

HOUSE OF REPRESENTATIVES*Friday, April 05, 2019*

The House met at 1.30 p.m.

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

Madam Speaker: Hon. Members, I have received communication from the following: Mr. Prakash Ramadhar, MP, Member for St. Augustine has requested leave of absence from today's sitting. The leave which the Member seeks is granted.

JOINT SELECT COMMITTEE**(Referral of Income Tax (Amdt.) Bill, 2019)**

Madam Speaker: Hon. Members, I have also received correspondence from the Vice-President of the Senate dated April 5, 2019, which states as follows:

“Dear Honourable Speaker,

Referral of Income Tax (Amendment) Bill, 2019 to Joint Select Committee

Your letter dated April 02, 2019 on the subject at caption refers.

I wish to advise that at a sitting held on Tuesday April 02, 2019, the Senate concurred with the House of Representatives, that the Income Tax (Amendment) Bill, 2019 be referred to the Joint Select Committee established for the consideration and report on the Mutual Administrative Assistance in Tax Matters Bill, 2018 and the Tax Information Exchange Agreements Bill, 2018.

Accordingly, I respectfully request that the House of Representatives be informed of this decision at the earliest convenience please.

Respectfully,

Sen. Nigel De Freitas
Vice-President of the Senate”

PETITION

Kabir Association of Trinidad

(Change of Name)

Ms. Ramona Ramdial (*Couva North*): [*Desk thumping*] Thank you, Madam Speaker. Madam Speaker, I beg to present a petition on behalf of the members of the Kabir Association of Trinidad, Limehead Road, Chase Village, Chaguanas.

I move that the Clerk now be allowed to read the petition and that the petitioners be allowed to proceed.

Petition read.

Question put and agreed to: That the petitioners be allowed to proceed.

PAPERS LAID

1. Draft Elections and Boundaries Commission (Local Government and Tobago House of Assembly) Order, 2019. [*The Minister Planning and Development (Hon. Camille Robinson-Regis)*]
2. Thirty-First Annual Report of the Integrity Commission of Trinidad and Tobago for the year ended December 31, 2018. [*The Deputy Speaker (Mr. Esmond Forde)*]
3. Audited Financial Statements of National Quarries Company Limited for the financial year ended September 30, 2013. [*The Minister Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert)*]
4. Audited Financial Statements of National Quarries Company Limited for the financial year ended September 30, 2014. [*Hon. C. Imbert*]
5. Audited Financial Statements of National Quarries Company Limited for the financial year ended September 30, 2015. [*Hon. C. Imbert*]

UNREVISED

Papers 3 to 5 to be referred to the Public Accounts (Enterprises) Committee. 6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Regulated Industries Commission for the year ended December 31, 2014. [*Hon. C. Imbert*]

7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Tunapuna/Piarco Regional Corporation for the year ended September 30, 2009. [*Hon. C. Imbert*]

8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Tunapuna/Piarco Regional Corporation for the year ended September 30, 2010. [*Hon. C. Imbert*]

Papers 6 to 8 to be referred to the Public Accounts Committee.

9. Administrative Report of National Information and Communication Technology Company Limited (iGovTT) for the year ended September 30, 2017. [*The Minister of Public Administration (Hon. Marlene Mc Donald)*]

10. Annual Report of the Children's Authority of Trinidad and Tobago for the year ended September 30, 2018. [*The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy)*]

11. Administrative Report of the Point Lisas Industrial Port Development Corporation Limited for the year 2015. [*Hon. C. Robinson-Regis*]

12. Ministerial Response of the Ministry of Works and Transport to the Sixteenth Report of the Public Administration and Appropriations Committee on an Examination into the implementation of the Public Sector Investment Programme. [*Hon. C. Robinson-Regis*]

13. Ministerial Response of the Ministry of Finance to the Sixteenth Report of the Public Administration and Appropriations Committee on an Examination into the implementation of the Public Sector Investment Programme. [*Hon.*

- C. Robinson-Regis*] 14. Ministerial Response of the Ministry of Tourism to the Fifteenth Report of the Public Administration and Appropriations Committee on an Examination into the Expenditure and Internal Controls of the Ministry of Tourism. [*Hon. C. Robinson-Regis*]
15. Administrative Report of the Ministry of Tourism for the fiscal year 2015. [*The Minister of Tourism (Hon. Randall Mitchell)*]
16. Administrative Report of the Ministry of Tourism for the fiscal year 2017. [*Hon. R. Mitchell*]
17. Financial (Amendment) (Revocation) Regulations, 2019. [*Hon. C. Imbert*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Trinidad and Tobago Revenue Authority Bill, 2018

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Madam Speaker, I have the honour to present the following report:

Interim Report of the Joint Select Committee established to consider and report on the Trinidad and Tobago Revenue Authority Bill, 2018.

Land and Physical Infrastructure

Maintenance of Drainage and Roadways

Mr. Rushton Paray (Mayaro): Thank you, Madam Speaker. Madam Speaker, I have the honour to present the following report:

Sixth Report of the Joint Select Committee on Land and Physical Infrastructure on an Inquiry into the Establishment of Systems for the maintenance of drainage and roadways.

VISITORS

Madam Speaker: Hon. Members, I just wish to draw to your attention the

presence of some very young citizens in the gallery. They look as if they are from a primary school, who have come to see their democracy in action. [*Desk thumping*]

URGENT QUESTIONS

Chairmen of Port Authority of T&T and NIDCO

(Technical Expertise used for Assessment)

Mr. Rudranath Indarsingh (*Couva South*): To the Minister of Works and Transport: Given the public reports that the Chairman of the Port Authority of Trinidad and Tobago and the Chairman of the National Infrastructure Development Company Limited (NIDCO) travelled to Malta in February to inspect the MV *Jean de La Valette* (JDLV), could the Minister inform this House on what technical expertise did these Chairmen rely on for their assessment?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): [*Desk thumping*] Thank you, Madam Speaker. The Chairmen of NIDCO and the Port Authority of Trinidad and Tobago visited Virtu Holdings to inspect the vessel. Their role was not to conduct marine inspection, but rather to see how the vessel operated. The technical expertise was satisfied by a qualified agency who provided NIDCO with a class certificate for the vessel. An independent, again, independent international reputable agency, DNV, are the ones we rely on for technical expertise.

Madam Speaker, it is noteworthy that on arrival of the vessel in Trinidad and Tobago, the Maritime Services Division will also conduct technical and safety checks, I thank you. [*Desk thumping*]

Mr. Indarsingh: Thank you, Madam Speaker. Mr. Minister, could you advise this House: Is it the normal policy of these two state enterprises to procure vessels on behalf of the taxpayers of this country to the tune of hundreds of millions of

dollars, utilizing no technical expertise from Trinidad and Tobago? [*Desk thumping*]

Sen. The Hon. R. Sinanan: Thank you, Madam Speaker. NIDCO is a procurement agency for the Government of Trinidad and Tobago, the Port Authority is also a procurement agency and operating the inter-island sea ferry. Technical expertise does not rely in both these agencies and that is why we depend on an international, independent—[*Desk thumping*—]agency for this technical advice. Thank you.

Mr. Indarsingh: Madam Speaker, I will give way to my colleague.

Dr. Gopeesingh: Hon. Minister, would you be prepared to have available for transparency and accountability and probity, the findings of that technical committee which you have just described?

Sen. The Hon. R. Sinanan: Thank you. Madam Speaker, in keeping with this Government's policy of always being transparent with the population, I am quite prepared, if requested to make that available. [*Desk thumping*]

Director of Virtu Ferries

(Continuance of Transaction)

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): To the Minister of Works and Transport: With regard to recent reports indicating that the Director of Virtu Ferries, the Maltese company responsible for the procurement of the new fast ferry for the sea bridge is currently before the courts on bribery and money laundering charges, could the Minister indicate whether the Government intends to continue the transaction in light of these revelations?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. I am a bit surprised at this question coming from the Opposition Bench, however, the answer is yes, there is nothing illegal in the

contract that NIDCO is about to enter into with Virtu Ferries. Everyone, the last time I checked in Trinidad and Tobago, is presumed innocent until proven guilty. If a company ceases to exist due to one of its directors being convicted, there are clauses in the contract—

Madam Speaker: Order.

Sen. The Hon. R. Sinanan:—to protect the Government and the people of Trinidad and Tobago. I thank you.

Dr. Moonilal: Thank you very much, Minister. Minister, are you aware that this vessel, given the developments in Malta involving those key persons before criminal courts, not civil courts, that this vessel could also be the subject of a civil forfeiture arrangement?

Sen. The Hon. R. Sinanan: Madam Speaker, if the Member for Oropouche East had read the action that is in the court, he would recognize it has nothing to do with Virtu Ferries. [*Desk thumping*] Also, again, the last time I checked in this country, if you have a matter before the court it does not eliminate you from participating in anything. If that was the rule in Trinidad and Tobago, very soon this Government might find itself speaking to itself in the Parliament. [*Desk thumping and laughter*] Thank you, Madam Speaker.

Dr. Moonilal: Could the Minister correct himself from statements made in the public that the contractors in this country are before the courts charged by the Government, not the police. So there is a fundamental difference, do you agree—

Madam Speaker: Member for Oropouche East.

Dr. Moonilal:—with these developments in Malta as opposed to Trinidad.

Madam Speaker: Member for Oropouche East, I will not allow that question.

Dr. Gopeesingh: Minister, would you continue to be so adamant that the Government will continue with the leasing of this ferry despite the fact that the

company is embroiled in such nefarious and criminal matters before its completion?

Madam Speaker: Member for Caroni East, I will not allow that based on what has gone before.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, the MV *Jean de La Valette*, is it similarly designed to be a river boat like the *Galleons Passage*?

Madam Speaker: I will not allow that question.

Mr. Indarsingh: Thank you. Minister, could you tell this House what will be the daily charter rate in terms of a 12-hour work day? And also taking into consideration overtime payments, what will it cost on a daily basis?

Madam Speaker: That question does not arise. It is out of order.

Secondary Entrance Assessment Examination Papers

(Mathematical Component Concerns)

Dr. Tim Gopeesingh (*Caroni East*): To the Minister of Education: Could the Minister indicate the consequences and remedial action required to be taken with respect to the concerns regarding the mathematical component of the Secondary Entrance Assessment examination papers on Thursday April 04, 2019?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. I know not of what the Member of Caroni East speaks. If the Member is referring to comments made by students that certain questions were challenging, that is expected, it happens all the time.

Madam Speaker, any educator who is worth his salt, will know that a well-designed examination must include a wide range of questions, coming from simple questions to the higher order questions that require interpretation and analysis, and this is exactly what happened. In addition to this, Madam Speaker, CXC has standard procedures for marking exams including any issues that might come up.

Thank you very much.

Dr. Gopeesingh: Minister, are you aware that there were a number of schools where the students experienced marked anxiety and the examination processes went beyond the period of time?

Hon. Member: How long?

Dr. Gopeesingh: One example is Grant Memorial Presbyterian School.

Madam Speaker: Member for Caroni East, I will not allow that as supplemental question.

Dr. Gopeesingh: All right, can I ask another supplemental? Could you provide any further comment for your possible consideration on addressing the Caribbean Examinations Council on the complaints reported from hundreds of students with reference to irregular issues on the mathematical paper? Particularly, the answers to two questions—?

Madam Speaker: Member for Caroni East, I am not going to allow that question.

Dr. Gopeesingh: Why?

Madam Speaker: Having not arisen out of the response—

Dr. Gopeesingh: I was responding to the Member.

Hon. Member: Oh.

Madam Speaker: Member for Caroni East, I am sure you do not mean that. Kindly have a seat. We both cannot stand at the same time and I have already ruled. Do you have another supplemental question?

Dr. Gopeesingh: Yes, with reference to the answer just given by the Minister, would he consider meeting and addressing the Caribbean Examinations Council on this irregular issue of the mathematics examination yesterday?

Madam Speaker: Again, I will not allow that question.

Dr. Gopeesingh: You know the issues.

Fire at Radiology Department**(Location of Patients)**

Ms. Ramona Ramdial (*Couva North*): To the Minister of Health: In light of the recent fire at the Radiology Department of the Port of Spain General Hospital which displaced several in-house patients, could the Minister state where these patients are currently located?

Madam Speaker: Just before the Minister of Health stands up, I know question time evokes a lot of emotion. I will ask Members who are not addressing me to please be quiet. Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you. Madam Speaker, patients were not displaced from Port of Spain General Hospital. Approximately 70 patients were quickly decanted from their wards to other spaces within the hospitals. I want to thank at this point in time, all our nurses, security personnel, attendants who once again rose to the occasion.

The patients were then sent back to their original wards within 3 hours once the fire services gave the all-clear. So at all material times, the patients were located within the confines of Port of Spain General Hospital. Once the all-clear was given by the fire services, three hours later, they were sent back to their original wards.

During that time they were under the care and supervision of medical personnel ensuring that they received full coverage, full medical coverage during those three hours. Thank you very much, Madam Speaker.

Ms. Ramdial: Thank you very much. Minister, in light of the fire at the Radiology Department, what is the plan with respect to doing CT scans, mammograms and other tests?

Hon. T. Deyalsingh: Thank you. So what I can tell you right now is that

radiology services, CT scans and ultrasounds which were temporarily suspended from Friday, March 29th, have started back. Thank you very much for that. X-ray services continued uninterrupted during the period of time. So there was no significant absence of radiology services during that period of time. The only component that we are still grappling with is mammography, and patients will be sent to other centres. But, X-rays, CTs are fully operational after a brief period when they were down during the fire and within about 48 hours they were back up. Thank you very much, Madam Speaker.

Dr. Bodoë: Thank you very much, Minister. Minister, can you indicate whether at this time you are in possession of a fire report?

Hon. T. Deyalsingh: Sorry?

Dr. Bodoë: I said, can you indicate whether you are in possession of a fire report that might indicate the reason for the fire?

Hon. T. Deyalsingh: I checked with the CEO of the North West Regional Health Authority just about half an hour ago, and they have not yet received the report as to the cause of the fire from the fire services. So I would not be commenting or speculating at this point in time. Thank you very much, Madam Speaker.

Burning of Connecting Bridge

(Measures to Address)

Mr. Barry Padarath (*Princes Town*): To the Minister of Works and Transport: In light of the recent burning of a connecting bridge in Princes Town which has severely impacted upon the mobility of two communities, could the Minister inform this House what urgent measures will be taken to bring swift relief to the affected residents?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): [*Desk thumping*] Madam Speaker, as said before, one should never burn their bridges.

Madam Speaker, the bridge engineers of the Ministry of Works and Transport conducted a site visit to the area and have developed and designed a tender document for the replacement of the affected bridge. The invitation to tender was issued on April 04, 2019. Work is expected to commence by the middle of next week and it is expected to be completed in 14 days from the start of the project. The solution which was developed took into consideration improved materials which would prevent a reoccurrence.

Mr. Padarath: Thank you, Madam Speaker. Hon. Minister, could you say whether an archaic wooden bridge will be considered as a replacement or will we move towards a more permanent replacement?

Sen. The Hon. R. Sinanan: Thank you. Madam Speaker, this bridge was in perfect condition before the fire. However, what we recognize happening of late, there have been several protests by fire on our roads. What is unique about these protests is that certain councillors opposed to this Government—

Hon. Member: Yes.

Sen. The Hon. R. Sinanan:—have been seen around these protests. And very recently two councillors from the Siparia Regional Corporation were questioned by the police in connection with these fires. [*Crosstalk*] In this case, Madam Speaker, someone put tyres on the bridge. This was in the national newspaper and on television. And in the case of this bridge someone placed tyres on the bridge—

Hon. Member: “Dey burn dey own bridge.”

Sen. The Hon. R. Sinanan:—and caught it afire. However, it is—

Madam Speaker: Minister of Works and Transport, your time is now spent.

Sen. The Hon. R. Sinanan: Thank you.

Madam Speaker: Hon. Members, question time is now spent.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you, Madam. There are 14 questions for oral answer. We will be answering 13 of these questions, we are asking for a two week deferral of question no. 140. There are no questions for written answer. Thank you, Madam.

ORAL ANSWERS TO QUESTIONS

The following question stood on the Order Paper in the name of Mr. David Lee (Pointe-a-Pierre):

Fence Line Communities**(Projects Undertaken)**

140. With regard to statements in the Prime Minister's address to the nation on September 2, 2018 that, *'the wider population in fence line communities will benefit from some deliberate additional Government expenditure on infrastructure and social support'*, could the hon. Prime Minister provide the specific list of projects that have been undertaken within the fence line communities of Pointe-a-Pierre, Santa Flora, Couva and Gasparillo?

Question, by leave, deferred.

Group DC LLC**(List of Achievements)**

158. Mr. Rodney Charles (Naparima) asked the hon. Minister of Finance: Could the Minister provide the list of achievements of the lobbyist "Group DC LLC" in fiscal 2018?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): I am surprised, there are a lot more questions before that. Madam Speaker, over the fiscal 2018 year, the lobbying group undertook the following activities in order to promote trade and investment between the United

States and Trinidad and Tobago:

- (a) Increase the visibility of Trinidad and Tobago by working directly with leaders of Senate and Congressional Committees, and Senators and Congressmen who represent areas that constitute important matters and other interests for Trinidad and Tobago.
- (b) Monitor legislative issues affecting Trinidad and Tobago in the United States Congress.
- (c) Conduct research and formulated a proposed economic diversification strategy that would establish Trinidad and Tobago as a corporate outsourcing jurisdiction.
- (d) Engage Citigroup to discuss with the Government the possibility of establishing a financial hub in Trinidad and Tobago, specific options for diversification and additional risk mitigation initiatives that would support this effort.

2.00 p.m.

- (e) Identified opportunities and strategies to engage multinational corporations to potentially increase commercial shipping and dry-dock construction in Trinidad and Tobago.
- (f) Promoted Trinidad and Tobago's economic diversification efforts related to the proposed expansion of gaming in a regulated and taxed environment.
- (g) Facilitated discussions between the Government of the Republic of Trinidad and Tobago, Ambassador to the United States, with US members of Congress on Trinidad and Tobago's economic diversification efforts with a view to increasing US direct foreign investment in Trinidad and Tobago.

- (h) Held discussions with senior staff of the United States Foreign Affairs Committee on various issues of concern to Trinidad and Tobago including:
- the de-risking phenomenon in the Caribbean and Latin America and the economic and national security challenges posed by the lack of correspondent banking relationships in the region and the establishment of Trinidad and Tobago as a regional banking hub;
 - US/Trinidad and Tobago economic relationships and national security partnerships;
 - the Caribbean Basin Initiative; and
 - the Caribbean Basin Security Initiative.
- (i) Discussed a proposed engagement strategy between the United States Secretary of Commerce and the Trinidad and Tobago Ambassador to enhance bilateral trade, investment and economic opportunities between the United States and the Republic of Trinidad and Tobago.
- (j) Participated in discussions with senior Government officials on securing the Department of Homeland Security, airport pre-clearance designation for the Piarco International Airport, and met with House of Representatives Homeland Security staff on the Airport Pre-Clearance Programme.
- (k) Collaborated with the Trinidad and Tobago Embassy on special projects such as the Trinidad and Tobago diaspora engagement events, economic development initiatives that would stimulate trade and investment opportunities in the United States for Trinidad and Tobago's manufacturing sector through a strengthened supply chain;

financial services sector; and energy sector.

- (l) Formulated a communications strategy with the Office of the Prime Minister, around establishing a spotlight on Trinidad and Tobago's energy sector to complement the Government's efforts to achieve more favourable energy sector agreements for the Republic of Trinidad and Tobago.
- (m) Secured additional interest by US officials in participating in official travel to Trinidad and Tobago.
- (n) Discussed strategies for engagement in future events of the Congressional Black Caucus Annual Legislative Conference to expose the conference attendees and the broader American public to the diversity of the Republic's citizenry.

These strategies would serve to strengthen the ties between the Government of Trinidad and Tobago and members of the US Congress. This is just a few of the activities the lobbyist was involved in.

Madam Speaker: Supplemental. Member for Naparima.

Mr. Charles: I noticed in his response the Minister gave over ended questions—formulated, participated, collaborated, discussed, facilitated—could you give us tangible, quantifiable [*Desk thumping*] benefits for Trinidad and Tobago in terms of trade and investments? [*Crosstalk*]

Madam Speaker: Minister of Works—Minister of Finance. I am sorry.

Hon. C. Imbert: I just did.

Madam Speaker: Supplemental. Member for Naparima.

Mr. Charles: Could the Minister tell us how much was spent for the services provided during fiscal 2018?

Hon. C. Imbert: I do not have that information with me. If the Member poses the

question, I will answer it.

Mr. Charles: Is the Minister—could the Minister state why he is satisfied, given the deterioration in relations between the US and our country, that we are getting value for money from group DC LLC?

Hon. C. Imbert: Madam Speaker, that question is based on a false premise and a fallacy. We have excellent relationships with the United States of America.

Mr. Charles: Based on that question, if we have excellent relations, why did your leader take umbrage to the Ambassador's statement about our Government?

Madam Speaker: I will not allow that. Member for Princes Town.

Mr. Padarath: Thank you, Madam Speaker. Hon. Minister, on line item (k), you indicated that one of the achievements of the lobby group was arranging diaspora events. Can you explain why do we need an American company to tell us how to speak to Trinidadians?

Hon. C. Imbert: Madam Speaker, I identified the activities that the group was involved in. I am very happy that our lobbyist was able to interact with our diaspora and strengthen and deepen ties with our diaspora in the United States.
[Desk thumping]

Counterfeit Driver's Permits

(Details of)

112. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Works and Transport:

Could the Minister state:

- (a) whether an investigation was launched into alleged reports in January 2019 that a foreigner paid \$1,500 for a counterfeit driver's permit;
- (b) whether other counterfeit driver's permits were discovered to date; and

- (c) the actions taken to prevent the production of counterfeit driver's permits?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you, again, Madam Speaker. Madam Speaker, because the alleged counterfeit driving permit was not issued by the Transport Division of the Ministry of Works and Transport, the Licensing Office, there was not sufficient information to launch an investigation. The only information available to the Licensing Office was as outlined in the newspaper report.

It is noteworthy that the police have, over the years, discovered several counterfeit driver's permits and have sought the assistance of the Licensing Office to bring the holders of these permits before the court. To counteract this, at the beginning of 2017, the Transport Division launched its new driver's permit system which contained several enhanced security features to ensure that counterfeit permits are easily detected. I thank you.

Madam Speaker: Supplemental. Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, has anyone been held accountable for those counterfeit permits thus far?

Sen. The Hon. R. Sinanan: Thank you. Madam Speaker, the specific driver's permit in question was not issued by the Licensing Office, so we could not hold anybody accountable for issuing it there. However, there are ongoing investigations at the Licensing Office for several transactions that are being investigated now by the police. I thank you.

Landslide at Pluck Road

(Status of Repairs)

113. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Works and Transport:

Further to the response to House of Representatives Question No. 187 on April 27, 2018, could the Minister provide a status update on the commencement date for repairs to the landslide at Pluck Road, San Francique?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):

Thank you again, Madam Speaker. Madam Speaker, repair to the landslip is very complicated and not a quick fix. However, the Ministry is making every effort to ensure that the road remains passable while awaiting the engineering designs and ultimate construction.

Further to my response on April 27, 2018, regarding the landslip along the Pluck Road and San Francique, the following status update is noteworthy. The Pluck Road and the San Francique landslips have been included under package eight of the Landslip Repair Programme, phase two. This package consists of approximately 12 landslips. Negotiations have been completed with the design consultants who are being procured through NIDCO. The design period is approximately 10 months for package eight.

A note is being prepared seeking Cabinet's approval for the award of a design consultant contract. Upon receipt of this approval and pending receipt of the availability of funding, the contract will commence. All things being equal, the design construction can commence by the end of May 2019. Upon completion of the designs, procurement of a contractor to conduct the walls would begin. Cabinet approval would then be sought to award the construction contract. Upon receipt of the approvals and pending receipt of the availability of funding, the construction contract would commence. All things being equal, construction work can commence by September 2020. I thank you.

Madam Speaker: Supplemental. Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, on the 27th of April, 2018, *Hansard*, are you aware that it was recited here that this particular landslip has been deemed critical and has been included in the BLT Programme? Would you agree with me, hon. Minister, if something is critical, would it take four-plus years to try to commence and to construct this landslip?

Sen. The Hon. R. Sinanan: Thank you. Madam Speaker, there are several critical landslips in Trinidad and Tobago. This has been deemed critical and it is on the BLT Programme. The landslip programme is part of the BLT Programme; however, this is not a simple landslip. This was repaired sometime between 2010 and 2015 and it failed. It failed. So it is on our critical list, but it has to be designed and it has to be done in a way that it will not reoccur in the future. The Ministry of Works and Transport, as early as yesterday, was working on the landslip to ensure that it remains passable. Thank you.

Madam Speaker: Supplemental. Member of Oropouche West.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, are you aware that this landslide really poses a serious threat to the life, limb and safety of the persons living adjacent to this landslip?

Sen. The Hon. R. Sinanan: Madam Speaker, I have visited this landslip on at least two occasions, and the risk and the threat that exists there, existed between 2010 and 2015. However, as I said before, it is not a simple landslip and the Ministry of Works and Transport yesterday had a team there doing rehabilitation work to ensure that the road remains passable until the process can be completed. Thank you.

**Pluck Road, San Francique
(Supply of Pipe-borne Water)**

114. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Public Utilities:

Could the Minister indicate the expected date for the resumption of a regular supply of pipe-borne water to residents in the area of Pluck Road, San Francique?

The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte): Madam Speaker, Pluck Road, San Francique is supplied with pipe-borne water from the Caroni Water Treatment Plant and the Desalination Plant at Point Lisas. The water supplied to this area is, as all areas throughout the country, negatively impacted by the reduction in production during the dry season as a result of reduced precipitation and increased evaporation.

On average, dry season production is 10 per cent below the peak production of 242 million imperial gallons per day in the rainy season. The impact can be expected to be greater this year, given the forecast of the meteorological division for an abnormally harsh dry season. Based on prevailing reservoir levels, the Water Resources Agency, and by extension WASA, has curtailed production out of the Caroni Water Treatment Plant to between 60 and 70 million gallons a day on average from the 75 million gallons a day in the rainy season.

The Ministry of Public Utilities and WASA have been proactively seeking to mitigate the impact of this situation through its National Public Education Campaign in the print, electronic and various social media platforms describing and sensitizing the population as to the prevalent severe weather conditions and promoting increased conservation together with other measures to increase water loss through leaks reduction.

During the rainy season, the Pluck Road, San Francique area normally receives a pipe-borne supply of water two to three days per week, Wednesday

through Friday. However, during the dry season production conditions, as is presently the case, this supply is reduced to once per week. And, Madam Speaker, I just would like to add that this once per week supply during the dry seasons predates me and this Government's existence.

Currently, water is supplied from 6.00 p.m. on Wednesday to 6.00 a.m. on Thursday. This new schedule has been published in the print media and is available on the Authority's website. Over the period Monday the 25th to Wednesday the 27th of February, 2019, the supply of pipe-borne water to the area was further disrupted by the break in one of two pumps at the Teak Village Booster Station which is used to pump water to this community.

Houses which did not receive a pipe-borne water supply on Wednesday the 27th of February were provided with truck-borne water supply on March the 2nd, 2019. The pump, as previously mentioned, has since been repaired, and supply of pipe-borne water to the area has been restored to the normal dry season schedule of one day per week from Wednesday March the 6th, 2019. Since that time, WASA has not received, on record, any new complaints regarding its supply of pipe-borne water to the area in keeping with its new published dry schedule. Thank you very much.

Madam Speaker: Supplemental. Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Are you aware, hon. Minister, from what you have just advanced, that persons in San Francique are not concerned about evaporation of water. [*Laughter*] Are you saying, hon. Minister, or are you aware that the schedule in San Francique is not working for the residents? Are you aware that it is not working?

Sen. The Hon. R. Le Hunte: Madam Speaker, as I mentioned, the reduction in water supply that presently exists in San Francique, especially during the dry

season, bringing it to one day a week is something that predates both me and this Government. During the dry season, through a historic period over a long period of time, the water supply to the people of San Francique and this particular area has always been reduced to one day a week.

I recognize that that is not sufficient, and we have been working based on work that we have been doing to the Teak Village Booster Station and what we have initiated, you should see an improvement in that supply of water during the rainy season. However, at this particular point in time, it is impossible because of all that is happening in the country which predates and which we have advised the population, it is impossible to continue to pump more water to the system because we are curtailing production of water to the citizens throughout the country which includes that particular area.

Madam Speaker: Supplemental. Member for Oropouche West. [*Crosstalk*]

Mrs. Gayadeen-Gopeesingh: Hon. Minister, are you aware that for 23 continuous days the residents in Pluck Road did not have pipe-borne water?—23 continuous days.

Madam Speaker: Member, that question is a bit vague.**San Fernando General Hospital
(Details of)**

134. Dr. Lackram Bodoë (Fyzabad) ask the hon. Minister of Health:

With regard to the San Fernando General Hospital, could the Minister state:

- (a) the expected completion date for roof repairs at the Labour Ward;
- (b) the expected date that the CT scanner in the Accident and Emergency Department will be fully functional; and
- (c) the expected date that the three non-functioning lifts at the main old building will be fully functional?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. The answer to part (a) is, the expected completion date for roof repairs at the Labour Ward is May 15, 2019. Answer to part (b), the CT scanner at the Accident and Emergency Department is fully functional. Answer to part (c), all three lifts are fully functional. Thank you, Madam Speaker.

Madam Speaker: Member for Fyzabad, supplemental.

Mr. Bodoë: Thank you, Madam Speaker. Minister, can you indicate how long the CT scanner at the A&E Department would have been down?

Hon. T. Deyalsingh: The CT scanner at the A&E was down from the 12th to the 21st of March and then for five days thereafter. The reason why we could not get it repaired faster—and I am glad you asked the question—when we bought that CT scanner, we bought it from agent A. During the time, after it was installed, the agency moved to another person, agent B. The warranty was held by agent A, but agent B had to supply the parts to fulfil the warranty aspect. It took us some time to get agent A and agent B together to fully appreciate the liability under the terms of the warranty because, as I said, when it was bought, agent A had the warranty. During the life that we had it, the agency moved from A to B, and that was the delay in getting the CT scanner back up. So we got both parties together under one roof and they agreed on the way forward and now the CT scanner is fully operational. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental. Member for Barataria/San Juan.

Dr. Khan: Minister, could you tell me if there are still any maintenance contracts for these items?

Hon. T. Deyalsingh: Yes. I think with this new one we went for an extended warranty after the first couple of years, with one year extra. But I would double-check, but I believe that is the standard operating procedure now in the RHAs for

all major medical equipment that we go for extended warranties. Thank you very much.

Madam Speaker: Supplemental. Member for Barataria/San Juan.

Dr. Khan: No. I was not speaking about extended warranties, but an additional maintenance contract on these machines, not just the extended warranty.

Hon. T. Deyalsingh: Okay. That I will check for you and get back to you. Thank you very much.

Siparia East Secondary School

(Construction Status Update)

135. Dr. Lackram Bodoë (*Fyzabad*) asked the hon. Minister of Education:

Further to the response to House of Representatives Question No. 157 on March 21, 2018, could the Minister provide a status update on the construction of the Siparia East Secondary School?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, records at the Education Facilities Company Limited, EFCL, indicate that the Siparia East Secondary School was 48 per cent complete. Madam Speaker, the last contractor, Beijing Lu Yuan Construction Corporation Limited, was terminated on January 28, 2015, due to poor performance. There has been no further progress on this project to date due to the lack of funding. Consideration will be given to resuming this project in fiscal 2019/2020. Thank you.

Madam Speaker: Supplemental. Member for Fyzabad.

Dr. Bodoë: Thank you. Thank you, Minister. Minister, in response to a similar question one year ago in March of 2018, you had indicated that the project was 48 per cent complete. Are you now confirming that no further work has been done at that site during the past year?

Hon. A. Garcia: Madam Speaker, that is exactly what I said. I was very clear. I was very clear to say that the problem is funding and nothing was done. [*Laughter and crosstalk*] Nothing was done.

Avocat ECCE Centre

(Status Update)

136. Dr. Lackram Bodoë (*Fyzabad*) ask the hon. Minister of Education:

Further to the response to House of Representatives Question No. 156 on March 21, 2018, could the Minister provide a status update on the construction of the Early Childhood Care and Education Centre at Dabie Avenue, Avocat?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, the construction of the Avocat Vedic ECCE Centre is 100 per cent complete, while external work is 98 per cent complete. Progress was halted on this project due to non-payment of outstanding invoices to both the consultant and the contractor, totalling approximately \$9.3 million. As a result, the necessary liaison and follow-up with the Water and Sewerage Authority, the Ministry of Works and Transport and the regional corporation to obtain the necessary statutory approvals and a completion certificate has not taken place. As with several unfinished projects under the purview of this Ministry of Education, efforts are being made to identify funds for the payment of outstanding sums and for a completion of the projects. However, at this time, I am unable to say when the centre will open. Thank you.

Insect Vector Control Division

(Details of Vehicles)

145. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Health:

With regard to the Insect Vector Control Division, could the Minister state:

(a) the current number of vehicles assigned to the division; and

(b) the current number of operational vehicles at the division?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Answer to part (a), the current number of vehicles assigned to the division is 71; and (b), the current number of operational vehicles at the division is 28. Thank you very much.

Madam Speaker: Supplemental. Member for Chaguanas East.

Mr. Karim: Thank you, Madam Speaker. Will the Minister be able to indicate to us what is the optimal required size of the fleet to satisfy the needs for the insect vector in Trinidad?

Hon. T. Deyalsingh: Thank you very much, Madam Speaker. Madam Speaker, ideally we would like to have all vehicles up, but the real proof of whether our insect vector is performing optimally is not measured in vehicles, but in dengue cases, because that is the real marker of how successful an insect vector division works.

Madam Speaker, because we are so effective, the year 2014, confirmed dengue cases, 331; 2015, 23; 2016, 81. But listen to how dengue cases have dropped because of the efficiency and effectiveness: 2017, 8—we went from 81 to 8; 2018, 3. So in five years, we moved from 331 confirmed to three; [*Desk thumping*] and that is mainly because while hardware is good, while vehicles are good, what we have done how is utilizing more and more technology in the form of a GIS system, and that is not a replacement for vehicles, but it allows us to work smarter instead of working harder.

So, in this country, I am proud of our insect vector response and it is manifested in our confirmed dengue cases moving from 331 in 2014 to three—three. [*Desk thumping*] That is 1 per cent now in 2018 of what we had in 2014, but we are taking all measures to bring the vehicle fleet back up to strength. Thank

you very much, Madam Speaker.

Madam Speaker: Supplemental. Member for Chaguanas East.

Mr. Karim: Thank you, Madam Speaker. Hon. Minister, I am asking the question again in a different way. Can you say whether you have sufficient vehicles and chemicals to take care of the needs of the people in terms of insect vector for this country?

Hon. T. Deyalsingh: So, we have sufficient chemicals but, as I explained, we are using our hardware in a much more effective manner by using GIS. You always speak about Singapore. This is Singapore in action in Trinidad and Tobago, relying on technology to pinpoint where mosquitoes are breeding and you have a targeted response. You have a targeted response now, because we started using GIS in 2016. [*Crosstalk*] And Member for Caroni East, sotto voce, it is not under-reporting; let me tell you why, because suspected dengue cases in 2014 was 5,157; 2015, 1,687; 2016, 1,522; 2017, 722; 2018, 644. So it is not under-reporting as you said sotto voce. It is an Insect Vector Control Division using technology since 2016 to get these outstanding results. Thank you very much, Madam Speaker. [*Desk thumping*]

Madam Speaker: Supplemental. Member for Barataria/San Juan.

Dr. Khan: The Minister mentioned that the haemorrhagic fever—

Madam Speaker: Supplemental. Member for Fyzabad.

Dr. Bodoë: Thank you. Minister, I am sure the population would be very happy to hear the reduction in cases. Can you indicate whether there has been any concurrent decrease in the number of deaths from dengue during that period? Would you be in a position to provide those figures?

Hon. T. Deyalsingh: I will get that for you, but one could logically conclude that if you have three confirmed dengue cases in 2018, which is 1 per cent of the cases

you had in 2014, I think the logical conclusion could be, could be that. Thank you very much, Madam Speaker. [*Crosstalk*]

Angostura Oil Field
(Details of Oil Extraction)

146. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Energy and Energy Industries:

With regard to the Angostura Oil Field located off the east coast of Trinidad, could the Minister state:

- (a) whether oil was extracted from this field to date; and
- (b) if the answer in part (a) is affirmative, provide the total volume extracted to date?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam Speaker. Oil has been extracted from the Angostura Oil Field off the east coast of Trinidad since January 2005. The total volume extracted up to the end of February 2019 was 77,230,914 barrels.

Madam Speaker: Supplemental. Member for Chaguanas East. **Mr. Karim:** Thank you, Madam Speaker. Hon. Minister, might you be able to give us a value of what was extracted to date?

Hon. C. Imbert: I would have most certainly provided that if you had asked it. Pose the question; it will be answered.

Refugees in Trinidad and Tobago
(Actions Taken to Address)

147. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of National Security:

Could the Minister provide the actions taken to address the refugee problem in Trinidad and Tobago?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, on November 10, 2000, in the year 2000, the Government of the Republic of Trinidad and Tobago acceded to the 1951 Convention and the 1967 Protocol relating to the status of refugees. However, there are no provisions in the Immigration Act, Chap. 18:01 or any other enabling law in Trinidad and Tobago to treat with the issue of refugees. There is no domestic law dealing with refugees.

Currently, there are two documents used by the Immigration Division and the implementing partner for the United Nations High Commissioner for Refugees, UNHCR and, that is, the Living Water Community, which outlined the actions of the representatives of Living Water Community as well as the officers of the Immigration Division, which are:

- (1) the phased approach towards the establishment of a national policy to address refugee and asylum matters in the Republic of Trinidad and Tobago; and
- (2) the interim standard operating procedures for treating with asylum seekers and refugees in Trinidad and Tobago.

Notwithstanding this, Madam Speaker, the Government of Trinidad and Tobago is currently reviewing draft legislation to deal with refugees and asylum seekers and, in the interim, we deal with matters on a case by case basis. Unfortunately, previous administrations did not address this situation via domestic legislation.

2.30 p.m.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. Given that we had a refugee/asylum

problem starting from early 2017 to now, why did the Government not act to develop a refugee policy that is humane based on best practices and recognizes the absorptive capacity of our country?

Madam Speaker: Minister of National Security.

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, despite the hype and despite the continued propaganda by those on the other side, there is no crisis with respect to refugees in Trinidad and Tobago. What we are dealing with is a situation where there are a number of immigrants leaving from Venezuela coming to Trinidad and Tobago. That does not create a refugee status. They can continue with their Cambridge Analytica ways, Madam Speaker, and continue speaking to the population in that way but the population knows better.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Would the Minister agree that the response has been ad hoc and responsive rather than proactive that given the fact that we may have between 40,000 to 60,000 refugees in Trinidad—

Madam Speaker: Member, I think you asked the question already.

Mr. Charles: No.

Madam Speaker: Minister of National Security.

Hon. S. Young: Madam Speaker, once again, the population sees that what is happening, in particular from the Member for Naparima screaming in one sentence from 40,000 to 60,000, that is why the Government is going with a sensible registration process to register all Venezuelans here in Trinidad and Tobago, and the outcome of that process will give us the real facts and not the UNC propaganda and hype.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Is the Minister then admitting that this Government in charge of this

country does not know the true number of refugees in our country? [*Desk thumping*]

Hon. S. Young: Thank you very much, Madam Speaker. Madam Speaker, as I stated, the purpose of a registration process is to get accurate information and data which will finally put the hype from the Member for Naparima to sleep.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: The Minister, in the ad hoc approach, has developed a—given a one-year capacity to work in Trinidad and Tobago, have you given thought in a strategic planned manner to what happens after that year?

Madam Speaker: Minister of National Security.

Hon. S. Young: The answer is, yes, Madam Speaker. It is certainly not an ad hoc manner, ad hoc policy came between 2010 and 2015.

Completed Master Plans for Hospitals

(Intention to Use)

161. Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of Health:

Could the Minister indicate whether the Ministry intends to use the Master Plans that were completed for the San Fernando General Hospital, the Port of Spain General Hospital and the Eric Williams Medical Sciences Complex?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. During the period September 2015 to present, this administration undertook its own evaluation in developing projects for the San Fernando General Hospital, the Port of Spain General Hospital and the Eric Williams Medical Sciences Complex using the industry best practices standard namely the American Institute of Architects and Facility Guidelines Institute. These projects include:

1. The development and upgrade of services at the central block of the Port

of Spain General Hospital including:

- Phase 1: relocation of existing services comprising central stores and engineering departments;
- Phase 2: the construction of new central block; and
- Refurbishment works at the COSTAATT building and sewing buildings to accommodate current and future needs of the Port of Spain General Hospital campus.

2. Upgrade of the existing infrastructure and supporting services to current industry standards. These key initiatives undertaken include:

- the design and installation of the following equipment at the National Radiotherapy Centre, St. James:
 - a high dose rate (HDR) brachytherapy unit installed and commissioned in July 2017; and
 - the linear accelerator equipment to be installed by May 2019 and commissioned in June 2019.
- Upgrade works at labour ward in the remodelling the colposcopy, nephrology and call rooms for delivery cubicles at the San Fernando General Hospital in 2017;
- Refurbishment of Wards 18 and 20 at the Eric Williams Medical Sciences Complex in 2017;
- Upgrade of the Accident and Emergency departments at the San Fernando General Hospital in 2017 and the Port of Spain General Hospital in 2018;
- Renovation of Wards 201 and 202 with the inclusion of an operating theatre at the Maternity Department at the Port of Spain General Hospital in 2018/2019 with a dedicated area for the

- delivery of women, and mother and child care;
- Relocation of the ICU and High Dependency Unit at the Port of Spain General Hospital in 2018;
 - Upgrade of the electrical infrastructure at the San Fernando General Hospital in 2017, the Eric Williams Medical Sciences Complex in 2018, and the Port of Spain General Hospital campus (Phase 1) in 2018; and
 - Replacement of boiler and water cooling air-conditioning chillers to improve overall supply of services and reinstate the redundancy required at Eric Williams Medical Sciences Complex in 2017 and the San Fernando General Hospital in 2018.

In addition, the development of the user briefs for both the new Sangre Grande Hospital and the Diego Martin Health Centre by taking into consideration the opportunities to provide operational efficiency, build flexibility and enable the campus to evolve and adapt to future needs of the clients. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Dr. Khan: Minister, the master plan speaks to tertiary level, high-level surgical centres, standalone surgical centres, it did not speak to—the reason I asked about the master plan is to see whether the tertiary level standalone centres are going to be developed.

Madam Speaker: The Minister of Health.

Hon. T. Deyalsingh: Thank you. As I have indicated in the public domain, once all the current hospital construction projects are finished, Point Fortin, Arima, Sangre Grande phased in, it is the intention of this administration to make centres of excellence, like in Eric Williams for tertiary services, San Fernando for certain

services. So we are considering that and let hospitals like Arima, Point Fortin be primary/secondary; Sangre Grande, primary/secondary, maybe some tertiary services, and try to have Eric Williams and part of San Fernando, a part of Port of Spain dedicated to hiring tertiary services. Thank you very much, Madam Speaker.

Madam Speaker: Member for Barataria/San Juan, supplemental.

Dr. Khan: Minister, I just want you to check to see that there were specialist plans already developed for San Fernando, Eric Williams and Port of Spain done with the assistance of the IDB at the time, and they are specifically directed to those areas, both structure and function. I just would like you to look into it.

Hon. T. Deyalsingh: Sure. Thank you.

Madam Speaker: Member for Fyzabad.

Dr. Bodoë: Thank you. Minister, I noted some of the projects at the San Fernando hospital, but one of the concerns would be the structure, the ageing structure of the old San Fernando hospital. Do any of your plans include addressing that specifically?

Hon. T. Deyalsingh: Sure, thank you. Madam Speaker, after the earthquake of September 2018, the Ministry of Works and Transport undertook a structural assessment of the San Fernando General Hospital and they gave the hospital a very high passing grade. But there are some works to be done at San Fernando, doors to be replaced, walls to be painted, floors to be redone but, structurally, San Fernando General Hospital has been deemed fit for purpose by the Ministry of Works and Transport. Thank you very much, Madam Speaker.

Inmate Upkeep
(Average Monthly Cost)

162. Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of National Security:

Could the Minister indicate the average monthly cost for the upkeep of an inmate at:

- a) the Immigration Detention Centre;
- b) the Remand Yard, Golden Grove;
- c) the Port of Spain Prison;
- d) the Golden Grove Prison; and
- e) the Carrera Island Prison?

The Minister of National Security, Minister of Communications and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, the average monthly upkeep cost for an inmate at the Immigration Detention Centre, the IDC, is roughly \$7,500. The average monthly upkeep for an inmate at the undermentioned prison institutions, that is the Remand Yard at Golden Grove, the Port of Spain prison, the Golden Grove prison and the Carrera Island prison, is on average, \$15,736.22 per month.

Madam Speaker: Supplemental.

Dr. Khan: Minister, I understand that we are talking about the Venezuelan refugee problem and giving them cards, et cetera, would you consider thinking about an amnesty for those at the Immigration Detention Centre and not just the Venezuelans because of the cost factor of \$7,500 per month.

Madam Speaker: The Minister of National Security.

Hon. S. Young: Madam Speaker, it will be considered, but I would like to say that I was at the Immigration Detention Centre this week and the numbers who are outside of the Venezuelans is a handful. So it is not as many of non-Venezuelans being held at the Immigration Detention Centre as being made out to be, it is

literally a handful.

Madam Speaker: Hon. Members, the time for answers to questions is now expired.

EXPIRATION OF QUESTION TIME

Question time having expired, question 163 was not dealt with:

Death Row

(Details of Prisoners)

163. Could the hon. Minister of National Security indicate:

- a) the current number of prisoners on death row; and
- b) the commencement year of incarceration for each prisoner on death row in part (a)? [*Dr. F. Khan*]

STATEMENTS BY MINISTERS

Legislation for Children's Protection

(Facilitation of)

The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy): Madam Speaker, I am authorized by the Cabinet of Trinidad and Tobago to make this statement. In 2015 when this administration took office we meet a suite of children's legislation, four major pieces of legislation which were hastily proclaimed in 2015 before the general elections without proper assessment of the requirements for the proper implementation for these pieces of legislation to support the care and protection of the nation's children. The subsidiary and supporting legislation was not in place and the policies, staffing and the institutions to care for children were not in place. Regrettably, Members of the Opposition and former Ministers of the previous Government knew that the country was not prepared for the implementation of the new legislation and seized the opportunity to monetarily benefit from their own inaction by taking the State to court.

The media has evidence of these court actions which used our children as pawns to unjustifiably malign the new Government, gain political mileage and abuse our democracy. So, I am not going to speak of these. This Government proceeded quickly to address the chaos created by the former Government by correcting the deficiencies in the law and enacting regulations to ensure that the Authority can properly fulfil its roles and responsibilities. We also moved swiftly to put the necessary infrastructure in place. The policy and operational environment is thus being created to support the care and protection of our nation's children. This Government is doing what must be done for our children.

Today, I have the opportunity to lay in this august House the Annual Report of the Children's Authority for fiscal year 2018. The year 2018 marked the first two full years of operation that the current board has been at the helm of the Authority. There has been significant progress in the work of the Authority since 2015. During the year under review, the Authority signed memoranda of understanding with the Counter Trafficking Unit of the Ministry of National Security and the Division of Health, Wellness and Family Development of the Tobago House of Assembly. Other agencies which the Authority has engaged in developing memoranda of understanding include all the Regional Health Authorities, the Child Protection Unit of the Trinidad and Tobago Police Service, the Student Support Services Division of the Ministry of Education and the Tobago House of Assembly. It is expected that these will be signed during fiscal 2019.

Some of the other significant milestones include the opening of an assessment centre in Sangre Grande and the south regional office and assessment centre in Sainte Madeleine. I am especially pleased to add that the Authority has officially expanded its reach to the sister isle of Tobago. A Child Support Centre was opened and there are staff operating out of the Office of the Prime Minister,

Central Administrative Services Tobago. This is part of the continued expansion of the Authority's services. In fact, very soon the Authority will open its Chaguanas and Tobago assessment centres and regional offices. The Authority's expansion of services is not only dependent on finding suitable locations, the human resources complement is central to children and families receiving a range of services. Therefore, a major thrust took place during fiscal 2018 to ensure the Authority had staff to manage its increased number of locations.

In fiscal 2018 the Authority recruited 76 persons, a notable improvement, but by no means the required complement of staff needed to deliver the quality of service our children deserve. The Authority's allocation increased by 75 per cent since 2015 and its expenditure increased by 69 per cent. This Government has been ensuring that the Authority is in a position to provide the best care for our children. I now turn to some of the noteworthy achievements of the Authority. These are:

1. The assessment unit completed 259 forensic medical examinations and 28 forensic interviews, ensuring evidence is gathered so that justice is served. The unit also completed 121 full multi-disciplinary assessments which facilitated 121 children in need of care and protection to benefit from the provision of psychosocial, medical and psychological evaluations. These provided holistic assessments of the children and their families' needs.
2. The Child Support Centre provided emergency accommodation for 36 children who were received into care. The children were able to benefit from safe accommodation in contrast to their prior living arrangements.
3. The Child and Family Services Unit, which provides support to

families and children in need of care and protection, developed a tele-social worker initiative in which low-risk cases received attention through phone communication. The tele-social worker would obtain a holistic understanding of the case while increasing the number of cases actioned.

4. A revised strategic plan was developed for the period 2018—2021. This plan is based on a system-strengthening approach which seeks to develop a national child protection system that represents a comprehensive, holistic, inclusive and coordinated approach to the protection of children.
5. The Public Education and Communications Unit conducted over 60 sensitization sessions in Trinidad and Tobago to various stakeholders which included children, police, medical practitioners, teachers, social workers, psychologists and religious organizations.
6. The national protocol in child abuse will be a major boost to guide the way the social services sector, collaboratively addresses the needs of children who present with varying types of abuse or maltreatment. The Authority is therefore working with several agencies to develop protocols and MOUs towards the development of the national protocol.

In less than two months, Madam Speaker, the Children's Authority of Trinidad and Tobago will celebrate four years of being operational. While I use the word "celebrate" it is done guardedly, because we can only truly celebrate when we are able to assure that every child receives the best possible care and protection. To facilitate this we need a society that protects children and recognizes that they have rights, particularly the right to be protected from harm.

Child protection is not just the work of the Children's Authority, it is the responsibility of every citizen, of every Member of this House, of everyone in our beloved country. I thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: Hon. Members, I have been advised that there is agreement that the Minister of Education shall be allowed 15 minutes to deliver his statement. Minister of Education. [*Desk thumping*]

National Education Policy

(2018—2022)

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. It is with great pleasure that I address this honourable House on the matter of the Education Policy Paper 2017—2022 which Cabinet has recently adopted. I dare say that the finalization of this policy is a landmark event in our nation's history, given that the last policy paper on education pre-dates the 21st Century having been promulgated in 1993. Madam Speaker, this Government saw it fit to update the education policy to treat with the needs of the 21st Century learner, including the skills and learning dispositions required in today's society and to address the associated challenges. In this age of technological advancement it is imperative that our learners are able to adapt to change, as well as build and harness competencies in order to apply knowledge to effectively solve problems. The policy is closely aligned to the Government's Vision 2030 National Development Strategy, the Caricom Regional Education and Human Resource Development 2030 Strategy and Action Plan, and the relevant United Nations instruments pertinent to education and sustainable development.

The policy was designed along the pillars of three strategic goals and derived objectives which stipulate the inputs and processes necessary to ensure that graduates function at optimal level and contribute to the Trinidad and Tobago of

the future. In this vein, the policy treats with the various themes such as information and communication technology (ICT); ICT-infused curriculum, as well as science, technology, research, engineering, arts and mathematics known as STREAM, in order to ensure that the 21st Century learner is equipped with essential competencies, technological literacy and skills, as well as the communication and problem-solving skills necessary to function productively in today's economy.

Madam Speaker, in order to effectively treat with the deficiencies and shortcomings of any system, these must first be identified. Accordingly, the Education Policy Paper assembles under one heading the areas of concern and pressing issues in education, complemented by policy prescriptions which address and treat with same. These policy prescriptions are specifically detailed for each education subsector and disaggregated into discreet areas of focus, inclusive of human resource management, evaluation and assessment, infrastructure, curriculum, service delivery, promotion of discipline, research and innovation, inclusiveness and lifelong learning and legislation.

Review of the Education Act: Madam Speaker, I am particularly pleased that this policy paper provides the basis for the long awaited overhaul and the modernization of the Education Act. The attendant legislative agenda speaks to inclusion of the Early Childhood Care and Education and the tertiary education levels, and a review of the legislative framework governing technical/vocational education and training. The Ministry of Education is working closely with the Ministry of Attorney General and Legal Affairs to make this a reality.

ECC and Special Needs Education: A key area of focus is Early Childhood Care and Education. Madam Speaker, recognizing the importance of ECCE as creating the strong foundation for future achievement, and building on the gains

made in ECCE since 2006, the policy paper identifies the need to formalize the sector through its inclusion in legislation on education. Development and implementation of a quality assurance system and implementation of standardized screening for new entrants to ECCE are also singled out for attention. With respect to special needs education, Madam Speaker, in keeping with the concerns expressed by our stakeholders, the policy identifies the need for concentration of the needs of the full spectrum of learners from challenged to gifted.

Areas of special focus include:

- provision and maintenance of educational materials, equipment and instructional resources to support special education intervention;
- upgrade of three schools in each educational district at each ECCE and the secondary levels to accommodate students with physical and sensory disabilities;
- provision of adequately equipped resource rooms at the primary level for the provision of special education assessment and intervention services;
- recruitment and training to ensure increased capacity within the special education unit;
- inter-agency, inter-ministerial collaboration; and
- implement school-based policies to support required curriculum modifications, adaptations to address individual learners' needs.

Madam Speaker, the policy also speaks to the review of the School Feeding Programme, review of arrangements with the Public Transport Service Corporation and contractors for transportation service, assessment of the Textbook Rental Programme, adjustments to the GATE programme, and continuous review of the

arrangements in place with our skills training agencies.

Tertiary Education: Madam Speaker, at the tertiary education level our main goal is to position Trinidad and Tobago as the regional centre of excellence in higher education, thus providing an opportunity for economic diversification through the potential export of educational products and services. Building on the past gains of our quality assurance agencies, the Ministry of Education must now emphasize a culture of quality and excellence within the sector which will transform the Tertiary Learning Institutions (TLI) into world-class institutions, which are globally competitive and are recognized. TLIs are expected to position themselves to contribute directly to national sustainable development through the acquisition of information on current labour market needs and trends. In this regard, this sector will address a dearth of labour market information by engaging with providers of the data needed to forecast the future landscape to inform a relevant responsive tertiary education and skills training sector.

Further, these TLIs will move to become the nexus between academia and industry to transform research into commercial opportunities and products. This will be facilitated through programmes such as the University of the West Indies Caribbean Mittlest and programme aimed at developing innovation-driven, export-oriented small and micro enterprises and will generate foreign exchange and provide employment for a significant percentage of the population.

TVET: Madam Speaker, the Ministry of Education recognizes the potential of TVET to contribute to national development. In order to tap into this potential, the Ministry has identified the following areas for attention:

- Rationalization of the sector.
- Standardization of all programmes and courses at all levels.

- Ensuring that all TVET providers offer programmes that have an adequate mix of theory and practical training.
- Development and implementation of a TVET plan and a quality assurance framework.

Madam Speaker, we continue to emphasize the need for a strategic partnerships with our stakeholders at every level. Critical to the success of our schools on a daily basis is the relationship between the Ministry and the Denominational Boards of Education. Through the policy paper we would be looking critically at the roles and functions of the boards in keeping with the tenets of the Concordat and ensuring that our partnership is strengthened to maintain the respect and religious integrity of the denominational schools, while making sure that all parties are meeting the responsibilities to which they are signed.

3.00 p.m.

Madam Speaker, I wish to thank the many stakeholders who contributed to the development of this policy paper. I was gratified by the overwhelming response, and I am confident that this is truly a national document informed by the views passionately put forward by the national community. I am also grateful to the diligent officers of the Ministry of Education who laboured over the many drafts of the policy and ultimately brought it to a successful conclusion.

Madam Speaker and colleagues, I thank you.

Mr. Karim: Standing Order 24(4), I would like to ask a question.

Madam Speaker: Proceed.

Mr. Karim: Hon. Minister, it is our expectation that we would see this policy document laid for us today. But the question I would like to ask you is, having spoken about this national policy document, what skills have you identified

through this policy paper that will be introduced at the commencement of the new academic year in September 2019, that will assist in the future competitiveness and the national development of Trinidad and Tobago for the next 50 years?

Hon. A. Garcia: Thank you very much, Madam Speaker, and thank you very much my colleague from Chaguanas East. What we have identified today in this paper is really the policy that will drive the education system from 2018 to 2022. In terms of the rolling out of the policy, and that is exactly what I think you are referring to, that roll-out has already started, and you are going to see a number of skills, a number of initiatives, a number of things that we are going to put in place, and have already put in place, so that our education system will continue to flourish and I can assure you that you are going to see tremendous improvement in the education system. Thank you. [*Desk Thumping*]

**MISCELLANEOUS PROVISIONS (REGISTRAR GENERAL,
 REGISTRATION OF DEEDS, CONVEYANCING AND LAW OF
 PROPERTY, REAL PROPERTY, STAMP DUTY AND REGISTRATION
 OF TITLE TO LAND) BILL, 2019**

Bill to amend the Registrar General Act, Chap. 19:03, the Registration of Deeds Act, Chap. 19:06, the Conveyancing and Law of Property Act, Chap. 56:01, the Real Property Act, Chap. 56:02, the Stamp Duty Act, Chap. 76:01 and the Registration of Title to Land Act, 2000 [*The Attorney General*]; read the first time.

JOINT SELECT COMMITTEE

(Extension of)

Trinidad and Tobago Revenue Authority Bill, 2018

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
 Madam Speaker, having regard to the Interim Report of the Joint Select Committee established to consider and report on the Trinidad and Tobago Revenue Authority

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Bill, 2018, I beg to move that the Committee be allowed an extension to complete its work and submit a final report by May 06, 2019. Thank you very kindly, Madam Speaker.

Question put and agreed to.

**CIVIL ASSET RECOVERY AND MANAGEMENT AND
UNEXPLAINED WEALTH BILL, 2019**

Order for second reading read.

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

That a Bill to provide for the establishment of the Civil Asset Recovery and Management Agency for the recovery of criminal property through the use of the remedies of restriction in dealings with civil assets restriction and forfeiture of criminal property and the management of criminal property, and unexplained wealth orders and matters incidental thereto, be now read a second time.

Madam Speaker, if ever there was a Bill on the floor of the Parliament that signalled what genuine political intention, will, desire and propriety is, it is this Bill. [*Desk thumping*]

This Government has spent nearly four years, three and a half years proper, in developing a robust piece of legislation designed to tackle two particular roots of concern which really go to the cause of where our society is today. Crime is the number one issue in this country and has been for many years. The safety which people feel has been the subject of written and documented concerns from our Independence come forward. Indeed, the Republican Constitution fulminations, the 1962 consultation fulminations on development of where our law went, when you look to those reports, you will see the sustained commentary that our society is concerned about rampant criminality.

Criminality has become sophisticated over the years. Criminality is certainly a business, and criminality has profit. Apart from people who engage in crimes of passion, in pure vengeance, crime is profitable. And the mechanism to tackle with crime, the ills associated with crime, certainly involves a square focus on taking the profit out of crime.

Madam Speaker, it is no secret that this Bill achieves both local concern and international perspective. I will start with the local concern, anchored in what I have just said, the concern against the prosperity in crime, the need for our citizens to feel safe within that enshrined in our constitutional rights in section 4 of the Constitution. And let us take it now to the fact that in our international obligations, Trinidad and Tobago, being a system of continuing governance, inherited a position where in 2013 we were committed to a course of action under the Financial Action Task Force recommendations, which said that we would undergo the Fourth Round Mutual Evaluation in January 2015, which happened, and that we would stand by the results of that process.

The Financial Action Task Force reviewed Trinidad and Tobago under the CFATF mechanisms. Under that, suffice it to say, we had a very poor performance. We were told that we had effectively had such serious deficiencies, which Trinidad and Tobago was not prepared to deal with then in January 2015, that we would go into supervision under the Financial Action Task Force mechanisms in the International Corporation Review Group, and also under the CFATF provisions in what is called “enhanced follow-up”.

As we took ourselves along that particular path, in particular, that Mutual Evaluation Report published in June 2016 required Trinidad and Tobago to give a high level Government commitment, and as we gave that high level Government

commitment, we entered into an action plan over a course of three years. That action plan has seen us as a Government come to the Parliament with umpteen approaches of legislative reform, and we have taken steps outside of the Parliament to ensure that we better the state and condition, in particular, of our criminal justice system.

We have been giving notice to this Parliament since November last year when we attempted to deal with the income tax legislation amendments, and we informed the country that on the 30th of November, 2018, we were required to give certain undertakings, and those undertakings given, find us in the production here today. So this Bill has a proper position in local context and under international obligation.

This Bill is tied to the amendments we made recently to cause beneficial ownership discovery in the companies law. It is tied to what this Parliament considered in the House just last Friday in the establishment of a registration system and compliance mechanisms for non-profit organizations, and this is the last piece of law to be dealt with in terms of meeting our obligations. I will say that we are required to present our face to face defence of Trinidad and Tobago in the week beginning the 21st of April, 2019. That is a matter of days away from now.

So, Madam Speaker, let us talk about the Bill. The Bill before us is designed specifically to meet national perspective, but recommendations 4, 38 of the FTAF 40 recommendations, immediate outcomes 2 and 9, effectively where we are required to comply with the consistency approach that all jurisdictions have adopted, in ensuring that one can take the profits out of crime in as efficient a fashion as possible. And that, Madam Speaker, involves us as a country

endeavouring to comply with the Vienna Convention, the Palermo Convention, the Terrorist Financing Convention, including legislative measures to allow for freezing and forfeiture without prejudicing the rights of third parties.

My friends opposite in the Opposition are not strangers to this type of law. In fact, Madam Speaker, I can tell you that on the occasions that the last Cabinet sat under the leadership of Siparia, a piece of legislative proposal was brought by the Ministry of National Security, then under Minister of National Security, Gary Griffith. That Cabinet decision as to a policy for civil asset forfeiture was withdrawn by dictate from that Cabinet on the 20th of March, 2014. If I could paraphrase what Minister Griffith, now Commissioner of Police, told me, he was beaten with a big stick to run out the Cabinet on this particular legislative reform.

So I am stating up front today that I can expect what my friends opposite would say. I know that if in 2014 they ran then Minister of National Security with a proverbial big stick away from the Cabinet on the concept of civil asset forfeiture, I know what we are expecting today. And, I am going to signal today that we expect them to come with the constitutionality talk, consultation talk, ask for a joint select committee, ask for more time, and I would like to say, Madam Speaker, right now before we get into the provisions of the Bill, there will be a committee of the whole of this Parliament, where we will go through clause by clause, [*Desk thumping*] of the law that is before us. So I am starting off by saying what I expect, because it is my humble submission that those opposite are not intent on supporting laws such as this.

Madam Speaker, let us get into the law. [*Interruption*] As Naparima says, I am right. Civil asset forfeiture ties into a concept of forfeiture or confiscation of property. In our law we have post-conviction forfeiture and we also have pre-

conviction forfeiture. I refer specifically to the provisions of the Proceeds of Crime Act. I refer specifically to the provisions of the Anti-Terrorism Act, the Dangerous Drugs Act and the Anti-Gang Act, to name four laws where we have conviction-based forfeiture already on the books of Trinidad and Tobago.

Secondly, I point out that under the Proceeds of Crime Act there is in fact a pre-conviction forfeiture that one can have, particularly with respect to cash, as we see in the provisions of section 39, and under the Anti-Terrorism Act under section 22B onward, there is the ability for the freezing and seizure of property whereas it relates to terrorist financing and property believed to come from that mechanism. So our law already recognizes the concept of a court engaging in forfeiture of property. Civil asset, however, is a recognized position of law coming from umpteenth jurisdictions. And I would like to put onto the record that as a drafting exercise, we considered at least 22 versions of law from different parts of the world. I want to put it on the record, because I have noticed writings and utterings already talking about the novelty of this law, and I would like to say, this law is not that novel. This law is for the brave to pilot and push through, Madam Speaker.

So let us go where these laws exist: the United Kingdom Criminal Finances Act, Unexplained Wealth Proceeds of Crime Act, Civil Asset Forfeiture. In Australia we have several aspects of law: the Australian Commonwealth Proceeds of Crime Act, 2002; the Western Australian Criminal Proceeds Confiscation Act, 2000; the Northern Territory Criminal Property Forfeiture Act, 2002; the New South Wales Criminal Asset Recovery Act, 1990, as amended; the South Australia Serious and Organized Crime (Unexplained Wealth) Act, 2009.

We then go to the provisions that exist in Canada, and there are a number of provinces that deal with civil forfeiture legislation. They are: the Ontario Civil

Remedies Act, 2001; the British Columbia Civil Forfeiture Act, 2005; the Alberta Victims Restitution and Compensation Payment Act, 2001; the Saskatchewan Seizure of Criminal Property Act, 2009; the Manitoba Criminal Property Act, 2004; the Quebec, an Act respecting the Forfeiture Administration and Appropriation of Proceeds and Instrumentalities of Unlawful Activity, 2007; the New Brunswick Civil Asset Forfeiture Act, 2010; the Management of Seized and Forfeited Act, 2012, and the Nova Scotia Civil Asset Forfeiture 2007 Act.

I turn further, the Jamaican experience in their Proceeds of Crime Act, 2007, Part IV as it was amended; St. Vincent and the Grenadines' Proceeds of Crime Act, 2013, Part III, as that was amended; Antigua and Barbuda, Proceeds of Crime (Amdt.) Act, 1993 as amended in 2014. In Guyana, the States Asset Recovery Act, 2017. In the Cayman Islands, Proceeds of Crime (Amdt.) Law 2016. In the Dominican Republic, Commonwealth of Dominica, the Proceeds of Crime Act, 1993. And very importantly, I turn to the "Common Law Legal Systems Model, Legislative Provisions on Money Laundering, Terrorism, Financing, Preventive Measures and Proceeds of Crime". It is a publication coming from three entities: the Commonwealth, the United Nations UNODC and the IMF. And specifically, in the model Commonwealth law, in Part VI in their publication printed, there is Part VI, a whole regime on civil forfeiture, and then when we go to Part X a whole regime on unexplained wealth orders and asset management, et cetera.

So I would like to put on the record that there are umpteen jurisdictions with multiple versions of law with a common thread to treat with civil asset forfeiture. Madam Speaker, I ask you to note, I have referred to Commonwealth jurisdictions alone. In the continent of Europe, there are umpteen representations of civil law countries that have these mechanisms and, of course, they exist elsewhere. So this

a global issue. It might be new for the Opposition, but it is a global issue. So let us get further into the structures of this law.

Now, Madam Speaker, I expect to hear the Opposition in the regular statements read by their Members, when we see it live in action in a short while from prepared speeches. I would like to put out that yes, one has to have consideration as to whether this law involves a constitutional perspective, and I state immediately and simply that this law infringes no three-fifths right. There are umpteen cases to which evidence is positioned in law, which I can take this honourable Parliament to, which I will most likely have only the full opportunity to treat with in my wrap-up, because I must go through the provisions of the Bill. But let me state at the outset, we have considered whether this legislation affects section 4(a), which is the enjoyment of property and the right not to be deprived thereof, except by due process.

We have considered the provisions of 4(b) of the Constitution where the equality before law and the protection of law have to be managed. We have considered section 5(2)(c), (d) and (f); (c) we have considered the private life aspects. We have considered 5(2)(f), where we have looked at where someone is charged with a criminal offence, the presumption of innocence and that one is not to be deemed to be guilty. You are innocent until proven guilty according to law. And we have specifically dealt with the active consideration of whether there is an invalidity of law simply because one has duty as an accused, or as a defendant in proceedings, to have a burden put upon you to prove a fact. In other words then, reversal of burden aspects.

Madam Speaker, I would like to state in short measure that the legislation certainly has a legitimate aim. The legitimate aim is to be grounded in the concept

of due process within the constitutional parameters. It is trite law that due process includes national security and protection issues. This Bill is squarely intended to tackle the scourge of crime by taking the profits of crime out of it.

Madam Speaker, when we look to the rational connection of the measures that we have adopted to treat with this, the rational provisions are set out in the terms of the Bill which I will come to. Whether we have taken the least draconian steps or the minimal invasive steps will be demonstrated by a reflection on the provisions of the Bill, and in the round, the proportional effect within the understanding, both from a common law perspective in umpteen decisions as appear through our courts up to the Privy Council. I will refer of course to *R v Oakes*, to *De Freitas*, to *Bank Mellat*, to *Nyambirai*, to *Suratt*, to *Francis*, to all of these cases which all speak to the elements of proportionality as I have described. Of course I start off by saying, Parliament, with the presumption of constitutionality, a government so entrusted and so authorized under section 2 of the Constitution, the supreme law, under section 53 of the Constitution, to make laws for peace, order and good government of Trinidad and Tobago, we are confident that this law is a simple majority piece of law.

So, Madam Speaker, let us get to the provisions of the Bill, because unfortunately the time permitted to go through a Bill of this kind is not as generous as one could hope it would be. The Bill is 75 clauses long. It has three Schedules. It is divided into eight Parts. What I can tell you, Madam Speaker, is that Part I in clauses 1 to 7 are certain preliminary matters, which I would like to focus upon; definitions in particular and certain preliminary and fundamental anchorings in the Bill.

Part II, which is clauses 8 to 19 is where we treat with the agency which is

responsible for managing certain functions of civil asset regime.

Part III, which is clauses 20 to 29, deals with the financial provisions, which are fairly standard.

In Part IV we are dealing with clauses 30 to 32 straight down to clause 57 when we treat with those in the sub-heads of property restriction order, civil asset forfeiture order and specific requirements with certain types of property. That is the guts of one main limb of the law.

Part V, we treat with the unexplained wealth orders.

Part VI, we deal with property outside of Trinidad and Tobago, and Part VII we are dealing with miscellaneous provisions.

So let us jump to the provisions of Part I. Madam Speaker, it is important to note that this Bill will, of course, in clause 2, it is to come into effect upon proclamation. Why? We will have to take the steps to establish the agency and certain regulatory requirements that are needed to be put into law.

Secondly, very importantly, let us jump to clause 3. When we look at clause 3, I would like to point out that we have a definition which starts really with what is considered “recoverable property”. Recoverable property, which is the type of property that civil asset forfeiture is going to operate on, is property of three kinds. It is criminal property, it is terrorist property or it is instrumentalities of crime. Criminal property when you look at that, Madam Speaker, is property which constitutes a benefit to a person from criminal conduct, or represents a benefit, in whole or in part, whether directly or indirectly, including economic gain, and which the alleged offender knows or suspects constitutes a benefit. The concept of terrorist property is quite simple, but when we go to an instrumentality of crime—
[*Interruption*]

Madam Speaker: Could the person with the offending device please go out of the Chamber, put it on silent and can return.

Hon. F. Al-Rawi: Thank you, Madam Speaker.

The instrumentality of crime includes, this is an important definition, property used or intended to be used in a manner wholly or in part, or in connection with the commission of a criminal offence. That is to be measured against what we find in the definition section. We are looking at criminal conduct. Criminal conduct is both for things in Trinidad and Tobago and outside Trinidad and Tobago, which will constitute an offence, and there are some balances inside of here that I want to flag. Associated property, when we get to listed assets, when we get to reasonable living expenses, those come alive when we are looking at the fact that when one can be exposed to a civil asset forfeiture order or an unexplained wealth order, either in the preliminary or final stages, there are certain important balances which says third party rights cannot be affected, interest of justice must be balanced inside of this equation, and people must have rights of appearance, of notice, et cetera, before the thing is treated with. I would like to specify what I mean by “the thing”.

Importantly I point you to clause 4, this law applies “to all recoverable property”, that is the three things, even property prior to the commencement of the Act. Why? Because crimes may be of a continuing nature. So this has potential to go into operation for offences that existed prior to the law. Is that a retrospectivity issue within a constitutional *R v Liyanage* perspective? No it is not, and that is trite law.

Secondly, clause 5, the “standard of proof”, and this is important, in any question under this Act:

“The standard of proof required...whether recoverable property should be subject to civil asset recovery shall be that applicable in civil proceedings.”

That is a balance of probabilities. Why? Because clause 6 now bites in, a Property Restriction Order in subclause (1) and subclause (2), a Civil Asset Forfeiture Order is against property only. It is described in law as an “in rem” matter, not against a person, which is an in personam matter. That drives to constitutionality as it relates to whether a person, as opposed to a thing, is being treated by process; and let me explain that.

You can treat a thing by way of forfeiture under a civil asset regime differently from a person. In the criminal law you are treating with an offence against a person, a legal entity, a natural individual, whomever it may be. That is against a person. It is at that point that the constitutional requirements of innocent until proven guilty, of due process, further provisions, of rights against self-incrimination, all of those things arrive for consideration in an in personam argument. They do not arise on a forfeiture of that thing. So when a Civil Asset Order, a Property Restriction Order or a Civil Asset Forfeiture Order comes, the claim is intituled against a thing: PBD 6303, if you are seizing the car with that registration. The property situate at “X” address, this is how the action is going to be intituled because it is against the thing.

Madam Speaker, very importantly in clause 7 we are saying that recoverable property can actually flow through hands, and we bring to life the concept of the equity of tracing as it has existed in the common law, as it exists under the Proceeds of Crime Act, in particular if you look to sections 32 onwards of the Proceeds of Crime Act. But we then provide for the safeguards. We separate out the understanding of mixed property. We separate out the understanding of where

property is no longer recoverable and, importantly, when you look to subclause (9):

“Where a person holds recoverable property and is able to satisfy the Court, on a balance of probabilities, that the property was obtained in good faith for value without notice that is recoverable property, the property seizes to be recoverable.”

So the common law equity provision hailed as sanctity in our law, where a bona fide purchaser for value without notice is not affected, is enshrined in this law. Effectively, let me translate this. It means that it is only people that have criminal conduct that have to be concerned about this, and I will like to stick a pin.

The vast majority of people in this country, the very vast majority of people are PAYE people. They are paying as they are earning under income tax law, because they are employed, and there is an easy and rational connection between their wealth and their assets. That is not the case however with the bandit on the corner, with gold chain wearing men that do not have a job all day long driving Mercedes Benz and BMWs. That is not the case with people that have umpteen assets that they cannot explain or where they are hiding their assets by not declaring who they actually are, but they are putting it under trusts or other arrangements. Those people are people who have a few things to dot their i's and cross their t's in a court of law about.

3.30 p.m.

Madam Speaker, clause 8 is where—Madam Speaker, what is the precise time to end?

Madam Speaker: 3.44.

Hon. F. Al-Rawi: Thank you. That is full time, yes? Much obliged. Madam

Speaker, clause 8 is where we establish the agency. This Civil Asset Recovery and Management Agency has a role. Number one, it receives the assets in its agency manager. Number two, it falls to be managed under trusteeship provisions. Number three, it is the entity which the Director of Public Prosecutions can ask to receive an investigation, and that agency can approach a court for a Civil Asset Forfeiture Order, Madam Speaker.

That agency, therefore, is required to be insulated from public mischief, it ought to be insulated from ministerial intervention, and that is why we say, Madam Speaker, three people are the trustees, the Civil Asset Trustee and two deputies. The Civil Asset Trustee and one of the deputies must both be attorneys-at-law appointed by the Judicial and Legal Service Commission. The third person, Madam Speaker, is to be appointed upon the agreement of the Leader of the Opposition and the Prime Minister, and if they cannot agree, it is to be done by the President after considering those positions in his or her own discretion.

Madam Speaker, we then go on to provide the protections for the trustee. We say that the trustee is to be immune from suit, criminal and civil. We say that the trustee for acting in good faith is to be immune from liability. We provide for the oath of secrecy, we deal with the declaration of conflicts of interest and non-participation in a small society such as ours that is, of course, to be expected.

Madam Speaker, we then deal with revocation of these posts and positions. We have set out best-in-class constitutional arrangement, but very importantly, we make sure that their terms and conditions cannot be derogated away from their best benefit as it is entrenched under section 141 of the Constitution and the other provisions of the Constitution for protection.

In other words then, we have ranked these people exactly from protection

point of view as we would a judge of the High Court, a judge sitting in superior court of record, so that they will never be beholden onto political influence as the *R v Hinds* case has so clearly set out so many years ago.

Madam Speaker, in exercising functions, we have described what the functions and powers are at clause 14 of the Bill. And 15, 16 is immunity, “Disclosure of Interest”, “Immunity of Trustee”, “Property Manager” having the discretion aspects.

Madam Speaker, clause 17 where we put this Property Manager in whom there is a vesting function. The court vests property in the Property Manager, just like a court would vest a judicial receiver, a person acting for judicial management, that person becomes seized by way of a court order which transfers the ownership of a thing across to that person, and what we say here, that Property Manager must be appointed by the President in his or her own discretion, and I ask you to look at section 80 of the Constitution as to why we do that.

Madam Speaker, 18 “Liability of Property Manager”, 19 staff and expertise of the agency. We make sure that this agency is subjected to the best provisions when we come to Part III, Financial Provisions. We allow them to manage the Civil Asset Recovery and Management Fund, and this fund, and finds umpteen precedents be they in the asset recovery information management, collation and corroboration and cooperation aspects, broadly internationally. We have a CARIN network, we have a ARIN network, we have a seized asset committee with similar purpose under section 58 and 58A of the Proceeds of Crime Act, but, Madam Speaker, when we are looking at this fund, we are saying where they money their money, from Parliament, from management of assets, et cetera, from loans, from agencies, et cetera, and what these things are to be dealt with. Those are clauses 21

and 22.

We deal with the estimate of expenditure; we deal with the financial year end; we deal with accounts being subjected to the scrutiny of the Auditor General, of course, with similarities under the Constitution arrangements. We put best-in-class IFRS reporting standards for accounting, Madam Speaker. We deal with borrowings of the Government, laying of annual reports.

So let us get down now to clause 29 which is “realized proceeds”. Madam Speaker, this agency has an order of priority for using realized proceeds. It is important, just like you would have in judicial management or receivers, that you establish the order of priority; clause 29 treats with that. Firstly, which payments are required “by virtue of section 48”, next “payment of legal expenses”, fees of liquidator/receiver and then the rest of the funds flow into the agency.

Madam Speaker, we get now to the nuts and bolts of this. Let us go to Part IV, the Civil Asset Recovery. Clauses 30, 31, 32, 33 and 34 are of important measure. 31 says—[*Crosstalk*]—if Naparima and Siparia could just keep it down—31 says:

“Where during of the course of a criminal investigation a police officer, a customs officer or the Chairman of the Board of Inland Revenue has reasonable grounds to suspect that the offence involves recoverable property...”—you can forward a report to the DPP.

Next, where the DPP is of the view that you are not going because there is an insufficiency of criminal evidence for criminal charges, but that it, in fact, involves recoverable property, the DPP can tell the agency go to the High Court and ask for the High Court to consider an initial order and then a further order which is a subsequent order.

32, before you go there, the agency is required to make sure that there is a valuation of this, that the equity is ascertained. What is the value of the property; has it been assessed by an independent standard, et cetera; and at clause 33, is where the application comes. The agency, that insulated entity in which there is no political interference cloistered in the same manner as which judges are, that agency applies for a Property Restriction Order under the provisions of 33.

The trustee must make an application in a prescribed format, it may be done *ex parte*, i.e. by itself, and it may done *in camera*. But very importantly clause 34 says that there are reasonable grounds to believe that the property is recoverable property.

And, Madam Speaker, there is a wide range of case law and there are comparatives to be found in the Proceeds of Crime Act in sections 32 to 34 in particular where we deal with reasonable suspicion, reasonable grounds for belief and this is well traversed in law, but in particular by certain cases that we have, and I would like to put that on the record quickly when we look to the cases of, firstly, that in Antigua and Barbuda *Ahmed Williams v Supervisory Authority* that is in the Eastern Caribbean Supreme Court in their hearing on 17th February—sorry, February 28th, and July 13, 2017. Also very importantly, Madam Speaker, in a very now significant case, that is the *National Crime Agency v Mrs. A* in the United Kingdom where the first Unexplained Wealth Order was traversed in a Harrods case with millions of pounds there, and I will come to that.

Madam Speaker, what we do is very importantly we say that if you get this Property Restriction Order by the agency's application after the DPP's direction, then you have 14 days and you must go and tell the other side. After you tell the other side, you then have the court being able to make any order in the interest of

justice; it can be discharged, it can be amended.

We very importantly provide that those orders can provide for reasonable living expenses, legal fees, management, et cetera, that was born in the case law coming out of Mareva injunction law, it was anchored into the Anti-Terrorism Act, into the Proceeds of Crime Act, et cetera. It is trite law that exceptions must be made for third party interests.

But, Madam Speaker, very importantly when we look to the provisions coming a little bit further, we look to the assets of exception not applying, if you have other property that can look after you. And importantly, Madam Speaker, we must look to value for money and preservation of the assets to avoid the doctrine of wasting which is, again, a very well-known concept of equity in how we treat with assets when they are under control.

Madam Speaker, clause 35 treats with variation or setting aside of Property Restriction Orders. We then deal with the right to hearing exclusion, et cetera. And, Madam Speaker, importantly clause 37 treats with third-party rights, and I will put it quite simply. If you have a legal or equitable interest in the property, and if you are deprived of it, et cetera, we make sure to carve out in this court that the court can listen to you, provide the relief for you. You have the due process preservation, you have the right of fair hearing aspects, you have the right of variation of that interim order before it is made final. And, Madam Speaker, what we do very importantly is, we limit the life of this order, as you will see in 39, to 90 days. So as the interim order is made, you have 14 days to serve it, all third party rights are heard, due process happens.

Clause 39 says the order will only survive for 90 days unless the court treats with it further, or if it is discharged. And we give specifically the third party

rights, and then we go through in the rest of the clauses how you must give notice, who you must give notice to. The right effectively of the interest of justice argument prevailing so that you do not exclude unwittingly a class of persons who may be affected by this kind of law.

We deal with the enforcement provisions abroad and, Madam Speaker, at the committee stage I will, in fact, propose that we consider an application of this law, a broadening of clause 34 in particular to include people who have absconded from the jurisdiction, and people who are dead. Why? There are people who have left this country owing money, having engaged in criminal activity who are in non-extraditable jurisdictions like Panama, I will say openly, who ought to find themselves the subject of this law.

Madam Speaker, of course you must put in the compensation requirements as we have in clause 43, because if you are put out by way of the order of the court, you should very much have the right of compensation.

Hon. Member: Well said.

Hon. F. Al-Rawi: Civil Asset Forfeiture Order, clause 44 onward. Madam Speaker, clause 44 is where the agency applies for the High Court to go into a Civil Asset Forfeiture Order. Again, we specify there is a right in rem, meaning there is no person involved so there is no issue of the criminal law applying, this is civil law application within the construct of the many judgments that exist around the Commonwealth to say, civil law is different from criminal law, and the concept of treating with property via civil law is well known. It is in the common law, it can actually happen, the freezing, leading to forfeiture can happen in the process of in Mareva injunctions in particular, even with penalty clauses are put to ensure compliance of orders from the civil clause.

Madam Speaker, we deal with the applications for the orders. We deal with the grant of a Civil Asset Forfeiture Order in clause 45, and here is where we say what the court must be satisfied with, and we set out what the grounds are for the court to grant this order in final form on an inter parte basis, meaning both parties must be heard and third parties with full invitation. We make the exceptions for payment, for living expenses, for rent, for mortgage, for whatever it may be, we then treat with the assets in the case of death or distance.

And, Madam Speaker, when we deal with agency being vested in clause 46, we deal with the notice of the grant of the order and making sure that it is publicly known so that there is a wide circulation before that property in a court process is treated with inconclusive form.

Madam Speaker, we then treat with the various variations. There are obviously rights of pre-emption in the company's law perspective, we deal with those iterations that have to be managed.

Madam Speaker, I want to come, because time is short, passing through straight down to specific requirements of certain types of property. We disaggregate the interests between real property, we have of course allowed for the phenomenon of *lis pendens* and registration of interests via the registrar, we deal with vessels meaning "ships" in the person in charge of that supervisory function, and we deal with motor vehicles. We have to deal with those three species of property. We deal with cash in bank accounts, we deal with companies and we deal with listed assets. Let us get to Part V, as time is short.

Unexplained Wealth Orders Part V, Madam Speaker, this is the dynamite provision of the law. Madam Speaker, I invite hon. Members to read in particular the Antigua and Barbuda case of *Ahmed Williams v Supervisory Authority*, and

very importantly, the hon. Mr. Justice Supperstone in the *National Crime Agency v Mrs. A*, and these two judgments—I do not have the time to go through them, I will deal with them in wrap up—treat with the propriety of civil asset forfeiture being entirely constitutional, being entirely different from a criminal process, and the fact that your assets can be treated with a way to separate you from them by due process in a constitutional way. Unexplained Wealth Orders: What this basically says is, Chairman of Board of Inland Revenue, Customs and Excise officers or police officer responsible for financial investigations, if there is a reasonable suspicion that the total wealth excludes or exceeds the value of lawfully obtained wealth, and the property is owned by the respondent who is under the effective control, those three entities, Madam Speaker, may apply to the court in writing for an order asking for a preliminary Unexplained Wealth Order [*Device rings*] and then we go through the particulars of what must be set out—

Madam Speaker: I just want to advise all Members, if they can put away their devices and ensure that their devices are on silent.

Hon. F. Al-Rawi: Thank you, Madam Speaker. In the three minutes I have left, the Unexplained Wealth Order provision has immediate precedence in section 32 of the Proceeds of Crime Act, there are grounds set out there. The Unexplained Wealth Order is where St. Vincent and the Grenadines have reported that their once gold wearing, “blinging” bandits on the streets no longer parade upside and inside of any place across their country enticing young people to join a gang activity because they realize that they will face the hurdle of Unexplained Wealth Orders. These Unexplained Wealth Orders are done in the due process environment, they have been the subject of case law which determines them to be constitutional.

Madam Speaker, the grant of the Unexplained Wealth Order leads to a potential forfeiture, again, in a due process environment after notice is given where the defendant has an opportunity to traverse the case against him. And what we do in this particular case is, we call upon the defendant to explain his wealth. That as I mentioned in section 5 of the Constitution is not an obligation which is unknown to our existing law. The fact that a defendant has to prove a fact, is entirely constitutional. And who better to explain how you bought your house, how you have a mansion worth X or Y, how you have a car, and who better to explain that, Madam Speaker, than the person that owns it, because not everybody is brave enough to leave their name on a record for full public inspection.

Madam Speaker, the rest of it, property outside of Trinidad and Tobago in clauses 68 onward we treat with. And in the miscellaneous provisions we deal with the harmonization of the consequential amendments to the Proceeds of Crime Act, et cetera. But, Madam Speaker, I would like to say, as I come to a quick conclusion there not being enough time, this law went through two and a half years of consultation.

The Law Association in particular we waited on their comments for 10 months straight. We made sure that it made the round, there are 5,000 attorneys-at-law on the record, and every last one of them registered with the Law Association received this Bill.

Ten months after agitating the Law Association in particular, after dealing with the Director of Public Prosecutions, the Criminal Justice Adviser, the people that drafted the laws for St. Vincent and the Grenadines, the UK experts that assisted us in this law, dealing with the Financial Action Task Force, the UNODC, the IMF, after dealing with all of these laws and looking at the constitutionality of

this law, this law today defines which side of the fence you are on. This law gives Trinidad and Tobago a chance to take the Proceeds of Crime, and I beg to move.

[*Desk thumping*]

Question proposed.

Madam Speaker: Member for Caroni Central. [*Desk thumping*]

Dr. Bhoendradatt Tewarie (*Caroni Central*): Thank you very much, Madam Speaker. Attorney General, before I start, I just want to ask you a question based on what you just said which is, did you mean that the Law Association responded, did not respond or what? I did not quite understand.

Mr. Al-Rawi: Written comments, after 10 months of requesting them, because they asked on numerous occasions to extend the time. They wanted ample opportunity, so we literally waited 10 months for them, and we only brought this Bill after we had received their comments and made adjustments in line with their comments.

Dr. B. Tewarie: Thank you very much for the answer, Attorney General. Madam Speaker, I listened to the Attorney General and I am not a lawyer as you know, so I will not deal with the fine points of the law, but I do want to respond to some of the issues, and I want to raise some issues of my own.

The Attorney General said that he spent four years to address two particular roots of concern; the reality of crime as a business, and I want to say that I agree with the Attorney General that crime is a business and this is a matter that should be addressed.

And secondly, that he wanted to take the profits out of crime, and I want to say that I agree with him on that approach. I do not think that people should be engaged in any manner of criminal conduct, benefit from it and simply proceed in

the society as if it were okay, and I want to say that I fully agree with those things.

But there are issues in the Bill that we need to take into account, Madam Speaker, for instance, the standard of proof in this legislation is an issue that requires some attention and, I think, is cause for concern. I think many of my colleagues on this side would agree that the standard of proof is quite low and there is a burden on the citizen to prove his or her innocence that is quite great.

Now, the Attorney General did refer to that in his presentation indicating that there was no violation of constitutionality and perhaps that is so, but I think that there is an issue here that we need to interrogate.

Normally, when you go before a court of law, the level of proof that you require is “beyond a reasonable doubt”. That does not appear in this, and I understand the difference—although I am not a lawyer, I understand the difference between civil and criminal proceedings. So, we do not have that issue here.

There is also the concept of clear and convincing evidence. That does not appear in this Bill at all, so the standard of proof is lower than these two.

Then there is a concept of preponderance of evidence. That is not existent in this law either and what we have here is really a situation in which in 58(1) of the Bill, the Bill talks about “reasonable suspicion”, so it goes beyond “probable cause” and talks about “reasonable suspicion”, and I want to look at that for a minute; clause 58. It says here, Part V Unexplained Wealth Orders:

“Where Chairman of the Board of Inland Revenue Customs, a Customs and Excise officer or a police officer to the branch of the Police Service responsible for financial investigation reasonably suspects that—

- (a) the total wealth of the respondent exceeds the value of his lawfully obtained wealth; and.

(b) and the property is owned by respondent or is under his effective control,

he may apply to the High Court in writing for an order...”—

—and then it proceeds with that.

So in my view there is a low standard of proof requirement, and I want to ask the Attorney General, given his articulation and position on the Bill whether that is the best that we can do in this Bill? And whether it is right to keep the bar so low in a Bill as important and as significant in its implications as this? So that is my first question.

This law also concentrates on the property, not the owner. The Attorney General was at pains to say that on a number of occasions, and it is my view that the innocence of the owner can be lost in such an approach.

Now, I have raised here in relation to other Bills the fact that this, the presumption of innocence before guilt is very important, and you cannot write legislation on the assumption that everybody is guilty. [*Desk thumping*] And I want to look at clause 6 of this particular Bill to see what it says. Clause 6 says:

“(1) A Property Restriction Order under this Act is an order *in rem* against property believed to be criminal property, terrorist property or instrumentalities of crime.

(2) A Civil Asset Forfeiture Order made under this Act is an order *in rem* against property which is criminal property, terrorist property...”—et cetera, so this clause 6 is the one relates to it.

Now, what this does in fact, Madam Speaker, is that it makes provision for a person’s property to be taken away even if a person is not guilty of a crime. Okay? So the separation of the property from the person who might own the property

creates the conditions in which the AG is asking and explaining to us, that it is admissible in law to seize the property even though no crime has been proven against the individual.

And I want to ask, Attorney General, is it reasonable to label something as a criminal property, when the property deemed “criminal property” is not aligned to a criminal prosecution and conviction? [*Desk thumping*]

The third point that I want to make in asking the question has to do with the establishment of an agency, the “Civil Asset Recovery and Management Agency” which the AG talked about. Now, what is the job of this agency? The job of this agency is to manage the seizure and disposal of property deemed to be “criminal”, “terrorist” or an “instrumentality” under this Act.

The first thing that I want to ask is, whether given this law and given the public procurement law which also has to do with the disposal of property, whether the process identified in here in the law for the disposal of property is also covered by the procurement law, the aspect of disposal of property in that procurement law?

And I feel that it is important to ask for that because the procurement law asked for a certain orderly process of disposal of law, and one of the things that I am going to raise here as we look at other jurisdictions is in fact that the forfeiture could be used even by an agency that is said to be insulated, as the AG raised this, that agency could in fact be an agency that is given to an accumulation of property.

So, I want to look at clause 8 in the Bill here which deals with this matter.

“There is hereby an established an agency to known as the Civil Asset Recovery and Management Agency (hereinafter referred to as ‘the Agency’) which shall be responsible for the recovery, management and disposal of

criminal property, terrorist property or an instrumentality under this Act.”

And then it goes on to explain how it will be constituted in the rest of the pages.

Now, when we look at instrumentality on page 22, we see this that “instrumentality of crime” or “instrumentalities includes—And then it defines what it includes:

- “(a) any property used or intended to be used, in a manner, wholly or in part in, or in connection with the commission of a criminal offence; and
- (b) property that is used, intended or allocated for use in financing of terrorism and terrorist acts or by terrorists organizations;”

But by the very fact that it says, “includes”, it means that it can be more than these two things identified here, and therefore it gives a wide range of jurisdictional opportunity to the agency, and I wonder if this wide perspective is what the Attorney General wishes to have in this particular Bill.

4.00 p.m.

Now, we have a problem with clause 31(2) when you take it together with 31(1) and 33(5) and 34(1)(a) and (b) and 35(2). What do all of these add up to? Let us look at 31(1). 31(1) says:

“Where during the course of a criminal investigation a police officer, customs officer, or the Chairman of the Board of Inland Revenue has reasonable grounds to suspect that the offence involves recoverable property he may forward an investigative report to the Director of Public Prosecutions.”

Then 31(1) page 39, sorry, no, 33(1). Sorry.

“Upon referral of a matter by the Director of Public Prosecutions under

section 31, the Agency shall apply to the High Court in the prescribed form for an order to be known as ‘a Property Restriction Order’ to prohibit a person from dealing with recoverable property until such time as an application can be made to forfeit the recoverable property under this Act.”

And then at 33(5) it says:

“A application under subsection (1) or (2) may be made *ex parte* and without notice.”

So it means, Madam Speaker, that you can do this without the knowledge of the person. The confiscation of this property can be done without the knowledge of the person. And then you have 34(1):

“Where an application is made under section 33(1) and the High Court is satisfied that—

(a) there are reasonable grounds...that the property to which the application relates is recoverable property or associated property;”

—and it goes on.

Now, how is this to be determined, Madam Speaker, if the Director of Public Prosecutions has not yet determined what action he will take? I feel that there are real problems with the contradictory intention of these particular clauses, and I would ask the AG to please look at them again to see whether I am right, or, as he may well tell me, I have nothing to worry about and I am making a mistake. So, 35, sorry, 34(1)(a) and (b), did I deal with that? Okay, and 35(2):

“Before varying or setting aside a Property Restriction Order the High Court shall give any person who may be affected by its decision an opportunity to be heard.”

And I am raising this one because it also is linked to the *ex parte* injunction

basically, the ex parte decision. So, you have a right to be heard, but you have the matter being heard ex parte.

What do all of these add up to? And are there in fact contradictions in this Bill that we have to be concerned about that deprive the individual who is affected of rights that he may normally as a citizen be entitled to?

Now, if you look at 45, clause 45, and the way criminal property is defined: “criminal property, it is not necessary to show that the property is derived directly or indirectly, in whole or in part, from a particular offence, or that any person has been charged in relation to the particular offence, only that it is criminal property;”.

And it goes on to be explained, to be identified, to be elaborated on, on pages 50 and 51.

So, the person is not a convicted criminal, but the property is determined as being criminal property. And I think that there is some explanation that we need to have or understand or appreciate, and given the low bar that I mentioned in terms of proof, I think it is important to address this particular situation.

We are also concerned that the issue of rights is hardly mentioned in the Bill, and the first time that it is really mentioned is on—perhaps it is not the first time, but it is the first time it strikes you, is in (7), sorry, 48(7)(a):

“...the rights of any person who holds the associated property or who is the excepted joint owner...”—et cetera.

So that is for the person who might be affected in a situation in which someone else is having his property confiscated, but the other person has rights to the property.

Now, does this Bill take into account properly the human and civil rights of

individuals, and the rights to property ownership? Now, I know that the Attorney General “took in front” and he raised those issues and indicated to us that he in fact has properly addressed these things, but when I look at this carefully I am not sure that it does, Madam Speaker, because it too easily moves into the court without any criminal action against the individual, identifying the property as criminal property and then taking it into the court in order to confiscate the property.

The other issue I think that we ordinary citizens I think would have concern about is the retroactive nature of this Bill and where it leaves an innocent, unsuspecting owner. I know that there is a provision in the Bill where you can go to court and explain that you are innocent in the process, that you had no original knowledge, that you had no knowledge of the situation and that you simply bought the property. But I am not sure that it is reasonable to ask somebody to do that. If you have a property that has changed hands over four or five people, six people, and you find yourself somewhere in the middle there or maybe the end user, I mean how do you know? Do you go and search all of these things to find out if this property is a criminal property before you buy it? I mean, you know how many people in this country, if this were the law, could be locked up for this? Because you end up buying the property without investigating, you do not do the investigation, your lawyers would not search that, they would search the title. They would not search the criminality of the owner and therefore this is an issue, I think, that one needs to be careful about. Suppose you inherit a property, Madam Speaker, and the person whom you inherited it from bought it without knowledge, or even with knowledge that it was a property that came out of criminal hands, but you do not know. Would you be penalized for that process? And I think one has to be careful how you manage the law. I mean, you cannot write the law even

though you want to deal with the guilty, you also have to write the law to deal with the guilty but to protect the innocent. [*Desk thumping*]

Now, the acquisition of property before this law is passed is now subject to this law, Madam Speaker. The Attorney General in fact mentioned that in his own presentation. And I think that could be very, very problematic. If you have a situation in which a property was bought many years before the passing of this law, when you bought the property, you bought it under the existing laws at that time, or when transactions took place before this law they took place under the laws of that time, can you now pass a law and on the basis of this new law begin to apply the law to a time when the law did not exist, and therefore during the period when you acquired the property no laws would have been broken? [*Desk thumping*] I think we have to be a little more thoughtful about this. I am not saying that you did not think about it.

Mr. Al-Rawi: What did you make laws about?

Dr. B. Tewarie: No, you could reply. I hope you would reply. But, if somebody—I mean, we had a famous—[*Interruption*] Anyway, I do not want to use examples that—

Madam Speaker: Do not be distracted.

Dr. B. Tewarie: I do not want to perhaps use examples that might be disconcerting. [*Laughter*] So, the main point I am making, you pass a law today, somebody 20 or 30 or 10 years ago acquired a property, or five or six different people had change of hands of property until it got to you. All of them having bought the property before it got to you, and you having bought the property before this particular law, and all the transactions were done legally, how do you then become a criminal under this law?

Mr. Al-Rawi: You are not.

Dr. B. Tewarie: The property is.

Mr. Al-Rawi: No.

Dr. B. Tewarie: Well, you would explain that then. Now, given some of those issues that I have raised, Attorney General, should not this Bill require a constitutional majority, a three-fifths? [*Desk thumping*] Because, we are talking here about retroactivity, we are talking here about the rights of the individual, we are talking here about the rights of property, and I believe that the Attorney General is being, what can I say, too cavalier in taking the position that no constitutional rights are being violated here, that the requirements of the Trinidad and Tobago Constitution are fully taken into account, and I believe that this law requires a three-fifths majority, and I think my colleagues on this side would agree with me. [*Desk thumping*]

Now, can you justify a simple majority?—which is what the AG does—did—on the grounds that the Bill involves civil proceedings, which is what he argued, and is focused on property not individuals? Can you cavalierly say that that is the argument that allows you to do that? I do not think so. I think that could be tested. Who is affected by property confiscation, Madam Speaker? Who is affected by the seizure of property? Is it not the individual? Is it not the person? The family? The reputation of the person? And I do not think you could just say that because it is done by civil proceedings, calling it a criminal property, that you could do that just so and come here and pass a Bill by simple majority. I do not feel it can be done like that. Are you seeking to justify a simple majority, Attorney General, on the grounds that the property can only be seized after a judicial process? Is the AG saying that because it goes to the court, and therefore it is

subject to a judicial process based on this minimum standard of reasonable suspicion that it does not require a constitutional majority here in the Parliament?

[*Desk thumping*]

I think that a citizen, Madam Speaker, should have more protection than this. Because the question needs to be asked whether the process, though subject to the court, can be abused? And the question of abuse does arise. I am sure that the Attorney General sought to put in the necessary provisions to prevent abuse. He talked about the way the agency is set up. He talked about the protection under the court for the person who is the third party. And I am sure that he was very mindful of those things when he was doing and writing and organizing this piece of legislation. But you have to take this issue of reasonable suspicion and the fact that you are taking the matter to court, and you cannot justify that and say that because it is going to court that it is simply a simple majority piece of legislation. How come the Proceeds of Crime Act required a three-fifths majority, Madam Speaker? [*Desk thumping*] And this Bill which seeks to seize property does not? I have a problem with that. And you cannot tell me one is the property and one is the person, and that is the difference.

In many states in the United States, Madam Speaker—I know that he used Commonwealth jurisdiction, and in this Bill Essentials they used the Commonwealth countries of New Zealand and Canada and Australia, et cetera. I know that. And he used some of the Caribbean islands as well. In many states in the US they have increased the standards of proof to require proven criminal guilt before assets forfeiture can take place. [*Desk thumping*] And, this is a fact of life, and I will demonstrate it.

You have a situation here with the chairman of the BIR. I have no doubt

that every chairman of the BIR would be above board and above suspicion. But we have had many attempts here with different legislation, which the Opposition had to challenge, successfully, for information from the BIR being accessible outside of the jurisdiction of the BIR. [*Desk thumping*] That is a matter that has come up in the legislation here, and we have protested vehemently on these. I could think of the tax information treaty Bill, I could think of the FATCA Bill. I am sure it is going to come up again in others.

You have a situation of Customs and Excise officer. If you ask any of the Members opposite, including the Minister of Finance, he would tell you—if he does not want to speak in the Parliament he may tell you quietly that one of the reasons that they want to create another institution—[*Interruption*] You are a Member of the House, are you not? [*Interruption*] I am not making any controversy, man, I am just making a point. One of the reasons they want to get, want to establish a new institution to deal with Customs and other institutions is because they feel that there exists within the Customs and Excise Division a certain amount of corrupt activity. They would tell you that, and these are the people now—

Madam Speaker: Hon. Member for Caroni Central, your original 30 minutes are spent. You are entitled to 15 more minutes to wind up; are you availing yourself of it?

Dr. B. Tewarie: Yes.

Madam Speaker: And, hon. Members, can we agree to take the suspension on the completion, it would be just four minutes after?

[*Assent indicated*]

Please proceed.

Dr. B. Tewarie: So here you have an institution which itself is under suspicion now in charge of determining that you are under suspicion and bringing you to court. And then you have police officers, yes they are in charge in investigation, but I have made this point in relation to another Bill. If you are going to give this kind of authority to somebody in the police service, give the authority to the Commissioner of Police [*Desk thumping*] because he has constitutional authority, and let him pass on to whichever officers, now accountable to him, who could do these things, whether they are investigation officers or whatever it is.

When you look at the Civil Asset Trustee, yes some attempt is made to have jurisdiction of the Judiciary, and then you have the Leader of the Opposition and the Prime Minister, but I do not know if that is enough insulation, and then the Property Manager has the powers of a receiver, and they all have under this Bill, Madam Speaker, immunity basically from any kind of challenge or prosecution, you know. That agency has complete authority and control.

But then you have the other issue where the Minister of Finance is involved in a key role, 34, and although the institution properly accounts to Parliament, the Minister of Finance does have jurisdiction over the Authority, and does provide actual direct financing to the institution. So the political insulation that you talk about, I am not talking about this Minister of Finance, but any Minister who is involved, if you want political insulation you have to make up your mind that you cannot have a situation in which the institution can be in fact subject to any kind of political influence.

So, I was talking about the United States jurisdictions, Madam Speaker, and the fact that they have changed a number of things.

“In many states,…”

I am reading here from a document, I will let the *Hansard* know what it is—“Legis Brief”—and it says:

“In many states, the standard of proof is a preponderance of evidence.”

Okay? Which is higher than we have here. And in many others, proof not only of a preponderance of evidence, a clear and convincing evidence, making it more difficult to seize property. Then it says that:

“States are working to clarify and protect the rights of property owners by improving this process...

Opponents of civil asset forfeiture laws cite a heightened risk for abuse because in many states, law enforcement have incentive to seize property, as they receive some or all of the proceeds from its sale.”

This institution here, the agency, is not insulated from this, you know, Madam Speaker. It can become a law unto itself. You could become a property owner. And under political influence, it can become a very, very problematic institution. Because all kinds of things have happened in this country; I think you know that from the transfer of ownership of state lands to individual people, to the transfer of other assets to individual people in the process of political influence. And I am not talking about any individual or anything like that.

And then in the HR 52(12), which is a piece of law, I wanted to get one piece here though, which had to do with the fact that in certain territories they have made it absolutely necessary that the proof that is required is criminal conviction before you could seize the asset. [*Desk thumping*] Nine states in the United States—I cannot find the paragraph here now, although it is only two pages, but I can tell you in nine states in the United States the burden of proof, the trigger is criminal conviction of the individual before you can go. And then in this Civil

Asset Forfeiture Reform Act, 2014 you can see here what they are doing. In paragraph one, by striking “by a preponderance of evidence” and inserting “by clear and convincing evidence”. So they are increasing the bar.

Over here:

Where a prima facie case is made for such a defence the Government has the burden of proving that the claimant know or reasonably should have known that the property was involved in illegal conduct giving rise to the forfeiture. So you have to prove foreknowledge before you can take the property. And in making this determination the court shall consider such factors as the seriousness of offence, and so.

The piece that I wanted to get, thanks to my colleague here, the Member for Chaguanas East, in the last two years Arizona, Iowa and Virginia enacted laws changing the Government’s burden of proof from a preponderance to clear and convincing and making it is more difficult to seize property. That was in the one I was looking for. It is the one where the nine states have in fact taken the burden of proof as being a criminal conviction in the thing.

Now, as I said, the Proceeds of Crime Act requires—now, I will go on, Madam Speaker, because I know I have limited time now. Is the bar for the standard of proof too low and should it not be raised? I want to ask the Attorney General that. Is it unreasonable to argue that initiation of proceedings to restrict access to property, or to confiscate property should be after conviction for a crime and not on suspicion?

Now, secondly, are the various definitions, especially under clause 4, which is the interpretation section, are they too wide? Are the powers not too arbitrary? And can they not be subject to abuse? And I have illustrated how they can be

abused. And does this law not allow for violation of due process? Is this law, as it is, not subject to potential political abuse? When one takes into account retroactivity- related Bills like the Evidence Bill, and retroactivity, and related Bills like the Evidence Bill and others, whereas as an Opposition we have had to fight for secrecy for the BIR to restrict the potential for abuse by police operatives, and for protection against violation of human rights and privacy rights against citizens, as well as property rights, can you not see here, Attorney General, the potential for the abuse? [*Desk thumping*] And notwithstanding the fact that we agree with you that you intended in fact to insulate this particular institution. Should we not be cautious about this? And does this law therefore not violate essential constitutional protection?

Now, the AG talks about the proportionality and justice and so on, and I have a case here on my phone, in the United States, in which a convicted petty criminal involved in drugs was, disproportionately, in the view of the judge, had his property taken away from him, in addition to a jail sentence and a fine that he received. And when the matter was appealed in court the judge ruled that even though he was a convicted criminal that there had to be some proportionality between the nature of the crime and the command you were taking of the person's assets. And just to save time, I do not want to go and read it now. But, again, that is an issue, but we are dealing here not with criminals but people who are not in fact convicted at all.

Now, I understand that this is meant to be a good piece of law that protects the innocent from the guilty. I know that it has to do with drugs and guns and violence and money laundering, crime, terrorism, corruption, hidden and protected assets, et cetera. Now, I know that this is also the situation that led to this kind of

legislation the world over, and you had a situation in which you had to find other ways of getting criminals that you could not ordinarily get, given the existing law. I understand all of that. I recognize the Attorney General's position on several occasions here, when he came and said, you know, they did not get Al Capone on criminal charges for the murder of people, or the conduct of criminal activity, they got him on tax evasion. I understand that.

4.30 p.m.

I also understand that in the case of Dole Chadee in Trinidad, he was convicted for murder and not for any of the crimes that he committed allegedly related to the notion of drugs and drug trafficking and those kinds of things. I know that this is an issue but I think we have to be—I also know that there is a compliance issue with the Europeans and the European requirement to allow us to be part of a set of civilized nations in terms of the way you manage your financial system and the way you manage your financial and economic system. I know all of that. And I know we have to get off the blacklist. The AG never mentioned this, but this is one of the issues, we have to get off the blacklist, I know that, I understand all of that. But that does not mean we have to violate the rights of individuals; [*Desk thumping*] that does not mean we have to take away people's property just so; that does not mean that you have to have a Bill with such overreaching powers and overpowering clauses that you basically put the ordinary person at a disadvantage.

Now, the AG said if you are an innocent person you do not have to worry about this Bill because this Bill is only for criminals. But the problem with Bills like this, and the problem of the potential for political interference, and the problem of the potential of manipulation by officials who have the power, and the

potential for agencies such as we are establishing here for becoming self-serving institutions in their own right reality, life, the experience, the cases that we note tell us that these things do happen, Madam Speaker. And therefore, you have to always write legislation for the innocent, to protect the innocent. [*Desk thumping*]

You cannot allow a person who is innocent to find himself in a situation, him or her, all right, before the court trying to grapple with the fact to prove their innocence and to explain how they got their property and so on. I mean, there has to be some circumscribed area and there has to be some element of restraint even while you bring the power of the law against the guilty. [*Desk thumping*] And then you can seize their property, you could take all their assets, et cetera, always with the principle of proportionality at work. You must do that because you cannot take all their assets if the crime does not require you to take all of their assets. So there has to be an element of fairness and justice.

So, Madam Speaker, this is my contribution here today. I hope the AG appreciates my point of view. We appreciate where you want to bring this legislation, why you want to bring it, but given all the other legislation we have related to this and given the fact that the issue of human rights and property rights are very important considerations, I would say make this a law for the criminals and protect the innocent. Do not allow the innocent [*Desk thumping*] to go down with the guilty. Thank you, very, very much.

Madam Speaker: Hon. Members, this sitting is now suspended. We shall resume at 5.05 p.m.

4.33 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy Speaker: As we resume after tea, I recognize the Member for St. Joseph. [*Desk thumping*]

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Mr. Deputy Speaker, and welcome to the Chair this afternoon. Mr. Deputy Speaker, I take the opportunity to join the debate on the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019. In doing so, I want to heartily congratulate our Attorney General, the hon. Faris Al-Rawi, for once again bringing an excellent piece of legislation to this Chamber. [*Desk thumping*] The pieces of legislation he has been bringing over the past four years, once properly operationalized and some have already begun to, like judge alone trials, will revolutionize the way we seek and see justice in this country. He has proven to be one of the more aggressive Attorney Generals in the way he brings legislation, the way he pilots legislation and his interest to secure justice for all.

Mr. Deputy Speaker, I anchor my contribution in our *Vision 2030* handbook which I think we all have a copy of, the pocket edition. And again, we need to thank and congratulate Minister Camille Robinson-Regis who has been piloting [*Desk thumping*] *Vision 2030* for the past four years. I turn to that handbook under the:

Key Shifts: Behaviour Change.

And the fourth bullet point is where this piece of legislation is anchored, and I quote:

“Adherence to the rule of law and enforcement of strict penalties for corrupt practices;”

And, Mr. Deputy Speaker, that is why we are here today, that is why we are here today—[*Desk thumping*]

“...enforcement of strict penalties for corrupt practices;”

The other anchor under *Vision 2030* is to be found under:

“Trinidad and Tobago will have a modern legal, regulatory and law enforcement systems”—Theme II Goal 4.

And on that page it says:

“Ensure equity in the administration of the criminal justice system.

Reduce the burden on the courts system.

Strengthening of National Security”—systems.

“Increase the crime detection rate.”

And that is what this piece of legislation is here.

So this piece of legislation represents a whole of Government approach which we sometimes use, but today we are using it and seeing a whole of Government approach based on *Vision 2030* as we debate this piece of legislation.

Mr. Deputy Speaker, before getting in to what I have to say in my contribution, it is now incumbent upon me to engage the Member for Caroni Central. And I want to say upfront, the Member for Caroni Central did not disappoint because he stayed true to the UNC handbook of deflect, delay, unconstitutionality, go to a joint select and will have nothing to do with any piece of legislation that tackles white collar crime. That is the UNC handbook and UNC play by which we are now all accustomed to. Because it is their intention to go into a general election and say we accomplished nothing in the Parliament, but they will support nothing; they will support absolutely nothing.

So, Mr. Deputy Speaker, I want to put on record that civil asset forfeiture is nothing new. It has been used all around the world and it is a legal tool that allows law enforcement. It gives them the teeth to seize property that they assert has been

involved in certain criminal activity.

Mr. Deputy Speaker, the Member for Caroni Central spoke at length about the low bar and the low bar is because this is a piece of civil law, not criminal law. And I am not surprised that the Member for Caroni Central confuses criminal bar with the civil bar. Because it was their former Attorney General who made a commitment to go to the Caribbean Court of Justice and when he could not go for criminal or civil, he said, well, I am not a so and so lawyer. You remember those days? He said I am not a what?—I am not a civil lawyer or a criminal lawyer. I have no surprise that that type of non-distinction infects our colleagues across there.

Mr. Deputy Speaker, the history of civil asset forfeiture, the roots for this is deep in the common law, they run very deep in the common law. And the AG was at pains to point out all those countries. But when one traces it even further it has its roots in Roman and Roman-Dutch law; hundreds of years old, hundreds of years old. And what it allows, it gives law enforcement the ability to seize assets of ill-gotten gains, whether those gains are here, whether those gains are in Panama, whether those gains are in the United States, of criminals using property and the proceeds to fight alleged other criminals. That is what we are here about today. And the Member for Caroni Central spoke about everybody but he did not try to defend the taxpayer who very often has to carry the brunt of white collar crime and how we treat with white collar crime. [*Desk thumping*]

Mr. Deputy Speaker, if the UNC was in office in the U.S. under—during the time of Al Capone, he would never have been convicted. Because they would never, ever, ever, have brought up Al Capone for tax evasion. You know why? Because what he was convicted of was, prostitution, gambling and murder. But as

criminals become more and more sophisticated, law enforcement has to find other ways to catch people. And it is because of that legislatures around the world look to novel methods, new methods to combat the whole issue of white collar crime. And it cannot be separated by purely criminal and civil standards. And I want to quote, Mr. Deputy Speaker. We all know the RICO Act, Racketeer Influenced and Corrupt Organizations Act, that provides for extended criminal penalties and civil cause of action.

So the United States could do it, but we must not do it here. Penalties for civil course of action for acts performed as part of an ongoing criminal organization. That is what we are about today, looking for ways that are new to Trinidad and Tobago but tried and tested in other jurisdictions as how to combat this scourge of white collar crime. And the population ought to understand that where there is white collar crime, as night follows day it will be followed by blue collar crime. The little punk that holds you up and steals your car, which is a blue collar crime, where do you think that car goes to? Who owns the chop shops? Who dismantles the car? Those people are unseen, unheard of. Those are the ones you want to go after and that is what this Bill will do. That is what this Bill will do.

Mr. Deputy Speaker, I want to show you how effective other jurisdictions are when it comes to season the proceeds of criminal action. And I am quoting from an article, *The Associated Press*, November 07, 2006.

“Two face jail time, will pay millions after guilty plea in fraud scheme.”

And I quote, Mr. Deputy Speaker:

“Gutierrez had to forfeit about \$22 million in property and assets...”—that is what this Bill is about, Gutierrez, and I will tell you who Gutierrez is later—

“including thousands of dollars in jewelry and artwork. He must pay restitution to Trinidad and Tobago for an amount of money that is yet to be determined, but will not exceed \$4 million. He will also pay restitution to several banks including \$3.6...”—these are US dollars—“to Colonial Bank, \$3.2 million to Wachovia Bank and \$2.9 million to the International Bank of Miami.

As part of the plea agreement, Gutierrez faces up to six years in prison and Hillman-Waller faces up to five.”

Gutierrez and Hillman have to do with the corruption coming out of the Piarco Airport in Trinidad and Tobago. They could have gotten restitution, they could have faced jail time in the United States in a short space of time, but in Trinidad and Tobago we are taking 18 years, at the expense of the taxpayer to conclude our part in it. That is why our friends opposite want nothing to do, nothing to do with any piece [*Desk thumping*] of legislation that tackles white collar crime. But other jurisdictions can do it. They can bring down Al Capone, they can bring down Gutierrez, they can bring down Hillman, but we have to wait 18 years for a preliminary enquiry into the corruption at Piarco and that is a burden on the taxpayer after 18 years. No wonder the Member for Caroni Central does not want this piece of legislation, no wonder, no wonder.

Dr. Tewarie: Would the Member give way?

Hon. T. Deyalsingh: Sure.

Dr. Tewarie: Mr. Deputy Speaker, could I ask the Member to refrain from misinterpreting what I said. Let him speak to the issues. I said no such thing.

Mr. Deputy Speaker: Go ahead, Member for St. Joseph.

Hon. T. Deyalsingh: Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, the

Member for Caroni Central was at pains to talk about *in rem*, *in personam* as if these two concepts are alien to us in law. The Member for Caroni Central in the UNC playbook was at pains to talk about what is *in rem*, what is *in personam*. Let me quote from a legal document: “A Penal Legacy of the Past”.

“An *in rem* civil action”—which is what this Bill is about—“is an action against the property as opposed to an *in personam* action which is against a person.”

Let me repeat: an *in rem* civil action is an action against the property, ill-gotten gains, as opposed to *in personam*, which is an action against a person. In the context of forfeiture—which is what this Bill is about—in the context of forfeiture, this implies that two different actions for the same offence may take place against a defendant, one against the person for criminal action and one against the property, an *in rem* action.

That is all we are here about today, Mr. Deputy Speaker. That is all. But our colleagues opposite as I said, will have nothing to do with this piece of legislation.

Mr. Deputy Speaker, in speaking about the taxpayer burden of white collar crime, this Bill has as its objective, the civil asset recovery and management and unexplained wealth which aims to provide for the establishment of the civil asset recovery and management agency for the recovery of criminal property. So that is the basic objective. But what is the strategic intent, and this is where the Attorney General needs to be congratulated. The strategic intent is this, because civil asset recovery as I said has been used since Roman times and Roman-Dutch times, it is used in South Africa, it has been used as a mechanism in all of these countries to address organized crime. Remember the example I gave you, the little punk who comes with a gun and steals your car? He is not the organized crime boss. The

chop shop behind a big tall wall, that is the person you want to go after and that is the person we cannot catch. That is the type of property we want to seize. That is what we are after.

So that is the strategic intent, but in explaining that, Mr. Deputy Speaker, and this is where my friend, the Member for Caroni Central needs to understand that we cannot be going after organized crime who have the best criminal lawyers and I have said before in this Chamber, you will get no support for these from the criminal lawyers. I have said that before and I will say it again. You will get no support for this this type of legislation from the criminal lawyers. It is not in their interest.

So, in the South African legislation where they have their own POCA, Proceeds of Crime Act, it states—the Preamble of POCA states:

“And Whereas there is a rapid growth of organised crime...”—which—
 “present a danger to public order”—listen to the type of language.

Organized crime in POCA in South Africa, they are stating it poses:

“...a danger to public order and safety and economic stability, and have the potential to inflict social damage.”

That is what we are about here today, to save the social fabric of this country where while collar crime which is a precursor to blue collar crime, affects the social fabric of this country. And why our friends opposite will not support it, only they themselves know.

No piece of legislation we have brought here—explain your wealth, Bills to deal with land title, because land and property is where you hide your ill-gotten gains. The UNC will not support anything that lifts the veil to know who owns property, who owns land, the whole thing about beneficial ownership, they do not

want to lift the veil on who owns seven properties where, they do not want to lift that veil and we must ask ourselves, why, why, Mr. Deputy Speaker.

So I have gone through the objective, I have gone through the strategic intent. To achieve the objective and the strategic intent, the Bill now gives us as a Parliament, as a public, the following tools: restriction in dealings with civil assets, restriction and forfeiture of criminal property, management of criminal property and Unexplained Wealth Orders. Why this cannot be supported by our colleagues opposite, is beyond me. And what is an Unexplained Wealth Order?

Let us put it again on the record. An Unexplained Wealth Order simply means an Order of the High Court, so there is due process. It is an Order of the High Court made by which the respondent is required to pay to the State, the assessed difference between the total value of his wealth, and his lawfully acquired wealth. How many of us know people who have an 8.00 a.m. to 4.00 p.m. job and have four and five properties? How many of us have an 8.00 a.m. to 4.00 p.m. civil service job or any kind of other job, in the private sector, as a whatever and have four and five properties. But, Mr. Deputy Speaker, what is the justification and where do we find the justification for civil forfeiture? It is to be found in the words and writings of that famous legal scholar, Blackstone. And Blackstone says:

“In general, forfeiture renders property guilty of wrongdoing.”

So you are assigned guilt to a property. And he justifies it as follows, Mr. Deputy Speaker, if I may be permitted to quote a paragraph:

“The natural justice of forfeiture...is founded on this consideration: that he who hath thus violated the fundamental principles of government, and broken his part of the original contract between king and people,”—you see how old this concept is? Between king and people? This is not new to the

world—"hath abandoned his connections with society..."

What Blackstone is saying way back then, is that once you engage in this type of illegal, illicit activity, which threatens the fabric of society, which corrupts a whole society, you have abandoned your connections with society, you have broken your:

"...part of the original contract between king and people, hath abandoned his connections with society, and hath no longer any right to those advantages which...belonged to him as a member of the community; among which social advantages the right of transferring...property to others..."

Mr. Deputy Speaker, the point I am trying to make, civil asset forfeiture whilst new to Trinidad and Tobago, when you combine this with the RICO Act in the United States, are novel ways to treat with the increasing sophistication of criminals and organized crime. And that is all we are about here today, how to treat with the scourge of criminality, organized crime which has visited these shores over and over. Mr. Deputy Speaker, contrary to what the Member for Caroni Central is saying, these laws are not going to be applied frivolously, they are not going to be applied to the ordinary citizen and I cannot understand the UNC. If you have nothing to hide, what is the problem?

Mr. Charles: Dictatorship.

Hon. T. Deyalsingh: What is the problem?

Mr. Deputy Speaker: Member, one second. Member for Naparima, keep in mind that once you speak out there I am able to hear what you are saying, okay? Just for the records as I heard it, just retract it please.

Mr. Charles: Retracted.

Mr. Deputy Speaker: Stand properly and retract it.

Mr. Charles: Retracted.

Hon. Members: Stand up properly.

Mr. Deputy Speaker: Okay Members, thank you. [*Crosstalk*] Thank you, okay. Proceed, St. Joseph.

Hon. T. Deyalsingh: Mr. Deputy Speaker, [*Crosstalk*] let me respond to Naparima—

Mr. Deputy Speaker: Silence.

Hon. T. Deyalsingh:—this has nothing to do with dictatorship. You know what is dictatorship? When you bring a Bill to the Parliament in the August holiday—

Mr. Young: Yeah, tell them, remind them.

Hon. T. Deyalsingh:—call out everybody to pass something called the run-off Bill, to kill out third parties in Trinidad and Tobago.

Hon. Members: That is dictatorship.

Hon. T. Deyalsingh: That is dictatorship. [*Desk thumping*] When you reconvene the Parliament [*Crosstalk*] in the dead of night to pass a Bill to kill off third parties; that is dictatorship. [*Desk thumping and crosstalk*] And when you throw the Leader of the Opposition out of the Parliament, that is dictatorship. [*Desk thumping*] That is dictatorship. [*Crosstalk*]

Mr. Deputy Speaker: Okay Members, thank you.

Hon. T. Deyalsingh: That is dictatorship. You see, there is something called institutional memory. [*Crosstalk*] I sat for five years opposite a UNC Government, you want to talk about dictatorship? Humph! Right. So what type of property are we speaking about, Mr. Deputy Speaker? Criminal property. We are not talking about the ordinary man, the taxi driver, the doubles vendor with “he little house”, we are talking about criminal property.

Mr. Deputy Speaker, I just want to draw an analogy that shows the UNC

playbook. We debated a Bill last week, the NPO, and the Member for Siparia talked about the pepper roti lady and the little football club. And no matter how we are at pains to tell the country, it does not apply to any NPO if you are turning over less than \$10 million a year, that does not stick with them. If the pepper roti lady is turning over \$10million a year, well, I am happy for her, and she has to be a trustee first, right?

But that is what they do. They take these pieces of legislation and spin it, and spin it, and spin it—to use the words of my hon. Prime Minister—to traumatize the nation, and facts blur into fiction. That is their playbook, fictionalize everything, dramatize everything, spin it, spin it, spin it, and frighten the population. That is their playbook and they are doing the same thing here again today, and we are not surprised. As the Attorney General said, he could have predicted—predicted—and the Member for Caroni Central did not disappoint—did not disappoint.

5.30 p.m.

So what type of property, Mr. Deputy Speaker? Criminal property; terrorist property—terrorist property. Terrorism is one of the biggest evils facing this world today, from New Zealand to the United States, to Great Britain. We had our little share of it here. This is what we are after.

“...or an instrumentality of crime.”

That is what we are after, Mr. Deputy Speaker. What is the problem? One cannot understand the objection of our friends to this piece of legislation. But the Member for Caroni Central is true to form. Mr. Deputy Speaker, the Member for Caroni Central was at pains to frighten and traumatize the country that this will be used for political interference—political interference. Political interference is when

you have an extradition to somebody and you stop it. That is political interference. We did not do that. My friends opposite did that.

So what else can we tell this country to ignore the Member for Caroni Central? Because he has set the platform for all seven speakers who are going to speak after. If you would pay attention to Part IV of the Bill on Civil Asset Recovery, from clauses 30 to 57, it clearly and pellucidly sets out the stages and the process for civil asset recovery. The Bill will empower whom? A police officer, not the Attorney General; no political interference there. A Customs Officer, not the Attorney General. Or the Chairman of the Board of Inland Revenue, not the Attorney General, to forward an investigative report—to whom? Not the Attorney General. But who?—the Director of Public Prosecutions. Separation of powers: Executive, Judiciary, Legislature, insulate it. Insulate it. The DPP is insulated from political interference, but the Member for Caroni Central stands up here and speaks about political interference. It goes to the DPP, not the Attorney General, not the Prime Minister, not to the Member for Arouca/Maloney, not to me. It goes to the Director of Public Prosecutions, and the DPP may refer the matter to the agency for a Civil Asset Recovery Order. That is the process. If you can show me political interference in this, I will be happy. But scare the public, misconstrue the intention of the Bill, find ghosts and gremlins where none exist and traumatize the public, that is the UNC playbook.

So when you look at Part IV of the Bill, from clauses 30 to 57, it proscribes the process. There is nothing for the law-abiding, upstanding citizen of this country to fear. The only people who should fear this piece of legislation are those involved in organized crime, criminality, and who do not have the best interest of this society at heart. [*Desk thumping*] That is who have to fear this Bill.

To borrow a phrase from my colleague for Port of North/St. Ann's East, the right-thinking citizens of Trinidad and Tobago will love this piece of legislation. [*Desk thumping*] The right-thinking citizens have nothing to fear. The doubles vendor has nothing to fear. The taxi driver has nothing to fear. The only people who should fear this are those intent on criminality, whether it is organized crime, white collar crime or blue collar crime, and we stand on the side of the citizens of Trinidad and Tobago today. [*Desk thumping*] We stand on their side, again, once and for all, that we have your best interests at heart.

Mr. Deputy Speaker, the Member for Caroni Central, as usual, as predicted, as we are accustomed to in this Chamber, raised the issue of constitutionality, and I have no doubt with your battery of free lawyers, he will challenge it in court, and that is your right. But the Attorney General, in piloting, was at pains—at pains—to point out that the constitutionality aspects of this piece of legislation—

Mr. Deputy-Speaker: Hon. Member, your initial 30 minutes have expired. You care to avail yourself of the additional 15?

Hon. T. Deyalsingh: Thank you, Mr. Deputy Speaker.

Mr. Deputy-Speaker: Proceed. [*Desk thumping*]

Hon. T. Deyalsingh: Thank you. So the hon. Attorney General was at pains, and it seems that our colleagues next door are impervious to reasoned argument. He said clearly that the constitutionality of this piece of legislation was tested in St. Vincent. Correct, Attorney General?

Mr. Al-Rawi: Antigua and Barbuda.

Hon. T. Deyalsingh: Antigua and Barbuda.

Mr. Al-Rawi: And in England.

Hon. T. Deyalsingh: And in England. But yet the Member for Caroni Central traumatizes the country with the usual UNC playbook: it is unconstitutional. Well, take it to court. Let the courts decide. Let it go all the way up to the Privy Council. Right? [*Crosstalk*]

Mr. Deputy-Speaker: Members on the Government Bench, please, silence.

Hon. Member: Apologies, Sir.

Mr. Deputy-Speaker: Proceed.

Hon. T. Deyalsingh: To show again, Mr. Deputy Speaker, and to rebut the Member for Caroni Central about dictatorship and political interference, let us see again how the population is insulated against political interference with this piece of legislation. And again, go to clause 58 of the Bill. Clause 58 says the proposed legislation empowers the Chairman of the Board of Inland Revenue, a civil servant.

Mr. Singh: How is he appointed?

Hon. T. Deyalsingh: A customs and excise officer or a police officer to the Financial Investigations Unit of the police service to apply to the High Court for a preliminary Unexplained Wealth Order.

If we use the argument of the Member for Chaguanas West: Who appoints them? Then everybody in this society is tainted? It is a null argument. It is a void argument. Somebody must appoint somebody. And if we are going to taint everybody with that broad brush, well, heaven help Trinidad and Tobago. Heaven help us from the UNC. Right?

So, Mr. Deputy Speaker, I think I have addressed all the issues raised by my colleague, the Member for Caroni Central. We have addressed the constitutional argument—

Dr. Tewarie: Talk for yourself. “You eh raise nuttin.”

Hon. T. Deyalsingh: We have addressed the issue of political interference and we stand firmly on the side of the right-thinking citizens of Trinidad and Tobago. And in closing, I want to again congratulate the hon. Attorney General for once again bringing an excellent piece of legislation to this Chamber. Mr. Deputy Speaker, I thank you. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Caroni East. [*Desk thumping*]

Dr. Tim Gopeesingh (Caroni East): Mr. Deputy Speaker, I rise this evening to make a contribution to this very important and critical Bill that has been brought here by the Attorney General, the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019. And as he mentioned, there are 74 clauses, eight Parts and three Schedules. And this Bill needed deep analysis and careful consideration of almost every clause, clause by clause, and even the Schedules. First of all, let me congratulate the Member of Parliament for Caroni Central—

Hon. Member: Yeah, man. [*Desk thumping*]

Dr. T. Gopeesingh:—on his very clinical and erudite examination and contribution in response to the Attorney General and his presentation. And if I may take a cue from his contribution, it is unfortunate that the Attorney General, in his presentation, spoke about what he is expecting: for us not to support the Bill, for us to say it is unconstitutional—[*Crosstalk*]

Mr. Deputy Speaker: Silence on the Government side, again.

Dr. T. Gopeesingh:—and for us to raise alarm and say it is political, and so on. But we are taking the approach from a responsible Opposition in terms of what this Bill is supposed to do. Well, of course, I do not have to comment too much on the Member who preceded me because he was just filibustering [*Laughter*] and

obviously had no idea about what the Bill was. [*Desk thumping*] It was a contribution in vacuo, without any substance and without any depth. And that is the garrulousness that you will hear coming from the Government Bench.

Mr. Deputy Speaker, there is one issue that I want to raise here from his contribution—that last Member—and that is the issue, we all want to protect the rights of every citizen of Trinidad and Tobago. [*Desk thumping*] We want to ensure that those who commit the crime must pay for the crime, [*Desk thumping*] whether they are sent to jail, and if they, in the process acquire properties illegally with criminal conduct, and as the Bill says, with instrumentality of crime, or terrorist property, we on this side support the Government in their thrust to ensure that the criminals are dealt with properly and that there is confiscation of their property. But we have the important issue of, what we may call the standards of proof, and we have been debating the issue of reasonable doubt, clear and convincing evidence, preponderance of the evidence, probable cause and reasonable suspicion.

There are two areas where you can have asset forfeiture. One is the criminal area, one is the civil area. And the criminal area is quite clear. You commit the crime, your property ought to be confiscated. But the civil aspect, when you base the civil aspect on the issue of reasonable suspicion, what is reasonable suspicion? So you just suspect somebody—“a partner, a fella going down the road and he see this guy, he say, ‘buh you know, I know that guy’.” “He have about eight property, 10 property, whatever. I suspect he in some illegal business and he got his properties illegally.”

So he goes to report now, and he has some partner in the police service, or the Customs or the Board of Inland Revenue and he tells them, “Yuh

see that fella, boy”? “I have a reasonable suspicion that that fella has gotten his properties illegally.” And that is what “reasonable suspicion” is. So are you going to go ahead to seize the properties, restrict the properties and seize the properties of any individual by just “reasonable suspicion”? And that is what we have concern about, and we have to protect the rights and the citizens of Trinidad and Tobago under the Constitution. And under the Constitution people are protected—citizens are protected—by section 4 of the Constitution.

Mr. Deputy Speaker, this is an area where I had to do some research and I came across a research paper—

Hon. Member: Google?

Dr. T. Gopeesingh: Not Google, proper research. I am a researcher. I have 33 publications inside—[*Desk thumping and laughter*] I had to publish or perish. [*Crosstalk*]

Mr. Deputy Speaker: Member for Moruga/Tableland, please. Member, direct to the Chair, please.

Dr. T. Gopeesingh: Sure. They are disturbing me. I will direct it to you.

A Comparative Evaluation of Unexplained Wealth Orders was prepared for the United States Department of Justice, National Institute of Justice, and a Final Report. This document had 845 pages with a three-page summary. And this goes to Part V of the Bill, clauses 58 to 67, and it speaks about the UWO, Unexplained Wealth Order laws. That is:

“...a relatively recent development in confiscation and forfeiture jurisprudence”—and which—“target the proceeds derived from criminal activities. Like traditional in person am and in rem forfeiture, their primary objective is to deprive criminals from acquiring or benefiting from unlawful

activities.”

We support that. That is the research as being put forward:

“However by using UWOs”—if I may, Unexplained Wealth Order—
 “the state does not have to first prove a criminal charge, as is the case with
 conviction based forfeiture. Likewise, the state does not have to first prove
 that the property in question is the instrument or proceed of a crime, as is
 generally the case in in rem asset forfeiture.”—And this—“UWO laws differ
 from traditional forfeiture laws in another important respect: they shift the
 burden of proof to the property owner who must prove a legitimate source
 for his wealth and the forfeiture proceeding is instituted against a person
 rather than against the property.”

So the burden of proof nationally and internationally, somebody who is
 charged is innocent until proven guilty. Here it is, the burden of proof is turned
 around. You are guilty until you can prove that you are innocent. And this could
 apply to anybody, and this is what we are trying to protect and this is what we have
 difficulty in, and this is why we say that this needs a constitutional majority for
 passage. [*Desk thumping*]

“These...radical features of”—this Unexplained Wealth Order, which
 is—“(no proof of the property being connected to a crime and a reversed
 burden of proof) have, in practice, been tempered by courts, prosecutors and
 police...”

So when this became enacted many years ago, these two radical features of
 the Unexplained Wealth Order, which goes to clauses 58 to 67 in Part V of the
 Bill:

“These...radical features of...(no proof of the property being

connected to a crime and a reversed burden of proof)—are being—
 “tempered by courts,
 prosecutors and police...”

So this is what is happening in the world now. These laws had been put in there, these forfeiture laws, but over a period of time now the courts and even the prosecutors and the police are now having to reverse what they had been doing, because the courts are finding that it is irrational and it is not constitutional. And I will give my documentation to it.

“Several countries have debated the possibility of introducing UWOs into their legal systems, but most have decided to maintain traditional confiscation regime, in person am following conviction...”

So the countries have tried it, but they have gone back:

“Several countries have debated the possibility of introducing UWOs into their legal systems, but most have decided to maintain traditional confiscation regime, in person am following conviction, and in rem proceedings targeting property. Few have ventured into the area of”—Unexplained Wealth Orders—sections 58 to 67—“and some of those that have done so have faced constitutional and legal challenges.”

So the hon. Attorney General and the Government must understand and appreciate that this is what is going on around the world. So when you introduce this now, you know that you are going to be facing constitutional challenges, not from the Opposition, but you are going to be facing constitutional challenges from citizens [*Desk thumping*] who have been affected by this piece of legislation:

“For example, in Italy the Constitutional Court declared law 12”—and I cannot pronounce it; it is—“quinquies”—q-u-i-n-q-u-i-e-s—“to be

unconstitutional after two years of use...”

The Italian—“Constitutional Court declared law 12...to be unconstitutional after two years of use determining that shifting the burden of proof violates the Italian constitution.”

Hon. Attorney General, take note. This is the Italian Constitution:

“Other countries have adopted only some aspects of UWO laws...United Kingdom, South Africa, some states in Canada, and New Zealand, have a presumption in favour of forfeiture for unlawful activities or specific offenses”—for specific offences—“but not full UWOs. Other countries have, under the umbrella of the United Nations Convention against Corruption...enacted illicit enrichment offenses targeting the proceeds of corruption where the reversed burden of proof is part of the offense but yet apply only to political officials...”

This is research—this is being done; a report prepared for the United States Department of Justice, National Institute of Justice, Comparative Evaluation of Unexplained Wealth Orders, Part V, sections 58 to 67. Let me repeat that:

“Other countries...under the umbrella of the United Nations Convention against Corruption (UNCAC), enacted illicit enrichment offenses targeting the proceeds of corruption where the reversed burden of proof is part of the offense but yet apply only to political officials and not to all crimes and individuals as do UWO laws.”

So they took part:

“A similar approach was followed by France with an amendment to its criminal code which introduced reversed burden of proof forfeiture...targeting specific criminal offenders but it is still a

post-conviction method.”

France has it, but it is a post-conviction method, not by reasonable suspicion. Only three countries that the United States department with the research prepared for the Department of Justice:

“Only three countries thus far have adopted full UWOs—no proof of the property being connected to a crime and a reversed burden of proof. These are Australia, Colombia, and Ireland.”

“Ireland”—they said—“has had the most success of any country implementing UWOs. Its Proceeds of Crime Act...of 1996 set forth the legislative framework for UWOs (...they are called ‘POCA Orders’ ...”

So they used the Proceeds of Crime Act to deal with most of these cases for obtaining, illegally, benefits by criminals:

“...in Ireland they are refer to as ‘Unexplained Wealth Orders’ ...

In addition the Irish Criminal Asset Bureau...Act of 1996 established the institutional framework to support POCA’s implementation.”

So hon. Attorney General, we understand that you want to bring this legislation, but could not there have been enough implementation of the Proceeds of Crime Act to get already the big fishes in society? Why have they been able to escape when you have the Proceeds of Crime Act as an important tool for bringing them to justice? And the Member for Laventille West, and Member for San Fernando East, and the Leader of Government Business, they all are attorneys, and of course, the Minister of National Security, and you have the Minister of Finance has over two or three law degrees too. So you can use the Proceeds of Crime Act. But why have you allowed the big fishes to get away? I am not saying you have allowed it, but why have they been allowed to get away? The drug bust in the

Monos Islands, \$750 million; US \$4 million in the plywood containers—between the plywood containers; \$750 million in the juice tins. What piece of legislation—you think this piece of legislation will bring them to justice? You should have been using the Proceeds of Crime Act already.

This Criminal Asset Bureau is an important area. You have to set it up; you have to bring the networking inside there; you have to bring the relevant personnel for it to be efficient. This will take some time. So, perhaps, you have your team already assembled to set up your Bureau. But Ireland had difficulty and it was only when they set up that CAB, the Criminal Asset Bureau, then they were able to charge and find guilty a number of the people under their jurisdiction, based on the work that the Criminal Asset Bureau—but based on the POCA legislation, the Proceeds of Crime Act.

“In addition the Irish...Court appoints a judge, assisted by a special registrar, to work solely on forfeiture cases for a period of”—for over—“two years”—before they got some assistance.

And some figures:

“From 1998 through 2009...the CAB obtained 110 forfeiture orders under the law totaling approximately”—only—“US \$16M.”

So the same Irish piece of legislation, where they brought in the UWO, through UWO they had 110 forfeitures, they got £16 million. So who really became part of the net? It is the small man, not the big man. And they also have:

“The ability to tax property derived from crime is one of CAB’s most effective weapon. Since 1998 the”—Criminal Asset Bureau in Ireland—“has obtained a total of US \$160M through”—the method of the taxation law.

So here you have the Proceeds of Crime Act and the taxation law doing what

is required to bring these criminals into justice, but the UWO, which is the Unexplained Wealth Order, not able to do it, bringing \$16 million over a 10-year period:

So—“Compared to Ireland, relatively little forfeiture has been achieved via UWOs in Australia.”

The Attorney General spoke about Australia:

“...relatively little forfeiture has been achieved via UWOs in Australia.”

And what has been responsible for that?

“Several factors are responsible for this, including a push-back by the Australian courts, caution on the part of prosecutors to bring actions under these new laws, disagreements between police and prosecutors over how strenuously to use the law, a lack of forensic accounting staff, and strict forfeiture laws for drug crimes that in some cases obviate the need for UWOs.”

So Australia brought it on. They started, but there was a push-back from the courts. That was one: caution on the part of prosecutors. So you sent it to the DPP, the DPP will exercise his jurisdictional thinking on this and capacity. So in Australia the prosecutor arm said, look, we have to be cautious about this:

“...disagreements between police and prosecutors over how strenuously to use the law, a lack of forensic accounting staff...”

And Members of Government know that the accounting area in Trinidad and Tobago is extremely weak. So combine all of these together, you think that this piece of legislation that you have brought here, time to get the Criminal Asset Bureau going, and you have the DPP and you have the courts, you think it will go

far with it when you reverse the burden of proof on an individual, and you say that that person is guilty until proven innocent? No way.

“Another factor in Australia that has stemmed the progress of UWOs is the downward public support most notably as a result of case in which an elderly couple had their house seized after their son was convicted of possessing cannabis concealed in the roof of the home.”

So the public went against this as well:

“Another factor in Australia that has stemmed the progress of UWOs is the downward public support...”

So the public was not supporting it. That stemmed the progress of UWOs in Australia. And there is evidence.

“...that UWO provisions have not been used extensively in Australia, and in cases where they have been used only a relatively small amount of funds were recovered totaling only approximately US \$6.3M over a period of 10 years.”

So in Australia, over a 10-year period they used the Unexplained Wealth Order and they got US \$6.3 million in 10 years:

“In fact, no UWO applications were brought for a three-year period (2004-2007) following the controversial home seizure case...”—which I described earlier on:

“As the Australian federal government only recently introduced UWOs, no cases have yet been instituted under its provisions.”

So they have it, but no cases have been introduced:

“In both countries,”—Ireland and Australia—“the sweeping nature of the UWO statutes has been tempered in practice.”

So:

“In terms of the applicability of UWO laws to the U.S., some of the provisions of UWOs would be new to the U.S...”

And this is what the research has shown:

“...the”—United States—“has always required that the forfeited property be the proceeds of instrumentality of a crime. A law that makes the mere lack of a valid explanation for the possession of property sufficient reason for government seizure would raise the concern of property rights advocates.”

6.00 p.m.

Property rights’ advocates.

“The new Australian federal UWO law addresses some of the concerns likely to be presently named in the...”—United States. “It provides greater forfeiture protections to the respondents and innocent third party property owners”—and—“has a requirement that the government”—must—“show a nexus between an offense and the property, and has a ‘safety valve’ that gives court discretion to dismiss UWO actions if they are going to be unjust.”

So this, they said:

“...might serve as the basis for...”—United States—“laws that may be drafted in the future.”

So this is part of the Irish and Australian history and Italy and France, Mr. Deputy Speaker. So “we going around the world” and in our caucus, it was brought that there is a Legis Brief, that is legist, I understand, is legal in terminology, “National Conference of State Legislatures, A Quick Look Into Important Issues Of The

Day”, and what was being discussed were the:

“Standards of Proof

Beyond a Reasonable Doubt

Clear and Convincing Evidence

Preponderance of the Evidence

Probable Cause

Reasonable Suspicion”

And they talked about civil action forfeiture in the United States. There is map which showed which allowed for civil asset forfeiture, a number of states which require criminal conviction and a number of states which abolish civil asset forfeiture.

And, Mr. Deputy Speaker, did you know that Justice Clarence Thomas and we all know of Justice Clarence Thomas when he fought to become the 8th judge of the United States and he was questioned for a prolonged period of time but his character stood the test of time and he was made a judge of the United States Supreme Court. Mr. Justice Clarence Thomas issued an opinion criticizing civil forfeiture laws in 2017. So that is coming from one of the highest authorities in the world, the United States Supreme Court and Justice Clarence Thomas.

“North Carolina, New Mexico and Nebraska have abolished civil forfeiture entirely.”

Three of them have abolished.

“Criminal asset forfeiture proceedings occur against a person after being convicted of an underlying criminal offense”—after being convicted.

And the “State Action”, and when we look at crimes in the 2017:

“...over 100 bills related the civil asset forfeiture were introduced in all 50

states. Many looked to adjust the standard of proof, or the degree of evidence necessary for law enforcement to establish proof that the property seized is related to a crime in order to win the forfeiture case.”

You had to prove that it is related—to have the forfeiture, it is related to a crime.

“In many states, the standard of proof is a preponderance of the evidence.”

But:

“In the last two years, Arizona, Iowa and Virginia enacted laws changing the government’s burden of proof from a preponderance to clear and convincing evidence...”

[*Desk thumping*] To clear and convincing evidence. So not reasonable suspicion, that must be thrown out [*Desk thumping*] of this thing altogether and you cannot reverse burden of proof.

“...making it more difficult to seize property.”

I think it is important for me to repeat this.

“In many states, the standard of proof is a preponderance of the evidence.”

But:

“In the last two years, Arizona, Iowa and Virginia enacted laws changing the government’s burden of proof from a preponderance to clear and convincing evidence...”

Mr. Deputy Speaker: Hon. Member, your initial speaking time has elapsed. You have an additional 15 minutes. Do you care to avail yourself?

Dr. T. Gopeesingh: Yes, yes, Mr. Deputy Speaker.

Mr. Deputy Speaker: All right, proceed.

Dr. T. Gopeesingh: Thank you, Mr. Deputy Speaker.

“Eleven states—California, Connecticut, Iowa, Minnesota, Missouri

Montana, Nevada, New Hampshire, Ohio, Oregon and Vermont—require a criminal conviction (proof beyond a reasonable doubt)...”

These 11 states in the United States, they require proof beyond a reasonable doubt:

“...to engage in some or all forfeiture proceedings. California, Iowa and Ohio exclude property valued under a certain amount from the criminal conviction requirement. North Carolina, New Mexico and Nebraska have abolished civil forfeiture entirely.

So:—“Even when law enforcement fails to make the case for seized property, owners can often find retrieving in their property onerous...”

You go and have a restriction on somebody’s property, the agency has it there, you have a property manager managing your property that “yuh work so hard for to build all yuh life” and suddenly “yuh see yuh property dissipating because the property manager cyah manage it properly”. Which property manager in Trinidad that the Government decides to appoint could manage people’s property in a proper manner? Most owners manage their own property and find it difficult but “yuh bringing ah property manager who doh know dey head from their feet and you want to bring ah property manager”. So this is what is happening in the United States.

“Even when the law enforcement fails to make the case for seized property, owners can often find retrieving their property onerous, expensive and time-consuming. As a result, ‘innocent owners’—those who had no involvement with the alleged crime—often do not get their property back.”

So “yuh take meh property, yuh tell me ah taking yuh property based on reasonable suspicion, yuh put it into the hands of the team, the asset—what yuh call the team”, the criminal asset bureau or whatever, CAB and the property

manager do not know anything about how to manage it. “Yuh win yuh case, going through the courts, yuh ha tuh” spend millions of dollars to get special lawyers because in this matter of property issues, as the Attorney General knows, you will need very experienced lawyers and you have to pay through “yuh head” for them. So “yuh pay a lot ah money for dem and at the end when yuh win yuh court matter, yuh geh back nothing, yuh property gone”. Property gone. [*Crosstalk*]

“Opponents of civil asset forfeiture laws cite a heightened risk for abuse...”
 [*Desk thumping*] Yes, cite a heightened risk for abuse.

There is another piece of research, the 113th Congress, Second Session, the House of Representatives, 5212 and that was:

“To amend title 18, United States Code, with respect to civil asset forfeiture, and for other purposes.”

In the House of Representatives, July 28, 2014, and that Act was cited as a Civil Asset Forfeiture Reform Act of 2014, Reform Act brought before the House of Representatives in the United States—House of Representatives, and “SEC. 2. REPRESENTATION BY ATTORNEY” is the headline.

“Section 983(a)(1)(A)(i) of title 18, United States Code, is amended by adding at the end of the following: ‘The Government shall include in such notice that the person receiving the notice may be able to obtain free or reduced rate legal representation...’”

The United States has gone even further to say well, look, I am seizing your property, I have a restriction order on your property, you have to defend it, we will provide legal representation for you, and that is no easy legal representation.

“BURDEN OF PROOF.”

This is in the United States House of Representatives 2014. Section 9—

[*Interruption*] Mr. Deputy Speaker, my good friend is—I am getting a little disturbance from my friend opposite.

“Section 983(d) of title 18, United States Code, is amended—

- (1) in paragraph (1) by striking ‘by a preponderance of the evidence’ and inserting ‘by clear and convincing evidence;’”

That in the United States House of Representative 2014.

[MADAM SPEAKER *in the Chair*]

And in paragraph (2), Madam Speaker:

“...by striking ‘by a preponderance of the evidence’ and inserting ‘by clear and convincing evidence;’”

And the:

“...United States Code, is amended so that paragraph (1) reads as follows:

‘(1) The innocent owner of defense shall be available to a claimant.’”

He is an innocent owner.

“Where a prima facie case is made for such a defense, the Government has the burden of proving that the claimant knew or reasonably should have should have known that the property was involved...”

But the Government had the burden of proof in that, not the defendant. The burden of proof, in the United States legislature, they had to amend their legislation to show that the burden of proof must be on the state, on the Government. [*Desk thumping*]

So, Madam Speaker, as I wind down, there is another one on *Lexology*. This is the research that we came up on. This relates to United Kingdom, January 17, 2019, and:

“The UK says ‘Show Me the Money’ with its Unexplained Wealth Orders”

You know the AG has a favourite saying. What is the favourite saying? “Follow the money”. The United Kingdom has this issue on “Show Me the Money”. And I want to read from this one “lil” area here:

“Even though the amendment has been in effect since January 31, 2018, the...”—United Kingdom—“High Court has only granted...”—unexplained wealth orders—“against one respondent to date.”

One.

“The orders were granted against Mrs. Zamira Hajiyeva, wife of Jahangir Hajiyeva, a former banker imprisoned for fraud and embezzlement in Azerbaijan. Under the terms of the UWO, Mrs. Hajiyeva must disclose to the NCA how she could afford £22 million of UK real estate.”

So since January 31, 2018, we are almost 16 months away now, they have only granted a UWO against one respondent and that is a foreign person. So what are the implications of all of this? Even for the United States.

“It is difficult to imagine a similar law surviving legal scrutiny in the United States, given the protections provided by the Fifth Amendment to the U.S. Constitution.”

The UK High Court, Fifth Amendment to the US Constitution, protects the citizens of the United States. That is why they had to go back in 2014 and amend their legislation to indicate that it must be beyond reasonable doubt, not reasonable suspicion. [*Desk thumping*] So:

“It is difficult to imagine a similar law surviving legal scrutiny in the United States, given the protections provided by the Fifth Amendment to the U.S. Constitution...reflecting constitutional concerns, the Civil Asset Forfeiture Reform Act of 2000...requires that the Government show a ‘substantial

connection' between the property and a specific offense. Under..."—United States—"law, property is the subject for forfeiture because 'guilt' is attached to it, it is an instrumentality of an offense, or property facilitating commission of an offense, or proceeds of a specific offense."

They must be found guilty, not on reasonable suspicion.

So, Madam Speaker, the issue of the criminals having to pay for their crime and their assets forfeited is unquestionable which we on this side support wholeheartedly. But the issue of the methodology for an innocent person having to go through the trauma and to prove the reverse burden of proof on that person, it is something that is extremely difficult for us to accept. [*Desk thumping*] And then, in addition, when you can go back and trace properties way back, whether it is an inheritance that some generation now would have inherited from somebody 20 years ago, and now you want to confiscate that property because you own it now and something must have happened to it 20 years ago, Madam Speaker, this is unjust. It is unjust. You cannot go and try to take away somebody's property when—my colleague mentioned it—there were laws at that time. So why are you going back? And anytime you have—I am not an attorney but I have been associated with attorneys all my life, most of my life, and if you have retroactive legislation or retrospective legislation, you must have a majority, a constitutional majority. [*Desk thumping*] So just on those two things alone, Mr. Attorney General, this is unacceptable. We are willing to support you, we are willing to work with you because we are willing to make sure that this country is rid of the criminal elements and the unjust things that they get [*Desk thumping*] but we cannot continue to work with you under these conditions as related in your Bill that you have presented here.

Madam Speaker, I thank you very much. [*Desk thumping*]

Brig. Gen. Ancil Antoine (*D'Abadie/O'Meara*): Good afternoon and I thank you, Madam Speaker, for this opportunity as I rise to contribute to this Bill, the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019. I want to thank the Attorney General for bringing this Bill, [*Desk thumping*] this timing and part of the whole process of good governance in Trinidad and Tobago. The Bill aims to provide for the establishment of the Civil Asset Recovery and Management Agency for the recovery of criminal property. Civil asset recovery has been used as a mechanism in other countries to address organized crime and the examples given were New Zealand, Ireland, England and other Commonwealth countries.

I listened to the contribution of my colleagues on the other side, both from Caroni—one from Caroni Central and the other from Caroni East, and I wondering if it is “ah Caroni ting”, because I realized that their hearts were not in their contributions. Maybe Chaguanas would come with something different or Oropouche but in terms of Caroni Central and Caroni East, “dey heart was not in it”. They made their contributions as though they were given instructions to come and oppose the Bill; and we know it is part of the Opposition’s mantra to oppose everything that the Government brings. No support for legislation. All the hard work done by the Attorney General to bring good governance to Trinidad and Tobago results in no support. They always come with their mantra: “dey want two-fifths majority, dey want three-fifths majority”, send it down to a joint select committee where we would talk about it and “we debate” and time would waste and delay and delay and delay and delay. So that is their mantra: Delay, delay, delay, delay the legislation.

But this Proceeds of Crime Act, the Member for Caroni East dwelled a lot

on criminal law rather than on civil law that we are dealing with here. Spoke about witness tampering, all other sorts of things in all other jurisdictions: taxation law; spend a lot, a lot of time on criminal law. But I represent D'Abadie/O'Meara and in D'Abadie/O'Meara, we have a lot of vulnerable communities and in our communities, there are two types of dialogue going on. One dialogue says that young people go and get a good education, go to school, get a good job, a well-paying job, and over time, you are going to be able to raise a family, buy a house, et cetera, prepare for retirement, as the case may be. The other dialogue says that is too slow. Get involved in quick money, and a lot of the quick money is through criminal activities. So in these communities, there is a lot of fear: fear of gangsters, fear of bad boys, sometimes fear of the police, fear of strangers—"dey doh like strangers coming in their communities"—sometimes even fear of neighbours because sometimes the neighbours are seen as people who carry news, inform on them to the police. A lot of these communities are poor communities made up of good people, model citizens. I have met a lot of them. Honest, hard-working, law-abiding, decent, generous. But you know, there is one thing in these communities that my good—well, a good calypsonian, Mighty Shadow, sang a calypso about. He said "Poverty Is Hell". Poverty is hell. I grew up in a poor neighbourhood, poor family.

But in these communities, there is another set of people in the community who flash wealth and as human beings, we always want things, we are always in need of things, especially in this modern age. You cannot just have "ah phone", you have to have "ah smart phone". So even though you are not able to have money on "yuh phone or yuh could just put ah lil \$10, ah \$20", you want to be able to go by Starbucks or go in the mall and link up with WhatsApp and Wi-Fi and

send your messages as the case may be. Or a lot of my family members and constituents, “They flash me. Yuh get ah call and before yuh could answer the call, it is gone. So yuh look at the number and you say, all right, I will call yuh back”. But you need to have smart phones. You need to be able to play video games, you need to be able to wear nice clothes.

So into these poor communities come these people “flashing money”, wealth, they have power, they use violence, some of them have guns and of course, they use drugs. Out of this comes a lot of negative role models who “flash gold”. You see them, they have “gold all over their neck”.

Mr. Mitchell: “Ah Zesser.”

Brig. Gen. A. Antoine: “Zesser”, yes. [*Crosstalk*] You could call them by name, I have no problem with you calling names. [*Crosstalk*] Right. Luxury cars. They have large homes, sometimes the only homes in the area with swimming pools and “they flash money” and of course, around them comes girls, girls, girls. “Zessers.” So criminality becomes a magnet for wealth, it becomes visible. They are visible and it seems like wealth is easy to acquire.

And in these communities, like in, as I said, D’Abadie/O’Meara, there are gangs, guns, drugs, violence, crime, terrorism. They are all there and what we have are unbalanced societies, unbalanced communities with unequal opportunities for members. And hidden amongst them, hidden amongst our constituents are criminal leaders but they are hidden leaders. They have the ability to distance themselves from their detectable criminal behaviour. “So we all hear about Mr. Big.” I have been hearing about “ah Mr. Big” for years now.

6.30 p.m.

Every Commissioner of Police “say dey going and get Mr. Big”. Everybody

is going and get—Mr. Big is there. He is there all the time, hidden, but there are certain things that allow you to point to Mr. Big, and it is property. It is wealth. These hidden criminal leaders are able to delegate the responsibility for the implementation.

Mrs. Gayadeen-Gopeesingh: Madam Speaker, I hate to do this, but 48(1).

Madam Speaker: Member for D'Abadie/O'Meara, I think you have been allowed sufficient time to build the context and I think now you should tie it in to what is the Bill before us, please.

Brig. Gen. A. Antoine: Thank you, Madam Speaker. Clause 7 of this Bill which speaks of the property that we can recover is what I am speaking about. These people who hide, they hide. [*Desk thumping*] Member for Oropouche West, that is what I am speaking about. They hide their wealth. All right? They delegate the responsibility for their criminal activities to the little black boys as another calypsonian, Gypsy, spoke about and sang about; to the gun men, to the gang members. These are the ones who are visible. These are the ones who do their dirty work. But the real Mr. Big remains hidden. And that is what the Attorney General is doing. He is going after the big fish, and he is going after them by going after the property that we are able to recover.

In dealing with the Unexplained Wealth Orders, the Attorney General is able to bring Regulations, the procedures deal with the storage of precious metal, all the gold that you see them have on their necks, jewels and artwork, according to the Bill—clause 75—boats, planes, vehicles, seized cash, agricultural products, et cetera, that these criminals are allowed to hide, that is what we are going after.

So all that the Member for Caroni East and the Member for Caroni Central was talking about, the criminal aspect of it, we are going after where they are

putting their wealth and where they are able to influence their communities by their behaviour. That is what we are going after. So in clause 75, we are going to recover this wealth that is hidden. Those who flaunt the wealth in the communities that I happen to represent, we are going after them by unmasking these leaders and their property. So clause 7 speaks about “recoverable property”. The property that we can get, namely criminal property, terrorist property and all the instrumentalities of crime. It includes a portion of such property that may be mixed with other property.

I heard the Member for Caroni East giving the impression that, because property is in your family for a number of years, it means that it is safe, and that is what all money laundering is about. You take money that comes dirty and you get it into legitimate and legal business, one is the purchase of properties that you can purchase for your cousin or your nephew or your godson and that does not make it clean. The act, the criminal act is what we are going after, and if we can trace the property that you are leaving, then it does not matter whether it is five years, 10 years, 15/20 years, the fact remains that you should not be able to profit from criminal wealth.

So clause 7 speaks about the different types of property that we can go after. And the way the Attorney General proposes to do this is by the creation of a Civil Asset Recovery and Management Agency. So there will be an agency who will have a responsibility of looking and going after and recovering this property for the State.

You see what we have to do—and I go back to the dialogue in the community—is to show the young people that crime does not pay. Right now as it is, crime seems to be paying. Crimes allow you to bling. Crime allows you to

flash wealth. Crime allows you to get the girls, and so forth, but what we have to show them is that even though you have and you show the wealth, you show all the different things that you get from your wealth, the State is after you. We are following the money, and in following the money you will not get away. We will get to you and we will get to the wealth that you are trying to hide.

And the Civil Asset Recovery and Management Agency would be the medium through which this law would be able to go after the criminals and their activities. The Bill goes into details in terms of the functions, and the powers of the agency, the property manager, et cetera. Different clauses show how we would go about and how the law intends to recover these assets that the criminals and Mr. Big and all of them seem to be able to utilize in the communities against the average citizen, and I thank the Attorney General for his wisdom in getting it.

The Member for, I think it is both, maybe the Member for Caroni Central or maybe Caroni East mentioned Al Capone, and whenever you deal with this everybody mentions Al Capone, who was a known, a gangster, but who, although they could not get at him through criminal activities, eventually they got to him through civil means for tax evasion.

So, we are going after the criminals. We are going after their property. We are going after their unexplained wealth, because dealing with a lot of these so-called community leaders, a lot of these negative role models, they must show their wealth, but they cannot explain how they come to acquire this wealth. And that is the way we have to go and get them. They put the young men, the gunmen, the bad boys out front, and they remain hidden and they enjoy the wealth that they get from criminal activities, and they believe that they are untouchable.

As I said earlier, Mr. Big must be a grandfather by now, “de amount of time

I hear people talking about Mr. Big and Mr. Big and Mr. Big”. He must be an old man now or he must have passed it on to another generation of people who utilize wealth and make a living off the wealth, whilst those who we give the dialogue to go to school, get a good education, work hard, build your family, are suffering. And it comes back to the whole thing with Shadow and poverty itself, whilst you see others enjoying the fruits of criminality.

So the Civil Asset Recovery and Management Agency that the Attorney General is proposing would be able to do the work of getting at these criminals and getting at the properties and the assets that they have, and make them say how they came to acquire the wealth that they have.

So, Madam Speaker, we are not only looking to go after the property that they may acquire or have in Trinidad and Tobago, but the law also makes provisions for us to go after property that they may have outside of Trinidad and Tobago. So when we hear of people with malls in foreign countries and all sorts of assets, houses and, you know—

Mrs. Jennings-Smith: In Miami.

Brig. Gen. A. Antoine:—is it just in Miami alone? I think Europe; property in Europe, malls and so forth, in Europe. Let us please be aware that the Attorney General and his team, they are coming after you. We are following the money wherever the money leads us, whether it is to the United States, whether it is to Europe, to Malta. Wherever the money leads we are going after the assets. So it is not just the property that you have in Trinidad and Tobago. [*Crosstalk*] Madam, I just crave your protection.

Madam Speaker: Members, the crosstalk. Please continue, Member for D'Abadie/O'Meara.

Brig. Gen. A. Antoine: Thank you, Madam Speaker. So I thank the Attorney General for piloting this Bill. It would make a lot of my constituents happy to know that there is an alternate lifestyle to the lifestyle of the gang culture and the flashing of wealth by the gang members, that someday, someday, “I almost go to say congotay”, but someday you will pay for your criminal activities, even though it takes us a while in getting there. Even though it takes a while in getting the agency going.

So I ask my colleagues on the other side, and I say again that is why it might be “a Caroni ting, that Caroni East and Caroni Central heart” was not in their contribution. They were going through the motion, you know, that they were told, “Look, yuh have tuh come and oppose this Bill”. But deep inside they know that, look this is a way of getting at these people, Mr. Big. This is a way of getting at people who have malls in foreign countries and properties all over the place. So I know that their heart was not in it. So I thank them for demonstrating to us that they went through the motion.

So, therefore, I thank the Attorney General for piloting this Bill. [*Desk thumping*] I thank him for putting this agency in place so that criminals will have to explain where they get their wealth from. Even politicians will have to explain where they get their wealth from, in time to come. And I look forward to the passage of this Bill in this Parliament. I thank you, Madam Speaker. [*Desk thumping*]

Mr. Ganga Singh (*Chaguanas West*): Thank you very much, Madam Speaker. I have, as a matter of principle, to respond to the hon. Member for D'Abadie/O'Meara, as I rise to speak on this Bill here this afternoon. First I want to say that it seems that he has a fixation with Mr. Big. Perhaps, it has to do something with

his stature. Perhaps, he has a fixation with the fact that the criminal element is getting the girls. Maybe it has to do with his lack of attraction. *[Laughter]*

But, Madam Speaker, the hon. Member said nothing with respect to the content of the Bill. You see, Madam Speaker, I want to indicate, and I quote from Bloomberg of June 21, 2018:

“Government Calls It Forfeiture, But it’s Theft”.

[Desk thumping] So you call it forfeiture because—the article goes on to say, Madam Speaker, that if you can confiscate property without conviction it is stealing. And when the hon. Member for Joseph spoke a little while ago, he indicated that the civil asset forfeiture is taking place all over the world, so why not in Trinidad and Tobago? And that civil asset forfeiture is therefore what is required in Trinidad and Tobago.

Madam Speaker, what is pointed out by the hon. Member is that there is a failure to effect the criminal justice system in this country. The Proceeds of Crime Act allows for conviction beyond reasonable doubt and then the civil standard on the balance of probabilities, and then your property is seized and put up for sale, and so on.

But, we come here today because of the failure of this Government to effectively deal with the criminal justice system. And what they are doing now is dumbing down the standard of proof to the balance of probabilities and adhering and attaching themselves to this legal fiction, this legal fiction that the civil asset liability, a civil asset forfeiture, is not a criminal recovery process. It is a civil process. So, therefore, it does away with the presumption of innocence. It does away with the due process requirements. And, therefore, when you label it a civil process you deny the substance that it is in fact a criminal recovery system that is

taking place. So, therefore, this ought to really fall within the realm of the criminal justice system, Madam Speaker.

So that, when I—given what we have heard, so you have the law, as the hon. Attorney General wants to promote in this country is that your property can be seized and sold without conviction. That is turning jurisprudence in this country, on its head. It is changing the social contract enunciated in our Constitution. And, therefore, when we said in the Preamble in the Constitution that, and I quote Madam Speaker, from page 11 of the Constitution:

“Whereas the people of Trinidad and Tobago—

...have asserted their belief in a democratic society...

(d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;”

I will come back to this principle of the rule of law. Because the rule of law allows the ordinary citizen of this country that you must know the law that you are going to meet, and that, therefore, you fashion your behaviour in that context. [*Desk thumping*] You cannot now go, as, and I will come to it, clause 4, which talks retrospectivity of the law, and you seek to now put a label that it is a civil law, so that therefore, it allows for retroactivity or retrospectivity, depending on what synonym you want to use. And that, therefore, you can be denied your property rights as a result that retroactivity and retrospectivity with no time limit whatsoever.

My colleague from Caroni East spoke about that. So what are you doing? You are changing the jurisprudence of this country. You are changing the social

contract between the people and the legal structure that governs us. And when I listened to the hon. Member for D'Abadie/O'Meara and we talk about the bling, the gold chains and the people within his community, I do not know if the hon. Member has read the literature, but in the United States, civil asset forfeiture legislation is so skewed against the poor and the underclass and in particular black people in the United States of America. [*Desk thumping*]

So when you come here and you now unleash this kind of legislation without the due process requirements of the criminal law, you are in fact unleashing it against, not Caroni, but throughout the country. That is what you will be doing, throughout the people, [*Desk thumping*] throughout Trinidad and Tobago and that is the reality which we face.

So that our Constitution, therefore, speaks of the fundamental rights. I want to remind Members of this:

“...Recognition and Declaration of...Rights and Freedoms”

It is trite. We all know it. But for purposes of the people who are listening in:

“the right of the individual to life, liberty, security of the person and enjoyment of property...”

What this law is attempting to do is to deprive that right without any due process consideration because put a fig leaf called civil. You put civil forfeiture and call it the civil law and you deny people the due process rights.

Madam Speaker, you know, when you look at this piece of legislation and you understand the sociology and the demographic nature of this society, and you recognize the history of abuse that our people have suffered at the hands of authority, from slavery onwards, how can you come with a law like this in Trinidad and Tobago?

You know, the hon. Attorney General, on May 16, 2016, said in this Parliament, I want to quote, Madam Speaker—he indicated that explain your wealth law is coming, civil asset forfeiture is coming but there would be need for consultation because it is going to affect property rights. This is what the hon. Attorney General said. Where is the consultative process? When did you meet with the Chambers of Commerce to understand that when you have property in this country and it is tied to the financial institutions, to the mortgagees, to the creditors, to commercial areas, how is that going to impact?

Did you have consultation with the financial institutions? I am advised that the hon. Attorney General said he waited 10 months for the response of the Law Association and when they responded, he then placed this in the parliamentary agenda. That was two weeks ago. Where is the consultation across the board? No consultation whatsoever from my recollection. Two weeks, and now this year you want to pass it and we are saying that that is not appropriate law in a society that is governed by the rule of law.

Madam Speaker, I want to also indicate that section 4(b) states:

“the right of the individual to equality before the law and protection of the law;”

So what is happening? You have the normalization now of a high crime rate. And how are you going to deal with that? You are going to take away the rights and circumvent due process by the—and that is what the impact of this law will be, Madam Speaker.

But section 5 of the Constitution says at 5(f), Parliament may not:

“deprive a person charged with a criminal offence of the right—

to be presumed innocent until proved guilty according to law, but this

shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts; to a fair and public hearing by an independent and impartial tribunal;”.

When they take your property without conviction and then you have to climb that threshold. Then you have to engage lawyers to prove that that is your property, and I ask the question: If you keep this legal fiction, which is a nice way of saying a legal untruth, when you keep up this legal fiction, for the ordinary man, do you have access to legal aid? Madam Speaker, you cannot access legal aid in civil matters. So you now—you cannot access legal aid—so you are without a lawyer. So the social contract is further broken. So you now—“dey take away yuh property. Dey take away yuh motor car. Dey place ah burden upon you. You doh have no resources”. Where are you going to find the money, with the ordinary citizen, the doubles vendor, the snow cone vendor, the pie vendor, to find money for an attorney, because there is no legal aid for you? You understand, Madam Speaker?

So this is the kind of hypocrisy; the hypocrisy that we are finding from the Government. Look, this is the kind of action in which you do not understand. You take a narrow vision of the society and I say I am going after Mr. Big, as my good friend from D'Abadie/O'Meara, I am going after Mr. Big but you do not understand the collateral damage that is being done to all members of this country. You have such a fixation. If you want Mr. Big, the Proceeds of Crime Act tells you go after Mr. Big, find, investigate and then convict and then seize his property according to the lower threshold, Madam Speaker.

So, this is a fundamental change that is taking place in the jurisprudence of this country and I urge the Government to put it before a select committee where

there would be a widespread consultative process. [*Desk thumping*] Bring the Chambers of Commerce in every region, Sangre Grande, Mayaro, Chaguanas, Tunapuna, Port of Spain, Fyzabad, Siparia. Bring everybody and find out what are their concerns when they look at this Bill. Alternatively, Madam Speaker, this Bill ought to be withdrawn because it is against the interest of the people of this country. [*Desk thumping*]

So when my friend, the hon. Member for Joseph, who is occupying a leadership position now, is speaking about Blackstone. Blackstone did not have a written Constitution to deal with. Blackstone, you are dealing with—the law forfeiture did not only go back to the time of Blackstone. It went into the *Bible*, biblical time, even beyond that, Madam Speaker.

My friend, the Member for Joseph, so how are you going to deal with this principle, which is a legal fiction, which is a legal untruth that it is a civil matter when the recovery process is criminal? What has been the learning worldwide? What has been the learning worldwide, Madam Speaker?

7.00 p.m.

I want to read from the University of Pennsylvania Law Review, volume 163 at page 867:

“Civil forfeiture is a truly extraordinary legal doctrine—so much so that those who find themselves subject to a forfeiture proceeding frequently express disbelief that such an action could exist in the United States. The Kafkaesque”—that is from the time of oppression under Communism—“civil forfeiture system is ancient, labyrinthine, and impermeable to the uninitiated.”

This is what you bring to this country? This is what you want to implement in this

country? So what it is really, you are in breach of the social contract. You are looking for a silver bullet, because you are incapable of effecting proper police work under the proceeds of crime and now you want to find a silver bullet to “lick up” the whole country. [*Desk thumping*]

Madam Speaker, and this perpetuation of this fiction that it is not personal, it is in rem, it is against the property. Where does property which is the basis of our civilization exist by itself? That is part of the untruth. I wanted to say another word when I looked at you. But, what I said, it is part of the legal fiction, the legal fig leaf to hide the punitive actions of the State, Madam Speaker; punitive action of the State.

So how can you find—so this is what this in rem is about. And, there are cases, Madam Speaker, you have a situation where, it is the United States against Chevrolet Silverado. So Chevrolet Silverado is the vehicle. So they brought an action against the Chevrolet Silverado, as you would say, in Port of Spain. So that is the property, but the Chevrolet Silverado had an owner. And that therefore that owner is affected and unless he initiates action then he cannot recover his motor car.

So that is what it is, another fiction. The fiction that this is creating and that is what this Government is bringing to bear under a civil. Therefore it is civil, so that therefore you cannot say it is criminal. And that therefore, there is no double jeopardy, that therefore, you have no due process rights which was civil, I could “lick you up” with ease. That is what it is. It is a sleight of hand. It is a subterfuge, it is a scam, and as Bloomberg says, it is a theft of people’s private property. [*Desk thumping*]

So when this owner, this owner now has to go and join the action as a third

party claimant, he lacks the constitutional protection if it is brought in personam because he has the right for due process in that situation, and that is what we are saying. You have to educate, you have to tell the people—is this appropriate in our society? I would demonstrate, Madam Speaker, that in countries in which you have highly developed democracies, in countries in which you have institutions that function in which the courts do not tie up matters for years, because can you imagine, they seize your property, your house, all right? Seize your property, and then you have go to court and they put in the hands of the agency, and you have no legal aid and you go to court in Trinidad and Tobago. How long is that going to be?

Hon. Member: Twenty years.

Ms. Ramdial: “You’ll be living on the streets.”

Mr. G. Singh: You know. This is our sociological reality that you will become a vagrant. You may die before you get justice in the court of this country, Madam Speaker. [*Desk thumping*] And that is why I feel certain that good sense ought to prevail, that therefore a joint select committee will allow for consultation because none has been effectively done. And that you will be able to tell this country and educate the country, because if you are going to change jurisprudence, if you are going to come like a thief in the night to steal people property, then you cannot be—that cannot be the right of the Government.

When you do civil matters, Madam Speaker, it is A against B. For example, Couva North brings an action against Naparima; they are two litigants, it is not the State. And now the State hiding in a civil matter. I am certain that in the attempt to get a silver bullet for the criminal element in this society, they have abandoned all reason. That is the Government, Madam Speaker. [*Desk thumping*]

Dr. Gopeesingh: They have lost their reason.

Mr. G. Singh: Madam Speaker, because you see, as far as they are concerned, when you hear them talk, when you hear the hon. Member for D'Abadie/O'Meara speak in his contribution, he indicated that—this talk about all that is happening in this community, the dichotomy of those who work hard, provide education and go and achieve in life, and those who take the fast track. And that therefore now they have thrown up their hands because the latter winning and the former losing. In a sense it is a Hobbesian realm, Hobbesian, that life has become nasty, brutish and short. And therefore this is the panacea for that Hobbesian status of a society.

[Desk thumping]

Madam Speaker, I want to now deal with some of the things that is happening worldwide this is from the CTV news entitled “Critics say proposed British Columbia changes its civil forfeiture rules unconstitutional”, Vancouver. March 10, 2019.

“Eight years have passed since David Lloydsmith learned British Columbia’s Civil Forfeiture Office wanted to seize his modest two-bedroom bungalow, but he says the panic and anger that gripped him that day have not gone away.

Lloydsmith is still outraged that the office tried to seize his home based on a police search without a warrant that produced no criminal charges. B.C.’s Supreme Court and Court of Appeal eventually ruled his rights were violated, but he says the emotional scars remain.

...‘I have serious trouble sleeping. It’s done damage to me that I don’t know if I can ever get over.’”

So what is happening, here it is you spend about ten years and this is in Canada,

you know, Madam Speaker. Ten years going through the court system, you know, going through court system. My colleague from Princes Town reminded me that the court ruled that his rights were in fact violated.

Madam Speaker, I go to—

Hon. Member: Criminals.

Mr. G. Singh:—another article entitled from the William and Mary Law School, 2017 by Rachel Jones, and at the introduction it says:

“Imagine that you are a small business owner in Virginia with the opportunity to buy equipment for your business from an independent seller. You decide to bring money in cash to purchase the equipment because you think it will give you a better negotiating position. As you drive to the appointment with the seller, you are pulled over by a police officer for a minor traffic violation. During this traffic stop, the police officer searches your car and asks you to disclose any weapons, illegal substances, or large amounts of cash you may have on your person or in your vehicle. You disclose to the officer that you have a large amount of cash because you are headed to buy business equipment. The officer then arrests you and seizes the money, alleging that it is connected to drug trafficking.”

And this is a real case, Madam Speaker. This person was arrested and the \$17,000 was seized through an action of civil forfeiture. So eventually acquitted but took over a year and a half through an arduous legal progress to get the \$17,000 back.

And this is in a system that works. Not the kind of system in which you have backlog here in Trinidad and Tobago justice system. So, how can we support this? Because what it is it places the burden on the ordinary man. And when the Member for St. Joseph spoke and made the statement, it is not about the doubles vendor and

so on. This is an ordinary man going about his business in a First World society taking that pressure.

And, Madam Speaker, I do not want to get distracted but I have read the O'Dowd Report, I have the Scott Drug Report, I have read the Scotland Yard Report and all the reports dealing with police abuse in this country, and I want to say that when we put this power in the hands of the ordinary police officer you can be assured that the ordinary citizens will be abused in Trinidad and Tobago. [*Desk thumping*]

New Zealand has placed the burden and the responsibility for civil asset forfeiture referencing in their litigation to the Commissioner of Police, not the ordinary police officer. Why should we now allow any person, any police constable to have this power over your property? The social contract that is the Constitution never envisaged something of this nature. Never. [*Desk thumping*]

Madam Speaker, and in a similar exercise a customs officer. Why not the Comptroller of Customs in which you place the burden of responsibility, accountability and the necessary punitive action if they breach that. [*Desk thumping*] This is if you had engaged in a consultative process, it would have brought these kinds of changes, Madam Speaker.

You see—I now turn to the BBC News of September 17, 2014 the “Growing outcry over police confiscation”.

“Ming Tong Liu had a suitcase with...£46,000”—and—“he was going to use to buy a restaurant. For Mandrel Stuart it was \$17,550 in proceeds from a barbecue restaurant. Benjamin Molina was going to use \$18,000 to buy a car. Jose Jeronimo Sorto had \$28,500 in church funds for a land purchase in El Salvador and a new trailer in North Carolina.

Each of these men...driving in the US with sizable amounts of cash when they were pulled over by police for minor traffic infractions.”

Madam Speaker, all of them their assets were forfeited and they had to go through the process of engaging attorneys and a long and arduous process before the moneys were recovered.

So you have a situation so these—that is in the cash aspect. Then the inanimate objectives. So they steal your car and they use it as a getaway car in a robbery, that car can be confiscated. Confiscated. How are you going to get that back? Because it was an instrumentality in the process of a criminal activity. So when this Government thirsty for revenue as they are, thirsty for revenue. I could use the phrase for the Member for D'Abadie/O'Meara, “tusty”. They “tusty” for revenue. This is a more revenue earning measure than a crime deterrent measure, Madam Speaker. [*Desk thumping*]

The *Toronto Sun* of September 17, 2018 calling it a corrupt law driven by greed. An Orillia woman took on a decade long battle against the Ontario Government Civil forfeiture laws and won.

“‘My drive to keep fighting was to help stop this from ever happening to another innocent person,’ said Maggie Reilly, who was almost wiped out financially and emotionally in the battle.

Ten years and three judges later, Reilly is gasping a sigh of relief after the Superior Court Justice...dismissed the AG's application and ordered that Reilly be compensated for—”

Madam Speaker: Member for Chaguanas West, your original 30 minutes are now spent. You are entitled to 15 more minutes to complete.

Mr. G. Singh: Thank you, Madam Speaker. So, ten years, three judges, and Ms.

Reilly is indicating she took a huge loss, huge loss. This is what is going to happen here, this is what is going to happen to—no, my friend, and his constituents, the constituents of my friend the Member for D'Abadie/O'Meara and all, those of us who are representatives here. We have to protect them from the overreach of this law and the overreach of this Government. [*Desk thumping*]

Madam Speaker, when you contemplate that this law is retrospective. When clause 4 of the Bill— and I want it read to understand the impact of this clause 4 and the “retrospectivity” associated with this, Madam Speaker. And I quote “Application”, clause 4:

“Upon the coming into force of this Act, this Act shall apply to all recoverable property”—and there is a definition of recoverable property— “irrespective of whether or not the criminal conduct relative to the recoverable property occurred before or after the coming into force of this Act.”

So it is retro, it back in time, but not for dancing, Madam Speaker. It back in time without limit. And my friend from St. Joseph, you agree with that? How could that be possible? Because you want to tell us the legal untruth, the legal fiction that it is civil law. But the civil law has a criminal recovery process.

So this, Madam Speaker—occurred before or after the coming into force of this Act. So it is before or after. What does the learning tell us about retrospectivity? About retroactivity, Madam Speaker? The learning tells us that no matter how you call it, retroactive law, whether it is civil law or criminal law, is inappropriate in a society that has respect for the rule of law. [*Desk thumping*] Because more so in the criminal law field, Madam Speaker, you have to know what is the law. How can you govern under the rubric rule of law when you can go

back in time?

You know, who did that, Madam Speaker, the Nazis you know. The Nazis changed the laws to suit who they wanted to persecute. So that therefore, that is no criminal law, it was civil law and I quote, Madam Speaker, from the Criminal Law Journal, Volume 13, No. 4: “The Right to Protection from Retroactive Criminal Law”.

“The essentiality of a right to protection from retroactive criminal law has”—been—“generally...accepted without argument. Literature on the justification for the principle is”—available. “Yet it...become well accepted that individuals have such a right. The principle has been enunciated in various declarations of human rights from 1789 until the present.”

So that therefore retroactivity is inappropriate. When you are now going to go back from time immemorial, from the time Trinidad became a nation state and you are going—so therefore what I am saying, this is where the gravity of the matter is. If you can go back and deprive people of their property rights then you have no society going forward, because what is the use of my working hard acquiring property when an ordinary constable could come and say; “you see that ‘aye, aye’.” Well an ordinary constable can come and say, you see me I know what I am going to do with you.

Let me tell you what is happening in another Caribbean jurisdiction with a similar legislation. They have a body called SOCA and the officers in that call the businessmen in the country and said to them: “I have a file, you know, what you have to do”. I have a file and you know what you have to do. It creates room for extortion. This Government is facilitating extortion by keeping the law of this nature. [*Desk thumping*]

Madam Speaker, three examples, of retrospective lawmaking are discussed below; the Nuremberg Trials of the late 1940s, the decision of the House of Lords in *Shaw v DPP* in 1961, and the Commonwealth Bottom of the Harbour tax legislation of 1982. In each case, the actions of the defendants were considered so morally repugnant that the principle of non-retroactivity was relaxed to allow them to be punished.

Madam Speaker, so you understand retroactivity is not something you use lightly. Retroactivity represents a throwback, a regression, you know, a mutation that provides for regression—

Hon. Member: Aberration.

Mr. G. Singh—and it is as my colleague indicated to me, it is an aberration. So this mutant that this Government wants to create now is inappropriate for the country we call Trinidad and Tobago. [*Desk thumping*]

Another point so that retroactivity should be out. I want to deal with the “ethnovugraphic” implication of a law of this nature.

Mr. Imbert: That is not a word.

Mr. G. Singh: Madam Speaker, the learning tells us that the poor communities and the minorities in the American system, the civil forfeiture are skewed against them. [*Desk thumping*] So when my colleague spoke about the alignment, we have an alignment in this country, in which the poor will be brutalized by this piece of legislation. Every policeman going into the communities will now unleash violence and terror.

Hon. Member: “You afraid police.”

Mr. G. Singh: The only thing I “ent afraid” is you and you were an army man, [*Desk thumping*] a Brigadier of some sort.

Hon. Member: They fired him.

Mr. G. Singh: Madam Speaker, so you understand when you deal with the sociology of this society, when you deal with the ethnicity and the components of this society, and when you deal with where power will lie in the context of the bureaucracy implementing this legislation, then we have a real problem which will lead to polarization, further polarization in the society, Madam Speaker. And that, therefore, what we have here and I want to warn and plead to this Government, look you have a chance, you need to have widespread consultation on this issue, you need to be able to go beyond this fiction that you have created.

Hon. Member: I wonder why he “fraid” police so.

Mr. G. Singh: And that in your quest to attack Mr. Big, in your quest to go after your political enemies, or enemies of the State as you may consider, let us not abandon the basic principles that make Trinidad and Tobago a place in which there are fundamental rights that must be protected.

Mrs. Jennings-Smith: “Why yuh fraid police so?”

Hon. Member: Because “dey” does rip off people.

Mr. G. Singh: You are a policewoman but you “ent” catch nobody, you only rip-off people. [*Laughter*]

Madam Speaker: Member, direct your contribution here.

Mr. G. Singh: Madam Speaker, this is a country in which those fundamental rights must be preserved. The right to due process must be preserved. We do not want to return to a situation in which there is injustice. And I am of the view, Madam Speaker, like all my colleagues on this side, that through a joint select committee, through a consultative process, we can get this law right otherwise we will return to a Hobbesian nature that will be Trinidad and Tobago. Madam

Speaker, I thank you.

The Minister of Tourism (Randall Mitchell): [*Desk thumping*] Thank you very much, Madam Speaker. Madam Speaker, I want to thank you for the opportunity to contribute to this very landmark piece of legislation, the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019. And, Madam Speaker, this Bill seeks to treat with significant society—Madam Speaker, can I—

Dr. Gopeesingh: Sorry, go right ahead, sorry.

Madam Speaker: Please continue.

Hon. R. Mitchell: Thank you very much, Madam Speaker. And thank you very much, Member for Caroni East.

Madam Speaker, this piece of landmark legislation seeks to treat with significant societal ills that we presently experience in society, those of crime and criminality, proceeds of crime, corruption and corrupt practices. And, Madam Speaker, I am very pleased to be associated with this Government, with this Prime Minister, and this hon. Attorney General, who—and together we have taken the very bold step, the boldest step yet, of seeking to arrest these very societal ills. And, Madam Speaker, I feel as though I am a part of a team that is now cleaning up Gotham City. [*Desk thumping*]

Madam Speaker, this Bill also apart from seeking to treat with significant societal ills, it seeks to meet with our international obligations as many Bills we have previously brought here in this House and debated, in particular the Financial Action Task Force Recommendation 4. And Recommendation 4, Madam Speaker, seeks to deal with the confiscation of assets and it says that:

“Countries should adopt measures similar to those set forth in the Vienna Convention, the Palermo Convention, and the Terrorist Financing

Convention, including legislative measures, to enable their competent authorities to freeze or seize and confiscate the following, without prejudicing the rights of bona fide third parties: (a) property laundered, (b) proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences, (c) property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations, or (d) property of corresponding value.”

And, Madam Speaker, I will treat with some of the issues that the very animated member for Chaguanas West raised. And, Madam Speaker, the entire contribution from the Member for Chaguanas West dealt with him simply reading articles and journals from other jurisdiction without reference to the very Bill that is before us in this Parliament under consideration. [*Desk thumping*]

Madam Speaker, the Member for Chaguanas West, spent a lot of time speaking about the over-reach, and indicated that you must understand the over-reach. And he spoke to articles that he had in his possession from the United States jurisdiction. But I would say to Member for Chaguanas West that the Member for Chaguanas West must understand the brutality that our citizens would have gone through, sons and daughters lost, innocent lives lost.

Hon. Member: That is right.

Hon. R. Mitchell: And that it is now on this Government to bring extraordinary measures to deal with the proceeds of crime, [*Desk thumping*] the illicit proceeds of crime. The Member for Chaguanas West also indicated that the Bill is against the interest of the people. And I would say in response, Madam Speaker, that the Bill is against the interest of the criminals in society, [*Desk thumping*] the money launderers in society, the corrupt in society, Madam Speaker.

7.30 p.m.

We are not talking about innocent owners of property here. We are speaking about persons who hold the proceeds of illicit wealth, the proceeds of crime, and we should not deviate from that. This is a measure aimed at criminality and crime in our society. [*Desk thumping*] He spoke about the Hobbesian states and that life—but the Member for Chaguanas West must know, even in his constituency, life for many of his very constituents have become short, nasty and brutish.

Madam Speaker, the Member for Chaguanas West indicated that this Government is thirsty for revenue. This Government is not thirsty for revenue. This Government is ready, bold and courageous enough to return Trinidad and Tobago to the lawful state without the scourge of criminality, [*Desk thumping*] a return to the rule of law, and he compared this, Madam Speaker, which was a stretch, he compared this to Nazi law, and that we are changing the law to go over who we want. Yeah. We want the State to be able to go after the criminals and the illicit proceeds from crime and that is what this is all about.

In his winding-up he spoke about corruption in another jurisdiction, without naming the jurisdiction, and he sought to create this fear that the police may very well go to businessmen and try to intimidate businessman and indicate that they have a file on them. It is a scare tactic, Madam Speaker. The argument totally avoids the fact that a judge of the High Court must hear and decide upon the application. So I do not know if the Member for Chaguanas West is indicating to this honourable House that he believes that judges of the High Court are also corrupt.

Madam Speaker: Member, I do not think that was said and I do not think you should go down that road, please.

Hon. R. Mitchell: That you very much, Madam Speaker, but that is what was implied, but I will move on.

Madam Speaker: I do not think there was such an implication, and I think even for you, I do not think you should go down that road, please.

Hon. R. Mitchell: Thank you very much, Madam Speaker. Madam Speaker, the Member for Caroni Central, in his contribution, also spoke about foreign legal systems, and I believe that the Member for Caroni Central and the Member for Caroni East, they confused a lot of the legal terminology with the legal terminology used in the United States of America. They spoke about the preponderance of evidence, but a simple Google search will tell you that balance of probabilities, which we use here in our jurisdiction, in our civil jurisdiction, “balance of probability” refers to burden of proof in civil trials. It is also known as the preponderance of evidence. So it is the balance of probabilities. There is no different standard. It is a balance of probabilities. That is what we refer to the standard in civil trials in this jurisdiction. In the United States they refer to it as the preponderance of evidence.

The Member for Caroni Central, he made a comment and he indicated that agencies may very well become self-serving agencies, and that they may abuse power in going after citizens, and I would ask, through you, Madam Speaker, to the Member for Caroni Central, what about the employees of some of these very self-serving agencies who use their position of power to demand and insist that they be paid bribes by citizens? What about those persons? Well, that is some of the illicit wealth that we are going after.

So, Madam Speaker, the current prevailing situation in our beloved twin island state is that we are a developing economy and we are a developingeconomy that is

attractive for foreign investments, but it is this very same scourge of crime that for over two decades prevented this country and its people from really being all that we can be—being and achieving all that we can achieve. Violent crime, Madam Speaker, is fuelled by the lucrative drug trade and it discourages and deters investments. Madam Speaker, organized crime is behind the scourge of crime and the profits from crime find their way into financial systems where they are used to procure businesses, real estate and vehicles and, most importantly, they are used to fund further criminality. And a worldwide trend in the fight against crime and criminality is a focus on prevention and deterrence. That is, there is a focus on the removal of the incentive, a removal of the profit and a removal of the motive to commit the crime in the first place to make it increasingly harder for criminals to realize the financial gains from their crimes.

At present, there is an asset forfeiture regime existing in our jurisdiction, Madam Speaker, and it is based on criminal asset forfeiture, and it exists under the Proceeds of Crime Act. And under that regime, the State is allowed to confiscate the criminal proceeds of individuals following successful prosecution and conviction in the criminal courts. So, Madam Speaker, if there is a criminal, he owns a plane, he is caught trafficking drugs using that plane, he is convicted, the plane that is owned by him can very well be confiscated by the State. So, Madam Speaker, under that regime, it is absolutely necessary before any forfeiture procedure that there must be a prior conviction.

But that prerequisite of a criminal conviction prior to asset forfeiture of criminal proceeds is inadequate, especially given our present-day reality. It is inadequate in allowing the State—it is inadequate on its own in allowing the State to deal with the confiscation of criminal property. And, Madam Speaker, we all

know in this House that there are circumstances where it is not possible to obtain an order for confiscation as a part of a criminal prosecution. It was spoken about just a moment ago. Our criminal justice system is and has been, for a number of decades—I know that the hon. Attorney General and the Member for Laventille West, as well as the Member for Port of Spain North/St. Ann's West are working diligently to improve the criminal justice system, but the reality is that it has been slow and inefficient for decades now.

Another circumstance is where the wrongdoer has died. Where, for example, the wrongdoer has died before the criminal trial has ended, it would be impossible, in those circumstances, to recover the proceeds of his crime. Also, Madam Speaker, another circumstance, where the wrongdoer is unknown. And the Member for Caroni East raised a matter, just a moment ago, he raised the matter of the Monos Island drug bust, where four Venezuelans and two Trinidadians—very, very low-level operatives—were held in a \$700 million drug bust, and all of society knew and questioned how could those six individuals fund a \$700 million drug transaction. And tied in with that, another circumstance, Madam Speaker, is where the property or the instrumentality of the crime belongs to a third party.

And, Madam Speaker, I have an article here by the *Trinidad Guardian*, May 27, 2014, dealing with this \$700 million Monos Island drug bust. “Appeal Court affirms conviction” and I just quote:

“In sentencing them Yorke-Soo Hon, who has since been elevated to the Appeal Court, criticized the police’s investigation into the bust.

‘The main house was never searched and the owners never investigated...the ownership of the drugs was never established and the employers of these men were not found. All these unanswered questions

facilitated the escape of the big fish,' Yorke-Soo Hon said.”

And, Madam Speaker, in using this very same civil asset forfeiture, questions or an investigation would commence into, who owns the house? The house is owned by a third party, but the house is an instrumentality of the crime committed; and the house, being an instrumentality of the crime, may very well be forfeited.

Madam Speaker, another circumstance where criminal prosecution may be not possible to obtain is where the wrongdoer is a fugitive and, Madam Speaker, to give an example, recent example, just imagine a travel agent who would have fleeced law-abiding citizens of millions of dollars. With the millions of dollars, they would have purchased vehicles, purchased house and land, they would have subsequently been charged with fraud and money laundering, and that travel agent may very well have escaped custody and become a fugitive, and may very well be in Panama. Madam Speaker, where the wrongdoer is a fugitive, the State is able to use the civil asset forfeiture regime to go and get the instrumentalities or the illicit proceeds of the fraud, of the crime, that in that example, the wrongdoer would have committed.

So, Madam Speaker, I will now confine myself simply to Part V into the Unexplained Wealth Orders, and the purpose of the Unexplained Wealth Orders in civil asset forfeiture is any legislative framework that is proposed to treat with asset forfeiture in the civil arena, must also consider and include provisions for granting Unexplained Wealth Orders, and these Unexplained Wealth Orders, one of the latest measures and additions in the arsenal, now given to prosecution and investigative authorities, that would enable forfeiture Orders to be made without criminal prosecution.

So, Madam Speaker, who are these Unexplained Wealth Orders aimed at?

These Unexplained Wealth Orders are aimed at individuals who hold property that appears to be disproportionate to their legitimate income. That is to say, Madam Speaker, those who own property at a value so high that it is disproportionate to their legitimate income. For example, a Customs Officer probably earns \$12,000 to \$14,000 a month but enjoys many luxury cars, many luxury houses, or the wife who is a housewife to that Customs Officer may have many luxury cars, many luxury houses in her name.

Madam Speaker, and if that individual cannot explain the legitimate source of his or her wealth, such unexplained wealth can become subject to confiscation by the State. And the rationale behind this new tool in crime-fighting is to eliminate criminality, corruption and corrupt practices and to deprive the respondent of any property acquired by corrupt and illegal means. So, Madam Speaker, we can look at the trigger. The trigger is listed in clause 58 of the Bill and the trigger for making an application to the court—

Madam Speaker: Member for San Fernando East. We now take the Procedural Motion.

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that the House continue to sit until the conclusion of the matter before it.

Question put and agreed to.

CIVIL ASSET RECOVERY AND MANAGEMENT AND UNEXPLAINED WEALTH BILL, 2019

Madam Speaker: Member for San Fernando East, you have 10 more minutes of

original time, and you are also entitled to 15 minutes of extended time. So that if you intend to go beyond the original time, I will grant you leave, at this stage, so that you will have 25 minutes.

Hon. R. Mitchell: I am grateful for that indication, Madam Speaker. So, Madam Speaker, I was at the triggering clause, clause 58 Part V that deals with Unexplained Wealth Orders. Madam Speaker, there are only certain authorities that can pull the trigger for a Preliminary Unexplained Wealth Order to be made. They are the Chairman of the Board of Inland Revenue, a Customs and Excise Officer or a police officer attached to the branch of the police service responsible for financial investigations; and all these bodies, Madam Speaker, they have investigative and prosecutorial powers in law, and an application under clause 58 of the Bill for a Preliminary Unexplained Wealth Order will follow investigations done, following the report of some sort of suspicious transaction report or a suspicious activity report. So it is not as flippant as the Member for Chaguanas West or the Member for Caroni East make it out to sound in reading their foreign articles. It is not as flippant as that.

Madam Speaker, in clause 58(2), the first step is that the authorities listed may make an application for a Preliminary Unexplained Wealth Order, which is effectively an application that the court orders the respondent to submit to the court a declaration in Schedule 2 to the Bill, giving an explanation of his income, assets and liabilities. So the first step is that these authorities approach the High Court, asking the High Court to make a Preliminary Unexplained Wealth Order that will allow, simply, the respondent to produce to the court a declaration giving an explanation of his income, assets and liabilities, and the application must be accompanied by affidavit which must identify the respondent and must also clearly

state the grounds by which the applicant reasonably suspects:

- “(a) the total wealth of the respondent exceeds the value of his lawfully obtained wealth; and
- (b) the property is owned by the respondent or is under his effective control.”

And the High Court must be persuaded of these matters before allowing the application.

And, Madam Speaker, the test for what amounts to reasonable grounds for suspecting is not one that is applied lightly as Members of the Opposition would like you to think. It is a test found in the criminal arena, and the guidance on what amounts to reasonable suspicion tells us that it just cannot be a police officer going and saying: “Aye, aye, look I suspect you of doing this or I suspect you of doing that.” There must be listed in the affidavit an explanation of the grounds by which the applicant reasonably suspects, and in that affidavit there must be an objective basis for the suspicion based on facts, information and intelligence arising out of any investigation of the authority, which are relevant to prove that a Preliminary Unexplained Wealth Order should be made, and that is the test of reasonable suspicion. It is not flippant and it is not someone just going and saying: “Eh, you, you, you, explain your wealth.”

Madam Speaker, only where the High Court is satisfied that there are reasonable grounds to suspect that the total wealth of the respondent exceeds the value of his wealth that was lawfully obtained will it make the Preliminary Unexplained Wealth Order, and the effect of it is that the respondents must file a declaration and appear before the High Court to answer questions relative to his or their assets.

Madam Speaker, clause 60 prescribes the penalty for making a false statement on the declaration as \$100,000 and imprisonment for 20 years, and the respondent must do this knowingly or willingly.

Clauses 64 and 65 set out the procedure for the application and grant of an Unexplained Wealth Order and the consequences of the grant of the Unexplained Wealth Order, but it must be said here, Madam Speaker, failure to comply with the Preliminary Unexplained Wealth Order, within the time specified, will cause the authorities to presume that the property was obtained unlawfully and this will allow an easier passage for the application for an Unexplained Wealth Order.

On the basis of the affidavit and documents in support of the application under clause 64, that is, the application for an Unexplained Wealth Order, the applicant must prove—that is, the authorities—according to the civil standard, that is, on a balance of probabilities, that any part of the wealth of the respondent was not lawfully obtained or held, and that the property is held by and subject to the control of the respondent. And, Madam Speaker, conversely, the respondent must also prove, in accordance with the same standard on a balance of probabilities, that the wealth of the respondent was lawfully acquired. By reversing the burden of proof, Madam Speaker, as in all civil trials requiring the respondent to disclose their interest in the property and explain how any purchasing costs were met, the Unexplained Wealth Order should establish whether the individual in question has legitimately obtained the asset or not.

Madam Speaker, clause 65(2) deals with associated property and explains that for the purposes of this provision, it does not matter whether the property is associated property, that is, whether other persons have an interest in the property along with the respondent. And in 65(3) where the High Court makes an

Unexplained Wealth Order, the Order shall specify that the respondent is liable to pay into the seized asset fund an amount equal to the Unexplained Wealth Order.

So, Madam Speaker, I understand that this is new. These mechanisms, this civil asset forfeiture regime is new in our jurisdiction, but I respectfully submit that it is a necessary introduction [*Desk thumping*] to deal with the scourge of crime and criminality, to deal with the blood on the streets, Madam Speaker, and to return this country, our beloved State of Trinidad and Tobago, to the rule of law and to the place that we all want it to be. Madam Speaker, with those few words, I thank you. [*Desk thumping*]

Mrs. Christine Newallo-Hosein (*Cumuto/Manzanilla*): Thank you, Madam Speaker. Madam Speaker, when I heard the Member for San Fernando East referred to this nation as Gotham City and they were taking it in stride, I wanted to remind the Member that Gotham City was protected by Batman and, obviously, on this side, we have to be Batman to protect our nation. [*Desk thumping*] Madam Speaker, the Member for San Fernando East raised an issue regarding a travel agent—[*Crosstalk*]

Mr. Hinds: You are Catwoman. [*Laughter*]

Madam Speaker: Order! Order! [*Crosstalk*]

Mrs. C. Newallo-Hosein: I take that as a compliment. Madam Speaker, he raised an issue of a travel agent, and we all are aware of a very—whether it is the case the Member is speaking about—

Mr. Mitchell: It is sub judice. **Mrs. C. Newallo-Hosein:** Oh, now it is sub judice. Right. But the point about it is, it is a matter that everyone is well aware of and, therefore, the State can take the necessary action, but this Bill here does not need burden of proof where criminal conduct is and that is a fundamental

difference in the example that the Member brought and what is before us here today.

You know, Madam Speaker, the Unexplained Wealth Order, it states really that—and we have all said it here, and I do not want to be repetitious unnecessarily, but we have here—[*Crosstalk*] I speak on behalf of my constituents, Madam Speaker, and in my constituency we have farmers—predominantly farming, fishing—and you have persons who, many years ago—long ago, farmers would have built their homes not using borrowed money—they will not go to the banks, but they will take their moneys and they will build room by room by room—and have built really lovely mansions today. If you look back, at the time, they could not have afforded it, but what they did was that they took their wealth, they took their moneys and they applied it and they sacrificed and they sent their children to school and they built their homes which became a symbol of pride for many of these persons.

The Government is proposing that we go back in time. It does not say when; it does not say how long, just go back in time for recovery of property that may be suspicious in nature—how it was derived—and, to me, that cannot be right. The Member is indicating that this is a new law and it is new to the region. And so, it may be new to the region but, you know, we had excellent proposals from the Members for Caroni Central, Caroni East and Chaguanas West, who gave really brilliant reasons why it is this Bill is so dangerous and should be taken to a JSC or withdrawn totally, and it is simply because of the fact that it may be new for the Minister, for the Member for San Fernando East, but it is not new to the regions outside of Trinidad and Tobago. And the mere fact that they could have brought documentation and research on evolving civil asset forfeiture laws, it means that

they could take a page, not the page that the Member for Chaguanas West was referring to, but take a page from the laws that are being amended in these states—in America and in Australia and so forth—and begin to work around it because, at the end of the day, it is important for us to always protect the rights of our citizens. And when we speak about protecting the rights of the citizens, Madam Speaker, we speak about protecting property, not property of persons who may have committed crimes, not those, but protecting the innocent and not allowing them to be caught in this net, and there must be a safety net for the innocent citizens.

Madam Speaker, when I listened to the Member for San Fernando East and to the Member for St. Joseph, I wondered, you know, this type of law that they are bringing here that speaks about probability, and speaks about reasonable suspicion—and in one aspect it speaks of the word “suspects”—I wonder how this will stand in any court, because as far as I am aware—and I am not a lawyer—a judge rules based on evidence and not hearsay, and I know of circumstantial evidence being thrown out because of the fact you must bring burden of proof.

8.00 p.m.

So I do not understand why this Bill is being brought before us here to debate, knowing that there are so many defects in it and so many loopholes in it that will cause them to become—this Government and the State, of course, to be impacted negatively, as shown by the Member for Chaguanas West when he brought the issue of Riley in Toronto.

Madam Speaker, it is important for us to recognize that when the AG spoke in his opening statement he said—based on the Constitution and everything else, he said, “I am confident that this Bill does not require a three-fifths majority”. Madam Speaker, I would like to let the Member for San Fernando West know that

there is a difference between confidence and knowing the Constitution and protecting the rights of the citizens of Trinidad and Tobago. And I am confident that should this Bill pass that the Government will be brought to task in a court of law to prove that this matter here requires a three-fifths majority.

So, Madam Speaker, just like the Member for Chaguanas West, we are asking the Government to certainly reconsider this Bill, to pull it back, to take it through a JSC to really get the necessary persons in place who can assist in getting a wide view of how this thing will impact, because we all want the criminals to be apprehended and we want to be able to ensure that whatever proceeds that came out of it, in terms of property and so forth, would be in fact dealt with accordingly, but not where it is that innocent persons have to be defending themselves in a court of law; not that way.

Madam Speaker: Member for Cumuto/Manzanilla, in terms of the constitutional point, in terms of what it will do to the ordinary man, I think those points have really been well ventilated. I would ask you—I have given you a little leeway, but I would ask you now to go on to an aspect of the Bill which has not been touched on before.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. I will go to clause 17, Property Manager. It says in clause 17 that it provides for the appointment of a Property Manager. And it continues with clause 18 that the Bill:

“...provide protection for the Property Manager in respect of any act done by him in good faith in the performance of his duties.”

It continues to clause 19. It says, the agencies empowered to:

“...employ staff, and engage experts, advisers, and consultants as necessary, and to assist in the conduct of its responsibilities”—pursuant to clause 19.

Now, Madam Speaker, this Government has not proven that they are capable of putting anybody who has the necessary technical expertise to deal with anything concerning assets, concerning the purchase of boats or anything, far less to take care of other persons' property when it comes into their possession. So, Madam Speaker, I think it is important for us to really consider whether or not the Government has thought out, carefully, this civil asset recovery and management agency to take care of persons' property when it comes into their possession.

Madam Speaker, the Member for San Fernando East spoke about clause 61 where it empowers:

“...the court to make a Preliminary Unexplained Wealth Order, where it is satisfied that there are reasonable grounds to suspect...”

Again, Madam Speaker, it says that:

“The Preliminary Unexplained Wealth Order would require the respondent to file a declaration and appear before the High Court to answer questions relative to his assets for the court to decide whether to make an Unexplained Wealth Order.”

“...a notice of making of the order shall be served on the respondent.”

Madam Speaker, clause 62 indicates that the High Court, the person is allowed to make an application to the High Court for the order to be revoked within 28 days of the notice of the order, and the High Court may order an inter partes hearing within 14 days. But, Madam Speaker, it does not indicate how many days would the suspect be required to file a declaration, and therefore it is important to indicate this beforehand simply because we do not want any misunderstanding or ambiguity with the law. There should never be ambiguity with the law when you are dealing with matters coming before a court, and it

should not be left to a judge to interpret it, especially when you are dealing with one's property.

Madam Speaker, again, the Member for San Fernando East spoke about clause 64 of the Bill empowering the Chairman of the Board of Inland Revenue, a Customs and Excise officer, a police officer attached to the financial investigations branch to apply to the High Court for an Unexplained Wealth Order. An application must be accompanied by a supporting affidavit and other documents in support of the application; Madam Speaker, this simply is not enough. It does not state anybody in a high-ranking position, and therefore it gives the impression that anyone, once you are in this, attached to the financial investigations branch, that they are allowed to make an application. And, Madam Speaker, as our Members on this side have indicated, we have in these First World countries where you have a functioning judiciary system, efficient judiciary system. In the Riley's case against the AG, it took 10 years, and this is in a functioning system. For us, Madam Speaker—

Madam Speaker: And, Member, that point has been flogged in very many ways—[*Interruption*] You know, while I think sometimes we sit here for long and we need to exhale, anybody who needs to exhale can go out to the door and exhale and come back. Member for Cumuto/Manzanilla, please go on to another point.

Mrs. C. Newallo-Hosein: Okay, Madam Speaker. Just to let you know, Madam Speaker, that in Trinidad and Tobago we have 100,000 cases in excess of 17 years old. And so we ask—

Madam Speaker: Member for Cumuto/Manzanilla, maybe you did not understand what I intended. Okay? I have therefore ruled that you are breaching the rule against tedious repetition, please move on to another point. If I have to

rise on this again, I will therefore invoke my powers, please.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. You know, today we had the Minister of Works and Transport responding to a question posed by the Member for Oropouche West and the Minister indicated, a citizen is innocent until proven guilty, but, Madam Speaker, with this Bill, no longer will that be in this case, and so therefore it is very important for the Government to recognize that they are bringing a Bill that really violates us.

This Bill is about recoverable property and, again, in responding to a question, the same Minister of Works and Transport, to a subsequent question from the Member for Oropouche East regarding the forfeiture of a particular boat, this Bill here, Madam Speaker, would allow for the State to incur a loss because of this Bill, and it may be good. Maybe it is good because it means therefore that the Government would be brought in another country, perhaps Malta, to answer for certain matters.

Madam Speaker: Member, please, on relevance, I cannot see the relevance. Please, go on to another point.

Mrs. C. Newallo-Hosein: Sorry, Madam Speaker, you said you do not see the relevance?

Hon. Member: Yeah.

Mrs. C. Newallo-Hosein: No, I do not know, I did not hear you, Madam Speaker. Okay, but I will move on to another point.

Madam Speaker, the Member for St. Joseph spoke about how many persons do you know—these were his words—how many persons do you know work 8.00 to 4.00 who have three and four properties? And he said, and this here would not be applied to the little man, and I do not understand, Madam Speaker, the people

who work 8.00 to 4.00 are already the little people. So, in fact, the persons who will be impacted would be the little people. They are not going after the persons who really know the “big fish”. We did not say we know the “big fish”. As a matter of fact, it was the hon. Prime Minister, Patrick Manning, who said he knew the “big fish”. And therefore I say it is important for the Government to have the current laws that have been passed in this House to utilize those Bills to find the “big fish” and to prosecute the “big fish”, and to confiscate their properties.

You know, the Member for St, Joseph also indicated—the Member said that we traumatized—the UNC traumatized this nation, but [*Desk thumping*]—

Hon. Member: True.

Mrs. C. Newallo-Hosein:—Madam Speaker, I want to say that it is this Government who has been traumatizing the nation. [*Desk thumping*] This Government has traumatized them in every way possible, has brought a number of Bills to persecute, to prosecute, and have not been able to do so except to persecute and prosecute the “little man”. Madam Speaker, the Chambers have been calling for this Bill to be reviewed and, if possible, to be—[*Interruption*]

Hon. Member: Which Chamber?

Mrs. C. Newallo-Hosein: All the Chambers. All the Chambers, Madam Speaker, including this Chamber, they have been asking for the Government to pull back this Bill, and simply because of the fact that, you know, there is a great—how do you differentiate? How does this Bill differentiate between the innocent and the guilty? This is a Bill, the Bill does not do that. You need a High Court or you need facts. You need whatever it is to be able to say, this is innocent, this is not innocent. How can a Bill differentiate that?—and it cannot, Madam Speaker. So it just comes down to say, when the Member for San Fernando West was speaking,

and the Member spoke about the—he said, this is in rem, it refers to property, you know, it does not speak to persons.

Madam Speaker, we have been saying all the time, this Government is not people-centred developed at all. Everything you think about, you think in terms of, you know, money, tax; you think about how you could do everything, but they do not ever consider how it impacts upon the human life, how it impacts upon families, how it impacts on anybody. And so they have come up with this Bill indicating that there is no way that you can affect the lives of persons.

And so, Madam Speaker, I want to continue on clause 71. Clause 71 says that—clause 72 sorry says that:

“...the duties of the Property Manager...”

As detailed at clause 72 of the Bill, the duties include:

“preparing and filing with the High Court and Minister, a report identifying the location of the property where he takes control of it”...

I am concerned about this, Madam Speaker. Who is the Minister? And I do not know why is there a Minister involved in this Bill at all. I would think that if it is you are bringing a matter like this it should be with the DPP or with the relevant authorities, not a Minister, and this here is very, very concerning because it says:

“...a report identifying the location of the property where he takes control of it, initiating and maintaining records of all property restrained, seized and forfeited”—and destroyed—“under the Act...”

Madam Speaker, I am concerned when you say “destroyed” because I do not know what property could be destroyed or if one has the right to destroy anyone’s property, especially when you are not convicted of any crime, it is only a suspicion. And so I think that this is very dangerous and it should be addressed by

the Minister, by the AG.

Also, Madam Speaker, I thought that the matter raised by the Member for D'Abadie/O'Meara was very concerning when the Member spoke about—and it was like almost a threat when the Member said, you know, you young people, you young people need to know that there is a penalty, you know, crime, there is a penalty to crime. It is that only young people commit crimes? Is this a law against young people? I think it is very discriminatory and I am very concerned that—it looks as though there is an attempt to single out a particular group. I am not saying so, I am just saying from the tone and from the language. *[Interruption]* Read the *Hansard*. And so, Madam Speaker, I think it is important—*[Interruption]* Very good. I think, Madam Speaker—

Madam Speaker: Could the crosstalk please cease? Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. Madam Speaker, I think it is very concerning that you would have, singling out young people, and then indicating you are wearing this chain. Madam Speaker, I wear chains. I may not wear, you know, gold, or whatever it is, hanging down to my toes, or anything like that, but, you know, because I wear jewellery am I going to be targeted? You know, so I think that the language is very concerning coming from the Government side, you know, how it is they support this Bill. There is no definite guidance as where it is you are going, how they plan to approach it, you know, it is based on how you look, how you speak.

Madam Speaker, you know, sometimes we like to wear fashionable stuff, and I might wear a R-o-l-l-e-x, and I might be going around and saying, hey, hey—*[Laughter and crosstalk]* Wait, hold on. Madam Speaker—*[Crosstalk]*

Madam Speaker: Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. Now, I do know how to spell, and because of the fact that in the Bill it allows that even my watch can be taken away from me, I am wearing a R-o-l-l-e-x, but nobody sees it, so I am walking around and saying, “Aye, ah have ah real nice Rollex here boy”, and you think it is a R-o-l-e-x. So here it is somebody says, “You know what? She cannot afford no Rolex, you know”. Guess what? They suspect, take me, and I have to go now, Madam Speaker, and explain that it is really a R-o-l-l-e-x. It cost me \$10. [*Desk thumping*] And so this is how this law really is so, you know, ambiguous. It is so convoluted. It is so—it is really—I just want to tell the Member for D’Abadie/O’Meara, when we met as a caucus—we do that, we meet as a caucus and we discuss what we are going to—how we are supporting, whether we will support the Bill or not, not like the Government who come in and you have to support.

Madam Speaker: Member—

Mrs. C. Newallo-Hosein: Yes, Madam Speaker.

Madam Speaker: Member, I rule that that is irrelevant. I ask you to come back to the Bill, please.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker.

Madam Speaker: Member for Princes Town, I have ruled. Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. I want to conclude, Madam Speaker, and I do so by supporting my Members on this side who brought excellent arguments to support why this Bill is really—it has a lot of flaws in it—very dangerous, and I ask, you know, the Government to reconsider this Bill, pull

it, send it to a JSC, but certainly not pass it because it really infringes on the rights of our citizens of Trinidad and Tobago. I do thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: Member for Point Fortin.

The Minister of Housing and Urban Development (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker, for giving me the opportunity to enter in this debate on a Bill entitled, an Act to provide for the establishment of the Civil Asset Recovery and Management Agency for the recovery of criminal property through the use of the remedies of restriction in dealings with civil assets restriction and forfeiture of criminal property and the management of criminal property, and Unexplained Wealth Orders and matters incidental thereto.

Let me first of all congratulate the Attorney General for once again executing his legislative agenda, one that you have seen through several approaches that is truly designed for the benefit of the people of Trinidad and Tobago. The Attorney General has been working assiduously in creating the kind of environment to treat with crime and criminality in Trinidad and Tobago, so I want to congratulate the Attorney General for bringing this most important timely legislation to this Parliament. [*Desk thumping*]

No doubt, Madam Speaker, we are into a security environment that is characterized by a number of issues that this very Bill speaks to. The environment is characterized by narcotics, guns, illegal guns, illegal drugs, cybercrimes, human trafficking, murder, kidnapping, you name it, Madam Speaker, but at the end of these issues that characterize the security landscape you will find that there is a benefit at the end of the day which speaks to monetary gains, proceeds of crime. There is a structure in this illegal environment, Madam Speaker, that must be

addressed if we have to treat with crime and criminality in Trinidad and Tobago, and therefore this very Bill that we speak to, in terms of civil asset recovery, touches at the very core of these issues, core of the issues that characterize the National Security environment and the international security environment. Because when we talk about security we are talking about things that affect both the local environment and, of course, the international environment, because by itself it is multidimensional in nature. And so the very issues pertinent to this Bill touches on treating with these issues in the National Security environment.

Madam Speaker, when we look at the simple definition of the Bill that we are talking to in terms of civil asset recovery, it is truly just a legal process in which law enforcement takes asset from persons suspected of involvement with crimes or illegal activities, and I say, suspected of involvement in illegal activities without necessarily charging owners with wrongdoing. And to get back these seized, property owners must prove they were not involved in criminal activities. It is simple. It is a simple aspect. If you are not involved in criminal activities then you have nothing to worry about, Madam Speaker, and that is the essence of this Bill. [*Desk thumping*] I hear from the other side several complaints and I wonder, I wonder whether or not they understand, to a large extent, that if you are not involved in criminal activities you have nothing to worry about. [*Desk thumping*] You have simply nothing to worry about. And therefore this Bill would have been so simple, because I believe we are all honourable men and ladies in this House, Madam Speaker. I believe that we are all honourable and therefore we should have no worries whatsoever in treating with this Bill. And I look forward and I am sure these honourable ladies and gentlemen would support this Bill, “unhesitantly”, Madam Speaker.

Madam Speaker, before I go into the issues let me touch on areas that came up before by the Members of Parliament for Caroni Central and Caroni East, to a large extent. You know, they used illustrations from various—from the United States in particular. In the United States there are 52 states, but yet they came, they drew selective examples, and, as a matter of fact, I think it might have been the Member for Caroni Central mentioned there were eight states that have not enacted these laws or have did away with these laws, and so on, but eight out of 52. Madam Speaker, if you look at the list of states that in fact have this very same law that we are treating with right now, it goes down the list: Arizona, Arkansas, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Mississippi, New Hampshire, New Jersey, Oklahoma; and I can go down the list. But yet they come to tell this House that there are states in the United States, and they are in the minority. Some of them have tried and found other reasons, but they are in the minority.

The majority of the states in the United States in fact have this very same law, the Bill that we are trying to do, have been enacted in their laws. So it is a sort of selective examples that they are using. The hon. Member for Chaguanas West, he referred to—when he was talking about the Member for D'Abadie/O'Meara—Hobbes, Hobbesian philosophy in terms of short, nasty and brutish, again, but the same Hobbes said, in the state of nature, Madam Speaker, that there is the whole question of the walk, all against all. But he also said that the social contract involved the surrender of some part of the individual rights for the benefit of all and that right was surrendered to the leviathan which in today's world is the State. [*Desk thumping*] And therefore, Madam Speaker, it is the same process that we are looking at today, because even though we are putting this Bill

to affect some people, we have to surrender some aspects of your right for the benefit of all, and therefore this Bill seeks to look at the majority. When we look at our Vision 2020, we said and we talked about putting people first, and this Government continues to put people first, even in the sense of example in this Bill, Madam Speaker. [*Desk thumping*] Putting people first, that is the central aspect of what we are doing here today.

Madam Speaker, the Government of Trinidad and Tobago recognizes that many crimes generate large monetary sums and material reward for the perpetrators, and this recognition is throughout the world, whether it is being through the drug trade, human trafficking; whether it is through corrupt practices or even through the acquiring of funds associated with activities related to terrorism, we recognize that. These activities and subsequent well gains are not only endemic to Trinidad and Tobago but throughout the world. We see it in all jurisdictions. There are several countries that have experienced what we are going through. It is nothing new. This is nothing new that we are doing. This is nothing new. We are not reinventing the wheel, we are improving on the wheel, Madam Speaker; that is what we are doing. [*Desk thumping*] We are improving on the wheel; that is what we are doing today because we have seen the experiences with other countries.

So, Madam Speaker, the question we will ask ourselves is: Who really attains the wealth related to these activities? Who really attains these wealth? This is what we must ask ourselves. The kingpin, the financiers, the drug lords, call it what you may and moreover, what do they do with these ill-gotten gains, Madam Speaker? We have to ask ourselves these kinds of certain questions. The State must have the ability to trace these ill-gotten gains. It is constrained to develop the

investigative apparatus to really trace and find and seize the funds and other properties that have been derived from these ill-gotten gains. Madam Speaker, the drug lords, the human traffickers, the gun runners, and every conceivable type of criminal, even the white collar criminals, must not be in a position to retain these illegal funds, and this is why we are saying that this Bill is important to treat with these issues. The State must be able to spread its wings, must be able to forfeit these illegal wealth in order to bring a sense of security.

Madam Speaker, there was an article in the *Newsday* on December 16, 2018, entitled, “Drugs everywhere”. This article is a detailed “discovery of 400 kilograms in high grade marijuana in a shipping container”.

“The drugs, worth \$6 million, were found in 12 black duffle bags and one crocus bag...”

It was surmised that this shipment came from Jamaica at the time, so we are talking about the same international environmental that I spoke to earlier on. This business is lucrative, Madam Speaker, very lucrative. I mean, even today on today’s newspaper there is an article with respect to the discovery at Atlantic LNG in Point Fortin, my former workplace, of TT \$120million cocaine shipment on the Spanish ship. What is the name of the ship again? I cannot recall it now, but it is on today’s newspapers. I am talking about as recent as this week, Madam Speaker, on today’s papers. Now, when we look at the kind of money that is passing through our system, it does not stay at the perpetrator at the end of the chain, you know, Madam Speaker, it is the wealth that is derived from that. At the end of the day the wealth that is derived from those issues that is traced to somebody, somebody that my colleague from D’Abadie/O’Meara spoke about, the “Mr. Big”. The United Nations estimate the narcotics trade in the Caribbean generates as such

as US \$3 billion. We are talking about billions of dollars, billions of dollars which translate into property, which translate into the very nature of this Bill that we are talking about in terms of the transfers into funds, ill-gotten gains.

Where do all these funds go, Madam Speaker? What is the trickle-down effect? What are the effect on crime and criminality in Trinidad and Tobago and in the wider Caribbean? We are all aware that guns form part of these trades, even in the drug trades with the cocaine, and so on; guns are part of it. The drugs leave our country, some may remain, but the guns remain, and that is part of the criminality that we have to treat with in our issues, in our Trinidad and Tobago. You know, Madam Speaker, when I did my Masters in Military Arts and Science, I did an article called, "Caught Between Supply and Demand: The Implications of the Drug Trade for Trinidad and Tobago". In that I remember specifying that by the nature of our very geography we cannot do anything, we cannot lift Trinidad and Tobago out of it because we are fixed at our location as a stepping stone between South America and the wider Caribbean, up to Europe and North America. And what happens to us in Trinidad and Tobago is that we are the transshipment point of the drugs, the guns, and so on, and what happens within our country is that there are those who are at the manipulative class, those who are the owners, those who benefit from the proceeds of crime, that we must be able to reach if we want to change Trinidad and Tobago, as part of that transshipment point, Madam Speaker.

8.30 p.m.

And this is one of the reasons why the Bill here is before us today. It is to target those issues of people within our society, within Trinidad and Tobago, and we can send a message to the wider Caribbean also. In fact, the wider Caribbean is sending a message to us. As the AG mentioned, the law has been passed in St.

Vincent and the Grenadines, Antigua and Barbuda. We in Trinidad and Tobago as the first stepping stone, as the first island nearest to South America, we cannot sit idly by. We cannot allow ourselves to be vulnerable to the extent where those who are bent on creating those crimes, those who are bent on developing and achieving assets, achieving properties, are left untouched. This Bill is to target those individuals.

Madam Speaker, even the US State Department has said that Trinidad and Tobago is a destination and a transit country. Even for adults and children suffering in sex trafficking—and, Madam Speaker, this thing about proceeds of crime and so on, it does not only deal with drugs and so on, you know. There are people who are benefiting from the trafficking in children. There are people who are benefiting in trafficking of people, and also acquiring wealth and property based on that. It is not just drugs and guns and illegal activities. In today's world, today in Trinidad and Tobago there are those who are benefiting from the illegal trafficking of children, of sex slaves in Trinidad and Tobago. It touches to the very core, and therefore we as a Government, as a responsible Government, will continue to find ways.

And this is for the benefit of the people of Trinidad and Tobago. Hence the reason why I cannot understand—I cannot understand—why the Opposition is looking almost the other way in treating with this issue. I cannot see the benefit of this for the greater good of Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, the proposed Bill of Trinidad and Tobago is in alignment with our support of the United Nations Convention Against Corruption, to which the country, our country, is a signatory on 11th of December, 2003; the ratification of the same on the 31st of May, 2006. So it is in alignment with that. We have

signed that years ago. We have the Proceeds of Crime Act that has been there. And again, the AG went on his way to say that there are other laws that allow us now to even seize properties and so on. So it is nothing new. What we are doing is really strengthening the laws because to date, if we ask ourselves a question: How much have we been able to succeed in terms of recovering property, in terms of seizing property? Therefore, it is quite clear to us that although we have laws that are there on our books, they are not good enough, they are not sufficient enough to treat with what we are treating with in today's world. [*Desk thumping*] We are dealing with a changing environment. It is not working for us. Clearly it is not working for us.

If to date we only—I think the AG quoted about four different laws, four different areas, and yet to date we cannot say that we have seized any property. How much property have we seized so far? Therefore, we have to continue that the laws be able to address the changing security environment. This is what we are doing. This is what we are doing tonight. This is what we are doing with Bill. We have to change the laws to be able to address the situation, because if we keep still while we keep the archaic laws in place, not be able to address the issues, and those who are bent on living off the proceeds of crime and so on continue to grow, Madam Speaker, Lord help us, Lord help us.

So, today, tonight, this evening, Madam Speaker, let us support this Bill. [*Desk thumping*] Let us support this Bill in its entirety. You know there are concerns raised about clause 4 and so on in the Bill. Clause 4 talks about:

“Upon the coming into force of this Act, this Act shall apply to all recoverable property, irrespective of whether or not the criminal conduct relative to the recoverable property occurred before or after the...”

What is the issue there? If the property was occurred illegally in the first instance, time does not erase that. Time cannot erase that. If it was incurred or received illegally in the first instance, then the question of time after or becoming the law should not erase that whatsoever. Illegal is illegal is illegal is illegal. There are no two ways about it. So the issues raised on the other side about that to my mind has no bearing whatsoever. It has no bearing whatsoever, Madam Speaker.

And then, if you look, there are similarities in the Proceeds of Crime Act, Chap. 11:27, civil asset recovery and management. There are similarities in this Bill. Particularly in the removal of property from the hands of the offender and having same vested in the State. They are very similar.

So they on the other side are appearing to state as though this is something new we have been putting onto the citizens of Trinidad and Tobago, when it is not—it is not. But the main difference between the two really lies in the fact that the Civil Asset Recovery and Management and Unexplained Wealth Bill there is no initial requirement for a person to be found guilty of an offence or to fall under the ambit of the proposed legislation. Madam Speaker, there is really no real significant difference. So there is nothing new that we are putting or imposing on our citizens of Trinidad and Tobago. It is something that is already there. We are merely strengthening the legislation.

The Bill proposes the recovery of wealth accrued by criminal activities through the use of remedies of restrictions in dealing with civil assets, restrictions and forfeiture of criminal property, management of criminal property, Unexplained Wealth Orders which are orders of the High Court, by which the respondent is required to pay to the State the assessed difference between the total value of his wealth that is lawfully acquired. And again, this is unexplained wealth. If you have

wealth and you acquired that wealth legally, you have no problem explaining that. [*Desk thumping*] You have no problem explaining that. If you acquired that legally. You have no problem whatsoever. As a matter of fact, you have no fear going before the court and saying, "I have acquired my wealth through hard work, through hard work, through sweat, through grind". Through honest work that our parents teach us to do, you have acquired that. You have no problem whatsoever.

But the problem arises, Madam Speaker, when you cannot go to the court and explain how you acquired that wealth. Therein lies the problem, and I cannot understand. I cannot understand why. [*Desk thumping*] For heaven's sake it is so simple. To my mind it is very simple. If you have not acquired it legally, then you are in problems and therefore those are the ones who are fearful of it. Those are the people who are fearful of it. [*Crosstalk*]

The proposed Bill also provides for Property Restriction Orders and Civil Asset Forfeiture Orders. These orders relate to assets believed to be or which are criminal property, terrorist property, instrumentalities of crime. And, Madam Speaker, we live in the age of terrorism. You know, we have to look at all these things. As I have said it is a changing security environment which the other Bills did not touch on. We have gains from terrorist activities. We have gains from a number of different things that are taking place right now and, therefore, we must be able to touch on those things.

We have already talked about an order in rem so I will not repeat this and so on. That has been dealt with I think quite clearly.

Further, Madam Speaker, the proposed Bill also provides for property to be recovered from persons who have obtained the property through criminal conduct, which I talked about, from a person who has the instrumentality for the purpose of

criminal conduct. The Bill further details how to treat with recovered property that is disposed for or converted. And we talked about the mechanism put in place in terms of the agencies and so on, and that is clearly laid out in the Bill. So there is a mechanism in place to treat with it. So we have, not only that thing, but there is a structure.

The other aspect I heard mentioned with respect to the whole question of the Customs and police and so on, I think it was under clause 31. Yes, Madam Speaker. If you look at clause 31, and it was raised again on the other side:

“Where during the course of a criminal investigation a police officer, customs officer or the Chairman of the Board of Inland Revenue has reasonable grounds to suspect that the offence involves recoverable property he may forward an investigative report...”—and I will read it again—“he may forward an investigative report to the Director of Public Prosecutions.”

And what we heard articulated on the other side is as though the policeman on his own will look at you and say—on his own—seize your property. You know, they make it as though it appears that the police—the policeman cannot do nothing on his own. Look at what it says here in clause 31. Look at it:

“he may forward an investigative report to the Director of Public Prosecutions...”

And it went on to subclause (2):

“Where upon receipt of an investigative report under subsection (1), the Director of Public Prosecutions is of the view that there is insufficient evidence to pursue criminal charges for a specified offence but there is sufficient evidence that the property is recoverable property and an application should be made for the recoverable property to be forfeited to the

State,...”

So the policeman, the Customs and so on, they are not working on their own as being purported by the other side. Making it as though the policeman would just look at somebody with some prejudice, seize their property. The policeman is not authorized to do so under clause 31. It is clear. Yet you heard—I will say again, there is a way in which the other side uses selective examples.

You know, in the military when we do estimate of a situation, where you judge a—you have what is called “estimate of the situation”. So you come up with your answer, you come up with your end state and then you work towards it. So what I see the Opposition is doing, they come up with the end state and they find examples to suit that, ignoring the other examples. Come on man, do not ignore the other examples, put the whole thing on the table. [*Desk thumping*] Put the whole thing on the table; oh, Jesus Christ. It is like the Member for Caroni Central, he come up and he called eight states—he come and he called eight states—and leave out 44 states. There are 52 states in the United States, you know, but you call eight states, you and Caroni East. Oh Jesus Christ, “it right dey”, in the very same—[*Laughter and desk thumping*]

Dr. Moonilal: Jesus Christ has not spoken. He will speak later. [*Crosstalk*]

Madam Speaker: Member for Point Fortin, while I am sure we do enjoy the spirit that you are bringing into the Chamber, I will like you to leave Jesus Christ out, please.

Hon. Maj. Gen. E. Dillon: Thank you, Madam Speaker. I could not help it, Madam Speaker—

Hon. Member: He did not read the Bill.

Hon. Maj. Gen. E. Dillon:—because you see the selective examples, oh Lord,

because you know why, Madam Speaker, the very same web page that the information is on has everything on it—everything, the same web page, I looked at it. The very same web page that they extracted information on, they have the other states that still have the laws. Oh Jesus, come on. [*Laughter and desk thumping*] “Jeezanages”, Madam Speaker.

Madam Speaker: I know you must be a very religious man, but I just ask you to please be a little more mindful. Thank you.

Hon. Maj. Gen. E. Dillon: I am so reminded, Madam Speaker, my apologies.

This Bill is so fundamental in treating with our security environment. It is so important. It is something that we have been looking for. It is something that we have been asking for, and we have an opportunity now to change the whole landscape. This is a game changer, you know. This is a game changer, Madam Speaker. [*Crosstalk*] This is a game changer. This will change the way we do business.

When you look at the whole question of the unexplained wealth, which I will touch on now, the Unexplained Wealth Order is relatively a new concept. We know that occasionally we would recognize that some people appear to have an unexplained source of wealth or may appear to be suddenly wealthy. According to Booz Allen Hamilton in the report, Comparative Evaluation of Unexplained Wealth Orders, 2012, Unexplained Wealth Order laws, a relatively recent development in confiscation and forfeiture jurisprudence, target the proceeds derived from criminal activities.

Madam Speaker: Member for Point Fortin, I also think that the Unexplained Wealth Order has been flogged, so I ask you to go on to another point.

Hon. Maj. Gen. E. Dillon: Thank you, Madam Speaker. So let me again

emphasize that the very nature of this Bill is fundamental to reducing crime and criminality in Trinidad and Tobago. It will have a serious impact on crime and criminality in Trinidad and Tobago, and so I want to ask us to not just look at Trinidad and Tobago. I think there are several illustrations taking place before, which I will not repeat. There are several jurisdictions: the United Kingdom, Jamaica, Canada, New Zealand. You can name most of the Commonwealth countries, have enacted the very nature of the Bill that we are trying to do tonight.

So if we are truly serious, if we are truly patriots, not like the “Unpatriot National Congress”—[*Desk thumping*—if we truly patriots and we have the country at heart—I would say if you really have the country at heart, then you have to—[*Interruption*—yes, that is the new name, it is the unpatriot—UNC is “Unpatriot National Congress”. I “rechristen dat”. [*Interruption*] You go ahead, you have more “cocoa in de sun”, you know. Go ahead, if I only open on you. [*Laughter*]

Madam Speaker: Member, please. Member for Point Fortin, please do not get distracted.

Hon. Maj. Gen. E. Dillon: Madam Speaker, I will not.

Madam Speaker: Please direct your contribution this way.

Hon. Maj. Gen. E. Dillon: Or might not be “cocoa in de sun”, might be—all right. Yes, Madam Speaker, I will always say, I will say again, let us be patriotic. Let us understand that we are here for the benefit of the wider Trinidad and Tobago, the citizens of Trinidad and Tobago, and understand that we put people first.

Madam Speaker, I thank you.

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. It is 8.44 and I

rise to contribute in this debate that has been going on for some time this afternoon today. First, let me start with the Member for San Fernando East. I notice this time he was quick to jump up to be able to speak, because the last time I think the Oropouche East Member outjumped him. It is amazing that the Member for Point Fortin—*[Interruption]*

Dr. Moonilal: A very brave Member for Point Fortin.

Mr. D. Lee:—I consider him an honourable gentleman, and I heard the passion in his voice here tonight. I really saw that he is missing the Ministry of National Security. So I hope that the Prime Minister is listening on and hearing the passion of the security aspect of the Member for Point Fortin and give him back his job. *[Laughter]*

Mr. Al-Rawi: Standing Order 48(1), Madam Speaker.

Madam Speaker: I allow you a little leeway to build a little context. Please proceed.

Mr. D. Lee: Thank you, Madam Speaker. When the Member for Point Fortin was going through the Bill, I noticed he skirted over, he omitted Part VI of this Bill, which talks about property outside of Trinidad and Tobago, *[Laughter]* and I leave that right there for tonight.

Hon. Member: New York, New York!

Mr. D. Lee: He skirted over that, he did not even address it.

I want to start off in this Bill, and really from a layman's point of view—I am not professing to be a lawyer here tonight, but when you look at the 76 clauses and three Schedules, it gives me, as a layperson, great concern, not only for my constituents, but also as a citizen of Trinidad and Tobago. I want to start with a few of the interpretation definitions, and I will take it clause by clause and I do not

think I will be irrelevant, and maybe the Attorney General can help me from a legal point of view.

When you look at “associated property” and the definition in the interpretation in clause 3:

“‘associated property’ means in relation to any criminal property, terrorist property or instrumentality of a crime...”

There is a concern here, in my view, that here in places within the potential reach of being prosecuted, when there is no clear indication that such property was a result of the proceeds of crime or terrorism, there should be further safeguards, in my view, and protection in simply linking associated properties to criminal proceeds and terrorist property.

For example, Madam Speaker, “associated property” means upon investigation and sufficient evidence to substantiate such property as a result of criminal proceeds and terrorism, et cetera. In the interpretation “criminal conduct” in clause 3:

“‘criminal conduct’ means...”

—the requirement of what can potentially constitute criminal conduct, seems too broad in my humble view, and wide, especially for the purposes of this Bill, Attorney General.

When you look at “criminal property” and the meaning of “criminal property”, again, it further allows prosecution to innocent people, and I stand to be corrected, Attorney General, in your winding-up, and by standards with no clear evidence of support.

I want to go through a few of the clauses, clause by clause in this Bill, and I ask for some explanation. Clause 4, Madam Speaker. We talked about clause 4—

the Member for Point Fortin talked about clause 4, and he said he has no problem with clause 4. Madam Speaker, when you try to drill down on clause 4, and he talks about retroactivity, and I ask a question and I use an example for the Attorney General. If someone unwillingly, 10 years ago, 15 years ago, when we did not have this law, this particular Bill, purchased a property from a criminal or a drug lord not knowing the background of that individual, what would happen to that person's property today if this Bill is passed? And I ask the Attorney General because, you see, I do not want the Attorney General to say we are bringing fear into the population, but if you read the clause 4 as is, there is no clarity of what will happen to that property, and you have to read clause 4 with clause 7. Clause 7 is about the criminal property which may be recovered. So I ask the Attorney General in his wind-up to add some clarity because if you read the clause as is, it does not give the clarity to citizens of Trinidad and Tobago.

Clause 6 is in rem, and again I want to just draw an example out there for the normal man, for the Attorney General. I will use an example of a gang leader "X", who has a house and a small transport business with trucks, also utilizing his home to have regular meetings, et cetera. This Bill may use the suspicion of "X" being a gang leader, together with the use of his house and trucks, for intended criminal activity, and ties this in to a simple balance of probability, to place restriction and forfeiture orders on properties "X" and asset "X", may very well be an honest businessman and completely innocent, but this Bill allows the abuse and persecution of his assets and property regardless.

Clause 7 is where the criminal property may be recovered. This clause gives extreme powers of possession and recovery to property. As initiated and stated from the onset the definitions themselves of "criminal property" and "criminal

conduct” and intended for criminal activity were done very vague, in my view, broad and open ended. This clause now connects all these vague and broad definitions to allow seizure of property and assets of persons who from the onset may be innocently included within these broad definitions. So I ask some clarity from the Attorney General.

Part II, Civil Asset Recovery, Management and Unexplained Wealth Agency, between clauses 8 and 19, covers Part II. We went through that area. But all I would add to that particular part of Part II is the setting up of an agency such as this, based on such reasoning, would be a clear abuse of process and power—could be.

Part III is the financial provisions, clauses 20 to 29. This part is a continuation of the financing of the said agency as stated. Financial provisions for the operation of such an agency and the presence of such an agency may be good, but it simply cannot get its power based on the reason and application of this Bill.

Madam Speaker, Part IV the civil asset recovery area, from clauses 30 to 57. If I just run through a few of these clauses that I have a concern with, for the Attorney General. In clause 32, this clause allows an assessment to be done on a company’s financial status under the guise of determining the Property Restriction Order or Civil Asset Forfeiture Order. It gives the opportunity here of assessing a business’ financial background and standing. There are confidential areas to a business, and its owner is already required to place their financial records and details for the purposes of tax, which is a strict requirement of law. This clause seeks to undermine what is already a legal requirement by business owners to have access to their financial records and transaction alike.

Clause 33 is a continuation of clause 31 which allows the proposed agency

the power to apply to the High Court for the recoverable property. You have to assess the civil standard of proof on the balance of probability. This is a much lower requirement of proof to determine criminal conduct which is somewhat ironic, as criminal conduct and criminal offences are determined by the criminal standard of proof, beyond reasonable doubt. It is a very high standard of proof required, and rightfully so.

Madam Speaker, clause 34. This clause utilizes the power and jurisdiction of the High Court to exercise its power as regards orders and implementation and direction to have the property and assets in question dealt with. The courts are an independent system, and I am not questioning the viability, but this is a viability Act of Parliament. However, this clause allows the court to direct the agency as to its role and powers, and how they are to deal and treat with the relevant property and assets.

Clause 35 provides a remedy to persons against whom restriction orders have been placed and ordered. However, it offers a very small and limited amount of remedy available in comparison to the powers of the State. So when you look at clause 35, it talks about the variation or setting aside of property restriction orders.

Really and truly when you look at this Bill holistically, in totality, it sides more on the favour of the State and the Government, and the agency, as opposed to the individual who could be innocently charged and caught up in this Bill. Really and truly, the Attorney General should look and see the kind of remedy that the individual can get from this Bill.

Clause 36—this clause appears only to allow further powers by the courts in an attempt to strengthen the State's case should it be necessary. It is clearly one-sided in my view, and this Bill continuously attempts to add strength to its already

abusive and infringing nature via these additional clauses. [*Desk thumping*]

Madam Speaker, clause 37. This clause is a good clause in my view, for the rights of the individual, and attempts to again allow a remedy and appeal against orders that are in place. As it stands, this Bill is very one-sided in favour of the state powers and leaves very little room for the individual to appeal and have remedies.

Clause 38 of this Bill is clearly in my view continuously again one-sided and imbalanced.

Clause 40—it is unclear what is the purpose of having Property Restriction Orders against a person or company advertised to the general public. I want to read clause 40. It is notice of property restriction to be given to public and private institutions. Clause 40 reads:

“Where the High Court has made a Property Restriction Order, the order shall require the Agency to—

- (a) give notice of the orders to public or private institutions; and
- (b) publish a notice of the Property Restriction Order in the *Gazette* and for two days within a two-week period in two newspapers in daily circulation in Trinidad and Tobago.”

So, I think we are all innocent until proven guilty. Clause 40, in my humble view, is really putting out the individual's character information gazetted, and I do not know if this is a right clause in this Bill. To subject individuals, who might win the State, but their name and their character is already tarnished.

Madam Speaker, clause 42. When you look at clause 42, “Enforcement abroad of Property”, this talks about powers that can be given to this clause to property owned by individuals outside of Trinidad and Tobago. You know,

citizenship outside of his home, if it is suspicious there is a government on the other side, whatever country that is, would do the investigation.

9.00 p.m.

Madam Speaker, clause 43, when you look at clause 43, it talks about “Compensation”. This clause allows the court to compensate persons when it realizes that property alleged by the agency is not recoverable. This provides some amount of relief to an alleged person, however, it may be insufficient in the circumstances at this stage in the proceedings. The amount of damage and loss suffered by potentially innocent persons may be irrecoverable.

Madam Speaker, there should be avenues available, and I hope the Attorney General hears me, to prevent any sort of event on the onset of persons who are being investigated under question and which this Bill clearly allows to happen.

Clause 45, in my view, is an extremely draconian clause as it, again, reiterates the standard of proof necessary to satisfy the court is on a balance of probability for the property to be forfeited; this is a much lower standard of proof.

Madam Speaker, clause 48, I call it “the money relief”. This clause provides some sort of monetary relief for persons who may be joint owners of property, but are not the accused in the proceedings. However, monetary relief is subject to the discretion of the agency, and the court upon recommendation and agreement from the agency. So it is just very unclear and questionable what level of relief the property owner would get/enjoy.

Madam Speaker, when you look at clause 59, this clause talks about a “Form of declaration”:

“59. A declaration under section 58(1) shall be in the form set out as Form 1 in Schedule 2.”—of this Bill.

Madam Speaker, when you look at that Form 1, Schedule 2, it is very similar to what we all filled out here, our integrity form, but our integrity form has a great level of confidentiality, in my view, it has a great level of confidentiality, and the Integrity in Public Life Act was passed with a three-fifths majority right here in this House. [*Desk thumping*]

So, Madam Speaker, I ask why, again, this is not a three-fifths Bill, but clause 59 is really, when you look at it, is very similar to what we filled out or identical to what we filled out in our integrity forms, but we have, somewhat, a level of protection. And I ask, when this form is filled out, this form in Schedule 1, who has access to view this form and the information of the individual on this form?

Hon. Member: A politician?

Mrs. Persad-Bissessar SC: It is filed in court, so it is a public document.

Mr. D. Lee: Correct. So it is a public document, from what I heard from my Senior Counsel, the Member for Siparia, that it is a court document and anybody has access to it, as opposed to our kind of integrity form that you are really not supposed to see it and there has been a level of confidentiality.

Madam Speaker, when you look at, I just want to turn a bit to the social values of this Bill, because we live in a society in Trinidad and Tobago and I think most of us are law-abiding citizens, but some of us, as the Member for Point Fortin says, the majority of us, some of us earn our income from a cash business, and because of that type of business and the education around those kinds of businesses, maybe it is because of ignorance on their part or lack of information that the proper taxation is not paid or the proper filing of taxation forms are not done. I will give you a case in point, the coconut vendor around the Savannah, it is

an entirely cash business.

Hon. Member: By invoice.

Mr. D. Lee: Of buying a coconut? So if you buy one coconut you should have—
[*Crosstalk*] So, Madam Speaker, so I have a coconut, when I leave here, I will tell the coconut vendor to issue me an invoice.

Madam Speaker, it is a cash business. The “doubles” are a cash business. You have people on a weekend who make a very good living via cash in the Savannah selling food, and these individuals, for lack of information or maybe education on their part, might have never filed an income tax return, but they are able to acquire property, either a vehicle to enhance their life, a home.

And when you look at this particular Bill, if an unscrupulous and maybe that is a wrong word—a police officer, a Customs officer or someone in the BIR not necessarily the Chairman in the BIR, even though that is the designated individual here, but I want to know what triggers the Chairman in the BIR to do an investigation, because I consider the Chairman of the BIR very high up and he would have officers underneath him.

So when you have a police officer or a Customs officer, or someone working in the Board of Inland Revenue, the issue, and it is a real thing that the Member for Chaguanas East raised, extortion can be done to these individuals. You just have to frighten them and just intimidate them that if a police officer understands this Bill, if it is passed, can really go to them, understand the law, and try to extort money from them, and out of fear, out of fear, they might be paying these individuals. It has not been happening as yet, because the Bill has not been passed, but it is the kind of society that we live in.

So, I am not fearmongering, I am not causing fear or panic, but I am asking

the Attorney General, what systems that he can put in place to avoid something like this happening. And it is not that he will tell me well, the Attorney General will say that the police officer has to file an application, but I am talking before that application is done, that extortion can take place; that is the kind of society we live in.

The other part of this whole Bill is an education process. I did not hear the Attorney General talk about educating the public, because there are many individuals in this society, in our country, that earn a healthy living out of being self-employed, and they might not, out of innocence, ignorance, file their proper tax returns, and they cannot really account for their wealth if someone challenges them. And I am hoping that, because this is a retroactive piece of legislation, that something is done to take into consideration these individuals, and I really hope that the education process is of a very high level if this Bill is passed.

Madam Speaker, I understand the reason for this Bill, as the Attorney General in his piloting talked about the FATCA and the recommendations out of that, but in my little research, the aspect of Unexplained Wealth Order has never been tied in with, and I stand to be corrected, I have not seen it as part of a recommendation for FATF or CFATF, so maybe the Attorney General could add some clarity to that.

In summary, this Bill clearly infringes, in my view, and abuses the rights of potential innocent people, no hard-core, solid evidential proof of anything required in this Bill within the spirit of this Bill. It however, allows severe and drastic action be taken on persons and businesses who it may see as breaching a very low requirement. In my view, it is draconian and boldly doctoral. Every effort should be made to prevent any part of this Bill or really try to amend some of these

clauses, Attorney General. Very many persons can innocently become the subject of torture via by this piece of legislation and lose their hard-earned assets. This is a serious suspicion of an ulterior motive in this piece of legislation; and I leave it there.

Madam Speaker, as I close I really hope that the Attorney General will take into consideration all that is said on the Opposition side. I would really like to thank my Members who have spoken so far, they have done a tremendous job, very methodical. And I really hope the Attorney General does justice and does some adjustments and amendments to this clause. Madam Speaker, I thank you.

[Desk thumping]

Madam Speaker: Attorney General. *[Desk thumping]*

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker—

Madam Speaker: I called the Attorney General, that is who I saw.

Hon. F. Al-Rawi: Much obliged, Ma'am. Madam Speaker, *[Crosstalk]* I thank the hon. Members of this Chamber for contributing to this particular mechanism.

Mrs. Persad-Bissessar SC: It happens all the time.

Hon. F. Al-Rawi: I noticed the rumblings coming from Siparia who was absent for the entire debate. I welcome her back to the House for the five minutes that has now occupied this particular bench. I was somewhat concerned that the Leader of the Opposition was not the first responder to this law—

Mr. Charles: Fake story.

Hon. F. Al-Rawi:—because one would think that Senior Counsel would want to have a lot to say, but instead we had Caroni Central actually start this debate and gave the fulminations on the law. So there being no contribution in particular from the Leader of the Opposition which causes me great concern on a Bill of this

moment—

Mrs. Persad-Bissessar SC: Shut down the debate.

Hon. F. Al-Rawi:—and measure, Madam Speaker, I think that speaks leaps and bounds for the UNC's perspective on the law.

Madam Speaker, we have had a significant amount of contribution, and I would like to say Chaguanas West is a good advocate. He had a very passionate and robust contribution. I think, in fact, perhaps he put the case best for the Opposition. And the Opposition's arguments, true to form in exact expectation as we know that they come with, involves, one, an allegation of a trampling of three-fifths majority rights; two, a statement that there is a need for greater consultation; three, a request to go to a joint select committee because we need to do more.

Madam Speaker, I put on the record earlier that on the 20th of March, 2014, then Prime Minister, Mrs. Persad-Bissessar the Member for Siparia presided over a Cabinet that threw out a civil asset forfeiture regime recommendation brought by then Minister of National Security Gary Griffith. That is the record of the Cabinet of Trinidad and Tobago as to what the UNC's perspective is on civil asset legislation. So it is not surprising today that the Cabinet under Siparia's view would be echoed again in this Chamber. [*Crosstalk*]

Madam Speaker, I do not know why Siparia is grumbling, you know, absent all day and now looking to grumble. Madam Speaker, when we come to [*Crosstalk*] the general—

Madam Speaker: One minute, please. I would expect that we would all now settle, stop the crosstalk and, please, let us deal with the business of the people. Attorney General.

Hon. F. Al-Rawi: Madam Speaker, let us deal with who this law tackles, because we have heard talk, “doubles man, small man, police abuse, people have to be afraid, people with hard-earn money supposed to be worried about where things come from”. Madam Speaker, I want to go to the clauses of the Bill. It is very important to note that there are two essential, main aspects of how this law operates.

You can have, Madam Speaker, the forfeiture of property on the first limb under a civil asset forfeiture order only under the provisions of the asset trustee, the agency recommending action by taking it forward to a court of law. The agency cannot take that step unless investigating officers coming from the Customs, coming from the Board of Inland Revenue and coming from the police, go to the Director of Public Prosecutions and ask the Director of Public Prosecutions to consider a matter.

At that point the director goes to the agency, and the agency then approaches a court of law. A preliminary order may be made, and a preliminary order within 14 days must be served upon the person whom is caught by the order and any other person who has an interest in that property. That order only applies for 90 days, and in that period that is when a court of law has an inter partes hearing, that is, it hears from all parties and considers whether a forfeiture order will be made.

Now, Madam Speaker, this thing treats with whether the property which is of three types, criminal property, instrumentalities of crime or terrorist financing, all enveloped in something called “recoverable property” should fall to be forfeited by a court of law.

Madam Speaker, in our judicial system the Privy Council is the highest court of our land and therefore, there is no forfeiture in ultimate final form until the

highest court of the land has been exhausted by way of an appellate route.

Madam Speaker, let us go further. Recoverable property is a very specific thing, recoverable property must be defined within the context, the hon. Member for Pointe-a-Pierre read clause 7 but he skipped clean over 7(9). Subclause (9) of clause 7 in black and white appearing on page 26 of the Bill says:

“Where a person holds recoverable property and is able to satisfy the Court, on a balance of probabilities, that the property was obtained in good faith for value without notice that it was recoverable property, the property ceases to be recoverable.”

So all of this talk about the “doubles man” and the vendor man, and who inherit and bought a property and bought it from a drug lord, Madam Speaker, that is what you call scare tactics—

Mr. Young: Fearmongering.

Hon. F. Al-Rawi:—Madam Speaker, fearmongering. I saw a little clip going around on social media from an activist from the UNC camp saying, “Faris Al-Rawi the Attorney General came to Parliament with a Bill effectively with a three-fifths majority clause in it and pulled out the three-fifths majority clause, and that a policeman on mere suspicion could forfeit your property”. Madam Speaker, no wonder the Member for Siparia did not speak here and left the Chamber for the whole day, because if this is what the UNC party is promulgating as the law, it make senses why Siparia—

Mr. Charles: Madam Speaker—

Hon. F. Al-Rawi:—could not contribute in—I am not giving way. [*Crosstalk*]

Mr. Charles:—Standing Order 48(6).

Madam Speaker: Standing Order 48(6)?

Mr. Charles: Yes.

Madam Speaker: Overruled. Please continue.

Hon. F. Al-Rawi: Yes, Madam Speaker. It make senses why this propaganda is being spread because, Madam Speaker, I want to say this and I really mean this.

Hon. Member: Say it.

Hon. F. Al-Rawi: If a leader of a political party—[*Crosstalk*]

Mrs. Persad-Bissessar SC: Where is your leader?

Hon. F. Al-Rawi:—who sat as the Prime Minister of the country, who sat as the Attorney General of the country, who sat as the Minister of Legal Affairs, who sat as the Minister of Education, who is made Senior Counsel [*Crosstalk*] cannot contribute—

Mr. Lee: Standing Order 48(1), Madam Speaker. Standing Order 48(1) please, 48(1). [*Crosstalk*]

Dr. Moonilal: Standing Order 48(4) and (6). [*Crosstalk*]

[*Madam Speaker stands*]

Mr. Charles: [*Inaudible*]—when she responds, you get shut down.

Mr. Young: “Dobby, is not she”.

Hon. Member: The Member for Siparia.

Madam Speaker: So, I am on my legs, just in case. Member for Diego Martin North/East. Member for Diego Martin North/East, maybe if you turn this way, you will realize that I am on my legs. Member of Oropouche, I believe Member Pointe-a-Pierre was on his legs and making his point of order while you were also.

Hon. Member: Oh, he was?

Madam Speaker: Yes. Okay? So maybe we should all sort of focus in a particular way and we will see. Okay? I believe, Pointe-a-Pierre, you are on

48(1).

Mr. Lee: Yes, Ma'am.

Madam Speaker: I overrule. Oropouche East.

Dr. Moonilal: Ma'am, I was 48(4) and (6).

Madam Speaker: Overruled. Attorney General.

Hon. F. Al-Rawi: Much obliged, Madam Speaker. I was making the simple point that this matter of civil asset forfeiture is such a serious issue [*Crosstalk*] that I am disappointed that someone of the calibre of Senior Counsel opposite has not contributed; I will stop there. [*Crosstalk*]

Madam Speaker, let me go further. [*Crosstalk*] Madam Speaker—

Mrs. Persad-Bissessar SC: Where is your leader? [*Crosstalk*]

Madam Speaker: Member for Princes Town, do you want to make an intervention?

Mr. Padarath: Yes, Madam.

Madam Speaker: Make it.

Mr. Padarath: Madam, the intervention I would like to make [*Crosstalk*] is that we are prepared to speak, the Member of Siparia is prepared to speak.

Madam Speaker: One minute. You know how you make an intervention. All right? You ask your friend to give way; you ask your friend to give way.

Mr. Padarath: Madam, it seems as the AG has given way.

Hon. F. Al-Rawi: No. I have not.

Mr. Padarath: The Member for Siparia is prepared to speak. [*Crosstalk*] He is being untruthful.

Hon. F. Al-Rawi: Can I proceed, please?

Madam Speaker: Member for Princes Town, you know the rules.

Mr. Padarath: But, Ma'am, he sat down.

Madam Speaker: Member for Princes Town, I will ask you to control yourself, and I always believe in self-regulation before I come into the picture. Attorney General.

Hon. F. Al-Rawi: Yes. Madam Speaker—

Mr. Charles: Madam Speaker, Standing Order 48(6). The Member is alleging that my leader did not want to—did not participate when she wanted to participate but the debate was shut down. [*Desk thumping and crosstalk*]

Madam Speaker: Member for Naparima, one, I do not see that as imputing improper motives. Secondly, there is a particular innuendo in what you are alleging. Okay? There is a particular innuendo. All right? Because no Member gets an opportunity to speak unless they catch my eye. [*Interruption*] Okay? And, Member for Siparia, I heard what you said under your voice, and I will ask you to withdraw that, please.

Mrs. Persad-Bissessar SC: Whatever it was, I withdraw it, Madam Speaker. [*Crosstalk*]

Madam Speaker: No. You do not speak to me like that. You do not speak to me like that, please. [*Crosstalk*] One minute, please. Thank you very much. Thank you very much, and it is withdrawn.

Mrs. Persad-Bissessar SC: It is not worth fighting about.

Madam Speaker: Member for Naparima—

Mr. Charles: Yes, Ma'am.

Madam Speaker:—please withdraw what you just did.

Mrs. Robinson-Regis: Exactly. I heard you. [*Crosstalk*]

Mr. Charles: I withdraw whatever I said.

Madam Speaker: Very much. Thank you. Member.

Hon. F. Al-Rawi: Yes, much obliged, Ma'am. Madam Speaker, I was making the point that [*Crosstalk*] that the method of forfeiture on the first limb is done via the approval of the investigative officers going to the DPP, the DPP going to the agency, the agency is comprised of trustees who are appointed and insulated other than by way of political appointment, and that it is only then that a court of law considers whether property is to be "recoverable property". That recoverable property, Madam Speaker, in no circumstances, involves the risk of an independent entity third party or anybody with equitable interest, in a bona fide sense, having a risk of losing their property, and everybody opposite knows that.

So, Madam Speaker, if we come next to the second limb. The second limb is the position of the Unexplained Wealth Order, and I would like to say, the Government came here with legislation to treat with the Unexplained Wealth Order. It is something which is found in umpteen jurisdictions around the world. It is right here in the Commonwealth Caribbean in particular, and when we look at the Unexplained Wealth Order in a society like Trinidad and Tobago, we expected the Opposition to give recommendation beyond condemnation, because not a single Member until Pointe-a-Pierre stood up, actually said let us look at an amendment to treat with an Unexplained Wealth Order.

Hon. Member: That is true.

Hon. F. Al-Rawi: Madam Speaker, let me tell you this. The Unexplained Wealth Order is simply to be managed, you know. One can contemplate a threshold; one can contemplate a schedule of offences in respect of which Unexplained Wealth Orders can be managed; one can contemplate who can approach in terms of seniority and rank. And, Madam Speaker, I can tell you that, in fact, the

Government has already drafted certain amendments to be considered in committee of the whole, but this particular Opposition led by the head of bench in the leader of the party does not want to see Trinidad and Tobago, most respectfully in my humble view, advance into a state of betterment. Because, Madam Speaker, [*Crosstalk*] I tell you why and I do not need to be pejorative, [*Crosstalk*] but—

Madam Speaker: Member for Princes Town, I am not going to allow you to sit there and shout at me.

Hon. Member: Is the flower.

Madam Speaker: This is going to be the last time that I will warn you. Member for Port of Spain North, I will not tolerate either.

Mr. Young: Sorry, Ma'am.

Madam Speaker: Okay. There is a point of order to be made. Member for Pointe-a-Pierre, you had a point of order?

Mr. Lee: Yes, Ma'am. Based on 48(4) and (6), Madam Speaker, on the Attorney General.

Madam Speaker: Attorney General, on 48(6) I would ask you to restate that—

Hon. F. Al-Rawi: Yes, I will.

Madam Speaker:—restate it.

Hon. F. Al-Rawi: Thank you, Madam Speaker. Madam Speaker, I restate, I mean nothing pejorative. I would say that certainly the fact is Trinidad and Tobago is gripped by crime. The fact is that murders are happening in our country and have been happening for a long time. The fact is that people do not feel safe. The fact is, Madam Speaker, that we have a damn good, excuse me, [*Crosstalk*] we have a very, I apologize, I withdraw. I withdraw, I withdraw, I withdraw—[*Crosstalk*]

Mr. Charles: 48(4).

Hon. F. Al-Rawi: My blood is strong.

Mr. Charles: Sit down. The Speaker is standing.

Dr. Rowley: Hello, hello. You do not give instruction to anybody over here.

Madam Speaker: Prime Minister. Prime Minister, I am on my legs.

Dr. Rowley: I am seated, Ma'am.

Madam Speaker: Okay. So you have withdrawn it?

Hon. F. Al-Rawi: I have withdrawn it four times.

Madam Speaker: Please control your passion.

Hon. F. Al-Rawi: I will. Yes, Madam Speaker, just quickly I will say that we have an opportunity now to think outside the box [*Desk thumping*] in a fashion that no one has brought before and on the back of criminal justice reform that no other government in the history of Trinidad and Tobago has dealt with.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Madam Speaker, I would like to move the adjournment of the House. And, Madam Speaker, I beg to move that the House do now adjourn to Monday at 10.00 a.m., Monday coming which is 8th of April at 10.00 a.m. and we will continue the debate; 10.00 a.m.

Question put and agreed to

House adjourned accordingly.

Adjourned at 9.28 p.m.