caught him on—footage of him committing the act of quietly walking and cutting the flowers. Well, this time she did not go. Daddy went, and he told them about the incident. They showed pictures. They said, well, they cannot accept that evidence, and that was the end of that.

And, Madam President, it is unfortunate that these cases, minor offences, are treated like this. Because he was in the yard, but after the cameras he came back again and this time he came upstairs. Now, thank God nobody came out at the time when he was there, or they may have been hurt, seriously damaged, or we do not know whether he comes to kill, steal and destroy. That is known. So I do not know what could have happened, but thank God nothing bad has come out of the incident. But now, fortunately for us, we had to take the law into trying to secure your premises even more, so we got pit bulls. So, thank God the thief never came back since that day.

But, Madam President, that is a small example of how the system fails our society, and it is simple things. If they had picked up the young man, they could have gone and reformed him; they could have sent him to one of these programmes. He would not be faced to say, “Oh my goodness, this is an easy way to get money. I have a business now. Let me enter into a gang.” And they have now a résumé. So, you know, “I have broken into a home a couple times”, and now he has a street name. So we are creating it very, very easy for these young, or

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youths, to get quick money, as we likely say, and it is unfortunate.

So let me move on to a clause in the Bill that I heard earlier, that is clause 10 and that is preventing a person from leaving a gang. And that, Madam President, is a very, very ambitious clause.

“A person who prevents a gang leader or gang member from leaving a gang commits an offence and is liable on conviction...to imprisonment for twenty-five years.”

**6.15 p.m.**

Madam President, leaving a gang is not so easy. There was a live programme on Trinidad and Tobago nation's radio programme, Isaac 98.1—I was listening to it while going home—and this young lady came on to just explain her life testimony about what she went through; how she was in a gang—well she was kind of running the gang—and now she wants to come out of the gang and she had to hire private security. Now this young lady has to do that because she knows she is going to lose her life because of all the threats on her family life. So it is not that simple just to walk away from a gang, and just having imprisonment of 25 years might be a better thing than just walking away because of all the exposures that they may have to face.

You know what was quite interesting, Madam President? She went on to list all the names of the gang members and where they were operating. And I said, how come nobody is listening to this programme and nobody is hearing what I am hearing, and why nothing is being done? How could they not hear that this young lady is from X location, involved in X gang and is being threatened, and how come it was only I was listening to that radio programme, apparently? Because she was so brave to go on our nation's airways and say this. It was public knowledge.

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So we also know in Trinidad and Tobago that gangs have a very nice way of sending a message. In Hermitage we had a head on a table, I think in Port of Spain as well, but I could speak about the one that was on my street, which is in Hermitage, where they wanted to send a message to another gang and they beheaded one of the gang members and rest it on the table and left it there for everyone to see. Well, everyone took pictures. I would never want a picture of a headless body on my phone or anything. But the thing is, it is something—and you know what? The society or the community, they just looked at it and said, okay, it is a gang-related crime and that was the end of it. We did not hear if anybody was held, if anything was being investigated. It was just a public display for the village to all come out and meet, but after that, that was it. So I am not sure if this piece of legislation really speaks to those extremists, as I would call it, and how we would capture them, and how would we really protect persons who really want to change their lives or turn their lives around, because these are communities that you are born into, Madam President, it is not like they have chosen to grow up in an area that that is the only means of income.

So, Madam President, I also would like to talk about clause 17 which is the property for forfeiture, and I think that it is very good that persons who own property, if their property is being used to conduct criminal activities, or gang-related memberships, or gang-related activity, those persons would be charged, but unfortunately again this is not how it works. Right in Gasparillo there is this home, abandoned house, and it is being used for gang-related activities, drugs, and selling of drugs. The cameras have evidence of this happening. Again, they are not using it, but the thing is the owners of the home cannot be found. So we had asked that the home be either demolished, or cleaned, or something be done. And then the



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councillor for the area, because he knows the men who are involved in this gang, is now afraid to bring this information that he has to the Trinidad and Tobago Police Service. He lives in the area so he does not want to put himself at risk, or his family at risk because he has children, he has a wife. He is a human being living in Trinidad and Tobago.

So now we are faced with a situation. There is a building being used, there are no owners, and now the councillor because he realized that we are advancing—the Trinidad and Tobago Police Service, they actually are providing a service and they are being reactive. However now, because the councillor realized that something is done, he said he believes that they have had some tax forms from being paid, 2000. Eighteen years ago they want to talk about landowners for now. So what is happening? We have people with fear if they remove, or they alert the Trinidad and Tobago Police Service that this house is abandoned and is being used to conduct gang-related activities and have gang members. Now they are in fear, so now they do not know what to do with the information. They are keeping it, they are holding it. They are not sharing the information and life continues. I really believe that these gang members should all enter sprints because they never could be caught when they are being chased. So they really should think of another area of expertise.

Madam President, it is a serious thing with landowners. These guys they vacate their properties, or they migrate, or they might have these cases where multiple members of a family might own a building, and this clause here is very difficult to enforce, unfortunately, but it is a good thing to have. If it could be enforced would be a different story. So I do hold the opinion that passing this legislation is something that I feel like we have no other choice as a society. When

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I was reading this legislation I was offshore, so it had a lot of people on the boat and I asked them: “What do you think about anti-gang legislation?” And they said: “We need it.” That is the initial response, we just need it because gangs are everywhere. It is no longer just Port of Spain, or East-West Corridor, it is everywhere. Yes, young men and women, as much as we want to point fingers at them, they need mentors, they need food, they need clothing, they need a place to stay, and this unfortunately is the way that they see as the best way forward. We see the membership is growing and that is a reason. If they are not being caught, definitely this is how they are going to go. Minor offences definitely need to be looked at and we need to really stop being a society of fear.

I do have two recommendations that I want to share with you, Madam President. I did lay an amendment for this Bill and that is in relation to tipping off for members of the public, or for members who—let us just say members of the public—may know of a raid, or who may know that they are going to arrest a gang member and they actually tip off the gang lord or the gang leader, they should be charged, or they should have a penalty for that, and that was not in the Bill before us. So I am not too stringent on the fine. I have recommended they could be liable on summary conviction of a fine of \$2 million and imprisonment of 10 years. After reading the proceeds of crime that \$2 million sounds very little bit, but I am considering the crime that is before us because it is not money laundering. They are tipping off due to criminal activities, but it is a life, there is no worth on a life. So that is why I have placed this on the amendments. So that is my first recommendation.

My second recommendation is to tie in with—after reading this Bill, what stood out the most to me was the number of years for each offence, 25 years, 20

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years and the list goes on, and then I remembered that it costs the State \$20,000 to \$25,000 per inmate, for one. So we have about 2,000 plus gang members and for each one of them you are charging me, or taxing me, to pay \$20,000 to take care of them. I could not understand that. No, no, no. So, my recommendation is not really to just imprison them. Especially the young offenders I would recommend that we look at the Administration of Justice (Electronic Monitoring) Act which was assented to in 2012. I look at that as a means to bringing down the cost of incarceration, and it really would not have the issue of having to pay \$20,000 to \$25,000 for a gang member who is not a gang lord, or who is not so influential in the society, that they can come out and do some community service, they can come and try to be a positive contributor to our economy. So that was one of my recommendations. Unfortunately, I did not realize that electronic monitoring was such a controversial issue, because on the Fourth Report of the Joint Select Committee on National Security they had the enquiry into the prison security and status of the investigation into the Port of Spain prison break on July 24, 2015, one of the recommendations actually—so they have security priority list and this is the report that was laid. It says:

“Electronic monitoring whereby persons can remain in the Community under surveillance rather than come into the prison.”

And it says that. So they embraced the electronic monitoring system, however, they went on to say that:

“The Electronic Monitoring Implementation Committee meets at least once per month to ensure that all necessary mechanisms are put in place for this initiative.”

This is 2018 but they are looking at initiatives for 2012, I guess.

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“The Committee is pursuing a Government to Government arrangement for the assistance in the implementation of the Programme. To date, three (3) presentations have been made...”

And they went on to say that they are still finalizing different aspects of this electronic system. It went on to say that they have 300 devices that was, or I guess because they said is here, is expected to commence by September 2017—300 devices, September 2017. We are in March 2018, can we really look at this electronic—[*Interruption*]

**Madam President:** Sen. Ramkissoon, you have five more minutes. In the five minutes, please, you are making a recommendation about electronic monitoring, so just try and make the recommendation and tie it in as opposed to going into the report. Okay?

**Sen. M. Ramkissoon:** All right. Well, I will not go into the report. The recommendation is that— as I said it already, but the issue is that we are in 2018, Madam President, this is a Bill that was assented to in 2012. We agreed to it in a Parliament—well, not me personally, but the Parliament agreed to it in 2011. I read in another article, which I cannot find at this moment, that the hon. AG had advised in another place that these electronic devices are still in the interim phase. So it is something that will be difficult to—and I am looking at the clock—do, but I really would like this recommendation to be considered seriously. If the implementation committee cannot do it, I would like somebody else who can really get this ball rolling.

So, Madam President, this is something that many Senators before me have spoken about and I did not look at one of the clauses which is clause 14(4), which deals with children, and I believe Sen. Dhanayshar had raised it, if someone who is

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16 years old opens the door, what happens? My belief is, I do not believe that it is something that we should look at differently. In terms of clause 14(4), deals with— because I am recommending that this should be deleted. It says:

“It is a defence for a person charged with an offence...if he proves that he did not know or could not reasonably have known that the person he recruited was a child.”

It is a child, Madam President. Regardless if you know it or not, it is a child. You should definitely be arrested, or charged, or tried. Based on that it is child and that is one of the recommendations also that I would like to put forward; that this clause be deleted because it is a child. It is not halfway a child. It is a child.

There are a lot of things in the public domain about children being misused by these gang members and it is nothing that we are proud of. I do hope that we all can heed Sen. Baptiste-Primus' words of prevention, intervention and suppression. That is something definite, but the law enforcement needs to be dedicated and really change the methods in which they deal with these gangs, to close them and to remove them, and definitely change the communities. We need to have the police officers in these communities, not just to walk, but definitely be the role models and not the gang leaders. Until we do that we will not see my changes, unfortunately, because these are the role models that these children are growing up to see and they want to be the next.

So until we can address these things, it is good to have this anti-gang legislation, but if we do not change these core principles it will be something that would be near impossible, unfortunately. So, Madam President, with no great joy we speak about these issues that plague our nation, but we do pray that we will rise above it and the minority will not speak for the majority, and I do thank you. [*Desk*

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*thumping]*

**Madam President:** Minister of Agriculture, Land and Fisheries.

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam President, thank you very much, and I thank my colleagues for giving me the opportunity to speak on this very important Bill. Madam President, it is with a sense of duty that I make this contribution and I will tell you why. Let me first reflect on some of the contributions that went before me. I listened very carefully, most times. I want to say that listening to Sen. Ramdeen, Sen. Mahabir, Sen. Obika, Sen. Roach, Sen. Small, I think Sen. Ameen, there was one consistent thread that I must acknowledge and, that is, Madam President, I think I can safely say that my colleagues in this House recognize something that I have said on many occasions, but particularly with legislation relating to crime, and that is that we could pass the very best legislation in Parliament but almost all of the success relies on groups, institutions, individuals who are not here, and over whom we have very little jurisdiction.

I would say, Madam President, in relation to the positions I hold, I have a few opportunities to make a contribution. I would say first, that I have an opportunity to make a contribution at the level of my party given the party's structure; as a Cabinet Member I could make a contribution and I could lend a voice within the Ministry, within this Senate, at the joint select committees and in my community. But I think, Madam President, we are getting to the point where we realize that some of the work is done here, but a lot of the work has to be done at the joint select committees and the select committees and that is because a lot of what the output of what leaves the Senate ends up in the hands of people—we have been complaining about them for the day. Whether it is the public service, public

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servants, the police and the various institutions, that is where the challenge lies, and part of the work is to pass, produce good legislation here. I would not say perfect legislation, but good legislation, and part of the job lies in our use of whatever powers we have through the JSCs to supervise the work that we produce.

I am opening with that point particularly on the police because, of course, some months ago I drew a lot of public attention when I made a point in this House relating to my views on the police service, on the public service too, and I have heard some criticism today, but I will say, Madam President—I say so very cautiously—my own view is that the police service has demonstrated a little more interest in dealing with crime. It is a long way to go, but they have, in my opinion, demonstrated a little more interest in dealing with crime. And the importance of the police service, and the importance of the performance, I do not have to go very far, and I am saying this in response to what those Senators have said in relation to the police service.

In 1999, we introduced domestic violence legislation in this country—I am just using it as an example in response to my colleagues to add to what they have said—and there are two important sections of the domestic violence legislation. The first section is section 20 that deals with the consequences of contravening an Order, because for domestic violence legislation to work there must be an Order of the court and there are consequences of contravening that Order. The consequences range from the first time the risk of a penalty of \$9,000 or three months imprisonment, to a second or third conviction, and by the third conviction the prison term is five years. So there is an Order and there are risks relating to contravention, but when you get to section 21, Madam President, section 21(1) says—and this is in Part VI of the Act under the heading of “POLICE POWERS

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OF ENTRY AND ARREST”. Section 21(1) says and I quote:

“A police officer shall respond to every complaint or report alleging domestic violence whether or not the person making the complaint or the report is the victim;”

And at subsection (2):

“It shall be the duty of a police officer responding to a domestic violence complaint to complete a domestic violence report which shall form part of a National Domestic Violence Register to be maintained by the Commissioner of Police.”

And the Parliament producing this legislation in 1999 would have done its part, I am sure as we have done today, laboriously going through section by section and word for word, and giving to the police the very important responsibility of taking a complaint—and it says, “shall take a complaint”.

It is important because, Madam President, there is no other functionary in the country who could take a report or a complaint about domestic violence. It falls to the police. And if that complaint is not taken, if the police officer does not first take the complaint and, secondly, under subsection (2) place it in the National Domestic Violence Registry, that police officer would not only have failed the person making the complaint and would not only have failed the victim, but would have failed the legislators in this Parliament because those who preceded us put their work, whether they were full-time or part-time, or whatever the SRC says, put their effort in the legislation, and that is why I want to open with that point to say that let us not lose sight of the work that has to go on when this particular piece of legislation leaves this House.

Let me put it in context, Madam President, because I have made the point



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here before as an individual, a citizen of this country, I have no special arrangements in terms of my personal safety. I walk the streets like everybody else. Madam President, it was a few Mondays ago I saw a video and of all the criminal activity I have heard about and I have been exposed to in this country, that video captured my attention, and it was a video of a rubbish truck dumping garbage on a street in Port of Spain. It is as simple as that. I do not think it surprises you, Madam President, to know that out of that it is only the driver as far as I know, the driver of the truck who has been charged, and he has been charged for littering and obstruction. Because I imagine and I relate this to the anti-terrorism legislation, I have assumed that those persons charged with prosecuting these offences have gone to the length and breadth of the legislation and this is where they landed. But someone walking down Frederick Street and turning over a dustbin is one thing, one set of facts. Someone walking down Frederick Street and turning over a dustbin to impede persons or to block law enforcement officers to reaching to the scene of a robbery is a different thing, and that is what this legislation before us seeks to do.

It seeks to criminalize intent and purpose in a way we have not criminalized it before, because if we had this legislation, the dumping of that garbage and some good police work may have brought a different result. Because, Madam President, every one of us sitting here, and the citizens, place themselves on the street behind that garbage truck, and every time including yesterday when I was going around the savannah and the traffic, and all of that, and I do not see law enforcement and I do not see anybody there to regulate, you always feel vulnerable that somebody could do anything from kicking your door and denting it, to breaking something, to breaking a glass.

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Let us face it, that is where we are and unless we have on the law books the type of offences created that could deal with criminal intent and purpose of organizations, and so on, we would have been missing an important opportunity to criminalize the conduct that really pervades in the country. And that is why that is important, a garbage truck, so that we could move from littering and obstruction to having law enforcement deal with more serious offences arising out of the very same facts, and more serious consequences. I do not think anybody here, compared to last session when there were arguments on the money laundering and the fine, I do not think anybody is questioning the severity of the jail penalties in this legislation.

I want to just go back to Sen. Ramdeen, Madam President. First, I am not going to go through who gets the praise for the legislation coming back here. I think I am on record, Sen. Ramdeen, of recording my disappointment that we did not agree on the combination Bill of bail and anti-gang, because whether you like it, whether you believe it or not, I come from a community that does not have many criminals. But that bail legislation kept the only two that we have off the streets for a good little time, and I believe, and I said it back then, that extending those restrictions on bail and bringing this Anti-Gang Bill back was important, and I expressed my disappointment in the fact that it did not get support, and disappointment in the fact that it was the exact same Bill and I did not see the problem. So however it got here, shamefacedly, or happily, it has arrived and I hope that we would pass it.

**6.45 p.m.**

And the social programmes and the comfort patrols and all of that, we could talk about that. My own view is that it is about time we take off the kid's gloves

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and put serious law on the books to deal with criminals in this country. [*Desk thumping*] I think we have gone past the youth in agriculture and encouraging people to crochet and stay away from crime and crochet. Madam President, I have said it before, this is criminal enterprise; enterprise, that is the expression. They do this for money. They do this for money. “You walk up High Street with ah knapsack and something to break ah piece ah glass and no amount ah crochet or pepper sauce or tamarind ball could beat dat”.

And thankfully, the cameras; the cameras, more important than the crucifix or “the whatever in yuh house”, “whatever yuh have”, that is the most important thing in a house now. If you have nothing in your house, have a camera outside your house because I always say, even if I am not there, the record will be there to see who put me out of my misery, and if the cameras were not there in San Fernando and if the police did not respond and do their work, the three people who they have found and the others who they are looking for would not have been held. And we have to face that. There is an opportunity in prison. I am supportive of rehabilitation efforts in prisons, particularly in the youth prison. I am supportive of that but it is not going to be the social programmes that deal with “snake eye, gold chain, gold teeth”. “It not gonna that”, it is going to be this and we have to get it passed.

And when Sen. Ramdeen talked about the increase, the vehicles and so on and the TTPS not—Madam President, I think everybody knows that I walk all over the country, many times in Port of Spain and Sunday evening, I was walking, 7.00 p.m. in Boissiere Village and I really never noticed walking towards Maraval, I never noticed a side street with “ah rum shop”—“ah bar, not ah rum shop”, called Tinos, but it is a police vehicle that caught my attention. I saw the vehicle parked

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at Tinos and then I saw it was being driven out so I stopped for it to cross and “all the glass wind down and every man rock back with ah Stag”. I know it is not pervasive but “ah just telling you because they had some shooting” later on in Maraval, a day or two after or whatever, and if they were depending on those officers in that vehicle, well.

But the point is this—I do not want to dwell on it—this issue of police vehicles has crossed every Government and you go down, because I told you once before about down by the Barracks and it has grown, “like they planting old vehicles in the Barracks now”. You would see an array of vehicles and you know what this—this is an audit. The Auditor General did an investigation or an audit into this “Management and Maintenance of Vehicles in the Trinidad and Tobago Police Service” and the Report is dated March 2010, and the point I want to make is that—listen, Madam President, “I doh even drive, right, I doh drive”. I am not allowed to drive. “Ah cyah fix no vehicle, ah cyah repair no vehicle, ah cyah help the police with the vehicles”, I could help the police with the legislation but there must be a management system. There must be somebody out there whose responsibility it is to keep this fleet on the road. The taxpayers cannot continue to buy, repair, fix, give them, give them the vehicles and it does not matter who is in Government.

This report, Madam President, in answer to Sen. Ramdeen and I will just quote a little piece of the Report:

“During the period 2006 to 2008, \$86 million was spent on the acquisition of vehicles. Despite this government investment...”

This is not Government “eh know, is taxpayers”.

“...the Police Service continues to be hampered by a lack of mobility which

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manifests itself in public complaints about the Police Service's inability to respond in a timely manner. Our audit was conducted to assess the extent to which the Police Service properly managed and maintained its vehicles.

A key problem with the management and maintenance of police vehicles has been the absence of strategic planning and policy direction at all levels in the fleet management process. This important area has been given low priority by the Police Service resulting in the failure to achieve value for money.”

And, Madam President, a part of this Report, when I read it years ago and read it again today, surprised me, stunned me. The taxpayers, at one stage, had paid for over 200 police vehicles which for the first time included a maintenance arrangement by the supplier, and the audit report says that they were running these vehicles so much that they did not even have time to carry it in for the routine maintenance that had already been paid for. There was no time for that and what they do, go down there by the Barracks and see, “They run them to the ground. Ah mirror break, they park it up; ah tyre flat, they park it up.”

And I think Sen. Ramdeen, you have to check your figures because you spoke about refurbishing 11,000 vehicles, well the police service only has about 1,100 vehicles and I doubt they even came close to refurbishing that. But on the point of vehicles, it is the police service that must take—whoever is in charge of it must take responsibility for managing the service. It is the police service who must do that, not the legislators. We are doing what we can do today to give them, to give them, the opportunity in law to lay charges and prosecute the people they wish to prosecute.

I just want to make the point. If we were talking here about national transport, I would have read from the PTSC audit. The PTSC audit that tells you,

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they have no maintenance plan, they have no plan to replace buses, all they do is run the buses. In fact, my 12-year-old, Madam President, on Sunday, had to point out to me that there was a bus running like this on the highway, one side up and one side down. And this audit report and again, when you talk about maintenance and planning and strategic planning, I could refer to, on the day the opportunity comes up, the audit into the Sport Company where they tell you the Sport Company “doh even have ah strategic plan, doh even have ah plan for maintenance of all the facilities” and so on. So this is not the fault of the legislator, this is a chronic problem in this country of a failure by various institutions and authority and people over whom we have minimal control to do what they are paid to do.

Madam President, the Attorney General is my friend, he is not here, but I must say, you know, I am one of those who—I am always very harsh on him, but I must say the Attorney General—and I think every Attorney General, it is not an easy job—has really with his staff and the CPC and the people who work on these Bills and so on, they have done a tremendous amount of work. When you look at what has come increasingly before us from 2015/2016, 2016/2017 and in the current term, it has been a significant amount of legislation. We have not agreed with all of it but it has come and over the next few months, I think more and more of it will come and it has come, and consistent with the Legislative Agenda that he has laid, he has brought the legislation, and I am saying that to make the point that no one piece of legislation, as I have said before, is going to fix the problem.

And I heard Sen. Ramkissoo, in a previous debate, talk—that is when they shouted me down, Madam President. [*Crosstalk and laughter*] On that occasion, [*Crosstalk*] I wanted to say to Sen. Ramkissoo that, you know, I understand the desire that maybe we get—the 40 pieces of anti-crime legislation, maybe we get it

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on one day and we debate it over a period of time but really, I mean, when you look at the AG's workload, when you look at the CPC, the various people involved, when you look at the consultations that may take place—imagine the Law Association took seven—is it seven years or seven months, Madam President? I am not sure. [*Crosstalk*] Months to respond and so on which is typical. Right. You want to have consultation, you want to invite contributions but everything moves in a particular pace and we cannot have everything coming at the same time. So while we debate this, there are other things that will work in tandem with this that either exist or do not exist as yet, but it is important and I thank the Attorney General. So in the first year, he was supposed to bring 22 pieces of anti-crime legislation, the second year and the third period, he was supposed to bring the least, one, but we are seeing now a fair amount before us and all of these work together.

Madam President, let me get to the Bill and the Bill has the overriding objective of maintenance of public safety. And this Bill, I must say, uses very polite language and I think this goes beyond—the overriding objective of this is maintenance of public safety. The real objective of this is to deal with this pervasive problem of untouchable criminal gang members. The existing law can reach them. The existing law can reach them but we need to improve it and having improved it, we need to get the police, in some form or fashion, to give effect to it. So that this is not just public safety. You know public safety is Carnival Monday and Tuesday to make sure that people who crossing from one side of the pavement around the Savannah to the other side could do so safely. That is public safety. This is what I call and in other countries, they call it gang-breaking law. Because if we do not break the backs of these gangs, we will not break the back of the crime.

[*Desk thumping*]

In order to do that, the Bill says it will discourage criminal gangs and it will suppress gang activity. Well you know, this is not about discouraging, this is more about putting away. And Sen. Ramkisson, the 20,000, it may be well worth it, it may be well worth it, but this is about putting away from society those who wish to destroy the social fabric of this country. This is about preserving the next generation. This is about living life comfortably in this country and we all accept, whether or not you have gangs and criminal gangs in your area, we all accept that the criminal gangs and the criminal conduct and this borderline and “doh come here” and every basketball court becomes a forum for gang recruitment and intimidation, and that is what this is about.

And suppression, Madam President, well listen, I would tell you this. You know I think about suppression about “yuh geh ah cut and yuh suppress the blood”. I think this legislation is about trying to put the genie back in the bottle because this is not “ah fire we trying to out eh know, half ah de structure already burn down, half ah it already burn down, so we in emergency mode”. We are in emergency mode and there is no nice way to say it and I have no plan to say it nicely. This is what is required. The implementation, the content of this Bill is very important. Not everything here will stand alone but it is a point—something I have been waiting to say and this Bill gives me the opportunity to say it.

Madam President, this country has produced a number of distinguished individuals and you will be happy because I am about to talk about “ah San Fernandian”. Many years ago, there is a gentleman by the name of Selwyn Romilly who made his way from Trinidad to the Canadian province of British Columbia. When he entered British Columbia University, he was the fourth Trinidadian to be



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there. Unfortunately, the three who preceded him did not leave successfully and Selwyn Romilly became the first black person to graduate from the University of British Columbia Law Programme, and he went on to become the first black judge in the British Columbia province of Canada and the first black Supreme Court Judge in that province.

Most importantly, Madam President, when you look at the cases he tried, you would see a number of cases relating to gangs and relating to the very same type of legislation that is before us now, and Selwyn Romilly had the task of trying the Hells Angels in Canada and the trial of the Hells Angels preceded a two-year project; a two-year project called the E-Pandora project, and it was a serious attempt to break the Hells Angels in Canada and it was essentially using someone who was planted in the Hells Angels for several years. Whoever did that must be crazy to live and work and exist amongst the Hells Angels, wired and all of that for several years, for the sole purpose of exposing the gang and producing evidence for which they could be tried. The person needs the highest recognition and the trial took 10 months, and at the end of the trial, the court was unable to determine that the organization was a criminal organization, but the evidence and that trial led later on to the prosecution of several Hells Angels members using evidence that was gathered in the process and it was a continuous effort. And Selwyn Romilly, our Trinidadian from San Fernando, played a very critical role. Just for the record, his brother came after him at the UBC law school and became the second black person to enter that university there and also went on to the provincial court in British Columbia and served successfully, and Justice Romilly is now happily retired and looks forward to coming to Carnival every year.

Madam President, this Bill has 19 clauses. It is divided into five sections but

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the Preamble to the Bill says a lot about the legislation. In the Preamble, there is a reference in the Preamble, as the Preamble sets out the need for the special majority, there is the reference to rapid growth of criminal gang activity within the Republic of Trinidad and Tobago. Because, Madam President, my former colleague as a columnist, Raffique Shah, has written extensively about gangs and he said, as some of us who are old enough knows, this criminal activity and gangs are not new to Trinidad, and I just want to cite, for example, the Poolool brothers and other people who led—in those days, Madam President, they were known as “badjohns”, so this is the modern “badjohn” Bill. They were known as “badjohns”.

**Sen. Baptiste-Primus:** They were bad, not “badjohns”. Bad.

**Sen. The Hon. C. Rambharat:** Yes, they were. “You say that, you say that.” Right. So this Bill, however, recognizes that there has been a rapid growth in criminal gang activity and Madam President, let me offer six reasons why these times are different from the times of the Poolool brothers and I would say—  
[*Interruption*]

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

**Sen. The Hon. C. Rambharat:** Thank you. I would say there has been a pervasiveness in the influence of criminal gangs. There has been growth rather than suppression or reduction. Third and most importantly, Madam President, these gangs are embedded in our communities, you cannot move around in most communities without them. Fourthly, these gangs have influence on law enforcement officers in this country. Fifthly, these gangs are interfacing with the financial system in this country and recently, we had a discussion in this House about money laundering; and sixthly, criminal gang activity is complex criminal enterprise and whether or not people agree, I would say the complexity is

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influenced by the sophistication of the deportees who are returning to our country, bringing with them the mechanics and the knowledge and the skills of serious criminal enterprise. And the Preamble, Madam President, talks about:

“...criminal gang activity presents a danger to public order and safety and to economic stability, and has the potential to inflict social damage...”

And I say, Madam President, it has gone beyond potential. The damage has already been done and we now have to try to undo it by putting the genie back into the bottle.

Madam President, I will close by pointing to one part of the legislation in the time I have and that is the forfeiture provision in clause 17. I want to say, Madam President, on this Legislative Agenda, the Attorney General has listed the Civil Asset Forfeiture Bill, No. 25. There is no piece of legislation I look forward to more than that piece of legislation and I will tell you why. One place in this world where civil asset forfeiture exists is in Canada and having practised there, I will tell you this. There is no need, unlike clause 17, which requires a criminal conviction before you seize and deal with the assets, in Canada, all you need is reasonable proof that the asset was procured in relation to criminal activity. Whether or not you have a successful criminal prosecution, on a balance of probabilities, the asset can be linked to criminal activity, and that is what is important to me. Because I believe that we need to delink successful criminal prosecution with seizure and sale of the asset, because unless, Madam President, we do not take the gain out of crime, we will not remove the pain of criminal gang activity.

I thank you. [*Desk thumping*]

**Sen. Paul Richards:** Thank you, Madam President, for the opportunity to contribute to this debate which is quite lengthy now and I know I promised my

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colleagues in the lunchroom that I would be short, and they laughed at me and said I always say that and I take up my full 40 minutes but I really intend to stick to 20 minutes today if I can.

Let me start by congratulating, as many have done before me, our sixth President, Her Excellency Paula-Mae Weekes, on her ascension to the highest office in the country. I think it is a monumental and historic occasion in our country and it needs to be congratulated and you know, when you think about it, we have really evolved a lot as a society. We have had a female Prime Minister, we have a female President of the Senate in your good self, we have a female Speaker of the House of Representatives and now we have a female Head of State. There is just one to be ascended to again and this casting no pre-emption to his tenure and that is to have a female Chief Justice and I think that will complete the entire scenario in terms of the evolution of Trinidad and Tobago. [*Desk thumping*]

So, one of the things that struck me also—[*Crosstalk*] And I indicated I do not want to pre-empt the incumbent's term in any way, I am just projecting. One of the things that struck me during yesterday's inauguration, like many fellow citizens, is Her Excellency extolling the values of our national credos where she indicated that they are not repeated enough to reinforce our shared goals, aspirations and most importantly, responsibilities as citizens, committed to working together towards a better Trinidad and Tobago. And I quote, to me, one of the more memorable lines yesterday: Go:

“...to work on time, actually do”—some—“work”—while—“you are there...”

And I think it is kind of great in this context where we have seen the Government and the Opposition work together to getting this Bill where it is today and it shows

what we can do, as I have said on many occasions, when we come together.

Let me say from the onset that I support this Bill. I do not think anyone of us has a choice. We may not agree wholly with it but at this junction in our country's history with what we face, we really have no choice, and many speakers before have spoken about this being one of the most important tools in terms of giving the Trinidad and Tobago Police Service law, good law within which to operate and carry out their mandate, but to me, the other tools are just as important. Resources including budget, hardware, training and development but also more importantly, to me, accountability mechanisms and professional standards of performance benchmarks. Because we have seen time and time again, and if you look at the research, Madam President, we have, as a country, allocated higher percentages to national security than most, if not all of our Caribbean counterparts, with less to show for it. So I really do not think it is a matter of budgetary allocations. There have been disparate views on whether or not we have 1,000 less in terms of manpower with the police service or not, it is not even about that, in my opinion, it is about proper management, accountability and standards of performance.

There are many of aspects of this Bill I think are very commendable and the hon. Attorney General and his staff and the parliamentary staff need to be commended for that. But the part that concerns me is in terms of the disproportionate focus on the little black boys—and I am not going to stay long on this, Madam President, because I know we have all been here a long time and heard a lot about this. On the little black boys in the gangs who are being replaced at the rate of 350 or so every year and a lack of focus or not enough focus on—and let me make a preface before I say what I am about to say.

I think we have excellent, hard-working, honest police officers, by and large,

in the TT Police Service. I have heard many people talking about a few bad apples spoiling the barrel but we really do not know how many of those there are, so to classify it as a few, to me, is a misnomer. Because even recently, Deosaran and his team Manpower Report indicated 40 per cent of officers feel that many of their colleagues are corrupt and that to me is where the challenge lies. Because while this Bill, which is “An Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and for other related matters” seeks to deal specifically with gangs as we know it, to me, among the most dangerous gang members in Trinidad and Tobago are the unchecked corrupt police officers who undermine the work of their colleagues, putting their lives in danger; the unchecked corrupt prison officers who facilitate contraband going into the nation’s prisons causing hits and loss of life as we saw in June or was it July of 2015, and in some instances, hits on their colleagues outside of the prison; the unchecked corrupt public officials who are not identified in many of the state institutions, including Customs which is specifically mentioned in the Bill, and the unchecked white collar criminals in so-called legitimate businesses in Trinidad and Tobago who are really the engine room of gang activity in Trinidad and Tobago.

**7.15 p.m.**

And while this Bill, I am sure, if operationalized effectively, will do a lot to take the little criminal boys off the street, we have a tendency not to focus on those other aspects. It is like likening gang activity in Trinidad and Tobago to an octopus where we can cut off the tentacles every week and they grow back, but the head stays intact. And I think that is where we need to place our focus if we are to deal with this holistically, because we keep dealing with only one aspect of gang

activity in Trinidad and Tobago.

Madam President, the other aspect of this that we really need to look at is a new phenomenon where there is a blurring of the line—and I will go through some of the research I have done later on—between criminal gangs and terrorist gangs around the world, because they are now working in tandem.

Going back to the issue of white collar crime, and I am quoting from Prof. Dylan Kerrigan of the University of the West Indies, a 2004 expose called *White Collar Crime in Trinidad and Tobago*, and I quote:

“Differential Treatment of White-Collar Criminals in Trinidad and Tobago  
The criminal justice system in Trinidad and Tobago has accorded differential treatment to white-collar criminality. Although there is immense concern over crime in general, the priority dedicated to white-collar crime as opposed to conventional crime (violent acts)”—gang activity—“has been significantly less (Friedrichs 1997). At the same time, white-collar crime’s economic and social harm costs overshadow the cost of...”—what is considered conventional crime.

We really need to take an holistic view in looking at this, and especially against the context of our constitutionally enshrined rights to life, liberty, security of the person, which have been quoted before, and the right to equality, individual equality before the law and protection of the law, and the right of the individual to equality of treatment from any public authority in the exercise of any function.

Madam President, earlier on we heard—and just to put a context to my ongoing contribution—the Attorney General indicated the CoP in 2014 said there are 92 gangs and 1,500 gang members in operation in Trinidad and Tobago, which ballooned by 2016 to 211 gangs with now 2,500 members. In those numbers, are

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we counting the corrupt police officers? Are we counting the corrupt prisons officers? Are we counting the white-collar criminals, or are we only counting the little black boys on the street? Because I am sure we could get to 3,000, if we do that, or more very easily. Because, again there is a disproportionate focus on only one aspect of gang activity in Trinidad and Tobago, and that needs to be addressed.

One of the points I want to focus on, and I am sure the hon. AG can clarify this for me—in doing research I looked at the comparative legislation for a country that we can learn a lot from and that is Jamaica. Jamaica has, in 2014, the Criminal Justice (Suppression of Criminal Organizations) Act, 2014. Although it is very similar to this Bill, I think we can learn a lot from Jamaica.

I remember a friend of mine, an academic colleague, about 15 years ago, indicating to me that if we do not watch ourselves in Trinidad and Tobago—because they had a serious gang problem that they have been able to be quite successful in turning back—that we are going to end up in Trinidad and Tobago, because he saw the similarities in and the trend, and we have. And Jamaica has been quite successful. And what, as opposed to our “gang” definition and our gang Bill, the Criminal Justice (Suppression of Criminal Organizations) Act, 2014, states and they focus on the issue of criminal organization, as opposed to gang:

“...means any gang, group, alliance, network, combination or other arrangement among three or more persons (whether formally or informally affiliated or organized or whether or not operating through one or more bodies corporate or other associations)...”

So their law focuses specifically in language and the corporate aspect of it and the organizational aspect of it in society, and I found that was quite interesting. Ours, which says:



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“‘gang’ means a combination of two or more persons, whether formally or informally organized, who engage in gang-related activity;”

And if you look at the evolution of gangs around the world, we seem to think that we seem to underestimate the fluidity of gang activity in the present context.

Gangs are not what they used to be 15 years ago. Gangs are not what they used to be 10 ten years ago or five years ago. Gangs are extremely fluid now, highly technological and they come together for a purpose and dissipate for a purpose. They come together for a hit or an operation next week and they disappear because they understand, they have understood over the years that staying coalesced or staying together puts them at risk for prosecution. And if we are making laws to deal with that, we must understand that evolving paradigm.

Because now they understand. They are listening to debates too. They understand what we are trying to do here. They understand the issues of association or indicating that you are a gang member or wearing gang colours. So they have evolved a different way to operate, so that they can circumvent the laws that we are trying to create to catch them. And one of the things, I think Sen. Ramdeen or Sen. Rambharat or one of the other contributors earlier on said, that we must really make laws that are ahead of the curve, that are looking at the trends and not behind, because they are not static entities, gangs. They are responding to how society is responding to them on a daily basis. So we do not want to be caught behind the curve, as admirable and as honourable as the intention of this legislation is.

Madam President, if I could just go through, and I want to focus on the language and the classification of gangs and I hope the AG can add some clarity as to if some of these provisions in the Jamaican Act can be included, and if not, why

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not, because I think it is quite holistic. One of the things also I like about the Jamaican Act, I would not go through the whole thing, but it does not include any combination arrangement among three or more persons, whether formally or informally organized, acting in contemplation of furtherance of an industrial dispute within the meaning of the Trade Union Act. Because we know we have had issues in the past where the trade unions have proffered that anti-gang legislation was enacted to thwart their efforts or their constitutional rights. So I think that was an interesting inclusion.

Quoting from, Madam President, how gangs evolve globally—“On Gangs, Crime, and Terrorism”, because most of the learnings now really do not separate gangs and terrorism, because of how they have evolved.

“Special to Defense and the National Interest February 28, 2007

By Gary I Wilson and John P. Sullivan”

And they have outlined, in the context of our definition of “gang” in clause 4 of the Bill, four generations of gangs have evolved.

“• First Generation Gangs are traditional street gangs with a turf orientation. Operating at the lower end of extreme societal violence, they have loose leadership and focus their attention on turf protection and gang loyalty within their immediate environs (often a few blocks or a neighborhood). When they engage in criminal enterprise, it is largely opportunistic and local in scope. These turf gangs are limited in political scope and sophistication.”

—in their general area.

“• Second Generation Gangs are engaged in business. They are entrepreneurial and drug-centered. They protect their markets and use

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violence to control their competition. They have a boarder, market focused, sometimes overtly political agenda and operate in a broader spatial of geographic area.”

They are very mobile.

“Their” conditions and “operations sometimes involve multi-state and even international...”—arenas and regional arenas.

“Their tendency for centralized leadership and sophisticated operations for market protection places them in the center”—for—“politicization, internationalization and sophistication.”

They are extremely fluid.

“• Third Generation Gangs have evolved political aims. They operate or aspire to operate at the global end of the spectrum, using their sophistication to garner power, aid financial acquisition”—in so-called legitimate business—“and engage in mercenary-type activities. To date, the most third generation gangs have been primarily mercenary in orientation; yet some have sought to further their own political and social objectives.”

Fourth generation gangs focused on warfare. There is a gray area in this phenomenon where war, crime and terrorism have blurred lines, manifesting themselves in overt and deliberate threats to national stability of nation states by non-state actors, gangs, terrorists, militia, cartels, clans, tribes, criminal business enterprises, often invading state agencies. In this incarceration, the State starts to lose its monopoly on this war.

And then there is another addition called netwar, which is:

“unconventional decentralized warfare: nontraditional”—gang—“warfare

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carried out by dispersed fluid groups of activists without a central command...”

—and often changing leadership very often with no identifiable marks. And if we understand that context we will realize the direction we need to go in on legislation. Gangs are not what they used to be. Now, we need to be cognizant of that.

Madam President, in specific reference to parts of the Bill, in clause 4 which says:

“‘gang member’ means a person who belongs to a gang, or associates himself with a gang-related activity;”

There is quite a bit of, based on what I have just indicated, concern, because to me now the burden of proof is very difficult because of how fluid these entities are and we have to be really aware that our police officers who have to operationalize this understand this and are able to gather evidence where this is concerned.

Another part of the Bill, which is of great concern to me, is the issue related to clause 5(b), which speaks to:

“evidence that the person is or has associated or been involved with a gang with the intent to facilitate the commission of a gang-related activity or to promote, further or assist in the gang-related activity;”

And, again, when you realize how creative these gang members have been or have become over the years, you realize that to facilitate the commission of a gang-related activity could be simply whistling down a street or playing a certain song on a stereo system. Because that is a signal that is almost undetectable by law enforcement and seems so commonplace in the environment that it is difficult to prove in a court of law that that was a method of facilitation of criminal enterprise

by the gang or to warn them when the police are on their way. So we need to be aware of all of this.

One of the other parts, in terms of clause 6 and the offences, focus specifically on the law enforcement agencies, police, prisons and customs, is to me what many of the speakers before spoke about, in terms of corrupt elements in these services and the fact that we have to do more to enable agencies like the PCA, the Police Complaints Authority, as its Director, David West has indicated on many occasions that he really does not have the legislative teeth to do what is intended with that organization. And if we do not strengthen and change legislation to enable that to operate like what we see in the US, in terms of an internal affairs division and also strengthen the Police Professional Standards Bureau of maintaining better standards of operation, I can see very easily where corrupt officers go into an environment, which is supposedly a crime scene perpetrated by alleged gang members and they can leave out evidence because crimes are crimes of commission and crimes of omission. And the very officers, the corrupt officers who continue to go unchecked, will know how the case is to be built and are able to, because they have not been identified and weeded out, thwart any effort of their colleagues in those circumstances.

I interviewed Mr. West several years ago and he indicated in the present construct of the PCA, he has a tough time getting officers to call his officials to a crime scene in a timely manner. If there is a police shooting and by the time his officials get there to try to run investigations to either exonerate or convict an errant police officer, most of the evidence is gone or tampered with. How can he operate effectively in those circumstances? How can we build confidence in the police service if we cannot effectively weed out corrupt police officers or corrupt

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prison officers? Since prison break 2015, has anyone been held responsible? No. And we continue to do yeoman service as legislators, putting the tools, in terms of the laws, in the hands of the agencies who are undermined by these corrupt elements. So we really need to place a lot of emphasis on that.

Madam President, also, and I hope I am not breaking any Standing Orders because this was a broadcast, in terms of the police effectiveness and the information given by former Acting Police Commissioner James Philbert, who indicated that the police service has lost its soul. He said, and I quote:

“If you understand what the police service is, it makes certain demands for certain kinds of people to act in its behalf...it does not ask for compromise...”—if no one—there is to be—“no compromise.”—

It has to be integrity driven.

He also focused on the fact that basic procedure, rules and regulations, are being ignored and the public confidence has waned significantly because of that. So when you get to the point where a gang member is identified in the Bill, where, and I quote clause 6(4):

“Where a police officer, prison officer, member of the Defence Force, constable appointed under the Supplemental Police Act or the Special Reserve Police Act, member of a protective service agency or a person involved in law enforcement intelligence or intelligence gathering commits an offence under this section, he is liable on conviction on indictment to imprisonment for twenty-five years.”

Really and truly, how effectively are we operationalizing this element or this provision? Because to me, this is what is going to help to rebuild public confidence. When the public sees this provision being enacted effectively and

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consistently, then the intent of the law will be carried out and public confidence will resume. And also you would have a commensurate increase also in police efficiency, solvency and detection. Because then only the effective officers will be left, or the honest officers. The more we are able to weed out those errant officers.

Madam President, if I will, just quickly outline an example of what, to me, almost amounts to dereliction of duty. We saw three officers suspended recently. Many of my colleagues cited the issue of the domestic violence report given where it was not acted upon as it is supposed to be by law.

And recently a friend of mine owns an establishment along the East-West Corridor in the Curepe area. I do not know, criminals like they go to work. At 8.30 a.m. Saturday, pull into the establishment, guns, robbed patrons; 8.30 a.m. on Saturday. Police are called at 9.45. Fortunately no one was injured. Everyone was robbed. Police do not arrive until 1.30. They asked: Should we close the establishment to preserve evidence? They were told continue running your operation. By the time they get there the amount of contamination has taken place in that environment. How can any effective police service operate like that? And the police station is literally three minutes from the establishment. They take hours to get there, and this is just one case of many that go unreported in the national media. If we do not fix the agencies, as Sen. Rambharat has said, the laws will mean nothing.

I think I have five minutes left in my promise to finish early. And also recently, we have the issue of the management of the service, in terms of human resource management, where, you know, the really hard-working members of the police service, the really genuine ones, the majority of them that work hard, have literally lost their morale and enthusiasm because of the issues related to

Anti-Gang Bill, 2018 (cont'd)  
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promotions, disciplinary actions. So if we have this, almost like a perfect storm being created, how are we going to move the situation forward?

Staying for the last three minutes on the issue related to effective implementation of gang legislation, and I quote from:

“The U.S. Department of Justice

Bureau of Justice Statistics

Special Report.

Census of Law Enforcement Gang Units, 2007”

—and gang units specifically designed:

“in Large Local Law Enforcement Agencies

In 2007, 365 of the nation’s large police departments and sheriffs’ offices had specialized gang units, employing more than 4,300 sworn officers dedicated”—and trained in—“addressing gang-related activities”—and legislation. “Thirty-five percent (35%) of these...established between 2004 and 2007...

Nearly 70 % of”—these—“agencies with an operating budget of \$100million or more operated a gang unit in 2007.”

And this is US Department of Justice. It shows that they understand the importance of creating specialized units within the police service to deal and operationalize gang legislation effectively. Because the other officers who are normally on the beat have so many other issues to deal with, when they start to even mix up, it opens the door, according to the report, for malfeasance and mischief by officers who are not specially trained or dedicated to deal with gang legislation or gangs in any particular jurisdiction.

Madam President, I am going to stick to my guns and wrap up. The large



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part I want to deal with—I think I am doing well so far. How far gone am I? No, I am want to keep my promise. The large part I want to deal with, Madam President, is the issue of—[*Crosstalk*] Is it that bad? [*Laughter*]

**Hon. Senator:** That was 40 minutes.

**Sen. P. Richards:** I have used all? [*Laughter*] I am embarrassed and I apologize to my colleagues.

Madam President, another article:

“On Gangs, Crime and Terrorism

Special to Defense and the National Interest February 28” —by Wilson and Sullivan, which focuses on the increasing nexus between gangs and terrorism and the fact that particularly developing countries need to focus on this evolving paradigm because they are considered soft targets by international terrorist groups because of their, in some instances, lax legislation and challenges economically and otherwise. And that is why we have had, when you think about this paradigm, so many reports internationally and locally. I think the hon. Prime Minister also made mention of it recently, of the number of so-called terrorist elements emanating from Trinidad and Tobago. So if you think of this paradigm that is documented, you would realize well it is actually already happening here, if we are to believe what is being said, in terms of the national discourse, you know.

I am going to go through quickly. The final point I want to make is I want to endorse Sen. Ramkissoo’s point to delete, I think it is clause 14(4), where:

“It is a defence for a person charged with an offence under subsection (2) or (3), if he proves that he did not know or could not reasonably have known that the person he recruited was a child.”

To me this needs to be deleted, for the simple reason that there is no caveat like

this in the Children Act. You know?

We do not have in the Children Act if a person knew that this person reasonably knew that this person was a child, they should not have intimate interactions with them. I think, given the fact that no one should be recruiting for gang membership at all, why put a caveat related to if someone has not reasonably known a person was a child. I think, hon. Attorney General, consideration should be given to take that out totally. Once a person is guilty of recruiting, whether the person felt it was a child or not, they should stand the consequences. And to deal with the issue of the under 18 aspect of it, I think we really need to focus on looking at drafting proper juvenile criminal justice policy in Trinidad and Tobago and laws to deal with sometimes, that grey area between 18 and 15 because of how young individuals are being coopted into gangs and other criminal activity in Trinidad and Tobago.

Madam President, I am going to wrap it up now with whatever little is left. I will add, without reservation, I support this. I think it is long in coming. I think, as the hon. AG often says, there is no perfect legislation. We have to start and work and evolve it along the way.

I have similar concerns with Sen. Shrikissoon about the sunset clause and when it may end, but we really do not know when any particular political term is going to end anyway, you know. It could end six months before or any time. So that is not as much a concern but it is something that we should consider.

Madam President, with those few words, I thank you for the opportunity to contribute. [*Desk thumping*]

## **ADJOURNMENT**

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin**

Adjournment

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**Khan):** Madam President, I beg to move that this Senate do now adjourn to Tuesday, the 27<sup>th</sup> of March, 2018, at 1.30p.m. That is Private Members' Day and we will be continuing debate on the parliamentary autonomy Motion, Motion No. 1. Just to give advance notice to the Senate that we will also be meeting on Wednesday 28<sup>th</sup> March to complete debate on this Anti-Gang Bill.

**Hon. Members:** What time?

**Sen. The Hon. F. Khan:** At 10 o'clock, 10.00 a.m.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 7.41p.m.*