

SENATE*Wednesday, April 04, 2018*

The Senate met at 10.00 a.m.

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

Mr. Vice-President: Hon. Senators, I wish to advise that the President of the Senate, Sen. The Hon. Christine Kangaloo, is currently out of the country. Hon. Senators, I have granted leave of absence to Sen. H.R. Ian Roach, who is out of the country.

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from Her Excellency the President Paula-Mae Weekes:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES

President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. AYANNA LEEBA LEWIS

WHEREAS Senator Christine Kangaloo is incapable of performing her duties as the President of the Senate by reason of her absence from Trinidad and Tobago and the Vice President of the Senate is required to

UNREVISED

perform the duties of the President of the Senate. As a result, a vacancy has arisen in the Senate:

NOW, THEREFORE, I, Paula-Mae Weekes, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, AYANNA LEEBA LEWIS, to be temporarily a member of the Senate, with effect from 4th April, 2018 and continuing during the absence from Trinidad and Tobago of Senator the Honourable Christine Kangaloo.

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 3rd day of April, 2018."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By Her Excellency PAULA-MAE WEEKES,
President of the Republic of Trinidad and
Tobago and Commander-in-Chief of the Armed
Forces.

/s/ Paula-Mae Weekes

President.

TO: MR. ELTON PRESCOTT, S.C.

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

NOW, THEREFORE, I, Paula-Mae Weekes, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c)

of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ELTON PRESCOTT, S.C., attorney at law, to be temporarily a member of the Senate with effect from 4th April, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Ian Roach.

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 3rd day of April, 2018."

OATH OF ALLEGIANCE

Senators Ayanna Leeba Lewis and Elton Prescott SC took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2014. [*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 Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2016. [*Sen. The Hon. A. West*]
3. Consolidated Audited Financial Statements of First Citizens Bank Limited and its Subsidiaries for the financial year ended September 30, 2017. [*Sen. The Hon. A. West*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Gambling (Gaming and Betting) Bill, 2016

UNREVISED

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):

Madam President, I have the honour to present the following report as listed on the Order Paper in the name of the Minister of Finance:

Interim Report of the Joint Select Committee on the Gambling (Gaming and Betting) Bill, 2016.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):

Madam President, I have the honour to present the following reports as listed on the Order Paper and Supplemental Order Paper in my name:

Cybercrime Bill, 2017

Interim Report of the Joint Select Committee on the Cybercrime Bill, 2017.

Anti-Terrorism (Amdt.) Bill, 2018

Interim Report of the Joint Select Committee on the Anti-Terrorism (Amdt.) Bill, 2018.

URGENT QUESTIONS**Unicom Limited****(Details of Award of Contract)**

Sen. Wade Mark: To the Minister of Housing and Urban Development: In view of reports of the award of a contract to Unicom Limited for the sum of \$106.9 million for restoration works on President's House, can the Minister inform this Senate when this contract was advertised and how many bids were received?

The Minister in the Ministry of the Attorney General and Legal Affairs and**Minister in the Office of the Prime Minister (Hon. Stuart Young):**

Thank you very much, Mr. Vice-President. Mr. Vice-President, as at this moment we have not received the formal information, but this matter was dealt with by the historical restoration committee and the unit that was utilized, the state entity, was UDeCOTT. I can say that it was publicly advertised. There were a number of

bids. I do not have the exact amount here. And these bids were assessed, and what I can say is that the price was reduced by over \$30 million as a result of the workdone by the Government. [*Desk thumping*]

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate to this honourable Senate when will he be able to receive the relevant and necessary information? Because, as you know, you cannot mislead this House and the Minister has admitted he is not in receipt of the proper information. So I am seeking your guidance on this matter.

Hon. S. Young: Thank you very much, Mr. Vice-President. I will ignore—

Hon. Senator: Answer the question.

Mr. Vice-President: Please, this is Urgent Questions and we do not have much time for Urgent Questions. Can we suspend the crosstalk to allow the Minister to answer? Continue, Minister.

Hon. S. Young: The answer, Mr. Vice-President, is as soon as the information is available it would be provided to the hon. Senator and I have in no way misled the House whatsoever. I have given accurate information. [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate to this House when will this information be provided to this House? He said soon, but could he specify how soon? Is it going to be next week? Is it going to be today; later on today? Could he advise?

Hon. S. Young: Soon in the future, and I hope within the next week if it can—
[*Crosstalk*]

Sen. Mark: He is wasting my time.

Mr. Vice-President: Again—I am going to say it again. We do not have much time for Urgent Questions. The crosstalk takes away from the procedure. Please,

silence in the Chamber until we get through the Urgent Questions. Sen. Mark, next question.

OAS Contribution Waiver for Dominica

(Action to be Taken)

Sen. Wade Mark: To the Prime Minister: Given reports of the issue involving Trinidad and Tobago's vote against an OAS contribution waiver for Dominica, what action will be taken to hold the relevant person to account?

The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Mr. Vice-President. The hon. Prime Minister has asked for a comprehensive report on this disturbing development, and upon receipt of the facts, the hon. Prime Minister will deal with the matter as the facts dictate.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, what is in the public domain at this time, could the hon. Minister indicate whether our Ambassador at the United Nations received clear instructions from the Ministry of Foreign and Caricom Affairs to vote against the particular request by Dominica for a waiver of fees? Can he clear that with this honourable House?

Hon. S. Young: Thank you very much, Mr. Vice-President. It appears that the hon. Senator wants to mislead the country because there was no representative from the UN there. This was an OAS meeting and as I have said, the way this Government acts is not capriciously. We will await the outcome of a report being provided to the hon. Prime Minister and then he, in his own discretion, his own wisdom and experience, will decide how to deal with the matter based appropriately and completely on facts.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, given the reputational damage to this Republic by the actions of the Ministry of Foreign and Caricom Affairs, could the hon. Minister indicate to this House how soon such a report will be tabled or issued to the hon. Prime Minister?

Hon. S. Young: As soon as possible.

Mr. Vice-President: Sen. Mark, next question.

**Non-Renewal of Ministry Contracts
(Government Assistance)**

Sen. Wade Mark: To the hon. Minister of Social Development and Family Services: How does the Government intend to assist persons at the Ministry who were recently informed that their contracts will not be renewed?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Mr. Vice-President. Mr. Vice-President, persons who would have exited the organization as their contracts came to an end by natural attrition will be referred to the Register of the National Employment Services under the Ministry of Labour and Small Enterprise Development and may be considered for employment based on their skills and competencies. Additionally, those officers are citizens of Trinidad and Tobago who will also be entitled to apply for any grants or services for which they are eligible under the Ministry of Social Development and Family Services. [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Mark: Could the hon. Minister indicate to this House how many officers were terminated by the Ministry?

Sen. The Hon. F. Khan: Just to say that these were short-term contracts and when they expire, normally sometimes they are renewed, sometimes they are not.

In this instance there, most of them were not renewed. I do not have the exact numbers of people, but I can make that available to the Senate at its next sitting.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate whether it was a shortage of funds, or money, in the vote that resulted in the unceremonious termination of those contracts?

Mr. Vice-President: I would not allow that question, Sen. Mark. Next question.

La Romaine Army Base Fire

(Measures to Restore)

Sen. Wade Mark: To the hon. Minister of National Security: Is he here? I understand he is at court in New York—

Mr. Vice-President: Sen. Mark, ask the question, please.

Sen. Mark: Is he here?

Mr. Vice-President: Sen. Mark—

Sen. Mark: Sorry, sorry, sorry. All right, Sir. This is to the Minister of National Security or whoever is here representing him: What measures are being implemented to immediately restore the army base in La Romaine which was severely damaged by a recent fire?

The Acting Minister of National Security (Hon. Stuart Young): Thank you very much, Mr. Vice-President. I answer this question as the Acting Minister of National Security. The answer is, there was limited infrastructural damage. Fire is suspected to be electrical. Main loss was electronic equipment. Fire services are completing their report. The camp is in phase one of a programme aimed at completion in the next few months. This programme has not been significantly affected. Interim equipment—that is, communications—has been sourced from other areas of the Trinidad and Tobago Defence Force and work continues on this

phase. The army base is fully functional and continues to operate. Thank you very much, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Mark: Is the Minister aware that international news reports have revealed that there is a direct threat to the energy infrastructure and assets of this country and this fire, you know, could in fact be one that requires some urgent attention in terms of restoration of facilities? Can the Minister indicate, in those circumstances, what will happen to the army personnel who would have been displaced as a result of the fire of the dormitory?

Hon. S. Young: Thank you very much for the opportunity to address this information that has come to light. It is our understanding that a member of the Opposition, and maybe, in fact, a former “member of energy”, is behind that very inaccurate report that is being promulgated out there. As I said a short while ago, the army camp is fully functional and operational. This Government, unlike that that existed between 2010 and 2014, when a mass of people left this country—less than 200—under their authority and went out to fight as foreign terrorist fighters, this Government is working very hard with our international allies. Our national security services are fully—

Sen. Obika: Answer the question.

Hon. S. Young:—are fully—

Mr. Vice-President: Sen. Obika—[*Crosstalk*]

Hon. Senator: Put him out.

Mr. Vice-President: Since we have started the sitting today, I have had to get to my feet and constantly remind Members of the Standing Order regarding silence. I am not going to do it again, and that tone is going to carry for the rest of this sitting. There will be no more outbursts. Minister, have you finished your answer?

Hon. S. Young: I would like to just finish.

Mr. Vice-President: Continue.

Hon. S. Young: Thank you very much. Mr. Vice-President, I do not normally ask for protection. I would not ask for protection. I think the country has seen the behaviour of this immature Senator, and [*Crosstalk*] the question continues—
[*Crosstalk*]

Sen. Obika: This man is unparliamentary.

Mr. Vice-President: Sit, sit, sit, sit. [*Crosstalk*]

Hon. Al-Rawi: What is your Standing Order? [*Crosstalk*]

Sen. Mark: You are not in Westmoorings.

Mr. Vice-President: The time for Urgent Questions is done. We will move on now.

ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, the Government is pleased to announce that it is in a position to answer all questions listed on the Order Paper.

WRITTEN ANSWER TO QUESTION

Point Fortin Fire Station

(Details of)

86. Sen. Wade Mark asked the hon. Minister of National Security:

With respect to the Point Fortin Fire Station, can the Minister provide the following:

- i. an update on the work done as at January 31, 2018;
- ii. information on whether any fire tender(s) has been ordered;
- iii. if the answer to (ii) is in the affirmative, on what date; and
- iv. how will the purchase of such fire tender(s) will be funded?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

Inter-Island Vessel

(Details of)

59. Sen. Wade Mark asked the hon. Minister of Works and Transport:

With regard to the recently acquired inter-island vessel, can the hon. Minister 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?

The Minister of Finance (Hon. Colm Imbert): [*Desk thumping*] Thank you, Mr. Vice-President, for recognizing me, as you are in charge here. The answer to question 59 is as follows: The Cabinet-appointed subcommittee made contact with a number of reputable international ship brokers and charterers, ship owners and ship managers and requested assistance from the Governments of Australia, Canada, Italy and Japan through their representatives in Trinidad and Tobago. Among the brokers, charterers, ship owners and ship managers who were contacted were Golden Star Ferries Limited of Greece; the ESA group of Italy; and Hornblower Marine Services of the USA.

During this process, a proposal was received directly from Sea Lease Limited of Hong Kong for the purchase of an available new-building fast ferry then named the *MV Doña Mercedes*, a 700-passenger, 100-vehicle, RoPax vessel, which was in its final stages of construction at the Bonny Fair Development Shipyard in Nansha, China. The vessel was due for delivery to its previous client in December 2017 who was unable to complete the purchase.

The answer to part (ii) is as follows: This part of the question is not applicable because no fees were paid to anyone to search for, or identify, the vessel.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Could the hon. Minister indicate the agent or broker—I think you referred to them as Sea Lease. Could the hon. Minister share with this Parliament how, or what were the circumstances that led to this particular company or broker having direct contact with the Government to make this ship available? Could he indicate to us, for instance, how this came about? Because he did mention Sea Lease as the broker involved in this matter.

Hon. C. Imbert: Thank you, Mr. Vice-President. First, let me correct the record. I did not mention Sea Lease as a broker. Sea Lease Limited was, in fact, the owner of the vessel.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, the hon. Minister indicated that a number of brokers were contacted by the inter-ministerial team to locate this particular vessel. Could the Minister indicate whether IBS (International Broking Services) led by a fella called Mr. John Akenhead, was one of those brokers, and whether he is aware of that arrangement with the broker?

Hon. C. Imbert: Mr. Vice-President, I find this line of questioning very curious, but in order to assist Sen. Mark for the umpteenth time, when ship brokers and ship managers make an international request to owners and agents for vessels, the information goes out into the market, and it was when these ship brokers made the request, Sea Lease Limited became aware that the Government of Trinidad and Tobago was in the market for a vessel—not this vessel—and this particular vessel was then proposed to the Government of Trinidad and Tobago. With respect to

the other statements and utterances of Sen. Mark, all I would say is that, once again, those are figments of his imagination.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Mr. Vice-President, would the Minister not agree with me that the *Galleons Passage* was a vessel that was old—one year and about four months—before he and the Government got in contact with that vessel, and the real value should not be \$17.4 million, but \$8 million? Would he agree with me on that?

Hon. C. Imbert: Mr. Vice-President, for the umpteenth time, the sea trials for the vessel for the previous owner were conducted in September and October of 2017. The Government made the decision to acquire the vessel in November 2017, one month after the sea trials were conducted for the previous owner. The sea trials are the final stage of construction of a vessel. First, you lay the keel, then you construct the hull, then you put on the superstructure, then you put in the engines, the gear boxes, the electronics, the navigation aids, the cabins, et cetera, and then when you are finished, you conduct sea trials. Sea trials were conducted for the previous owner in October 2017. So when we came upon the vessel, it was, in fact, one month after it had reached the end of its construction. The vessel also, we received a valuation of US \$19 million from one valuer and a valuation way in excess of US \$19 million from another internationally reputable valuer. The vessel is worth far more than the Government paid for it. All of the things that Sen. Mark has said are false, untrue and figments of his imagination. [*Desk thumping*]

Mr. Vice-President: Sen. Mark.

Sen. Mark: In this day and age of transparency—[*Crosstalk*] In this day and age of transparency and accountability, and having regard to the weak utterances expressed from the lips of this honourable gentleman, Mr. Vice-President, may I ask the hon. Minister whether he would be in agreement with my submission at

this time, that in light of all that he has said, that we would want to suggest to him and the Government that a criminal forensic enquiry be conducted into the procurement and acquisition of the *Galleons Passage*? [*Desk thumping*] Would you not agree with me that we should have a criminal forensic enquiry into this matter?

Mr. Vice-President: Before I call on the Minister of Finance, I have noticed in the asking of questions, a lot of inferences to characters and whatnot of individuals in the Chamber. Please refrain, both in answering and in asking questions, those inferences. It lowers the dignity of the process in the Chamber. Minister of Finance. **Hon. C. Imbert:** Thank you, Mr. Vice-President. In view of the fact that the Government paid US \$17.3 million for the vessel, in view of the fact that the vessel was valued by two internationally reputable ship valuers at values way in excess of US \$17.3 million, the only description I can give to Sen. Mark's statements is that they fall within the realm of madness.

Mr. Vice-President: Sen. Mark, next question.

Sen. Mark: Well, if I am mad, I have a cousin. [*Crosstalk*] If I am mad, I have a cousin, because he is more mad than me. [*Desk thumping*]

10.30 a.m.

Mr. Vice-President: Sen. Mark, Sen. Mark, just take a seat for a second. I do not know if it is the long Easter holidays or what it is today, but for some reason we cannot seem to get through what is a regular, normal procedure for sittings of the Senate. I am going to say it again, please, let us not engage in these inferences into a person's character in this Chamber. It lowers the dignity of the process and procedure. Sen. Mark, continue.

Sen. Mark: I am a fighter. I hope you understand that. [*Desk thumping*] And you "ent" see nothing yet, you know. Good! [*Crosstalk*] No, I am not threatening

anybody. Mr. Vice-President, may I go on to the next question?

**Forensic Science Centre
(Shortage of Pathologists)**

66. Sen. Wade Mark asked the hon. Minister of National Security:

Can the Minister inform the Senate of the measures being taken by Government to address the shortage of pathologists at the forensic science centre?

The Acting Minister of National Security (Hon. Stuart Young): Thank you very much. [*Desk thumping*] Mr. Vice-President, it should be noted that there are currently two pathologists on staff at the Forensic Science Centre, namely Dr. Des Vignes and Dr. McDonald-Burris, who are conducting autopsies. With specific reference to the question, upon receipt of official correspondence from Dr. Alexandrov of his resignation, the Ministry of National Security, in December of 2017, advertised the position of pathologist. Only one application was received, but the applicant has not yet completed his programme of study and, therefore, cannot be employed at this time.

Accordingly, the Ministry is currently in discussions with the United Nations Development Programme, United Nations Volunteers, with respect to the sourcing of an additional forensic pathologist to augment the pathology staff at the Forensic Science Centre. This approach was used previously to source Dr. Alexandrov. Further, in an effort to alleviate the workload at the centre, the Ministry of National Security has commenced discussions with the Ministry of Health with respect to that Ministry—that is the Ministry of Health—treating with the non-forensic pathology. At present, most bodies are sent to the Forensic Science Centre by the District Medical Officer regardless of the cause of death.

Sen. Mark: Thank you very much, Mr. Vice-President. Mr. Vice-President,

could the hon. Minister, the Acting National Security Minister, share with us what is the complement of staff required on—or put it in another way, Sir. How many pathologists are needed at the level of the forensic centre, or how many are on the establishment of the—that is the question I am trying to get.

Hon. S. Young: Thank you very much, Mr. Vice-President. Mr. Vice-President, I do not have that information. The question asked was addressing the shortage of the pathologists there which I have answered. I am sure the hon. Senator, if he puts that question, can be answered in the appropriate time.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate whether there is a period that the Government is examining as it relates to getting volunteers within the UN system to come and work at the forensic centre, is there a time frame for it?

Mr. Vice-President: I would not allow that question. It does not arise, Sen. Mark. Next question.

Sen. Mark: Mr. Vice-President, he also raised the question about advertisements, that only one person applied, would the Minister not agree that there is need for us to engage in some re-advertising given the state of affairs at the forensic centre at this time?

Hon. S. Young: Thank you very much, Mr. Vice-President. Mr. Vice-President, this area of pathology, there are limited number of qualified persons in Trinidad and Tobago. The advertisement went out, they got one application, not even by someone who had completed their qualification. We are now engaging an international body that is quite an expert, and hopefully someone that would be able to provide us with assistance in this area. If a need for re-advertisement takes place in the future, I am sure that the Ministry will do so, but at this stage they are engaged in a system, with a process, that normally produces a result of qualified pathologists.

Mr. Vice-President: Sen. Mark.

Sen. Mark: In light of the shortage of personnel in that particular field, would the Minister, or would the Government not want to examine the possibility of issuing scholarships to citizens of this country with a view to embarking on this programme of pathology over a period of time? Would the Minister want to respond to that particular invitation?

Hon. S. Young: Thank you very much. Mr. Vice-President, this Government, upon assuming office in September 2015, before I think it was December 2015, had actually done exactly that. We looked at what areas were necessary in the planning of Trinidad and Tobago going forward, and we have appropriately meshed our scholarship offers with what we think are the developmental needs of Trinidad and Tobago. Unfortunately, that had not been done for the period prior and pathology is one those areas that we are offering scholarships for.

Incidents of Bullying

(Schools in Tobago)

67. Sen. Wade Mark asked the hon. Minister of Education:

In light of the many incidents of bullying recently occurring in schools in Tobago, what measures are being taken to address this growing problem?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President. The administration of schools in Tobago is under the purview of the Division of Education, Innovation and Energy, Tobago House of Assembly. The Chief Secretary of the Tobago House of Assembly, who also has responsibility for education in Tobago, has commissioned a committee to devise a policy to deal with the issue of bullying in schools. In the interim, the following measures are being undertaken by the Division of Education, Innovation and Energy to address this issue:

1. A number of preventative programmes including conflict resolution, communication skills and problem solving are provided by guidance officers to help students to better understand themselves and others; how to respond to conflict and solve problems non-violently. The programmes are offered at both primary and secondary schools.
2. School social workers drive the responsive approach to bullying through counselling of students with behavioural problems and programmes such as anger management, have also engaged the parent/teachers' associations to sensitize parents on the issues of bullying.
3. The system of supervision involving key personnel in schools has been enhanced to minimize the incidents of bullying. Systems have also been put in place to ensure that safety starts at the school gate with the establishment of proper protocols for anyone entering the school compound and the use of specific strategies to mitigate against the likelihood of bullying. Teachers and heads of departments have been trained in areas such as classroom management, conflict resolution and problem solving skills to better threat with students' behaviour.

Sen. Mark: Thank you very much, Mr. Vice-President. Mr. Vice-President, could the hon. Minister indicate whether he is aware of the membership of the committee that the Chief Secretary has established, the terms of reference—well, I should not go in because you may say I am going to another question. So I am asking him, the hon Minister that is, whether he is aware of the composition of the committee that was established by the distinguished and hon. Chief Secretary who is in charge of education?

Hon. A. Garcia: Mr. Vice-President, at this point I am not aware and that information can be provided as soon as possible.

Sen. Mark: Mr. Vice-President, could the hon. Minister also help us in the provision of information as it relates to the terms of reference of this committee, and whether there is a timeline for submitting this report because bullying is a very serious matter in Tobago?

Hon. A. Garcia: Well, the second part of Sen. Mark's assertion that bullying is a very serious problem in Tobago, I take issue with that. However, with respect to the first part of his question, we will be in contact with the Chief Secretary and we will ask him to provide us with that information, the information that he has requested. Thank you.

Sen. Mark: Would you be kind enough to indicate, through the hon. Vice-President, whether we could get that information within one week, Sir?

Hon. A. Garcia: Mr. Vice-President, at this stage, I am unable to make such a commitment. As I said before, we will have to get in contact with the Chief Secretary who will provide that information. Thank you.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate the measures that he has outlined as interim measures to address this scourge and plague that is the disturbing schools in Tobago, whether there have been any positive outcomes in terms of results with the implementation of the various measures that you outlined as interim measures? Would you want to share with us based on your communication with the THA?

Hon. A. Garcia: Mr. Vice-President, I am very happy to state that as in Trinidad, so too in Tobago, we have seen a decline in the incidents of indiscipline and violence in our schools, and this principally is because of these measures that have been put in place in schools in Trinidad and also in schools in Tobago. Thank you.

Sen. Mark: One more question.

Mr. Vice-President: No. Next question, Sen. Mark.

University of the West Indies

(Financial Setback)

68. Sen. Wade Mark asked the hon. Minister of Education:

In light of reports that the UWI, St. Augustine Campus is experiencing a financial setback, what measures are being taken to assist the institution in addressing this problem?

The Minister of Education (Hon. Anthony Garcia): Again, thank you very much, Mr. Vice-President. The Ministry of Education is fully aware of the financial challenges being faced by the St. Augustine Campus of the University of the West Indies, and every effort has been and will continue to be made to ensure that its obligations to the campus and the University of the West Indies as a whole are met in a timely manner. The Ministry of Education is in active discussions with the Ministry of Finance to source the necessary funding for the University. As of March 31, 2018, the University of the West Indies had received approximately 43 per cent of the allocation for fiscal 2018. Thank you.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate how the poor or tardy releases of funds from the Ministry of Finance, how would those developments be impacting on the output of the university? In other words, Mr. Vice-President, the Ministry in its releases is very slow, what impact this approach, the slow releases of funds to the university, is having on the University of the West Indies output in terms of its responses?

Hon. A. Garcia: Mr. Vice-President, as we are all aware, in my previous capacity I functioned as a teacher for a number of years, and one of the things I always guarded our students, particularly students in Sixth Form, was against

circumlocution. Sen. Mark has been going about a roundabout way in asking questions. Let me first state that the Ministry of Finance has not been tardy in its releases to the University of the West Indies. I have stated in my answer to the question, that as of March 31st, 43 per cent of the allocation for fiscal 2018 has been disbursed to the University of the West Indies and, therefore, I see no merit in the question that has been asked. Thank you. [*Desk thumping*]

Mr. Vice-President: Again, let me just remind, the inferences, the character of the Members in answering questions and in asking questions, please refrain from doing that. It causes a response, and again it causes disturbance in the House when you do that. So just answer the question. So all Ministers who have to answer questions in the Order Paper, and to the askers of the questions, supplementary, or otherwise, just ask your supplementary questions without stating your opinion on how the questions are asked or otherwise.

Mr. Vice-President: Sen. Mark, supplementary question.

Sen. Mark: Yeah, I was about to deliver a TKO, but I have been advised so I will not go there. Mr. Vice-President, may I ask the hon. Minister whether he could share with us what are some of the key challenges facing the University of the West Indies as a result of financial difficulties via releases?

Hon. A. Garcia: Mr. Vice-President, I am at pains to state that we have been meeting our financial obligations. We, in this House, debated the budget in which there was an allocation to the University of the West Indies. We have been meeting those commitments and let me repeat for another time, that up to the 31st of March, 2018, 43 per cent of the allocation has been disbursed to the University of the West Indies and, therefore, I do not see any grave challenge of the university in meeting its commitment.

Mr. Vice-President: Next question, Sen. Mark.

Sen. Mark: No, I think I have two.

Mr. Vice-President: You have supplemental?

Sen. Mark: No, I am cool.

Mr. Vice-President: Okay. Sen. Obika.

**Point Fortin e TecK Park
(Resumption of Activities)**

69. Sen. Taharqa Obika asked the hon. Minister of Trade and Industry:

As regards the Point Fortin e TecK Park, can the Minister 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?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you, Mr. Vice-President. Firstly, it is not accurate to say that the Point Fortin Business Park is vacant. While there are no buildings on the site yet, the tenanting of the park is well advanced. The park encompasses 11 half-acre lots—
[*Interruption*]

Mr. Vice-President: Continue, Minister.

Sen. The Hon. P. Gopee-Scoon: Thank you. The park encompasses 11 half-acre lots of developed land space aimed at facilitating light industrial and manufacturing activities. The Evolving Technologies and Enterprise Development Company Limited, known as e TecK, received the completion certificate from the Point Fortin Borough Corporation for the park in August 2017. To date, all 11 plots are tenanted with parties in possession of letters of offer which have been accepted. Eight of the tenants have executed their memoranda of lease with that of the remaining three tenants still to be executed. In keeping with the respective lease contracts, all tenants have a three-year period from the date of execution of

the lease between both parties to obtain approvals from the relevant statutory bodies and complete construction of the respective facilities.

Part (ii) of the question: e TecK on behalf of the Ministry of Trade and Industries, and by extension the Government of the Republic of Trinidad and Tobago, is actively following up with each tenant to ensure that the three-year construction time is maintained. Thank you. [*Desk thumping*]

Sen. Obika: Thank you, Mr. Vice-President. Could the hon. Minister indicate in terms of how much revenue by way of rent or lease was received to date regarding this said park?

Sen. The Hon. P. Gopee-Scoon: I will be happy to provide that information at another time.

Sen. Obika: Thank you, Mr. Vice-President. Can the hon. Minister indicate when were the leases effected?

Sen. The Hon. P. Gopee-Scoon: As I said, eight memoranda have been executed. I do not have the dates on which they were executed with me, and that information can be provided.

Sen. Obika: Mr. Vice-President, very important to this would be the—because businesses in Point Fortin have spoken to me indicating they need space in the park; who are the parties that have received these contracts? Could the Minister inform the Senate?

Sen. The Hon. P. Gopee-Scoon: I do not have the names of the tenants with me, but if you had perhaps given a detailed question I would respond to you accordingly. [*Desk thumping*]

Sen. Obika: Mr. Vice-President, my last question on this matter. I guess I would have to bring the question—wheel and come again with this question in a different form, but my last question is: Has the Government now feel they have failed on e

TecK Park because they claimed they will created 245 jobs in November 28, 2015, and they have created none on the park? [*Desk thumping*]

Mr. Vice-President: Sen. Obika, ask the question again because I did not quite understand the question that you are asking. So succinctly ask the question.

Sen. Obika: Could the hon. Minister inform the Senate, and the Parliament if indeed with regard to this park they have failed in the provision of jobs?

Mr. Vice-President: I would not allow that question, Sen. Obika. That is the end of supplemental questions? Next question.

Sen. Dr. Mahabir: Thank you, Mr. Vice-President. Mr. Vice-President, the willingness of the Government to answer question No. 70 to the Minister of Sport and Youth Affairs and question No. 71 to the Minister of Sport and Youth Affairs posed by my colleague, Sen. Roach, is much appreciated, but I seek the indulgence of this honourable House to have the answers deferred until Sen. Roach returns to the Senate. Thank you very much.

Mr. Vice-President: Questions Nos. 70 and 71 will be so deferred until Sen. Roach returns to the House.

The following questions stood on the Order Paper in the name of Sen. H.R. Ian Roach:

Hasely Crawford Stadium/Jean Pierre Complex

(Revenue Gained from Rental)

70. Sen. H.R Ian Roach asked the hon. Minister of Sport and Youth Affairs:

Can the Minister indicate what is the total revenue gained from the rental of the Hasely Crawford Stadium/Jean Pierre Complex over the 2018 Carnival season?

Hasely Crawford Stadium/Jean Pierre Complex

(Current State of Disrepair)

71. Sen. H.R Ian Roach asked the hon. Minister of Sport and Youth Affairs:

Can the Minister 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?

Questions, by leave, deferred.

Sen. Mark: Mr. Vice-President, may I seek your indulgence? On the written section of the Order Paper in the Appendix, there are some outstanding matters particularly question No. 13. I know that the hon. Minister had said some—he had made a statement at the last sitting. I do not know, for instance, through you, if you could update us on this particular matter, Sir?

Mr. Vice-President: In relation to your enquiry, Sen. Mark, the reasons for the delay have been received and it is being attended to by the President of the Senate currently.

ANTI-GANG BILL, 2018

[Second Day] *Order read for resuming adjourned debate on question* [March 20, 2018]:

That the Bill be now read a second time.

Question again proposed.

Mr. Vice-President: Those who spoke on that day were: the hon. Faris Al-Rawi MP, Attorney General, mover of the Bill; Sen. Gerald Ramdeen; Sen. Mahabir; Sen. Jennifer Baptiste-Primus; Sen. Ameen; Sen. Ian Roach; Sen. David Small;

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Sen. Foster Cummings; Sen. Taharqa Obika; Sen. Taurel Shrikissoon; Sen. Melissa Ramkissoon; Sen. The Hon. Clarence Rambharat, Minister of Agriculture, Land and Fisheries; and finally Sen. Paul Richards. Sen. Hosein. [*Desk thumping*]

Sen. Saddam Hosein: Thank you very much, Mr. Vice-President, for recognizing me to contribute to this debate on the Anti-Gang Bill, No. 4 of 2018. It is no secret to the people of Trinidad and Tobago that crime is the number one issue that is affecting our society. For over 15 years we have seen remarkable levels in the increase of crime, serious crimes, and that successive Governments have tried in order to suppress criminality and the murder rate in the country, but some have failed and some have been successful in their attempt, and I say that during the period of 2010—2015 the People's Partnership Government, led by the hon. Leader of the Opposition now, has been able to reduce crimes to the lowest level in over 33 years [*Desk thumping*] and, Mr. Vice-President, that trend continues until 2018, as we have seen over 130 murders occurred so far from period January 2018 to present date.

January of this year has been dubbed as the bloodiest murder in the history of our country, accounting for over 59 of those murders, and it cannot be business as usual in Trinidad and Tobago because our people are dying, our young people are dying especially. We have now been forced to put ourselves in self-imposed jails. Nowhere is safe, and that place you regard as your castle, which is your home, is not even safe anymore because the criminals are coming into your homes and killing you, and criminality, gang activity, murders, they affect every single society of our country. It causes a breakdown in the families, it causes a breakdown in the communities, and it destroys our youth. It is a destruction of the social fabric of this country. It is a cancer on this country, gang activity and

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murders. It affects our economy because we have seen very recently that the United States of America, Canada, and the United Kingdom, they have issued travel advisories warning their citizens from coming to Trinidad and Tobago. This has a very debilitating effect on our economy in terms of tourism, Mr. Vice-President.

As we have seen for the past two years since the PNM has been in Government, it has had the lowest amount of tourist arrival in Trinidad and Tobago, and something has to be done as this Anti-Gang Bill alone is not the cure-all for the crime in this country. [*Desk thumping*] We need a holistic fight against crime. We need to target primary, secondary and tertiary levels. We need to target the primary persons who are now becoming or being budding criminals in this country; then the secondary aspect, we attack the criminals themselves. We either try to rehabilitate them, or we try to punish them for whatever wrongs that they have committed; and the tertiary fight is that of rehabilitation after they have been convicted of various offences.

So when we look at this Bill, being a mere 19 pages, 14 pages sorry, 19 clauses and two schedules, it has very serious measures, dire consequences, and it gives the police extensive and extraordinary powers and this is the reason why when this Bill was brought in another place at another time in 2010 a sunset clause was included, and the reason for that sunset clause is that it would ensure accountability and checks and balances on the extraordinary powers of the police. For the listening public, what is the sunset clause? It is basically a clause that was inserted in the Bill so that when the Act is proclaimed and assented to, it would only be enforced for that period of time as prescribed by the sunset clause, and when that period has expired the Act is no longer of any force. So we must look at

what happened in December of 2017 when this Bill was brought back in another place, Mr. Vice-President.

Simply, what the Opposition Leader at the time was doing was actually ensuring accountability and checks and balances on the extraordinary powers being given to the police [*Desk thumping*] and that is why at the time we could not have supported the Bill because we thought that the police should be made to account for the powers that have been given to them. But we are here today, Mr. Vice-President, all of us who have debated on this Bill so far, we have to be grateful for the intervention of the Opposition Leader because had it been not for her experience and her expertise in this area we would not have been here. The Attorney General and Minister Robinson-Regis would have indicated that the Bill could not have been brought back in this Session, but the Opposition Leader, she read the Standing Orders and saw we could have suspended the Standing Orders in order to resume debate on this Bill and for that we thank her. [*Desk thumping*]

Mr. Vice-President, when we look at the several clauses of this Bill, I would say that although we on this side support the Bill, it is not a perfect Bill and there is always room for improvement. We on this side, our belief is that we should strengthen the legislation. The law association would have made various comments regarding the circularity of certain clauses of the Bill in terms of the offences being in the schedule of the Bill and also being substantive offences forming part of the Bill, but there is one offence I want to look at and I would regard this as one of the simplest offences in the Bill and that deals with clause 6 of the Bill and it reads at clause 6:

- “(1) A person who—
 (a) is a gang leader;

- (b) is 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.”

So simply, we are criminalizing the offence of actually being in a gang, gang membership, but now the difficulty lies when we examine this properly on how we are going to prosecute this crime.

Because let us take for example, a person who is a gang member commits an offence. Now, we have to look at what a gang member is. So when we look at clause 4 of the Bill that deals with the definition of a “gang member”, it states that it is:

“...a person who belongs to a gang, or associates himself with...gang-related activity;”

So now we have to go and find out what is a gang and the “gang” means:

“...a combination of two or more persons, whether formally or informally organized, who engage in gang-related activity;”

11.00 a.m.

And now we have to go and find out what is gang-related activity in the Bill. So it shows the complexity of prosecuting these types of offences. And then when you look at the gang-related activities, it would be the offences as set out in the Second Schedule of the Bill I believe. So it shows the difficulty that the police would actually have or the DPP’s office in prosecuting these crimes, because far too often, the crimes that are present in the Schedule of the Bill, for example, kidnapping, murder, the police are unable to properly investigate these types of offences and therefore, they fail in the courts. So now you have to give them

additional work in order to actually prove the gang offences in addition to those traditional offences that find themselves in the Schedule.

When I looked at the Kenyan legislation, Mr. Vice-President, it seems to simplify this issue in terms of the complexity of defining a gang member. All it says is that a person who belongs to a gang is a gang member and all they did was actually define what a gang is but they used the term “organized criminal group”. One suggestion I would like to also make to the Attorney General—I see he is here in the Chamber—is that when we look at the Kenyan legislation, there is actually a provision where the Minister on the advice of the Commissioner of Police can actually declare organized criminal groups. So this may actually assist the police when prosecuting gang membership. Mr. Vice-President, if I may read the provision in the Kenyan legislation to the Attorney General. It says:

“Where the Minister has reasonable grounds to believe that a specified group is engaged in any organized criminal activity under section 3 of this Act, he may, on the advice of the Commissioner of Police, by notice, declare that specified group an organized criminal group for the purposes of this Act.”

So what you are actually doing is now you are actually putting notice into the public of who the gangs are so that they will now know not to associate themselves with these individuals. And this makes it much easier to prove gang membership because once you can show that the police associates with this declared gang, then they commit an offence. So I would ask the Attorney General to look at that. And there is also a check and balance on this provision in the Kenyan legislation that any person who has been aggrieved or they believe that they are not an organized criminal group, they can, in fact, apply to the High Court in order to challenge that decision of the Minister, and this type of clause finds itself in other legislation that

we are also dealing with.

Another clause I want to look closely at is clause 16 of the Bill which actually deals with the detention provisions of the legislation. Clause 16 of the Bill gives the police extensive powers and it may be very draconian also because once the person is detained, even without a warrant, they can be detained by the police for a period of up to 72 hours, and then if the police wants to continue the detention, they apply to the High Court and they can get a period up to 14 days. So we can keep a person in the police station for up to 14 days without charge, Mr. Vice-President. That is the extensive powers that are actually being given to the police through this legislation. And I want to say this and I want to put it on the record that far too often, the police, what they do is pick up the boys from the corner with no evidence, put them in the station and then they decide to gather evidence against them. That is not how it is done. What the police actually have to do is to do their work before they actually detain or arrest any individual and especially for offences such as these, being gang-related activities and gang membership. The police have a right or they should do their duty in order to conduct proper surveillance of these gangs so that they can know who are the members of the gang and whether or not these persons are actually involved in the gang-related activities. So I say that giving the police these powers, they now actually have to perform the checks and balances on themselves so that they would do their work before they actually arrest someone.

Now, when we look at the First Schedule of the Bill, it provides for an offence with respect to section 9, the possession of bulletproof vests. Now, when I looked at the 2010 legislation, a definition was actually given for a "bullet-proof vest". I see in this 2018 Bill that was laid that that definition was actually

removed, so I ask the Attorney General, in his winding up, for the reason for the removal of the definition. Also, I want to ask the Attorney General, when I looked at the Firearms Act, there is an offence for the manufacture of guns and firearms and I think that that would actually be something that we can look at in terms of including it in the Schedule. Because we have seen in this country where criminals are now very innovative that they create their own guns, because we see many, many homemade guns are actually being manufactured by certain criminal elements in this country. So I ask the Attorney General if he can look at that in terms of inserting the manufacture of guns as an offence listed in the Schedule.

And also under the Prevention of Crime (Offensive Weapons) Act, we can probably look at including this also in terms of opening up the types of weapons that criminals use, gangs use, because they are very dynamic in terms of how they operate. So the inclusion of the Prevention of Crime (Offensive Weapons) Act can actually open it up so that we can include non-traditional types of weapons. Because there have been reports where gangs are now using grenades and high-military weapons.

Also, I saw at clause 16 of the Bill, subclause (3) to be more precise, that they spoke of the custody record and I know that the Attorney General would have circulated some amendments regarding this and this would have also been an issue that was raised by the Law Association of Trinidad and Tobago regarding the custody record. I see that the amendment is now to include the station diary but I think that this amendment is actually otiose, because when you look at Standing Order 17 of the police Standing Orders, they actually have a duty to record any person that they detain in the station diary so it is basically reiterating what the police Standing Orders actually say. So I do not think that this amendment is of

any moment. However, I would say that the police service should now move from actually putting handwritten entries into a station diary and into a more modern system where they actually put the information into a system so that every police station in the division or the country could access that information, because it would now be easier to target, pinpoint and actually make the connections with all these gangs that operate in our country. Those are the issues so far that I had picked out when I looked at the Bill, Mr. Vice-President.

So now, once the Bill is passed and it goes into law, we must now examine how it is actually going to be operationalized because this Bill actually touches and concerns every single aspect of the criminal justice system which is made up of the police which is in charge of investigation and prosecution; it is made up of the court which is responsible for adjudicating on these matters, and also the prisons which is responsible for rehabilitating these persons who have been convicted. And we must look closely at the type of evidence that the police is required to gather for this type of offence in order to get a successful prosecution. There is a Court of Appeal judgment which is very instructive on this point. It is Civil Appeal, Appeal 162 of 2015, *The Attorney General of Trinidad and Tobago v Kevin Stuart*. It is a very famous judgment, please, Mr. Vice-President, and it actually dealt with the issues of unlawful arrest and false imprisonment and if you would allow me to quote from the judgment, Justice of Appeal Bereaux, he stated that:

“It is readily apparent from these provisions...”—when he was examining the anti-gang legislation—“that proving gang membership in a court of law is no slam dunk. It requires a careful compilation of the evidence showing how the gang is organised, how the gang activity is perpetrated through gang

members and their respective roles in such activity. Evidence at trial must be carefully led to show the nexus between the gang, the members and the activity. In a case where the gang-related activity...to narcotics, evidence of actual sales of the narcotics is required to prove the gang-related activity.”

He says that:

“Mere surveillance without more may not suffice. It is not...simply observe the accused making ‘interactions’ with other persons.”

He went on to say this:

“Undercover detection may be necessary. The best evidence would no doubt be that of a former member of the gang who has direct knowledge of its activities.”

And when we look at his judgment, Mr. Vice-President, what the court was actually examining there is one of the lowest standards in criminal law which is that of whether or not the arrest was actually lawful. So if the police is unable to satisfy the court at this level, it is going to be very difficult for them to prove a charge beyond reasonable doubt. And one line that struck out to me from Justice Breaux’s judgment is that he said that the best evidence would be former members of the gang who have actual knowledge of the activities of the gang. But what have we done so far in this country to grant incentives to these gang members to come forward to actually give evidence? Nothing has been done. What about our Witness Protection Programme for persons who are in the gang or out of the gang who want to give evidence? Can we sufficiently protect them?

Mr. Vice-President, I know Sen. Ramdeen would have raised several issues regarding the Witness Protection Programme but we must strengthen the Witness Protection Programme in order for this legislation to actually be implemented

properly and operationalized. Because as Justice Breaux said, the best evidence would be a live witness in the box, mere surveillance is simply not enough. So in order to actually see any success in this legislation, get the ground work right before we even move forward. The United States, they actually have one of the best Witness Protection Programmes where the witnesses are actually put under 24-hour surveillance, they are relocated and in some instances, they actually change their identities. And the reason why our Witness Protection Programme in this country would have difficulty in working is because of how expensive it is to maintain any witness and criminal trials in this country take almost 10 years before it reaches the court. So are we going to have to maintain a witness for over 10 years? If we fix that problem, shorter trials, speedier trials, sorry, then that in itself would actually assist us in putting these persons through the Witness Protection Programme and that is one aspect of it in terms of how we are actually going to prosecute crimes under this legislation.

But, Mr. Vice-President, it had one issue that really touched my heart deeply and that is the matter that is currently before the court, and I am aware of the Standing Orders and this is an issue that is in the public domain. It is the prosecution of the accused persons in the murder of Dana Seetahal, Senior Counsel, former Senator of this Parliament. And Mr. Vice-President, this issue touches me very deeply because Ms. Seetahal, I would have completed my 10 weeks in service training with her at her Chambers at El Dorado Chambers. She would have also coached me in the International Criminal Court Moot Competition and I am sure that every single citizen, when they heard of her execution, that chills ran down their spine, the nation went into mourning when Senior Counsel Seetahal was executed. And, Mr. Vice-President, you know what happened in that

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matter? There was a blunder in that prosecution. I would read from a—

Hon. Al-Rawi: You have got to be careful.

Mr. Vice-President: Senator, is that—

Sen. S. Hosein: Yes, I am going to quote, Mr. Vice-President.

Mr. Vice-President: No, no, no, no, I would caution you not to go down that road in relation to an on-going matter or a case that is in the courts as it is right now. Could you move on to another point, please?

Sen. S. Hosein: Mr. Vice-President, all I will simply say is that that part of the matter is completed. I have an article, I will quote from it.

Mr. Vice-President: Still, it is still in the courts as it is right now, could you move on from that. Not go down the road of that point. Could you move on, please?

Sen. S. Hosein: Mr. Vice-President, we would have seen that in certain instances where the police would not have laid the charge properly. So in cases, we see that elementary issues such as laying the charge the properly because in the criminal justice system, you have two offences. You have a summary offence, you have an indictable offence. A summary offence is laid through a complaint, an indictable offence is laid through information which is laid in the Magistrates' Court. In cases like these, we see that they lay a summary charge on the wrong form which is the information. What happened is that accused persons will now have to be discharged because they simply laid the charge wrong. So how are we going to properly prosecute these offences if we cannot get the basics right? So, Mr. Vice-President, this would lead to many persons actually being discharged from the courts in terms of laying charges properly under this legislation.

I also want to look at what the DPP had to say about this matter, Mr. Vice-

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President. In a *Trinidad Guardian* article published on Monday, November 7th of 2011, it is entitled: “Cops get tongue lashing from DPP”. And DPP Roger Gaspard, Senior Counsel, he would have said that:

“...the enforcement authorities must ensure:

- Proper preparation by law enforcement agencies;
- Co-operation rather than competition among law enforcement agencies;”

And I pause there, Mr. Vice-President, to say that there is experience in this country where the police, within the service, they do not share information between themselves and this actually causes a problem in prosecuting crimes in this country. It does not make sense that the police gather all this evidence but Central keeps their intelligence and Port of Spain keeps their intelligence. There is no information sharing. They operate in silos and I think there needs to be some sort of bridging of that gap in order to encourage some cohesiveness between the law enforcement agencies in this country.

The DPP also said that there must be:

- “• Proper and current police documentation of gang affiliation and activity;
- The developing of gang data bases;
- The employment of informants and the development of an Informant Policy;
- A close study of gang dynamics and group criminal behaviour;
- A proper appreciation of accessorial liability as it pertains to gangs;
- The development of a Gang Unit;”

And I think that one has already been completed and:

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- “• Effective surveillance strategies and, most importantly, gang experts who are thoroughly conversant with gang dynamics.”

So those are the comments by the Director of Public Prosecutions that while he had issues with the Bill, he also pointed out the inefficiencies with regard to the enforcement and the operationalization of the legislation in terms of proper prosecution of offences under the anti-gang legislation.

Mr. Vice-President, having dealt with the police, their prosecution and the length of the time that the courts take to move, we must look at the end game of the prison system. And the prison system is actually for rehabilitation and when we look at the legislation, it actually criminalizes or—I should say creates new offences such as gang membership, coercing gangs, harbouring gang members and these offences carry very heavy fines. Some start from five years' imprisonment for harbouring a gang member; 10 years' imprisonment for concealing a gang member; 15 years for recruiting a child; 25 years for being a gang leader and in some cases, 30 years for gang members taking retaliatory reaction. So we see that these are the heavy fines that are actually imposed and these offences would also involve issues of witness intimidation and evidence tampering.

So when a court sits to grant bail for offences under this legislation, what actually happens is the magistrate now has to weigh this accused right, his constitutional right to bail and freedom and also the magistrate now has to weigh the propensity of committing other offences, also witness intimidation, witness tampering and also the heavy fines that this legislation actually imposes. So it might be very difficult for a person to access bail if it is even granted in these circumstances. So therefore, we would now actually be increasing the prison population because we will now have to house these accused persons. And we can

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actually gauge the amount of the prisoners that may actually enter the system because the Attorney General, he had provided a comprehensive breakdown of the gangs by a fact sheet dated the 29th of November, 2017, where there are actually 2,484 gang members and a total of 211 gangs operating in Trinidad, and that is as of November 2017. We are now in April of 2018 so I am sure that there would have been some increase in the amount of gang members. And the Attorney General also alluded that he knows every gang member, every gang leader's name, street address, affiliation and operation. So I know it would be very easy now for the police to actually go in and get these gang members and start prosecuting them.

And when we look also at the current state of affairs of the prison because we have to look at that also where we are going to house these prisoners, is that in the Golden Grove Arouca Prison, it has a capacity to hold 655 inmates but as of the 9th of December, 2015, there are currently 1,032 inmates, and I got these figures from the Prison Reform Public Consultation held by the Office of the Attorney General on August 6th and this actually, Mr. Vice-President, now reflects the overcrowding issue at the Remand Prison. The prison now actually holds almost double of its capacity and now we are going to increase the prison population by putting, let us say, over 1,000 persons inside of that prison. And this is actually a recipe for disaster because when we start mixing rival gangs in the prison, what is actually going to happen? Because there is no space simply to put them and the justice system is clearly operating on two speeds: slow and stop.

There is one thing from the presentation by the Office of the Attorney General that stuck out to me is that there was an offence—a person was incarcerated for an offence using obscene language. The time he spent on Remand was five years and six months. Five years and six months for “ah cuss case. And

yuh know wais the maximum fine fuh this?” Thirty days, 30 days, Mr. Vice-President. So if a simple matter like that takes five years and six months and a trial probably takes about 10 years before it reaches the High Court, then being a gang member, which is charged under an indictable offence, the time he waits for a trial, he might very well be dead. I remember when I was in another place employed at the Office of the DPP doing one matter, a file came to me and it was a matter that the offence occurred in 1992. I was probably about one year then. [*Interruption*] Yeah, one year old then and I had to prosecute that matter. So we see the deficiencies in the criminal justice system that actually occur.

But when I look at all of these operational issues, what we are actually doing through this anti-gang legislation is just treating the symptoms. “Is as though yuh go to the doctor and yuh just ask something for the cough but yuh do not look at what is causing the cough.” And when we look at the root causes of gangs, it depends on the society and the community in which those gangs operate. Those are the issues that significantly affect gang activities in this country. And gangs, they develop as a result of breakdown in the community and a breakdown in community values. So it is incumbent that there must be a development of better and stronger communities. There must be an increase in the social cohesion between communities. And being also a student of criminology, we learnt several terms and one being that of collective efficacy and neighbourhood legitimacy, and those notions, they really regard as cohesion amongst neighbours and their willingness to intervene on behalf of common good on behalf of that community, and it reflects the process of activating or converting social ties among neighbourhood residents in order to achieve collective goals such as public order or the control of crime.

So what it actually does, what this actually says in layman language, Mr. Vice-President, is that we live in a community, we must all have shared goals and shared values so that if we see someone breaking open our neighbour's house, that we call the police. We actually call the police, we just do not blank out to it and say, "Well, no, I doh wanna get involved in that because they might come for me after." We must be our brother's keeper. And once we start to increase this, we can actually try solving the issues of gang violence and gang activity in this country.

And there must be two things when we examine a community to see where a gang prospers. There are two factors we look at. We look at the structural conditions of the neighbourhood and the level of social cohesion of that neighbourhood. And the structural conditions would be factors such as residential stability, social problems, child abuse, victimization and poverty. And although they say that crime should not be a political issue or that the Government is not to be blamed for crime, if the Government actually increases or addresses the structural conditions of these communities, such as providing jobs, providing training, increase in community activities, recreation grounds, we can see that the youths will not now be idle and they can have some sort of activity in which that they can participate in. So the Government actually has a part to play in furthering the effectiveness of any community and that in itself would have a direct effect on the social cohesion because once you get the community participating together, there would be now social ties and bonds being built between the members of that community.

I remember the Minister of Labour and Small Enterprise Development, in her contribution, would have alluded to sports in the prison and that it reduces

crime. But if the Minister was able to preserve the thousands of jobs that have been lost and families who are on the breadline, then that could actually be a solution or it can actually help with the crime situation in this country. [*Desk thumping*] And if the Minister of Trade and Industry could bring some sort of investment in this country so that the youths can have an opportunity, then we will have all those idle hands now being used for productive activity. [*Desk thumping*] And if we could have the Minister of Agriculture, Land and Fisheries opening up projects so that the youths can now be engaged in agriculture so that we can start feeding the nation, then, in fact, we can now be creating social ties in this country. [*Desk thumping*] And if the Minister of Foreign and Caricom Affairs, if that Minister can actually send our youths aboard to study through Government arrangements, then we can see a reduction in crime and youth delinquency in this country. [*Desk thumping*] So the Government has a big part to play when it comes to dealing with crime and criminality and youth delinquency.

There is a UNDP report that was done in 2012 and that report looked at the community of Laventille and it showed what is actually happening there and there was poverty, there is lack of employment; businesses are fearful to actually open any business in Laventille; public services are withdrawn such as electricity and garbage collection.

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

Sen. S. Hosein: Thank you. And Mr. Vice-President, you know who has been representing Laventille for the past 50 years in this country? It is the People's National Movement and they have failed the people of Laventille. [*Desk thumping*] They have failed the people of Beetham; they have failed the people of Sea Lots; east Port of Spain, the entire east Port of Spain.

And, Mr. Vice-President, since I have five minutes, I would just like to wind up some of the solutions to the problems. Under the United National Congress Government, the astute leadership of Kamla Persad-Bissessar, Senior Counsel, she introduced the Community Comfort Patrol. That, in itself, shows that deterrence was through presence. Once the police are present in the communities, it would be some sort of deterrence for criminal activities.

And I ask the Government they should reintroduce community policing into the communities because this can actually serve as a deterrent to criminal activities.

11.30 a.m.

There is also a programme called the GREAT programme; that is the acronym. It is actually Gang Resistance Education and Training programme where the law enforcement agencies engage the children in the schools. So it forms part of the curriculum so that they can now be away from gang violence and they would respect law enforcement agencies and this actually builds bonds between the children and the law enforcement agencies and this extends to the whole family at the end of the day, Mr. Vice-President.

There is also the Cure Violence initiative and the Peace Promotion and these models are similar to what happened in the cease fire model in Chicago, Mr. Vice-President. So these are all initiatives which we can actually use so that we can reduce youth delinquency and gang violence in Trinidad and Tobago. And these are very feasible, non-expensive programmes, Mr. Vice-President, so that the Government has no excuse when it comes to implementation and introduction of these programmes.

So I want to say that the anti-gang legislation is not the panacea for all the

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woes of crime, because the Government had led the population to believe that, when the Bill was not passed in December 2017. And if they think that this legislation is going to be the end all/do all of the criminal situation in this country, well then I have news for them, Mr. Vice-President. Because the country is waiting with bated breath, because the Opposition has now supported the legislation and it is going to be passed; hopefully the Independents take a similar position. But once the legislation is passed, the Government has no excuse because they said that they want the anti-gang legislation. They got the anti-gang legislation. So we hope that there is going to be a reduction in the levels of crime.

Mr. Vice-President, before I close, there is a man who said something and he said that any time a government resorts to blaming the Opposition for its failure to deliver on their mandate and their responsibility to the people, it is a clear sign that they have accepted that they have outlived their usefulness and if the Government cannot deal with it, that is crime, then the Government itself is part of the problem. And I want to say that the People's National Movement has outlived their usefulness in this country in the fight against crime and they are now part of the problem. I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Ronald Huggins: Thank you very much, Mr. Vice-President, for allowing me this opportunity to contribute, as we continue to work relentlessly to build a better Trinidad and Tobago.

First and foremost, I would just like to clear up the misinformation that that the Opposition Leader would have had some epiphany, or some change of heart caused by some good or superior nature. It was far from the truth, Mr. Vice-President. We saw where a united party stood divided on one occasion, where some persons would have even abstained or not even be there for the vote. And I

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would like to put on record that it is public pressure that caused the Opposition Leader to bring this Bill back here today, public pressure. Yeah? [*Desk thumping*]
And we will see that as we go along here, Mr. Vice-President.

This Bill, Mr. Vice-President, is one we see as a Bill which favours life over death, a Bill which favours people over politics, a Bill which favours justice over injustice, and a Bill which favours action over inaction. When an Anti-Gang Bill, a Bill of this nature, comes before the Parliament, a Bill which is presented as, and I quote:

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

I am duty bound to concur with the Attorney General in saying this, Mr. Vice-President, is good law.

Trinidad and Tobago has a Constitution, which places, as a duty on the State, to protect, promote and fulfill the fundamental human rights and freedoms of citizens of Trinidad and Tobago. Criminal gang activity infringes on those rights and freedoms of individuals as enshrined in the Constitution and therefore, as a responsible Government answerable to the citizens of Trinidad and Tobago, and having pledged to represent their interest, we are here today pressing and making every accommodation and adjustment possible, Mr. Vice-President, even though at times we admittedly consider some of the Opposition's recommendations questionable or unreasonable at times, but in the interest of giving our law enforcement agencies that additional means necessary to fight crime and in particular gang-related activity, we have worked with the Opposition's demands in the best interest of the citizens of Trinidad and Tobago. [*Desk thumping*]

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Now, this call for anti-gang legislation is coming from all quarters of society, Mr. Vice-President, all quarters. I would like to draw to your attention one High Court Judge, Justice Frank Seepersad, as being quoted in a *Newsday* article on Sunday 24th December, Christmas Eve, 2017, titled:

“Judge to politicians: Pass anti-gang laws”

And I quote:

“Justice Frank Seepersad delivered an early-morning Christmas Eve sermon in which he was asked the question of whether there is a fear in Trinidad and Tobago to pass legislation that is intended to root out criminal gangs.”

He said:

“If there exists such a fear,...those who harbour such know too well that judges and magistrates will jealously guard and defend the rights of citizens.”

He called on politicians and citizens to unite in order to stem what he describes as the barbaric operation of gang warfare in the country.

He highlighted that:

“On December 7, the Opposition in Parliament refused to support the Government’s proposed amended Anti-Gang Bill.”

He said:

“...after much debate in the country after anti-gang legislation, it is difficult to comprehend why anyone would be fearful of legislation that is intended to tackle gang activity.”

Mr. Vice-President, I went a little further, in terms of identifying exactly what these gangs are about and it led me to the US Department of Justice’s website, Mr. Vice-President, where, seeking a further definition, in terms of research that would

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have been done outside of Trinidad and Tobago into gangs, and it shows that gangs:

“Whose members collectively identify themselves by adopting a group identity, which they use to create an atmosphere of fear or intimidation...”

The association's:

“purpose in part is to engage in criminal activity and...”

The association:

“uses violence or intimidation to further its criminal objectives.”

Its:

“members engage in criminal activity or acts of juvenile delinquency ...with the intent to enhance or preserve the association's power, reputation or economic resources.

The association...provide physical protection of its members from...”—
 other criminals and gangs.

“The association...seek to exercise control over a particular location or region, or it may simply defend its perceived interests against rivals.”

Mr. Vice-President, we are hearing about structure, power, resources and territories. So we know that these gangs are well organized, they are well funded, they know what they are about, and as time goes by, without any relevant anti-gang legislation in place, these gangs will continue to grow and grow.

And just to go a little further, Mr. Vice-President, the Campbell University School of Law, 1998, in an article entitled “The Constitutionality of Anti-gang Legislation” by Beth Bjerregaard on page 31; listen to this:

“Street gangs are thought by many to present a clear threat to public safety. As Jeffery Mayer states, ‘gangs are routinely portrayed as an alien presence

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in otherwise stable communities.”

So, in other words, in otherwise stable communities gangs would be aliens, so you would not really see gangs in Westmoorings and Valsayn, and so forth. Yeah?

Now, gangs are now thought to be heavily armed with a sophisticated array of weaponry, as Sen. The Hon. Jennifer Baptiste-Primus was describing in her contribution, sophisticated array of weaponry.

“Urban street gangs are associated with the drug trade and an increase in homicides in many areas.”

Listen to this, law enforcement agencies, because I heard a contribution that would have more or less stated that we have laws in place to deal with this type of activity already, but listen to this:

“Law enforcement agencies and courts have been largely frustrated, by attempts to control the problem”—of gangs—“through the application of traditional criminal laws.

As a result, state legislatures have drafted new legislation aimed specifically at addressing the problem of criminal street gangs.”

It goes on to say that:

“...in 1988, California became the first state to pass anti-gang legislation...”

Mr. Vice-President, we live here in Trinidad and Tobago. There is a sworn affidavit by the Acting Commissioner of Police, which gives scientific data and research, in terms of our position here in relation to gangs, 35 per cent of all murders, according to his statement, are gang-related, 35 per cent. And over a three-year period, from 2014 to 2017, they have identified and recorded an increase in gang membership of over 1,000 persons. One thousand persons, and that is an increase. Today, well 2017, the figure stands at 2,415. But imagine an

organization growing by 1,000 persons in three years.

Again, this Bill is about action over inaction; life over death. Because, as we examine the situation, we can only feel duty-bound as Members here to do something about it, to take some type of action. And, Mr. Vice-President, that is the agenda here today. So we ask: Why this Bill? We believe that it is the right of every person, Mr. Vice-President, to be protected from fear, intimidation and physical harm caused by the criminal activity of violent gangs.

This Government is committed to supporting the fight against crime, Mr. Vice-President, and the Attorney General has already successfully tabled legislation to fight various manifestations of crime, Mr. Vice-President, from white collar crime, blue collar crime, and pretty soon green collar crime, crimes committed against the environment and also in the mix, the public is calling for more legislation to fight yellow collar crime, which will be those crimes committed on the Treasury between 2010 and 2015. So that is also in the mix, legislation to fight yellow collar crime, Mr. Vice-President.

Now, if we take a look at clause 10 of this Bill, which kind of jumps out for me. We recently had a walk in Beetham Gardens and in Laventille; areas that persons would consider to be “hot spots”. I had the honour of going there with the MP, Hon. Fitzgerald Hinds, and it was amazing. It was amazing to hear persons say that they want this legislation. Some of the persons that were saying they want this legislation made specific reference to the fact that there are members of criminal gangs and they wish to leave, but it is like the song Hotel California, you can enter at any time but you can never leave.

Clause 10 of this Bill addresses that, and gives persons some sense of hope that should they, at some point in their life, be misguided and end up in a gang and

want to leave, there is some redress. Clause 10 says:

“A person who prevents a gang leader or gang member from leaving a gang commits an offence...”

This one item here, item 10, gives hope to those persons who would want to change their lives and get out of that lifestyle of crime and criminal activity.

We also take a look at clause 14 of the Bill which also stood out for me, and it spoke about recruiting.

“(1) A person who recruits another person to a gang commits an offence and is liable—”

And it goes on to name the penalties.

Mr. Vice-President, I do not know if hon. Members here are aware of how these gangs operate in communities, because while we may see on the news all the crimes committed by these gangs, these gang members and gang leaders operate in communities and are actually very charismatic and able to lure persons into their criminal gangs. And one group in particular that I am very concerned about, because I have seen it myself, is there is a phenomena among the gang leaders in these communities where they prey on the young women and the best looking women in the communities, and due to force and coercion, those women end up being a part of the gang, being recruited by these gang leaders. And if there is some semblance of hope in this Bill, Mr. Vice-President, that could prevent and discourage that from happening, I am in full support of this Bill. *[Interruption]* And the women, yes Senator, and the women.

You know, listening to the Opposition Bench there, you would swear that they had no part at all to play in this Bill, like they are totally divorced from it, because I heard Sen. Hosein saying that some of these persons who are charged

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may die before they actually get convicted. But yet, you all are pushing for a two and a half years sunset clause. [*Crosstalk*] But admitting that the system takes so long to actually get persons convicted—[*Crosstalk*]

Mr. Vice-President: You do not need to shout across the floor. You could ask the Member to give way if you have something to say, or you just have to allow him to finish his contribution.

Sen. Hosein: Sure.

Sen. R. Huggins: Yes, so I see it as a bit of tongue twisting on the part of the Opposition, Mr. Vice-President, very respectfully.

This legislation, Mr. Vice-President, aims to make law enforcement agencies more effective at crime fighting, particularly in relation to gang-related activity and providing the support that will give the families of murder victims a better chance at seeing justice for the loss of their loved ones, will give victims of robberies and assault a better chance of getting justice and can also act as a crime prevention tool, so that citizens would reduce the probability of experiencing the trauma of coming face-to-face with criminal gang activity.

In closing, Mr. Vice-President, I would like to assure this honourable Senate that we are bringing this Anti-Gang Bill here today, not because it is a good idea but because it has to be done. I thank you very much. [*Desk thumping*]

Sen. Stephen Creese: Thank you, Mr. Vice-President. I wish to begin by commending the Attorney General for what is the second piece of legislation that focuses on stability, security of the individual and overall security within the State. The omnibus legislation, which was recently before us, had that as its focus, and this too is a feature of this piece of legislation that is now before us, the question of security, safety, even the broader question of the security of the State as an entity

in modern society against forces working against it.

I remember drawing attention to the question of globalization and its impact on small societies, and the gang structures and the phenomenon of gang violence is an international feature that has societies like ourselves in its grip. And I think it is the preponderance of violence that adds a particular quality to this, and of course results in a commonality of fear, the burglar-proofing syndrome that now predominates. But I think there is a tendency to place perhaps way too much emphasis on this, in terms of what are the forces that are possibly disrupting our society.

And I have a concern that there are other types of gang activity that are not being similarly addressed, and I often wonder, when I was going through other pieces of legislation from, you know, different jurisdictions, as to whether we are all sort of motor-visioned, uni-visioned and we are trapped in a focus that sees violence only as those acts carried out on the physical person, that sees violence only in its physical form. And I often wonder whether psychological violence, and in situations of domestic abuse, the different types of violent forms are much more easily perceived. But the threats against our society, against the individuals, against the State even, has both physical and psychological aspects. Having said that though, and I would later, in going through the detailed provisions, return to the question of the types of gangs that have been functioning in our society and whether the street gang phenomenon is the only type of gang that our legislation should be geared towards, if the notion, if the driving perspective behind it, is public safety and individual security as well.

I think it was a Senator who was on that side, who drew our attention to work that was done by previous Commissioners of Police. Reference was made, I

think, to Tony May and to Randolph Burroughs and allusion to their success. There is a tendency for hindsight to often glorify the works of mankind. And without getting into all that was involved in 1970, and its implication for gang activity and street violence, I think, perhaps, that is best left alone. That will require a dissertation by itself.

But the maintenance of public order, through discouraging membership of criminal gangs, you know, is the stated overriding goal of this and, you know, they go on to cite the provisions of the Constitution, which, you know, assumes that all of us would be able to enjoy our rights as citizens, not to be disrupted by the activities of course, as envisioned under the anti-gang legislation.

What I found interesting is that there is an emphasis on the conspiracy to commit an offence. They talk of acting in concert before or after any act. And what I found interesting is that the reference to the Police Service Act and the powers that are to be granted, in terms of investigative powers, of all the various divisions, we are talking about the Customs and Excise Division, the Board of Inland Revenue, Defence Force, prison services. And there is in this Act an appreciation for the need for collaboration between various agencies of the State.

What I will be consistently arguing is that the representation of the people, ROPE, is it is referred to, that the Elections and Boundaries Commission has a place in all of this, and I will come to it when I get to the Schedule, as to the link and as the other type of gang activity that subverts the State, that subverts the need for peace and good order and for the enjoyment of our civil liberties.

Because again, because of the perspective on physical violence, there is a tendency to overemphasize the danger that street gangs, as one type of gang, can have, or does have on our enjoyment of our civil liberties.

The thing about the conventional approach to gang activity is that we miss the forest for the trees, in a sense. For instance, you know, there is the understanding that a police officer, prison officer even, a member of the Defence Force, SRPs, that there is need for them to take certain kinds of actions, to gather certain kinds of information, and so on.

What we need to recognize is that, and I think the focus in this Act is mainly on the police, when in fact there is a seamless interaction between gangs on the street and gangs in the prison, and I feel there is a deficiency in this legislation in recognizing that seamlessness and recognizing that gang activity, really the walls of the prison are a mere inconvenience, good, and that gangs exist across those parameters, those boundaries, that we here recognize, but they do not.

I think it is common knowledge that criminal elements operate from behind prison walls, good, and that “hits” can be put out, whether or not you are at your home, wherever that is in Trinidad and Tobago, or whether you are presently incarcerated.

12.00 noon

So I think it is that lack of perspective in our collective vision that makes us miss that point and miss the need for, in terms of the war on gang activity, to be sustained both by the regular policing elements, the blues and grey, as well as those policing elements who operate from behind the prison walls.

I will return to that later and the need for collaboration, because crime is seamless. And not just the question of violent crime but other forms of crime, whether white collar—I think the previous Senator referred to some other colours, like yellow and so on, and we will get to that because there are other gangs, other than street gangs, whose activities subvert the Constitution, subvert the

parliamentary process, if you could remember, and even affect legislators and the aspirations of legislators as to what is passed here and how faithfully it would be implemented thereafter, in terms of what ought not to be taken for granted even at the level of the Parliament.

The other thing is that, the whole question of lying to law enforcement, in one of the things that struck me when I read that, that all the agencies who are cited, all the protective agencies cited in this legislation, that particular provision should apply, not just lying to the police but all the other officers who may, in the course of their duties have to investigate or take action against gang related or gang activity even. So that is something I think we need to look at again.

The other thing that I had a question for, I did not understand why it was inserted, and I quote here from Part II:

“Notwithstanding subsection (2), a person who, within five hundred metres of a school or place of worship, recruits a child to a gang commits an offence and is liable on conviction on indictment to imprisonment for twenty years.”

And the problem I had with this, is why the inclusion of a place of worship? I understand the citation of the school, but why are we making it an especial offence in relation to a place of worship. I am sorry the AG is not in the House, but I would have given way to the Leader of Government Business if they would care to respond to that. But, I was uncertain as to why the inclusion of a place of worship at this stage.

Because to me even the school does not necessarily have to be cited. The point is, interfering with a child is an offence of itself without having to cite the proximity to a school. Good? And in this case even a place of worship. The

countervailing issue, of course, is at Part III the provisions for policing activity.

Now that the AG has returned, I was asking the question of why both a school and a place of worship as places specifically cited as an offence for recruiting a child to a gang activity.

Hon. F. Al-Rawi: Thank you, hon. Senator, a very good question and quickly so as to not cut your time. The reason is that there was a lot of recruitment going on in these areas and places of worship form part of our communities. There are quite a few of them and they are much broader than just the Catholic or Christian faith, they include for instance, the mosques and madrassas that go on the side of it—the schools that go on the side of it. So specifically coming out of the recommendations from the TTPS, the inclusion of those areas, play fields which are associated and the boundaries and places of worship.

Sen. S. Creese: I appreciate that. I had not seen it in that perspective, but I read it on paper.

The other concern I have at Part III was the question of the powers of police officers and whether there is going to be a very thin line between the excesses of policing or whether we could have confidence in our Magistracy, in our judicial system it approaches for instance, and the question of the extension of detention arrangements.

Initially, I appreciate the 72-hour detention of a suspect of a prospective gang member or gang leader, but the additional two-week period, I always felt that if—liberty being so valuable that if you are going to detain someone, it ought not to be merely on circumstantial, I see or I suspect, as oppose to somehow a little substantial evidence and 72 days initial detention and going back to the court without the preference of formal charges, for an additional two-week period. I

have a problem, cause you are talking now of 14 by three, of 17 days detention and that is not—that may very well be sometimes longer than a state of emergency.

And as I say state of emergency, I remember at the end of the last one that we had, the last SOE, the number of people, if any, whose detention during the SOE led to formal charges. Good? And therefore, the whole question of the power of policing that is inherent in this legislation comes under serious question. Because, we are here about to set up a situation where 17 days of detention could be had, and during the last SOE, it was the same police service, more or less, that exercised these powers of detention that did not lead to successful prosecutions. Matter of fact, the reverse has been the case. The State has paid out from its coffers thousands of dollars in lieu of compensation for detention.

So the question is: Are we now saying that the policing systems that operated during the last SOE have been refurbished; personnel, reprogrammed and reoriented that we could now formally invest them with the powers inherent in this anti-gang legislation? Because by and large, it was the same policing hierarchy that carried out all those detentions that have since proven to be questionable that have been overturned in the courts.

So how have we arrived by what process from that juncture to this? And I remain unconvinced that anyone thus far in our proceedings or in the other place have demonstrated that our police service has risen above the level at which it was during the last state of emergency. See, we cannot divorce the two, and there has been nothing laid before this House to demonstrate such an overhaul of our policing systems that we can place that confidence in the police service. Matter of fact, the only consistent factor has been the Police Service Commission's insistence that within the present ranks there is no one capable, up until a few

months ago, of holding that top leader position of Commissioner. So what are we really saying?

We are having trouble for years to name someone from within the police service as Commissioner, and yet we want to invest all these powers that last were practised during an SOE, a state of emergency. I have a problem with that and I would hope that in his wind-up the AG would address that issue.

The other area that I have substantial concerns is the whole question of the political dimension to all of this. Because the section 34 episode hangs over this Parliament. And the question of whether there can be manipulation of legislation, manipulation of the Legislature, manipulation of political parties and manipulation of the entire system and whether there are gangs in our society who do that and whether in discriminating between the gangs that we say emanate from the hills to the east, and the gangs of the hills to the west, and I think it was Sen. Huggins who said that there are no gangs in Valsayn, and I am glad that he will present that evidence in a little more detail at another time. [*Laughter*]

But it depends on how you define gangs, and how you define violence, and if you define violence as the mere proliferation of guns and arms and ammunition, and you do not see it as other psychological forms, other political forms, in terms of domination of the society, of perversion of the Constitution, of perversion of our laws, perversion of our systems, good? Then the question as to what should be anti-gang legislation in our particular situation and whether we are caught up in what we see on TV and, you know, to me that is where the issue is.

So that is why I said earlier on, that for me and even under the omnibus legislation when we were dealing again with the question of security, I said then that the Representation of the People Act should have been one of those added

there, and the concerns I have about how the political system, the electoral system could be manipulated by gangs operating with the same intent to destroy our safety, to destroy our security, could operate through that system and the limitations then of Representation of the People Act.

And I am referring here to campaign fund financing, and how that constitutes a gang-type activity in our situation with the same outcome in terms of undermining public safety, undermining individual security because those people with those funds are able to conduct activities un-reviewed, uncontrolled by provisos made by this House.

So that the failure over the years to deal with campaign finance funding, constitutes a serious breach in our enjoyment of our civil liberties, because we have taken it for granted the way the Americans had recently, in 2016, took it for granted that all the funding around them, all the ads they saw were legit, that they originated out of America and not from some other place with some other intention in mind, contrary to their laws.

12.15 p.m.

In our case, it is that our laws are undeveloped in terms of dealing with the various methods and forms that campaign fund financing has an impact or is currently utilized and, in that sense then, there may be gangs operating, clearly without being in breach of our laws, because our laws have not been updated accordingly. And to the extent that this process continues, I have serious doubts as to which are the worst gangs in our society—the gangs associated with street violence and the culture of bling and so on, or the more tempered gangs operating, perhaps, in Valsayn—I do not know, Senator. Perhaps in Glencoe, maybe Laventille. I do not know—but I think the police authorities say they have the

records and the information as to where all the gangs are. I am not sure they are including the gangs I am thinking of because, clearly, to move cocaine—not marijuana—you need millions and you need it in US dollars.

So until and unless we deal with that issue, I am not sure that this would work because, to the extent—and I was reading one of the offences is to provide succour, to provide resources, finance even—and I am wondering when we say that, through CEPEP, people can develop companies—not gangs now, companies. All right? We have struck “gangs” out of the CEPEP literature—whether that arrangement, because that is one of the avenues CEPEP, URP, Special Works, that the gang-type elements of our society were accommodated.

We brought them out of street violence and street activity into more productive measures, and I always wonder whether, in fact, this provision—if you are employed in the hierarchy of CEPEP or any other state agency where you are trying to provide work for people now employed and, perhaps, just roaming the streets—whether in fact, when you give them the right to employ others and to create a company, whether you are going to be in breach of this provision in the law, because we cannot sit here and say, all of us in this room are not aware that over the years—whether it was Special Works, DEWD, URP, CEPEP—whether it was not the intention of either political regime to provide some succour, to provide some unemployment relief, and whether the funds, the leaders of those companies accessed, as a result, was not used to finance other questionable activity. So there is a thin line here that we need to pay attention to.

Mr. Vice-President, at the end of the day, my concern has been that the concept of physical violence, which is inherent in all that is in this amendment Bill, is part of our history in that we tend to focus largely on physical violence, and not

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recognizing its other forms and how enduring the other forms of violence are and the consequences of that.

And apart from, well, wanting to make that point about the Representation of the People Act and the need to deal with campaign fund financing, lest gangs manipulate our politics. Also missing from this is a recognition that there are also sex rings and, in my perspective, these too are gangs. And whether this legislation, the tendency is to focus—in terms of the Schedule at 22, they have rape and grievous sexual assault—but I think, inherent in this perspective here is not the sex rings of which I speak, as opposed to gang assault, gang sexual assault, as perverse initiation rites. But I think we have to recognize that globalization means that sex rings, child porn rings and so on are probably part of our underground culture, and whether or not we see this as gang activity violating our quality of life, threatening the future of the young children, of the unborn even and worthy of our attention. So that, to me, in terms of what is in the First Schedule, those are my two greatest concerns.

And I share with Sen. Hosein a concern as to whether enough attention is being given to alternative activities that would harness the energy and the intelligence of our young people as opposed to punitive. Yes I would recognize that there is, you know, a lost generation out there and punitive, then rehabilitative strategies from behind the bars will have to be the order of the day, but I think we are still missing out on the opportunity in terms of the return to the youth camp model and the creation of productive activity so as to attract the attention and the entrepreneurial possibilities of our young people. That I think is the greatest counter to gang activity.

Finally, Mr. Vice-President, I want to close by asserting yes, at the end of

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the day, I probably would have no choice but to vote for this piece of legislation, but I have concerns as to inherent in it is a notion that street gangs are the biggest threat to our democracy. [*Desk thumping*] Nothing could be further from the truth. I thank you. [*Desk thumping*]

Sen. Anita Haynes: Thank you, Mr. Vice-President. I would like to thank you for the opportunity to contribute in this debate on 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—in short, referred to as the Anti-Gang Bill.

The propagation of gangs and the associated culture is one of the most critical challenges facing, not only the Trinidad and Tobago community, but the international community as a whole. And as I prepared for this debate, which has been long in coming, you can tell how important most people felt this debate was by the number of contributions we have had on this piece of legislation, which I think has been important to raise a lot of issues and bring them in the public domain. [*Interruption*] Yes, it does.

And, you know, I always advocate for more contributions and more conversation on the debates on legislation in general. So I have been very happy, and I do not mind the long hours because I think it is very important. If you look at what has been happening in the United States, in El Salvador Jamaica, Belize even small-island states like St. Lucia, you will understand that Trinidad and Tobago is not alone in this struggle. And as we think about what we are going to do, because as many other Senators raised, this idea of how gangs impact our safety and our security and our well-being is something that has affected all of us at some point in time, and so we do not have to reinvent the wheel, and I think

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what has been very important is that we have come together to find a solution.

So before I get into the substance of my debate, I would just like to address Sen. Huggins for one moment, because I think what happened is that Sen. Huggins, unfortunately, misread the room. [*Desk thumping*] There is a space for consultation. The Attorney General will address this. I am sure that the Opposition has been cooperative, and we did sit at the table. There was no kicking and screaming, and this idea of public pressure being the reason that we are here today, I think is just heavy on political rhetoric and absent of any real substance. [*Desk thumping*] It is unfortunate. I think.

I think what is unfortunate is that I did note that you attempted to research the matter, and I think it would have been better had you focused on the research and convinced us as to why it was important [*Desk thumping*] because that is the space we are in today. There are days where heavy politics, and there are days when we say, okay, in the best interest of Trinidad and Tobago, we are going to do this, and then we are. [*Crosstalk*] Sen. Cummings, interestingly enough— [*Crosstalk*]—You see—

Mr. Vice-President: Continue.

Sen. A. Haynes: Yes. Interestingly enough—it is interesting that Sen. Cummings intervened, because I assume that Sen. Cummings passed his notes from his contribution to Sen. Huggins, because it is very similar. [*Desk thumping*] That was actually written—that response was written for you on the last occasion. So I mean, I am all for note passing and sharing and consultation, but what I am saying is that, you know, do not misread the room. Right? We are here. We are saying this is important. It is important to protect our citizens. We all agree and we are doing the people's business and I am happy to participate in that.

So, now that I go back, on Sen. Huggins again, just on the sunset clause, the reason for the sunset clause, it is a mechanism within the legislation that will allow us to have further analysis after a point in time. Now, while our varying political parties disagreed on the time frame, I do not think that we can disagree that that is an important legislative check. [*Interruption*] Yes, but you all did not disagree. I mean—[*Crosstalk*] As I am on that, I want to just read a quotation here that I thought was particularly important. It says:

The Constitution itself, independence itself, represents the agreement of the two political parties—in our instance—on the fundamental question of national unity.

That was by Dr. Eric Williams in his Independence Day speech in 1962. So I will help you understand your party's origins that [*Desk thumping*] while we are in an adversarial system, there are certain issues that rise above that system. So that to come here today to say we have been dragging, kicking and screaming, that is not what we are here for, we are here to talk about solutions. And while I have my opinions on whether this anti-gang legislation falls into our short-term or long-term solutions, what we are looking at is coming together as a Parliament, and actually having the population once again place their faith in us as legislators to put their best interest at heart.

Throughout the length and breadth of this discussion, a number of persons have raised—which I will get to later on—whether or not looking at the police service and their effectiveness, and how the population feels about the police service—and I bring that up here because the population they also do not place a lot of faith in us as legislators, and we still have to come here and do our best, and it is not because as a whole we are ineffective, but because what they see

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sometimes does not give them any reason to put their trust in us, and the onus is on us to change that impression.

On the point of this kicking and screaming, there was a letter on January 24, 2018. The final paragraph of that letter says:

The Opposition remains committed to working with the Government in the public interest to ensure the passage of critical legislation in the fight against crime. And as such I repeat my request, through you, Attorney General, that the Government and Opposition meet at the earliest opportunity to commence this process.

This was a letter from the political leader of the United National Congress to the Attorney General. It has been in the public domain so it cannot be disputed. So that was our position, it was articulated.

There was a meeting, the meeting was cordial. I was a part of the meeting, and the Attorney General can also attest that a number of recommendations came from Sen. Ramdeen who worked extremely hard on getting this [*Desk thumping*] and I think these things cannot be lost in the conversation because the population wants to see more of these kinds of things and wants to see more of us working together to solve critical national issues, and to now come to cloud this debate with inaccuracies, I think it is unfair.

And so, now I just want to move to clause 15 of the Bill where it talks about giving the power to the police and, in essence, it gives a little more power to the police, which is why the sunset clause is important so that we can evaluate this. When we are looking at what the legislation is meant to do, it is saying that we understand that there is a problem facing society and that the criminal elements have overrun the society, and so they are asking us as a Parliament to now grant

more powers to the police to treat with this. So you are saying there is an extraordinary circumstance and it requires extraordinary measures, and that is why you need this three-fifths majority so that we can approve these extraordinary measures.

However, critical to that would be trusting in the police service and how we feel about the police service, how the population feels about the police service and probably how the police service feels about itself. In a speech at the opening of the Besson Street Police Station, the Prime Minister raised a point referring to the TTPS—any civilian desirous of serving the country, when we give people the opportunity to wear the uniform and if they fall short or engage in criminal conduct, they have no right to be in the police service, so let them go and mix cement somewhere, but they cannot wear the uniform and be a criminal.

You have heard these types of discussions all over, and you hear people talking about the criminal elements in the police service et cetera, et cetera, but I have not heard anything about what we are doing, as a system, to weed out the criminal elements. So here we are saying, yes we all agree, give the police more power in extraordinary circumstance, but we are not saying what we are doing to fix the problem of corruption in the police service, and there are ways to carry out a conversation that is constructive. We can address things like corruption without it being clouded in what seems like an attack on an entire service.

I think we have to just be very careful, because my personal experience with the police service has been nothing but positive and that is my personal experience, but it might not have been the experience of all of the citizens of Trinidad and Tobago. So we do have to be very careful with how we construct the conversation, in the light of us saying yes, we can give them more power, because you cannot on

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one hand say that is okay, but some of them might be criminals. It is giving mixed signals.

I also would like to quote from an article on August 21, 2013 where as an Opposition Senator, Faris Al-Rawi, our current Attorney General, said that for the anti-gang legislation or anti-gang to be useful, the Government must ensure that the police are capable of gathering sufficient and reliable evidence, and this must be done through established units, properly funded, managed and thorough resources provided by the Government.

Now, I use that quote because I agree with this wholeheartedly, and in preparing for this debate I did quite a lot of academic research, but I did a lot of reaching out to people who work in the units and who live this day-to-day to kind of find out, well, what is missing? What are we when we sit in this room missing to make this more effective and to make it more useful? In those conversations, you know, I was told that, yes we do have the anti-gang unit. The OCIU, they have merged. But what have we done to ensure that they are properly resourced and properly financed?—because my information is that this is not the case.

So when you are talking evidence gathering, et cetera, when you are talking giving the police or arming them with this piece of legislation, in the absence of all the other measures required to make this successful, it almost feels like we are setting them up to take the blame. Right? So that you give them the legislation, but they cannot do anything with it, because they are not properly resourced. Then I do not know that we are going to get the end that we seek.

So, I looked at departments of justice and law enforcement and what they recommended for an effective anti-gang police unit, and they said in order to be effective against these extremely dangerous groups, you have to be able to properly

collect intelligence and intelligence gathering. So you have to monitor gang activities, develop intelligence assets that reveal gang objective and resource plans, investigate gang-related crimes and apprehend perpetrators, work with varying departments—so the same kind of cohesion that Sen. Hosein spoke about.

And all of these things, when you are talking about surveillance and how you execute what the law would allow you to do—the OCIU have been asking for something as simple as binoculars, night-vision binoculars to gather evidence. They do not have that. I think at some point in time they said, well, if you like it you could see if you could purchase it on your own, because it would make them more effective. When you look at the—there has not been any proper implementation of the cleaning of the firearms; so that sometimes when they go in to check out the firearms they are rusty. And these are little things that can be fixed to make us better and help us to achieve our objectives, and I think it is something that we have to be thinking about.

In an article in the *Sunday Guardian* on January 28, 2018, ACP Anthony James spoke at length about the high murder rates and the low detection, and I would just like the opportunity to quote some of the things that he said, because I think it is important that when we are saying, look we are giving the police what they have asked for, this is not all that they have asked for. They have asked for a lot more. So ACP James said:

“...with time, the right equipment, legislative backing and the public supporting them, the murder toll will be significantly reduced.”

He said that the Trinidad and Tobago Police Service:

“...needs to ‘up their game’.”

So there is a recognition that there is room for improvement, but then how do we

help them improve?

“That, he said, will come with the proper training and equipment married with the laws that support law enforcement and, of course, time.”

And so, this brings me to this question of training for police officers or training within the police service.

You oftentimes find that the persons who are sent on training are senior officers—senior officers who may not have that much time to utilize the training within the service because they may be closer to retirement. I think if we are going to do this thing in a logical manner, you train the younger ones, because we are spending money—so we should prioritize and spend it wisely—and, therefore, you train those who are younger so that we can have more use out of the training.

There is another suggestion that I would like to make here. Well, as I have said before, my tertiary education system was in the United States and there is a financial aid programme to allow students who cannot afford to go to school on their own to access federal financial aid. So, government funding the education. So if we were to take a look at how we—as we are looking at overhauling GATE and all of these other things, if you are accessing government funding—so that you are requesting government funding—you can find ways to pay back the government funding. So one of the ways New York State does it is that you can access financial aid, do degrees in criminology, criminal justice, forensic science, et cetera, et cetera, and all these things that the police service need to improve and to be modern and more effective.

So any area, even foreign languages, et cetera, you can pursue a degree in an area that can help and then when you enrol within the Police Service Training

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Academy and you complete your training, each year that you work they minus money that you owe to the federal aid department. And this has been effective in terms of recruiting the kinds of candidates you want and having the police service be reflective of what you would like to see. It is also attracting different people within the service. I think it is something that we may want to consider as we are looking at not just anti-gang legislation specifically, but crime on the whole and how we treat with it.

ACP James also noted that:

“Currently there are over 200 police officers attached to the HBI...in Port of Spain, Arouca, San Fernando and Tobago...

The ideal figure will be”—somewhere around—“400...”
—which is twice what they have now.

And so, there is also this situation occurring within the TTPS where, while we have a total strength within the thousands, are we placing people in the units and in the areas that we need them? So, are we, again, doing this in an effective and thoughtful manner? And this has not been the case. You also have persons who would have gone on training for specialized units, come back and because of your rank, you are now in a unit that has nothing to do with the training that the Government paid for and you are not effective.

So, again, this does not have to be—it is a complicated problem, but this does not have to be an overly cumbersome and complicated thing that we have to deal with. We just have to be smart about the way that we do things. And ACP James said that to attract the right individuals with the proper acumen, once you do that, then you will find a difference in the way the police service interacts with the public, and then you build that trust differently. And so you can have the treatment

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of witnesses and suspects and being able to get things like confessions—and well, the assistance that they need is also looking at how you develop the interpersonal skills of the police officer and the total development of the officers that we have on the ground.

And so, we may have people who are extremely—so we are not placing people in the spaces that we need them. So if you do not have the interpersonal skills to deal with witnesses, just because you are there, you probably should not be in that position at that point in time. And so, again, I think there is a smart way to do things, and we have instead found more complicated ways of doing it.

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He noted:

“The officers have been faced with many hurdles over the years as they try to solve murders—the major one being the unwillingness of witnesses to come forward and major gaps in the witness protection programme.”

—or popularly known as, “witnesses does dead”. I think Sen. Ramdeen made some extremely important points on why we need to improve the Witness Protection Programme, and we also need to look at things like plea bargaining and how we introduce these things into the system to make it more effective. We have as well:

“He said many cases in the past have collapsed as a result of witnesses who recanted their statements.” And he—“wants some...legislative support that compels or punishes witnesses who switch from their sworn statements.”

He—“admitted that while the country is going at a snail’s pace to shift from eyewitnesses” evidence “to science based policing, the necessary”—and, again, the problems of—“equipment and training are inching their way into

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the service...

Police officers...need to learn new techniques and must be equipped with modern technology.”

You see, this is another thing that I always find to be a little, you know, disheartening, when you go into the police station they take out this massive station diary and flip through, and you are writing everything down. It is 2018, I think we can find ways to move away from that system where you are handwriting everything into the station diary, and if the station diary goes missing, well—*[Interruption]* Yes. And if you cannot understand what I write or what somebody else writes down in the diary, again, you know, there is no reason for us to be living like that right now. I think he said it about seven times within this one article that training and technology and moving the TTPS forward are important. So when we say things like, I believe—yes, this editorial from the *Saturday Express* on the 24th of March, it ended with:

“The long-heralded ‘war on crime’ has been given a tremendous boost. And the men and women of the TTPS must make good on their tacit promise to deliver the results commensurate with the expectations they themselves have created.”

So we are now creating a space where we have given the impression that this is going to yield very quick results and turnover, and I think we have to be very careful with that because when we pass this legislation, and which we will, it is not going to be massive lock-ups and all of a sudden there is an end to gang violence. But by creating this kind of public imaging that you need the anti-gang, you need the anti-gang, you need the anti-gang, and that will stop the crime and it will bring peace, it is just really setting ourselves up for failure, I think, and we have to just

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be careful with the way we frame things.

There is another article in a St. Vincent and the Grenadines newspaper that was titled, Gangs Rule Trinidad and Tobago, and they were talking about—
[*Interruption*]

Mr. Vice-President: What is the name of the newspaper, Senator?

Sen. A. Haynes: Pardon me?

Mr. Vice-President: The name of the newspaper?

Sen. A. Haynes: No, I do not, but can I list it after? Thank you. And, you know, it was looking at the pervasiveness of gang culture and the increasing amount of violence, and I do not know—like, as you hear about the types of crimes being committed, people are being beheaded and you are finding parts of bodies, you know, in different places, it has really said to us that the brutality of the gang activity within our country cannot be ignored. What was interesting in that article is that they noted that the growth of the gangs within Trinidad and Tobago and Jamaica has been so ubiquitous that they almost represent a challenge to state sovereignty. And I think this is what Sen. Creese was talking about where gangs and gang members have become so empowered, and this idea of different types of gangs that they have grown so powerful that they can almost be seen as a challenge to state sovereignty. And you see things like that, when you see a gang member arrested or alleged gang member arrested and an entire community erupts into violence, the nation is now at the standstill and held at the mercy of one group of persons. The police and the defence force, and whatever joint army patrol, they stand, you know, almost just trying to contain the situation, but they cannot end it. So when they say it represents a challenge to state sovereignty, we see it almost every time someone is arrested and the community just does not like it, and then

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how are we treating with these things?

I hear the comments sometimes about, you know, we should get a bus and load everybody in, and that is not, in my respectful view, the solution that we are looking for, but what we can admit is that the phenomenon has had a very dangerous effect on surrounding communities and on the areas that the gangs are so integrated within the community that if you go in to try to arrest one person, chaos ensues. So now we have the anti-gang legislation and you go in to give effect to the legislation, how are we prepared to now treat with the backlash of arresting persons who are seen as, well, dons within their communities or the providers within their communities? Are we prepared to do that? Are we prepared for that? I mean, again, in terms of equipment, the provision of shields and helmets, riot gear within the police service—I think GB has them, but they are not the first responders in situations like this. So that the members of the TTPS, I would say, in Besson Street, et cetera, they do not have access to this equipment, so, you know, you have a time gap waiting to respond to this situation. So, again, when you are putting the legislation in place, assuming that you want it to be effective and work the way that you intend it to work, then give the police the equipment that they would need to do the job properly.

As I was preparing again within the research, the training and equipment of the police service was one important part, and then another part was, okay, well, once it works, and if it works effectively and people are arrested, they have to go to prison. Is our prison system equipped for if this legislation works? And with the numbers that we are seeing bandied about in terms of what the gang membership looks like, what the exponential increase has been over the years, what we can expect the increase to be over the next few years, are we now equipped to deal with

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those persons being arrested? And so to understand how it works, you know, I looked at the El Salvador system, because they also had put anti-gang legislation in place and there has been some discussion to and fro whether or not it has been effective, but it has led to more arrests. It is one of the countries with the highest gang membership, including places like Los Angeles, et cetera, but the insightcrime.org had an article, “El Salvador Violence Rising Despite ‘Extraordinary’ Anti-Gang Measures”, published on October 03, 2017, and it noted that:

“September in El Salvador saw 435 homicides—almost 15 per day—making it the country’s most violent month in 2017, according to official figures... The climbing number of murders in El Salvador contradicts the government’s narrative about the supposed success of its tough talk and heavy-handed actions against the gangs. Not only has the number of homicides begun to rise...again after sustained declines, but the statistics also cast doubt...” whether or not the administration is changing the effectiveness.

So the question is, as you look at all the tough talk and the conversation around things like legislation and legislative approaches, will we have just a quick turnaround or will it be a sustained impact on the pervasive problem that we face? And so seeing that despite having more arrests and the murder rate starting to climb back up, the Government of El Salvador focused their efforts on the prison system in an attempt to disrupt imprisoned gang leaders use of cell phones and other means of communication, and to direct and coordinate extortions, murders and other crimes on the outside. And I thought that was an important example for Trinidad, because if you are familiar with our social media landscape, you see

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videos from the prison system, from the prisons almost on a daily basis, and we have had the cause to ask the question over and over, “Do you have—are the jammers and scanners, grabber, jammers, are they working?” And, you know, every time we ask the question we are given the same response, “They are there, yes, they are working”, and then so now you have to question your own sanity, because if they are working how are these videos being placed on social media? *[Interruption]* Exactly.

So not only are they able to record, but they were able to upload, and they are also not afraid of any consequence of their action. So that the video is up there, your face is out there and you are already in prison, so we “cyar” lock you up, right. So what happens after—again, assuming the effectiveness of this legislation, persons being arrested, what happens after? You know, we do have a prison system that is currently ineffective, and I know that a considerable amount of time and resources have been placed on public consultations on prison reform, but the numbers do not lie. In the Remand Yard prison there is a 157 per cent overpopulation, in Port of Spain it is 290, and so while we face overpopulation currently without this law within the prison system, it is also simultaneously understaffed, and so are we, by trying to solve one problem, creating an even bigger problem on another end? So I am saying, once persons are detained under clause 16 of this legislation, I do not assume that they will be detained in the police station so they will become part of this already overpopulated prison system. And, again, with the nature of gangs and the way that they work, you put all of them in small rooms with nothing else to do, I mean, I think that we may find ourselves—and at a cost of \$13,271.41 per person, you know. Are we thinking again about what happens after the legislation is put in place, assuming that it is effective,

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because I think a number of persons made an assumption that it will not be effective? So I am saying, even if it is effective we are also now facing another problem, and I think that it is important that the Government considers the reality of our prison system, what we are seeing, and look at it, not from the position of political expedience, but are we really equipped to handle this legislation being very effective?

I, Mr. Vice-President, and like the rest of Trinidad and Tobago want gang violence to stop in Trinidad and Tobago. It has been around for many years, but it has gotten worse, and I think Sen. Small raised it in his contribution. Are we taking a look at society as a whole and wondering what we have done to create this inequity or inequitable distribution where some persons are really completely left out and cut off from our development? So while Trinidad and Tobago might have numbers and statistics in terms of the education and how many persons are tertiary educated and we may look good on paper, if you live here, the reality is—
[Interruption]

Mr. Vice-President: Senator, you have five more minutes, do you intend to utilize the full five?

Sen. A. Haynes: Yeah, I can conclude before the lunch break. Yeah. And so, again, we would like the legislation to be successful, but for it to be successful we have to take a very careful look at our society and figure out the causes of the problems, because the anti-gang legislation is at the end of the rope and we need to kind of look at the beginning and preventive measures. And I think a lot of persons have discussed that, but I would just like to place on record my endorsement for looking, in totality, at the gang problem and finding real solutions because this is just a stopgap, it is not a solution to our problem.

In closing I would just like to say that what we experienced within the debate around the anti-gang legislation, like I said on the onset, was an approach where both political parties said, look, this is a problem we do have to deal with it, and however long it took us to get here, we are here now and that is important. And I think what it showed us is how important leadership is, and having a leader that says, this is the work that needs to be done, this is the committee, meet with us, we will help you draft the legislation, and here we are today. Leadership is about action and acting on behalf of the country, and what we have seen from the Opposition Leader and Members of the Opposition Bench has been, I think, what the nation would like to see as a whole. I thank you. [*Desk thumping*]

Mr. Vice-President: Hon. Members, it is now 1.00 p.m. and time for the lunch break. This House will now stand suspended for one hour. We will return at 2.00 p.m.

1.01 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

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

Sen. Jennifer Raffoul: Mr. Vice-President, thank you so much for the opportunity to speak. It is always a real honour to be here and to contribute to this debate. The debate today is on the anti-gang legislation, and as always I strive to be objective in my feedback and technical, constructive in offering solutions and amendments where I see potential risks, and concise, to be able to be respectful of everyone's attention and timespans.

My contribution will be in five parts, one, what the Bill is about, and that is particularly what the Bill is supposed to be about, what the Bill actually contains, and then what changes this Bill proposes from the existing legislation. I thought

that, in particular, was a bit ambiguous in our last sitting on the debate. The second part that I want to discuss briefly is a recap of what went before. We sat on this topic two weeks ago and I want to just briefly recap for the viewing public—they can watch 10 or 14, or 12 hours of YouTube video—what I thought were the main points that were highlighted there in terms of the data on gangs, as well as the principles of this debate that were mentioned that day. Third, I want to identify what I see as the advantages of this Bill, the risks, and mitigation strategies and amendments. Fourth, I want to answer the question, does this Bill today actually address the problem of criminality? And, fifth, I would like to conclude with, do I support or do I not support this Bill.

So, first, going into what the Bill today is about, it is supposed to be about reducing crime and addressing security of the population. There are actually some very critical things it includes which is why it is a three-fifths majority that requires this vote, because there is the possibility that it infringes upon property rights and human rights. There are three distinct things that this Bill contains. First, it makes it an offence to be affiliated with a gang or to be a gang member; second, it enhances the powers of the police to be able to enable them to search private property without a warrant and, third, it allows additional powers for detainment. How this is different from the existing legislation is this. Currently, if a police officer wants to search a property they need to have a warrant for search, except for the Firearms Act. Under the Firearms Act, a police officer does not need a warrant to search your property if they believe that there is a firearm in your possession. In terms of arrests, currently a warrant is not needed for an arrest. A police officer can arrest you if they witness you in the committing of a crime, for example, a robbery or a traffic violation, or if they believe that you have

committed a crime or are about to commit a crime.

And, thirdly, when it comes to detention, currently, under the existing law police can detain a citizen for up to 48 hours without a charge. After 48 hours they must charge you otherwise the citizen detained can sue the state for illegal detention, and what this Bill proposes to do is to change it. So that for offences that are listed under this Act, i.e., being affiliated with a gang, are now able to be detained for up to 72 hours without a charge being laid. After that expiration of the 72 hours then it is possible that the police can apply for an extension to detain you for up to 14 days. For all other offences it is not possible to apply for an extension.

What I found particularly interesting in the last debate was that there was consensus among all parties and all individuals that spoke. The consensus was that there needs to be more preventative action on crime fighting, more focus on youth and education. I found it particularly interesting that there was consensus on the need to strengthen the police service and the consensus on a lack of effectiveness coming from the police service when it comes to crime detection and being able to enforce crime-fighting mechanisms in a speedy and expedient service in service of the population. I found the data was particularly interesting. The hon. Minister of Labour and Small Enterprise Development noted the study from -Katz showing that in a survey of gang members in Trinidad and Tobago, of those surveyed 40 per cent said that they joined for the sense of belonging, 30 per cent for the sense of protection; only 8 per cent of gang members joined because of economic benefit or perceived economic benefit.

So, 70 per cent or more joined for the sense of belonging and protection and not necessarily for the sake of economic benefit. What I also found quite interesting was the repeated points by many persons that we already have

legislation that makes certain offences criminal offences. So is there need for additional legislation or it is the issue more about implementing existing legislation? And where is this balance? Do we need to have more legislation? Is this Bill relevant or is this just a Band-Aid to cover a problem that is not really being addressed for some reason in our society?

One possible advantage that I saw was this element of risk sharing in the sense of by being part of a gang, it is now illegal—well, the Bill proposes that it would be an offence to now be illegal to associate with other persons who are gang members who are involved in criminal activity, and interestingly this is an element of risk-sharing in the sense that it forces you to then mitigate your risk and screen your friends, screen your colleagues and pull them up if they are possibly tempted to engage in criminal activity.

2.10 p.m.

Mr. Vice-President, in economics there is the Grameen Bank which is a risk-sharing mechanism, and has done fascinating work. The founder of it won the Nobel Peace Prize. It uses risk-sharing to mitigate errant loan behaviour. So instead of taking out an individual loan, you take out a loan with four or five colleagues and everyone supports each other and monitors each other. So there is this risk-sharing within it that has been extremely successful.

This is kind of analogous in the sense that it forces you as a citizen to support and encourage those colleagues around you, except this is not financial behaviour, this is potential areas of criminality. So it is interesting, but I do not think that that advantage, or possible advantage, is empirically proven. I do not think that the same set of decision-making behaviours that go into loan behaviours would be the same that would go into criminality behaviours.

In terms of risks there are several that I see as being quite grave. First, there is a potential for abuse of power by the police, in particular in the searching process and the detention process. Second, it puts police officers at risk because now there is nothing to guarantee that they have done proper records, and anyone in the population that has been detained because of this Bill can just say that, "Oh, there was police brutality. That policeman has something against me." This Bill will remove the protection of having a judicial officer oversee the process and issue a warrant. That not only puts the population at risk, it also puts the police officer at risk, because anyone can claim that there was subjectivity in his decision.

Third, there is going to be a high risk of cases being dismissed in the courts because of potential allegations. Fourth, and this is something that Sen. Richards raised in the SSA debate about two years ago, that when there is injustice perpetrated by the State, there is then a sense of discord by citizens against the State in the sense of animosity and mistrust, and that can lead to massive social unrest and a sense of injustice, and a sense of diminished well-being, that we are not in a state of justice and equality. We are in a state of fear, subjectivity and potential for abuse of power.

Given those risks, I always like to suggest amendments and mitigation strategies. I found that the submission by the Law Association was extremely technical and very, very useful, and I think that the amendments that they suggested are worth quoting here. In terms of the definition of a gang there were two problems that they identified. One, that it is a circular definition. So we define in this draft, gang and gang-related activity in a circular way. The definition of gang is correlated with the definition of gang-related activity and vice versa. So if it is challenged in the court it is likely to be dismissed. So what we can suggest

is this, amending it by excluding all gang-related offences from the First Schedule of the Bill.

The second problem with this definition of gang and gang-related activity is that there is not a need to define gang-related activity as being directed by a gang leader or a gang member. Just the offence of gang-related activity should be sufficient without saying who it is directed by. So what we can do is in the definition of gang-related activity we can exclude the last sentence—the last concluding phrase—which is, “which a gang...requests”.

The third amendment deals with the issue of breaches of the Constitution, specifically strict liability, and this is that the offences that are listed do not require that the person charged with the offences knew that there was criminal activity happening. So a person that is young that might be joining a gang for a sense of belonging or a sense of protection, might not have any idea that there is a sense that there is criminal activity happening, because the way that the strict liability is defined in the legislation means that persons do not have to have knowledge that there is criminal activity happening in order to be accused of being in a gang. The offence itself is being in a gang and not necessarily actually having committed any criminal activity, or even having any knowledge of.

So, the risk is that we can have young persons that can be penalized for 25 years maximum in jail for not having committed a crime, and not having any knowledge that a crime was being committed. So the recommendation for the amendment is that we define the offences specifically in a way to make knowledge of the criminal activity of the gang an element of the offence.

The fourth amendment has to do with the search warrant, and this is section 52. The problem here is the way the legislation is phrased. It requires that a police

officer can request a search warrant based on “reasonable” cause. Now, what this means is that it is basically subjective, up to the police officer to believe that there is reason to arrest, to believe that this person is in a gang, or that this house, this property that he is applying for a warrant to search, hosts a gang member.

So this interpretation would imply that the police officer only has to swear that he believes that there is something to search in that property, and does not require any objective evidence or the magistrate to give his opinion and to give his reasonable belief. So in practice it is subjective to the mind of the police officer and does not have enough oversight mechanism. So specifically the amendment I would suggest would be to be reword this part to make it such that the magistrate must also be satisfied that there is reasonable cause to believe that the person may be found in the dwelling home. Just to point out, this is actually the process that we use in section 16(5), which is when an application is made to a judge for a detention order. So in 16(5) the judge must be satisfied that there are reasonable grounds for the matters listed for the detention order, but this is not what we currently have worded in section 15(2) for the search warrant.

The fifth amendment I have is on the detention. Currently, section 16(1) allows for any police officer to detain a person for three days without a warrant based on the basis of reasonable suspicion. So there are two things about this that are unclear and ambiguous. One is that reasonable suspicion is a lower standard in terms of wording than reasonable cause. So reasonable suspicion is related to the power to detain, whereas reasonable cause is related to the power to arrest. So there is no reason why the higher standard is required for an arrest, but the lower standard, i.e., the reasonable suspicion, is required to detain someone, a citizen of Trinidad and Tobago, for three days.

The second problem with this wording is that the justification to detain someone is itself unclear. So currently if someone is arrested for murder they must be brought before a judge right away, under other legislation. But under the proposed anti-gang legislation that we are dealing with today, someone does not have to be brought before a judicial officer. So for murder they do, but for belonging to a gang you do not, and that can lead to an abuse of private citizens' rights to be allowed to be detained for such a significant amount of time without having the presence of a judicial officer, to be that oversight mechanism. So the recommendation, the amendment that I would suggest today would be to stipulate that the detention must be brought before a judicial officer.

The sixth amendment I would like to suggest is about the application for a detention order. Currently the way that it is worded in the legislation it does not require a police officer to present an evidence on oath. This is section 16(4) and (5). The recommendation that I suggest is that we make the application for the detention order so that the application to the judge by the police officer is supported by evidence on oath from the police officer and not just on his belief. So to be specific, we will be amending it so that it would be based on an oath of a police officer.

Seventh, the current wording does not allow the detainee to apply to a judge for a discharge. So if someone is attempted to be detained for an additional 14 days—which as Sen. Creese pointed out is three plus 14 which is 17 days, which is a substantial amount of time—the way that it is worded currently means that the judicial officer and the police officer can have a discussion absent from the person being detained. This is *ex parte*. So the person being detained does not have the ability to appeal to the judicial officer and say, this is false, this declaration. So if

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we amend it, this section would be such that at least the person who is attempted to be detained, can apply for—forgive me—[*Interruption*]—redress, as Sen. Richards is pointing out—to apply for discharge the detention order. I just want to make sure that wording was correct. So it would be allowing the detainee to apply for discharge of the detention order.

The eighth and final recommendation on this Bill today—section 16(3) deals with the custody record, and this is required to record the grounds on which someone is being detained. It is within the legislation that a police officer has to have a custody record recording why they are detaining someone, what is the basis. It is usually either recorded in pocket diaries or in the station record. Pocket diaries unfortunately are not always supplied to police officers so they do not have those at hand on a consistent basis. Whereas the station diary is usually always available. So if we can amend this Bill to mandate that the custody record be recorded in the station diary, as opposed to the pocket diary, then that would be much more likely to have a high rate of implementation because that is always an accessible means of recording.

So, that is the third section of my contribution, which is dealing with what specific amendments would I suggest to address the risks in the Bill today.

What I want to do in my fourth section is to address the issue of: Is this Bill addressing the issue of crime or not? There seems to be consensus in my perspective that the low detection rate has to deal more with the ineffectiveness of the police service, rather than just the existence of gangs. So what can be done with the police service?

I really appreciated the contribution of Sen. The Hon. Clarence Rambharat in his last contribution on this debate. I found that he was extremely

straightforward about the problems within the police service, and the fact that the autonomy of the police service is an issue. What can we as a Parliament do, given autonomy? This is a problem that I think is existent across many different areas of our public sector system, the fact that autonomy sometimes limits what you can actually do and what you cannot do.

There are certain things that could be done that I would like to suggest, of course there is always constitutional reform, but absent from that there are other options. The Ministry of National Security can issue policy directives to the police service, such that police officers might be mandated to undergo polygraph tests, which is lie-detector tests, as a condition for continued employment. That can potentially weed out persons who might have committed crimes in the past, and that might be proven by lie-detector tests. The training academy currently in the police service is only a few months, the suggestion is the Ministry of National Security makes it a three to four-year training programme to really improve the quality of the skill set of the police service as well as the respect of the population for the police service and what they do.

Changing the promotional system so that it is more balanced. Currently it is more heavily weighted towards degrees, rather than experience, so changing that weighting system for promotions within the police service so that is more heavily weighted to experience. Changing the baseline recruitment of police service officers to a higher standard. Currently I think it is only five O levels that are required.

We can also update the departmental and Standing Orders of the police service specifically to include CCTV footage. Currently body cameras are already in the departmental orders of the police service, but there are only 60 of these body

cameras in the system. Strengthening oversight mechanisms within the police service. Currently there are two bodies of internal oversight, there is the PSB and the PCD. The PSB is the Professional Standards Bureau; it deals with breaches of criminal matters; whereas the other one, the PCD is civil matters. So PSB deals with breaches of criminal matters. If there is an internal investigation and an officer is found to be in breach of the standards, then the issue will be forwarded to the DPP's Office, and then the DPP's office will forward it back to the PCD to lay a charge on the officer.

The other division that deals with the internal audit of the police service is the PCD. PCD is the Police Complaints Division, and it deals with breaches of civil matters. So if there is an internal investigation and an officer is found in breach of a civil matter, then that issue would be forwarded to the Commissioner of Police.

Now, externally there is the PCA, the Police Complaints Authority. One suggestion is that there is a duplication of efforts between the PCA and the PCD—PCD being the Police Complaints Division. But since the PCA has greater independence, the PCA should replace the PCD. Subsequent to that, the Police Complaints Authority should also be strengthened to have the ability to have prosecutorial powers alongside the DPP.

I would like to also echo what Sen. Creese said about a rehabilitative and restorative approach within our justice system, as opposed to just a punitive approach, when it comes to what we can do to prevent current inmates from propagating a cycle of violence. In terms of preventative approaches, I really respect everyone's contribution on what they thought could be done in terms of different training programmes, different educational initiatives, sports programmes

and whatnot.

There are several NGOs and private sector organizations already working in trauma therapy initiatives in Trinidad and Tobago which have been doing phenomenal work. There is this link between trauma and criminality, and I think that we need to really strengthen our ability to address trauma in our education system as well as in our health-care system. There are multiple different methodologies and modalities that can be used for this. Probably the best known is CBT, cognitive behavioural therapy, and it is a talk-based therapy to help students and young adults, and all ages really, to be able to process their trauma in a way to help them to prevent that trauma from causing cognitive imbalances or physiological or criminal behaviour in the future.

There are also things like art therapy and play therapy. There is yoga therapy. I am very proud to be a yoga therapist. Yoga Nidra is the particular aspect of yoga therapy that is really all about neuro plasticity which is about regenerating parts of the brain and being able to help individuals process past trauma. There is also animal therapy. Hippotherapy happens on the north coast. There is a programme sponsored by the Ministry of Health dealing with hippotherapy, which is horse-based therapy techniques to help autistic and special needs children. There is craniosacral therapy, there is body talk and EFT. EFT is also similar to body talk. It is based on acupressure and acupuncture points, a combination of Chinese medicine as well as acupressure. There are different healing modalities, and I would like to see more of these adopted within our health-care system and education system.

So in conclusion, do I think the Bill today really addresses the issue of crime and gangs? I think it introduces more risks than advantages. I do not think it

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really addresses the root cause of crime and violence. I do not think it is really going to solve any of the problems of gang violence in Trinidad. I think it allows too much subjectivity within the search warrant's process and the detention process, and the most important thing for me to emphasize here is that we already have existing legislation on criminal matters. So there is nothing new at all in this legislation that I think is actually going to address criminal behaviour.

The existing legislation in my mind, and I think from what everyone else has contributed and said in their deliveries, is not being implemented properly. So the way I see it this legislation is just a band-aid. It is just saying something needs to be done; we cannot actually address the root of the problem so, you know, this is okay. But I do not think that it is actually going to address or solve any problems. We already have legislation that is not being implemented, and here what we are doing is addressing legislation that unfortunately allows potential for abuse of power. There are the amendments I suggest, and those would reduce the potential for abuse of power.

I will base my vote at the end depending on if those amendments pass or not. I always am here in a spirit of being open-minded and listening to everyone. I do not like to come and say, well I am voting yes or no, and then having a fixed mindset. I like to hear what everyone says and try and achieve some consensus and be open-minded. As of now I do not think we need this legislation at all. I do not think it supports our country in any way. I think it is more of a deterrent and introduces too much potential for abuse of power into our justice system.

Mr. Vice-President, I thank you for the opportunity to speak. I appreciate your time. Colleagues, I thank you for your attention. [*Desk thumping*]

Sen. Sophia Chote SC: Thank you, Mr. Vice-President, for the opportunity to

speak on the proposed Anti-Gang Bill of 2018. Perhaps I should indicate that I took the liberty of writing to the hon. Attorney General with some of the amendments which I would like to see placed into this piece of legislation, and he has those in writing, so I do not intend to go into too much detail with respect to all of them.

The good thing about being an Independent Senator is that we do not caucus, and we do not know what we are going to say as individuals when we come to speak before this honourable Senate. I think listening to my colleagues, I realize that many views are held about this piece of proposed legislation, and I do not share all of those views. I may share some but not all.

If I may try to place this in context. This piece of legislation is not new. It bears a strong similarity to the earlier Anti-Gang Bill which lapsed because it contained a sunset clause. Considerable work had gone into the drafting of that piece of legislation, both by the Government then and the Opposition through a joint select committee, which had heard the views of stakeholders and so on and made recommendations for the proposals to that Bill. So what we have here is a piece of legislation, with all due respect, that I do not think should cause us too much trouble because it has been enacted in similar form before. That is not to say that I agree with all of the changes which are to be found in the current draft before the Senate.

I think having anti-gang legislation in modern society is a necessity; I do not think it is a choice. Any society where crime is high you have to deal with the problem of gangs. With respect to how gangs are defined, I am a little disappointed to see that the definition has not grown from the definition of the earlier legislation, and the reason for that circularity of wording was that at that

time people were now drafting gang legislation all over the world, including the US and including the state of Arizona which I think consistently has had the highest crime level in the United States for many, many years.

So the time has come for us to look at gang legislation outside of the context of street gangs, because street gangs in many respects are their own worst enemy. They kill each other off. They live in locked conditions of poverty and abuse, generally speaking. Most of the money made by gang leaders does not trickle down to the people below them. It is a steep, hierarchical structure and vulnerable persons living within that environment who are not involved in gang activity certainly suffer tremendously.

If you have spoken to any of the persons, or if you have walked in gang territory as I have all over Trinidad and Tobago, you would appreciate that their lives are dictated by when the gang leader permits people to leave the area. So if you have a job which requires you to get there for 7:00 and circumstances are such that you cannot be on the road without being shot before 8:00, then you have a problem.

You cannot walk the road after a certain period of time. When you are inside you stay inside and sometimes you cannot keep standing inside, because a bullet might come through your window and get you, as has happened before.

Police officers have a very difficult time dealing with this kind of activity in the current situation. And we will only have to remember the article in the newspaper which spoke about a group of police officers who went to a gang area and could not get out because two gangs were shooting at each other, and they had to be rescued by other officers and personnel from this area. So we absolutely need to have anti-gang legislation.

But let us not look at this in an “us against them” way. I think that would be absolutely wrong. It would point a finger at the poor black and brown men essentially of this country, and give an indication that they are the only gang people we need to worry about. That is not so. Let us remember that there are gangs which do different things, and one gang may do many things. Depends on your size, your structure, who your friends are, who are your business partners.

I have made some suggestions for the proposed amendment of the First Schedule, in that regard, to include for example the offences of manslaughter, causing grievous bodily harm, offences under the Prevention of Corruption Act, misbehaviour in public office, the offences under the Sexual Offences Act. *[Interruption]* Of course, yes.

Hon. Al-Rawi: Thank you very much. I am so sorry to interrupt your stride. While you are on manslaughter, I am wrestling with the submission. I am looking at it, voluntary and involuntary in the various circumstances of manslaughter, because it is something I am trying to get right before we come to committee.

Sen. S. Chote SC: Certainly, no problem. If you do not mind, I will deal with that at the end, because I am just listing.

Hon. Al-Rawi: Yes, please.

Sen. S. Chote SC: In the Sexual Offences Act we have offences which deal with the keeping of brothels and prostitution and so on, and that is tied in with human trafficking or trafficking in persons, as our legislation calls it, which is also not included here and which I think we ought to include, because we want to make sure that this piece of legislation can apply to gangs, no matter how they morph or what they morph into. You might start off with a gang dealing in drugs and guns, and the gang may move up the ladder and start dealing in money-related fraudulent

offences for example. So we need to be able to have the foresight in this legislation to appreciate that the criminal environment changes, just as any other kind of environment.

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So in that regard I would also like to have, if possible, included in that First Schedule other offences from the Sexual Offences Act which you find out about in gang life. For example, section 12 which talks about “Sexual intercourse with a mentally subnormal person”. Section 23 which talks about “...living on the earnings of prostitution”. We have the hijacking Act to take into account because gangs may be related to that kind of activity. I know that we have the anti-terrorism legislation coming before us, but from what I believe that may be some months in advance and we can do something through this piece of legislation to close that loophole.

I think we need to take into account as well the Taking of Hostages Act, section 24 of the Offences Against the Person Act, certain offences under the Children Act, for example, sections 14, 15 and 21 which talk about child prostitution, section 37 which talks about “Use a child to sell, buy or deliver dangerous drug”.

There is also another section which I do not seem to have written down, but it is the part of the legislation that deals with pornography, and all of that is related and tied into the abuse of vulnerable persons by gangs at all strata of society. Because there may be gangs who are bringing in not only people from the South American continent, but there may be gangs who are bringing in some of those people that we see from Bulgaria and Eastern Europe.

And I do not see why we should create a piece of legislation that is not

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capable of applying across the board to any gang regardless of where they locate themselves, whether in or out of the country, whether their members change or whether they do high-level business or low-level business. I think we have a responsibility to the citizens of this country to ensure that this legislation can be used for the prosecution of any person operating in a gang, otherwise we will have enacted a piece of legislation that only deals with street gangs and that is not good enough.

Now for that reason, having said all of that, I can get to the point where I respectfully suggest that the definition of gang suggested by Sen. Richards should be adopted because that is an example of more modern legislation where you talk about gangs in the context of being criminal organizations to do different things, and you get away from the circularity in the wording which may cause trouble further down the road in terms of interpretation.

Now, if I may just continue. I am respectfully suggesting that 6(1) be amended, 6(1)(c) to include the words, “professes to be a gang leader or a gang member” to include the words “for himself or any other person”; “to the benefit for himself or any other person”.

Clause 6(4), I am suggesting should be kept in line with what comes earlier, and all those positions referred to there should be dealt with as law enforcement authority.

Clause 6(5), I have some problems with because it deals with two different kinds of mens rea in the criminal law within one section and “unlawfully and maliciously” which means one thing and “with intent” which means a different thing entirely. I am respectfully suggesting that should be corrected.

Clause 7, I was wondering about this clause because our Accessories and

Abettors Act already criminalizes aiding and abetting, counselling, procuring and so on, so I think that may already be covered. I do not know if this clause is required.

I have made suggestions that the clause that deals with “harbours” should be joined with concealing as an alternative. The drafting should be done so that you commit an offence if you are harbouring or concealing a gang leader or a gang member, and there should be a separate offence for concealing gang-related activity or items which you obtain through gang-related activity.

Clause 15(3), I am, respectfully, in some difficulty with respect to this because it seems to be saying that the police can go into anybody’s premises whether it is a church, school, nightclub, private members’ club, other people’s homes and that kind of thing, and that is a very draconian step to take. So it seems to me that it is not going to be the end of the world if a police officer is required to go before a magistrate and justify why he needs to do that, and that is only because the police officer has reason to believe that that person is physically present. Well, could you not surround the place and arrest the man when he comes out as happens now without infringing on the rights of the hundreds or so people who might be within the business establishment at the time that the gang leader or gang member is there?

So, I am just saying that it seems to be a bit of a heavy hand. I have no problem because this kind of legislation is necessarily heavy handed and we absolutely need the legislation the deal with certain kinds of criminal activity, but we also have to consider that when we want to extract persons who have committed offences under this Act, that we do not do so and breach the constitutional rights of citizens who may innocently be there at the restaurant

having a night out or at the nightclub and that kind of thing. So, I would respectfully ask that consideration be given to the inclusion of the requirement for a warrant for such a search.

In addition, I see that there is no reference in this piece of legislation to searches of maritime vessels and aircraft. I think that is absolutely necessary. I mean, the fact that drugs were allegedly found in a vehicle on the *Cabo Star*, I think, only a few days ago, is an indication that we need to have that power to search vessels. I know the power already exists under the Dangerous Drugs Act, but the fact of the matter is, if we want to use this Act, because the drugs being trafficked are being trafficked by a gang, then we need to have that kind of inclusion in the words of the Act, so that the stiffer penalty may be arrived at.

With respect to clause 16(3)(c), I know that it is proposed that a record be made in the station diary of the detention of the person in question. I am respectfully suggesting that it remains in the Act because the standing orders, they are not primary legislation, they are just standing orders by which the police officers regulate themselves and we want to have accountability. Now, this protects the police officer as much as it protects the accused person, because many accused persons come afterwards and make allegations that X, Y and Z may have happened, and if the police officer has not made proper records at the time to protect himself, then he finds himself being rather hard-pressed if the matter reaches a courtroom to say that, "yes, I can show that I did X, Y and Z because a record was kept at the time".

So, I think having a record perhaps in the station diary, and the earlier piece of legislation had also included giving a copy of the record to the person being kept in detention, I think that is necessary, because if the person is entitled to go and

challenge his detention in a court, then you want him to have equality of arms in that case. So, I am respectfully suggesting that a copy be given to the person.

Clause 17, now, oh dear. This clause creates a problem. The Proceeds of Crime Act has been interpreted by some magistrates to say, that if you are robbed of your handbag and your handbag contains money, that constitutes the proceeds of crime, so it means that the police officer can seize that money, keep it, take it to court and at the end of the day that money could be forfeited to the State. Now, that kind of interpretation, with all due respect, not only is it wrong, but we want to make sure that we do not create legislation which allows for that kind of uncertainty and with all due respect, injustice.

So, I am respectfully suggesting that clause 17 be amended to provide for items of value or money to be returned to victims of crime. Not every gang-related activity results in only gang members or gang leaders having cash and having items. It may simply be easy to find who is the legitimate owner and to give restitution to that person, but all the clause provides for is the right to be heard, it does not provide for restitution.

So, I ask that the victims of certain kinds of crimes, because we do have robberies referred to in the First Schedule as applying to this particular Bill. So, I ask that that be considered for the victims of certain kinds of crimes.

I totally agree with Sen. Ramkisson on the tipping-off point, and I say that because it was brought to my attention in an earlier exercise that sometimes police officers are going out on investigations and they have to ask their fellow officers to hand over their mobile phones, and even that does not avoid the risk of the gang members and the gang leaders being tipped off about the police raid. Some officers who may have gone to school with the gang members or who may be

related to the gang members in question often drop out of the exercise, the police exercise at the time, because they can then stay back and do the tipping-off.

You have had incidents where police officers who have been trained—I am not talking about now, I think the public needs to understand that we are not novices in training our police officers in dealing with gangs, but I will come back to that in a little while.

We have had instances where we have joint operations with the defence force. Well, your police officer in charge of the operations is not in charge of the defence force officers except for the purposes that they are there. So he cannot tell them, “give over your cell phones”. And I think we have to appreciate—this takes me to the logical point, that we have to appreciate that the proliferation of gangs in this country could not have happened without the clear infiltration of our protective and investigative services by criminal gangs. So the links are there. And do not glorify, I totally agree with Sen. Creese, do not glorify Mr. Burroughs. If you read enough about it, you would be embarrassed by such glorification. So tipping-off, I think, should be criminalized and there should be a penalty for it.

I also do think that gang members or gang leaders or persons connected to gangs who are found to have committed offences under this piece of legislation, and who are members of the protective services should receive a stiffer penalty than the citizen who is a gang member or a gang leader, because the person who is a police officer or a soldier or a coast guard officer who is performing the duties of law enforcement and using that as a cover to commit offences or gang-related offences or to protect gangs, in my view, deserve stiffer punishment than the person who is the member of a street gang.

Now, I totally—I have a lot of sympathy with what Sen. Creese suggested

about campaign financing and so on, but that is a totally different piece of legislation from the way I see it. But I do think that in this piece of legislation we can put in things to say that if you are convicted of an offence under this legislation, you will be precluded from state housing, state leasing of land or accommodation, or state business.

Whether it is—well perhaps I should not use these examples. I will simply say, for example, if you are in construction, and you have contracts with any state entity and you are convicted of an offence under this legislation, you should immediately have that contract terminated, and the person within the state entity who entered into that contract with you, if that person ought to have reasonably known that you or your company was involved in gang activity, then the public official should also face a criminal charge. That is not included here. You need two hands to clap and I think to some extent the legislation does not go quite as far as it needs to.

So, I support this legislation. I do not see what is the fear about it, because it is legislation which countries, all civilized countries where the rule of law operates, they have had to enact, we are not unique in that respect. Let us not become too afraid. Yes, gang members and gang numbers have gone up, but there have been changes in our society which perhaps account for that.

We have had people coming in through our borders because their countries are in crisis. I am not assuming that everyone who comes in is law abiding, and those people may have already had, some of those may already have had criminal links with the gangs here, at any level. So let us not assume that it is because things within this country are spiralling out of control that we have this sudden proliferation of gangs. If you think about it logically, you would anticipate that in

this kind of changing environment that you would see that phenomenon arise.

So it makes it even more important for us to have very clear legislation to ensure that regardless of whether you are a citizen of this country, but if you come here and you engage in gang-related activity, you will be dealt with according to our law. And I think that is an important message to be sent to all, whether it is the people who are renting roulette machines to rum shops all over the place and bars and that kind of thing, and money laundering as a result because they hold huge amounts of cash, let us ensure that those persons are also held liable under this legislation.

So, I am respectfully suggesting that these amendments should be made to what we have before us. I know that I got a sort of unofficial version of proposed amendments already, so I have tried to take those on board in my contribution.

With respect to the hon. Attorney General's question, yes there is a difference between involuntary and voluntary manslaughter, but that does not need to worry you at this stage—through you, Mr. Vice-President, I beg your pardon—because once you have manslaughter it will be for the person recommending the charge to determine what evidence is required to prove it. And the person looking at the elements of the offence, whether it is the office of the DPP or whoever it is, such a person would know what is required to be proved.

For example, you are not charged—if a charge is laid against you for manslaughter, you are not charged with voluntary manslaughter or involuntary manslaughter. The information or the indictment simply says manslaughter, and the particulars of the information or the indictment will say well, what it is you did that the State is saying you were responsible for any particular kind of manslaughter. I hope that that has cleared it up.

So, I think this legislation is absolutely necessary. It is not new, it has been vetted by this Parliament and the Parliament before by both sides. We need to have this legislation. I think that if rights can be shown to be protected under this legislation and the legislation is all embracing and not only street gangs are the subject of it, then I do not see why we need a sunset clause. Now, that may be—I know that is an unpopular view, but the fact of the matter is, gang activity is here to stay. It is not going to go away, so let us make sure that what we have or what we create here today is clear, precise legislation which is not going to weigh down any court as people debate what the interpretation should be.

Let us make sure that we do not make the same mistake as before and have premature charges laid, which meant that the last piece of legislation was considered to be too hot to touch, so there were very few prosecutions after that whole incident; that was the fallout of it.

The officers who I knew were highly trained at the time, all they needed help with was to learn how to put together the material for a prosecutor so that the case could be taken to court. I am so sorry to see that one of the best officers who I had worked with at the time, he is escorting prisoners in one of the Magistrates' Courts.

So, I do not intend to go into a whole diatribe about the police service and what they could do right and what they are not doing right today and this kind of thing; that is not, in my respectful view—we are looking at the legislation. We cannot change the world with a piece of legislation, but I certainly do think that we should keep an eye on problems like that to ensure that this piece of legislation works more effectively than the last piece of legislation did.

So with these few words, I thank you, Mr. Vice-President. [*Desk thumping*]
Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, I rise to

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make my contribution to this very important piece of legislation dealing with gangs in Trinidad and Tobago, gangs that have mushroomed from a few to close to 300 at the last count or approximately around that number and from a couple of hundreds to close to 3,000 as we speak and mounting and growing. But we would not have been able to debate this measure today if it was not for the extraordinary intervention of this alterative government led by the extraordinary leadership of the hon. Kamla Persad-Bissessar. [*Desk thumping*]

And you know, Mr. Vice-President, as it is said, extraordinary times require extraordinary leadership, and Trinidad and Tobago must be comforted with the kind of leadership that we have been able to demonstrate, as it relates to this society via the advancement of our leader to the levels that we are all familiar with.

And, Mr. Vice-President, we know that if you have weak leadership you are going to manifest that in what we are all witnessing in Trinidad and Tobago today, total confusion and chaos under the leadership of the PNM.

But what is very important to pay attention to is that leadership is not about showmanship, and I can give you the assurance that if the Minister of Foreign and Caricom Affairs and Minister of State in the Ministry of National Security was a member of the Kamla Persad-Bissessar Government, he would now have been history. [*Desk thumping*] I can also give you the assurance that if the Minister of National Security who is now holed up in a New York court was a member of the Kamla Persad-Bissessar administration he too would have been history. [*Desk thumping*]

Hon. Al-Rawi: I rise on Standing Order 46(1), as well as Standing Order and 46(4), Mr. Vice-President, [*Crosstalk*] and 46(6).

Mr. Vice-President: 46(1) and—

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Hon. Al-Rawi: (4) and (6), 46(1), 46(4), 46(6).

Mr. Vice-President: Hon. Attorney General, I overrule that point of order. [*Desk thumping*]

Sen. W. Mark: So, Mr. Vice-President, what I am saying is that we need strong leadership to take decisive action so that the ship of state can be steered properly and in a very even-keel manner.

I want to also say, Mr. Vice-President, for many of our colleagues who are here, that under the leadership of Kamla Persad-Bissessar in the People's Partnership, Dr. Lester Henry would have been history [*Desk thumping*]

Hon. Al-Rawi: Mr. Vice-President, not only relevance, but the improper motives that continuously fall from my friend under subsection 6 as well; ad hominem debate, irrelevant.

Mr. Vice-President: Sen. Mark, at this point in your contribution, I would ask you to get to the Bill in front of us, in relation to the point of order raised, at this point.

3.10 p.m.

Sen. W. Mark: I shall return to history later, with your guidance. Mr. Vice-President, what is the reality facing T&T as we speak today, you know what is the reality? The Government has brought legislation which in principle we have said on the Opposition benches that we will support, but we would like the legislation to be tweaked so that, for instance, the rights of citizens and the avoidance of liabilities to the State because of wrongful arrest, can be avoided.

Mr. Vice-President, I would like to say that when we are dealing with the issue of strategies to address gangs, we have to look at three essential strategies that are essential for an understanding of how we address gang activities in our

country. We can look at prevention, we can look at intervention, and we can look at suppression. These are the fundamental essential strategies that we can look at when we are examining gang activities. I do not believe that this one-size-fits-all approach that the Government has to deal with crime in this country is going to get us very far. The Government has taken what is called a draconian and oppressive approach to dealing with criminal-gang activities in our country, without drilling down in a very analytical way to what could be the bases, or the root causes, for the emergence of crime, criminality and gang activity in our country.

So, that is why, if you look at the policy of this Government manifested in this document, in the Bill rather, the policy is one of suppression and incarceration and imprisonment and punishment. That is the policy of the Government. They believe that is the only way that public safety can be guaranteed in T&T. Well, what is the evidence? What is the data before us telling us that that approach does not work; that approach has failed. You go Chicago, you go Los Angeles, you go to many American states today, you go to El Salvador and Jamaica, what you have is an explosion of crime in those countries, and they have instituted some of the most criminal and draconian measures to suppress crime in those countries.

But what is happening in Jamaica today? Crime is out of control in Jamaica. El Salvador today—you know what they call gangs in El Salvador? They call them terrorists. They have outlawed gangs in El Salvador, and they are now known as terrorists. I do not know if that is where we want to go in Trinidad and Tobago, if for instance, we cannot control gangs in this country, the next thing we would say is that these gangs are terrorists. We do not know, and we are avoiding the critical issues.

So, this hard-line approach to gangs will not succeed, and the Government is

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to our—when we analyze this document, this Bill rather, properly, Mr. Vice-President, you know what we are seeing? We are seeing that the Government is imposing a police solution on a social problem. What we have is a social problem in this country. When wealth in this country—90 per cent of the wealth of this country could be controlled by 2 per cent of the population. When the Gini coefficient of income distribution reveals that there is a 43 per cent Gini coefficient rate in this country, what does that tell you, Mr. Vice-President? It tells you that we have a society in which the rich are becoming richer and the poor are becoming poorer. [*Desk thumping*] That is what we are talking about.

And then instead of bringing policy measures to deal with the socio-economic realities of our country, what do we get from this Rowley-led administration? More oppressive, repressive, draconian measures to get at who? The ordinary working class man and woman from Laventille, from John John, from Sea Lots, from Belmont, from San Fernando. [*Desk thumping*] So you are out to incarcerate—according to the information we have today, there are close to 4,000 gang members in this country. So, what you are going to do? The AG has boasted he knows every member, he knows all the leaders, he knows where they are. So, when this Bill passes, are you going to lock up all of these people, Mr. Vice-President? But it is the very AG who has told us that it costs this country \$25,000 a month to maintain prisoners in this country. He is on record as telling us that.

Mr. Vice-President, I am saying that more police, more prison, more punishment will not stop gang violence in Trinidad and Tobago. What we need is a more scientific approach, a more science-based approach to public safety in our country. I call on the Government to invest more in jobs, invest in jobs, invest in

schools, invest in programmes for the young people. [*Desk thumping*] That is what you have to invest in, otherwise we would lose the war on gangs in this country. It is only a matter of time if we continue how we are going.

Mr. Vice-President, when I drill down into this Bill later on in my proceedings, I will show you, for instance, the abuse and the discrimination in its application that lie at the heart of these measures. And the potential for innocent people to be incarcerated by the security services is real, very real, and it is not to say that we have a police service here, elements of it, but I would say the majority of the police officers are good. But, Mr. Vice-President, let us face the reality. We have a minority crooked, corrupt, and they will use that power to abuse, and misuse, and incarcerate ordinary people in this country. We do not have a police state, and we have no intention of giving this Government power to create a police state. [*Desk thumping*]

Mr. Vice-President, let me tell you what the literature is saying based on the research, because if you do not research this thing properly, you will come up with the wrong solutions, you know. You cannot cut and paste legislation. Gang legislation has failed in Trinidad and Tobago. It has failed! And, therefore, what the Government is trying to do, and we are trying to help the Government, is to tweak what they have brought here to make it workable.

But, Mr. Vice-President, what are some of the socio-economic factors that encourage young people to join gangs? That is what we should be looking at. That is what we should be examining. Not to bring amendments here like the AG, and say from 20 years to 25 years, from 10 years to 15 years, and from 15 years to 20 years. It appears, Mr. Vice-President, that the language of this Government is punitive. It is more draconian power, more punishment. That is the only way they

know how to solve problems, Mr. Vice-President, by incarcerating you, by punishing you, by imprisoning you. That is the solution as far as the Government is concerned.

Well, Mr. Vice-President, let me share with you and my colleagues here—based on the research that I have conducted in Trinidad and Tobago, in the Caribbean and internationally—what are some of the factors, particularly socio-economic factors that generate young people and encourage them to join gangs. That is where we have to go to understand the solution:

- Overcrowded living conditions, one factor that leads young people to join gangs;
- lack of public space for recreational and sporting activities, another factor;
- high unemployment and underemployment, another factor;
- intra-familial violence in communities;
- the proliferation of guns;
- easy access to drugs and alcohol; and
- reducing economic and social inequality in communities.

These are some of the factors that lead young men and women to become part of gangs. What you have to do is to come up with solutions to deal with these problems. Not to come up with solutions to put people in jail. That is not the answer. Incarcerating our young people, Mr. Vice-President, is not the answer. That is backward thinking on the part of the PNM. [*Desk thumping*]

Mr. President, gang membership in this country is associated also with school dropouts. Do you know that the hon. Minister of Education came to this Parliament and told us between 2008 and 2015 or '16 over 12,000 youths between

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the ages of 12 and 16 dropped out of the education system in our country? Where are they? If you have 12,000 youths dropping out of the school system at the primary school level and at the secondary school level, who would be tracking down these people? That is what we should be focusing on, these young people who are lost in our society. Teenage pregnancy and parenthood: that is another major factor in our country that deals with this question of encouraging young people to join gangs. I call on the Government to promote a positive youth agenda in this country. [*Desk thumping*] Put a positive youth agenda.

Mr. Vice-President, you know what this Government is doing? They have their own priorities: to build a highway in the bush, “behind God back”, for almost \$500 million. But you know what is going on? MiLAT reduced by \$4 million, Civilian Conservation Corp, they cut it by \$13 million in the last budget, mentoring programme for youth at risk, nothing, it comes to zero; National Youth Service, nothing allocated; grants for the expansion of the Universal Early Childhood Centre, cut down by \$2.7 million. Mr. Vice-President, in education, UTT, reduced by \$7.5 million; National Training Agency by \$1 million; YTEPP by \$9 million; COSTAATT by \$20 million. This is what the Government is doing. The Government is reducing areas that they ought to be increasing and focusing on.

Hon. Al-Rawi: Mr. Vice-President, 46(1), 20 minutes in a clause, at least; it is not a general debate.

Sen. W. Mark: Mr. Vice-President, I understand second reading, general principles and merits, we are not in the committee stage.

Hon. Al-Rawi: Not a clause yet.

Mr. Vice-President: Yes, Sen. Mark, I am going to ask that as you continue with your contribution you tie it in to the Bill that is before us. I understand the

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connections that you are trying to make, and the points that you are trying to make in relation to gangs and what should be done. I ask that as you give your examples, wrap those up and move on with other points, if you have them.

Sen. W. Mark: Yeah. Well, I have plenty so I need about three hours. [*Laughter and desk thumping*] I have plenty, plenty contribution to make this afternoon. Because I have studied this thing, you know. I have studied this in the interest of the poor people in this country. We represent the salt of the earth. [*Desk thumping*] When we go into Belmont and into other places, we must tell them why we have posed, and we are posing these alternatives, [*Desk thumping*] and why the Government is seeking to put you in jail. We are not about putting you in jail, we are about liberating you. That is what we are about. Mr. Vice-President, let me continue, please. [*Desk thumping*] Mr. Vice-President, let me continue, please? Mr. Vice-President, I am continuing, please.

Hon. Al-Rawi: Mr. Vice-President, 41(1), 46(6) and 53(1)—

Sen. W. Mark: Yes, I do not know why this bearded man—

Hon. Al-Rawi: I have raised three Standing Orders.

Sen. W. Mark: Okay. Mr. Vice-President, I am going on—

Hon. Al-Rawi: Mr. Vice-President, I rise on Standing Order 41.

Sen. W. Mark: You cannot stand whilst the Vice-President is on his legs. Take your seat!

Mr. Vice-President: Repeat your Standing Orders, please.

Hon. Al-Rawi: Mr. Vice-President, thank you; 46(1), 46(6), 53(1)(b).

Mr. Vice-President: Sen. Mark, in relation to the Standing Orders raised, continue with your contribution, and move forward with the points that you are making. [*Desk thumping*]

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Sen. W. Mark: Thank you so much. [*Desk thumping*] Mr. Vice-President, I do not know why the AG is jittery. Why is he jittery? We have a situation in which the Attorney General has brought legislation to incarcerate young people, and we are saying we are not in support of that. We are in support of liberating young people.

Hon. Al-Rawi: Mr. Vice-President, 46(6), 46(4). Mr. Vice-President, these are terrible imputations of an improper motive, particularly on my part, and the hon. Senator is continuously making these statements in an unguarded, cavalier fashion.

Mr. Vice-President: I have ruled on the point of orders raised, understanding the contribution that is being made by the hon. Member. I have asked him to wrap up that line of thought that he is going forward with, and I am now allowing him to move forward in relation to his contribution and moving on to other points. Sen. Mark—

Sen. W. Mark: Thank you.

Mr. Vice-President:—just to restate—one second—just to restate, I understand the point that you were making before. You have made that point through the last 20 minutes. I am asking you to move forward in relation to the Bill that is before us.

Sen. W. Mark: Yes, I am guided by you, sir. [*Desk thumping*] Mr. Vice-President, I want to tell you that—and this is a critical point before I get into some other critical matters before us. Mr. Vice-President, would you believe that over the last three years the Rowley-led administration has spent 25—

Mr. Vice-President: Senator, this is the second time I have heard you actually make that statement. When referring to Members of any Chamber, please refer to them by their title. So, it would be Prime Minister and not Rowley-led

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Government. Thank you.

Sen. W. Mark: The hon. Prime Minister. We as a Government or a country would have collectively allocated, over the last three years, close to \$25 billion to national security. Twenty-five billion dollars to national security, and that is to deal with public safety. That is to suppress crime, to deal with crime. But, when you look at the amount of money we have spent and you look at the population of 1.4, that is equivalent to \$17.7 million per person. And if you had given each person that a day, it would have been \$1.4 million. Mr. Vice-President, I call on Government to take some of this money and put those moneys into preventative programmes to help the young people rather than incarcerate them and imprison them. [*Desk thumping*]

Mr. Vice-President, I did some research—again, with your leave—the research revealed that a study conducted by a chap called Charles M. Katz and David Choate, entitled, “Diagnosing Trinidad & Tobago’s Gang Problem”, by the American Society of Criminology. A conference was held in California, back in, I think it was 2000. I have the document here. It was on the 1st of January, 2006. And, in 2006 what did the evidence reveal at that point in time? It revealed that the number of youth gangs and gang members in this country during the period of 2000 and 2006, was 95 gangs, with a membership of 1,269 members. What was the composition of these gangs in our country?—83 per cent, according to this study—I can send a copy to you, sir; this is the study—of the gangs were made up of African youths; 13 per cent were made up of East Indian young people. There were no female-dominated gangs when this study was conducted. About 87 per cent comprised of adults; two-thirds of the gangs were made up of between six and 50 members; and 95 per cent of the gang comprised of citizens of the Republic of

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This is what the sociological research revealed, and that was between the period 2000 and 2006. I do not know what the figures are today, but this is what the sociological study revealed. It went on to say further that the number of gangs per station—that is police station district—was as follows:

- Besson Street, 19 gangs with 385 members;
- San Juan, eight gangs with 130 gang members;
- Sangre Grande, eight gangs with 90 gang members;
- St. Joseph, seven gangs with five gang members;
- Belmont, six gangs with 165 members.

That is what the data revealed in the period 2000 to 2006.

Mr. Vice-President, today, as I told you, this number has grown exponentially. We have gone from just about a few gangs in this country to close to, as I said, 300 gangs, and it is mounting. And therefore, all we are advancing to the hon. Attorney General, who is very, very touchy this afternoon, are ways and means of trying to get some new focus on this gang culture. The university did a study in 2011, and this study of the University of the West Indies did a conference entitled, “Break the Silence: end child sexual abuse”, and they talked about the gang culture in our country. And in this study they revealed that in Trinidad and Tobago there were separate or several categories of gangs. They talked about gang. The first category dealt with drugs and guns and money laundering.

The second category they talked about, they were the marginalized people in the communities, being neglected by State and state authorities, and they had to come together in order to survive and to gain employment. The question here is that we are putting together legislation in a one-size-fits-all situation, without

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understanding that the culture—the gang culture and its categorization—has to be properly studied; otherwise you are going to be targeting young people, innocent people, who may not be involved in drug running, in money laundering, and in other nefarious activities. And this is what this matter, I spoke to you about, revealed.

Mr. Vice-President, there is a study also, and it is a court judgment, and I hope the Attorney General would in fact pay attention to that particular court judgment that came out sometime in, I think it was 2003, and that particular court judgment dealt with *Marlon Francis McQueen v the Attorney General of Trinidad and Tobago*. It was delivered by Justice Peter Rajkumar, and it is HCA 2969 of 2003. And it deals with the whole question of unlawful detention of citizens. And it tells you what you have to do, and if you do not do it right we would have a lot of state liabilities on our hands. And I think this is a judgment that the Attorney General will do well to study, because it tells you what not to do in terms of seeking to impose draconian measures on the citizens of this country.

Mr. Vice-President, we have looked at the question of the various provisions that we have in this Bill, and we have seen where in clause 4 we talk about law enforcement, and when you look at the definition of clause 4, I would have thought that the Government would have added, apart from the police and the army and the customs, they would have included government Ministries and government agencies, and identify those agencies. Because you need state intervention. You need social intervention. You need the Ministries to be involved in this matter. And this cannot be something that is left to the protective services. You need to get other agencies involved in this particular matter.

Mr. Vice-President, when you go to clause 6 of the Bill, it talks about a gang

and gang-related activities. It says:

“A person who—

- (a) is a gang leader;
- (b) is a gang member; or
- (c) professes to be a gang leader or a gang member, in order to gain a benefit, intimidates other persons or promote a gang, commits an offence.”

Now, Mr. Vice-President, when you said—there is this expression “to gain a benefit,” what does that mean? Again, the doctrine of vagueness is at work here. You cannot bring legislation that is vague and imprecise. It is unconstitutional to go that route, and there is this concept of the doctrine of vagueness and broadness, and we are seeing in many provisions in the legislation these doctrines at work. And therefore, you have another situation where you could be incarcerated because you were at the wrong place at the wrong time.

Mr. Vice-President, hear this classic. It is the classic of the century. It is clause 13:

A policeman is in—you commit a crime, a person commits a crime or an offence, if in response to an enquiry from the police officer as to 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.

How is a policeman to tell that the gang person who they are interviewing knows the whereabouts of the gang leader? How is that possible? This is the doctrine of vagueness at work here. And you are giving the police extraordinary powers to innocently incarcerate people. And this is purely subjective, and these are matters that the Government would have to take on board.

3.40 p.m.

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

Sen. W. Mark: Yes, Sir. So, Mr. Vice-President, in an effort to tighten the legislation, I am circulating a series of amendments aimed at tightening this legislation. I propose to circulate amendments to clauses 13, 13(1), 13(3), 14(1), 15(2), 15(3), 16(4), and to ensure that the rights of citizens, because we are not a police state. Under our watch—I am talking about the watch of the United National Congress—Trinidad and Tobago will never become a police state. [*Desk thumping*]

So I want to tell you, Mr. Vice-President, that in an effort to ensure that innocent people do not fall through the cracks unnecessarily, we are also proposing two new forms and two new Schedules for this honourable Senate's consideration. And these matters will be circulated in due course, because as I say, as we are saying on this side, we are in support of the legislation. We would like to see the legislation advance, but, Mr. Vice-President, that legislation can only advance in the interest of all and I am sure that the Attorney General would want to ensure that we do everything in our power to ensure there is no injustice and there is no abuse of powers given to the security services in this country.

So, Mr. Vice-President, in closing I want to say the following: We should avoid legislation that is vague and that is overly broad; what behaviours are we trying to correct or alter must be precise; do not go with vague and, as I said, overly broad definitions; we need more narrow definitions in order to reduce or curtail police discretion in these matters, Mr. Vice-President. And when we are dealing with gang activity it requires a comprehensive and multifaceted approach to whatever we are doing. If we get it wrong, then gang violence could consume

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our country at a terrifying speed and we do not want that.

We want to ensure that we assist in strengthening the legislation, the amendments are going to do exactly that and we are hoping at the end of the exercise we will be able to collectively bring good legislation to this country where we promote the State in terms of its protection and, at the same time you safeguard and balance the rights of the citizens of this country. So we want to balance both the State as well as the rights of the citizens and therefore the legislation must establish those critical and essential balances.

So, Mr. Vice-President, I would like to thank you for giving me the opportunity to make these limited, few interventions. I hope at the end of the day we would be able to contribute to the strengthening of the legislation in the interest of the nation and we hope that the Government of Trinidad and Tobago will join us in trying to strengthen the legislation, so at the end of the day we will pass good laws in a unanimous manner in the interest of the entire population of the Republic of T&T. I wish to thank you for the opportunity. [*Desk thumping*]

Sen. Elton Prescott SC: [*Desk thumping*] Thank you very much, Mr. Vice-President and my Senatorial colleagues. Permit me a personal observation. I am returning to the Senate in 2018 after some years in the Tenth Parliament and I cannot recall being warmly received anywhere as I have been received today. [*Desk thumping*] It would be imprudent of me to suggest to anyone that they should ask me to come back, [*Laughter*] but I am sure this message is being received in the right quarters. [*Laughter*]

Mr. Vice-President, I rise to make a contribution to the Anti-Gang Bill, 2018, but regrettably I am handicapped because from what I have just heard from Sen. Mark, it appears that there are many amendments proposed on which I will

not have the opportunity to comment. And knowing the extent of his wisdom, I anticipate that he will propose amendments that I myself could never have thought of and therefore I will not get the opportunity to add to them or seek to modify them. But nonetheless, I am not inclined to come to the Senate and remain silent, so I will make my contribution anyway.

I am very privileged having chosen to await to hear the observations of my colleagues, Senators Raffoul and Chote because they have given me some guidance on some patterns of thinking that I had and it would avoid me wasting the Senate's time. I therefore have four matters on which I wish to speak and I hope that the hon. Attorney General in his winding-up would take them into account. I hope that at the committee stage some of what I say might resonate so that they too can be taken into account there.

Firstly, it might be good to remind Members of this honourable Senate of the duties of the police officer which are set out in the Police Service Act, Chap. 15:01. I am a bit handicapped—the text I am using refers to section 46 and the one I have at home refers to section 36. This is the 2015 edition and because I am uncertain I will just read the very provision into the record so that *Hansard* will reflect that I did try. I am sure somebody will find the correct section. In the text I am reading, it is section 46 of Chap. 15:01, the Police Service Act. Pardon me, 45. And it says:

“A police officer—

- (b) may arrest, charge and bring before a summary court a person found committing any offence rendering him liable to arrest without warrant, or whom he reasonably suspects of having committed any such offence.”

It tells us therefore that the police officer already has great powers where he has reasonable suspicion that an offence has been committed to bring persons before the court.

What section 45(b), what that section appears to place the emphasis on, however, is that between the arrest and the bringing of the potential offender before the court, very little time must be allowed to elapse. His duty is, having arrested the person, to charge him and bring him before the court, allow the justices to intervene and the justice system to take pre-eminence over what happens thereafter.

In introducing as we have, the Anti-Gang Bill, greater powers in the hands of the police, I regret it appears to me that we are taking what may be described as an invidious step of placing even greater power into the hands of the police. Primarily because, and the observations are being heard all around, primarily because, like me, nobody seems to know what to do about crime in this country. I do not think the drafters of the legislation do. I do not think any of my colleagues in here has provided the answer yet. I doubt we will get to it if all we do is introduce legislation of this sort, but it is another effort and hopefully it works.

I therefore would want to start my contribution by inviting your attention to what is proposed at clause 16 of the Bill. Now, I have seen the proposed amendments of the hon. Attorney General and so I am looking at the unofficial consolidated version which has been circulated, being mindful of the fact that there are many amendments. The first thing therefore I wish to raise is this: Is there an understanding, or pardon me, may I put it differently, do we have a distinction in our minds—and this is really directed at the hon. Attorney General—between detention and arrest?

We have suggested in clause 16 that a police officer may simply detain, and “simply” is a really unfortunate choice of word because it is more than simple, it is very, very, serious. He may detain a person on the basis that he suspects that this person has committed an offence. And detention in my way of thinking, until corrected by the hon. Attorney General, is to be distinguished from an arrest. So that you are coming along the street and there is someone who fits a certain profile, you may, because that profile tells you this person has the potential to, or has already committed some offence, to take such a person to a place and detain the person. There is no need to tell him that he is under arrest; indeed that may come much later. There is no need to charge him with an offence; that may come much later. He is being detained.

Now, I have not practised criminal law for about 30 years, so the chances are I will find out inside this honourable Senate, and I know there are criminal lawyers here, that this is not the reality. But if a police officer, exercising the powers proposed in clause 16, were to detain me or some other unfortunate, how long, if I may pose this question through you to the hon. Attorney General, for how long may he keep me answering questions in the police station or the detention centre or where-so-ever people are kept, before he is required to lay a charge?

The Police Service Act says that once he has arrested me, he should charge me, but if he has not arrested me and has merely invited me to remain detained, until he satisfies himself that I am either not worthy of his attention or that I should be charged, what is my status really in relation to such a person? Is the well-known writ of habeas corpus directed at detention of this sort? Are attorneys permitted to make an application on behalf of a person who is being detained properly under clause 16 to have him return to his liberty; to have his liberty returned to him and if

so, when? If as we have been told in clause 16, the police officer may arrest a person who he thinks has committed an offence, the question remains, is there another stage called detention and which comes first?

Let me use a timeline to make my understanding of this clear and if I am wrong then that too needs to be taken into account, because it means that there are people out there who do not understand the law and the law must be very clear to all of us, otherwise we may find ourselves losing our liberty without any idea why it has happened, only to find that the law permits such a thing to happen.

May I just digress slightly to say, it appears that all that we have really done or are doing with the Anti-Gang Bill today is to be creating powers of detention where none existed before. Nothing else. The police now have the powers—I think in England they had something like that called the “sus laws”. If he suspects that you are such a person, he holds you and thereafter your liberty is at stake, your name has been tarnished for a long time to come and you may well find yourself either imprisoned or returned to your home, but you have now found yourself in the—what is the electronic word for it—in the reservoir of information, of data—the database? The modern word is database—[*Interruption*—the cloud? The cloud. We all will find ourselves under the cloud in such a case.

My timeline goes like this, Sir. Wednesday the 1st of any month, a policeman asks you to come to the station to assist him with some enquires. A polite enquiry, a polite request. A citizen like me, an upstanding one may say, sure, I have nothing to be afraid of. For how long may he do so, keep me there so that he may pursue this belief he has that I can be of assistance? I would imagine that the criminal lawyers who have my interest at heart may take a stand, but are unlikely to get that done under 48 hours. And I heard today, yes, Sen. Raffoul

made the observation that you can be kept for 48 hours. I think it is about correct.

But in any event, by the time he gathers up his armoury, my criminal attorney that is, to approach the court with his habeas corpus application it is Friday and Friday is significant in the police armoury, it is the best day to arrest you. The implications are well known. So that you are in custody on the 1st and by Friday the 3rd if a step has been taken via habeas corpus or a serious enquiry has been made, he may charge you. He may formally arrest you and charge you. And clause 15(1) speaks to that:

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

So that on Friday the 3rd the person may be arrested. No charge needs to be brought against such a person at that point because the Anti-Gang Bill does not require a charge, contrary to what the Police Service Act does. And then, if I understand this legislation correctly, thereafter he may detain you. It appears that the legislation contemplates that there are two concepts, one is arrest and one is detention. If you look at clause 15(1) you see the police officer may arrest, if you look at clause 16(1) the police officer may detain you, notwithstanding any law to the contrary.

And so, may I say by way of a side window, presumably we are going to either establish or reinforce detention centres in this country, give them a legal status and treat people there until such time as the gang warfare has ceased and gangs have disappeared. So, on Friday 3rd he takes the step to charge you and he has 48 hours within which to decide on whether there should be an application for

further detention. If he makes such an application on Sunday the 5th, it comes up before the court on Monday the 6th, he is still within his 72 hours and if the court is so minded, so persuaded, the further detention commences and perhaps by the 17th of that month, if my mathematics is correct, such a person may be released or may face the court on a charge.

So that for the first 17 days of the month you may be away from home, legitimately kept by the police under this piece of legislation. I am quite certain that the Attorney General will prove me wrong, but nonetheless there are many citizens outside who may not have thought about it, when a police officer approaches you, are you immediately under arrest? When he invites you to the police station, are you under arrest? Must he charge you right away? Or are you in detention? “Nah”, let me put that differently, detention reminds me of my school days. Are you detained properly and if so until when? When may persons intervene on your behalf to bring an end to this?

Clause 16 says the time from which the detention would be deemed to have started, retroactively, would be the time from which he has arrested you. I have sought to demonstrate that there is some uncertainty in the minds of myself and maybe others as to which comes first—the arrest or the detention and when does time begin to run? So may I leave that to the better minds who are engaged in this and to hope that it will eventually resolve itself so that there is some clarity in the minds of others? Because we have already accepted that this legislation will require a three-fifths majority, there will be no need for me to comment on the unconstitutionality of what is proposed, it will resolve itself.

I am now going to move to a matter which may well turn out in committee stage to be easily resolved, but nonetheless I bring it to your attention, Mr.

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Vice-President. I am referring to clause 15 and the use of the terms “reasonable cause to believe” and “satisfied by evidence on oath”. Perhaps I could just read the passages that are of concern to me. In the proposed—may I refer to the amendment proposed by the Attorney General, Mr. Vice-President? I am not sure I can. I may?

[Assent indicated]

Sen. E. Prescott, SC: Thank you. What is proposed reads as follows:

“(2) A Magistrate may issue a warrant to a police officer authorizing the police officer to enter and search a dwelling house where the Magistrate is satisfied by evidence on oath that there is reasonable ground for believing that there may be found in the dwelling house a gang leader...”

I pause there. A police officer comes before the magistrate, provides him with evidence, the magistrate is satisfied that there is in that evidence reasonable grounds for believing that someone may be found. What it goes on to say, however, is this:

“A Magistrate may issue the warrant to a police officer...to enter and search a dwelling house where the Magistrate is satisfied by evidence on oath”—that a person—“whom the Magistrate has reasonable cause to believe has committed an offence...”

It is at the very least ambiguous, but it could be worse. Because we have now placed the burden on the magistrate to, himself have cause to believe that a person has committed an offence. When, in the earlier parts of 15(2), what we really said, and that is the proper approach, it seems to me in preparing legislation, the magistrate’s only function is to look at the evidence before him, make no personal

determination about, subjective determination rather, about how he feels about it; he says, on the basis of the evidence you have provided me on oath, I am satisfied that there is ground for believing. The magistrate ought not to be the reservoir, the person who determines whether there is reasonable cause to believe that the offence has been committed.

I hope the slight distinction I am making resonates with the Attorney General so that it can be addressed. Because if he has to be satisfied, the magistrate that is, that there is cause then, is there a higher standard? Is it that, firstly, he must say, I have seen your evidence on oath and what is more I am satisfied that there is reasonable cause to believe that this man has committed an offence? If he has to apply a higher standard he may, perhaps, hon. Attorney General, may be able to tell us what standard applies, to which level of satisfaction the magistrate is required to bring himself.

In 15(2) also, there appears to be two offenders, the gang leader is one of them and the other one is this person whom the magistrate has reasonable cause to believe has committed an offence. For example, that he has harboured a gang leader or paid money to him or sought to prevent someone from leaving the gang, et cetera. The language is such that it may be better if we simply identified that the magistrate must be satisfied by evidence on oath that there is reasonable ground for believing, one, that there is a gang leader there or two, some other person, not a gang leader or a member, but one who has committed another offence under the Act. I am taking this rather tortuous approach because I am quite satisfied that I will not be here at the committee stage and therefore I will not be able to make a contribution, which is my forte, but there would be others.

Clause 12, may I now invite your attention to clause 12, merely to ask, may I

just remind Senators what clause 12 says. It is the one that deals with harbouring a gang member. It says:

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

I thought for a moment that one ought to ask, is there in the mind of the framers of this legislation any consideration for a rehabilitative process for children? Is the child offender likely to find himself in court under this legislation? A person of 16, 17 as the case may be, the ones who are more likely to be attracted to gangs, either for protection or because it looks good, does this legislation—ought this legislation, let me put it differently, ought this legislation not endeavour to ensure that children at their tender age, subject to allurements, could be protected by introducing some rehabilitative process? Something that prior to the charge being laid or proved against them may turn them in a different direction? I am sure that there are others here who are better placed to speak to that kind of thing. I am suspecting that Sen. Raffoul was thinking about that and those others who have suggested that social programmes are best.

A young man of 15 or 16 who finds himself in his neighbourhood crew, gang, lime, whatever may be, hanging out on the street corners as some parents are permitting children to do these days, may well find that this piece of legislation determines what his future is going to be like. And it would be regrettable if it simply were to be applied across the board without any concern for the fact that this is a child. And he is going to remain a child, according to my understanding of these things, until he is 18 but with a record that may turn against him.

We were told that 70 per cent of people or more join gangs for reasons other than economic benefit. They want to belong. And that stage of wanting to belong

continues way into the 20s in some cases, you see. So that there is need for us to step back a bit and ask ourselves, can we do something in this legislation, whether by way of a provision or not that says, but if you are a child, and you may determine whether there could be a new definition of child too, perhaps a fella of 18, the horse has bolted. But there may be a point in time where we can intervene, divert the child and save the child's future.

And finally—I promise I would be short although sometimes time is a runaway horse when it is in my hand, but it is not in this case. Clause 17 reads as follows, it is the one dealing with Forfeiture of Property. It says:

- “(1) Subject to subsection (2),”—and my focus would be on (2)—“where a person is convicted of an offence under this Act, the Court may order that any property—
- (a) used for, or in connection with; or
 - (b) obtained as a result of, or in connection with the commission of the offence, be forfeited to the State.”

And then (2):

- “(2) Before making an order under subsection (1), the Court shall give an opportunity to be heard to any person who claims to be the owner of, or to have an interest in, the property.”

It is infelicitously drafted:

“Before making an order under subsection (1)”—that is for forfeiture—“the Court shall give an opportunity to be heard to any person who claims to be the owner of, or to have an interest in, the property.”

May I suggest that we redirect our attention and place the burden upon the State to satisfy the judge that it has taken steps to alert or to invite members of the public to

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identify, to express their interest or their ownership in the property? I cannot see the court gathering up itself simply to say, well, has everybody who has an interest in this property been given an opportunity to be heard? What answer is he going to get? “Yes, Milord”?

But if we place the burden on the State, when they come before the court to determine the question of how the property should be disposed, the obligation would be, firstly, to establish, and we see it all the time, an article in the newspaper, a publication in the newspaper, the court does it all the time. I have the following miscellany, a list of goods, and it says you have 80 days, 20 days, 24 days, what have you, to come forward and express an interest.

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Somebody else sought a grant of probate: two weeks, Thursdays, caveat may come forward, “Register a caveat; demonstrate your interest.” The likelihood of my relative who has lost jewellery becoming aware that there is someone before the court charged with that property, because the police has held him and found it on him, we have no way of knowing, but we know it is the proceeds of crime, and it goes.

Or that somebody who has gone on to my land in the country and, I do not know, stored material that contradicts some of First Schedule—maybe I could find one. He has ammunition on it and I am unaware because I do not go there frequently. I am a landed—I belong to the landed gentry. I may well find that I lose my property because I was not reading the newspapers. I have not joined that bunch of people who do not read the newspapers yet, but it may soon come.

And so, the judge has simply asked himself—and this is not because the judge is lazy or unconcerned, it is because the only obligation placed on him is to

say: “Has everyone been given an opportunity to be heard?” And the police officer glibly says, “But of course. We mentioned it in the papers. It was on page three of the local newspaper or in the gossip column or something.” And perhaps I could pause there. The State ought to take the burden to satisfy the court that it has taken steps properly to bring to the attention of a potential owner the potentiality for loss of his property.

Regrettably, Mr. Vice-President, those are all the matters I wish to make an observation on. For the benefit of those who will sit in committee stage, I would merely invite their attention to the following provisions which could do with some beefing up. In Clause 5(a), the use of the word, “admitted”, it says where a person has admitted that he is a gang leader or a member that may constitute evidence, I should have liked to ascertain admitted to whom? There was a time I recall when we were doing the Anti-Gang Bill in 2010 we said, a young man who is liming on Independence Square and tells his friends that he is a gang member could find himself in trouble, because he has made an admission. But it could not be that that is what is intended here; that that will be evidence against which you may use against him, that he tells his friends, who he wants to think he is—I do not know what is the modern word for it.

Sen. Richards: A “ranker”.

Sen. E. Prescott SC: A “ranker”? I do not know. Okay. He wants his friend to think that he is what he is not, and he says, “I am in the X gang”—may find that that is enough evidence on which the police should arrest him. So clause 5(a), when you come to committee stage, perhaps you may want to do something more with the use of the word “admitted”.

Clause 15, I have alluded to that already. In 15(1) I think we should say instead, where it says “or who he has reasonable cause to believe has committed an offence”, we should use the tried and trusted clause “or a person whom he has reasonable cause to believe.” And there is one more observation, if you would permit me once again because I may not be here at committee stage, I should like that to be taken into account. It is to be found in clause 16. It refers back to the distinction in my head between “arrest” and “detain”. And where it says:

“Notwithstanding any law to the contrary, a police officer may, without warrant, detain”—

I should want it to be considered whether there ought not to be an arrest before detention. Or if it is that the framers of this legislation wish to keep those two events separate for reasons best known to themselves, make it clear that they are separate steps that a police officer may take. Mr. Vice-President, I thank you very much for the opportunity to have contributed to this debate. [*Desk thumping*]

Mr. Vice-President: Hon. Members, at this point we will take the tea break. So this House will now stand suspended until 4.45 p.m.

4.14 p.m.: *Sitting suspended.*

4.45 p.m.: *Sitting resumed.*

Mr. Vice-President: Hon. Members, just permit me to revert to item No. 14 on the Order Paper. Leader of Government Business.

JOINT SELECT COMMITTEES

(Extension of Time)

Gambling (Gaming and Betting) Control Bill, 2016

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, having regard to the Interim Report of the Joint Select

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Committee appointed to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016, I beg to move that the committee be allowed an extension of three months in order to complete its work and submit a final report to Parliament by June 29, 2018.

Question put and agreed to.

Cybercrime Bill, 2017

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Cybercrime Bill, 2017, I beg to move that the committee be allowed an extension of three months in order to complete its work and submit a final report to Parliament by June 29, 2018.

Question put and agreed to.

Anti-Terrorism (Amdt.) Bill, 2018

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Anti-Terrorism (Amdt.) Bill, 2018, I beg to move that the committee be allowed an extension of three months in order to complete its work and submit a final report to Parliament by June 29, 2018.

Question put and agreed to.

Mr. Vice-President: The debate on the Anti-Gang (Amdt.) Bill will now be resumed. Hon. Attorney General. [*Desk thumping*]

ANTI-GANG (AMDT.) BILL, 2018

The Attorney General (Hon. Faris Al-Rawi): Thank you, Mr. Vice-President. I wish to start off my wrap-up by commending all contributors to this debate for excellent food for thought. I have to confess that it was a pleasure, in particular, to hear some of the very far-reaching considerations coming from many of the

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Members present. I wish to thank the excellent research conducted by Sen. Chote, by Sen. Ramkissoon, Sen. Shrikissoon, as they joined with Sen Prescott, who I am extremely pleased to see back with us this afternoon, having spent five years just under his gaze on another side of the Parliament. Today I was reminded that contributions come in all forms.

I wish to thank the hon. Members of the Opposition team for their submissions. Indeed, Sen. Ramdeen, in particular, in sitting with the informal structure that we had engaged as Opposition and Government in coming up with this Bill, made very useful and excellent submissions on behalf of the Opposition which we were very pleased to contemplate.

Permit me to be a bit personal in my reflection. It was today, standing for the first time opposite my learned senior, Sen. Elton Prescott, that I was reminded of how far the understated charm can take you. I mean that most sincerely, and I say so because it is very easy to fall into a pattern of tit-for-tat or a response. Indeed, my learned colleague, my dear friend, Sen. Mark, can be quite provocative in his style. I know he does not mean anything in any pejorative sense, but he can sometimes bring out the fighter in you as he professed to having skills himself this afternoon in another arena.

But today I was reminded about the focus on the sobriety of law and that it is not often that one has the privilege to practise law, or have had practised law in a different incarnation, and to make the law. And for us lawyers who stand in this Parliament, in this Senate or in the House, it is truly an incredible privilege to be given that ability to make the law.

It is on that basis, therefore, that I wish to dive directly into the response in the following way. I would like to treat specifically with some of the provisions

Anti-Gang Bill, 2018 (cont'd)
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and recommendations that have been offered on the floor of the Parliament in terms of the aspects and clauses that we ought to consider in some further detail, and then secondly, I would like to turn into connecting this particular Bill to the larger picture, and that is in direct response to the sometimes reflection that this Bill is a one-size fit, as Sen. Mark put it, or an attempt to be a panacea to all crime, because that is certainly not the purpose. There is a larger articulating environment that this Bill sits in.

So let me dive straight into the particular provisions. In an effort to provide for better continuity of consideration and purpose, I have circulated already, by way of a draft marked-up Bill and draft amendments, what the Government has heard so far from the contributions. Sen. Prescott, that was not what happened in a previous time that we sat together, but I find it very useful to provide hon. Senators with a marked-up version, track changed so that they can see the amendments in context.

On the specific amendments, we have heard across the categories quite a few excellent submissions, and I am compelled to address them as best as I can in the time frame permitted. I wish to thank, sincerely, the President of the Law Association, Mr. Douglas Mendes of Senior Counsel, for stepping up to the plate under much pressure and providing the Law Association's comments in relation to this Bill. They have provided very useful reflection, and I wish to thank the Law Association for responding, albeit eight months late, and on the day when we first started. I wish to thank them for their contributions.

The reflections of the Law Association are, in summary, that the definition of a "gang" can be somewhat circular, a non sequitur, as they portrayed it in certain circumstances. They felt that there was a continuous loop, if I can use that

expression, between the gang definition, “gang-related activity”, “gang leader” and the fact that the offences listed in the Schedule would be referenced as offences which are created under this Act. In their fulminations they recommended that we consider a different formula and, in fact, in several contributions from other Senators, the formula for consideration, certainly by Sen. Richards, who I thank for a very, very useful reflection to the laws of Jamaica, and Sen. Ramkissoon, Sen. Chote, Sen. Ramdeen, Sen. Prescott, there was this potential to look at other formula for “gang”; how one treats with this.

I can say with certainty that the Government did an entire tour of various jurisdictions. The state and federal jurisdictions in the United States, the experiences in other parts of the Commonwealth were all reflected upon. And there are different ways in which we found the formula applied. In some jurisdictions there is the move, as Jamaica had, to use the criminal organization structure, where they went into a little bit more granularity as to the definition of “gang”, in simply saying, “Look, it may be formal or informal” as the Jamaicans put it in section 2:

“‘criminal organization’ 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)”—

When you strip it down and you make it subject to what does this really mean, you really come back to an organization, an entity comprising more than one person, formal or informal. And I dare say that that is exactly what the Bill proposes.

The interesting formula in our law, I ask hon. Members to consider, is the combination between clause 4 and clause 5 of our Bill. And then when we go into

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the individual aspects in clauses 6, 7, 8, et cetera, one must really look at the law as a whole as to what the definition really includes. And I therefore seek to distinguish the structure of the Bill from the observations of the Law Association, and, indeed, some of the reflections of my learned colleagues on the following grounds: “Gang”, as we have it at clause 4,

“means a combination of two or more persons, whether formally or informally organized”—

That takes care of the granularity of saying corporate or incorporate or otherwise, because the plain and ordinary meaning is going to be applied. The literal interpretation principle, as is set out in Bennion which is the classic text for interpretation of legislation, says one must really look to the plain and ordinary meaning as the first rule. We, of course, have other rules of interpretation, which is the purposive interpretation approach, and there are other layers that can go. But I can see very little difference between “gang” and “criminal organization” insofar as one puts the two side by side.

But a gang as described in our law is intended be to the entity engaged in gang-related activity, and when you go to gang-related activity, it means an offence. Then, stop. Jamaica says criminal organizations listed in a whole schedule of offences, and they go into everything, from the agricultural laws, to kidnapping, et cetera, and they go through bit of legislation by bit of legislation with granular approach as to which of these laws they consider to be apposite to catching the best purpose of the people through the laws as set out. So we are on equal footing there.

“An attempt to commit an offence”, we are on equal footing with Jamaica. “Aiding, abetting, counselling”, we have been expressed in our language. It is true

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that we have other legislation such as the aiding and abetting laws in Trinidad and Tobago which could speak to that. But suffice it to say, I think that we are on equal footing there.

We then have “a conspiracy to commit an offence,” and albeit that one could have relied upon the provisions of the Interpretation Act to give you the conspiracy and inchoate factors, they still apply on this basis here.

But Sen. Hosein was very correct in referencing, again, as I had referred to it, the dicta of Mr. Justice Beraux, hon. Justice of Appeal, in the Kevin Stuart case, that anti-gang conviction is no slam dunk. You have to do the footwork. It cannot just be mere surveillance. It has to be that you found the elements of criminal activity, and that evidence of criminal activity is something which requires footwork and police work. Many Senators have reflected to—over the days of contribution—upon the need for bettering the police service, ex cetera. But that is, most respectfully, for the purposes of the definition of law, aside. We are talking about operationalization at that point. And, therefore, the description and formula of law which is before us now is something that we have to focus on.

Can this thing result in a conviction? Yes, there will be elements of the crime that one must look for. You look for the scheduled offences; two or more people engaged in that particular form of activity. Some of it relates to statutory provisions outside of the particular act that we are seeking to reintroduce into law, and some of them exist as provisions of the law itself: breaches of the law, gang membership, concealing, harbouring, et cetera.

When we look to the definition of “law enforcement”, we saw that Sen. Chote made a very important observation. She fulminated—and I thank Sen. Chote profusely for having provided an advanced copy of her considerations as,

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certainly, the Government did in its contribution to all Senators in providing the advanced copy of where our minds were, based upon the stage of debate so far. But Sen. Chote pointed out something which caused reflection leading to an amendment which we will propose, to the definition of “law enforcement authority”. She proposed that we consider that there was an incongruous seating between other provisions in the law where we treat section 8, in particular, and section 6(5) where we treat with “law enforcement authority”. And “law enforcement authority” as we have provided in the original draft, omitted something which we think really ought to have been included, and I thank Sen. Chote for causing us to think about it a little bit deeper.

We now propose that we amend the Bill by amending the definition of “law enforcement authority” to specifically include a protective service agency, as defined under the Supplemental Police Act. Let me explain that. The Supplemental Police Act is a stand-alone piece of law that treats with estate police and reserves—the rural police as we called it. I should say that we intend to amend the Supplemental Police Act shortly to remove the concept of rural police. We are harmonizing the municipal police role under the amendments which we propose for local government which will come very shortly to Parliament. But there is a huge amendment, which we are nearly finished with, to the standing laws of Trinidad and Tobago, in that our laws do not provide for regulating security firms adequately.

The Supplemental Police Act really provided the best opportunity for that to operate, because under the Supplemental Police Act limited liability companies which work for organizations of the State can fall as estate constables under the Supplemental Police Act. But that is a provision which has not been really used by

companies limited in liability engaging in private services for the general public. You tend to find the utilization of the Supplemental Police Act only if you are doing work for the Government, or a state enterprise.

And we propose that we, once and for all, tidy up the arrangement of the unregulated operation of security firms in Trinidad and Tobago, and we have done a lot of consultation and there is a draft Bill in circulation very shortly which the Parliament can get its teeth into shortly. But it provided a useful opportunity here for us to include, under the definition of “law enforcement authority”, a protective service agency as defined under the Supplemental Police Act.

We looked at the recommendation by Sen. Chote that we ought to consider not using the word “lure” in the definition of “recruit”. But we felt that it was necessary to capture, again, under the literal interpretation principle, the concept of luring; luring, in its sense being from a plain dictionary interpretation, something which lends itself to enticement, but more so for some form of remuneration or reward, or some form of payment in kind, if necessary.

And we then went to look at the operation of our definitions with clause 5 of the Bill. And clause 5 of the Bill is where we get some clarity which other laws have in similar terms, because we are talking in clause 5 of the Bill that we will not confine ourselves to just name, insignia, flag, et cetera, but that a court can actually have a view of other parameters set out in (a) to (g), as set out in the Bill. And we did this specifically by borrowing from the Jamaican law, which is their 2014 law, which is the Act that they basically utilize for their anti-gang provisions. It is their Criminal Justice (Suppression of Criminal Organizations) Act, 2014.

We looked again at Sen. Chote’s recommendation that we should have a modification of clause 6 of the Bill. This was something which several other

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Senators reflected upon equally. And we, I think, need to pay a little bit better attention to it at committee stage. Indeed, Sen. Ramdeen has, in our casual conversations, pointed to a few things that we might want to consider in our proposal, that we amend clause 6 so that a person who is a gang leader, a gang member or professes to be a gang leader or gang member in order to gain benefit for himself or another person, imitate other persons or promote a gang, commits an offence.

And that gets in very easily into the observation that Sen. Prescott raised a little while ago, about the boy who is borrowing the persona, liming with the gang. And that takes us rooted into what Sen. Chote referred to a while ago about the street gang centrality of this Bill, and her recommendation, which we accept, that we ought not to be really focusing upon street gang levels, but we should go a little bit deeper.

Let me press pause for a moment. The original version of the Bill which I sought to prosecute in my own Cabinet, included a very, very deeper drill-down into matters including forfeiture of property, passing through seizure of property which was suspected to be gang-related property or profits originating from gang-related activity. And there were further drill-down positions. But what we got when we went out to market, if I can put it that way, in terms of consultation, was a reflection of, "Hold on, maybe you are going a little bit too far on this particular occasion". So I retreated from that original approach.

I can say that it is going to return in the draft of the civil asset forfeiture legislation which I have just completed and which will go out into public circulation laying shortly. So we are going to put it into another pot which is, perhaps, a more convenient pot to organize those affairs under. It fits within what I

will describe under the observations in clause 17, which is the forfeiture of assets provisions, as I come to it in a short while.

But when we get to clause 6, we did think that it was necessary to include a little refinement to that position, and so we have the proposal that we amend it in the fashion that we will circulate in a short while. That will cause the observations made in clause 6(4) and 6(5) to cascade into solution. And let me explain that. The observation coming from some of the Senators was that we had not captured enough of the provisions in clause 6(4) and 6(5), which deal with where gang activity is an involvement of a member of the law enforcement authority in the manner that we had specified. That is, if a policeman, a person of the TTDF, Customs, et cetera, was involved in gang activity, that we should heavily criminalize that aspect. By tidying up the definition and broadening the definition of “law enforcement authority”, we have sought to capture it in a more condensed fashion, as hon. Senators will find in the draft that we will circulate further.

And in clause 6(5), where we have a gang leader or gang member, with intent, wounds or does grievous bodily harm, shoots at, et cetera, members of law enforcement, a person involved in intelligence gathering, because they are separate from law enforcement, commits an offence. So we wanted to protect the law enforcement officers, but the definition is going to cause a little bit of tidying up of that purpose.

But I would like to say here, we have taken care of the observations raised by the Law Association and, indeed, by several of the Senators—the hon. Senator, Sen. Raffoul addressed it—of the need to expressly treat with whether we have mens rea or not. Do we have a strict liability offence or not? Must there be a mental intention or not, for the listening public. And what we are doing in these

sections here, by including the concept of intention, is that we are providing for the mens rea, or the mental intention to commit an offence and not merely strict liability offences, such as for persons, again, through you, Mr. Vice-President, who are listening, where one is in possession of marijuana. You are not really looking to whether you intended to be in possession or not. The mere facts of possession is a strict liability offence and therefore we now distinguish that we are including intention into our provisions here.

We propose that clause 7 stand as it is, because we wanted to treat with coercing or encouraging gang membership by latching it on to aiding and abetting. And it is true, as Sen. Chote pointed out, that there is a stand-alone law that treats with aiding and abetting under our laws. However, we propose that we leave that law as it is to stand alone even though that may be something which we can call into aid. We want it to be expressly clear that we should treat with aiding and abetting in the manner in which we do now, by putting an expressed provision in clause 7 as we have, and therefore, we avoid having to rely upon the Accessories and Abettors Act, Chap. 10:02.

We have, specifically, in clause 8, added in the mens rea. We have added in the concept of intention. These are the proposals which we have circulated out to hon. Senators. And that is in relation to retaliatory action. And we felt that there was merit in being express as to the need for a mental aspect to the crime, the mens rea, because even though it may be an implied concept, we did not want to put the Judiciary at a disadvantage in having to interpret what Parliament intended, as they say, in Parliament's wisdom. So therefore we are proposing that we add in the concept of intentionality to satisfy the need for a mens rea, or mental intention aspect, in the retaliatory action in clause 8 as we provide.

We have taken avail of Sen. Shrikissoon's very useful commentary, that we should look to the refusal to providing funding or resources for gang members, that one should not be retaliatory in action for people who withdraw their funds or sources when they find out that they were supporting an organization engaged in gang activity. And we felt that that was a very useful submission and I thank hon. Sen. Shrikissoon for that submission.

5.10 p.m.

In clause 11, we looked at the recommendation by Sen. Shrikissoon that we ought to include the bulletproof vest, firearms, et cetera, in a broader context. Sen. Shrikissoon quite correctly referred to another piece of law which we just recently completed, where we were treating with importation restrictions for firearm accessories. But because firearm accessories could include the brush for cleaning, the WD-40, the rag and the toolkit, we did not want to open this clause up to abuse where something other than a firearm, which includes ammunition, which includes part of ammunition—a shell, a spent shell, et cetera—where that could be used against innocent infringers, if I put it that way, in a set-up fashion and, therefore, we have stepped away from the recommendation of the hon. Sen. Shrikissoon and instead propose now an acceptance of Sen. Chote's submission that we disaggregate the use and possession.

So in clause 11, we do agree with Sen. Chote that we ought to separate out the use of bulletproof vest, firearms, ammunition from having it in your possession, but we have qualified the having it in your possession in a fashion where we say, which you ought reasonably to know would be used in the commission of gang-related activity, again giving the mental intention and better adhesion to the concept of proportionality. So we are providing for avoidance of

abuse, we are moving away from the strict liability positions.

Now let me make this clear. Ninety-nine per cent of this language was in the 2011 Act and one must obviously be cautious in how we approach this because we have 33 cases in the Magistrates' Court, we have 44 cases in the High Court. I do not want to necessarily and unwittingly feed an argument that there was something wrong in the previous law because in my view there was not something wrong.

And, let me on that point address the concept of proportionality. I do believe that the last law was proportional. I do believe that this law as drafted, the Bill before us is proportional. It is my humble recommendation that we consider the proportionality paramount because of the state and condition of our society, and what is very important for us to remember is that the democracy of Trinidad and Tobago and the utilization of that concept within the meaning of section 13(1) and (2) of the Constitution where you get the concept of a three-fifths majority, a three-fifths majority must still be proportionate. It must still be something which is upheld in Trinidad and Tobago in the manner in which we accept our democracy, but our democracy is not someone else's democracy. Our democracy is not that of Sweden, it is not that of the United Kingdom, it is not that of the Bahrain, it is not that of China; it is Trinidad and Tobago. And I wish to take note of something which I saw which was quite unique.

Senators Hosein and Ameen—sorry, and Haynes—demonstrated that Trinidad and Tobago is headed in the right direction. Why? As Attorney General, this Government was pleased to bring forward for the first time in Trinidad and Tobago's history our statistics, and when you hear Opposition Members quoting the statistics given by the Attorney General, that is a compliment to Trinidad and

Tobago. It means that we are actually disclosing the circumstances that we stand in in the view of proportionality and our democracy, because one should not hide the fact that we have people passed maximum sentence in our prisons. The obscene language case was one example, or that it cost us \$25,000 per month, per prisoner, to maintain someone in prison in circumstances where you may want to think of an alternative. And, therefore, I thank the hon. Senators for demonstrating that our country is headed in the right direction and that they accept the work that the Government is putting out for consumption.

Mr. Vice-President, I would like to say that we did consider Sen. Chote's observation about the provision of a defence in section 11 and that we should reconsider putting the defence. I would like to say that we have reformulated section 11(3) and we have mirrored up the type of defence which is permitted under section 5 of the Firearms Act where it is a reversal of burden. And let me state it clearly, the reversal of burden in the criminal law when the accused must actually prove something is on a balance of probabilities and not on proof beyond reasonable doubt, it is a lesser standard and burden.

But we have put in this point so that we would actually put the obligation upon the person who is accused to demonstrate the defence, that he did not know or could not reasonably have known that these items, bulletproof vest, firearms, et cetera, were being used by gang members in gang activity. And there is precedent for that in the Firearms Act certainly and it has operated well in section 5 of the Firearms Act as it applies to that part of the Firearms Act.

We have agreed with Sen. Shrikissoon that we ought to look at harmonization of offences, but then we have sought to disaggregate the type of offences. So we have harmonized. We propose increases in clause 12 for the

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number of years that we provide there, but we insist upon treating children differently and, therefore, raising the offence higher in respect of children. Similarly, if we look to the disaggregation of harbouring and concealing as we have portrayed in this Bill before you now, because in the previous version of the law there was one provision—and I must for this moment just please ask Sen. Mark, when he is making his contributions to be careful what he says. Sen. Mark in saying and warning that there were going to be significant amendments brought by the Opposition in proposals to be circulated, went on to talk about—what is the concept he referred to as? I must get phrase by Sen. Mark.

Sen. Rambharat: Vagueness.

Hon. F. Al-Rawi: Vagueness. He went into the phenomenon of vagueness, and the hon. Senator read out clause 13 in particular, and he did it in his usual lovely dramatic “flairy” style to say—the doctrine of vagueness it was called. He read out 13(3):

“For the purposes of subsection (1)(b), a person commits an offence if, in response to an enquiry from a”—police officer—“in connection with the investigation, or...commission, of the offence, he does not reveal information to the”—police officer—“despite having knowledge about the offence.”

And then he said, “What does that mean? This is dangerous. It is the concept of vagueness. The doctrine of vagueness.”

Sen. Mark: “Yuh cyah talk like me. Doh try to.” [*Laughter*]

Hon. F. Al-Rawi: “Ah trying meh best, trying meh best” to reflect upon the passion of my learned colleague, Sen. Mark, but I would invite Sen. Mark, because he has intimate knowledge of this in a previous incarnation of being an astute chair in the House of Representatives as Speaker, as he sat in the last session, the last

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Parliament I should say. Listen to this, Mr. Deputy Speaker, Mr. Vice-President, sorry. Section 10(4) of the Act No. 10 of 2011 reads as follows. Listen to the wording.

“(4) A person charged with an offence under subsection (3) conceals another person if the person charged—

(b) in response to an enquiry from a member of the law enforcement authorities as to the whereabouts of the other person, does not reveal the whereabouts to the enquirer, despite knowing where the other person is located.”

I mean, I dare say that the doctrine of vagueness as articulated and as advocated by my learned colleague, Sen. Mark, is trumped by the doctrine of forgetfulness, [*Desk thumping and laughter*] by the doctrine of—

Sen. Obika: 46(1). [*Laughter and desk thumping*]

Hon. F. Al-Rawi: Perhaps by the doctrine of jitteriness and “jump-upedness” if I can use malapropisms properly in this Parliament, and I give Sen. Obika a thumbs up for trying to cause a disturbance. It is all well appreciated, but I ask Sen. Mark, one must not replace—I caution Sen. Mark. I give an entreaty to Sen. Mark, to not allow his exuberance to score a point to belie the written word as one compares it between section 11 of the expired anti-gang law in 2011 against clause 13 of this particular Bill.

Mr. Vice-President, we have sought to again treat with the term of years in clause 13 in the manner of improving it from 10 to 15 years for the same reasons I have reflected upon. May I just enquire what time I am due to end, what the 45 minutes would technically be?

Mr. Vice-President: 5.33.

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Hon. F. Al-Rawi: 5.33? Okay.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, I am not here to protect Sen. Mark, but I beg to move that his Senate do now adjourn to Wednesday, 11th of April, 2018 at 10.00 a.m. During that time the hon. Attorney General will conclude his winding-up and we will move into committee stage which I forecast will be a very elaborate session, after that we will commence debate on the property tax legislation.

Mr. Vice-President: Hon. Senators, before I put the question on the Adjournment, leave has been granted for two matters to be raised on the Motion for the Adjournment of the Senate. Sen. Obika.

National Energy Skills Centre Campuses

(Closure of)

Sen. Taharqa Obika: Thank you, Mr. Vice-President, for acknowledging me as I bring this matter on the Motion for the Adjournment of the Senate, and this matter is with regard to the closure of the NESC campuses, the NESC, the National Energy Skills Centre campuses in Point Fortin of all places, Moruga and Palo Seco, and the negative impact this will have on skills development needed for industrialization and development in Trinidad and Tobago.

Now, Mr. Vice-President, in Trinidad and Tobago we have the concept of the oil belt and the oil belt really and truly cannot be mentioned without mentioning Point Fortin and Palo Seco, and I even dare say extend it to Moruga, because a lot of the offshore finds that come from Galeota pass through or across land via the precincts of Moruga, if I can use that term.

Sen. Ramdeen: Catshill.

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Sen. T. Obika: That would be the Rio Claro areas. So, Mr. Vice-President, if in the oil belt of all places energy skills are not seen as a priority by this Government, where else will it be seen as a priority? If the reason for closure of these campuses was insufficient demand, I urge the Government to even consider the logic of this statement, because if really and truly persons in these areas are faced with high unemployment, which is a fact—if you look at the CSO data of the years gone by, really and truly Point Fortin and the southern areas struggle to get single digit unemployment. Unemployment is above 10 per cent perennially in these areas.

So the persons there are without jobs and they are desirous of having jobs, because they remain in the pool of the unemployed and they offer themselves for service, however, they do not seem to capture any jobs. However, there is an insufficient demand according to this Government for the services of the NESC in terms of education. This may be as a result of economics. The persons may not have the resources to finance their education, being, they may not be able to be available for school.

So, is it that we are saying that by offering the classes only in Couva or some other far-reaching places where the transport would be \$40 to \$50 a day, \$800 to \$1,000 a month, \$10,000 to \$12,000 per year, that we are helping these persons get access to education? I say, no. This Government is denying the people of Point Fortin, Palo Seco and Moruga from access to education. [*Desk thumping*]

Now, the concept of technical vocational training really and truly matches the flexibility of an industrial strategy and approach to development and diversification to the education policy of a country, and if you would allow me to read, Mr. Vice-President, from the UNESCO, according to UNESCO the role of technical and vocational education in the education system is such that it:

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“...has the complex task of combining flexibility to solve difficult problems at...levels of urgency...as well as being an integral part of the country’s education policy that must have long-range vision and strategies to maintain and improve a country’s wealth.”

Now, in T&T tech/voc training programmes and education provides a pivotal role in the social and economic fabric of the country as well as the cultural development of our society, and the United National Congress really and truly has a record in skills training in this country [*Desk thumping*] because in 1999 with the founding of the National Training Agency, we laid the groundwork for tech/voc education with such an institution. Now, Mr. Vice-President, when we look at the NESC centres and we look at the one for example in Palo Seco, in the *Trinidad Guardian* of September 06, 2014, an article by Kevon Felmine, titled “Gate here to stay—Karim”.

“At the opening of the National Energy Skill Centre in Palo Seco, Karim said Government’s intention”—that would have been Minister of Tertiary Education—“is to continue the expansion of the programme to meet the demands of the labour market. The”—GATE programme—“has been secured by the People’s Partnership Government and has been expanded...”—it has been closed down almost by this Government. [*Desk thumping*]

Now, Minister Karim also said the GATE Programme is not under threat, but under this PNM we see the results of that. In fact, Mr. Vice-President, the La Brea MP, Fitzgerald Jeffrey, at that time:

“...applauded the opening of the second NESC in his constituency”—because there was one in Vessigny which they are also winding down mind

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you—“saying that the welding, pipefitting and fabricating programmes being offered will benefit the manpower needs of the area.”

Hon. Senator: Who said that?

Sen. T. Obika: This is a PNM MP, Mr. Vice-President.

Hon. Senator: That is why they post him out.

Sen. T. Obika: That is why they sent him to Kingston, Jamaica.

“Plans are in the making for the construction of the US\$850 million...(DME) plant in La Brea and the US\$750 port. Labidco...”—in La Brea.”

So these are the things that the PNM have benefited from because of the hard work of the Partnership. [*Desk thumping*] Also, Mr. Jeffrey said:

“...that the unemployment rate in La Brea was...unacceptable.”

Is it that they are saying that they accept the unemployment rate in La Brea now? Is this what this Government is saying? Is it that they are saying they accept the unemployment rate in Point Fortin?

Now, if you look at the link between skills development and technical vocation, Mr. Vice-President, look at the e Teck Park in Point Fortin and, of course, only under a PNM Government an empty park is not vacant. [*Desk thumping*] Now look at this, this e Teck Park was started in 2014 under the People’s Partnership Government. So the People’s Partnership under the leadership of Kamla Persad-Bissessar gave the PNM the park. [*Desk thumping*] All they had to do was to get the people to come in. Instead of using intelligent— [*Interruption*] I will not give way. You have the opportunity to respond.

Mr. Vice-President, the facts are stubborn things. In fact, it is the Minister of Trade and Industry in November 2015 quoted by Yvonne Baboolal who said

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that. I have the article here. It was a *Guardian* newspaper article on the 25th of November, 2015, titled, “eTeck Park brings 245 jobs to Point”. They have brought zero jobs to Point Fortin. [*Desk thumping*] It remains empty. I drive past this park every single day to come here and to go back home. So this Government has failed the people of Point Fortin.

In fact, the Minister of Trade and Industry went so far to blame the partnership for building a hospital in Point Fortin to take away the land for the park. Imagine that.

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

Sen. T. Obika: Thank you very much. Imagine that, where the Minister was reported as lamenting the People’s Partnership, took away lands from the e Teck land to build the hospital in Point Fortin, but then in the same speech went on to say that there are lands adjacent which will expand e Teck Park. So we knew there were lands adjacent. Therefore, there is space to expand e Teck Park. So now they have closed down the NESC campus in Point Fortin and they have left the park empty. A simple business incubator can create jobs which will stimulate demand for trade specific jobs in Point Fortin and would allow persons to enrol in the programmes at NESC. So there will be a demand; it would be a demand-led education and skills development, and industrial development in this country.

However, we know the PNM is devoid of ideas under the Prime Minister Keith Rowley [*Desk thumping*] and the population is waiting 29 more months. The clock is ticking. We will resume office and we will deliver to the people of Point Fortin; [*Desk thumping*] we will deliver to the people of Palo Seco, and we will deliver to the people of Moruga, and not pappys show them by not giving them what they deserve, which is good governance.

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

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President, and thank you for giving me the opportunity to respond to my good friend, Sen. Obika. Mr. Vice-President, this morning I had the occasion to chide another Senator over the fact that he was making some statements that bore no facts. My exact sentiments must be expressed today because it seems to me that Sen. Obika in debating a Motion is devoid of facts.

As a school teacher in teaching some of my students the elements of debate, one of the points that I always stressed “stick to your topic”. Mr. Vice-President, Sen. Obika went far away from the topic and, therefore, his contribution amounted to no sense at all. [*Desk thumping*] Let me therefore, Mr. Vice-President, to bring some sense to this debate and bring some truth to the wild allegations that are being made.

Sen. Ameen: Mr. Vice-President, 46(4).

Mr. Vice-President: Continue, Minister.

Hon. A. Garcia: Thank you very much. I am disappointed in you, Sen. Ameen. Mr. Vice-President, in September 2017, the NESC consolidated its course offerings at locations across Trinidad and Tobago in response to the demand of the public and the needs of industry, in particular the energy sector. Everyone would know that the NESC was established in an effort to support the energy sector. This was not a move to downsize the organization. Instead, the actions implemented were in keeping with the strategic direction of the organization to establish specialized training institutions.

Mr. Vice-President, the NESC has been in operations now for the past 20 years. In the earlier years, small facilities were set up in communities to act as

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bridging centres for specific development projects related to the plant construction and the laying of cross-country pipelines. At the end of these projects, NESC kept these centres opened and offered Levels 1 and 2 courses. These locations have now served their purpose as demand for the courses offered have fallen significantly, and industry has indicated to us the need for a journeyman/professional tradesman over a semi-skilled worker. Interested applicants in areas such as Palo Seco, Point Fortin and Moruga who wish to be part of a campus that has both facilities and the atmosphere of a tertiary institution can seek admission at Point Lisas, Ste. Madeleine and La Brea, where it is easily accessible and have the available capacity to accommodate these students.

Mr. Vice-President, students at the Point Fortin and Palo Seco campuses will be redirected to the La Brea campus, and Moruga students to the Ste. Madeleine Campus. As a result, there will not be a negative impact on skills development needed for industrial advancement. [*Desk thumping*] This Government in taking any action, takes that action on the basis of fact and on the basis of research.

As a result, research has shown that there is low demand at the Moruga, Palo Seco and Point Fortin campuses. Let me give us you some examples, Mr. Vice-President. The Palo Seco centre has a capacity for 40 trainees: applications in 2018 amounted to six, registered persons, zero; Point Fortin with a capacity of 96: applications received, 29, persons registered, one; Moruga with a capacity of 48: applications received, seven, registered, zero. The total capacity was 192: applications received was 42, those registered for those three campuses a total of one.

NESC has served these communities in some instances, as I said before, for over 20 years with different generations trained over that period. This Ministry

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and this Government hold to our responsibility to provide relevant education and training to all interested members of the public, and it is in keeping with our mandate and in an environment that is conducive to their personal development. The current action is simply a relocation of where this training occurs from a smaller restrictive centre into a larger campus.

The Ministry of Education, Mr. Vice-President, is of the strong opinion that the consolidation of the campuses will in no way negatively impact the skills development in Trinidad and Tobago. The existing locations are strategically located for easy access by interested students. The NESC is currently running at 60 per cent capacity. Therefore there is more than adequate capacity to accommodate additional persons and, therefore, the tirade that we just heard from Sen. Obika has been proven to be false and without any fact.

Thank you very much. [*Desk thumping*] [*Crosstalk*]

Mr. Vice-President: Sen. Mark.

**Domestic Violence
(Legislative Reform)**

Sen. Wade Mark: Thank you very much. Mr. Vice-President, the issue of domestic violence particularly against our women and our girls has assumed epidemic proportions in Trinidad and Tobago. The culture of domestic violence is real and worsening and, therefore, serious legislative reform is imperative if we are to guarantee long-term safety and security.

Over the past few months we have had and we have witnessed a number of murders of women. In fact, in 2017, there were some 52 women who were butchered in this country, murdered, with some 43 of them being victims of domestic violence. For 2018, so far we understand we have had between 15 and

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16 domestic murders in this country. Mr. Vice-President, I will just share with you the names of a few: Stacy Ann Campbell, eight months pregnant, brutally killed in Mayaro.

Mr. Vice-President: Senator, could we just not engage in the names of the—

Sen. W. Mark: No, I have to share with you the names of the women who have died.

Mr. Vice-President: No, could we not. I understand the argument that you are—

Sen. W. Mark: So is there a Standing Order that you said I cannot do it?

Sen. Cummings: You cannot challenge the logic.

Sen. W. Mark: No, I am asking if there is a Standing Order because I am just clarifying. [*Crosstalk*] I have identified people who have died. Nothing is wrong with that. [*Crosstalk*]

Hon. Senator: The Chair has the last word.

Sen. W. Mark: Yes, but I must be guided by Standing Orders. [*Crosstalk*]

5.40 p.m.

Sen. Ameen: “The Vice-President is on his legs, allyuh stop the crosstalk nah man.” [*Continuous crosstalk*]

Sen. Dr. Mahabir: Standing Order 51 (e), (f), and (g). The President is on his legs, please.

Sen. Baptiste-Primus: Why do you not speak to Wade and tell him that?

Sen. Dr. Mahabir: Standing Order 51 (e), (f) and (g).

[*Mr. Vice-President remains on his legs*]

Mr. Vice-President: Senator, continue with your contribution. All I have asked is that in the interest of the cases, that you refrain from restating the names. Thank you.

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Sen. W. Mark: Mr. Vice-President, I would not challenge you at this time but I will raise that at another time, because I have to be guided by Standing Orders. [*Desk thumping*] Mr. Vice-President, I made the point that there have been 15 deaths, as far as I understand, of women, due to domestic violence in this country. I was just identifying some of them who have perished. There is nothing wrong with that. [*Crosstalk*]

Whilst the Domestic Violence Act has been on the law books for several years, the time has now arrived for us to amend or even enforce its provisions in a move to vigorously advance the interest of our womenfolk and provide the victims of domestic violence with greater protection.

Mr. Vice-President, the former Chairman of the Equal Opportunity Commission did propose some time ago, some 10 legislative and policy amendments in order to strengthen the Domestic Violence Act, including the removal of the perpetrator from the home and not the victim, as well as amending the definition of cohabit to include same-sex relationships. Persons who breach protection orders should not be eligible for bail and there should be a reinstatement of the police Domestic Violence Register. Mr. Vice-President, abuse in any form against any man, any woman, or child should never be tolerated in our country.

The Attorney General has, we understand, these proposals from the Equal Opportunity Commission, according to Lynette Seebaran-Suite, on his desk. So I would like to ask the hon. Attorney General if he can confirm these particular statements, and if those amendments to the Domestic Violence Act are on his desk, I urge him to take prompt action to have these matters brought before the honourable Parliament, so we can protect our women and our girls from future domestic violence and criminal activity; all with the aim, Mr. Vice-President, at

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strengthening our legislation which is absolutely essential to protect our women.

Mr. Vice-President, so prevalent is this plague and sickness and disease called domestic violence, that would you believe, in 2016/2017, there were over 57,100 applications made by women for protection orders against abusive males in the homes against domestic violence and child abuse? We understand that the Cabinet of the Republic of Trinidad and Tobago has before it, since October of 2016, a National Strategic Plan on Gender-based Violence and Sexual Violence.

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

Sen. W. Mark: And, therefore, I would like the Attorney General to tell this honourable Senate whether that is so, and if that is so, Mr. Vice-President, when is the Cabinet going to have this matter addressed? And this National Strategic Plan is aimed at preventing, protecting and punishing those who are engaged in violence against our women in Trinidad and Tobago.

So, Mr. Vice-President, we need to strengthen the legislative framework but at the same time, we need to develop a comprehensive strategy on gender-based violence to focus on prevention. And, therefore, I am calling on the Attorney General to give us, give your good self, and the Parliament some assurance that there will be shortly before our Parliament, this Senate, amendments to the domestic violence laws to strengthen the protection for our women and our girls against the abuse that they have been subject to over the last few years, which seems to be worsening, Mr. Vice-President. I wish to thank you very much for the opportunity. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Mr. Vice-President. Mr. Vice-President, Sen. Mark has raised a most serious issue, one which I think is something that all of us consider requires not only the most urgent attention, but

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the most passionate form of advocacy.

Sen. Mark, in his piloting of his concern, reflected, regrettably, only upon the last two years. Sen. Mark did not speak to where his statistics came from, and I found that rather curious. But suffice it to say, one death, one report, one protection order, is enough, in my humble view. But permit me to put this into context insofar as there is a history behind this cause.

It is a fact that in the period 2010 to 2015, there were 11,441 reports. This comes out of the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service, which is why I draw caution on Sen. Mark's statistics, because I have not seen those statistics at all reflected and I would like the hon. Senator, afterwards, to show me where they have come from.

Sen. Mark: Okay.

Hon. F. Al-Rawi: Seventy-five per cent of these reports related to women. In particular, we had 131 deaths of those reports, 56 per cent of whom were women. In the statistical information coming out of the National Domestic Violence Hot Line, again, for the period October 2013 to September 2016, there were 13,558 calls. And this goes to show that there has been a significant issue in our country and in our conversation for quite a while.

I wish to say further, Mr. Vice-President, it is conspicuous that the domestic violence protection laws, the Domestic Violence Act is an Act of Parliament, Chap. 45:56. It is an Act of Parliament. It is No. 27 of 1999. It was amended only once in 2006 by Act No. 8 of 2006.

I want to put on record that treating with this issue and calling for legislative reform now from Sen. Mark as he does, I agree that legislative reform needs to be considered. The Government agrees that that is to be considered. We do not need

the Opposition alone to tell us about that because respectfully they had their turn at the wheel of governance and did nothing about it. But, Mr. Vice-President, to allay the concerns that we have now, first of all, I want to make a clarion call to all of society that domestic violence is managed by legislation, in particular the Domestic Violence Act, which is a very robust piece of law. The law, as it currently stands, is in need of certain tweaking, which I will come to in a second.

But, Mr. Vice-President, this law has within it, the power for us to treat with a range of remedies, including an interim protection order under section 8 of the Act. And very importantly, under section 7(7), there is the facility for the court when making a protection order to make an order under section 25 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act. And that is a very particular order that is an aid to the scourge of domestic violence. It is true, the Equal Opportunity Commission has made 10 submissions. But the Office of the Attorney General, the Office of the Prime Minister and the Ministry of National Security, we have taken in those submissions and we, of our own, have 20 areas of concern, including the 10 mentioned by the Equal Opportunity Commission.

But we have done this, Mr. Vice-President, on the back of a fully coordinated system. And the 10 positions which we have, and which we are drafting at present, include the following:

- We want to amend the definition of “emotional or psychological abuse” because we are treating with the concept of online bullying as well; electronic bullying that happens; stalking, et cetera. There is an overlap to cybercrime, which is in committee stage, as you know.
- We wish to expressly provide for protection against an act or omission, a threat, an act or omission causing a protected person to

fear. That is the apprehension of fear which is sometimes the living nightmare.

- We wish to amend the definition of “domestic violence” and that of “member of a household”, because there are certain ambiguities in the legislation which we think need to be considered, and this is beyond the submissions of the Equal Opportunity Commission.
- We believe that there is need for a definitional improvement for “child”, because there are certain inconsistencies under section 4, and we again propose that that be considered. Again, section 4, we wish to cause an amendment so as to require the consent of persons on behalf of whom applications may be made, unless it is a minor, that we can actually have that done in certain welfare circumstances.
- We believe that the section that treats with the approved social worker needs to be improved, because we have had harmonization of our laws under the Children Act, and more particularly, more recently under our position, under the Family and Children Division Bill by which we amended 19 other laws which articulate with this very concept.
- We want to authorize—and this is a concept which we are exploring and we are in consultation over—senior police officers being able to issue a temporary emergency protection order.
- We wish to extend the protection to persons in dating relationships, because the Act has a prohibition about cohabitation or non-marriage unions. But there is a 12-month time frame attached to that, and people may be in jeopardy in shorter relationships. And so we propose that the court have the view of whether the relationship is so

serious, in terms of determination for a protection order and not just linked to a 12-month time frame.

- We propose, Mr. Vice-President, that we expressly provide for children in institutional care and for elderly in institutional accommodation because they too may be the subject of domestic violence by caregivers.
- We propose that children who are witnesses should be treated in a special category; that we ought to protect them in a manner in which the law does not now do.
- We propose that we ought to amend the relevant laws that treat with the offences under the criminal arena, to increase penalties if a child is involved as a witness or present during domestic violence. And that is beyond the provisions of the Children Act which has the concept of “harm” defined to include that concept.
- We believe that protection orders ought to apply automatically for the benefit of children. And that is something which the current law does not currently address.
- We believe that the forms need to be amended. And we think that it gets to the need for that child who is at age 17 to, perhaps, have an order of his or her own, and that is specifically borne out on the back of the statistics which we have seen, coming out of teenage pregnancies, et cetera.

Mr. Vice-President, this Government has put in place a suite of tools. We have done the Family and Children Division. We have opened the courts. [*Desk thumping*] We have amended the jurisdictional gap between the Magistrates’

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Court and the High Court. We have done all of these things in the period of 18 months. And therefore, we are not just simply speaking about ambition or should have or could have, but we are talking about facts of what is on the table. [*Desk thumping*] And this Government's legislative agenda and implementation agenda demonstrates by conclusive proof, by material evidence, that we are intent on treating with this.

I will end, Mr. Vice-President, by saying this takes everyone's participation and not just the law. Thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.55 p.m.