

SENATE*Wednesday, May 06, 2020*

The Senate met at 10.00 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**PAPER LAID**

Response of the Trinidad and Tobago Police Service to the Thirteenth Report of the Joint Select Committee on Social Services and Public Administration on an inquiry into the prevalence of teenage pregnancy and the State's capacity to minimize the occurrence of teenage pregnancy and provide services and assistance to teenage parents. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]

URGENT QUESTIONS**Temporary Shutdown of Nutrien Plant****(Measures taken)**

Sen. Wade Mark: Thank you, Madam President. To the hon. Minister of Energy and Energy Industries: In view of the temporary shutdown of the Nutrien plant, what measures are being taken by the Government to address the growing dislocation of workers at the Point Lisas Estate?

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, what we are seeing here in our energy industry is in fact a phenomenon that is taking place globally because these commodity markets are being affected globally. The demand in the Asian markets, in the European markets for the commodity products that come out

of Point Lisas, including oil, and including gas, has been completely wiped out. There is no more a demand, so therefore the supply is affected. Another correction that needs to be made, Madam President, is there has been no shutdown of the Nutrien plant. What Nutrien has done is they have taken a decision to put a plant in idle. One out of five of their plants will be put in an idle mode for the next 90 days. They are not letting go any of their workers during this 90-day period.

With respect to a growing dislocation of workers at the Point Lisas Estate, there is no such growing dislocation. As I said, the global commodity market based on petrochemicals is being affected. This is something that the Government has absolutely no control over. It is part of the outcome of the COVID pandemic that is taking place. We will continue to monitor it. Fortunately, this administration's relationship with all of the shareholders of all of these plants at Point Lisas is a good one, and they continue to be in constant conversation with us doing the best that we can working together to ensure that there is no dislocation of workers. There will be some fallout, but we are doing all that we can to minimize that working along with the shareholders of these plants.

Sen. Mark: Madam President, is the Minister aware from newspaper reports that some 40 workers on contract with this said company will have their services terminated? Is the Minister aware of that or is he confirmed that those contract workers will not be terminated by the said plant?

Hon. S. Young: The first thing I would like to say, Madam President, certainly all that is read in the newspapers cannot unfortunately be taken as 100 per cent accurate. If there are 40 contract workers that are going to be affected, as I said the plant is being put in an idle format for 90 days, we

continue to monitor. There is a lot happening globally. Nutrien has said that they have absolutely no intention to shut down the plant. So at the 90-day period, let us see what happens. As we have gone through the whole stay at home phase, there have persons who have been affected. This is unfortunate, but it is one of the effects and measures of handling COVID-19.

Sen. Mark: Madam President, is the Minister aware that this will represent the sixth plant since 2016 at the Point Lisas Estate that has gone in an idle state or has been closed down; and whether the Minister will want to tell this Parliament—*[Interruption]*

Madam President: Sen. Mark, one question please.

Sen. Mark: Can I ask the Minister to advise the Parliament in light of this development, to what extent the erratic increases in gas prices by the NGC based on negotiations conducted by the Government of this country, headed by the Prime Minister, could the Minister indicate whether that situation of higher gas prices has had a positive impact on these particular industries located at Point Lisas?

Madam President: Sen. Mark, that question does not arise. Next question, Sen. Hosein.

Closure of Ammonia Plant by Nutrien Limited

(Steps taken)

Sen. Saddam Hosein: Good morning, Madam President. Thank you very much. To the hon. Minister of Agriculture, Lands and Fisheries: In light of the closure of one ammonia plant by Nutrien Limited, can the Minister indicate what steps, if any, will be taken to address the shortage of ammonia products to farmers and distributors?

The Minister of National Security and Minister in the Office of the

Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, it is quite apparent that unfortunately there is a lot of misinformation taking place. We see one of the Members for the Opposition talking about shutdown, another one now talking about closure. There has been no closure of any Nutrien plant. As I just said it has been one out five of their plants at Point Lisas that has been put into an idle mode for the next 90 days. Four of their plants produced ammonia, one of their plants produces urea. The plant that has been put into an idle mode is an ammonia plant. Absolutely none of Nutrien's ammonia product is sold on the local market, so there will be no effect whatsoever, negative, positive or otherwise to our local agricultural workers. The urea plant that continues to run produces and supply urea to our local agriculture market and it will continue to do so unimpeded.

Sen. Hosein: Thank you very much, Madam President. Madam President, is the Minister that there has been a shortage of urea products for over two weeks now and there are complaints made by farmers and distributors?

Hon. S. Young: Madam President, first of all the whole direction of Sen. Hosein's question was to address the shortage of ammonia, and for education purposes ammonia is a different product to urea. Secondly, as far as we are aware, and I spoke to Nutrien before I left, there has been absolutely no effect, negative or otherwise, with respect to their continued supply of urea to the local market. So what I am hearing is news, and as I said before there is a lot of misinformation. Perhaps that misinformation was fed to Sen. Hosein.

Sen. Hosein: Madam President, is the Minister confirming that the one ammonia plant being idle does not directly interfere with the supply of urea

to farmers and distributors in Trinidad and Tobago?

Madam President: Sen. Hosein, I would not allow that question. Next question, Sen. Hosein.

**Brooklyn Settlement, Sangre Grande facility
(Continuation of Rent)**

Sen. Saddam Hosein: To the Minister of Health: Having regard to the availability of suitable state-owned step-down facilities to house COVID-19 patients, can the Minister explain why the State continues to rent the Brooklyn Settlement, Sangre Grande facility?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I thank the Senator for the opportunity to respond to this question. Madam President, you may recall that from the outset of the Government's COVID response, the State health facilities were used and private facilities were used in the first instance for quarantine purposes and the Balandra facility is one, and thereafter facilities were identified for what we call step-down purposes. My recollection is that the Brooklyn Settlement facility was one of the first step-down facilities. At that time, without being able to predict the length of the COVID and the impact on our country, the Ministry of Health engaged that facility for a period of three months. As it turns out, the last patient was discharged from that facility last Sunday, and thereafter there was need for a two-week period for the decontamination of the facility.

Madam President, out of an abundance of caution and recognizing that the Ministry engaged use of this facility for three months, the facility will continue to be retained by the Ministry just in case it is required, and we hope it is not required, and if it is required beyond the three-month period,

the Ministry of Health will do what is necessary to secure and safeguard as it has done very successfully, the health, wellness, lives and interest of the citizens of this country. Thank you very much.

Sen. Hosein: Thank you very much, Madam President. Madam President, can the Minister confirm whether or not this facility is owned by someone who is very closely linked to the People's National Movement?

Hon. S. Young: Sen. Hosein, I would not allow that question. Next question.

Sen. Hosein: Madam President, is the Minister comfortable with the fact that there are several state-owned step-down facilities, what is the proper justification for the Government continuing to rent this particular facility which is privately owned costing the taxpayers over \$100,000 per month please?

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

WRITTEN QUESTION

Refurbishment and Restoration of Buildings

(Details of)

105. Sen. Saddam Hosein asked the hon. Prime Minister:

Having regard to the refurbishment and restoration of The Red House, President's House, White Hall, Stollmeyer's Castle and Mille Fleurs, can the Prime Minister provide the following:

- (i) a detailed breakdown of the budgeted cost of each project;
- (ii) the actual expenditure for each project;
- (iii) the scope of works for each project and any variations;
- (iv) the contractor(s) and sub-contractors hired and the amounts paid to each; and

- (v) the number of persons employed on each of the projects?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. the Hon. Clarence Rambharat): Madam President, there are three questions on notice for response. The Government proposes to respond to two of those questions, that is, question No. 76 and question No. 77, and we are respectfully asking, Madam President, for a deferral of the response to question No. 78 for a two-week period. Thank you.

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

Tobago Regional Health Authority

- 78.** Given the return to work of seven (7) Tobago Regional Health Authority (TRHA) employees, who were sent on administrative leave in March 2019 pending the completion of an independent payroll audit, can the Prime Minister indicate the following:
- (i) whether the said payroll audit has been completed; and
 - (ii) if the answer to (i) is in the affirmative, can the Senate be provided with a copy of the audit report?

Question, by leave, deferred.

Marabella South Secondary School

(Hospitalization of Student)

- 76. Sen. Wade Mark** asked the hon. Minister of Education:
- In light of reports of the hospitalization of a Marabella South Secondary School student, who was allegedly beaten by a parent, can the Minister advise as to the following:

- (i) whether an investigation has been launched to determine the veracity of said reports; and
- (ii) what measures are being taken to avoid a repeat of similar incidents on the school compound?

The Minister of Agriculture, Land and Fisheries (Sen. the Hon. Clarence Rambharat): Madam President, in responding to this question this is something that happened within the school environment and I can confirm that based on reports forwarded to the Ministry of Education by the School Supervisor III, responsible for the Marabella South Secondary School, there was an incident on Wednesday, 4th December, 2019, following the dismissal of the school at 2.20 p.m. A parent and his son were leaving the compound and the parent, Madam President, was on the compound at the request of the school administration to collect his son, and that son was earlier involved in an altercation with another student. So we have a parent coming to retrieve his son, and that son having been involved in an altercation with another student earlier. As it turns out, Madam President, the student who was earlier involved in the altercation was now involved in a second altercation with the parent, and that necessitated the use of an ambulance to take that student to the San Fernando General Hospital.

So that thereafter, in early January, the school and the Ministry of Education got together and set in place some protocols for the entry unto the compound, exit, the presence of visitors and parents on the compound, vehicular traffic, the need to have a visitor pass, matters relating to parking on the compound and parking within the proximity of the compound, dress code and so on, and all of that was meant to re-enforce existing rules and protocols to establish once again the standards for the operation of a school

and the standard of conduct in a school environment, and to ensure that the opportunities for conflict and the opportunities for this sort of altercation and assault would be minimized.

It is a most regrettable and regretful situation, but unfortunately it does in fact happen. I will tell Sen. Mark that I am a proud product of Princes Town Senior Comprehensive School a long time ago and these things happened when I was in school. School authorities dealt with it with the support of the Ministry of Education, and in this case I am quite happy to report that school supervisor, the school administration, the Ministry of Education, the parents, got together and address this particular unfortunate matter. I thank you.

Sen. Mark: Madam President, can the Minister indicate to the Senate whether this matter has been closed and no action has been taken or proffered, I should say, against the parent involved in the incident?

Sen. The Hon. C. Rambharat: Madam President, I can say that the incident was reported to the Marabella police. The police officers visited the school following the incident, and the matter is being actively pursued by the police.

Sen. Mark: Madam President, can the Minister indicate, the hon. Minister that is, whether any disciplinary action has been taken against the student who was involved in the altercation with the parent?

Sen. The Hon. C. Rambharat: Madam President, I am not in a position to indicate whether disciplinary action has been taken against one or two, or any of the students involved in this particular incident.

Sen. Mark: Madam President, would the Minister be kind enough to provide in writing to this honourable Senate a status report on this matter?

Madam President: Well, you will have to be a little more specific than

that.

Sen. Mark: In terms of whether any disciplinary action has been taken by the school authorities, or by the Ministry of Education, or combined on this matter.

Sen. The Hon. C. Rambharat: Madam President, I would in fact undertake to do so in a week.

**Liquid Petroleum Gas (LPG) Distributors
(Increase in Price)**

77. **Sen. Wade Mark** asked the hon. Minister of Energy and Energy Industries:

In light of the decision by Liquid Petroleum Gas (LPG) Distributors to increase the price of cooking gas cylinders by \$3, can the Minister indicate:

- (i) how will this increase impact consumers; and
- (ii) what measures will be taken by Government to mitigate the impact on consumers?

The Minister of Agriculture, Land and Fisheries (Sen. the Hon. Clarence Rambharat): Madam President, once again I thank Sen. Mark for placing such a question on the Order Paper. It is a matter if we do not provide absolute clarity, a lot of mischief could result. So I would say from the outset, Madam President, that it is not the LPG gas that has been increased. What has happened we have LPG, so, for example, if someone goes to an outlet, the gas station, the supermarket, or other places where the LPG gas is sold in cylinders they would pay a particular price, and if the person wishes to have that gas delivered to their home by one of the private enterprises that do so, there is a transport cost that is added on by the

delivery people. And the transport cost, the prevailing transport cost for delivery of a 20-pound LPG cylinder, as we say the small tank, has been for a long time \$4.

In fact, the price was established in 2005. So for 15 years the delivery people, notwithstanding increased cost of transportation, maintenance, labour, handling logistics, have been working with this \$4 delivery price. A decision was taken by the people who deliver to increase that price from \$4 to \$7 with effect from December 2nd, 2019, and that price has moved from \$4 to \$7. In relation to the delivery of the 20-pound cylinders, a small tank, I will, however, point out two additional things, Madam President. The first is to say that the price of the LPG gas remains the same, and, in fact, Trinidad and Tobago's price is actually five times lower than the prevailing price in the rest of the Caribbean region.

In other words, if you are in Barbados, St. Vincent, St. Kitts, and one of those places, you will pay five times as much for a 20-pound LPG cylinder. That is the first thing. And the second thing is that for the larger 100-pound cylinder, the delivery price of that has not been increased. It is the same. So this question relates to the increase in price, in the transport of LPG 20-pound tanks to your home for those who do not have the facility maybe to go for it for themselves, or for those like Sen. Mark who would like to sit luxuriously at home and have it delivered, the price after 15 years, the transport people have put an additional \$3. For those who wish to avoid that, the opportunities to pick it up at the supermarket, the gas station, and other retailers, still exist with no transport cost. I thank you very much, Madam President.

Sen. Mark: Madam President, can the hon. Minister indicate what is the

current price paid for persons who like him have to get these gas cylinders delivered, large cylinders, what is the current price? I do not have knowledge of it since I do not have that facility. So maybe he can tell us because he has that facility. Can you tell us, what is the price?

Sen. The Hon. C. Rambharat: Madam President, I must confess that because I still use the cast iron pots from the old days. I use an electrical powered single burner and I also use a chulha, and I do not have the facility of the LPG, but I am very familiar with LPG. I am very familiar with LPG gas. The 20-pound cylinder, known as the small tank, sells at \$21 a tank and the 100-pound cylinder sells at \$105 a tank, and I emphasized that those prices have not changed. It is the transport of the \$21 small tank. If you wish to have it delivered to your home now involves an additional \$3 which is not a bad price. It moved from four to seven. So we pay an additional \$3 for having it delivered home after 15 years of the price remaining \$4. I thank you.

DEFINITE URGENT MATTER

(LEAVE)

Pipe Borne Water Shortage

(Failure of the Government)

Sen. Anita Haynes: Madam President, I hereby seek your leave to move the adjournment of the Senate for the purpose of this discussing a definite matter of urgent public importance, namely the failure of the Government in managing the water shortage throughout Trinidad and Tobago during the COVID-19 crisis. The matter is definite as it refers to the critical situation resulting from a poor and inconsistent supply to a complete lack of pipe borne water in all areas of Trinidad and Tobago for over a month, leaving

entire communities with little or no options for an alternative water supply during when citizens have been asked to stay at home to stay safe.

The matter is urgent as an innumerable portion of the population continues to suffer daily with no relief in sight especially in providing such a basic and vital necessity as that of pipe borne water. The matter is of public importance since the prolonged and widespread lack of an acceptable water supply while we are currently experiencing a health crisis where personal hygiene in the form of handwashing is now a lifesaving action, and citizens are not able to access pipe borne water has left communities prone to public health hazard.

Madam President, I thank you for your consideration in this critically important matter. [*Desk thumping*]

Madam President: Hon. Senators, I have considered the Motion and I am not satisfied that this matter as presented qualifies under this Standing Order.

Hon. Senators, though, I want to take this opportunity to address and correct some of the misinformation that has been put into the public domain about Motions such as these. Motions such as these have an extremely high threshold to cross in order to be allowed because they have the effect of setting aside the business of the sitting which has been prearranged and to which the sitting has already been committed.

Permit me to quote from one of the leading text on parliamentary procedure and I quote now:

“The right to move such a Motion is hedged around with conditions designed to ensure that it is not likely conceded.” The matter raised for debate must require the immediate attention of the House and the Government. The criterion creates a hurdle designed to ensure that

the matter is of such substance that it justifies the House spending a substantial part of the sitting on debating it. Without a requirement that the matter be of sufficient importance to require it to be debated immediately, the scope of urgent debates would be enormous. There must always be such an element of urgency as would warrant precedence being given to a debate on the matter.

These statements, as I said, are not mine. I have quoted from David McGee, *Parliamentary Practice in New Zealand*, and that learning is not inconsistent with the learning in *Mays* and other persuasive texts on parliamentary procedure and is the accepted standard and practice across Commonwealth Parliaments based on Westminster Practice.

The text, Members, for allowing this kind of Motion is not whether the matter is topical, or interesting, or dominating the media headlines. Members of this Chamber should be aware that there are other avenues to raise matters which they wish to have the Chamber consider, including the avenue of Matters on the Adjournment, and Members in this Chamber at the end of almost every sitting this Chamber treats with at least two matters on the adjournment, private members' Motions and urgent questions.

Hon. Senators, rulings made by Presiding Officers are required to follow the clear learning in this area, and correspondence and advocacy outside of the Parliament do not alter the applicable learning by which all of us are bound.

ARRANGEMENT OF BUSINESS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. C. Rambharat): Madam President, may I crave your indulgence to return to item No. 9, Questions on Notice, to indicate that the written response in

relation to question No. 105 has been submitted to the Clerk for circulation to the Members. Thank you.

MISCELLANEOUS AMENDMENTS BILL, 2020

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Good morning, Madam President. Madam President, I beg to move:

That a Bill to amend the Summary Courts Act, Chap. 4:20; the Oaths Act, Chap. 7:01; the Limitation of Certain Actions Act, Chap. 7:09; the Summary Offences Act, Chap. 11:02; the Dangerous Drugs Act, Chap. 11:25; the Mental Health Act, Chap. 28:02; the Children Act, Chap. 46:01; the Shipping Act, Chap. 50:10; the Plant Protection Act, Chap. 63:56; the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01; the Income Tax Act, Chap. 75:01; the Central Bank Act, Chap. 79:02; the Financial Institutions Act, Chap. 79:09; the Companies Act, Chap. 81:01; the Securities Act, Chap. 83:02; the Caribbean Industrial Research Institute Act, Chap. 85:52; and the Motor Vehicles and Road Traffic (Amdt.) Act, 2017 (Act No. 9 of 2017); and to repeal the Magistrates Protection Act, Chap. 6:03, be now read a second time.

10.30 a.m.

Madam President: Attorney General.

The Attorney General (Hon. Faris Al-Rawi): This particular Bill, which is 20 clauses in length, amends 18 pieces of law, those being the laws that I have just beg to read, by way of amendment, a second time.

This particular miscellaneous Bill comes into focus largely on account of the COVID pandemic. As we are well aware, the COVID pandemic has been declared in this country to have effect by virtue of the public health

ordinance in the declaration of COVID-19 as a dangerous infectious disease and secondly, by way of operational implementation of certain strictures, again using the public health regulations, as we do under that particular ordinance.

In these circumstances, we have need to cause amendments to our laws to better assist the country in the management of issues which arise from time to time. Certainly, the Bill in its context has the effect of calling more people to do more work on some occasions, less people to do less work on other occasions, to find different methodologies and manners to actually operate in the virtual environment, in particular, as we do a lot of meetings in the online presence methodology, to manage the amendment of the manner in which we receive our food, to manage the receipt of evidence for the purposes of criminal prosecution, to manage the filing of documents, to look in fact at the time limit for the filing of actions as well. That is in the general round context some of the broad areas of this Bill proposes to have effect.

Permit me, therefore, to jump immediately to the terms of the legislation. I would like to thank, in particular, the Law Association for sending in some comments at the very last couple of days. On the 3rd of May we received a submission from the Law Association. I wish to express my gratitude to the President of the Law Association, Mr. Mendes, for taking the time to go through the legislation. Indeed, I have reflected upon that, and certainly have received some benefit as a result of considering the law further. So let us jump directly to the law.

Madam President, if we look immediately to the amendments that we propose to the Summary Courts Act, and we look at clauses 3 and 4, I had given an undertaking to this honourable Senate, when we were debating the magisterial protections to be found in the Magistrates Protection Act, we had course to look at that parent Act Chap. 6:03. That is a law of 1917, it was brought around the same time as the Summary Courts Act, which is again a law in 1918.

In debating the magisterial protections in that Magistrates Protection Act, we gave an undertaking to go back to the drawing board and to look at full magisterial protection. Why did we do that? Simply because Madam President, magistrates are called upon in today's world in the exercise of their summary jurisdiction to exercise large powers. Those large powers, for instance, on a single judge sitting, are seen across the financial landscape, for instance, the Financial Institutions Act, many of our summary offences which can go either way, you are looking at magistrates exercising full and heavy powers, but they do so with very limited protection.

Madam President, by amending the Summary Courts Act in the manner that we propose to do, we propose to give magistrates full protection of the law. The Law Association brought to our concern that we should perhaps look for a different formula. I respectfully disagree with the Law Association's position because I am comforted that judges, masters, have a particular form of immunity, it is full immunity. We instead prefer to carve out the recommendation that out of an abundance of caution we are making sure that magistrates are still capable of appeal, there will be the regular appellate process, but I want to remind that magistrates are subject to

judicial review, and therefore the purview of the Constitution, section 14 of the Constitution applies, and also the Judicial Review Act applies, which is a situation different from judges and from masters.

Madam President, if we turn next to the Oaths Act, the Amendment to Chap. 7:01 in clause 5, we are proposing here to modify the Oaths Act to remove the anachronistic reference to the distinction between a Christian and a Jew. That is no longer applicable in our point. We are allowing for the virtual operation of courts to prevail with the use of this Act. The Oaths Act allows anybody who has the power to administer an oath and that is by, virtue of office or by way of consent of the parties, to administer the oath. What this does is allow you to simply uphold your hand and swear to tell the truth. And therefore lawyers who conduct the examination of their clients and cross examination can have their witnesses sworn in, in a virtual hearing, in their offices, with ease now courtesy these Amendments by clause 5.

Madam President, we turn next to clause 6, the Exception of Limitation of Certain Actions. We are proposing that the Attorney General have the ability in this particular COVID pandemic, to allow for the extension of the period of limitation. Why? Even though section 9 of the Limitation of Certain Actions Act allows you to argue that the limitation period does not apply to you and what is the limitation period? Either four years or 12 years or such other period where the law says look for certain matters, civil matters, you have to bring it within a certain time. It is usually four years, if it is a judgement debt, it is 12 years.

In these circumstances, even though the law allows you to go and argue that there was an intervening cause where the limitation period ought not to apply, we are now saying let this be done by way of an order. The Law Association felt that the use of an order ought not to be the appropriate point, we respectfully disagree on the back that many of our delegated functions are extended by way of order. I can take you to the income tax regime, the companies regime, and a number of different places. So, one, we rely upon section 9 of the Act which allows you to argue otherwise. And, two, in any event, the Attorney General acts on a Cabinet decision. So pursuant to section 75 of the Constitution and section 79 of the Constitution, there is direct supervision of the executive function in making this particular launching pad and therefore, we are confirmed in our view that there is no breach of the separation of powers if one could argue that.

Madam President, we turn next to the Animal Diseases Importation issues, and that is to look at also the cruelty to animals. Whilst we laid a very important Bill in the Parliament, being the Animal (Diseases and Importation) Amdt. Bill, 2019. We did that on the 11th of September 2019. It is a very long Bill. And in that Bill, clause 26 of that Bill, the new sections 18A to L, we had the whole cruelty to animals, cockfighting, abuse positions, we had that full gamut there, we felt it important at this point, whilst we had the opportunity in a miscellaneous Bill, to simply amend the Summary Offences Act to raise the penalty for cruelty to animals, because our society has demonstrated that it must be “mannersed”, if I can use that sense, in respect of its cruelty to animals. We have to do better, and

therefore we propose an increase in the fine to \$100,000 and to a term of imprisonment five years by an amendment to section 79.

Madam President, clause 8 seeks to amend the Dangerous Drugs Act. What we are doing, when we amended the Dangerous Drugs Act with the cannabis issues in December last year, we had a cross referencing error in the proofing that came from the Parliament and therefore we now seek to amend section 5B of that amendment Act by correcting the subreference crosssection references.

Madam President, we turn to clause 9, the Mental Health Act. Madam President, we are seeking here to allow for the 2 streams of the Ministry of Health to operate under law under this Act, that is the RHA stream and the Ministry of Health stream, and all that we are doing is something that should have been done a long time ago. The issue of mental health is very relevant in the COVID pandemic, and we need to make sure that officers are properly clothed in law to exercise the functions that they do.

Clause 10 seeks to amend the Children Act. Again, we gave an undertaking in the passage of the cannabis relief issues, the decriminalisation of marijuana, that we would look at the issue of children. Pursuant to that undertaking we now seek to amend the Children Act. The Children Act only allowed a constable to refer a child to the Children's Authority for possession of tobacco or alcohol, smoking tobacco or drinking alcohol. We think it important include the possession of, or using of a dangerous drug, and substances having an effect similar to that of a dangerous drug. Our newspapers are replete with examples of people under pressure, of children

engaged in positions like this, and we satisfy our undertaking to this honourable House by making these amendments to the Children Act by amending section 38 of the Children Act.

Madam President, I turn to the Shipping Act. There was a very large issue of the shipping regulations not properly managing the party boats, the shipping issues around that. We have already drafted the amendment to raise a significant penalty for breach of those pleasure craft and to do that we need to amend the Shipping Act to give us the legislative power to raise the penalties by way of the regulations. Accordingly, we seek to amend section 406 via clause 11 to allow us to bring the regulations which we have already prepared into effect.

Madam President, the next thing is clause 12. This is courtesy the Minister of Agriculture. In the importation of food, we are basically having too much, how should I say, bureaucracy, where we can in fact manage the process of phytosanitary risk factors in a different way. In other words, food being imported, things like canned channa et cetera, we can remove a layer of bureaucracy by having the Minister describe those products which actually require the use of that particular officer to clear goods as opposed to every shipment being cleared by the use of the relevant officers from the Ministry of Agriculture and the Food Divisions. So that is clause 12.

Madam President, I turn the clause 13. Clause 13 in the Amendments to the Financial Intelligence Unit Act, we are looking specifically to improve the method by which we can enforce court orders. Currently, section 12, and cross referencing section 18 of the Financial Intelligence Unit Act allows for an entity which is in receipt of a court order, an entity which is in

receipt of a compliance position, to be brought before the court for failing to observe the order.

What we propose is that instead of that being just on a summary level, where you must go within the six month period, we can bring it either way, either by way of a summary conviction offence to a fine of \$500,000 or, by way of conviction on indictment to a fine of \$1 million. And this is where a financial institution or listed business fails or refuses to provide information, after the FIU takes them to the High Court for an order, before the court is making that order, we are looking now to manage that process by improving the risk if you fail to observe the order. So this is what the amendment to section 12 of the Financial Intelligence Unit Act does. It is to ensure better compliance so that the risk of money laundering, financing of terrorism and the breach of economic sanctions is properly managed.

I turn next to the philosophy that underwrites clauses 14, 15, 16 et cetera and that is the Financial Institutions Act, the amendments to the Income Tax Act and the amendments to the Central Bank Act as well as the prescription behind the philosophy.

Madam President, in these 3 pieces of law, there is a strict requirement for secrecy or confidentiality. That secrecy provision, if we look at the Financial Institutions Act in section 55, that secrecy provision has been hindering the advancing of criminal prosecutions. Because the banks, the financial institutions, are taking a perspective that even though they are giving material under compulsion of law, where they have provided material by way of a production order under the Provisions of the Proceeds of Crime Act, or by way of a warrant under the Indictable Offences (Preliminary

Enquiries) Act, even though those documents, materials, et cetera, are produced under the cover of the production order or the search warrant, they are not going the next step of giving a witness statement for the purpose of criminal prosecution.

10.45 a.m.

Why is a witness statement relevant? Because in complex fraud matters, in particular, the DPP has the ability under the preliminary enquiries route, section 23(8), to directly indict you, skip past a preliminary enquiry, indict you on complex fraud, or fraud or other matters and to do that, a witness statement is required for the purpose of admissibility of evidence.

Now, the Law Association took the point of view that a witness statement needed to be defined. I respectfully disagree on the back and power of not only the Interpretation Act, but the Evidence Act as well as the Civil Proceedings Rules and the Criminal Procedure Rules, where a witness statement is defined, for instance, in the Civil Proceedings Rules—under Part 29.4 of the Civil Proceedings Rules and under the Evidence Act where the reference to a statement is made.

So this is done in very careful circumstance where the admissibility is required for the DPP to receive evidence under a witness statement, which only refers to matters effectively that have already been produced by way of compulsion of law, search warrant or proceeds of crime warrant. Therefore, the replication of the amendment to the Financial Institutions Act is put inside of the Central Bank Act and also, the Income Tax Act.

Therefore, we are within square, lawful purpose in providing cover for the giving of a witness statement in these circumstances. It is intended quite

simply to cut out preliminary enquiries whilst we move our way to abolishing them very shortly. There is still the methodology to allow the DPP to advance prosecutions and have people have their day in court, so that they can either be acquitted or convicted by way of due process. So that underwrites the amendments proposed to the Financial Institutions Act, the Income Tax Act and the Central Bank Act as clauses 13, 14 and 15 propose in the legislation before us, the Bill before us.

Madam Speaker—Madam President. I apologize for constantly referring to you as Madam Speaker, forgive me.

Madam President, I turn next to clause 16. Clause 16 proposes an amendment to the Securities Act. In the Securities Act, we are looking to treat with a number of issues. Firstly, we are looking at the amendments that the Securities and Exchange Commission themselves have requested. We are looking to improve the fines available under the Securities Act. In that context, we are looking at a breach of the regulations moving up from \$1 million to \$5 million. We are allowing that specifically because of the due process protection that is available.

The securities industry has demonstrated that whilst they may engage in serious matters, the offences yield poor results. We need only look at the IPO issue that came to the fore. Coming out of that particular exercise, it was a clear observation that we do not have much time to—[*Interruption*] I am sorry Sen. Thompson-Ahye, I have very, very, little time, so I will take it in the course of contribution. We are looking at the limitation on the penalties. The other factor that we are looking at is that the caution to be looked at is whether this is excessive criminalization. The Law Association

has asked us to consider that factor; we have. We rest our case upon sections 159 onward, 160, 161, et cetera of the securities legislation. That particular provision gets us the comfort that any action taken by the Securities and Exchange Commission is appealable to a court of law and therefore, all rights are preserved in the due process environment.

I ask you to note, Madam President, that we are not amending section 156A which is the scheduled, how should I say, administrative fines for breaches of the Act. We are not treating with that. The other important thing that we are doing in the Securities Act is we are applying the methodology of disgorging. In disgorging, the term is intended to refer to what is well-known in the industry but it applies to profits which have been earned as a result of an unlawful act. Therefore, we are allowing the remedy of disgorging to a well-known remedy in law. Again, there is a due process provision provided in the fact that all of the steps taken, anybody aggrieved by a decision of the Securities and Exchange Commission has the right of appeal to the High Court and therefore, straight up to the Privy Council.

Madam President, I take it I end precisely at 11, yes?

Madam President: Yes.

Hon. F. Al-Rawi: Thank you. The Companies Act amendments—we are looking at a number of things. Number one, we are looking to extend the period for the filing of notices of charge. Form 33 of the Companies Act is where a statement of charge is filed. There is a time sensitivity for that. Under the COVID-19 pandemic, a lot of people could not file the statement of charge in time and therefore, we are effectively giving a moratorium on the filing on the statement of charge. That is only notice to the world.

Nothing affects the creation of the charge, either in law or in equity and therefore, the mere notice to the world is what we are extending in proper form.

I should tell you, Madam President, that I intend to come back to Parliament with an amendment to the law very shortly to allow for the complete removal for signatures for these documents. In other words then, that you would be able to file completely electronically all of your company's returns. We are also looking at that for the filing of deeds as well, and that is because we have put in place the hardware and software and process requirements over the last couple of years, and we have digitized millions of records. Again, I am coming back to complete e-operation in Trinidad and Tobago. It is by the implementation of plant, machinery, people and processes.

The other thing that we do in the companies' amendment is a huge loophole. Companies, numbering somewhere about 80,000 companies on the register, active companies, a vast majority of them do not declare their shareholding. A company is incorporated, they never declare who the shareholder of the company is and therefore, they argue their way out of beneficial ownership. We are therefore requiring companies upon incorporation or existing companies to issue shares and to declare their shares. These have come about in circumstances where people are actually declaring dividends, taking their profits out of the company, even though they are not shareholders of the company. So this is a plug to a massive loophole which we have been working on for quite some time, as it relates to beneficial ownership and proper legal information. Madam President, that is

also the case of managing the risk of money laundering and the abuse to society. Clearly this is something that we have to get moving in the right direction.

I would like to say, the Law Association asked us whether the reference to pledge of a guarantee was appropriate. I would like to remind there are several types of companies. Externally registered companies, non-profit companies, as we now have under that particular realm, also called “not for profit companies” under the Companies Act. We then have companies that are limited by liability, and when you are limited by liability, your liability can be limited either by way of shares, limited in liability or unlimited, or by guarantee. Therefore, it is appropriate to make the reference to limitation by guarantee and the issuance of the pledge of shares, because a company that is limited by guarantee is saying, “Look, we the following members guarantee that if there is an event of winding up, liquidation, et cetera, we will contribute towards that,” and then you state how much.

For instance, 20 members of a company agree to be limited to \$50 per person, but you have got to pledge that because it is a future interest. It is not an actual interest where you pay up for your shareholding the way you do in the issuance of shareholding for limited or unlimited companies. So I am quite confident that sections 7, 8, 9, et cetera of the Companies Act take US into the right realm, and that the reference to limitation of guarantee by declaring the pledge of the guarantee is an appropriate thing to be captured in this realm.

Madam President, I have dealt with the Securities Act already which

is clause 18. Permit me to go next to the provisions of the Caribbean Industrial Research Institute Act, CARIRI. Quite simply, in section 10 of that Act we had the Industrial Development Corporation listed as a requirement for the composition of the board. Of course, the IDC no longer exists and therefore, we could not populate a board for CARIRI, and we now have to amend the parent law to remove that reference to the IDC, so that we can populate this by law. I am very grateful we had a miscellaneous provisions Bill because otherwise we would have to move a whole Act of Parliament just to amend this to populate this board.

Madam President, permit to go next to clause 20. Clause 20 is intended to cause the amendments to the Motor Vehicle and Road Traffic (Amdt.) Act. We propose very shortly—I see that I have five minutes coming up on me. I will take your notice now, Madam President.

Madam President: Well, right now you have six minutes.

Hon. F. Al-Rawi: Thank you so much. So I intend to use the time.

We have operationalized a radical transformation of the motor vehicle and road traffic regime and our court load. It is now known that—and the words are going to come out my mouth as follows—146,000 cases per year in the Magistrates' Court, 104,000-odd cases of that load are simply motor vehicle and road traffic offences. We have created a conditionality for the use of the limit of the road, et cetera. We are now prescribing demerit point systems and fixed penalty issuance systems, and we intend to move on the proclamation of the U-turn transformation system, piloted by my colleague Sen. Rohan Sinanan. When we operationalize that, which we were ready to do since the 1st of April, but which we will do shortly, we want to now take

care of the 80-odd thousand cases in arrears. In the courts, there are 80,000 cases in arrears.

In looking at that, we want to clear the backlog by initially offering a 50 per cent sale, if I can use that expression, on the fixed penalty tickets that exists in there. That is therefore to move the backlog out. This will also have the effect of cautioning people to come in and clear tickets against themselves, lest they are brought before the court by way of summons or by way of warrants, when they do not pay their fair share or comply with the law. And we warn that this law allows us to remove the limit from 50, we can raise or vary the limit to 75 per cent, 80 per cent, whatever it maybe, to get people to comply with the law.

Madam President, that in the round therefore allows us a fair perspective of what the Bill is all about. That is all of the pieces of law canvassed. The Summary Courts Act, the Oaths Act, Limitation of Certain Actions Act, summary offences, et cetera, and there are a cross of issues. I give notice that we intend to come back to the Parliament in another miscellaneous provisions Bill very shortly, as we look to further amendments specifically with the treatment of the magisterial districts. We are writing out now to stakeholders to ask them their views on judge-only or limited jury trials in this COVID pandemic situation.

Thank the Lord that we have done as well as we have in the last couple of years by producing laws and operationalizing laws so that in this COVID pandemic we have the ability to move seamlessly forward with our work, whilst limiting the risk to persons as a result of the dangerous infectious disease.

In all of those circumstances, I look forward to the contributions of learned colleagues at the debate stage and also committee stage, and I beg to move.

Question proposed.

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I am very happy to contribute to this debate, but I must record what I discern to be a very dangerous trend that is emerging in this Parliament. I do not know if it is a strategy on the part of this regime, through the Attorney General, to use miscellaneous provisions or legislation to house scores of pieces of legislation for amendments. I think that is a very dangerous development. It is worsening by the day.

Today we are being asked, in a compressed environment as it relates to time, given the decision of the Government, not by you, Madam President, by the Government, to suspend Standing Orders so that we can speak less. But yet still, we are being given 18 Acts to amend in one miscellaneous amendment Bill. If that is not an abuse of the parliamentary process, I do not know what is.

Madam President, what is even worse, we are being told by the AG, the Attorney General that is, the hon. Attorney General, that it is connected to COVID-19. Madam President, the majority of these measures here have absolutely no connection whatsoever to COVID. But that is a strategy on the part of the Government so that they can frustrate the Opposition in properly scrutinizing, in a qualitative way, their measures that they have been introducing.

Madam President, this Bill that is before us today is what I would like

to describe as a hodgepodge set of amendments, crafted together without rhyme or reason. There is no discernible common thread running through the various Bills that are before us, or Acts to amend, being proposed that is. Whilst there are a few clauses that are related to each other, few I emphasize, the sheer number of amendments to be considered by this Senate, and the number of pieces of legislation involved seriously curtail the ability of any ordinary Member of this Senate to properly and effectively scrutinize the legislation that is before this House, properly speaking.

The restrictions on time, as I emphasized earlier, have also exacerbated the emaciation of our parliamentary process. A process which is meant to be the bulwark against authoritarian rule and dictatorship. It is an indictment on this Government and the sitting Attorney General, as guardians of the Constitution, that it would allow the parliamentary process and scrutiny to be undermined in this fashion. Even if legally permissible, there are certain democratic norms and features, whilst not expressly protected by law but which must be protected by the Government, the Opposition, the Independents and Senators, and our Parliament as a whole, Madam President.

The Bill before us represents a complete failure on the part of this Government to protect the democratic norm and value of parliamentary scrutiny.

Madam President, I heard the Attorney General in his contribution making reference to the Law Association submission and he rejected every one—every one of their submissions. I would call on the Attorney General to table and circulate the Law Association memorandum to him, so that we

in the Parliament would have a better understanding of the thinking of the Law Association. It cannot be that the Law Association, which is the body representing lawyers in this country, making proposals to the Attorney General and he is just throwing them out of the window whimsically and arbitrarily. So we demand that the Attorney General table the Law Association's correspondence.

As I move on, let me indicate very early that we spent a long period of time in this Senate debating the Magistrates Protection Act. The Government had come with some amendments that were totally unacceptable at the material time, and we fought the Government and we were able to compromise. We arrived at a compromise. Here it is after those almost one year, the Government returns, through the Attorney General, to take immunity out of the Magistrates Protection Act, place same under the Summary Courts Act and, like a dictator, simply proposes an amendment—not an amendment, the repeal of the Magistrates Protection Act.

Madam President, this is not only dangerous, it is reckless, highly irresponsible for the Government of this country to remove protections that we have in this Act for ordinary people, and give a blanket immunity, a total immunity, a full immunity to magistrates. So a magistrate is not a judge. A magistrate has certain limitations in terms of jurisdiction and if a magistrate—as we debated in that matter that we dealt with a couple of months ago—when a magistrate goes outside his or her jurisdiction and maliciously, deliberately and intentionally prosecutes someone innocently, and that person winds up in jail, that person must have the right to take

personal action against that magistrate, because that magistrate has gone out of the limitation and jurisdiction. Therefore, we do not support this amendment that the Government has put forward, to give a total and full and blanket immunity to magistrates in this country. We will be moving an amendment to that provision.

Madam President, this is dangerous legislation that we are dealing with under what is called the cover of COVID-19. It is almost like a grab for power on the part of this Administration.

Madam President: Sen. Mark—

Sen. W. Mark: Madam President, I understand and I will calm down.

Madam President: I have to caution you at this time.

Sen. W. Mark: Yes, I will calm down, but I feel very strongly about some of the provisions here.

Madam President: While you feel strongly about it, Sen. Mark—

Sen. W. Mark: But I understand you.

Madam President: —you have to remember the language that is required in this House.

Sen. W. Mark: I understand you. I understand. Madam President, I know an election is going to be called very shortly and we will have the opportunity to deal with it on the platform.

Madam President, look at clause 6 with me. The AG, we have no problem with what is being proposed here during this COVID period, you have to cover these people in terms of the Limitation of Certain Actions Act. But what we have taking place here is the Attorney General, without the permission of this Parliament, arrogated on to himself the power to extend

the period. Madam President, we are saying no. We are saying we do not believe that the Attorney General should have that power. Therefore, in those circumstances, we reject that arrangement. Why are we putting the Attorney General in this law?—“or such longer period as the Attorney General”—whoever that Attorney General may be—“by order”.

Madam President, I agree with the Law Association. There is a concept of the separation of powers. Under section 75(1) the Executive is accountable to this legislature, and only the legislature can make laws. We can delegate laws to be made like regulations by the Government, by the Minister, but we cannot give the Attorney General blanket power to make laws as is being proposed. So I want to serve notice on the Attorney General, you are not a lawmaker on your own. You can only be a lawmaker within the framework of the legislature. You cannot go out there and make laws on your own. That is unacceptable and therefore, we reject that concept. And that is repeated in the Companies Act and its amendment, where the Attorney General is arrogating onto himself powers of the legislature. He does not have that power. We will not give him that power. He cannot have that power. Therefore, we serve notice on him and this honourable Senate that we will have an amendment to this particular matter here. I know that you have already advised me, put it in writing, so I understand that, Madam President.

Madam President, I want to ask, through your kind indulgence—I tried, honestly I tried to see the links, the connection, the inextricable relations between what is in clauses 14, 15, 16, 17 and even clause 18, but more so, the Securities Act. I could not find the connection to COVID.

Madam President, the provisions contained in these Bills, these amendments, whether it is Income Tax, Central Bank, whether it is financial institutions, whether it has to do with Central Bank, we are trying to determine the provisions in the Bill before us, 14, 15, and 16 in particular, seek or purport to make exceptions for confidentiality requirements in the various pieces of legislation, which rightfully attach criminal sanctions for breaching confidentiality. In the ordinary case, if information is provided to one of the authorities, that is public authorities, particularized by the Bill, an employee or an officer of that department cannot disclose that information, save and accept in limited circumstances.

Madam President, what these amendments to clauses 14, 15, and 16 do is to bring through the backdoor, without any safeguards, without any checks and balances, whistle-blowing legislation. This is whistle-blowing legislation through the backdoor. This is what the Attorney General and the Government is doing in clauses 14, 15 and 16.

What this Bill introduces, Madam President, is an unacceptable level of vagueness, by attempting to widen the category of instances where an officer or employee of these institutions, be they BIR, be they Central Bank, be they commercial banks, to permit those employees and officers to disclose information to the police. Madam President, most disconcertingly the concept of information—and I have a case study that I have looked at as a bush lawyer, and I can tell you, Madam President, confidentiality of information in a Supreme Court judgment in the United Kingdom has been ruled as property, and property is a constitutional right that every citizen has to enjoy.

11.15 a.m.

So, no officer or employee of any institution mentioned in 14, 15 and 16 would have the power to just give information. My private and confidential information is property under the Supreme Court of England case involving the Revenue Department in the United Kingdom. So I want to warn the Attorney General you are on a constitutional collision course and you better back-back and withdraw otherwise you would end up in court, because you are dealing with the rights of citizens when coming to these sections. Madam President, the concept of information being available to the public, and that is what they are putting out here in 14, 15 and 16 is a repertoire, a repeat of everything that they are saying in 14, repeat in 15, repeat in 16, and so on.

Madam President, from other sources, that is information being made available to the public from other sources, is being introduced as being an exempted category of instances where ordinary confidentiality requirements do not apply. That is what is being emphasized in these amendments. Firstly, we want to ask the Attorney General, what precisely does it mean when one says that information has been made available to the public from other sources? What does the Minister, the hon. Attorney General, mean by this? Do we mean information that is within the repository of a public body as the Central Bank? As the BIR? So, for instance, if private financial information was provided by me to a public authority, BIR, does that mean it is now open to an officer of the BIR, for instance, to disclose that information to whoever they see fit? I ask. This is what the Attorney General is implying and it is in the law that is being proposed here.

In that case, Madam President, the BIR, that is the Board of Inland Revenue, is a public body, so is the Central Bank a public body. Such a broad interpretation would render almost meaningless any confidentiality requirement in the legislation. In other words, all of the information that the BIR has would automatically be disclosable by any employee or officer of these organizations. That is what we are being told and asked to support. And hear, Madam President, the sanctions for breaches of confidentiality have an important purpose. The law, Madam President, the law, AG, the law recognizes not only that information constitutes property, but that a citizen has a constitutional right to privacy. So it is not only property we are dealing with, but we are dealing with the right of a citizen to privacy, and if you are going to invade and intrude privacy and property rights you better bring a certificate to attach to this piece of legislation, otherwise you would end up in court.

Madam President, the second exception is perhaps even more troubling than what I have just said. The exemption for witness statement to police, that is what the Attorney General just addressed, is troubling. Information regarding finances provided to institutions such as the Board of Inland Revenue have been historically protected in law. It is disclosed for a specific purpose and ought not to be amended save and except by explicit wording in legislation. The proposed measure is not explicit, it is vague. It creates exemption. The whistle-blower is now exempted from liability, but does not expressly amend the position that confidential information provided has specific purposes and ought not to be disclosed.

Madam President, I want to refer the distinguished and learned

Attorney General to a judgement of the Supreme Court, which will be used as evidence in the courts of Trinidad and Tobago if he dares pass this Bill in its current form. Madam President, you know what it says? This judgement was delivered on the 19th of October 2016, and, Madam President, it involves *R (on the application of Ingenuous Media Holdings plc and another) (Appellants) v Commissioners for Her Majesty's Revenue and Customs (Rrespondents)*. Madam President, the court, the Supreme Court of the United Kingdom, in this matter, which was dealing, may I advise?—,the appeal concerns the scope of duty of confidentiality owed by Her Majesty's Revenue and Customs in respect of the affairs of taxpayers. Firstly, the court articulated the well-established duty of confidentiality that public authorities such as the BIR, such as the Central Bank as examples, have when they receive confidential information from the members of the public.

One particular judge on that panel called Lord Toulson stated, and I quote:

“The duty of confidentiality owed by the HMRC to individual taxpayers is not something which sprang fresh from the mind of the legislative drafter. It is a well established principle of the law of confidentiality that where information of a personal or confidential nature is obtained or received in the exercise of a legal power or in furtherance of a public duty, the recipients”

—whether they are at the BIR, or the Central Bank, or at a private bank—

“will in general owe a duty to the person from whom it was received or to whom it relates not to use it for other purposes.”

Madam President, it goes on:

“The principle is sometimes referred to as the *Marcel* principle, after...”

—a case involving Marcel and the Commissioner of Police.

Madam President, I have brought these matters to your attention, and to this honourable House/Senate’s attention to show how miscellaneous Bills with 18 amendments to legislation can hide very dangerous provisions from you and me if we do not have the time, Madam President—

Madam President: Sen. Mark.

Sen. W. Mark:—to properly scrutinize it in the detail that we need to do it, given the time compression that we are faced with right now, Madam President.

Madam President: Sen. Mark you have five more minutes.

Sen. W. Mark: Thank you, Madam President. Madam President, Lord Toulson warned governments like the one we have in Trinidad and Tobago against the use of this information for a collateral purpose, and that is what the Government is attempting to do with these amendments. Madam President, I just want to burden you with one final quotation from the eminent Lord Toulson in this very famous judgement by the Supreme Court. He said, and I quote:

“In relation to taxpayers, HMRC's entitlement to receive and hold confidential information about a person or a company’s financial affairs is for the purpose of enabling it to assess and collect (or pay) what is properly due from (or to) the taxpayer.”

That is what it is about. The whole system involves that, matters relating to income tax are between the commissioners and the taxpayers concerned, and

that the total confidentiality of assessment and of negotiations between individuals and the revenue is a vital element in the working of the system.

Madam President, our Constitution, section 4C, in particular, protects the right of the individual to respect for his private life, and private life involves the right to privacy. The common law has already shown that it protects confidential and private information given to the BIR or other public bodies, including the Central Bank. And, Madam President, we are advancing and positing very firmly and seriously that it would be totally unconstitutional for the Government to decimate the constitutional rights of citizens who provided information to public authorities with the expectation of confidentiality to allow the disclosure of information in the manner that the Government is proposing. Bring a constitutional majority. You are inflicting and infringing rights of citizens to privacy and to property, and therefore you have—we have no right to allow such legislation to pass without the insertion of the certificate, Madam President. Madam President, it is clear that the Bill in its present form, if not amended, if not have inserted a certificate of a three-fifths majority is bound to be lead to a constitutional collision and an inevitable challenge in the courts of this country unless these offensive, dangerous and obnoxious clauses are withdrawn by this Government through the Attorney General, Madam President.

Madam President, in the few moments I have at my disposal may I also alert you to the fact that we too, like the Law Association, believes that the Attorney General is being given too much power, and he has no such authority to have it given how our Constitution is structured. We also

agreed with the Law Association based on what the Attorney General has said, that the fines that they have imposed under clause—Madam President, may I find that clause for you? I think dealing with the Securities Act where they are seeking—Yes, the Securities Act, clause 18, where they are seeking to impose a fine of \$5 million. We find that to be very disproportionate given their powers, so we believe that is something that we ought to deal with. We also want the Attorney General to tell us where in this document that we have before us is there a definition for witness statement? And finally, Madam President, information is different from evidence.

Madam President, I thank you very much for the opportunity to speak on this very important matter.

Madam President: Sen. Thompson-Ahye. [*Desk thumping*] Hon. Senators, while I await Sen. Thompson-Ahye may I just remind Members that if you have amendments that those amendments need to be reduced into writing and circulated by the time we come to committee please.

Sen. Hazel Thompson-Ahye: Thank you, Madam President, for so graciously affording me the opportunity to speak to yet another Bill brought by this hon. Attorney General, indefatigable, irrepressibly exuberant and amazingly articulate Attorney General. This Bill that he has piloted today has a long, long title, suffice it to say that the short title Miscellaneous Amendment Bill, 2020 is what we are dealing with today. Why has he brought this Bill? Why now? What is the justification for the Attorney General having us depart from the injunction of the hon. Prime Minister to stay at home, cook your food and bake your bread, the Minister of Health and the Minister of National Security's call for social distancing, and the

Ministry of Agriculture, Land and Fisheries' suggestion that we plant the land, all of which I have been faithfully adhering to.

We have been brought here but we have not had the justification that was given in the other place. We were told that it is in fact because of the COVID-19 pandemic, and better to assist the country in matters that, from time to time, have arisen. Interestingly, what was said in the other place, I would have expected that since it is the same Bill that the rationale would have been the same, and that we would be able to better understand why we are here and the fact that it was said that it was because of the need for efficiency, and the need to deal with a number of things that needed treatment, and they could not wait because it is very important that they be dealt with that that in part is what has brought us here.

Now as an aside I just want to say the reason I tried to stop the Attorney General when he was in mid-flight is because he was quoting clause 16, but in fact he was reading from clause 18. That was all. Now, we have had a number of legislation that has been amended, and one of the very first that has been amended is the Summary Courts Act, Chap. 4:20, an Act relating to procedure in respect of offences punishable on summary conviction. And that was amended by inserting a section 159 which deals with the magistrate's protection, and Sen. Mark has spoken about that, and I personally have no problem with it. But in that same Act if you are looking at legislation and you are looking at legislation which needed the attention of the Legislature, I expect that we would look at it in a holistic fashion. And in that same legislation, the interpretation section, and that is legislation is dealing with an Act, the long title relating to procedure in respect of offences

punishable on summary conviction, and summary conviction we are talking about adjudicated upon by a magistrate. So in that interpretation section there is a definition of child which says:

Any person who in the opinion of the court before whom he appears or is brought, is above seven and under fourteen years of age.

Now, that same interpretation section was amended by the Children Act so that we could have the maximum age of 18 for the child, but the minimum age is not being interfered with. I raised that point yesterday, but as usual the Attorney General ignores me when he thinks it is convenient for him to do so. So that “young person” was amended but “child” was not amended, and that original legislation dates back to 1918. We have amended our Children Act. We have a new Children Act dating back to 1925, and we still have not touched that legislation so that our minimum age for criminal responsibility is still seven years of age, which is the common-law age. So in 1925 when we put this Children Act on our books England had that age at seven, they changed it in 1933 to eight, they changed it in 1963 to 10, and we are still holding on to that age of seven years. We looked at the legislation again and yet we have not touched it.

Madam President: Sen. Thompson-Ahye, if I could just point out to you that you are talking about amendments that you think should have been incorporated in this Miscellaneous Bill, so you are not being relevant to the matter at hand because you have to treat with what is in the Bill, not what is not in the Bill. Okay. So I would ask you to move on to another point.

Sen. H. Thompson-Ahye: Thank you, Madam President, I was responding to the crying out for remedy that the Attorney General said he had brought

these provisions to the Parliament.

Madam President: Sen. Thompson-Ahye—

Sen. H. Thompson-Ahye: Yes.

Madam President:—I understand, but I would just ask you please to just heed the advice and perhaps move on.

Sen. H. Thompson-Ahye: The legislation in respect of cruelty to animals, Summary Offences Act has amended—that Act has been amended so that the provisions, the penalties have been increased from \$400 to imprisonment for two months, and again you have increased it to \$100,000. So we increased the penalty for offences against animals, but again I must say not offences against children.

Madam President, when we look at the number of pieces of legislation that have come here today, I would like to say that we have missed a glorious opportunity to do what we can for children. This is a situation where we are talking about COVID and the impact on the community, and that is why we have brought this legislation, and I would really like to make the point that just as we talk about domestic violence in terms of spousal violence we must not forget that domestic violence affects children, and we have done nothing insofar as children are concerned, except the offence of drugs, dangerous drugs, but we have done nothing to protect them in a situation where they are liable to be damaged severely by their parents.

So we have a number of, as I say, offences here. We have a number pieces of legislation, and I do not accept that what the Attorney General has said is that they are important because of the COVID situation and that is why we have brought them here, and we have lost a glorious opportunity to actually

deal with a number of deficiencies in our law to protect our children. So I am constrained by your ruling, Madam President. I had many suggestions for the improvement of this Bill, and since my suggestions have not been in fact, despite promises over the several months been adopted, I can only say that I rest my case.

Madam President: Sen. Sobers.

Sen. Sean Sobers: Thank you, Madam President, for recognizing me this morning to contribute on this Miscellaneous Provision Bill which touches and concerns many standing pieces of legislation that we have.

Now, Madam President, I would like to jump directly into the Bill because there is a number of things that I wish to touch on. The first would be clause 6 which deals with the Limitation of Certain Actions Act. Now, I understand the provision itself, because I am fully aware^o during this particular COVID-19 period many persons would have filed or attempted to file certain actions before the court that were not deemed fit for hearing based upon the reasoning set out within their certificate of urgency. And some persons in terms of the description in their certificate of urgency would have placed the limitation period as a measure for that urgency. So, I think this is extremely comforting that the time period has been extended. I was just simply wondering whether or not the Government would consider, and the hon. Attorney General would consider possibly extending it a bit longer because there are certain practitioners before the court who are also having difficulties with respect to taking instructions from clients during the particular period of time based upon the COVID-19 situation, and they may run afoul of the limitation period.

I would jump to clause 7. The hon. Attorney General and I would have had a discussion on this, I think it is well-deserved. There are many crimes that have been committed against animals within the recent past, and I think for some time now this particular piece of legislation would have sat on our books without a sober look at increasing the penalties prescribed to persons who would run afoul of this particular offence. And I know in terms of discussions I definitely would have raised the issues regarding cock fighting as well too, because there are many other illegalities that accompany cock fighting as well.

For example, illegal gambling would be at a cock fighting ring, firearms, drug possession, even human trafficking as well too. So that would be something that I think we could look at in the future as well.

11.45 a.m.

I looked at clause 13 which deals with amending the FIU and I understand in terms of increasing the fines and penalties which the Bill prescribes. The difficulty is that in terms of my discussions with many members of the business community, it has been felt that there should be also some strengthening of the FIU as an institution itself as well. Some of the requirements that are asked by the FIU of business persons, registered businesses with the FIU, would involve these business entities procuring information and also verifying some information from some third party persons. In those instances it places the businesses at a precarious position because they have these short timelines to complete these activities within. And I am told, I am informed by these businesses that they are not getting the relevant support from the institution as they should to complete the

activities that they have been tasked with.

So that an increase in the fines, albeit that it is welcomed, because I do agreed that there are some businesses, as limited as they may be, that shape be responsibilities in terms of complying. I mean I would have read up on the report generated by the FIU for 2019 and it demonstrates that they are doing a lot of work, a lot of the work that is actually done within this Parliament, a lot of the laws that have been passed have been utilized by the FIU as well too in their fight against money laundering and other illicit activities. But we should also consider strengthening the institutions so that persons can comply properly before possibly an increase in fine or we do it simultaneously as we can.

Also some of the requirements that the businesses have indicated to me requires them to conduct certain checks that they claimed placed them in positions of danger. Because some of the individuals that they have to treat with and run some background checks pursuant to the database provided by the FIU possibly involves them interacting or placing them in harm's way by informing on these individuals who could possibly be involved in illicit activity. And so some business persons believe that maybe this particular activity should be adopted specifically by the FIU itself and not the business community. And so maybe by strengthening the institution, providing them with more bodies, more personnel, more plant equipment and machinery, they may very well be able to do these processes on their own and not have the business community get involved in that.

Now, I jump to pages 10 and 11, the amendments to the Companies Act. Now I as a practitioner I do a bit of company law myself and I know

the hon. Attorney General in his practice as well too before was heavily involved in company law. So this is going to be quite academic. I know in terms of shareholders—so I listened intently to what the Attorney General indicated in terms of his presentation. This is supposed to be geared towards identifying in my estimation the sideline beneficial owners then. So you would have a situation where a company is incorporated, you have the actual listed shareholders who may number 10 or 15 or whatever and then those shareholders now, or even maybe—so those shareholders, let us say it is three shareholders because it is within a family business or whatever, they have sideline arrangements with x and y who would provide them with capital funding, but are not listed on the companies registry as an actual shareholder of the company. And even though companies are called to task through their annual returns to demonstrate who these shareholders may be in most instances they do not identify who these sideline, back-door deal beneficial owners are. What I am trying to understand by the wording of this particular section and this amendment, I am not 100 per cent sure if this will capture those persons. Because I listened—it was the first time for me that I heard the term “company for profit”.

“the company shall issue share capital or pledges by way of guarantee...”

And I understood in terms of the definition given by the hon. Attorney General that these guarantors are supposed to be the persons who would guarantee a figure or a sum towards the debt in the event of insolvency, which I was a bit shocked to find out that we actually have a system set up in Trinidad like that. But then these shareholder guarantors then may not very

well be the sideline beneficial owners that we are trying to capture with this particular situation. And then I thought to myself, I telephoned another colleague of mine who does a lot of company law and we were thinking whether or not, possibly in saying then, because issuance of share capital usually occurs subsequent to a board of directors meeting then it would be a meeting at an AGM or SGM where the right of first choice would be given to the actual shareholders of the company if they want to purchase more shares to raise capital for the company. And if those shareholders refuse then you go outside and you look to procure capital from other individuals who would then become shareholders.

So we were thinking whether or not maybe there could be—this compulsion to register those persons could be done after every single AGM or SGM where that decision with issuing new share capital could occur. The problem is it could become extremely onerous for very large companies if they had to do something like this. But then equally there is no real way of figuring out if they would be truthful or honest in terms of their declarations, because if they do not do so in their annual returns then how can we compel them to do so by the wording of this particular amendment. And then we are not necessarily going to be captured by this because they may not very well be the guarantors based upon what I understood.

So I definitely would like some significant clarity because there are many, many companies within our country, especially in terms of my reading when it comes to money laundering, where a lot of money launderers worldwide will look at countries that would have weak company registration laws and high access to foreign exchange to launder money in

those countries. And those are the beneficial back-door owners that we should definitely try to capture, because they are the ones who are investing these moneys, getting their profits paid out to them in cash and what not and if we are trying to capture them as persons of interest I am not 100 per cent convince especially by way of conversion that this may very well be able to do so. I definitely would look forward in terms of the committee stage and even in the winding up if the Attorney General could definitely shed some light. I know that you have experience within that regard.

[MR. VICE-PRESIDENT *in Chair*]

Apart from that, I mean I think we definitely need to pay attention to some of the other pieces of amendments within the Bill itself. I know that honourable colleagues would pick up on certain points by way of their contributions. I would definitely like to hear on the issuance of the limitation period possibly being extended and I definitely look forward to a discussion on the other elements of offences against animals because that is a very close thing to me as well too being the owner of pets myself. With those few words I thank you, Mr. Vice-President.

The Minister of Public Administration and Minister in the Ministry of Finance (Sen. The Hon. Allyson West): [*Desk thumping*] Thank you, Mr. Vice-President. Mr. Vice-President, this Bill, the Miscellaneous (Amdt.) Bill is quite a long and involved Bill but I would deal with one particular aspect which covers several sections in the legislation. And that aspect has to deal with how we treat with financial crimes. Now our society for ages has been imploring that the Government pay more attention to what is commonly referred to as white collar crime. Because a lot of expenditure

and effort is put into dealing with the other types of crime, the physical crime, the shooting, the rapes, the kidnappings and these things. But white collar crime is something that we have not made the kind of dent in that we need to make. We need to give some focus to that, one, to build the trust of the rest of the society who are thinking that the people with means tend to get away with their crimes while the people without means are made to suffer and pay and it also ensures that we protect the fabric of our society.

So, Mr. Vice-President, financial crimes are—we need to understand that they are more facilitated by the use of Fintech, ICT, cryptocurrency, e-payments, e-transactions. One of the things that this COVID pandemic has forced us to recognize is that the world has to make a jump forward, Trinidad and Tobago in particular has to make a jump forward in the use of these technologies. We have to look at things like increasing our ICT capacity and use, e-payments, e-transactions, we have to consider the introduction of Fintech and cryptocurrency. But on the other side of that we need to acknowledge that these things will more greatly facilitate people who are criminally-minded to conduct financial crimes. And so we have to put things in place to deal with that expected ramp-up in financial crimes.

Money in today's world can be transferred in seconds, globally, and this fact greatly complicates the task of criminal investigators in investigating such crimes, catching the criminals and successfully prosecuting them. Money laundering in particular is facilitated through both offshore havens and often unwitting bona fide local financial institutions. When one understands that money laundering is a crime on top of a series of different crimes, one understands the significant of the problem. Because

when you are talking money laundering you are talking about something that comes after trafficking in drugs, human trafficking, trafficking human beings, contraband items, you would also come after activity that involves misuse of public funds. And so money laundering which is a symptom, just a layer of crime above a whole slew of things that we have to seriously deal with and try to curb.

It is estimated, Mr. Vice-President, that money laundering is estimated to be the third largest industry in the world, globally, on an annual basis generating moments of funds in the vicinity of US \$500 billion to US \$4 trillion. It is a significant industry which has to be clamped down. The methodology and typologies of money laundering have become increasingly more sophisticated and more elusive particularly with electronic transfers and Internet banking. This requires us to give law enforcement officers who are dealing with financial crime a greater ability to effectively deal with that.

At the moment, Mr. Vice-President, their ability to deal with money laundering—with financial crimes is significantly hampered by their inability to easily access information in respect of these crimes. When one understands that the ultimate goal in any financial crime is to convert illicit cash, to conceal the true ownership or source of the illegally procured funds and to create the perception of legitimacy of the source of the funds or the ownership of the funds one realizes this is a complex area that needs a solution to reduce the level of complexity, so that we can put together a compelling case for presentation to the courts for prosecution of these criminals.

What it requires therefore, Mr. Vice-President, is that investigators

have access to information that is there, that is available, but not available to the investigators easily. So what we are seeking to do in this bit of legislation is to give law enforcement a fighting chance to successfully prosecute financial crimes in Trinidad and Tobago. We have done that, for example, in clause 14, where we are seeking to amend the Income Tax Act while we continue to preserve the right to privacy of the taxpayer's information, we are seeking to give restricted access to law enforcement to secure information from the various institutions, including the Board of Inland Revenue to allow them to amass the kind of evidence they need to get to successfully prosecute criminal offences.

So we are seeking to add a clause 4A to section 4 of the Income Tax Act that will allow for an exception to the privacy rules. So we are preserving the Inland Revenue's obligation to keep taxpayers' information private. But what we are seeking to do is to allow them to disclose summary information. So, for example, they would not say what is the income of Mr. A, but they would say this sector of society, whatever it is, the petrochemical sector, for example, is generating this kind of activity. So that it gives the law enforcement a profile that determines, is this something that we need to look more closely into. It also allows for the disclosure of personal information but only in certain very limited circumstances. So it would allow an employee of the Board of Inland Revenue to provide a witness statement to the police at the level of a superintendent or above, in respect of a criminal investigation or criminal proceedings where the witness statement relates to information disclosed under compulsion of law and it is requested in writing after prior approval is received from the DPP.

So we are excluding political interference, we are ensuring that this is overseen by a senior officer in the police and by a constitutionally protected individual being the DPP. So in only in those very limited circumstances, Mr. Vice-President, will the Board of Inland Revenue be allowed to be permitted to provide information on a taxpayer's affairs. And this is to allow us to better control the scourge of financial crimes.

Mr. Vice-President, what we have is several institutions that collate different aspects of financial information. But there is no one who has really access to these sources of financial information and therefore they cannot be able to put the picture together that allows for successful prosecution. So what we are seeking to do is to allow a senior officer in the police because we do have a Financial Crimes Investigating Unit that is at the moment hamstrung by these privacy provisions. So a senior officer in the police service under the instruction of the DPP we are allowing him to access information from these different sources so we can build a picture and build a case to give us a fighting chance to successfully combat these criminal offences.

So the Board of Inland Revenue is one of the institutions which has significant information and we are seeking to get access in the limited circumstances that I would have outlined. Another such institution is the Central Bank. The Central Bank privacy laws, provisions, are so all encompassing that it is impossible at the moment for the Minister of Finance to even know how much is being paid in remuneration to employees of the Central Bank. It is that extreme. So we are seeking to get limited, again, access to information from the Central Bank for the purpose of prosecuting

criminal offences. We are not seeking to erode the protections available to these various industries, but to give us, as I said, a fighting chance to deal with criminal offences.

The Financial Institutions Act currently prohibits licensees, financial holding companies, controlling shareholders, directors, et cetera, from disclosing information relating to the business or affairs of a customer. Again, we are seeking to get limited access to information of that sort to allow us to fight financial crime. Similarly under the Securities Act we have restrictions on our ability to access information and these restrictions on these important institutions in sharing information put a huge obstacle in the way of our Financial Investigations Unit.

Now if we look at the statistics in Trinidad and Tobago alone, the FIU over the period 2016 to 2019 identified a total of \$25 billion in suspicious transactions; \$10 billion of those suspicious transactions were completed, 15 billion were identified before completion and therefore was stopped. But imagine how much more effectively that could happen if we were able to share information in the possession of these various actors, in the possession of these institutions which now have such severe secrecy provisions that they are not able even if they are willing to share the information.

So even in its limited capacity and with its limited information the FIU was able to provide law enforcement with sufficient information during this last fiscal to prosecute certain activity. So the FIU assisted the police during 2019 in providing financial intelligence and asset tracing in 58 money laundering charges against 18 individuals. It provided intelligent in support of investigation of seized cash and allow the TTPS to investigate 40 cases

where they were able to recover TT \$3.9 million and US \$325,000. They also facilitated the Customs and Excise in 50 tax avoidance measures that led to the recovery of \$24million. Now when we look at \$24 million, TT \$3.9 million, US \$25,000 when you compare that with the total—
[*Interruption*]

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

Sen. The Hon. A. West: Thank you, Mr. Vice-President. When you compare that with the total of \$25 billion in suspicious transactions, you realize that what we are doing currently is just scratching the surface in terms of successful prosecution and recovery and we have to more significantly make a dent in that area.

So, Mr. Vice-President, the only way Trinidad and Tobago will have any hope of success in deal with financial crime which as I said is likely to become more and more prevalent as we move more into an ICT control space is to allow the various institutions that separately have bits of information on people committing crimes to merge that information in a central location properly controlled and properly managed to get a whole picture that would give us a fighting chance in combating these crimes.

Sen. Sobers I agree with you, we do need to strengthen the institutions especially in the ICT field and that certainly is going to be a focus of the road map committee that we are working on, but without the support of the provisions that we are seeking to get passed here today we will not be able to make the kind of dent we are seeking to make. So I urge you to support these measures, we need them desperately and I look forward to the passage of the Bill. I thank you, Mr. Vice-President.

Sen. Dr. Varma Deyalsingh: Thank you, Mr. Vice-President, for allowing me to present this Bill. And I must say, I have to express the same sentiments as my colleague expressed before, Sen. Thompson-Ahye. She wanted to know why we came here today, what was the rush they need. And at least she was trying to say, you know, yesterday we understood the effect that we were discussing, the fact that COVID could affect domestic violence and could affect even the prison population, but she was trying to figure what was the rush for this omnibus Bill which I think has 17/18 parent Acts that we are studying. But as it may, I am trying to relate some of that with what we are discussing, some of the issue as to why we are here today. And I could see basically that, you know, even though we are here we have to at least not only think about our lives, but the lives of the parliamentarian and the support staff, but we are here and I am trying to get that connection. And so far I have looked at something that I see here as a connection whereby during this period we have an increase in admissions to the St. Ann's Hospital; we have an increase in persons with psychiatric illness. We have persons who are trying to reach out.

And you see, Mr. Vice-President, I looked at clause 9 of the Bill and clause—which looked at the Mental Health Act, Chap. 28:02 and it actually sought to look at who is a duly authorized medical officer in terms of being able to assist in this treatment of mentally ill patients. And I must say as the Secretary of the Association of Psychiatrists I think this was long in coming and I congratulate the Government for bringing this, because definitely we need some clarity. There was a case where a mental health officer went to get a public officer from a building and that actually went to court, that had

some legal implementations. And at that time when the mental health officer went into this building it was a problem. We had where mental health officers were now scared to go and apprehend patients who are mentally ill. So you could imagine if you have a patient in a building that is under this COVID stress, stressing out, and you call a mental health officer to come into her home they may say, no, they are not qualified to go in unless it is a public space. So there are a lot of little things we need from the AG's department and the Law Reform Commission to beef up this Act.

So I welcomed this Mental Health Act and I see there were two instances of it where you look at the Mental Health Act, Chap. 28:02, where we now look at—before we had just doctors in the public service, in the Ministry of Health, but now the doctors are in the North/West Regional Health Authorities and in various health authorities. This will give us some level of comfort that we are not breaching any sort of laws that people could come and sue us after.

So therefore I looked at this and I congratulate the Government for this, I congratulate them also looking at—when I looked at again section 61(1), where in the Mental Health Act they expanded the category of persons who may be designated as mental health officers under the Act, by including person who are employed by the regional health authority. So we need both from the doctors and for the mental health officers who are need to go out and apprehend persons. But AG there is one request I may have to beg. There is a little deficiency where we have mental health officers under these—working under the regional health authorities but some of them need what you call to do some sort—they have to get an oath, they have actually

swear to some oath of allegiance, they have to actually have that. And if they do not do that, the newer ones may not be able to fully function.

And if we going—something call an apprehension order, where you need to go and apprehend somebody who is acting dangerously, a mentally ill patient, they sometimes have to depend on the few older ones who have taken this oath. So this is something I am hoping that we can go further, where we can really make a dent on this.

12.15 p.m.

I looked also, Mr. Vice-President, at the fact that the issue of the dangerous drugs— clause 10. So clause 10 actually gives the authority, the power of a constable who reasonably believes that a child is in the possession or using a dangerous drug, or similar substance, where now it broadens it. Because before that, a constable may be able to act with just using tobacco and alcohol, and two things comes out of it. Two things stood out here because, you know, we are now looking at protecting children more and this is something I have to really thank the Government. They have understood the need to open that Act because, Mr. Vice-President, I must say right now in our nation, I am a bit scared. I am a bit worried that children and drugs— it is not just the alcohol we are looking at. It is not just—we are looking at new drugs on the market, not just alcohol, marijuana. We are looking at new drugs on the market and I would like, if you allow me, to read into this a concern I had where the Ministry of Education actually had a release telling the public:

“New addictive drugs hit schools”.

It was a drug called:

“‘Molly’ which is a new addictive drug”— and it—“has hit the nation’s schools and the officials of the Ministry of Education are currently ‘scrambling’ to get more...”
— this is according to a report that was done in a newspaper, January 2019, an article from the *Guardian*, Rhondor Dowlat.

So the fact the Ministry of Education realized that this molly is in school and molly is of an ecstasy. So it is a different ball game we are dealing with, Mr. Vice-President. It is different ball game where you have now drugs on the market which are frightening, which can do great harm. You see, if I am a drug dealer and my market is selling marijuana, and suddenly now my market is dried up because everybody could plant their three or four plants, it means I am now looking for a new commodity and this is the danger we are facing now. The new commodity is these mollies; the new commodity is this ecstasy. If they can get children hooked on this, they will have a market and the frightening things is, Mr. Vice-President, you know, it is not just here that we have these drugs hitting us. These drugs now put our children at risk and these drugs actually are finding their way in countries all over the world.

There was an article from *The Telegraph* where they looked at:
“‘Chinese Ecstasy’ drug linked to 125 deaths has arrived in Britain...”
And you see this article by Charles Hymas, it was on the 2nd of June, 2019, they were warning the population that there is a Chinese drug factory which actually makes this imitation drug and pushes it out on the market. So it is not just the coronavirus we have to worry about from China. We have to worry about these drugs that are coming out, going all over the world. The

United Nations actually claim that they are banning these drugs. They are not allowed to bring in these drugs.

So this Bill recognizes the fact that it is not just alcohol, it is not just marijuana, but you have now to look at our children, if they are acting hyper, if they are acting full of energy, you know, those children have red eyes, they are actually on the go, movement, not sleeping, we have to be aware, and this is why this piece of legislation actually— I felt so good that is out there because now it gives us the power to look at other avenues where a police constable could act. So therefore, what I might say, our children are at risk, but this recognizes it. But you see, when I looked at the legislation, one thing I was hoping we could add here— because in this clause 10, when we looked at section 3(a) of the Children Act, 46:01, you said the constable shall warn the child, obtain the relevant contact information and notify the Children's Authority of the incident.

I am hoping somehow in that we could put “and notified the Ministry of Education” for two reasons. The Ministry of Education will be able to look at that child. So if the incident happens outside, the Ministry of Education will happen to look at that child because that child could be in a school as someone who would be there selling the drugs to other children. So this will give that leverage now to the Ministry of Education to monitor that child too. Even if the child needs to get child support services to help in any sort of rehab, I think this is necessary in this piece of legislation, if it can be added.

And when I looked at the clause 11, looking at the Shipping Act, Chap 50:10, and we looked at section 406, and really speaking what that did

was increase the penalty from a fine to \$150,000. So it actually updated the old legislation to be in terms of the new penalties that should exist.

[MADAM PRESIDENT *in the Chair*]

But most respectfully, I am hoping that if we—when I looked at the parent Bill and I looked at section 394, they also had certain offences and penalties there, Madam President. And 394 actually had some penalties which I considered also an old fee of \$1,000 and six months imprisonment— in 394(2) and (3). And most respectfully, if the Attorney General could see if we are now looking at fixing the fee structure in the Bill, probably that may have been left out and may need to be looked at. You see the thing, Madam President, is if we are fixing the Act— I think tie up all the economic ends one time so we will not have to come back with this.

I would like now to look at clause 12 of the Bill where it looked at the Plant Protection Act, Chap. 63:56, where it actually, I think, widens the powers of the Minister of Agriculture, Land and Fisheries in terms where he can now make an order exempting any article from classification as a restricted article which requires a permit for importation under section 3, provided that the article does not pose a phytosanitary risk. Now all well and good, we may need to bring in stuff, we may need to stop any sort of jam system that occurs where you are bringing in stuff and you have to have the food inspectors go and inspect it. But you see, we have to appreciate the fact that if do any sort of, kind of less restriction on looking at these products coming in, we may run the risk of bringing in a plant disease. Because right now, in the United Kingdom, there is a disease call xylella, where in the United Kingdom they are very worried about this because this was an article,

BBC News, Matt McGrath, 20th of April, 2020, where this new infection—there is no treatment just like the coronavirus. And also, the UK restricted certain trees coming in, imports coming in, and it could spread to a variety of plants.

So even though, yes, I am thinking we may want to ease up some restrictions to bring in certain stuff, the agricultural biosecurity is important and the fact is, we are already faced with a pandemic. For humans, we have to be careful that we are now not opening the doors for any sort of diseases to come in. So I am hoping that very careful cheques and balances could still be entertained, and I think the Minister of Agriculture, Land and Fisheries should know that with persons speaking about food shortages, his role is just as important as finance, just as important as health, and he has a very, very important role to play to ensure that plant viruses and packaging do not enter our systems.

And as I was reading the parent Act, Sen. Rambharat, I realized there was also a restriction on soil, but there is a chain down here that actually brings in potting soil. You may need to look into that—bags of potting soil—because there is a restriction in the Act that we do not want anything to come here to disturb our agricultural economy. As I continue looking here, I want to just look at that aspect concerning the CARIRI.

Madam President: Sen. Deyalsingh, you have five more minutes.

Sen. Dr. V. Deyalsingh: Sure. Thank you, Madam President. So CARIRI, we saw that certain changes were made, ICD no longer exists, it was taken out, UNDP was also taken out, and what I found is that also, other Governments in the Caribbean region, they were left out. I got the

impression they were left out. And I am trying to figure out, with Caribbean integration, regional support, I am thinking somehow we may see if they are still—because the whole concept of CARIRI was to have that integration within that Caribbean region for the development. So I think what we may have to do is to make people do not think that we are just like President Trump pulling out from WHO and these things. We have to ensure that we are still with our Caribbean neighbours, looking for a better development post-COVID.

Concerning the immunity given to the magistrates, I have heard a lot of concerns. And, yes, we have to be concerned if we are in fact giving immunity because there are a lot of court cases before, Madam President, where it showed some deficiencies in the magistrates and some of their judgments that they give. So therefore, we should not take away the power from the little man to question. So once a normal citizen could still have judicial review on the magistrate, I would be satisfied with that because I am thinking we would really need to say if we give too much power to persons, the small man may think they now cannot challenge any sort of decisions made there.

I would just like to mention the fact that when we looked at clause 7, Summary Offences Act, and we are looking at the increased penalty for cruelty to animals to \$100,000, I find that is a bit excessive but I do not know if that goes with international standards. But one thing I just wanted to mention is you have to understand, if somebody is cruel to animals, somehow we will have to see that when we are giving them the \$100,000 and to imprisonment for a term of one year— I am suggesting, Madam

President, persons who are cruel to animals, they may be children who have what you call conduct disorder who could lead to something call sociopath or psychopath, we used to call it long time. So part of the imprisonment, persons who are there should also be added on to this piece of legislation with psychological intervention so we would not be missing people in society who are cruel to animals because they have a personality disorder which could go in widespread community.

So, Madam President, with that, I thank you for allowing me to take part in this discussion and I am hoping that I can hear from the Attorney General of some of my concerns. Thank you.

Sen. Saddam Hosein: Thank you very much, Madam President, for recognizing me in joining this debate on this miscellaneous provisions Bill, 2020, which seeks to amend 18 pieces of legislation, and while we may understand that we are facing a pandemic, we cannot—and I want to join with Sen. Wade Mark—trample upon the parliamentary procedures, in which are available to us, simply to say that we can just amend 18 pieces of legislation in one go with a suppression of speaking time. And, Madam President, it was right when speakers before me indicated that although we are amending 18 pieces of legislation, we have just about three of these pieces of legislation outlined in three clauses, which actually has some relevance to COVID-19 in terms of the extensions of deadline for filing of certain documents and also, in terms of the extension of the limitation period in which certain matters are prescribed.

Madam President, if you would allow me to begin, I just want to look at clause 4 and clause 3 of the Bill which deals with the repeal of the

Magistrates Protection Act and the insertion of a new clause in the Summary Courts Act. You would remember, Madam President, we had quite a lively debate in this Chamber when we dealt with the amendments to the Magistrates Protection Act. And if I may recall, there were many suggestions coming out from Members of the Independent Bench and also the Opposition Bench, myself and then Sen. Ramdeen, where we indicated that our position was to grant magistrates full protection simply because they are judicial creatures, notwithstanding the fact that they are creatures of statute and they are limited by the boundaries in which the powers are given to them by written law. The purpose of that position that we took at that time was the fact that because they exercise a judicial function, we do not want magistrates to have hanging over their heads that they are under some level of pressure for personal and tortious liability because, at that time, you would recall that the amendment came as a response to one magistrate, I believe Mr. Jagroo, who would have been sued personally and then the matter was on appeal.

I remember the Attorney General at the committee stage of the Bill indicated that he required the Cabinet's approval to determine whether or not the Government's position would be whether or not magistrates are going to be granted full immunity. Now in this present amendment as we see, it is read as:

“159 No action shall be brought against a Magistrate for any act done by him in the execution of his office.”

Now when someone aggrieved by the decision of a magistrate—for example, in a preliminary enquire, if a magistrate commits a person to stand

trial at the assizes having found that there has been a prima facie case made out against him or her, then available to the defendant, would be the avenue of judicial review to review whether or not the magistrate would have exercised his discretion lawfully, and that comes from the fact that that decision can be appealed because the magistrate is not sitting as a decision maker in that instance but rather as an enquiring magistrate, just limited to the purpose of determining whether or not a prima facie case has been actually made out.

Now if a magistrate makes a final decision, for example, if he finds someone guilty of committing a criminal offence, then that person has the avenue of an appeal. When I looked at this legislation and I recalled the Attorney General's contribution in the other place, the Attorney General did in fact indicate that the right to an appeal and also, the right to judicial review is available to the person who is aggrieved by the decision. And if that is the position of the Government, then I can agree with this particular amendment. I know the Attorney General did in fact put it on the record, in the event that there is some level of interpretation in the High Court so that the *Pepper v Hart* rule can kick in to determine what really was the intent of the Parliament when passing this particular piece of legislation. So if we are preserving the right to have those avenues available, that of judicial review and appeal, then I see no difficulty with clauses 3 and 4. Maybe I do not know if the Attorney General, out of an abundance of caution, may want to expressly state that because, at the end of the day, a magistrate can in fact err in the decision he makes and a person must have those avenues available to him.

Now when we look at our present circumstances, this Senate has been engaged especially in a lot of criminal justice reform measures and one of those measures would be the abolition of preliminary enquiries. So once that kicks in properly, then that avenue will no longer be relevant as now matters will be brought before the master who will make the decision whether or not a sufficient case is made out against the accused person to stand trial in the assizes. And those are the points that I have regarding clauses 3 and 4 dealing with the Magistrates Protection Act.

Now I am looking at clause 6. Clause 6 deals with the Limitation of Certain Actions Act and I could understand the rationale that this particular clause is being introduced in the Senate, and this is being introduced simply because we are speaking to Trinidad and Tobago. If someone has an action in thought or an action in contract, a person has four years in which they have to bring that action against the tortfeasor or the person who has committed the breach of contract from the date on which the cause of action arose.

Now because of COVID-2019 you would see, Madam President, that our court systems has been limited in terms of the capacity in which hearings have been conducted. I myself participated in a virtual hearing and I was quite impressed with the infrastructure in place by the Judiciary, where I was in my office together with the litigant, and we had the comfort of having the judge sitting in his home, and the other side at their office, and we completed an entire hearing on whether or not an injunction had to be discharged, and it was done smooth and efficiently. So the capacity of the court has been limited. I say that point to say that the capacity of the

Judiciary has been limited to only dealing with those matters deemed fit for hearing or matters that are considered urgent.

Now while the COVID-2019 pandemic affected us in Trinidad and Tobago, the civil registry was in fact closed for the filing of documents and some persons, at that stage, their limitation may have expired when the civil registry has been closed, thereby they would have missed the filing of their action in time to preserve it under the Limitation of Certain Actions Act. So I can see that we would have to give those persons that extension in which the limitation period is enlarged so that they can file their action quite properly without any preliminary points being taken before the matter proceeds in the High Court. What I also agree with is the fact that it is flexible because this pandemic is very unpredictable. So that by order, the Attorney General can in fact prescribed longer periods in which the limitation period can extend instead of coming back to the Parliament to determine whether or not we should extend it for a further period. Again, this, I would assume is contemplated because of the uncertainty of this pandemic having regard to the fact that there is no vaccine having been developed as yet. So those are my comments with respect to clause 6 of the Bill.

Now, Madam President, I want to go on to what me and the Attorney General had probably public brawls on, which is the amendment to the Income Tax Act because I have expressed strong use in the public domain and so has the Attorney General with respect to these amendments. It has been my position that section 4 of the Income Tax Act was in fact inserted and it is a universal provision I daresay because most of the democratic

jurisdictions and countries in the world has that level of protection for taxpayers' information, and Trinidad and Tobago also falls within that category.

Now, Madam President, you would also recall that we had to amend the Income Tax Act in the Income Tax Act, 2018 and there were certain exceptions being created for the availability or the disclosure of taxpayer's information. And if you would permit me, Madam President, to just reflect on the 2018 amendment because they are directly relevant to these matters before this honourable Senate now. Because in the 2018 amendment, which is very similar to what we are doing now, I would look at clause 14(4A)(c) which deals with:

“the provision of a witness statement to a police officer of the rank of Superintendent or above for the purposes of any criminal investigation or criminal proceedings where the witness statement—

- (i) Relates to information disclosed under compulsion of law under...” —the— “Act or any written law; and”

—it must also be accompanied by:

“(ii)...the...consent of the Director of Public Prosecutions.”

Now my issue with this is quite simply this. It is, Madam President, that under the 2018 amendment, it was prescribed that there was certain pieces of legislation that the police can make an application under by the court to attain or to get taxpayers' information, and those pieces of legislation would have been, if a person commits an offence under the Proceeds of Crime Act, under the Anti-Terrorism Act, under the Prevention of Corruption Act, and offences involving fraud or dishonesty, and once

these offences fall within those categories and the taxpayer information is relevant, then the police officer can make an application to the court, ex parte—which means without notice—and the court can direct the Board of Inland Revenue in order to disclose the taxpayers' information.

Now, Madam President, we are seeing here in this present piece of legislation, that notwithstanding—I know the Attorney General will argue the fact that there is some level of protection in the form of the constitutional protected body of the Director of Public Prosecutions having to consent prior to getting the taxpayers' information. When we looked at the 2018 amendment, I was comforted by the fact that there was some level of due process in the form of a judicial officer which is the court. Now, in this present framework, the court is absent. There is no due process in terms of how the police gets the information. It is simply that once he requires a witness statement and maybe an offence is being investigated, it does not say whether or not a charge was in fact laid or an indictment was preferred. All it deals with for the purposes of the investigation. I am sorry, Madam President. It is also for criminal proceedings. In those events, then the police officer simply goes to the BIR and they can get the information, and it must be produced in the form of a witness statement.

Now, Madam President, there are certain issues I can ask the Attorney General to look at because I want to close this particular piece of legislation with some level of constitutionality. Now I want to ask the Attorney General to contemplate an instance whereby the police officer goes to the Board of Inland Revenue and an officer refuses to give the information. What will be position of the office in those instances, whether or not get they

would be able to get the information? Secondly, available to the Director of Public Prosecutions in any criminal proceedings would be the power of the Director of Public Prosecutions, or even the court of its own volition, to call the witness or even call for certain documents, thereby producing the documents in court under sworn testimony for the fact that they can in fact be—if they give false testimony in those cases, then they will face the offence of perjury.

Now, Madam President, in this instance, the evidence in which the persons will be giving will be in a witness statement that is the unsworn. What does that mean? It means that, in fact, if someone fabricates the evidence, it is only at the stage when he reaches the court and he gets into the witness box, then he swears on unto the evidence that he gave is in fact truthful. So those are issues that I looked at with respect to this particular clause in terms of the power being given here. I believe it is very wide and we are offering a lot of protection to the officer who in fact gives the information to the police.

Now, there is also the issue here of subsection 4A(a) which deals with:

“information which, at the time of disclosure, is or has been already been made available to the public from other sources;”

12.45 p.m.

Now, there is also the issue here of clause 4A(a) which deals with information which at the time of disclosure is or has been already been made available to the public from other sources. Now Madam President, this troubled me because in what instances will a taxpayer information be made

public from other sources? And what does the term other sources mean? What if a person's taxpayer's information has in fact been released illegally or unlawfully? Does this close this with some level of protection? Because in that event, it would have been released from other source and also it would have been made public. So, I do not understand what is the rationale for that particular sub clause?

Secondly, with respect to —

Madam President: Sen. Hosein you have 4 more minutes.

Sen. S. Hosein: Already? Okay. With respect to clause (b), it deals with collecting a summary of information but to protect the identity of the taxpayer. Again, who is this information being given to and who is the proper applicant to make an application to get this information? So these are the questions I am asking the Attorney General if he can give us some level of details in terms of how the—what is the rationale for these and how it is going to work. Who are the proper bodies or the proper applicants who are going to get this particular piece of information?

Because in the Senate, Madam President, we had expressed strong views with respect to the independence of the Trinidad and Tobago Revenue Authority, which in fact was passed and we did express strong views that there may be some level of interference with the independence of the authority, and now, seeing these particular pieces of amendments coming to further water down the secrecy provisions of the income tax legislation it gives us some level of worry Madam President, that the information may not be protected sufficiently. And with these kind words, Madam President, I thank you very much.

Madam President: Minister of Agriculture Land and Fisheries.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President, for the opportunity to contribute on this Miscellaneous Amendments Bill, 2020 which, Madam President, as we know, seeks to amend 17 pieces of legislation and repeal the Magistrate Protection Act. Chap. 6:03.

Madam President, I would direct my attention to 2 clauses in the Bill, clauses 7 and 12. In relation to clause 7, Madam President, that is a clause that proposes to change current provisions in the Summary Offences Act relating to animal cruelty. Madam President, the Summary Offences Act would be 100 years old next year. A lot of us have suffered through the provision of that piece of legislation which is very important. Some of the provisions are woefully outdated, but many of the provisions are still in use and still very active in relation to a number of matters that are before the magistrate's court. The provisions in relation to cruelty to animals to be found in the Summary Offences Act at section 77 in relation to confinement, 78 to 84 in relation to cruelty, 85 to 89 in relation to detention, but, Madam President, the key area is this area of cruelty.

Madam President, in relation to cruelty, the only amendment to the 1921 legislation was made 67 years ago. So what we have in relation to cruelty is now 67 years old. But the Government did not just sit back. This issue of treatment of animals and animal welfare has been very topical across the country for a long time. And I must say prior to my appointment as Minister, there was in train a project to amend the legislation dealing with animal diseases and importation.

Now, I must say Madam President, that in my portfolio as Minister of Agriculture, I essentially deal with what we call commercial animals, animals that are raised for consumption, or animals that work, and I do not directly have responsibility for domestic animals. But the veterinary profession also happens to form part of the portfolio. We have a lot of vets in the Ministry and we do in fact get involved in domestic animals from time to time. And in modernizing prior to my appointment, ECA was engaged as a consultant to assist the Ministry to modernize that animal diseases importation legislation. And that legislation essentially sets out the phytosanitary standards in relation to the importation of meats, meat products and animals into the country.

I inherited that work and with the support of the hon. Attorney General and his team, we were able to come up with different versions of the modernization of that and eventually settled on a version that was laid in this House in September 2019. And that piece of legislation Madam President, I do not want to go into it, except to say that is the first attempt really to develop animal welfare standards relating to domestic animals in the country, as well as working animals. And that was laid in this House and my colleague the hon. Attorney General has given the assurance that we would give it priority and have it debated. So that to my mind was the first significant step.

I must say also, Madam President, there is a Private Security Industry Bill that is in the House that was subject to the work of a joint select committee of Parliament. And in that work of the Joint Select Committee, we were also very careful because, Madam President, a lot of people do not

recognize that we have working animals in this country. For example, the dogs that are used in the security industry, are categorized around the world as working animals. The dogs that are used in the police service are working animals and the dogs that are used in commercial farming are working animals and they have rights too. And it is not something that we have looked at in the way it should have been looked at but we have done that in that Bill that is laid in this House.

But in that Private Security Industry Bill, we ensured in relation to all the provisions relating to security companies that we put in there adequate language that forces those companies to adopt certain standards in relation to training persons in the handling of working animals and also the care, the comfort, the health and safety arrangements for those animals even the working hours, as though they were a human being.

Madam President, having laid the Bill in September 2019, we also, through Cabinet, a committee was appointed because this Bill anticipates the creation of animal welfare standards, and in September 25, 2019 I appointed a 17 Member Committee to develop those standards in anticipation of the passage of the legislation. And that committee, Madam President, worked very quickly and very hard.

The Committee was chaired by Dr. Victoria Lashley from our Ministry and had as its members Prof. Marlon Knights from the University of Trinidad and Tobago, a livestock expert who has worked here and abroad, Ms. Natasha Hosein-Baksh our legal director in the Ministry, Kern Johnson from the THA, Ms. Solange de Souza from the AG's office, Nirmal Dipta from the Zoological Society of Trinidad and Tobago, my predecessor Dr.

Reeza Mohammed who has lent tremendous support on wildlife conservation and also animal welfare to me as Minister Madam President, Monique Kellman, a vet student from the University of the West Indies, Shanaz Mohammed, I believe Madam President was the first time a secondary school student in this country was appointed to a Cabinet appointed committee and she brought the views of the young people in this country, Nalini Dial, activist, from Animals Are Humans Too, Jowelle De Souza from Give Our Animals Love, Sita Kuruvilla from the TTSPCA, Krishendath Balleram from Animal Rescue Association, Mr. Darren Carmichael from the private security company industry, Sara Maynard from the Animal Welfare Network, Kathryn Cleghorn from the Animals Alive.

There were other persons who were co-opted to work on the Committee Madam President. And that Committee on the deadline, January 03 2020—I thought they would have been so lost in Christmas and New Year celebrations that they may not have made the deadline—Madam President, on the deadline January 03, 2020 they presented me with a 93 page comprehensive report on animal welfare standards in this country.

Madam President, while we await the debate on that Bill that has been laid and the development of these standards, what we have discovered is that animal cruelty still continues in the country. And the hon. Attorney General, looked at the law again and felt that an immediate fix would be to amend the existing provisions in the Summary Offences Act to which I referred to earlier.

So what clause 7 proposes to do, Madam President, is to amend the key sections relating to animal cruelty in Summary Offences Act. Amend

section 79:1, section 30 and section 83:1. And the current provision in relation to the offences of animal cruelty carries a fine of \$400 or the risk of imprisonment for two months. And this clause 7 of this Bill proposes that we increase the fine from \$400 to \$100,000 and the term of imprisonment from two months to one year. And this is just the measure that we put in place now subject to the debate on the Bill that is laid in this House, the Animal (Diseases and Importation) Amdt. Bill. And I understand that my colleagues have no problem in supporting this Bill inclusive of clause 7.

The other provision, Madam President, is this provision in clause 12 and I thank Sen. Deyalsingh for his treatment of the clause and concerns he has raised. Madam President, the Plant Protection Act is 1975 legislation; 45 years ago it came in our law in this country. And section 3 of that legislation requires that an import permit be obtained for a broad range of products which are categorized as agricultural products. As Sen. Deyalsingh correctly pointed out, it includes soil, it includes plants, it includes peas, beans, and a wide range of agriculture products. Madam President, it also covers things that are so far processed, that they ought not to be considered as something that is likely to create a pest risk in Trinidad.

For example, Madam President, let us take peanut butter for example. Peanut butter is so far process that there is zero risk of a jar of peanut butter introducing pests into the country, but the mere use of the term “peanut” makes it an agriculture product and for that reason, import permits are required; and I could go through the list.

Madam President, would you believe that because alcohol, alcohol as an agriculture base, whether it is beet, whether it is potatoes, whether it is

cane, it falls in a regime where it is classified as agriculture products. In fact, that is why, Madam President, half a billion dollars in alcohol finds its way into the food import bill that we talk so much about.

Madam President, since 1975 there has been developed something called the International Standards for Phytosanitary Measures, ISPM 52. And what that does, that is an international standard, which allows local authorities what we call “national plant protection organization”, in other words the person in the country overseeing the importation of agricultural products. It allows those persons to determine whether an import permit should be required or should not be required. And ISPM 52 sets out in great detail—I will send a copy to my colleague Sen. Deyalsingh because he seems very excited about this topic—it sets out in detail how we determine whether an import permit is required.

1.00 p.m.

Madam President, the criteria is based on the level to which the item has been processed, and whether or not the item is something that is going to be planted and used for planted material, for example seeds. Seeds can introduce pests into the country, and plants can introduce pests into the country. Logs with bark on, for example, can introduce pests into the country. That is why we have long insisted that logs coming into Trinidad and Tobago have their barks removed. So those are things that are obvious. But when we get into the processed items, the ISPN 52 believes that there should be no import permit requirement for those things.

For example, I said peanut butter. Things that have been fermented like yogurt, pasteurized like milk, roasted like coffee beans, preserved like

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Sen. The Hon. C. Rambharat (cont'd)

jams and jellies, Madam President, you would be surprised that even in some of your everyday products like your red cherries which you use in your baking—I know you enjoy baking, Madam President—your red cherries, your cucumber that is preserved, your chow chow that is imported, all those things with carrots and cucumbers and onions that have lost the ability to introduce pests, we have to have import permits.

But, Madam President, it is not just the import permits. When I came in as Minister 100 per cent of containers landing into this country had to have a plant quarantine officer present. I met an overtime bill of \$4 million, and it was something that was out of control. My colleague, the hon. Minister of Finance, through the Central Audit Committee of that Ministry, conducted an audit and gave me some startling figures and some practices which were intolerable. I set about to reduce the workload and reduce the involvement of plant quarantine, and to focus them on the risks and the risky areas and the work that had to be done.

Madam President: Minister, you have five more minutes.

Sen. The Hon. C. Rambharat: This, Madam President, will significantly reduce that work by about 75 per cent, and it would reduce the cost and the overtime and the headache that importers go through. For example, during this COVID period on a daily basis I have had to respond to calls from importers who have dhal, channa, peas, red beans on the port, rice on the port and they are unable to locate a plant quarantine officer to be present.

To answer the question from my colleague, Sen. Deyalsingh, about introducing risks, I will tell you that this Bill proposes that the Minister may by order—the existing section 3 of the Plant Protection Act is broad. So it

leaves the Minister or the Ministry with no discretion. Import permits are required. What it does is that it allows the Minister by order to publish a list of commodities relating to agriculture which, because of their processing or for other reasons based on international criteria, should no longer require an import permit. And the Minister will do that based on the advice of the research people with the National Plant Protection Organization, and the other things that are used to determine the extent of processing and the likelihood of risk.

I believe this is an important measure. Importers will still have to comply with the Ministry of Health requirement in relation to food quality, food integrity and other matters that are public health matters. But in relation to our job in the Ministry, which is essentially the introduction of pests and pest risks, I believe that the Minister, whoever that person is, would act in accordance with advice and will issue the orders which are appropriate, and will also make the system of imports efficient, effective and reduce the strain on the people who assist in feeding this country.

I thank you very much, Madam President.

Madam President: Hon. Senators, the sitting will now be suspended and we will return at 1.35p.m.

1.05 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

[MR. VICE PRESIDENT IN THE CHAIR]

Mr. Vice-President: Sen. Ameen.

Sen. Khadijah Ameen: Thank you very much, Mr. Vice-President. I thank you for this opportunity to contribute to this debate on the Miscellaneous

Amendments Bill, 2020. Based on our limited speaking time for this period, I intend to very quickly delve into a number of clauses, not all 17 that are listed today.

Mr. Vice-President, allow me to begin with clause 5 which amends the Oaths Act. This amendment removes the general manner in which an oath is administered. Every Member here would have taken an oath when we became Senators. Councillors, Members of Parliament, take oaths. Trinidad and Tobago is a multireligious society. We have for many years had persons who are Hindus, Muslims, Christians, Baha'i and other religious faiths serve this country and take oaths. When the traditional oath is recognized as holding the New Testament or in the case of a Jew the Old Testament, and using the term, "I swear by Almighty God". This term is now to be deleted and substituted with, "I solemnly swear". As a result of this amendment, the act of uplifting your right hand is also repealed.

As a person with a multicultural and multireligious background myself, I have a deep appreciation for this measure finally taking place. What I do wish to bring to the attention of the Senate is that we still have one exception that is not captured here. Some Christians even today do not take an oath, do not swear. There is in the book of Mathew, chap. 5 verse 34 in the New Testament where there is a sermon on the mount, and there was a discussion on oaths:

But I say unto you swear not at all neither by heaven for it is God's throne.

So some Christians interpret this verse literally to mean that all oaths are prohibited, even though in other parts of the *Bible* oaths are looked upon

more favourably. These persons today take an affirmation, which is a solemn declaration, and it is considered legally binding even now. It satisfies the requirement for an oath for those who do not believe in taking oaths.

I want to ask, Mr. Vice-President, as we are taking this bold and forward step with this amendment, for it to be included those persons whose belief does not allow them to swear, but would allow them to take an affirmation, even though I know it is already practised that people can take an oath saying, “I solemnly affirm”, as opposed to saying, “I solemnly swear”, which is what is recommended here. We could simply put an addition. So where the amendment says, “substitute the word ‘I’”—you call your name and say “solemnly swear”, you can say, “I solemnly affirm”. That is something I would like to see be included.

Mr. Vice-President, very quickly I move to clause 6 which seeks to amend the Limitation of Certain Actions Act by inserting a new section that provides for the exclusion of the period March 27 2020 to April 20, 2020. This, I presume of course, is inclusive. This we know is based on the coronavirus pandemic lockdown period, and many businesses and Government offices would have been closed and not functioning, and therefore the Government, seeking to have this period excluded from the computation of any limitation period under this Act, empowers the Attorney General, by order, to prescribe a longer period.

I just want to bring to the attention of the Parliament that this may have been drafted at a time when Trinidad and Tobago, when the Prime Minister would have declared that lockdown period for going up to the 20th

of April. That period has since been extended to April 30th, and then subsequently we are told that on May 10th we are expected an announcement. So I think we can take the opportunity now to change it from April 20th to May 10th to encompass the entire period for which Trinidad and Tobago has been under this lockdown so as not to disadvantage anyone, and to be very clear. Although I do recognize that the Attorney General has the power to extend this period, there is no harm in us putting the correct date and updating it from the time it was drafted.

Mr. Vice-President, that brings me to my submissions on clause 7 which amends the Summary Offences Act and increases the penalties relating to cruelty to animals. Given the recent rise in reports of animal abuse and cruelty in Trinidad and Tobago—We saw social media videos where some misguided young people hung a dog by its neck with a piece of rope on a tree. We saw another where a dog was cut in half. This is coming to the attention of the nation based on social media, but certainly those things may not be unusual—well they are unusual. They are very unusual and unnatural, but these things may have happened before but because we did not have social media available we were not exposed to it.

The penalties at present are very archaic so these increases are more than necessary and long overdue. The Minister of Agriculture, Land and Fisheries mentioned some of the organizations who have been contributing to and advocating for increased penalties for cruelty to animals. I have been in touch with a number of them as well, so I do share his sentiment when he said these measures are long overdue.

What I also got a bit excited about when I heard the Minister of

Agriculture, Land and Fisheries speaking is that the present amendment deals with cruelty to animals, working animals unfit for work, bull baiting and cockfighting and similar offences, but it does not deal with cruelty to animals for food. How are chickens reared? What conditions are they kept under before they reach our plate? Cows for beef and other large commercial meat rearing enterprises? So while the penalty is increased for working an unfit animal, working an animal in agriculture is different to rearing an animal for food. A lot of consciousness abounds globally about the health and well-being of animals that are being reared for food, and of course because we eat whatever goes into those animals we also have to be concerned about what comes to our plate.

I just want to share with this Senate that there is the Animal Welfare Act of 2006 in the UK to combat animal abuse, which came in force on 2007. The aim was to update the Protection of Animals Act which was enacted in 1911. So they too had many archaic laws with regard to animal cruelty. It basically makes any individual responsible for an animal to perform a duty of care by meeting its basic needs. These good practice guidelines include a suitable diet, ensuring that the animal exhibits normal behaviour patterns, a suitable environment, housing with or without other animals, protection from suffering, disease and injury. I am sharing this for you to understand how it would tie back in to animals that are being reared for food in Trinidad and Tobago.

So while the new Act builds on the Animal Protection Act in the UK, the other offences in that Act in the UK in addition to the law concerning animal fights, which is included today in our amendments, it also deals with

the selling, exchanging or giving of a pet as a prize to a child, because we know circumstances can take place where neglect and mistreatment, not intended, but you know, as well as the mutilation of animals unless it is as a good medical cause, for example if a surgery has to be performed on animals.

So the serious crimes in the UK can get a fine up to £20,000 or 51 weeks of imprisonment. So that is about a year of imprisonment and you might get Christmas off. Those convicted in the UK can be prohibited from owning or dealing with animals in the future. So that is something I think we should consider.

The Minister of Agriculture, Land and Fisheries did refer to another piece of legislation which he said is before a joint select committee, but I think it is important for us to—I think we can include in this section 80, where we are dealing with a penalty for working an animal unfit for work, we can include another section to deal with the well-being or the conditions that animals for food are kept. I do not want to go any further into that. I know we can discuss it at the committee stage.

Mr. Vice-President, one other recommendation I would have was mentioned by Sen. Dr. Varma Deyalsingh who is a psychologist and psychiatrist. It has to do with counselling of children and adults who are found to be offending this Act. Violence against animals is often, as he indicated, an indication of a psychological disorder and could lead to violence against persons. Many times we look at documentaries of serial killers, for example, person or persons with a violent criminal history. The people who knew them as children speak about them harming animals,

burning cats, cutting off the tails of dogs and this type of behaviour which may be a result of trauma or their own psychological issues being acted out. So I think it is important for us to have rehabilitation involved in the sentencing aspect.

Our Trinidad and Tobago Prison Service motto is “To Hold and Treat”, and I always say we hold them, but I do not know how much we are treating them. It is more like mistreating sometimes when you think of the human rights aspect. But I think in this regard, rehabilitation, even if it means community service. Many times magistrates in Trinidad and Tobago sentence persons to community service at the dog pound at the various regional corporations and city corporations. So something like that, that is related to the well-being of animals, might be a suitable place to have community service performed. But I think that that rehabilitation part to me is very critical for the well-being of our society where violence—and we are trying to reduce violence in our society, and does not only start when a murder is committed. It could start with animal neglect, abandonment and mistreatment of animals.

Madam President: Sen. Ameen, you have five more minutes.

Sen. K. Ameen: I do not like this new time, you know. Mr. Vice-President, I move quickly to clause 10 which amends the Children Act. It requires:

“...where a constable reasonably believes that a child is ‘*in possession of, or using, a dangerous drugs or similar substance*’ he shall warn the child, obtain the relevant contact information and notify the Children’s Authority of the incident.”

It was mentioned that at present a constable can only issue a warning where

he suspects a child is using tobacco products or alcohol. I can tell you as a mother of a pre-teen boy I have had to acquaint myself with information on the dynamism of drugs in this new age, drugs and drug abuse and chemicals that are introduced to our children through very innocent seeming things.

I also want to mention the importance of counselling in this aspect. I know that the children and family division of the court has provisions for these things, and I think it is high time that drugs, the definition in this regard be expanded and not just be limited to tobacco products and alcohol. There are drugs in candies, in food and so on, and we must protect our children and give the authorities the ability to protect our children.

Mr. Vice-President, in clause 19 where—it is a provision for the composition of the board of directors of the Caribbean Industrial Research Institute Act. It is listed here:

“The Board shall”—comprise—“of a Chairman who shall be a Government representative...

...the President”—appointed by the —“Trade Minister”

—and so on. If you would forgive me, I will not read all the provisions there. I just want to say that under the United Nations stipulations, whenever the Caribbean Industrial Research Institute has a grant or is getting any assistance from the UNDP, it is one of their stipulations that a UNDP representative shall have membership on the board. That is not present, so I think we could insert the “UNDP representative where necessary”. So that phrase would cover it.

Mr. Vice-President, I also want, in conclusion, to say that this Bill seeks to amend 17 or 18 pieces of Acts of Parliament which are, in the main,

not connected to each other at all. The majority of them are not concerned at all with the present pandemic. I do not know if the Government regards these as urgent. I just want to caution that it does to some extent fly in the face of the safeguards and warnings from the Government from the World Health Organization, from other countries with regard to parliamentary scrutiny given the present circumstances.

So with all the rules regarding Parliament worldwide I want to refer to an article entitled, “Coronavirus: Changes to practice and procedure in the UK and other parliaments”. We follow the United Kingdom’s parliamentary model. It is outlined how virtual proceedings among other social distancing measures are impacting Parliaments worldwide at this time. In the Danish Parliament, for example:

“We have encouraged the ministers to only demand Consultations on the most pressing political matters, for example in connection with the urgent Bills currently being debated... We have likewise requested that only essential committee meetings be held and that the number of participants be restricted.”

Mr. Vice-President, the Opposition has proven by our presence and support and participation in the debates during this time that we are willing to engage and continue in our duty, but we as leaders must send the right message to Trinidad and Tobago about what is essential in this time if we are to expect the citizens to follow the guidelines that are being given by the Government with regard to this lockdown period.

Mr. Vice-President, I thank you for the opportunity to contribute.

Mr. Vice-President: Sen. Obika.

Sen. Taharqa Obika: Thank you, Mr. Vice-President. As I rise to contribute to this Bill I too must join my colleague, Sen. Ameen, and lament the fact that we have so many clauses that are not related to each other in any shape or form, and yet we are required to only spend 20 minutes. So I want to register in protest [*Desk thumping*] what I see but nothing else than a subversion of the spirit of debate in Parliament. [*Desk thumping*]

Now I want to start by focusing on clause 8 which speaks to animal cruelty, the Summary Offences Act. I listened to the Minister of Agriculture, Land and Fisheries talking about there are working animals and so on. I am not sure how that relates to increasing the fines and the penalties and increasing jail time. I am not sure if one year in prison, or even six months in prison as opposed to a maximum of two months in prison, would assist in meeting the objects of the legislation. Because what would be the objects of this legislation? The objects should be to ensure that we have more humane treatment of animals in our society, that we become a better society all around, more conscious society of the impact of our actions. I am not sure if 12 months in prison with hardened criminals would meet the object of reforming a human being's mindset to a dog, a parrot or what have you, and allow them, upon release from prison to treat animals in any better way. I am not sure that this even makes any sense whatsoever. In the words of the Attorney General this clause is a nonsense.

Sen. Ameen: It does not fix the problem.

Sen. T. Obika: It does not fix—in fact it may exacerbate the problem of animal crew cruelty for those persons who are so incarcerated. It confuses me.

It confuses me as to why we would see it fit to charge persons up to \$100,000 and jail term for up to 12 months, when what really may be required is teaching them how to love animals, putting them in a scenario where they can reorient their thinking towards better treatment of animals.

2.00 p.m.

I must confess I grew up in a household where having a pet dog was important, and it made you develop such a deep appreciation of the sensitivity and the sensibilities of dogs, and how they can calm you and help you even as a child. I cannot believe that if someone was to hurt an animal you would put them in a position where they have to fight for their survival, as we know it. At least those documentaries have disclosed it, behind prison walls, and then for them to come out a better individual. I am not sure I agree with that clause entirely at all. We should have looked to alternative dispute resolution, other mechanisms which persons—which can help persons improve.

Now, we look to clause 10, and clause 10 speaks to the impact on children regarding dangerous drugs or similar substances, and there is a question I had regarding this. Had this debate not been such where it is like a “callaloo”, you take 18 unrelated clauses, except the ones that deal with Central Bank and FIU and you collapse them into a small debate, we cannot do justice, Mr. Vice-President, to this clause. This clause should have been the beneficiary of fulsome debate whereby we can even look at the recent changes we made that impacted marijuana as it is prosecuted in this country, and how has the police service been able to manage the fact that now marijuana must be allowed to be grown in households where children are

also to be found. How has that impacted on the dynamic of those households in our country and children? But you just drop this thing here and we are to say, okay, let us just approve that. How has the four plants for households affected children? Where four plants per adult, where the police service is now saying it is four plants per household? All these issues we should have been able to reflect on them to determine if we agree with the interpretation of the law of the police service, if we agree with the views expressed, or solicit views from the children's authority, solicit views from members of the public who have our children's interest at heart. I think it is wasteful for parliamentary time to put this clause here in the middle of so many other clauses, and it is very disappointing.

The Plant Protection Act, clause 12, Mr. Vice-President. The Minister of Agriculture, Land and Fisheries dedicated much of his contribution to the impact of the treatment of certain produce, certain manufactured goods regarding the "conditionalities" under this Act and the ability for them to be allowed into our country via ports of entry. But I think at a time like this, Mr. Vice-President, that someone who is involved in matters pertaining to the food value chain yourself, you would appreciate that something like this given a time where world value chains and supply chains in agribusiness have collapsed for the main part. This would have given us an opportunity to take a critical look at our regime in Trinidad and Tobago and the approaches that we take regarding relations with countries that we import from as to how we can really improve our agribusiness sector via the inputs that we import, and via the countries that we seek relations with. The country would have been better for such a debate, especially given the focus

on food security, not from the Minister of Agriculture, Land and Fisheries, I lament, because the Minister of Agriculture, Land and Fisheries is on record as saying that food security is not something that is of priority to be addressed.

I am sad to say—it is sad to say that the contribution of the Minister of Agriculture, Land and Fisheries is like a plaster for a sore, but you have deeper questions to be answered regarding the value chains, which he merely alluded to in his contribution, that could have been addressed by legislation regarding the focus on agriculture. In fact the Prime Minister would have joined me in lamentation, because the hon. Prime Minister himself went to Ghana looking to strengthen our agricultural production via yams in Ghana, and I myself can attest to the importance of agricultural business, because many businesses that I deal with are involved in the value chain, and I am disappointed that all we get is a mere clause in a lengthy Bill.

I want to turn to clause 14 which treats with the amendments to the Income Tax Act, and I want to say that there is no month, Mr. Vice-President, in the history of this Parliament that I have been involved in, from September 2017 to date, that I have had to see the Government try to surreptitiously sneak into legislation changes to the Income Tax Act that would water down the secrecy provisions that are available to taxpayers in this country. And let us declare, tax secrecy is different from tax transparency. So, we are not saying we want taxpayer information to be hidden when crimes are taking place, financial crime, financing of terrorism and so on. We are not saying that at all, but there must be a transparent

approach. Tax secrecy versus tax transparency. There must be a transparent approach whenever you are trying to access, manipulate and utilize taxpayer private and confidential information.

There was a meeting that we had with the—because there is a specific change to this law, this Act of Parliament, where prior it would have mentioned an officer attached to the division responsible for financial investigation. A superintendent attached to that division. Now, what we are hearing now it is a superintendent not attached to the division responsible for financial investigation. So that is just a question I want to raise: What is the reason specifically for that specific nuance in this amendment based on what was already there before? Because, Mr. Vice-President, many times there were many Bills brought with no explanation, no proper explanation that could have been defended in debate for the rationale, for the watering down of the secrecy provision in the Income Tax Act under section 4. And as a result of that, as a result of this Government's failure to provide such a cogent explanation those amendments were all removed. So the question is, why now?

When you move on to clause 15 with the Central Bank Act, Mr. Vice-President, there are certain questions that we have to ask, because you have similar changes being made to the Income Tax Act regarding secrecy, and also you are removing the burden of prosecution, you are removing the stick that keeps the guarders of our financial information in line—my apologies, the guards of our financial information in line. So they are removing that stick. The question that arises from this cause, is what would be the effect? What would be the consequences? Whither the confidence of

the Central Bank of Trinidad and Tobago, whither the confidence in our financial services sector, bearing in mind that the financial services sector is one of the largest contributors to our economy by virtue of foreign relations. It is one of the largest growing sectors in our economy in terms of the growth of our foreign operations.

First Citizens Bank has operations in at least 10 other territories, Republic Bank has operations in at least 10 other territories. We have to be very careful, because when you conduct operations in other territories the reach or the overreach of your Central Bank, or if—in this case it is not of the Central Bank, of the Executive of your country, because that is what the police represents. The police represents the ability of the Executive to bypass proper institutional protections, to bypass standard operating procedures, and to interfere in the systems that function in a society. Nothing is wrong with the police, but it is if the police are being used, or if there is the potential for the police service to be used in such a nefarious manner, that can undermine the confidence of not only the Central Bank, Mr. Vice-President, but of the entire financial services sector in your country, and that would therefore weaken the standing of the banks in those foreign territories, whether it be Ghana or Guyana, in the case of Republic Bank; whether it be St. Lucia or Costa Rica in the case of First Citizens, whether it be in the case of our insurance companies and their operations. Mr. Vice-President, can you tell me how much more—at which time I should end?

Mr. Vice-President: You have five more minutes.

Sen. T. Obika: Thank you very much. So, I want to ask, what has been the

opinion of the Bankers Association? The written opinion? The public opinion? Not that they are okay with the change. What has been the publicly expressed opinion, or the official opinion, if it is one that could not be expressed publicly, if it is at variance with the Government's position regarding this amendment? What is the official opinion of the commercial banks operating in Trinidad and Tobago? What is the official opinion of the Bankers Association? What is the official opinion of the University of the West Indies who teach banking and finance in Mona Campus in Jamaica and at the University of the West Indies in St. Augustine, and as well in Cave Hill in Barbados? What is the official opinion? And if the official opinion is at variance with this measure then the Government must explain in light of that? If it is not well then we wish them well.

Similar change was made in the Financial Institutions Act, the arguments are similar so I would not repeat them, for that clause. I would land my contribution of the Companies Act amendments, and I want to say that this is the perfect definition of a knee-jerk reaction, because we only discovered this change in the midst of the pandemic. It is an unexplained decision, albeit the Government will try to explain the rationale for it. It does not assist companies. Many companies in this country are small, operate without any cerebral strength, they have strong sales, they have strong production, and that may be it. The ability and the time to keep approaching the Office of the Attorney General and Legal Affairs to conduct what is basically paperwork, is not available to many companies. Many companies are simply the owner and their relative.

Would it have not been more prudent, Mr. Vice-President, to limit the

contact time that companies have with Office of the Attorney General to once per annum where it can be done? Because already the company has to communicate with the company's registry every year to renew their annual returns. Every single year. If now you add on that 14 days after they have registered, so they have to return, so they have to conduct a board meeting mind you, return to the office of the Registrar of Companies, so that is two contact points in their first year of operations. Then again at the end of the first year return with the annual returns. If during that first year they change the beneficial ownership, the shareholding of the company, they must return again within 14 days. So if you have, let us say, X-thousand companies on the companies register and they change on average their shareholding once per year, that means in addition to coming for annual returns they must come one more time, so two times. So if it is X companies is two X times they must come to the Office of the Attorney General. So if it is a 1,000 companies it is 2,000 times they have to come to the office of the companies register. This would simply put more burden on the public officers there to do the same task that could have been achieved at an annual return opportunity.

I think this is a wasteful amendment, it is useless to the Government and public service in achieving efficiency. It actually stymies the public service. It reduces the ease of doing business. What this Government is doing by this mere clause, Mr. Vice-President, is worsening Trinidad and Tobago's stand on the ranking of ease of doing business. They must remove it immediately. And in closing I want to say that when one makes law you must make law for all. Not just the big companies that have the resources to

do this. And the last point I want to make, there are many companies in this country that simply do not know their shareholding. I thank you, Mr. Vice-President.

Mr. Vice-President: Attorney General. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Mr. Vice-President. May I, whilst here, for the record ask that we put an extra table at the podium please, because for people like me who do not read from a speech we require multiple documents at the same time, and secondly there is no clock at all within sight, so you are blind as to what time you actually have at the podium as well. So may I just make those small recommendations most respectfully, Mr. Vice-President.

Mr. Vice-President, I thank hon. Senators for their contributions, each and every one of them, and I took careful notes as to matters that require a response. I would like to engage in that response with immediacy, if you would permit me. Essentially there are only a few issues on the item deck:

1. Some Senators asked what the purpose of the legislation was and whether there was a rational connection to the COVID pandemic, and therefore whether parliamentary time should be used discussing the Miscellaneous Provisions Bill.
2. There was an issue as to whether this Bill requires any constitutional safeguard by the application of section 13, the three-fifths majority requirement.

There was considerable concern expressed amongst the Opposition Senators in relation to the income tax amendments, the secrecy provisions as they are relative across the Central

Bank, Financial Institutions Act and the Income Tax Act.

3. There was some concern expressed in relation to the Companies Act as well, and, Mr. Vice-President, permit me to address any other matters in what I call a miscellaneous heading.

First of all, Mr. Vice-President, I actually do think that, quite surprisingly, the reduction in speaking time has helped us significantly as a Parliament. I find contributions to be extremely pointed and concise, and I wish to thank hon. Members for their contributions. It is equally difficult to pilot legislation in an abbreviated period of time because there is so much that is required to be put on to the record for the benefit of interpretation of laws if and when they are ever challenged. May I say, Mr. Vice-President, there is a square and rational connection of this legislation to the COVID pandemic. After all, Mr. Vice-President, surely one can appreciate that firstly in the extension of relief granted for the filing of companies documents when you cannot physically attend because of the COVID pandemic, that is obviously a requirement.

Secondly, as Sen. Deyalsingh acknowledged in moving the amendments to the Mental Health Act to allow for the Regional Health Authorities and the Ministry of Health to deal with patients in the pandemic period. That is obviously a rational connection. When you look to the relief that we are looking for the Plant Protection Act, Sen. Rambharat put an excellent contribution in easing the importation time that is taken in the COVID pandemic, when we look to the limitation of certain actions, the limitation period obviously providing an extension of the period of time is critically important, because as Sen. Sobers quite correctly noted, many

attorneys have been turning up at the courts complaining that they want to file actions, come before the court to preserve limitation period. And obviously the closure and restriction of courts in this pandemic period is certainly connected.

Equally so, the protection of magistrates is obviously connected to this, because we are asking magistrates now to sit in virtual hearings, and the risk of a magistrate being brought under the limited protection of the Magistrates' Protection Act becomes even more real as we ask magistrates to exercise considerable functionality as judicial officers without full protection. Mr. Vice-President, the secrecy provisions are squarely designed to assist the progress of matters via indictment against saving preliminary enquiry time, and that is a material advantage. So, contrary to the exhortations of some Members of the Opposition, not all, I can say that there is a clear and rationale connection of this legislation, as, Madam President, joins us, to this particular exercise.

[Madam President enters Chamber]

[Madam President and Mr. Vice-President both stand]

Hon. F. Al-Rawi: Madam President and Mr. Vice-President, as you both stand on the podium, permit me to also now dive into Sen. Mark's position as to the three-fifths majority.

[MADAM PRESIDENT in the Chair]

Hon. F. Al-Rawi: I want to thank Sen. Mark sincerely for referring us to the judgement of R on the application of *Ingenious Media Holdings plc and another v the Commissioners of Her Majesty's Revenue and Customs (Respondent)*. This is a matter coming from the Appeal Courts in the United

Kingdom. It went all the way up to the Supreme Court level and then finally it ended up before Lady Hale, that is Deputy President, Lord Manse, Lord Carr, Lord Reid and Lord Toulson, and Lord Toulson in fact geared the majority government—decision, delivered on the 19th of October 2016. I want to caution Trinidad and Tobago to ignore everything that Sen. Mark had to say about this, because most regrettably he did not read the relevant portions of the judgement, and permit me now to correct the very dangerous statements put on the record by Sen. Mark.

First of all, Lord Toulson in looking at this, and for the benefit of *Hansard* it is T-O-U-L-S-O-N, Lord Toulson specifically was considering the appeal on an issue where there was a newspaper report given by a financial entity, somebody from the, equivalent of the inland revenue, Her Majesty's revenue in the United Kingdom, gave an off-the-record comment and revealed certain taxpayer information. That matter went to court when the person whose information was revealed brought judicial review proceedings, and the two lower courts allowed the information to be given, because they said that it was rationally connected to judicial review principles.

The superior court overruled the inferior courts and said you cannot simply look to JR for these bodies, you must look to the law of confidence. But in the written judgement, which is 14 pages, 13 pages long Sen. Mark skipped entirely over the most important provisions, and permit me to put it on the record. The United Kingdom legislation, the commissioners for Revenue and Customs Act, 2005, which is materially relevant to the clauses which we have here in looking at the Financial Institution Acts, the Income

Tax Act, the Central Bank Act, when we are looking at the secrecy provisions, the UK legislation, which is section 18 says:

Revenue and customs officials—and I am reading from the judgement—may not disclose information which is held by the revenue and customs in connection with a function of the revenue and customs.

But section 1 does not apply to a disclosure: (a), they effectively set out civil proceedings, et cetera, but listen to this one: Subparagraph (d), which is made for the purpose of a criminal investigation or criminal proceedings whether or not within the United Kingdom relating to a matter in respect of which the revenue and customs have functions.

It is therefore a serious disservice that Sen. Mark has done by not specifically telling this Parliament that the case was about a breach of confidence on general principles, because the law cited in the very judgement has the same effect and provision as the law we are putting in now. In other words then, the statute has an express qualified exception that you can reveal information for criminal investigation or criminal proceedings, and therefore I condemn the contribution coming from my friend Sen. Mark as being out of hand wrong, quite simply. This is amplified, Madam President, by the fact that the judgement goes on specifically to say that the Marcel Principle, this is at paragraph 18, and Sen. Mark was holding his argument on the Marcel Principle. Paragraph 18 says:

The Marcel Principle may be overridden by explicit statutory provisions.

Which is exactly what we are doing now. And worse yet, Madam

President, it says at paragraph 31 of the judgement, as a matter of principle disclosure of confidential information may sometimes be permissible on a restricted basis. But, Madam President, the legislation specifically quotes Lord Brown Wilkinson, sorry, the judgement specifically quotes Lord Brown Wilkinson, which says in reference to the Inray Arrows Limited, No. 4 of 1995, two appeal cases 75, which puts out that the Marcel Principle cannot operate so as to prevent the person obtaining information from disclosing it to persons to whom the statutory provisions either require or authorize him to make disclosure. So, Madam President, Sen. Mark gave us the exact wrong interpretation of the judgement, and I thank him for referring us to it so that we could pull it up and read the true judgement for what it is worth.

2.30 p.m.

The true judgment is that the United Kingdom has an exact term in its section 18 exceptions allowing for the exception to secrecy. Number two, that that exception to secrecy is specific for criminal investigations and for criminal proceedings. Number three, that the Marcel Principle does not apply where statute expressly says otherwise.

Now, Madam President, let me also put on to the record that we accept that the Opposition has problems with disclosure, principles as we did in the Income Tax Act previously. They have put their position on record, it is accepted, it has been rejected by the international community. The Financial Action Task Force and the 190 countries that participate in that realm and the Financial Action Task Force sub-bodies, the FSRBs, they all unanimously agree that the exception has to be provided for law

enforcement.

Now let me make this clear in answer to Sen. Hosein, because Sen. Hosein said something which I think the hon. Senator simply got wrong. I do not think that he intended to mislead the Parliament, but Sen. Hosein specifically said that the legislation that we are proposing, the Income Tax (Amdt.) Act that we are amending, he says that there is no due process. He said the court is absent; he said it is simply a situation where the TTPS can go and get information where required and the BIR has to give the information. I would like to refer hon. Senators through you, Madam President, to the provisions of the Bill. Clause 14 of the Bill specifically says, and I want to put it on the record, that the Income Tax Act is amended by this new section 4A. It says that the secrecy provision will not apply to:

“(a) information which at the time of disclosure...has...been made available to the public from other sources.”

That is an actual acknowledgement of the law of confidence. The law of confidence specifically says that you lose the quality of confidence if it has been made public. And that is—in fact underwritten by the judgment of Lord Toulson, the very judgment that Sen. Mark referred us to, but read wrongly from. The Lord Toulson judgment specifically applies the common law principle of confidence set out in that famous intellectual property case of *Faccenda Chicken versus Fowler* as I see Sen. Vieira here with us.

The law of confidence applies. This is what we are putting into the exception to the Income Tax Act. Information in the form of a summary or collection of information so framed, et cetera, but here is where we go:

“(c) the provision of a witness statement to a police officer—

above—...the rank of Superintendent”—et cetera, for—
“criminal investigation or criminal proceedings—stick a pin.

Exactly on all fours with the United Kingdom, section 18(1)(c) provision.

But hear this:

“...where the witness statement

- (1) relates to information disclosed”—past tense—“under compulsion of law, this Act or any other written law; and
- (2) is requested, in writing, by that police officer with the prior written consent of the”—DPP.

So, Madam President, what we are referring to here is in fact the due process provisions recognized. Because this witness statement is for evidence in a court of law. It does need to be sworn, it is simply to cause the admissibility of the evidence other than by way of hearsay or by way of leading the witness at the point, it is to allow us to move to the power of the DPP indicting people under the preliminary enquiries 23, subsection (8) principle. And I would like to say the request for this power came directly from the Director of Public Prosecutions himself. It was underwritten by the opinion of his Queen’s Counsel, Mr. Edward Jenkins and it is born on the back of the desire to allow the DPP to file indictments as he is permitted to do.

Now, Madam President, permit me to put on the record the fact that the Financial Institutions Act is a very carefully drafted document. And the Financial Institutions Act at section 55 is something that one has to have regard to. If we look to section 55(1) of the Financial Institutions Act it specifically already allows for disclosure in the public interest. Section

55(1)(b) says effectively that the secrecy provision does not apply where:

“there is a duty to the public to disclose...information.”

It is arguable in law that requesting a witness statement from a financial institution to admit evidence already disclosed under compulsion of law. In other words then, the financial institution gave the information under a production order, under POCA, Proceeds of Crime Act, or they gave it under a search warrant, under section 5 of the preliminary enquiries legislation; they gave that. What the DPP is requesting is a witness statement to say this is the information we gave so that they can be formally admitted into the PI—process of avoiding a PI where the DPP exercises his statutory principle to indict, not his constitutional principle under section 90, but his statutory principle under section 23(8) of the preliminary enquiries legislation to go for a direct indictment for fraud and complex fraud and other matters, et cetera. That meets with his own constitutional ability to indict anybody under section 90 of the Constitution as we are well aware.

This amendment to the law is being brought specifically to allow for an ease in the process of getting on with trials, Madam President. Madam President, may I ask what time full time ends?

Madam President: 2.49 p.m.

Hon. F. Al-Rawi: 2.49 p.m. Madam President, thank you. So, Madam President, I most respectfully disagree with Sen. Hosein’s observations that we are looking at no court being involved. In fact the court is there because the compulsion of law, principle applies and the due process actually works in this particular instance, Madam President.

Madam President, Sen. Sobers asked for some clarification in relation

to the companies' legislation, the amendments that we proposed. I respectfully do not accept the observations coming from my colleague Sen. Obika. Sen Obika's submission was that the ease of doing business was going to be effected by the companies' positions that we are putting into effect. Sen. Obika said that there is no benefit to this. He said that it was a knee-jerk reaction of the Government, it does not assist us, et cetera. I think it is perhaps driven because the law is not probably understood quite easily. I confess that companies' law is a little bit thick and I mean no disrespect to my colleague, Sen. Obika, but I think he just got it wrong.

First of all the amendment to the Companies Act is specifically proposed for discovery of shareholding. That is directly attributed to the fight against white collar crime, money laundering, financing of terrorism, fraud, et cetera. It is intended to fit in with the public procurement architecture. It is not acceptable that there is a risk that has been observed. And I would like to address the knee-jerk reaction principle that Sen. Obika sought to ascribe to us. This is far from knee-jerk. This has come about because we have been diligently going through the companies records, we are amended the Companies Act to include a new part which requires the disclosure of beneficial ownership, but in looking at the information on beneficial ownership that was coming to the registry, we observed that people were sidestepping the obligation for beneficial ownership because there was no legal ownership declared.

In other words then, it is not a situation where somebody is saying I am the beneficial owner, because the real owner is really not the real owner. Let me explain that. A shareholding is declared in John Brown. John

Brown is really a mask for Jane Doe. Jane Doe is the beneficial owner who is the real owner, John Brown is just simply the name that is on the paper. In this (**sic**) case we have found as a result of the operationalization of the beneficial ownership law that because John Brown was never declared Jane Brown was not required to be declared because there was no legal owner. And therefore as a result of the diligent and clear process that this Government has put into effect in amending the law we are fighting a loop hole in the Companies Act and closing it once and for all.

And, Madam President, I understand that Sen. Sobers was reflecting upon shareholding, et cetera. We are not looking at shareholding, we are looking at a company which is limited by guarantee, not a company which is limited by shares, because you can have a company limited by shares in limited liability or a company limited by shares in unlimited liability. You can have a company structured by way of guarantee. Now a guarantee at law is effectively a promise to do something. And the consideration for it is that something else happened. So you can give a guarantee to a bank. I can guarantee a loan because you gave a loan to John Brown and therefore I guarantee the debt. The consideration is the fact that you gave a loan to John Brown. The guarantee construct in law for companies is that you establish the company and the guarantors identify themselves as saying, we the several guarantors undertake on winding up or liquidation or whatever there may be that we will guarantee the liabilities of the company up to the statement of guarantee. In other words then \$50, \$100, \$1,000.

There is a lacuna in the Companies Act and there has been for year because nobody has been capturing the guarantee information. And

therefore that is another abuse of principle. And, Madam President, quite simply put, nobody has been paying attention to the companies' regime. But as a lawyer who has spent a lot of time in the companies' regime I am determined to close the loopholes. And this is designed to make a simple but extremely powerful dent in crime. It is tied in with our follow the money legislation, our explain your wealth legislation, all of it is designed to capture a better Trinidad and Tobago. So I hope that that lends some explanation to these points.

I just simply do not agree that this Bill requires any three-fifths majority. I would like to say to Sen. Thompson-Ahye who is not here, I am sure she is downstairs paying attention, perhaps on the television, we gave an undertaking as a Government to look at the issue of the age of a child to commit a criminal offence. Yes, right now it is at seven years. We have been in discussion on this matter and it is important for us to understand that the Government cannot make a decision by itself without consultation. We have this in actual contemplation, there is in fact a legislative proposal that is afoot and I would like to give Sen. Thompson-Ahye the assurance that not only have we been the Government to do the most for children and for families. If you look at our legislative record the Family and Children Division Act amended 23 laws. The miscellaneous provisions to deal with families amended 19 laws. We did all the regulations we opened the courts, et cetera. This Government has made its mark for children. And I would like to give her the assurance that this is definitely on the Government's agenda—as Sen. Thompson-Ahye comes back, that I am making the point that we are looking at the age of criminality for children. It will come to us.

Sen. Thompson-Ahye also said that we were looking at domestic violence as it affects children. I will remind Sen. Thompson-Ahye or perhaps inform that we have a Domestic Violence Bill in circulation right now. We have met with stakeholders including the Law Association in Zoom meetings. That Bill will be before us in Parliament in a matter of weeks, if not imminently and therefore the issue of children and domestic violence is captured in that legislation. And I want to assure my dear and hon. Sen. Thompson-Ahye that I listened to everything that she says and I never ignore what she says, it is just the process of getting it done. So those two issues are certainly being looked at, Madam President.

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

Hon. F. Al-Rawi: Much obliged, Ma'am. Thank you. Madam President, I would like to say that the magisterial protection is definitely something that is deserving of attention. There is no way that we are removing the right of appeal on a magistrate's decision. That is just not on. We are amending the law, the Summary Courts Act, we are amending the law to put in the immunity for the magistrate in equal terms to a Master, who is also a creature of statute and a Judge who is a creature of the Constitution. It is long overdue that magisterial protection should be given. It is long overdue.

Out of an abundance of caution coming from a recommendation from Mr. Ganga Singh, the Member of Parliament sitting in the Opposition, he asked us to put in the reflections for the preservation of the right of judicial review, an appeal, et cetera. I reminded the hon. Member of Parliament that of course inserting it into the Summary Courts Act where the right of appeal exists anyway, because you have the Summary Court, the magistrate having

all decisions subject to the jurisdiction of the Supreme Court, so the appeal was there. And I pointed out to the hon. Member, Mr. Ganga Singh that we were not amending section 14 of the Constitution. An Act of Parliament cannot affect the Constitution unless it specifically is amending the Constitution. So the section 14 of the Constitution remedy stands anyway.

So for hon. Senators to say, for Sen. Mark to say that we are ousting any appeal on the Magistracy is just wrong, it is constitutionally wrong to say that, Madam President, most respectfully, and therefore we are not treating with any property rights, we are not removing people's access to the courts and that whole fantasy of requiring a three-fifths majority just is not relevant to this debate though I understand that it is a familiar touch stone for my learned colleague to go to.

Madam President, the rationale for the Income Tax Act, the Central Bank Act and other positions stand the same for the financial institution structures. I think in the round therefore we have certainly looked at most of the issues. Sen. Sobers asked for us to reflect upon the broader animal protection rights. As Sen. Rambharat put onto the record we are certainly doing that and that is in the animal welfare amendments that we have before the Parliament right now.

Madam President, I think therefore I have addressed all of the issues that have been raised by my learned colleagues, I thank them each and every one for their contributions, certainly on all benches. In those circumstances and with the pleasure of having advocated the recommendations to my learned colleagues, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2.

Madam Chairman: Sen. Mark you have amendments—just signed off on them?

Sen. Mark: Yeah, just signed off.

Madam Chairman: Do you know which clauses? Can you just tell us?

Sen. Mark: It is from 3, 6, 14, 15, 16, 17, 18 and 20.

Madam Chairman: 3, 6, 14—

Sen. Mark: 15, 16, 17, 18 and 20.

Madam Chairman: Attorney General what I will do, because I do not want to delay the proceedings, we will begin, I will do clauses 1 and 2, move to 4 and 5, we will deal with 7, 8, 9 and when we receive Sen. Mark's amendment we will go back to those clauses, okay? [*Crosstalk*]

Mr. Al-Rawi: Yeah. Much obliged.

Sen. Mark: Madam Chair, I did in fact suggest to the Clerk to get into under definition, what is meant by “witness statement”. Because witness statement seem to be very lose.

Madam Chairman: Sen. Mark, but we are dealing with clauses 1 and 2.

Mr. Al-Rawi: That is way down in income tax as the first reference.

Madam Chairman: Yeah. We have not reached there as yet.

Mr. Al-Rawi: That is clause 14.

Sen. Mark: Okay, okay. All right, okay cool.

Clauses 1 and 2 ordered to stand part of the Bill.

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clauses 8 and 9.

Question proposed: That clauses 8 and 9 stand part of the Bill.

Sen. Vieira: Thank you, Chair. Hon. Attorney General I am looking at clause 9. When we read the way the definition is going to be put into the Act it will read this way:

“‘duly authorised medical officer’ means, the medical officer in charge of a general hospital in which there is a psychiatric ward or any other medical officer”—and then we insert—employed by a regional health authority under the Regional Health Authorities Act or—“authorised by the Minister to carry out duties such as are required to be performed by a Psychiatric Hospital Director under the authority of this Act.””

I am wondering because you are already talking about three categories, whether it might not be clearer to insert after, under the Regional Health Authority’s Act or any other medical officer authorized by the Minister to carry out duties such as. I do not know if you follow the point, but—

Mr. Al-Rawi: I actually did a mark-up as well for the parent law, right. So perhaps, Madam Chair, “‘duly authorised medical officer’ means, the medical officer in charge of a general hospital in which there is a psychiatric ward”—

Sen. Vieira: That is one.

Mr. Al-Rawi:—“or any other medical officer”—employed by the regional health authority under the RHA Act or—

Sen. Vieira: Two.

Mr. Al-Rawi:—“authorised by the Minister to carry out duties such as

required to be performed by a Psychiatric...”

I followed the hon. Senator's point but to me it reads clearly in the version as marked-up. But I do understand the indentation reads a little bit easier, it is certainly a contracting style, we would write contracts like that and positions. But from a drafting perspective I know that this is the way the CPC's Office drafts the definitions. But to me in the marked-up version that I have it reads clearly.

Sen. Vieira: It is just as you say, it is truncated. You talk about one, two or authorized by the Minister.

Mr. Al-Rawi: Yeah.

Sen. Vieira: But really we are talking about any other medical officer authorized by the Minister. It is not a point I am making a big fuss about, but I just thought for clarification sake.

Mr. Al-Rawi: I catch the point but I think it is caught here, respectfully.

Question put and agreed to.

Clauses 8 and 9, ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Madam Chairman: Are Members in receipt of the proposed amendments, the list of amendments from Sen. Mark?

Mr. Al-Rawi: No, Madam Chairman.

Madam Chairman: Can I see by a show of hands who have not gotten the amendments as yet? [*Hon. Senators raised their hands*] They are being circulated as we speak. While they are being circulated we will move on.

Clause 10 ordered to stand part of the Bill.

3.00p.m.

Clauses 11 to 13.

Question proposed: That clauses 11 to 13 stand part of the Bill.

Sen. Vieira: Hon. Attorney General, I am looking at clause 11, and I am looking at the parent Act. So:

“The Shipping Act is amended—

- (a) by renumbering section 406 as section 406(1); and
- (b) by inserting after 406(1)...”

So in the parent Act it reads 405, 406(1). Is that it? I am just trying to ascertain what happens to the original clauses.

Mr. Al-Rawi: Yes, so what is going on is we are doing a 406(1) and (2). Whereas it was only a 406 before, it now becomes 406(1), and then we put (2). So it is going to read—it is just the way that the draftsman includes the reference to subsection (2). He had to put a subsection (1) in. So it is not going to be like a 406A or 406(1); that is an anomaly. So there would not be a 406 and a 406(1). It is a 406(1) and then (2).

Sen. Vieira: I thought so. I just wanted to put in on record.

Mr. Al-Rawi: Sure, of course. Appreciate it. Thank you.

Sen. Mark: Attorney General, there is in fact on the Parliament table as we speak a Shipping Bill.

Mr. Al-Rawi: Yeah.

Sen. Mark: And with the amendment that is being proposed, are we proposing the amendments as it relates to the current Shipping Act, or are you anticipating that with the new Shipping Act coming into effect, this amendment would be more relevant to the new Shipping Act or whether we are staying with the status quo? I just found it bit cumbersome.

Mr. Al-Rawi: Sure. Madam Chair, the Shipping Act is over 600 clauses

long and if we were to wait to pass that with a three-fifths majority— It is actually taking about 20 years for them to do the work, no joke, because the International Conventions have changed so many times that they had to go back to the drawing board. So whilst we are ready to deal with that Act, I fear that parliamentary space would not give us the opportunity do to that. So in the meanwhile, one of the big issues outside there is the unregulated party boats and this amendment is intended to allow us to put the fines to a proper level to regulate that aspect, because we have got the regulations prepared.

Sen. Vieira: Thank you, Chair. Just to allay Sen. Mark's concerns, because how I read clause 11(b) is that the Interpretation Act will allow that where a written regulation or law is breached, then punishment can be imposed under the Interpretation Act. But the Interpretation Act is woefully low. So in effect, this amendment would allow for offenders who breach the shipping regulations to be fined up to \$130,000 or imprisoned for a term of up to 10 years.

Sen. Mark, the shipping regulations touched, not just registration of ships and tonnage and things like that, but it touched about passenger safety, ship and port security, load lines, medical examinations at a time of COVID. So the regulations really need to be beefed-up. And I think that is what this is aimed at.

Mr. Al-Rawi: Thank you, Madam Chair. Sen. Vieira is so correct, and in fact we have drafted the new regs. already. We have them waiting. But when I look at the new regs. I say: “But hold on, they have no teeth, because the offence is just too low.” So we thought because we want to do those regs. immediately, lets us sidestep the big Shipping Act and bring it in here.

Question put and agreed to.

Clauses 11 to 13 ordered to stand part of the Bill.

Clause 19.

Question proposed: That clause 19 stand part of the Bill.

Sen. Deonarine: Thank you, Madam Chair. Attorney General, I do not know if the point was raised during the debate, but I have one point for clarification on clause 19.

Madam Chairman: Sen. Deonarine, could you speak more into the mike please and just—pretend you are shouting at me. So you can raise your voice.

Sen. Deonarine: Okay. Attorney General, the previous conception of the board in the parent Act had some sort of regional representation on the board. Now, CARIRI is a regional institution that is responsible for local and regional development, driving innovation and technology in Trinidad and Tobago and the region. So my question to you: With the removal of the UNDP from the composition of the board, where in this amendment is there room to allow for any sort of regional representation on the CARIRI board?

Madam Chairman: And Sen. Vieira.

Sen. Vieira: Yes, thank you Chair, because I also want to echo Sen. Deonarine's concern. When I look at the parent Act, the funds of the institute come from United Nations Development Programme Special Fund and the original board comprised United Nations Development Programme regional representatives in Port of Spain or its nominee, as well as persons nominated by such other governments in the Caribbean region as support the institute. Those have dropped off and I am wondering whether that was deliberate or inadvertent.

Madam Chairman: Attorney General.

Mr. Al-Rawi: I thank the hon. Senators. So number one, the Ministry of Planning and Development, who is the recipient of these funds, the UNDP funds, et cetera, the Ministry of Planning and Development, is who fashioned this particular amendment after consultation with the entities themselves. So it is driven by the policy that comes from the Ministry of Planning and Development.

Secondly, the regional representation in a more relevant sense comes from the University of the West Indies, because you cannot get more regional than the University of the West Indies, and that is definitely underwritten by contributions from all of the governments on that end. So UNDP comes from the policy of the Ministry of Planning after consultation with the entities. We are told that it is not as relevant as it was then. And number two, in answer to Sen. Deonarine, the University of the West Indies catches the regional basket.

Question put and agreed to.

Clause 19 ordered to stand part of the Bill.

Clause 3 reintroduced.

Question proposed: That clause 3 stand part of the Bill.

Madam Chairman: Sen. Mark, you have proposed an amendment.

Sen. Mark: Madam Chairman, out of an abundance of caution, even though the Attorney General has indicated that these matters are already assured, in terms of judicial review, et cetera, I would like to suggest for his consideration, out of an abundance of caution, that we amend clause 3 to reflect that that is the real intention and at least minds would be more settled as to the way forward. Because I do not want to leave this thing up to the

interpretation of the court. I feel that we have a duty to insert such an amendment, so that everyone would be comfortable that we are not closing the doors as it relates to taking action against magistrates who act outside of their jurisdiction.

Mr. Al-Rawi: Perhaps my friend can be comforted by subsection (2), which has exactly the same concept in it. So clause 3 of the Bill has two sections. We have 159(1):

“No action shall be brought...”

et cetera; and then subsection (2):

““Nothing in subsection (1) in any way impair the availability of other forms of relief in respect of decisions of courts of summary jurisdiction, including appeals, applications for judicial review and applications for redress under section 14 of the Constitution.””

And this was taken from the Magistrates Protection Act itself, which we last amended and put that into. So we had already fashioned that formula in the Magistrates Protection Act when we last amended it.

Sen. Vieira: Just to point out that under section 9 of the Magistrates Protection Act, it had already provided that no action could be brought against a magistrate for the exercise of any discretionary power. So, something along those provisions are already in existence. This just makes it a lot clearer. All it means is that you still have a right of action against the State, but you just do not have a personal right of action against the officer, which it says.

Mr. Al-Rawi: Which is the way it should be and I should add, Madam Chair, the State Liability and Proceedings Act does not allow an agent of the State to be a judge per se or a magistrate, et cetera. So this is in keeping

with all the other laws that we have on our books.

Question on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Sen. Mark: Madam Chair.

Madam Chairman: Yes.

Sen. Mark: Under the emergency regulations, as were in fact developed under the Public Health Ordinance, I could have seen, during the period of, we are still in the period, COVID-19, that the Attorney General brought amendments and he gave himself certain elasticity or space to make changes, which is quite reasonable within the framework of the pandemic. But it is another matter to put into legislation forever, until it is amended in the future, a power of lawmaking to the Attorney General, Madam Chairman. I believe that the Parliament is the body that makes laws, and we should not be giving that power or providing any space for any Attorney General to extend the law without parliamentary approval.

Sen. Vieira: I very much appreciate Sen. Mark's concern. But, perhaps, if I were to give an example. A lot of times people wait until the very last minute to file their claims, sometimes the day before the expiry date. Persons who are in that situation, who could not get access to a lawyer, who could not file because the Chief Justice had passed a practice direction that no matters could be filed, they would suddenly find themselves time-barred. Right? There are people who—so what this section is really doing is giving a timeout that will allow citizens who would have ordinarily been able to file

in normal time and normal situations, but who have been pre-empted because of the emergency regulations, not being able to see lawyers, not being able to file documents. I think that is what this is curing. So I think it is entirely reasonable and proportionate.

Sen. Mark: Madam Chair, let me just make a last intervention. If a general election is called in the month of August and Members of the elected House did not make their five years, they would not be entitled to pension. Madam Chairman, there is no provision in the Pensions Act to allow the Minister of Finance to make those changes. My view is simply this, I believe it is a very dangerous precedent that we are setting to give the Attorney General (a) this kind of power without supervision. There is no supervision of this power and, therefore, I believe that we should delete that provision that gives the Attorney General law-making power.

Mr. Al-Rawi: I am somewhat surprised to hear Sen. Mark say it is dangerous precedent. Sen. Mark, I am sure is well aware that number one, the Interpretation Act clearly sets out the fact that we have subsidiary routes of making law. They come by statutory instruments. They come by orders. They come by regulations. Some of them never see the light of Parliament; and that is in the case of orders. That bolted, and is not precedent, since the Crown Colony days of Trinidad and Tobago. The laws of Trinidad and Tobago, when we moved from Spanish law to English law, put that into effect.

Secondly, this is a benefit, not a detriment. If we were creating a detriment I could understand the argument being persuasive to say: Look, if you are going to create a detriment for somebody, you ought to have an actual Act of Parliament to treat with that. This is a benefit to people. And,

therefore, the proportionality is more than improved.

In any event, right here in this Bill, we have evidence of that precedent having been set for the Companies Act. Because in the Companies Act, we can extend the operation of time frames, by way of order, via the Attorney General, who is also the Minister of Legal Affairs in this instance, simply giving an order to extend the time, Non-Profit Organisations Act, Companies Act, income tax legislation.

So, I cannot really accept Sen. Mark's position that we are making bad law or dangerous precedent. Because that would be to be ignorant of all of the very many things that I have just put on to the record where there is ample precedent and this is a benefit. So I respectfully do not accept the recommendations coming from my learned colleague.

Sen. Vieira: Thank you, Chair. I would just like to put on the record that this is a modification of an already existing law, the Limitation of Actions Act, and no one—I agree with the Attorney General—no one is suffering any detriment by the application of this law. It does not take away or impair any vested rights. It does not carry or impose any new duties or obligations. It serves the public good.

Question on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill.

Clause 14.

Question proposed: That clause 14 stand part of the Bill.

Sen. Mark: Madam Chair, I am not impressed one bit by the arguments proffered by the Attorney General. And using the example I used, as it relates to the United Kingdom, which has an expressed provision in their

legislation, we do not have it in ours, and this leaves room for arbitrariness on the part of the Government and by extension giving the police a certain kind of authority that, if they have to have that kind of power, it must be regulated with the requisite constitutional majority. And therefore, I am not moved by the arguments made by the Attorney General that I misled anybody. I do not support that. And I am saying that if he continues to proceed along the line that he, the hon. Attorney General intends to pursue, then he will meet others in court and I do not support it.

Sen. Vieira: Thank you, Chair. Under the Income Tax Act, there is an official secrecy provision at section 4, and basically it says:

“Every person having any official duty or...employed in the administration of that Act shall regard and deal with all documents, information, returns, assessment lists, and copies...”

—in a certain way. And if you were to breach the provisions of that official secrecy provision, you are guilty of an offence.

Now, what we have today FIU, all kinds of money laundering offences, that secrecy provision is at odds with these new obligations and requirements put on our other office holders. So when you trawl through the amendments, I do not see anything in these amendments that offend the Constitution (a) information which was already from other sources. It is already in the public domain. There is no harm.

“(b) information in the form of a summary or collection of information so framed...”

Basically you are giving a precis, not naming or identifying the person. There is no harm.

“(c) The provision of a witness statement...”

It is a necessary step if you are going to be bringing prosecutions. Without that we are engaging in prosecutorial conduct with our hand tied behind our backs.

So, I do not see anything in here, with respect, that infringes the privacy rights of any citizen, or goes against the constitutional safeguards.

Sen. S. Hosein: Thank you, Madam Chair. Madam Chair, just to add my concern with respect to clause 14 of the Bill.

Madam Chairman: Okay, Sen. Hosein.

Sen. S. Hosein: Yes, please.

Madam Chairman: I invite you to shout at me, [*Laughter*] so that I can hear you

Sen. S. Hosein: I do not know if to say thank you, Madam Chairman. But I am looking at (4A)(a) Attorney General, with respect to the disclosure of taxpayers' information in the public from other sources. In the event that the information was disclosed illegitimately, what is the position there? Because I cannot understand what you are getting at with respect to this particular clause. Because, let us say, for example, some information was released on a political platform, for example, those are concerns that we have to also contemplate.

Secondly, with respect to (b), who would be the applicant asking for this information? Because you are asking for a summary of the information without disclosing the identity of the taxpayer. So who is the applicant for that information in (b)?

Mr. Al-Rawi: Thank you. First of all may I thank Sen. Vieira for his intervention? There is one thing that Sen. Mark said that was correct. He acknowledged that the United Kingdom has this in their law and I am good

with that. That is a complete acknowledgment of the reverse of what he said in his debate. So I thank the hon. Senator for giving that admission. Therefore, we have precedent in the UK experience in section 18 of their particular law, in particular, and Madam Chairman, if I may now turn to Sen. Hosein's questions.

So, with respect to the applicant, the most immediate of applicants under (4A)(b):

“summary or collection of information”

—is the CSO, and in fact this is for statistical information. There are research capacities being done. The only way we are going to advance the revenue management of Trinidad and Tobago is for there to be proper analysis. In this case here, the desiccated information, which is devoid of personal information, such as you cannot, under any circumstances, manage the identity, lifting it out of it, is what is required.

Far too often many of the entities have complained that they just do not have the ability to get required statistical information to allow for the development of our analysis of tax structures, compliance, and other mechanisms. The point is nothing will ever erode the strict operation of the confidentiality provisions. And if we look to the same case that Sen. Mark referred us to, that is the Ingenious Media Holdings PLC case, delivered on the 19th of October, 2016. The underscoring coming from Lord Toulson with whom Lady Haile agreed, was very powerful that public bodies are also obliged to obey the common-law standard of confidentiality. I thought that that was a very interesting observation for their Lords to make in that particular judgment.

So answer to (b), the applicant is whomever may require statistical or

desiccated information devoid of provisions. Safeguard that applies is that the law of confidence must strictly apply, in addition to the general parameters of section 4(1) of the Income Tax Act, which is a strict obligation of secrecy.

With respect to paragraph A, subclause (a), (4A)(a):

“information which, at the time of disclosure, is or has already been made available to the public from other sources”

Once there is a breach of confidence and confidentiality has been lost, you now no longer have the common-law standard applying, even in the statutory context. And that was made clear in the very judgment that Sen. Mark referred us to. And that has been the law for time immemorial, quite frankly. The law of confidence is well-known in this country.

The thing inside of here is that nothing will ever necessarily remove the general overriding principle of secrecy. So they can easily be challenged to any disclosure that happens. But the political mischief that can happen, and the platforms—I mean I recognize that there have been many instances. I mean this country observed an Attorney General holding a confidential criminal file from the Anti-Crime Investigation Bureau, under the last Government, standing on a platform reading out the contents of the file in breach of the law. You know, that was obviously something that could have been treated with by way of a charge or otherwise. But this is well underwritten by the common-law and the statute, the rules of interpretation, the general strictures that confidentiality and secrecy are the paramount concern, as section 4(1) of the Income Tax Act specifically contemplates and put into effect.

Sen. Mark: I want to respectfully disagree with my colleague, Independent

Senator, Anthony Vieira, and I just want to tell the Attorney General that the United Kingdom has an unwritten Constitution. We have a written Constitution with entrenched rights. And Madam Chairman, I rest my case. I am not convinced by him, neither am I convinced by the argument of my friend in the back, respectfully.

Mr. Al-Rawi: Madam Chair, one rejoinder, please. This is important for the record. The United Kingdom, prior to Brexit, was a member of the European community and Article 14 of the European Convention has, if not more powerfully so, the confidentiality provisions and the constitutional under markings that the English Government and people have been constrained to obey. And I refer to the case of MARPA; MARPA versus the UK was brought about in circumstances of a challenge to the DNA legislation. And in the MARPA UK case, 25 judges, I am not joking, 25 judges of the European court upheld the "constitutional" right for an English citizen under the EU Convention. What we are referring to here is the statute, statutory interpretation is what guides us.

The question as to whether a three-fifths majority is required has been made clear by Baroness Haile in the Suratt case, in Barry Francis, in a number of other cases, Northern Construction. Not every section 4 or 5 right requires a section 13 exception, where it is known to the law that due process is the balance for the consideration. So for the record the submission in law has been made clear by our courts and the Privy Council.

Question on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Sen. Mark: Madam Chair, I do not want to detain you too long. My arguments hold for both 15 and 16. I do not want to repeat them. So you can both together if you wish.

Mr. Al-Rawi: And my response, respectfully is the same as that for clause 14 and I seek to rely on those submissions.

Question on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 15 ordered to stand part of the Bill.

3.30 p.m.

Clause 16.

Question proposed: That clauses 16 stand part of the Bill.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Clause 17.

Question proposed: That clause 17 stand part of the Bill.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, consistent with my earlier submission that I do not believe that the Attorney General of this country should be given lawmaking power, even though it is going to be to the benefit of certain persons in the society who, as Sen. Vieira said, might “run afoul” of the arrangement and come in a little late. I am saying, “yuh” want to make changes, come to the Parliament, and we will give you the requisite support. Do not stay in your office and make an order, I reject that.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you. The constitutional provision at section 4 is:

“...the...following fundamental human rights and freedoms namely—

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

Very careful language, “...respect for...private and family life...”. So the State cannot go interfering with people’s private business, into their private affairs and personal matters at home. They would be infringing their constitutional protection. But when an individual files with the Board of Inland Revenue, certain documents, and information, and disclosures, is the State interfering with his private and family life when it shares that information with courts of law or with other authorities on a need-to-know basis, or when that information is already out there by some other means? Is there a breach of confidence? I mean, I very much respect Sen. Mark and I know he is a watchdog and champion for individual fundamental human rights but on this occasion, I think we need to look at the wording of the Constitution and see if it really meets the moment as per the amendment. Personally, I am satisfied that the amendment does not infringe.

Sen. Mark: My submission, Madam Chairman, in terms of amending clause 17, has nothing to do with sections 4 and 5 rights. This is lawmaking we are talking about and I am simply saying, only the Parliament has the power to make laws, not an Attorney General, and I am saying, it has nothing to do with rights under sections 4 and 5, as my friend respectfully has alluded.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. What Sen. Mark just said is wrong. The law and our Constitution clearly identifies, yes, that Parliament

makes laws for the peace, order and good governance of Trinidad and Tobago, section 53 of the Constitution. However, the law is pellucidly clear that there are different methods to make law. And in fact, orders are a method of making law, and that has been the situation since 1962 and even—[*Interruption*]. You know, I stayed quiet—[*Interruption*]. Madam Chairman—

Sen. Mark: Not you.

Madam Chairman: Sen. Mark, please—

Sen. Mark: “So doh tell me I doh know what I talking about”.

Madam Chairman: Attorney General, just finish. Sen. Mark, you have made your contribution, the Attorney General is responding.

Sen. Mark: I am sorry, Madam Chairman, I apologize to you.

Madam Chairman: Attorney General, continue.

Mr. Al-Rawi: Thank you, Madam Chairman. The Constitution is clear that the Parliament makes laws for the peace, order, and good governance of the citizens of this country. That is so set out in section 53 of the Constitution. There are methods to make law which the Parliament has created. One of the methods of making law include the utilization of subsidiary route which is called an order. You can have a statutory instrument, you can have regulations, you can have other forms. Orders have been a feature of the landscape of our laws since we were a Crown Colony. It then became entrenched in our 1962 and 1976 positions as we moved ahead through independence and then to republican status.

It is not correct, in fact, it is wrong to say that the Attorney General cannot sit in his office and make a law. If the law provides you to do that, you can. And I would like to note, in relation to this particular clause 17

which we are looking at, clause 17— that boat sailed long time. We amended the law as a Senate. In fact, Sen. Mark himself said yes to the amendments to section 516 of the Companies Act, where we included the amendment for the order by way of extension of date. Sen. Mark himself also voted for the same formula in the Non-Profit Organisations Act. So for Sen. Mark to today come and reverse his position is unfortunate, Madam Chairman, and I therefore—

Madam Chairman: I think—

Mr. Al-Rawi: —reject the position.

Madam Chairman: Sen. Mark, one final point, please.

Sen. Mark: I reject the AG's position and I also want to say, can I through you, Madam Chairman, make a further amendment to my amendment, and indicate the amendment I would like to propose, "by order subject to an affirmative resolution of the Parliament." I want this to be subject to an affirmative resolution of the Parliament. So, if you are making an Order it must be subject to an affirmative resolution of the Parliament, and not whimsically or arbitrarily by any individual. We must see it, we are in charge.

Madam Chairman: Sen. Mark.

Sen. Mark: Sorry, Ma'am.

Madam Chairman: Could you please give me the wording of your amendment to your amendment?

Sen. Mark: Madam Chair, yes, "by order the further amendment delete, 'prescribed'", Madam President.

Madam Chairman: Yes.

Sen. Mark: And just put after "order", "subject to an affirmative resolution

of the both Houses”—

Madam Chairman: No, no, no.

Sen. Mark: —“of Parliament”.

Madam Chairman: “of Parliament”?

Sen. Mark: Yes, Madam Chairman. So, I think the AG supports me now.

Madam Chairman: So hon. Senators, the question is that clause 17 be amended as circulated by Sen. Mark and further amended as follows: In subclause (b) and (c), delete the words “or such other period as the Minister may, by order”. Delete the—

Sen Mark, this is not—

Sen. Mark: No, all I am asking Madam Chairman—

Madam Chairman: This is not making any—

Sen. Mark: —“or such other period as the Minister may, by order subject”, right, “to an affirmative resolution of Parliament.”

Madam Chairman: No, but you have asked for that to be deleted. If you read (a), in your proposed amendment in the proposed—so, you cannot have it both ways. You are asking for those words to be deleted in both.

Sen. Mark: No, well I way saying that given the argument that the AG had put forward, I was trying to see if I could have accommodated it. If I cannot, well—

Madam Chairman: It may mean—

Sen. Mark: I will stick to what I have.

Madam Chairman: Sure, thank you.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clause 18.

Question proposed: That clause 18 stand part of the Bill.

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chairman, I saw this word in clause 18 and I could not understand what it is. Madam Chairman, if you go to clause 18, you will see where the word where it goes on to say:

“...to the Commission any amounts obtained...”—as a result of—
“...non-compliance...”

I just find that to be a bit unsatisfactory, and I do not know if the Attorney General may wish to consider deleting that word, and maybe put in something in its place that can control the Commission, rather than using the expression as we have used it, “any amounts” and so on. I just find that word, it looks like it is arbitrary, Madam Chairman. So, Attorney General, I would like you to consider this the removal of the word “any” in the context of what is being proposed in this particular paragraph.

Madam Chairman: Well, Sen. Mark, you have asked for more than that from the proposed amendment, or am I missing something?

Sen. Mark: No, well, that is another amendment, Ma'am. That is the first amendment, and the second amendment deals with the (h)—

Madam Chairman: Sen. Mark, I am really calling on you to treat with the amendment that you have circulated. So, let us deal with this first, you have proposed an amendment, so I am asking you to address us on the proposed amendment.

Sen. Mark: Well I have addressed you on “any” already, that is the first amendment.

Madam Chairman: Right.

Sen. Mark: And the second amendment deals with “five million”.

Madam Chairman: There are three, Sen. Mark.

Sen. Mark: Oh yeah, okay, okay.

Madam Chairman: The second amendment is the “any”, and then the third amendment is the third amendment.

Sen. Mark: Okay. So let me go back to subclause (a) of 18 Madam. Oh yes, Madam Chair, yes, you are correct, 18, same approach, but there was an addition to clause 18, and I am proposing that we delete (a) consistent with my earlier arguments. That is the point. So I am grateful for your guidance on this one. So, consistent with my earlier argument with 14, 15 and 16, Madam Chairman, I am saying if you look at 18, you will see the same provision there— delete.

The second argument, I am asking the Attorney General to consider, Madam Chair, the word “any” seems to give the Commission an arbitrariness. And I would like the Attorney General to consider better language in this context. And finally, I do not understand where “five million” came from. From “five hundred thousand” to “five million”. I find it is very arbitrary, so I am suggesting “a million dollars” instead of “five million”. Maybe we can debate that and discuss it. But clearly I think—I find the increase in the fine is very exorbitant for a Commission to impose on its own. So, that is why I am asking the Attorney General, even though I put “one million”, it is subject to discussion, Madam Chairman. Madam Chairman, thank you for guiding me on (a), in particular.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you Chair, I was not aware of all the debates, but I think I did hear something to the effect to one of these amendments is that if the

commission makes administrative orders, there can be no appeal to a court of law.

Mr. Al-Rawi: Sorry, it is the other way around.

Sen. Vieira: It is the other way around?

Mr. Al-Rawi: Sections 160 onward, 159 onward, preserve the absolute right of appeal. Everything that the Commission does is subject to appeal.

Sen. Vieira: Yeah, because I am heartened to hear that because I know from firsthand experience where people who ordinarily and not operating in securities, but because they issue like a bond, find themselves under the Securities and Exchange Commission's mantle.

Mr. Al-Rawi: Yeah.

Sen. Vieira: And the Securities and Exchange Commission has all kinds of requirements about filing notice of change of director, change of office, filing audited accounts. And there has been in one particular case, I am not going to call the name, where this authority is fined every year repeatedly, because they fail to file audited accounts with the Commission. The problem is, the parents Act of that authority provides the audited accounts must be prepared by the Auditor General, and year after year, the Auditor General is not ready to provide, to audit the accounts and so there are in breach, through no fault of their own. And yet, year in, year out, they are fined repeatedly. I understand that this happens with other authorities. That must not—the right to appeal must not be taken away. I just want to make sure that this amendment does not affect that.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Madam Chair, I wish to assure my friend Sen. Vieira that section 160, under Division 6 is entitled "Appeals", it is under the Securities

Act, Chap. 83:02 specifically, the Commission may on its own a motion or an application have appeal. That is the appeals for review where the Commission can do it of its own volition. And then there are appeals to the High Court in 161(1):

“Any person directly affected by an adverse decision, finding or order of the Commission appeal to the High Court.”— et cetera.

So, the right to appeal for the individual, the person affected by decision of that tribunal, if I could use it that way, is specifically preserved in section 161, and then it goes even further, in the rest of Division 6 of the Securities Act.

Madam Chair, if I may deal with Sen. Mark's three amendments therefore, because that is what the question is right now. With respect to paragraph (a) which is the secrecy modification, I adopt the arguments already laid in respect of clauses 14, 15 and 16, and I respectfully disagree with the hon. Senator. In respect of the word “any”, it is necessary so as to preserve the discretion factor as to the extent of this gorging and therefore, it may be as much as the whole, or it may be just as little as part. And therefore, it is intended to carve the discretionary factors out. In respect of the issue of “five million” versus “one million” this has arisen as a result of case law coming from the Commission itself where, in a particular instance, the public had a significant outcry that the fines that were levied in a particular matter were too low and the Commission had to make a public statement to indicate that they were constrained by the law, having the fines as low as they were. I am surprised that Sen. Mark is not aware of this. Sen. Mark when he sat in a different position, in fact, protected the Minister of Finance, Larry Howai, by saying a matter was before the court when it was

not. But, in fact, Madam Chairman, this is born as a result of—sorry, that the matter was sub judice when it was not. A pre-action letter is not a notice from the Court.

So, Madam Chairman, this comes from the public domain, the experience, laws are adjusted from time to time for the general benefit. This is not intended to be ad hominem, let me make this clear. This is not law being passed for the benefit of any particular case. I want to make that abundantly clear, lest we fall into the trap of the Leonarge case that locus classicus as it relates to ad hominem legislation, which could never stand. This is law for the general purport and benefit. The improvement in the quantum of fines is specifically born out of the experience of the SEC and the SEC has recommended that we move upward, and the Cabinet has recommended that we go as high as 5 million. The SEC's original position was certainly up to a million, the 5 million is the Cabinet's recommendation in recognition of the fact that the maximum is not the full extent you are going to be exposed to.

The law is quite clear from a statutory point of view, that when you give a description of a penalty of 5 million it may be anywhere between zero and 5 million. And therefore it is not intended to be a prescriptive sum that must be applied in every circumstance. It has the range establishment as the upper ceiling of what the regulatory limit is in terms of a breach of it.

So, Madam Chairman, for those reasons I most respectfully disagree with the submissions recommended by my learned colleague, Sen. Mark, and I thank you for the opportunity.

Sen. Mark: I hope, Madam Chairman, that this \$5 million did not arise out of the inability of the securities industries via the Securities and Exchange

Commission to do its job properly along with other agencies of State that may have led to what the Attorney General talked about the fine was too small when they could have taken other stronger action.

Mr. Al-Rawi: So, Madam Chairman—

Sen. Mark: Let us hope that is not the basis.

Madam Chairman: Just one second.

Sen. Mark: But I stand by my position that this is a huge amount of money. I have no problem, but the AG says that is the maximum and it can go at other levels but that is the maximum. That is his view but—

Madam Chairman: Minister of Public Utilities, am I seeing your hand up?

Sen. Le Hunte: No, it is okay, Madam Chairman.

Madam Chairman: Okay, Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. The danger with a last word is that you must reply, so, I apologize for the obligation to reply. Let me make this abundantly clear. Number one, it is not intended to treat with any one case, it is of general purport. I want to make that absolutely clear.

Secondly, in respect of a particular matter which Sen. Mark is clearly referring to and I have no problems with him referring to it. The point is, there was no failing by anybody to act. The point is whether you have the ability to act. One of the methods of acting is by way of administrative fines. It is specifically set out at sections 156 and 156A of securities law. And 156A is with respect to the scheduled fines that you have for breaches of offences going, by way of administrative penalties instead. And 156 which is what we are amending, is with respect to the general aspects not scheduled in section 156A. And therefore, I just would like to say that as far as I am aware, there is no complaint in relation to the SEC itself as to any

material shortcoming on its part.

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 18, ordered to stand part of the Bill.

Clause 20.

Question proposed: That clause 20 stand part of the Bill.

Sen. Mark: Madam Chairman, as a legislator, I am committed like the UNC, the incoming Government, we are committed to ensuring, Madam Chairman, that the Parliament is involved at all stages of this exercise, not after something becomes law and then “yuh” table it, and then they have to file a Motion to annul it, and it goes into effect whilst the debate is taking place. Only if it is annulled, then it is thrown out.

Madam Chairman, we are submitting that we make primary law here in this Parliament, and if we are delegating through delegated authority, we must have the power to ensure that whatever is being done, it must be debated in the Parliament before it can become effective and become lawful. And hence the reason, Madam Chairman, we are advancing that there should be an affirmative resolution to any matter that is being addressed, and it must be brought to the Parliament before it becomes law. Not after it becomes law, “yuh” then table it” and I can then debate it to determine if it will be annulled or not. So, I am proposing affirmative.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you, Chair. As I see these amendments, what we are really talking about is a change in procedural system as opposed to substantive law. The 2017 law introduced demerit point system and reformed fixed penalty provisions. And again, I come back to the point, this

looks to me to be a matter more that serves the public good and the public interest because these change in the procedural provisions is really for the general benefit of the public. My question is, just for the record: So if someone was issued a fixed penalty notice last week, could they avail themselves of this law? Because the starting date is—I think it is six months, there is a six months from the date this law takes effect, so you will have a window. So, this is not just retrospective in application but it will also deal with fixed penalty notices that may be issued next week, and next month as well, would it not be hon. Attorney General?

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. There is no retrospectivity, right. This is intended to treat prospectively with the position. We actually have on deck right now a formula that we are going to bring to the Parliament on another miscellaneous provisions Bill to treat with the existing situation. You see, the complications in the magistracy right now are one, you have a district, so you have to go to the district where the thing happened, you may not be from the district.

Number two, that there is no method of deeming them per se, to be something else. Because remember the demerit points what we did in creating a new section 20A, B and C of the Motor Vehicle and Road Traffic Act is that we created the concept of a violation springing from a conditionality of road user. So you had a license to drive a car, or to be on the road, or to engage in motor vehicle and road traffic, and therefore, we took the criminal into more of a civil approach, it is a pseudo-civil approach. What we have to do now, which we have actually done a first draft of already, is we have to now take the old creature, the offences, which is a

criminal offence, and now morph those into a different creature. And we have drafted a law— actually I trouble CPC at all hours of the night and he tolerates me. So the CPC's team is constantly at work. So we have drafted the provisions to treat with the backlog. This one is intended to treat with fixed penalties as we will transition them into this.

So, I confess that we are doing this in stages. This would not become operational until we proclaim that law, and then we convert that aspect, and then we are going to treat the backlog as we bring those two elements in. Because one of the things that we have to do if we want justice to be delivered in this country, is just remove the share volume of matters that ought not to be in a court or rather could be in a different forum of management. So, it is an ease to the people of Trinidad and Tobago, certainly it is a benefit.

Secondly, in response to is Sen. Mark, that the Parliament should be involved. The Parliament is involved. We are recommending the process of negative resolution, in the negative resolution prospect. Yes, it does become law until it is negated by way of a Motion. My own experience with affirmative resolution is that it sounds good. But we have never actually not done an affirmative resolution in this Parliament for two reasons, one, when it comes, you have to the majority unless you are in a deadlock in the Senate. And two, the fact is, if you are going to amend an order coming by affirmative resolution, it is very complicated because there is one school of thought that says you got to come back with a totally different affirmative view. So it is a very time consuming process to be engaged in, if not complicated. But where you are prescribing a benefit for the citizens, you are easing them to—in this case where 50 per cent of what they were liable

to is a massive benefit to the people of Trinidad and Tobago, because there must be a quid pro quo, a this for that, and the this for that is, come and pay your tickets, de-clog the system and take the benefit right now of a 50 per cent reduction of what you were otherwise exposed to. And also, avoided the risk that you have of finding yourself brought before the court by way of summons or warrant.

Madam Chairman: Sen. Vieira.

Sen. Vieira: AG, I agree with you, I think this is a gift to the citizens of Trinidad and Tobago. I also agree with you that retrospectivity does not apply. But just for the record—because the average citizen is not going to be able to decipher the language of the amendment. What we are saying is, prior to the repeal of the Motor Vehicle and Road Traffic (Enforcement and Administration) Act, that is the starting point.

Mr. Al-Rawi: Yeah.

Sen. Vieira: If you have been served with a fixed penalty notice starting from that date until there is a court hearing and a conviction, anytime within that period and going into the next six months, if you have a fixed penalty notice, you are only going to be paying half?

Mr. Al-Rawi: Yes, that is it. And we will be doing a heavy education campaign along with this so that people are adequately informed. The Chief Justice will be doing practice directions so that we could manage the case log, because what we intend to do is to shunt the payments into electronic payments, so that people do not even have to come to court per se and that they can pay it in different ways.

Madam Chairman: Sen. Hosein.

Sen. Hosein: Thank you very much, Madam Chair. Attorney General, I

just want to get some dates clear. Has the former Act been repealed as yet?

Mr. Al-Rawi: No.

Sen. Hosein: No. And secondly, what is the intention of the Government with respect to the commencement date of this particular Act?

4.00p.m.

Mr. Al-Rawi: So, Madam Chair, I thank the hon. Senator, it is squarely rooted to the clause before us for consideration. Cabinet has deferred its consideration of the operationalization of this law whilst the COVID pandemic was up, so the Note is before Cabinet right now. The Cabinet will have to make its decision on putting into effect the proclamation of the law. We are all ready for it now. The Ministry of Works and Transport, Sen. Rohan Sinanan, did a phenomenal job, but if I can be immodest, one of the best I have seen in terms of publicity and campaign and position, the operationalization of that law is going to be huge benefit to the citizens of Trinidad and Tobago. I personally, I am anxious to see the law proclaimed, but that is a matter for the Cabinet and it would therefore be premature of me to give a precise date for that, suffice it to say the Note is before the Cabinet as we speak.

Sen. S. Hosein: If I may, Madam Chair, because what I am saying is that there are two effects of this clause, which is, one, a reduction in the fine by 50 per cent and also a pardon, so to speak, because now we are no longer liable. Now, if you pay a ticket you will be admitting the guilt of the offence, that you committed the offence, but in this case once you pay the 50 per cent you are also being given a pardon also. Am I clear?

Mr. Al-Rawi: Well, the existing law as that you purge yourself from the criminality upon payment, that is the law as it is already with respect to fixed

penalty notices. If you do not pay a fixed penalty notice it goes into a different zone.

Sen. S. Hosein: You go into trial.

Mr. Al-Rawi: Yeah.

Madam Chairman: Sen. Mark, your final comment.

Sen. Mark: Yes, Madam. May I ask the hon. Attorney General, whether this 50 per cent reduction, is there a time frame for it or is it going to be a permanent arrangement?—because I was going to ask my dear friend, Sen. Anthony Vieira, it might be a gift. It might be an election gift. So I just wanted to ask my friend if this is going to be for a perpetual period or it is going to be only for a specific period. Can you help us with that, hon. Attorney General?

Mr. Al-Rawi: Sure. May I, Madam Chair?

Madam Chairman: Yes.

Mr. Al-Rawi: Madam Chair, obviously the reason why we have the ability to vary it is to encourage people to come now before it gets more expensive. So the intention is squarely for people that are not paying to raise the percentage. So you may get, you know, less discount, if you want to say. Right? And with respect to the other submission, I just want to remind, we have made tremendous amendments to the Motor Vehicles and Road Traffic Act for years now. This was in the making for years. I think that it is true, the gift to the people of Trinidad and Tobago is the renovation of the law. I mean, it is no small feat. I could understand the panic caused in the Opposition to watch a Government be able to reduce the caseload in the magistrates' court from 146,000 cases to 8,500. That must surely panic a Government—an Opposition.

Sen. Mark: Government to come. Government to come.

Mr. Al-Rawi: That must surely panic an Opposition—

Sen. Mark: You are right. You are right.

Mr. Al-Rawi: Let me finish my point, please.

Sen. Mark: The UNC is the next Government.

Madam Chairman: Sen. Mark—

Sen. Mark: He knows that.

Madam Chairman:—please allow the Attorney General to finish and then I am going to put the question.

Mr. Al-Rawi: Yes, Madam Chair, I was saying, I could understand the consternation and panic in the Opposition at watching a Government able to take the backlog and the current caseload in the magistracy from 146,000 per annum, each year down to 8,500, and to have computerized the entire magistracy to make all the amendments to the criminal justice system. Because when you watch a Government capable of doing that, knowing that you had your turn of the wheel and just did absolutely nothing with it, it must cause panic. So I understand my colleague well. [*Crosstalk*]

Question, on amendment, [Sen. W. Mark] put and negatived.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Madam President: Attorney General.

Hon. Al-Rawi: Madam President, I wish to report that a Bill entitled the Miscellaneous Amendments Bill, 2020, was considered in committee of the whole and approved without amendments, I now beg to move that the Senate

agree with the committee's report.

Question put and agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I beg to move that this Senate do now adjourn to Tuesday, May 12, 2020, at 10.00a.m. Madam President, on that date the Government proposes to deal with the Bill for an Act to amend the Registrar General Act, Chap. 19:03, among other pieces of legislation, and also to deal with a Bill to amend the Copyright Act, Chap. 82:80. I thank you.

Madam President: Hon. Senators, before I put the question on the adjournment leave has been granted for two matters to be raised. Sen. Mark.

National Reforestation and Watershed Rehabilitation Programme (Termination of Contractors)

Sen. Wade Mark: Thank you very much, Madam President. Madam President, the first matter that I would like to bring to the Senate's attention through this Motion deals with the failure of the Government to provide the country with adequate information on the reasons for its decision to terminate the services of almost 60 contractors, employing approximately 1,800—I understand it might be more like 2,400—employees in the National Reforestation and Watershed Rehabilitation Programme. Now, Madam President, it was sometime earlier this year, I believe, that the Government took a decision through the Minister of Agriculture, Land and Fisheries to discontinue the services of 60 to 65 contractors whose organizations were involved in a number of important activities within the forested areas of our

country. Madam President, this led to the termination, as I said, of some 2,400—between 1,800 and 2,400 workers. These workers we are told were in receipt of at least \$1,100, I believe on a fortnightly basis or monthly basis, but they were in receipt of a wage or a salary during the period that they worked, Madam President.

Now, the termination of these contracts and as well as these workers came at a time when this dry season was upon us, and is upon us, Madam President, when this event occurred. Madam President, we would like to have from the hon. Minister of Agriculture, Land and Fisheries as to what were the factors or reasons for the discontinuation of these 65 contractors, each were employing, from my information, between 30 to 35 individuals, and that is where the 2,400 workers came about. Now these workers and their contractors and employers were responsible for managing forest fires, and of course with not only managing forest fires but they were also engaged in the planting of trees as well as the watering of same. Now, with their termination, Madam President, even the Trinidad and Tobago Fire Service expressed some concern.

I recall reading a story in which the President of the Fire Officers' Association stated that the loss of jobs by these workers as a result of the termination of these contracts would put a heavy blow on the fire service, which is already overwhelmed by a number of events that they had to deal with, Madam President. And therefore it is important to understand, because I do not believe the Minister of Agriculture, Land and Fisheries offered a sufficient bases for this termination of these contracts and the placing of workers on the breadline. We would also like to know from the hon.

Minister what has happened since the termination of these contractors and the termination of services of the workers involved. What has happened? Has the Minister embarked upon a programme where new contractors have been engaged? Have the workers who have been terminated been reconsidered or are being considered for re-employment? These are questions that these workers and their families would like to know, because, Madam President, to place hundreds of workers in this instance, as I said, between 1,800 and 2,400, on the breadline is a very, very difficult time for workers.

So I would like to ask, as I said, Madam President, the hon. Minister to provide this Parliament with the rationale, the reasons, the factors that led to the discontinuation. I understand that these contracts would have been issued to these contractors some time ago by the Government and therefore to bring those contracts to a sudden end in the way it was done is cause for a lot of concern. So, Madam President, my understanding, just to correct the record again, is that these workers were paid, at the time they were employed, roughly \$1,100 per fortnight, and, as I said, the purpose of these groups, along with these organizations, NGOs becoming contractors was to help preserve the forest and to ensure they assist in clamping down on forest fires, which as you know during the dry season are very rampant as we are aware.

So, Madam President, the NGOs that were involved in this exercise were community based. The workers who were employed by these contractors, were mainly single mothers and a number of young people, youths, and these were youths who otherwise might have been on the streets

of our nation, and therefore it is important for us to understand why this decision was taken and what has happened subsequent to this decision by the Government of this country, because the workers have been placed on the breadline. And we do not know, Madam President, I am not informed, and I dare say, the country has not been informed as to the alternative that has been put in place, what system has been effected, how that system was effected and by whom, Madam President, in terms of agency, whether it was advertised, Madam President; whether it was for tender or tendering. These are matters that we would like the hon. Minister to share with us. [*Desk thumping*]

Madam President: Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you very much, Madam President. Madam President, the reforestation programme known as the NRWPR started about 17 years ago. It was supposed to be a short-term programme recognizing, Madam President, that we have what are known as forest reserves in significant parts of the country, but we also have, in between those forest reserves, we do have some state land that could be brought under forest cultivation and eventually included in the forest reserve, and we also have commercial forestry areas which over time have been—it is commercial so the trees have been harvested and can be replanted for future generations. So in 2003 the Government of the day went about this programme anticipating that it would last a particular period of time.

Madam President, over the period it just went on and on, and when

National Reforestation and
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Sen. The Hon C. Rambharat (cont'd)

my colleague on the other side, Sen. Mark, when his administration was in power, between 2010 and 2015, they themselves conducted an audit of the programme which found that, by and large, even after 11 years at the time the programme had not met its subjective. In fact, the line Minister at the time was in the media around October, 2014, facing a lot of pressure because of a decision to stop the programme to conduct a review to see what the future of the programme should be like if there was going to be a future. That was former Sen. Ganga Singh, and I could well imagine that he got himself under so much pressure that the review and all of that was quickly abandoned and the programme resumed some months after. So stopping the programme is not something new, but that is not what we have done, I am just giving the context of it.

I just want to be very clear, Madam President, in responding to Sen. Mark by saying the workers in this programme do not fight forest fires. Very early in my term as Minister on Good Friday, 2016, I had the most unpleasant task of having to visit an officer of the Forestry Division at the Port of Spain General Hospital, Keith Campbell, in responding to a fire on Chancellor Hill wearing the best fire retardant equipment. Keith suffered severe burns and died on Good Friday night at the Port of Spain General Hospital, and I immediately made it clear to all and sundry in the Ministry, particularly the Forestry Division, that the job of responding to forest fires is not a job of our officers but the Trinidad and Tobago Fire Service.

From time to time if you are in the forest or in an agricultural area you may see the start of a fire; you may see small bush, and people who are familiar may do something called “beating down the fire”, taking tools that

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are available to beat down a very small fire, but only the trained should deal with forest fires. And as the Minister I have consistently made it known that our officers and in this reforestation programme, nobody should be fighting fires. And Keith Campbell, who eventually was bestowed with a posthumous national award the following year, 2017, his life serves as an example that forest fires are not easy to tread with.

Madam President, what has happened here, after being appointed Minister, not long after within months I conducted a technical or commissioned a technical audit of this programme to see if it was meeting the objectives of replanting forest, replanting commercial forest and also bringing state land in between and around forest reserves into the quality of forest that could be added to forest reserves, the audit report was not very optimistic. It pointed to serious problems, not due to the workers in the programme but due to the supervision or absence by supervision by our Forestry Division. The follow-up audit was done by the Minister of Finance through the Central Audit Committee, and that follow-up audit pointed to a number of financial and other irregularities in the programme. The most important thing that audit pointed out was that while this programme was under the Ministry of Agriculture, Land and Fisheries, this became a \$98million programme over a period of time.

This started off as a very small programme and over the years transformed itself into a programme that was almost \$100 million, but it was not tendered for by the Ministry via the Central Tenders Board, and the audit report pointed out that the Ministry itself could not have the financial authority to execute this programme via contracts on its own, and a decision

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was taken by the Cabinet that the procurement of contractors for this programme will be done by the Rural Development Company of Trinidad and Tobago, a special purpose company quite suited to execute a procurement exercise like this. And thereafter the Rural Development Company advertised on many occasions and the contractors in this programme, the 60 contractors each employing 35 workers were constantly advised that there will come a time when through this process contractors will be selected and some of them may continue and some may not. In fact, Madam President, I should point out, in the history of this programme from 2003 to now not a contract by way of a single letter, a one-page letter or anything has ever been issued to a contractor. So I estimate about half a billion dollars has been spent without a shred of paper resembling a contract, and I set about to deal with it.

Madam President, after a lot of effort, several advertisements, numerous efforts to clean up and bring this programme in the way it should be in accordance with the rules, particularly procurement, we got ourselves in a position where the Rural Development Company was in a position, through the procurement process, to recommend the award to certain contractors. Thereafter notice was given to all the contractors, the 60 contractors, and the notices set out the context of the letter reminding them that they had been told that this day will come when we would shift to contractors procured through a transparent exercise, and the notice gave them until March 31, 2020, to perform this work; thereafter there will be a switchover to contractors procured under the programme, some of whom might be the existing contractors.

Unfortunately, Madam President, the “stay-at-home” intervened during that period when we would have shifted from March 31st to April and it became impractical for this programme to continue from the 1st of April, because, Madam President, these workers are transported in minivans for 10, 15 miles to go into the forested area. A lot of the contractors have 11-seater vehicles that would transport these workers; they have lunch in camps in the forest, and so on, and it was not possible. It was not practical, sensible to allow the programme to continue in the month of April and into the month of May once we had the COVID period. These workers are entitled to claim the salary grant and they can do that.

What we have done we have transitioned, and I can tell you, the Rural Development Company to whom the entire project has now been transferred by Cabinet decision will be engaging the new contractors, some of whom will be existing contractors, into this programme and a public announcement would be made consistent with the COVID regulations on the resumption of this programme for these workers. I thank you very much. [*Desk thumping*]

4.30 p.m.

Internet Connectivity for Students

(Government's Assistance During COVID-19)

Sen. Wade Mark: Thank you, Madam President. Madam President, the second matter I would like to address is the need for the Government to ensure that students who reside in the rural communities are provided with Internet connectivity, as well as the required devices to access the Ministry's student platform during the period of COVID-19 pandemic.

Now, Madam President, since the lockdown, shut down, stay at home

orders, all our students, whether they are at the primary school level, the secondary school level, or even at the university levels, have had no choice because of the pandemic but to stay at home.

Madam President, during that period we are told by the Minister of Education that schools may be reopened in September. So, from the period March to the present time into September possibly, students/pupils at the primary school levels have been unable to be adequately served; and we understand why. But the Government did indicate to us that they have established what is called an e-learning platform and that students could access this particular platform.

We have not had any further reports of substance from the Ministry as it relates to what has been happening with this interactive, this kind of learning rather, through technology. There has been no reports on how our students are engaging via the Internet. What we do know, Madam President, and we need some information, is that according to the Minister in the Ministry of Education, over 60,000 students in this country, or attending school at the secondary level, are without Internet, without devices, without laptops. So the question that has to be asked and we need to get answers this afternoon, Madam President, is: How are these children at the primary level, at the secondary level, how are they being given the opportunity to access learning through the e-learning platform and the other mechanisms? And particularly, Madam President, those students who are in the rural communities, or in the rural areas of our country, where you know connectivity is very difficult at the times.

So, we have children at the primary school level who are preparing, and their parents are helping them to prepare for SEA. We do not know when SEA is going to be held. We are hearing June. We are hearing July. It could be beyond because of the pandemic. But hopefully when the Prime Minister addresses the nation on the tenth of this month, he would in fact announce the gradual and incremental reopening of our economy and our society. And, therefore, the role of education and what kind of changes that would have to be brought to bear on that process would be very fundamental. So, Madam President, we have the children who are preparing for SEA. We have the children or the students who are preparing for CXC. And we have the students who are preparing for CAPE, in terms of advanced levels.

But I have raised this matter today, Madam President, in the interest of the tens of thousands of students and pupils at the various levels of the educational apparatus. Because we have not been hearing much from the Ministry on this matter. What we do know is that the Ministry keeps saying that the matter is before Cabinet and I believe it went from Cabinet to F&GP. But as it relates to how the Ministry of Education is addressing this matter of learning, as children at different levels prepare for various examinations, we have limited information.

So, Madam President, I have brought this matter to this honourable Senate today to get some answers. How are we allowing our students who are without laptops, over 60,000 of them, to access the e-learning platform? Is the Government making efforts to provide these devices to the children?

What efforts have they made? Or, Madam President, are we to conclude that for the last seven and half weeks, going into eight weeks, Madam President, children have not been exposed to the kind of—to some element of training, some element of education? Because we do not have information. So we have to speculate what is taking place. No one has come before this honourable Parliament, the Senate, to indicate what is taking place for our children. How are they learning? What kind of interaction is there and what kind of efforts are being made? Is the Government, Madam President, seeking to provide thousands of laptops to our children so that they can access the e-learning platform? We do not know. So we need answers, Madam President, from the Minister of Education.

In fact, Madam President, I saw, I read in today's *Guardian*, on page 13, an educator, Tyrone Ali writing a very comprehensive article. The headline being:

“The Ministry of Education—sleeping during COVID-19?”

That is a question that this author of this article, Tyrone Ali, is asking; whether the Ministry has fallen on the job. Is the Ministry fast asleep? Are we, Madam President, like Rip Van Winkle? Are we sleeping? What is going on?

So we need answers, Madam President, and I am asking the Minister of Education or whoever is responsible for dealing with this matter, to provide the Senate with answers on this question of learning and our children who are suffering in the meantime. Thank you very much, Madam President.

Sen. The Hon. J. Baptiste-Primus (cont'd)

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you, Madam President. I rise to respond to Sen. Wade Mark's Motion on behalf of my Cabinet colleague, the Minister of Education, Minister Anthony Garcia.

Madam President, the Ministry of Education is cognizant of the needs of the students residing within our rural communities who may be experiencing difficulties in accessing learning materials. In this regard, the Ministry has facilitated access to teaching and learning materials to all students through partnership with various stakeholders.

Currently the Ministry has secured free access for all teachers, parent and students, particularly in rural areas, who log in into the School Learning Management System, also known as SLMS. As a result, many more students are now able to access online learning.

Furthermore, the Ministry was able to make Internet hotspots available in areas where there is limited or no Internet access, thus, expanding the accessibility of online teaching and learning for students.

Madam President, the Ministry's School Learning Management System has provided a platform for all teachers to provide content and continue delivering content to their students.

There are many benefits to the SLMS because it allows for:

- (i) developmentally appropriate learning experiences, materials and resources are available for parents to work with students at the ECC level. A calendar was also included to assist parents in organizing the day for students.

Sen. The Hon. J. Baptiste-Primus (cont'd)

- (ii) All curriculum documents and the instructional toolkit for the primary level were uploaded for use by teachers, for planning content and for parents to track students' progress to national goals. The instructional toolkit has more than 600 lesson plans, with suggested activities and materials that can be used to create learning experiences.
- (iii) Past papers for the SEA and the National Certificate of Secondary Education (NCSE) are available to assist students in preparing for examination.

Madam President, in 2019, the format of the SEA changed to the Mathematics, English Language Arts and English Language Arts Writing Paper, with this new format available for students to continue preparation.

The 2017, 2018 and 2019 NCSE multiple choice papers for the eight subject areas assessed are available in a self-correcting quiz format so students receive their scores after completing a paper.

Madam President, past papers and examination support materials for Caribbean Secondary Education Certificate also known as CSEC and Caribbean Advance Proficiency Examination (CAPE) are available through links provided by Caribbean Examination Council. Students can use these materials to revise and prepare for examination.

Madam President, links from international organizations, which provide access to a range of audiobooks, games and other materials are available for use by teachers and parents in keeping students engaged in learning experiences.

Sen. The Hon. J. Baptiste-Primus (cont'd)

Madam President, teachers within the service continue to utilize innovative, online strategies to ensure that students are engaged in learning while home. The WhatsApp application is widely used by teachers in communication with students and parents for teaching and learning.

Madam President, the Ministry has also utilized traditional television broadcast to provide learning experiences available to our rural students. For example, sessions geared towards Standard Five students preparing for Secondary Entrance Assessment (SEA) have been filmed on site at the Ministry of Education's head office and are being aired on TTT. These lessons are in the three subject areas of focus for the assessment. Mathematics, English Language Arts, and English Language Arts Writing. The content available through these media facilitates learning as well as examination preparation. A variety of media were used to ensure that all students have some level of access to materials to continue learning remotely.

Madam President, the Ministry of Education has been collecting data on the number of teachers and students who require electronic devices to facilitate teaching and learning. In the meantime, the Ministry has taken steps to acquire electronic devices for distribution to teachers and students in need. The Ministry has also sought the assistance of local organizations and foreign agencies to supplement the cache of electronic devices. These devices will be distributed as soon as they become available, starting with the students most in need.

Madam President, the Ministry of Education continues to work

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Sen. The Hon. J. Baptiste-Primus (cont'd)

assiduously to provide quality education to all students even during a pandemic. On behalf of the Minister of Education, I thank you, Madam President.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.46 p.m.