

HOUSE OF REPRESENTATIVES*Tuesday, April 23, 2019*

The House met at 10.30 a.m.

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

Madam Speaker: Hon. Members, I have received communication from the following: the Hon. Camille Robinson-Regis, MP, Member for Arouca/Maloney, who has requested leave of absence for the period April 20th to 30th, 2019; the Hon. Faris Al-Rawi, MP, Member for San Fernando West who has requested leave for the period April 23rd to 28th, 2019; and Mr. Ganga Singh, MP, Member for Chaguanas West, who has requested leave for the period April 22nd to 28th, 2019. The leave which the Members seek is granted.

PAPERS LAID

1. Notification of Her Excellency, the President in respect of the nomination of Mr. Roger Mark Kawalsingh, for appointment as a Member of the Police Service Commission. [*The Deputy Speaker (Mr. Esmond Forde)*]
2. Consolidated Audited Financial Statements of the ExportTT Limited for the financial year ended September 30, 2017. [*The Minister of Finance (Hon. Colm Imbert)*]
3. Audited Financial Statements of the National Commission for Self Help Limited for the financial year ended September 30, 2016. [*Hon. C. Imbert*]
4. Audited Financial Statements of East Port of Spain Development Company Limited for the financial year ended September 30, 2012. [*Hon. C. Imbert*]
5. Audited Financial Statements of MIC Institute of Technology Limited for the financial year ended September 30, 2017. [*Hon. C. Imbert*]

UNREVISED

- Papers 2 to 5 to be referred to the Public Accounts (Enterprises) Committee.*
6. Annual Report of the First Citizens Asset Management Limited for the year ended September 30, 2018. [*Hon. C. Imbert*]
 7. Ministerial Response of the Ministry of Planning and Development to the Sixteenth Report of the Public Administration and Appropriations Committee on the Examination into the Implementation of the Public Sector Investment Programme. [*The Minister of Health (Hon. Terrence Deyalsingh)*]
 8. Ministerial Response of the Ministry of Sport and Youth Affairs to the Sixteenth Report of the Public Administration and Appropriations Committee on the Examination into the Implementation of the Public Sector Investment Programme. [*Hon. T. Deyalsingh*]
 9. Ministerial Response of the Ministry of the Attorney General and Legal Affairs to the Twentieth Report of the Public Accounts Committee on the Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2017. [*Hon. T. Deyalsingh*]
 10. Ministerial Response of the Ministry of Health to the Twentieth Report of the Public Accounts Committee on an Examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2017. [*Hon. T. Deyalsingh*]
 11. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Fifth Report of the Joint Select Committee on Land and Physical Infrastructure on an Inquiry into the state of the Agriculture and Fisheries Industry in Tobago (with specific focus on the levels of participation in the industries and the output of farmers). [*Hon. T. Deyalsingh*]

URGENT QUESTIONS**Deportation of Venezuelan Nationals
(Measures Taken)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. To the Minister of National Security: In light of recent reports indicating that some 25 Venezuelan nationals were held for illegally entering Trinidad and Tobago, could the Minister inform this House what urgent measures have been taken by the Government to have those persons formally deported to Venezuela?

The Minister of Housing and Urban Development and Acting Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker. [*Desk thumping*] Madam Speaker, there is a process that is involved whenever Venezuelans and any foreign nationals are found to be illegal entrants into Trinidad and Tobago.

The procedure that is taking place right now—Immigration is, in fact, interviewing those persons who were detained in various police stations across Trinidad and Tobago. At the end of those interviews, once it is confirmed that they entered into the country illegally, they will then be charged and placed before the court. And pending that, what happens at the court, then they determine in terms of deportation and then it will follow on.

Madam Speaker: Supplemental, Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, can you tell this House how many Venezuelan illegal immigrants have entered this country since there was the pronouncement by the Minister of National Security that Venezuelans are going to be registered?

Madam Speaker: I rule that question out of order, it does not arise. Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. To the Minister of National Security: Could the Minister indicate the number of Venezuelan nationals who have been held or questioned by the police for involvement in serious crimes in the last three months?

Madam Speaker: Again, I will not allow that; out of order. Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Minister, can you say how many illegal immigrants are held at the IDC to date? Venezuelans.

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, I do not have the figures available right now, but certainly that could be made available once the Member poses the question differently.

Madam Speaker: Supplemental, Member for Couva South.

Mr. Indarsingh: Thank you, Madam Speaker, to the Minister. Minister, out of these 25 persons, could you inform this House if any of these 25 are linked to the murderous and notorious Venezuelan gang, the Evande gang, which has been stated to infiltrate the borders of Trinidad and Tobago?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, as I mentioned a while ago, the persons who have been apprehended are presently being interviewed by the immigration authorities. Until such time as the information comes from those interviews, I will not be able to answer that question, Madam Speaker.

Infiltration of Gangs (Measures to Address)

Mr. Rodney Charles (*Naparima*): Thank you very much, Madam Speaker. Could the Minister inform the House as to the urgent measures being taken by the

Trinidad and Tobago Police Service to address the infiltration of local gangs by criminal elements, including a number of notorious drug cartels operating out of the Delta Amacuro region in Venezuela?

Madam Speaker: Minister of National Security.

The Minister of Housing and Urban Development and Acting Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, the question seems to have arisen from an article done by Mark Bassant which, in fact, was based on a thesis that was done, a Masters thesis by an individual that was done in 2015; so even that information is sort of dated.

Notwithstanding that, Madam Speaker, the Trinidad and Tobago Police Service has, in fact, put a number of measures in place to deal with the illegal entrance of Venezuelans and others coming into Trinidad and Tobago.

They have established and strengthened with their liaison with Interpol to deal with, to identify criminals who are on the Interpol database coming into Trinidad and Tobago. They have also strengthened the liaison between the local intelligence unit, the Strategic Services Agency, the Organized Crime and Intelligence Unit and, of course, other local intelligence agencies to monitor the movement of Venezuelans illegally and legally into Trinidad and Tobago.

They are also monitoring the connections between Venezuelans—criminals—who have been identified in Trinidad and Tobago, and the local gangs. So there is a number of monitoring and intelligence gathering that is taking place right now from the Trinidad and Tobago Police Service.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: I understand that monitoring is taking place, but could the Minister state whether Venezuelans resident here and who are facilitating the alleged

infiltration of local gangs have been identified? And if so, when will deportation proceedings begin?—so I am asking specific numbers.

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, on matters such as these, investigations is the order of the day and therefore, there are a number of investigations taking place, and until such time as those investigations bear the kind of fruit that is required, then we move to a stage of deportation or such. So there are a number of investigations taking place with respect to the illegal Venezuelans in Trinidad and Tobago.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. I did not ask about the number of investigations, I asked you about the number of people being investigated, and what will result subsequently?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, the number changes almost daily because there are number of investigations taking place and as evidence comes forward, you will find that they will increase. So there is no fixed number. I can tell you tentatively there may be, as I speak, there may be additional numbers, so several investigations are taking place right now by the Trinidad and Tobago Police Service, Madam Speaker.

ANSWERS TO QUESTIONS

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker. Madam Speaker, there are 10 questions for oral answer and no written questions. Of the 10 questions for written answer, we will be answering seven.

Dr. Tewarie: Oral.

Hon. T. Deyalsingh: For oral, sorry. We will be asking for a deferral for questions Nos. 140, 165 and 166.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

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? [*Mr. D. Lee*]

Kidnappings and Robberies of Local Fishermen (Measures to Address)

- 165.** With regard to the continuous kidnappings and robberies of local fishermen by pirates allegedly from Venezuela could the hon. Minister of National Security state:
- a) the measures if any, which have been implemented to prevent occurrences of this nature;
 - b) whether any additional resources have been allocated to the Trinidad and Tobago Coast Guard to address this problem and if in the affirmative, provide the details;
 - c) the number of missing persons extracted from January 2017 to January 2019; and

- d) the amount of stolen items retrieved from January 2017 to January 2019? [*Mrs. V. Gayadeen-Gopeesingh*]

**Video/Images of Sexual Activities by Children
(Measures to Address)**

166. With regard to the circulation of video and images of children engaging in sexual activities, could the hon. Minister of National Security indicate:

- a) the measures which have been implemented by the Child Protection Unit of the Trinidad and Tobago Police Service to monitor and prevent this offence; and
- b) whether any persons have been apprehended or charged in relation to this offence from January 2017 to January 2019? [*Mrs. V. Gayadeen-Gopeesingh*]

Questions, by leave, deferred.

**Cruise Ship Arrivals
(Scheduling of)**

133. Mr. David Lee (*Pointe-a-Pierre*) on behalf of Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of Tourism:

Could the Minister indicate why cruise ship arrivals are not timed to coincide with Carnival activities (inclusive of Carnival shows and Carnival promotions)?

The Minister of Tourism (Hon. Randall Mitchell): Thank you very much, Madam Speaker. Madam Speaker, cruise lines book their itineraries two to three years in advance, and these bookings are made at the discretion of the cruise line and take many factors into account.

However, during 2019 carnival period culminating on Carnival Tuesday, 4,457 cruise passengers arrived in Trinidad and Tobago. On arrival, cruise passenger are exposed to elements of our national culture from the moment they

arrive on the quay side where they can view and participate in carnival-type activities.

Cruise passengers also participate in pre-booked tours to pan yards, mas camps, and lately the carnival arts and cultural display at the Stollmeyer's Castle which features carnival associated and culturally relevant experiences.

Further, the Ministry has held discussions with the National Carnival Commission and other private operators on the establishment of a carnival village.

Lastly, the Ministry is in discussions with an interested party who has expressed an interest in promoting a special charter carnival-themed cruise to Trinidad during the carnival weekend.

Gang Members Under 18 (Details of)

117. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Tourism:

Further to the number of gang members as at November 29, 2017 provided by the Attorney General at a Senate sitting on March 20, 2018, could the hon. Minister of National Security state:

- a) whether there has been an increase in the number of persons under the age of 18 years joining gangs;
- b) if the answer to part (a) is affirmative, provide the current number; and
- c) the measures initiated to deter persons under the age of 18 years from engaging in criminal activities?

The Minister of Housing and Urban Development and Acting Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, given the insidious nature of gangs in that they operate

in a clandestine manner with vacillating membership and without standardized procedures, the Trinidad and Tobago Police Service cannot verify the age of every gang member, and therefore, cannot determine whether gang membership is increasing or decreasing because there are different age groups among gangs.

Given the response provided at (a), the Trinidad and Tobago Police Service is not in a position to provide a current number of persons under the age of 18 years that are gang members.

And, Madam Speaker, with the advent of the gang Act and the subsequent coming on stream of the former Criminal Gang Intelligence Unit which previously had the responsibility for all matters pertaining to gangs in Trinidad and Tobago, a decision was taken as part of the overall strategy to treat with gangs to introduce initiatives geared at reaching out to schools and communities which displayed high levels of gun violence and manifested symptoms of what can be considered gang culture.

Through the Social Intervention and Research Unit of the now defunct Criminal Gang Intelligence Unit, lectures were conducted in areas considered high-risk areas via invitations to schools, communities, parent/teacher association and via the police caravan initiative. The lectures were always specific and relevant, included lectures of bullying.

To date, Madam Speaker, with the merging of the Organized Crime and Narcotics and Firearms Bureau and the Criminal Gang and Intelligence Unit to form the OCIU, the revamp initiative continues through what is called “demand reduction”. The initiative now exposes the target group consisting of young persons either residing in high-risk areas or attending schools in high-risk communities to such, information as bullying, illegal drugs and firearms whilst also concentrating on the negatives of making wrong choices such as joining gang,

Madam Speaker.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. In the light of the information provided by the Attorney General when we were discussing the anti-gang Bill, why is it the Minister is not in a position to tell us whether there has been an increase in the number of gangs?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, I thought I just explained why we cannot because of the type of gangs that exist in Trinidad and Tobago, the nature and the composition of the gang, I thought I just explained that.

Mr. Charles: Madam Speaker—sorry.

Madam Speaker: Supplemental, Member for Oropouche West.

Mrs. Gayadeen-Gopeesingh: Minister, is it true that over 100 gang members from Evande, the gangs in Venezuela have infiltrated our local gangs?

Madam Speaker: I am not going to allow that based on the response. So, Member for Naparima.

Mr. Charles: Madam Speaker, my information about gang units in the United States is that gang units know everything about gang members in their precincts. And the question is: Why is our gang units in the TTPS not functioning based on international benchmarks and expectations?

Hon. Maj. Gen. E. Dillon: Madam Speaker, gang cultures are different from country to country. There are different structures of gangs in the United States, and if the Member reads the sociology of gangs he will understand that the type of gangs that exist in the United States is far different to what we call “gangs” in Trinidad and Tobago. They are different types of culture, different structure and different behaviours.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Is the Minister aware that there is internationalization and globalization of gangs in which gangs in the United States have connections with gangs in Latin America and the Caribbean and therefore, there is a commonality to the behaviour?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, there are different structures with respect to gangs, for instance I can give him an example. The gangs in Chicago in the United States can be identified by probably the colour of their shirt that they wear, the tattoo that they wear. So far that has not been identified in Trinidad and Tobago.

A member could be in a gang today in Diego Martin, tomorrow he is a member of a gang in Point Fortin. That is the kind of difference that exists in Trinidad and Tobago.

So the Member is confusing what he is drawing from the international scenario and trying to draft it to Trinidad and Tobago. There is a difference, Madam Speaker. Again, I urge him, read the sociology of gangs and you will understand what I am talking about. [*Desk thumping*]

Completed Tourism Projects (Number of)

149. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Tourism:

Could the Minister provide the number of completed tourism projects since September 2015?

The Minister of Tourism (Hon. Randall Mitchell): Thank you, again, Madam Speaker. Government recognizes that the development of the tourism sector requires a more strategic approach to long-term competitiveness and has

intensified its thrust towards diversifying the economy.

Over the period 2015 to present, projects have been completed relating to project development policy, quality assurance, education and awareness, capacity building and marketing.

Major hard projects completed at sites include the following: the Maracas Beach Facility Improvement Project which included the completion and construction of 18 new vending booths, increased parking, road works, upgraded washroom facilities, construction and operationalization of a new wastewater treatment plant. Improvement works are continuing at the facility to make Maracas into a premier beach. The Ministry also implemented new facilities, management arrangements with UDeCOTT and NIPDEC with a view to the improved and sustainable management of the facility.

The Las Cuevas beach facility upgrade project included the improved drainage of the site, repaving of the car park and the installation of guard rails to the parameter of the parking area, installation of solar powered LED lights, installation of weather-proof surveillance cameras, upgraded restaurant facilities, upgraded bathroom facility and sewer treatment plant.

At the Manzanilla beach facility upgrade project, this included the repaving of the car park, perimeter fencing, installation of solar-powered LED lightings, installation of weather-proof surveillance cameras, removal of dilapidated and deteriorated pre-cast tables and seats and the installation of mosaic tiles on existing concrete tables, refurbishment of guard booth and upgraded restaurant facilities, and general landscaping.

At the Vessigny beach facility upgrade project, similarly installation solar-powered lights, installation of surveillance cameras, remedial works completed on the gazebo and upgraded restaurant facilities.

At the La Brea Pitch Lake Visitor Centre, again, installation of solar-powered lighting and cameras, improved drainage, refurbishment of existing guard booth and upgraded restaurant facilities.

The Ministry and the former TDC also completed projects with various communities including the Maracas community tourism project which saw the installation of an automated vehicle gate barrier, a gazebo, a children's play park and the resurfacing of the jetty and walkover.

A partnership with the CDA resulted in the refurbishment of the Gasparee Caves including upgrade of electrical components, installation of signage and bins throughout the peninsula, picnic benches at tourist sites and landscaping.

Soft projects are included. The re-engineering of the management structure for tourism with the establishment of the Tourism Trinidad Limited and the Tobago Tourism Agency. The development of a tourism roadmap 2016 to 2020 to guide the sector in relation to identified niches for the development of tourism in a sustainable manner.

Capacity building and quality assurance programme conducted for over 600 stakeholders including tour operators, accommodation properties, tour guides and tourist taxi operators in the areas of entrepreneurship, health and safety, business tourism, leadership, quality in tourism and defensive driving.

Digital marketing with the launch of the Go TrinBago mobile destination app. This app forms part of Trinidad and Tobago's digital marketing strategy. It allows users to develop a personal itinerary, search for and find a room, a tour, or a taxi at their fingertips.

With regard to tourism projects undertaken by the private sector, incentives are granted under the TDA for accommodation and other projects. Approval for capital investment projects were granted to a number of tourism projects, for

example, refurbishment of the courtyard by the Marriott hotel, Radical Sports Limited, a tourism operator in Tobago.

Other significant ongoing projects are The Brix by Marriott and the Five Islands Amusement and Water Park. The Government also provides assistance through the tourism accommodation upgrade programme, and the Government Loan Guarantee programme. Government will continue to develop Trinidad and Tobago's tourism product for the benefit of all citizens and visitors alike.

Madam Speaker: Supplemental, Member for Chaguanas East.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, the question that I am going to ask you as a supplemental, if you are unable to give the answer, I will be happy to have it in writing.

Of all the sites you have identified in your contribution, will you be able to say which ones were on a continuation basis? Would you say which ones were continued post September 07, 2015 and which ones were innovated since September 2015? Well, which ones were new and which ones were not? And if not, you would want to submit it in writing.

Madam Speaker: Minister of Tourism.

Hon. R. Mitchell: Yeah. I could provide that in writing. Some of them are not being continued, for example, the Maracas Beach Facility Improvement Project, that was continued and changed substantially, but I can give you it in writing.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. Minister, in the light of all these projects that you have enumerated, could you explain why Trinidad and Tobago has less than 10 per cent the arrivals of countries like St. Lucia, Grenada, Nevis, St. Vincent?

Madam Speaker: I am not going to allow that as the supplemental question.

Member for Chaguanas East.

**Local Tourism in T&T
(Promotion of)**

150. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Tourism:

Could the Minister state the efforts taken to promote local tourism in Trinidad and Tobago?

The Minister of Tourism (Hon. Randall Mitchell): Thank you very much, Madam Speaker. The Ministry of Tourism, Tourism Trinidad Limited and the Tobago Tourism Agency recognize the importance of the domestic tourism sector to the local economy and to the overall Trinidad and Tobago economy.

In this regard the following initiatives, geared to creating, marketing, promoting and supporting the sector, are being undertaken to boost local tourism. These include domestic tourism initiatives and campaigns aimed at increasing occupancy and visits to local sites and attractions especially during the months of July and August.

One concept will follow the staycation where locals are encouraged to vacation at home. This initiative will benefit the local communities, businesses, accommodation providers and tour and taxi operators.

Partnerships with various organizations to promote local events and festivals. These include partnering with various corporations, for example, the Point Fortin Borough Corporation in celebrating the 39th anniversary as a borough, and the Carli Bay Fish Festival—Fish Fest rather—which was hosted by the Couva/Point Lisas Chamber of Commerce and the Couva/Tabaquite/Talparo Regional Corporation last year.

Other areas of partnership include support for several similar events relating to the destination's unique culinary offerings and music art forms, for example, the

North Coast Jazz. These events not only attract tourists but regional and international visitors, as well as benefits artisans, food vendors, accommodation properties, entertainers, taxi operators and tour guides.

Further, the Ministry is working closely with the Ministry of Community Development, Culture and the Arts to plan for the hosting of the CARIFESTA which will create beneficial opportunities for local stakeholders, entertainers and communities, and encourage nationals to stay at home during the August period to participate and experience the various events.

In respect of product development, the Ministry is currently undertaking improvement works at various sites in Trinidad to enhance the visitor experience, and to ensure the maintenance of a quality product which meets international standards and which domestic, as well as international visitors can enjoy. These include upgrades to the Maracas beach facility, Las Cuevas, Manzanilla, Vessigny beach facilities and other projects are in train.

As part of the domestic education and awareness campaign a series of educational videos are to be developed to take into consideration the local tourism environment which has the potential to impact the economic diversification of the country, including job creation, sectoral development, cultural and attitudinal change.

Social media and digital platforms are also being utilized to promote the designation and its offerings locally, regionally and internationally. This includes the Go TrinBago app. This app is used as a destination, marketing and promotion tool, and provides users with a list of sites and attractions, restaurants, hotels, maps, and itineraries, as well as guided tours and events.

The Tobago Tourism Agency is also working to promote local tourism and increase travel between the islands. Initiatives include working with numerous

special interests and religious groups based in Trinidad to drive awareness of Tobago as a viable vacation option.

The agency also has an active digital and social media marketing strategy which targets the local and domestic markets and highlights the various reasons to visit Tobago with the hash-tag “101 reasons Tobago”.

The agency also collaborated with various hotels and tourism associations with respect to road shows in Trinidad, and Government will continue to develop the tourism sector in a sustainable manner for the benefit of local and international tourists alike. [*Desk thumping*]

Mr. Karim: Thank you very much, Madam Speaker. After we heard that treatise, could the Minister indicate to us whether any consultant or any agency has been hired to promote tourism in Trinidad and Tobago? And to give details of who or what that agency or person is? And the cost therefore?

Madam Speaker: I will allow the first question which is with respect to “any consultant”. Minister of Tourism.

Hon. R. Mitchell: No consultant, Madam Speaker, but the Member asked the question and I answered the question. So, Madam Speaker, there are two agencies that have the mandate of promoting Trinidad and Tobago, and they are Tourism Trinidad Limited and the Tobago Tourism Agency.

Madam Speaker: Supplemental, Member for Couva North.

Ms. Ramdial: Thank you, Madam Speaker. Minister, can you tell me how much money has been spent to date in promoting tourism in Trinidad and Tobago?

Madam Speaker: Minister of Tourism.

Hon. R. Mitchell: Madam Speaker, I do not have that information with me, but I am sure if the Member poses the question subsequently, I will be able to answer that question.

Madam Speaker: Member for Naparima, supplemental.

Mr. Charles: Thank you, Madam Speaker. Could the Minister state why the Toco lighthouse, which I visited recently, remains in an embarrassingly dilapidated condition?

11.00 a.m.

Madam Speaker: I will not allow that as a supplemental question. Member for Chaguanas East. [*Interruption*] Member for Chaguanas East.

**Port of Spain General Hospital
(Demolition and Reconstruction Dates)**

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

Could the Prime Minister provide the expected demolition and reconstruction dates for the Port of Spain General Hospital?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. The estimated date for demolition of the existing central block Port of Spain General Hospital would be in the third quarter of 2019. The expected start of reconstruction of the central block Port of Spain General Hospital would be in the fourth quarter of 2019. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Chaguanas East.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, could you indicate whether—or how many packages have been determined and awarded, and the cost of these for the construction?

Hon. T. Deyalsingh: Madam Speaker, I am so heartened that the UNC after neglecting Port of Spain General Hospital, [*Desk thumping*] neglecting the seismic report, that the UNC has now found such interest in the Port of Spain Central Block. It is amazing that they neglected it for five years. So I will answer the question.

A contract has been awarded, as we have already explained in this honourable Chamber, to the Shanghai Construction Group. The project will be costing approximately, for construction, \$1 billion, but by the time you add consultancies and so on, it will be approximately \$1.1 billion. I hope this satisfies the new found love for Central Block that the UNC now has.

**Death Row
(Details of Prisoners)**

163. Mr. David Lee (*Pointe-a-Pierre*) on behalf of Dr. Fuad Khan (*Barataria/San Juan*) asked the hon. Minister of National Security:

Could the Minister 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)?

The Minister of Housing and Urban Development and Acting Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, according to the information provided by the Commissioner of Prisons, there are currently 44 prisoners on death row. The commencement year of incarceration for each prisoner on death row is as follows. Madam Speaker, I will not call the name of the prisoner, I will merely call their number, the convict number:

1. 94271192, date of conviction, June the 21st, 1996;
2. Convict number 21326702, date of conviction, March the 31st, 2008;
3. 20472703, date of conviction, March the 31st, 2008;
4. Convict number 29583101, date of conviction, May 09, 2008;
5. Convict number 11271302, date of conviction, March the 2nd, 2009;
6. Convict number 10521700, date of conviction, March the 2nd, 2009;

7. Convict number 11400899, date of conviction, May the 20th, 2011;
8. Convict number 22600001, date of conviction, August the 17th, 2011;
9. Convict number 233401, date of conviction, March the 1st, 2012;
10. Number 8161605, date of conviction, May the 2nd, 2012;
11. Convict number 6559005, date of conviction, October the 6th, 2012;
12. 26376804, date of conviction, July the 31st, 2013;
13. Convict number 27602801, date of conviction, September the 13th, 2013;
14. Number 30100702, date of conviction, November the 8th, 2013;
15. Number 12405700, date of conviction, March the 27th, 2014;
16. Convict number 21412908—

Dr. Moonilal: Say that number again? [*Laughter*]

Hon. Maj. Gen. E. Dillon: Yes—date of conviction, March the 6th, 2014;

17. Convict number 2531103, date of conviction, June the 7th, 2014;
18. Number 25139309, date of conviction, June the 26th, 2015;
19. Convict number 26139200, date of conviction, June the 26th, 2015;
20. Convict number 27139109, date of conviction, June the 26th, 2015;
21. Number 28157807, conviction date, June the 26th, 2015;
22. Number 29178309, date of conviction, June the 26th, 2015;
23. Number 30208505—[*Interruption*]

Dr. Moonilal: Madam Speaker, colleagues are making noise, could you just repeat the last four?

Madam Speaker: I am not going to allow that, Member for Oropouche East. I would also suggest that you try and also not contribute to the noise. Member for Point Fortin.

Hon. Maj. Gen. E. Dillon: Thank you, Madam Speaker.

24. Number 34360006, date of conviction, July the 9th, 2015;
25. Number 3730707, date of conviction, July the 17th, 2015;
26. 5471703, date of conviction, November the 16th, 2015;
27. Convict number 20174601, date of conviction, May the 19th, 2016;
28. Number 23308905, date of conviction, June the 23rd, 2016;
29. Convict number 2836404, date of conviction, July the 1st, 2016;
30. Number 54104107, date of conviction—

Madam Speaker: Member, your time is now expired. [*Desk thumping*] Member for Oropouche West, I believe you have a supplemental.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, have any of these prisoners explored the option under the doctrine of Pratt and Morgan? Any of these prisoners?

Madam Speaker: I am not going to allow that as a supplemental question. Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker, and thank you very much to the Minister for the very detailed response today. Could the Minister, I know time ran out on you, but, in terms of (a), the amount, the number of prisoners, the total number as opposed to one to 29. I think you stopped at 29. What is the total figure?

Madam Speaker: I believe that question was answered. [*Interruption*] You see, if all Members would abide by Standing Order 53, we would not miss some of the important information. That question was answered. I would not allow it. Supplemental, Member for Caroni East.

Dr. Gopeesingh: Have any of these convicted prisoners appealed their cases to the international organizations, like the Mercy Committee and the international organizations which deal with amnesty and so on?

Madam Speaker: I am not going to allow that as a supplemental question.

Member for Oropouche West, I believe your hand was up.

Mrs. Gayadeen-Gopeesingh: Minister, what is the average cost to maintain those, it is 30 prisoners? What is the average cost to maintain them, the State?

Madam Speaker: You know, Member for Oropouche West, if I am not mistaken, a question like that was asked and answered maybe two/three weeks ago. Member for Oropouche West.

**Compensation to Los Iros Farmers
(Expected Date of Receipt)**

167. Mrs. Vidya Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Agriculture, Land and Fisheries:

With regard to the response to House of Representatives Question No. 8 on Friday December 7, 2018 and subsequent reports that 19 affected farmers in Los Iros are yet to receive assistance, could the Minister state the expected time frame that these farmers will be compensated?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker. On behalf of the Minister of Agriculture, Land and Fisheries, at this time financial assistance has been processed for four registered farmers in the Los Iros area affected by the earthquake of August 21, 2018. This financial assistance for the four farmers is \$122,000 and is to be paid by the end of May 2019, to the farmers. Other claims are being reviewed at this time.

NON-PROFIT ORGANISATIONS BILL, 2019

Senate Amendments

The Acting Attorney General and Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam Speaker. Madam Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the Senate amendments to the Non-Profit Organisations Bill, 2019 listed in the Appendix be now considered.

Question proposed.

Question put and agreed to.

Clause 3.

Senate amendment read as follows:

In subclause (1):

- A. In the definition of “controller” at paragraph (e) delete the words “owned,”
- B. In the definition of “gross annual income” at paragraph (f), delete the words “money’s worth” and substitute the words “monetary worth of property and assets acquired”

Mr. Hinds: Thank you very much, Madam Speaker. Madam Speaker, I beg to move that this House doth agree with the Senate in the amendments to clause 3. The reason for this amendment, Madam Speaker, and it was proposed by Sen. Drayton in the other place, because a non-profit organization cannot be owned by a controller. The committee agreed to the proposed amendment. And in respect of B, this amendment was again proposed by Sen. Drayton for a clearer definition of the gross annual income of non-profit organization from “money’s worth” to “monetary worth of property and assets acquired”. The committee also agreed to that amendment. I beg to move.

Madam Speaker: May I just hear the Whip? You have something to say?

Mr. Lee: Madam Speaker, the Leader of Government Business would just like to have a discussion with you.

Madam Speaker: Okay. All right. So, I believe there is agreement by all the sides

to do all the amendments en bloc.

Mr. Lee: Yes.

Madam Speaker: Okay. Well, I think the Clerk would have to stand up and read all of the amendments and then we take the contribution.

Mr. Lee: Thank you.

Senate amendments read as follows:

Clause 4.

A. In subclause (1)(a) insert after the words “non-profit organisation” the words “with a gross annual income exceeding five hundred thousand dollars”.

B. Insert after subclause (2), the following new subclause:

“(3) Where a non-profit organisation under subsection (1) is registered under this Act, the Regulator shall, using a risk based approach, determine the level of supervision required for the non-profit organisation under the Financial Intelligence Unit of Trinidad and Tobago Act.”

Clause 5.

Insert after subclause (4) the following new subclause:

“(5) A society registered under the Friendly Societies Act is
Chap. exempted from the requirement to be registered as a
32:50 non-profit organisation under this Act.”

Clause 6.

Insert after subclause (2), the following new subclauses:

“(3) Where the Registrar General refuses to register an applicant under section 5, or refuses to renew an application under section 7, the Register General shall, within fourteen days of such refusal, issue a notice to the

applicant and provide reasons in writing within fourteen days thereafter.

(4) Where an applicant receives a notice under subsection (3), he may within thirty days of the date of the notice provide the Register General with written reasons as to why his application should be approved.

(5) Upon receipt of reasons under subsection (4) the Register General shall determine whether the registration should be granted or the renewal refused and a notice shall be sent to the applicant accordingly.”

Clause 7.

Delete the words “three years” and replace with the words “five years”.

Clause 10.

A. In subclause (1)—

(i) insert the word “or” at the end of paragraph (e);

(ii) delete the words “; or” at the end of paragraph (f) and replace with the word “.”; and

(iii) delete paragraph (g).

B. In subclause (2), delete the word “notice” and replace with the words “notice giving reason for the cancellation,”

Clause 12.

Delete the clause.

Clause 14.

A. Delete the word “1” in subclause (1).

B. In paragraph (d) insert after the words “non-monetary transactions” the words “of property”.

C. Delete subclause (2).

Clause 17.

Delete clause 17 and replace it with the following clause:

“17. Where a controller fails to notify the Registrar General in accordance with section 16, the Registrar General is entitled to collect from the controller a penalty of three hundred dollars for every month, or part thereof, that the controller fails to notify the Registrar General.”

Clause 18.

In subclause (5) delete the word “which” and replace with the words “who knowingly and without reasonable cause.”

Clause 19.

A. Renumber subclause (3) as subclause (4).

B. Insert after subclause (2) the following new subclause:

“(3) Where the Regulator in exercising its powers under section 18G of the Financial Intelligence Unit of Trinidad and Tobago Act determines that a non-profit organisation is not keeping the records required under this section it shall issue a notice to the non-profit organisation requiring it to provide the records within such time as the Regulator determines.”

C. In renumbered subclause (4), delete the word “which” and replace with the words “who knowingly and without reasonable cause”.

Clause 20.

A. Delete paragraph (b) and renumber paragraphs (c), (d) and (e) as paragraphs (b), (c) and (d) accordingly.

B. Delete the word “or” at the end of the renumbered paragraph (c).

C. Delete the word “,” at the end of the renumbered paragraph (d) and insert the word “;”.

D. Insert after the renumbered paragraph (d) the following paragraphs:

- “(e) is less than eighteen years of age;
- Chap. (f) is mentally ill, within the meaning of the Mental Health
28:02 Act; or
- (g) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago or elsewhere.”.

Clause 22.

- A. In subclause (1), delete the words “shall be forfeited in accordance with” and replace with the words “shall be treated in accordance with the forfeiture provisions of”.
- B. In subclause (2) -
- i. delete the words “, (f) or (g),” and replace with the words “or (f),”.
 - ii. Delete the word “shall” and replace with the word “may”.

Clause 23.

- A. In subclause (2) delete the word “which” and replace with the words “who without reasonable cause”.
- B. Delete subclause (3) and insert the following subclause:
“(3) This section shall not apply to a person or group of persons who carry out a single event to raise funds for charitable purposes.”

Clauses 13 to 28.

Renumber clauses 13 to 28 as clauses 12 to 27.

New 28 inserted.

Insert after clause 27 the following new clause:

“Guidelines 28. For the purposes of its functions under this Act, the

Under Regulator may exercise its powers under section
Chap. 72:01 8(3)(i) and section 18F(2) of the Financial Intelligence Unit
of Trinidad and Tobago Act to issue guidelines in respect of
non-profit organisations.”

Clause 3.

- A. In the definition of “Regulations” delete the word “26” and replace with the word “25”.
- B. In the definition of “Rules” delete the word “27” and replace with the word “26”.

Clause 6.

In subclause (2)(d) delete the word “20” and replace with the word “19”.

Clause 10.

In subclause (1)(a)—

- (i) in paragraph (i), delete the word “14” and replace with the word “13”; and
- (ii) in paragraph (ii), delete the word “15” and replace with the word “14”.

Clause 16 as renumbered.

Delete the word “16” and replace with the word “15”.

Clause 17 as renumbered.

In subclause (3) delete the word “21” and replace with the word “20”.

Clause 18 as renumbered.

In subclause (2)(b) delete the word “14” and replace with the word “13”.

Mr. Hinds: Thank you very much, again, Madam Speaker. [*Desk thumping*]
Happy I am that we agreed on both sides to proceed along the lines that we have

chosen to do all together, Madam Speaker, I have already dealt with the amendment to clause 3, so I proceed again in respect of clause 4. And this amendment was proposed by the Attorney General.

Madam Speaker: One minute. I believe, Attorney General, also you have done that, you would still have to beg to move that the House agrees with the amendments from clauses whatever to whatever.

Mr. Hinds: Thank you very much, Madam Speaker, in which circumstance, I beg to move that this House agree with the Senate amendments to clauses 3, 4, 5, 6, 7, 10, 12, 14, 17, 18, 19, 20, 22, 23, and 13 to 28 in terms of those renumberings and, of course, the new clause 28.

Madam Speaker, I was indicating that in respect of clause 4, this amendment was proposed by the Attorney General for the threshold in the supervision of non-profit organizations by the regulator of non-profit organizations. Non-profit organizations with a gross annual income exceeding \$500,000 shall be subjected to the FIU supervision as the regulator of the NPOs. Accordingly, any non-profit organization with a gross annual income under \$500,000 would not be supervised by the FIU. This amendment allows solely on the basis of monetary size to have three categories of treatment for NPOs, with then further sub-categories of supervision decided by the FIU. The first category is that non-NPOs with a gross annual income under \$500,000 are not subjected to the AML, CFT, PF supervision by the FIU, but will still be required to be registered as an NPO and to fulfil other obligations under the Bill. For example, notifying the Registrar General of change of particulars under clause 16, keeping records under clause 19, et cetera. The second category of NPOs with a gross annual income between \$500,000 and 10 million will have the obligations required under the Bill, for example, to apply to

be a registered—under clause 5, notifying the Registrar General of change of particulars in clause 16, and keeping records in clause 19, but they will not be required to take the step of having audited financial accounts and records annually prepared pursuant to clause 15.

The third category, Madam Speaker, of NPOs, are those with a gross annual income of above \$10 million. They are obligated to have its financial accounts and records audited annually by a qualified auditor. The further subcategorization treatment is that after the FIU has some time to get into this law, the FIU will produce its analysis of the sector and guidelines for NPOs. This will allow the FIU to adopt a different sizes to fit different people on a risk-based approach towards NPOs. This amendment in respect of (b), was proposed by the Attorney General to expressly provide for a risk-based approach to be taken by the FIU in the supervision of NPOs. This will allow, as I said, for a different sizes to fit different people on a risk-based approach after the FIU produces its analysis and guidelines in respect of its supervision of NPOs.

The respect of clause 5, Madam Speaker, this amendment was proposed again by the Attorney General to exclude friendly societies from the requirement to be registered as an NPO because they are already regulated under a different regime, i.e., the Friendly Societies Act, Chap. 32:50. Madam Speaker, in relation to clause 6, this amendment expressly states that the Registrar General must give notice and written reasons for the refusal to register or renew an applicant as a non-profit organization. Generally, under administrative law, the Registrar General must provide reasons for action taken. However, this implied understanding of administrative law was not relied upon because the sector being dealt with under this Bill—because of the sector being dealt with here, and as a result of this

expressed provision was sought and inserted. This amendment also allows further due processing in relation to the refusal of the Registrar General. An applicant is now allowed within 30 days of refusal notice, to provide written reasons to the Registrar General as to why his application should be approved. The Registrar General must then consider those reasons and determine whether registration should be granted, or the renewal refused. All in keeping with due process and observing the principles of natural justice.

Madam Speaker, in relation to clause 7, this amendment, again, proposed by the Attorney General, allows a longer period for the reregistration of non-profit organizations. In relation to clause 10, this is a consequential amendment because of the deletion of clause 12. Namely, the removal of the power of the regulator of a non-profit organization to recommend the cancellation of registration of an NPO. This is a simple drafting style amendment to make it clearer that the notice being referred to in the provision is the notice giving reason for the cancellation by the Registrar General. In relation to clause 12, this amendment, the deletion of that clause, was proposed by the AG, to remove the option of the Registrar General to cancel a non-profit organisation's registration while there is an ongoing process at the FIU.

Clause 12 allowed the Registrar General the ability to cancel the registration of an NPO before the FIU had finished its administrative process under the FIU unit—Financial Intelligence Unit of Trinidad and Tobago Act, sorry, which would not be proper. Therefore, clause 12 was entirely removed. In relation to clause 14, this is a consequential amendment, because of the deletion of subclause (2). This amendment was proposed by Independent Senator Drayton for non-monetary transactions to be further specified to non-monetary transactions of property.

The committee agreed to the proposed amendment. This amendment to remove subclause (2) was proposed by the Attorney General, because the obligation to have disclosure of financial accounts or records at any time, which is accurate, is potentially difficult to accomplish, as well as at a higher standard than clause 15. The obligation of the controller of the NPO to ensure that financial accounts and records are kept is sufficient. In relation the clause 17, this amendment deletes clause 17 which provides for an offence, and replaces it with the provision of an administrative fine, which is in keeping with section 516A of the Companies Act.

Madam Speaker, in relation to clause 18, this amendment was again proposed by the Attorney General, to put in a qualification to the mens rea, to cause the trigger of the offence under this clause, by adding the qualification that a controller must now knowingly and without reasonable excuse or cause contravene subclauses (3) or (4) to commit an offence. And this allows for some more latitude to take care of the categories of NPOs that do not have sufficient education, exposure, or understanding, and they may have a legitimate or just cause for doing these things.

11.30 a.m.

In respect of clause 19, Madam Speaker, this is a consequential amendment based on the insertion of new subclause (3). This amendment provides for further due process by providing an NPO with a notice from the FIU as regulator of NPOs to produce its records. It is only after failure to do this would it be considered whether an offence was committed by an NPO. By insertion of this step there is no longer an automatic breach of this clause for failing to keep records, all in an attempt to give ample opportunity to demonstrate the propriety of the actions of the

NPO in accordance with good practices and the law

In relation to that, this amendment proposed by the Attorney General provides for a qualification on the mental intent to cause the trigger of the offence, under this clause, by adding in the qualification a controller must, as I said earlier, knowingly and without reasonable cause contravene subclauses (1) or (2) in order to commit the offence, adding in a mens rea.

In relation to clause 20, this amendment removes the undue restriction of disqualifying a person from acting as a controller of a non-profit organization on the basis of a conviction. I recall that generated some discussion around here, and in respect of (b) and (c) these are consequential amendments on the insertion of new paragraphs (e) to (g). And in relation to (d), this amendment follows the formula used in section 8 of the Companies Act which specifies the types of individuals which may form or join in the formation of a company.

Clause 22. This amendment again proposed by the Attorney General is a drafting amendment designed to tidy up the language used as it relates to the Proceeds of Crime Act and the Anti-Terrorism Act. In respect of B the deletion of “, (f) or (g)” is a consequential amendment as a result of the deletion of clause 10(g). The replacement of “shall” with “may” provides the Attorney General with the discretion to make an application to a judge of the High Court and the Attorney General is not mandated to make the application.

Madam Speaker, in relation to clause 23, this amendment yet again proposed by the Attorney General provides for a qualification on the mental element to cause the trigger of an offence under this clause by adding in the qualification, a controller must now without reasonable cause contravene subclause (1) in order to commit an offence. It was felt by the Attorney General that in this universe of non-

profit organizations, that someone may have the need for a defence that they just simply did not know certain aspects or understand certain aspects of the business or could not comply with it from a strict point of view. So we think that it is important to relax this provision by loosening the mental intention requirement.

In respect of B, this inserted amendment is to address persons who may find themselves caught by the offence of non-solicitation under this clause. However, they may not wish to belong to the NPO organization sector because they are having a one-off event to raise funds for charitable purposes. Accordingly, a person or group or persons carrying out a single charitable event will not face the penalty under this clause for solicitation of funds whilst not registered under the law.

In respect of clauses 13 to 28 a renumbering is necessary and this is consequential based on the insertion of the new clause 28. And in relation to the new clause 28, Madam Speaker, this amendment again proposed by the Attorney General, ties in with the amendment made to clause 4. It makes it abundantly clear that the tiered system of the treatment of NPOs would be managed by the FIU, by their powers given under the Financial Intelligence Unit of Trinidad and Tobago Act, including the power to produce guidelines for NPOs. This will allow the FIU to adopt a different sizes to fit different people on a risk based approach towards NPOs. Consequential amendments as indicated earlier in relation to clauses 3, 6, 10, all consequential as a consequence of the insertion of that new 28, in respect of 16, 17 and 18 as well, all consequential renumbering as a consequence of the insertion of the new 28. Madam Speaker, with those things said, I beg to move.
[Desk thumping]

Question proposed.

Dr. Tewarie: Thank you. [*Desk thumping*] Thank you very much, Madam Speaker. I wonder if the Acting Attorney General realizes how far-reaching the amendments that he presented here today are, and consequentially, how flawed the original Bill was when it came [*Desk thumping*] to this Parliament. And when they came, Madam Speaker, to this Parliament, originally, that is to say to the House of Representatives, they debated in such a manner as to acknowledge little option for change in the Bill here. The Upper House is a little different so the whole quality of the management of the amendment process yields to perhaps greater reason. I have no doubt that they were sobered by the debate in this honourable House before they went up there.

I will refer to some of the amendments, not all of them, in order to make the general point of how flawed the legislation was and secondly, how far-reaching the amendments are. So in clause 3 where “money’s worth” has been deleted and replaced with, “monetary worth of property and assets acquired”, I think what was at stake here was first of all the clumsiness of the language, “money’s worth”; secondly, the nebulousness of the meaning and thirdly, the absence of precision that due care requires in the preparation of legislation. And all of these things were captured by the amendment of that simple little clause, clause 3.

And in clause 4, we are inserting in there:

“...with a gross annual income exceeding five hundred thousand dollars.”

Now, the Member for Laventille West and the Acting Attorney General indicated that we now have a tiered system, under 500 which requires registration, 500 to 10 million which requires no official audits and 10 million and over which requires audits. And he basically passed over this by simply saying that it was an amendment to the Bill.

But, Madam Speaker, in the Parliament here when we were debating, we

raised the fact that the Bill was so catch-all in its nature that it was the wrong kind of legislation to bring for hundreds and hundreds [*Desk thumping*] of what are basically civil society organizations. It registers the—the fact that you now have to put in this, “with a gross annual income exceeding five hundred thousand dollars” and basically create the tiers, it really reveals the fact that the legislative drafting for this particular Bill in its original state was unfettered by the required need for precision. There was no precision at all. [*Desk thumping*] It also raises the question that we raised in this House, Madam Speaker, which is the lack of clarity which leaves room for subjective interpretation.

And finally, what is being done here by the \$500,000 is that a threshold is now established. In fact, what you have are three thresholds. And this is a major and significant improvement to the Bill, which means that in its original form, the issues that we were raising which had to do with the catch-all nature of the legislation, those issues were absolutely on point and in the interest of the civil society organizations that we sought to represent in the debate here in the Parliament. In this Bill, of course, the regulator, Madam Speaker, is the Financial Intelligence Unit or the FIU. And what it says now, with the amendment is that,

“...the Regulator shall, using a risk based approach, determine the level of supervision required for the non-profit organisation under the Finance Intelligence Unit of Trinidad and Tobago Act.”

So, what was not there before, Madam Speaker, was the acknowledgment that you could not use a catch-all approach, that you had to be much more discriminating in the way you looked at NGOs and thirdly, it now introduces a risk management element in the legislation. So, in addition to graduating or graduating levels of supervision and scrutiny which are now required, you now have a risk

management approach. And through the establishment of a threshold the temptation of using a broad brush approach is now curbed by the amendments here.

In clause 5, friendly societies are exempt. I remember in my own contribution I asked that specific question: Are friendly societies covered by this legislation? And I raised other issues, like other institutions that were involved and at that time there was no response to the question. I am glad that the matter is corrected because there is a Friendly Societies Act that exists in Trinidad and Tobago which governs those institutions.

Now, in clause 6 there are three new subclauses and these three subclauses are very, very important, because in the law as amended due process is now clearly established between the Registrar General and any applicant for registration under this law. And what this therefore does by establishing due process, is to limit the potential for the arbitrary use of power. It is making the obligations and responsibilities clear, not just for the registrar but also for the applicant. And due process is a very important thing in law. It is a very important thing in the process of justice and it was absent in the legislation, Madam Speaker. And we raised the issue when we spoke in this honourable House of the potential for the abuse of power and the arbitrary use of power under the Act dealing with what are essentially ordinary people who are gathered perhaps sometimes in their 10s in their scores, sometimes maybe 40 or 50, to do some kind of non-governmental activity, some kind of social work, some kind of support activity to enhance the quality of life in Trinidad and Tobago.

So we are glad to see this particular provision which allows for due process and states very clearly what is required of the Registrar General and what is

required of the institution through the person who is managing and leading that institution and dealing with the registration process with the registrar. Clause 7, the cycle of reregistration, the time is increased from three to five years. I think that that is an important—it is not a big thing but it makes a big difference. Five years is a lot different from three years and it makes the cycle more manageable, it gives the institution more time to do its work and to show its progress before it has to re-register. Because under the law when you come to re-register it is possible then you can be denied and again, as we have seen in later clauses in the Bill, that process is also cleaned up and it is made a little more responsible on all accounts to make the process smooth and to deal with the question of mutual obligations.

I want to go now to clause 10 where the words, “notice giving reason for the cancellation” are included and introduced. Again, this is an important issue. What would have transpired under the Bill before is the Registrar General would have just issued a cancellation. Now the registrar is required to give reasons. This makes a big difference so that when you get the letter you do not get a tap across the head telling you that you are now a defunct organization as far as the registrar is concerned. What it now says is that these are the reasons we intend to cancel you and therefore you can begin to prepare your own defence, your own case. Again, this calls for greater precision, it calls for more clarity and it leaves little doubt if the thing is done properly, that is to say, if the reasons are given clearly and unequivocally what the institution has to do to get redress or to correct a situation that is not acceptable to the registrar.

Now, the Member for Laventille West said that this is made for due process and natural justice; we agree. But he said it was simple drafting, a simple drafting style amendment; we do not agree. This is a substantial change that affects the

issue [*Desk thumping*] of natural justice and due process and therefore makes for fairness rather than arbitrariness.

I want to go now to clause 17 where there are clear responsibilities, clear obligations but also penalties, a \$300 fine per month for non-compliance is introduced. So you see, Madam Speaker, we were not just speaking about the power on the side of officialdom, we were also concerned about the extent to which these things were properly regulated and the extent to which there were clear rules with which you had to comply. Now, if you do not comply with the rules we have no problem with the fines. If the rules are clear, the process is clear, it is not arbitrary and you are given time to respond, then it is reasonable that if you do not do what you are supposed to, that fines would be imposed. So we have no problem with that.

In clause 18, “who knowingly and without reasonable cause”, again, this is an important thing, Madam Speaker. Remember, one of the points that we made here is that these are little people, ordinary people organizations in many cases. There are some civil society organizations that are very sophisticated, they are very well organized, they are well run, they have very high levels of competence, but there are many in which people just get together in order to do good and they do not have all the wherewithal or the knowledge or the experience to be able to do it in a certain way and that is why the tiered system is desirable and that is why the risk assessment is also desirable, that is why the catch-all system is absolutely and totally misguided. [*Desk thumping*] And this introduces the question “who knowingly and without reasonable cause”, and as the Member for Laventille West said, it does speak to the issue of mensrea which is to say that you know what you are doing and you are doing it anyway and that is the basis on which you can be

dealt with.

So what it does is that it avoids, introducing this here, avoids frivolity and again it avoids the arbitrary use of power, because it means that you will only be able to intervene, the registrar will only be able to intervene if there is a demonstrable case that somebody is really playing them or somebody is playing the fool or consciously doing something that is wrong. Not somebody who makes an error or does not know or perhaps is not organized and so on, in which case you should have help and support to allow you to meet the standards of compliance. I noticed none of that though is in this Bill, any kind of support system that allows for the development aspect of the NGO sector and the civil society sector.

Now, clause 19, in exercising powers under section 18G, cancellation of registration—that is what that clause is about—the NGO is given notice with time to provide records which would have been the source of non-compliance and the reason for cancellation. So, again, we welcome this because not only does the registrar have to write to the NGO and say we intend to cancel and this is why, but in exercising those powers the NGO now has the opportunity to speak to the registrar and say, look, you have given us such and such a time and we are going to be preparing our stuff. So transgressions, procrastinations, in some instances, sloppiness, but without malevolent intent can be corrected. And therefore, it speaks to one of the important issues that we raised here which is that you cannot pass legislation assuming that everybody is guilty and they have to provide [*Desk thumping*] evidence of their innocence. If you grant them their innocence, and you have due process, and you have clear rules, and you have penalties, therefore consequences for non-compliance to the rules, then you have a working system in a democratic society. And that is what we were after, Madam Speaker. And some

of these amendments improved the Bill.

Now, clause 22. You have this very sloppy wording, “shall be forfeited in accordance with”. The AG is big on forfeiture. So that has now been replaced by:

“shall be treated in accordance with the forfeiture provisions of”—
—and they outline the Bill.

Again, it is a little more elegant, more than that, it is a little more restrained because it refers to the law. It is a little less power crazy. We see in the use of language the difference of the phrase, a little more concern for the law and due process, because it refers to another law. And as I said there is a little more elegance in the drafting of this piece of legislation which you always hope for, it is not always possible but you strive for it because you want the law to read well and to be interpreted clearly.

Clause 23. Now, the Member for Laventille West passed over this one by simply mentioning it but without too much of an explanation, and that is the clause 23(3) which says now:

“This section shall not apply to a person or group of persons who carry out a single event to raise funds for charitable purposes.”

Now, when the Leader of the Opposition spoke, she spoke about that. When the Member for Oropouche East spoke, he spoke about that. When I tried to speak about it they prevented me from speaking about it. But it is a very important clause, [*Desk thumping*] because if you do not have this clause the people in Preysal who had “Choka Night” on Good Friday, could not have had it to raise funds. [*Desk thumping*] If you have this clause, ordinary little—we did something with Valley Boys; Valley Boys could not be involved in getting the funds in order

to get the trophies and so on.

So it is a very important clause which allows for one-off volunteer activity and allows for developmental activity. In this case, as I mentioned when we spoke on the Bill, the issue of social capital which is so critical for the development of any society. We talk a lot about intellectual capital but just as important, if not perhaps more important, is the issue of the building of this social capital, this capacity to cooperate with each other in order to get things done.

And then in clause 28 you now have the introduction of the regulations, so the regulations may now provide guidelines, so now all will be clear about what the rules are. And when you have clear rules, everything is better because you know very clearly, very precisely what is being violated, what is not and when the rules are being followed. So the issue from the beginning with this piece of legislation was how to keep the non-profits, the NGOs, the civil society organizations accountable and doing what they were established to do, so that the idea of regulation and regulating the sector was never considered—by our side, by the UNC, was never considered unreasonable, but we found it very unreasonable how the Government wanted to do it. [*Desk thumping*] And the heavy-handedness with which they wanted to do it, [*Desk thumping*] the lack of due process with which they wanted to do it and the absence of balance in the system that they wanted to establish to do it.

12.00 noon

We feel that a lot of this is captured here through these amendments, and while we support the amendments because we think they are good, we note two things. We note the contribution of the Independent Senators in the Upper House and the significant contribution that they made, but we also note that many of the

AG's amendments announced by the Laventille West Member were actually drawn from the arguments here and [*Desk thumping*] by the Members of the UNC in the Upper House.

Hon. Member: "Dey tief it."

Dr. Tewarie: So as they have done with the anti-gang Bill, as they have done with the FATCA Bill and many other Bills, but I mention those two, wherever we have articulated a point of view which required an amendment, they would first make the amendment and say to us that it is their amendment, not ours. But we take it.

Madam Speaker: Member for Naparima, there is a particular word that you are using that I consider unparliamentary.

Mr. Charles: I withdraw it.

Madam Speaker: Thank you very much. Continue, Member for Caroni Central.

Dr. Tewarie: But we accept it as contributing to good law, Madam Speaker. We "doh" make a fuss about it, but it would be nice if they were to acknowledge [*Desk thumping*] that the contribution of the United National Congress and the contribution of the Opposition in Parliament makes a big difference [*Desk thumping*] to the quality of law in Trinidad and Tobago.

Now, notwithstanding that, we want to ask the Government to go and consult with civil society on this matter. Notwithstanding the fact that this Bill is to be passed with a simple majority, and the fact that there are amendments that have led to a significant improvement of the Bill, there were many documents that were passed to the AG, I believe, and had, in fact, been—

Madam Speaker: Member for Caroni Central, remember we are just to consider, so that we could only speak to the amendment. Okay?

Dr. Tewarie: What I would say, Madam Speaker, is that if they consulted with the

NGO sector, the civil society sector—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1). That is not an amendment.

Madam Speaker: Member for Caroni Central, I will have to uphold the objection. Okay? So that you could only speak to what is here.

Dr. Tewarie: The point I am making is that it may yield amendments—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1).

Madam Speaker: Member for Caroni Central, I think you appreciate the point. You may have other things to say but this is all that is before us. Okay? And I am almost certain in the original contributions that point was dealt with, in any event, so it is not that it was not articulated.

Dr. Tewarie: Well, I have not addressed every amendment that was made, Madam Speaker, but I think I addressed enough of the amendments to make the very clear point that the Bill was awfully flawed, [*Desk thumping*] and that the Government has made some progress by accepting the thinking of the Opposition [*Desk thumping*] and the amendments put forward by the Independent Senators in the Upper House, and this has led to an improvement in the Bill. Notwithstanding that, we would like them to continue the consultation with the civil society—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1). How many times will he raise that issue? It is not an amendment. [*Crosstalk*]

Hon. Member: He is winding up.

Madam Speaker: Member for Caroni Central, I really appreciate what you are trying to do, but we have ruled on that already. So you have been concluding. Based on what you said, I will allow that. I cannot let you go on, please.

Dr. Tewarie: Therefore, while we accept the amendments and we support the

amendments, we will not support this Bill until the consultation is held. [*Desk thumping*]

Madam Speaker: Attorney General. [*Desk thumping*]

Mr. Hinds: Madam Speaker, I propose to use or to waste little time responding to my friend from Caroni Central, [*Desk thumping and crosstalk*] except for the benefit of the public record, to indicate—[*Crosstalk*]

Madam Speaker: Member for Couva North, if you wanted to make a contribution I would have delighted in allowing you the opportunity, but you certainly did not catch my eye.

Mr. Hinds:—except to indicate that as it now stands, the UNC stands inelegantly as the only organization that was opposed to these measures since we proposed them, in the both Houses. [*Desk thumping*]. The records from my presentation would have demonstrated that most of these amendments came from the lips of the Attorney General on behalf of the Government of Trinidad and Tobago, not from the Opposition. Their position was a carte blanche objection from the very start—

Hon. Member: As usual.

Mr. Hinds:—in both places. So to come today to attempt to do a tidying up exercise and take credit for the thing that they wanted to kill, is disingenuous in the extreme and it must be rejected. The public must understand that. In respect of consultation, I am personally aware, because the records at the office of the Attorney General demonstrates—

Madam Speaker: I am not going to allow you either to talk about consultation.

Mr. Hinds:—wide consultations took place and we received some sensible commentary from the Independent Senators in the other place, and those led largely to what is in front of us today. I must say, in relation to the insertion of

express terms for “natural justice” and “due process”, I must put on the record, for those for whose benefit we make these law, that the courts in its inherent jurisdiction, particularly on applications for judicial review, will look at all laws to see whether, on the one hand it is ultra vires, if an approach is made to it, whether the decision-maker made an error of law within his jurisdiction, whether there was unreasonableness in the Wednesbury principle sense, or whether, finally, there was some breach of the principles of natural justice. The courts will always impose those in all circumstances. They exist. We simply chose to put them in express terms here for reasons best known to the Attorney General. It had nothing to do with you.

We linked this legislation—instead of it being widest in its gambit, we linked it to the criminal offences already known to us and outlined in the Proceeds of Crime Act, (POCA). And as a consequence of that linkage, clause 22 was necessary to link. So it was not any urging of the Opposition. You had precious little to do with this—[*Desk thumping*] nothing to do with this. And just, in closing, almost, to say that what the Member—he is not a lawyer. I do not know what he is, but he is not a lawyer. [*Laughter*] The judges of our courts always construe the work “shall” in legislation to mean “may”. That is it. [*Desk thumping*] That is normal. So if we hear from the Opposition, “change the word ‘shall’ to ‘may’”, we say go ahead with that, because you contributed nothing else.

And, finally—[*Interruption*] Madam Speaker, I am being distracted, and I am in my calmest mode today. Could you protect me, please?

Madam Speaker: Members, again, I caution Members under Standing Order 53, so that we do not have a recurrence of Members saying they did not hear something. Okay? The contributions of every Member is valuable and it helps us

all. Acting Attorney General.

Mr. Hinds: I am most grateful for your protection, Madam Speaker. Finally, Madam Speaker, in respect of the insertion of clause 28—well, we have a transition—we propose, and it is here for the benefit of the users of this law; the end users, there is a transition period of 12 months in clause 28. So that those NPOs that are now in existence, they have 12 whole months to get their houses in order. So any fears that my friends on the other side pretend to have now, we took care of that already. Most of all, we protected this law from them. We passed it here and you will recall, Madam Speaker, so unconcerned they were, every single clause was taken en bloc at committee stage. They were not interested. We went to the other place. We listened to sensible contributions. The Attorney General had the benefit of rethinking on the basis of his own intellect, supported by the professionals in the office of the Ministry on behalf of the Government of Trinidad and Tobago.

We propose those amendments. I here beg to move. [*Desk thumping*]

Question put and agreed to.

CIVIL ASSET RECOVERY AND MANAGEMENT AND UNEXPLAINED WEALTH BILL, 2019

Senate Amendments

The Acting Attorney General and Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Madam Speaker, I beg to move the following Motion standing in my name:

Be it resolved that the Senate amendments to the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019, listed in Appendix II, be now considered.

Question proposed.

Question put and agreed to.

Madam Speaker: I believe there is agreement for all the clauses to be taken together.

Senate amendments read as follows:

Clause 3.

In subclause (1):

- A. In the definition of “civil asset recovery” delete the word “criminal” and substitute the word “recoverable”.
- B. In the definition of “Preliminary Unexplained Wealth Order” insert the number “1” after the number “6” to read as “61”.
- C. In the definition of “reasonable living expenses” at paragraph (b), insert after the word “food,” the following words “transport, clothing,”.

Clause 5.

Delete the words “that applicable in civil proceedings” and substitute the words “on the balance of probabilities”.

Clause 9.

In subclause (1) delete the word “of” after the word “comprise”.

Clause 14.

In subclause (2) paragraphs (c) to (i) delete the word “criminal” and substitute with the word “recoverable” wherever it occurs.

Clause 15.

- A. In subclause (1) insert after the word “Trustee” the words “or Property Manager”.

- B. In subclause (2) delete the word “and” after the word “recklessly” and substitute with the word “or”.

Clause 17.

- A. In subclause (4) insert after the word “President” the words “in his own discretion”.
- B. Delete subclause (8).
- C. Renumber subclause (9) as subclause (8).

Clause 19.

- A. In subclause (5):
- (i) delete the word “or” after the word “employee” and insert the word “,”;
 - (ii) insert after the word “expert” the words “, adviser or consultant”; and
 - (iii) insert after the word “disclose” the words “to the Agency”.
- B. In subclause (7):
- (i) insert after the word “employee” the words “, expert, adviser or consultant engaged by the Agency”;
 - (ii) delete the word “and” after the word “recklessly” and substitute with the word “or”; and
 - (iii) delete after the word “proves” the words “to the satisfaction of the High Court”.
- C. Delete subclause (8).
- D. Renumber subclause (9) as subclause (8).

Clause 25.

In subclause (2) delete the words “as soon as possible thereafter” and substitute the words “within sixty days from the date of receipt by the Minister”.

Clause 29.

In subclause (2) delete the word “the” after the word “after” and substitute the word “any”.

Clause 32.

A. In subclause (1) subparagraph (a):

- (i) Delete the word “the” after the word “for” and substitute with the word “any”;
- (ii) Delete the word “will” and substitute with the word “may”;
- (iii) Delete the word “order” and substitute with the word “Order”

B. In subclause (1) subparagraph (b) delete the words “is to” and substitute the word “may”.

C. In subclause (2), in the chapeau delete the word “possible” and substitute the words “is reasonably practicable”.

D. In subclause (2) subparagraph (a):

- (i) Delete the word “done”;
- (ii) Delete the word “the” after the word “for” and substitute the word “any”;
- (iii) Insert after the word “company” in the first place where it occurs, the words “being the subject of the Order”; and

E. In subclause (2) subparagraph (b) delete the words “to be”.

Clause 33.

A. In subclause (4) delete the word “police”.

B. In subclause (5) delete the words “or (2)”.

Clause 34.

A. In subclause (1) subparagraph (b) after the word property in the second place where it occurs delete the words “alleged to be” and substitute the words “of which there are reasonable grounds to suspect is”.

B. In subclause (5) subparagraph (c) delete the words “sees fit” and substitute the words “considers appropriate”.

C. In subclause (9):

- (i) Subparagraph (a) delete the word “and” after the word “;”;
- (ii) Subparagraph (b) delete the word “.” and substitute the words “; and”;
- (iii) Insert new sub paragraph (c) “includes any other matter the High Court considers appropriate in the circumstances.”

Clause 35.

A. In subclause (5) subparagraph (c) delete the words “sees just” and substitute the words “considers appropriate”.

B. In subclause (6) subparagraph (b) delete the word “leave” and substitute with the word “permission”.

Clause 38.

A. In subclause (5) after the words “twenty-eight days” insert the words “from the date of seizure”.

B. Insert new subclause “(6) Where no application is made by the Agency within fourteen days of the expiration of an order under subsection (5), the property seized shall be returned to the person from whom it was

seized within fourteen days thereafter or as soon as it is reasonably practicable.”

Clause 41.

- A. Insert the word “to” after the word “Court” wherever it occurs.
- B. In subclause (2) delete the word “may” and substitute with the word “shall”.
- C. After subclause (5) insert new subclause “(6) The Agency responsible for registration of Trinidad and Tobago ships in Trinidad and Tobago shall on an Order being granted under subsection (5), enter the restriction in the relevant Register.”

Clause 43.

- A. In subclause (3), insert after the words “shall be made”, the words “within three months, beginning”.
- B. In subclause (3)(a), delete the words “within three months, beginning”.
- C. In subclause (3)(c), insert after the words “is granted,”, the words “with the date” and delete the full stop and substitute a comma.
- D. In subclause (3), insert after paragraph (c), the words “or within such further period as the Court considers just in the circumstances.”.
- E. In subclause (4), insert after the words “the discontinuance”, the words “or within such further period as the Court considers just in the circumstances”.
- F. In subclause (6), insert after the words “that section”, the words “or within such further period as the Court considers just in the circumstances”.

Clause 44.

In subclause (4) delete the word “police”.

Clause 65.

In subclause (1) delete the word “had” and substitute with the word “has”.

Clause 74.

A. In subclause (1):

- (i) After the word “including” insert the word “advisers,”;
- (ii) After the word “experts” insert the words “and consultants”;
and
- (iii) Delete the words “18(2)” and substitute with the words “19(2)”

B. In subclause (3):

- (i) In the chapeau, after the word “who” insert the words “recklessly or knowingly”;
- (ii) Delete subparagraphs (a) and (b) and substitute the following paragraphs:
 - “(a) on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for five years; and
 - (b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for seven years.”

Clause 75.

In subclause (1) delete the words “anything required to be done under”.

Schedule 2.

- A. Delete the words “DEPENDENT CHILDREN” wherever they occur and substitute with the word “DEPENDENTS”.
- B. Delete the words “dependent child” wherever they occur and substitute with the word “dependents”.

Mr. Hinds: Madam Speaker, I beg to move that this House agree with the Senate in the amendments to clauses 3, 5, 9, 14, 15, 17, 19, 25, 29, 32, 33, 34, 35, 38, 41, 43, 44, 65, 74 and 75 and, as well, to the amendments to Schedule 2 of the Civil Asset Recovery and Management and Unexplained Wealth Bill, 2019.

Madam Speaker, again, in relation to clause 3, this amendment was made in order to include all types of recoverable property in the definition of civil asset recovery. Criminal property is only one type of recoverable property. Recoverable property also includes terrorist property and the instrumentalities of crime. In relation to B, this amendment was made to correct a cross-reference in the definition of “Preliminary Unexplained Wealth Order”. And in relation to C, this amendment was made to include allowances for transport and clothing in the definition of “reasonable living expenses”.

In relation to clause 5, this amendment was made to make it pellucidly clear that the standard of proof applicable in civil proceedings is proof on the balance of probabilities, well known to most of us, even as parliamentarians. But there was a request for this to be made abundantly clear and it is now spelt out in those terms.

In relation to clause 9, this amendment was made by way of a grammatical correction.

Clause 14, as mentioned above, criminal property is the only type of recoverable property contemplated here. Recoverable property also includes, as I indicated earlier, terrorist property and instrumentalities of crime. This amendment was made in order to extend the powers of the agency to all classes of recoverable property.

Madam Speaker, in relation to clause 15, this amendment was made to require a property manager of the agency—and by “agency” I mean the agency established under this law to manage and to approach the court in these processes.

It was made—this amendment—to require the Property Manager of the agency to disclose any conflicts of interest he may have in relation to a matter under consideration by the agency. Consequently, he would be liable on summary conviction under subclause (2) if he fails so to do. In relation to B, this amendment was made to make it, again, pellucidly clear that the requisite mens rea, the mental element for the offence of failing to disclose a conflict of interest, as I have described it a moment ago, is either recklessness or knowingly failing to disclose the conflict, and not both recklessness and knowingly failing to do so. Any of those would suffice.

In relation to clause 17, this amendment was made to empower the President to revoke the appointment of the property manager in his own, or her own, discretion, instead of “on the advice of the Cabinet”, again, to remove this power, if you like, from the ambit of the Cabinet/politicians. This amendment is similar to the amendment made in the House of Representatives—in this place—to clause 13 in relation to the revocation of the appointment of a trustee. In relation to that, this amendment was made because it appeared to be unnecessary and undesirable for the property manager to have such extensive and invasive powers that would enable him or her to obtain information notwithstanding the secrecy provisions of any written law.

In relation to clause 19, Madam Speaker, these amendments were made to ensure that the advisers and consultants engaged by the agency are under the same obligations to disclose conflicts of interest to the agency as employees and experts. Further, these amendments were made to ensure that the experts and advisers are captured under the summary offence for failing to disclose conflicts of interest and to disaggregate recklessness and knowledge in the mens rea for the offence. So

they are two separate areas, as I indicated.

The words “to the satisfaction of the court” were deleted because summary offences are triable and conducted and concluded in the Magistrates’ courts. Further, this amendment in relation to the deletion at subclause (8) was made because the inclusion of “experts, advisers and consultants” in subclauses (6) and (7) made subclause (8) redundant. Further, unlike subclause (7), subclause (8) only imposed the fine and did not impose the term of imprisonment for experts, advisers and consultants who failed to disclose conflicts of interest, subclause (8) was therefore, naturally, I would think, deleted.

In relation to clause 25, this amendment was made to require the Minister to lay an annual report of the agency’s activity in the Parliament within 60 days from the date on which he receives it.

This requirement to lay the report as soon as possible after receipt was in the view of the Government to be too vague and therefore was replaced in terms.

12.30 p.m.

In relation to clause 29, this amendment was made because clause 43(3) specifies three different periods during which an application for compensation may be made and not one period. The reference to the period was therefore changed to any period.

In relation to clause 32, Madam Speaker, these amendments are grammatical and typographical in nature and ought not to detain us any further. In relation to subclause (2), this amendment was made because it would always be possible to conduct an equity valuation or valuation prior to an application for a property restriction order or a civil Asset Forfeiture Order, but it may not be reasonably practicable to do so, and in relation to the very subclause, these amendments were

made to clarify the meaning of the provision. They are grammatical in nature and make it clear that an equity valuation is to be done for any company which is the subject of a property restriction order or a civil asset forfeiture order. And again, in relation to subclause (2) and the deletion of the words “to be”, this was purely grammatical in its nature.

In relation to clause 33, this amendment was made because the agency applies for a Property Restriction Order, the investigating officer need not be a police officer, and another amendment was made to this clause because the cross reference to subsection (2) was incorrect. Subsection (2) does not provide for the making of an application.

Clause 34. This amendment was made because the granting of a Property Restriction Order should not be based on a mere allegation that the property is associated property but on reasonable suspicion that the property is associated property. I move to clause 34 and in this regard, the amendment here is a minor rephrasing in relation to the discretionary power of the High Court to make orders ancillary to the Property Restriction Order. In respect of clause 34, I continue, these amendments were made so that a High Court which makes provision in a property restriction order for a person to meet legal expenses, because we did do that. As you place a restriction order on the asset that you are focused on, the individual naturally will need to cover legal expenses and a few other things and these amendments were made so that a High Court which makes provision in the Property Restriction Order for a person to meet legal expenses could also make additional provisions for such other matters as the court considers it appropriate in all of the circumstances.

Clause 35, this amendment is a minor rephrasing in relation to the

discretionary power of the High Court to make additional provisions for such matters it considered appropriate when making an exclusion to enable a person to meet legal expenses. In relation to subclause (6), the amendment to that is being proposed before this House today is a technical correction. Where the High Court has made an order to vary or set aside a Property Restriction Order, no distress would be levied against the property to which the order applies without the permission and not the leave of the court. Two separate issues. The reference to leave of the court is not appropriate in this context because leave of the court is sought and granted to permit a party to do something in the course of legal proceedings. Since the order has already been made, the permission rather than leave of the court would be required to levy distress against the property in focus.

I proceed now to clause 38 and to indicate to this House that this amendment was made to make it clear that where a police officer seizes recoverable property pursuant to a further order under a Property Restriction Order, the seized property is to be retained for 28 days from the date of seizure. The agency would have to apply for a Property Restriction Order to retain the property for a longer period. In relation to the insert of the new subclause, this amendment was made to make it mandatory for the property to be returned if no application for a Property Restriction Order within 14 days of the expiration of a further order under subclause (5). Further, the property must be returned within 14 days thereafter, i.e. a total of 28 days after the expiration of the order or as soon as it is reasonably practicable.

In respect of clause 41, Madam Speaker, this amendment is, again, not to detain us since it is purely grammatical in its orientation. In relation to subclause (2) however, again, this amendment was made to ensure that it is mandatory for the

Registrar General to enter a court ordered restriction on land in the relevant property register at that registry. In relation to clause 43—well before that, in relation to subclause (5), this amendment was made to ensure that a court ordered restriction on a Trinidad and Tobago ship is entered in the relevant register.

I now move to clause 43 and these amendments to subclauses (3) and (6) of that clause were made to give the High Court the discretion to permit applications for compensation to be made after the expiration of the initial period of three months. And that rationale applies in relation to subclause (3)(a). It applies in relation to subclause (3)(c). It applies in relation to subclause (4). It applies in relation to subclause (6).

Madam Speaker, in respect of clause 44, this amendment was made because the agency applies for a civil asset forfeiture order. The investigating officer need not be a police officer so we have here deleted the word “police”.

In relation to clause 65, this amendment, too, was merely grammatical in its orientation and we skip promptly passed it.

In relation to clause 74, these amendments were made to ensure that the advisors and consultants engaged by the agency are required to treat documents, information coming to their disposal and other matters related to the administration of the Act as secret and confidential and therefore, this amendment was made to correct a cross reference. In relation to subclause (3)(b), these amendments were made to require of mens rea of recklessness or knowledge for the commission of the offence of unlawfully disclosing documents, information or other matters relevant to the administration of the Act and to increase the penalties for the offence as follows:

- (a) from a fine of \$100,000 or three years' imprisonment on summary

- conviction to a fine of \$250,000 and five years' imprisonment; and
- (b) from a fine of \$150,000 and five years' imprisonment on conviction on indictment to a fine of \$500,000 and to seven years' imprisonment upon such conviction.

In relation to clause 75, Madam Speaker, this amendment was made to expand the purpose for which regulations could be made.

And in relation to Schedule 2, simple amendments here and these were made to the Declaration of Assets Form to require the declarant to declare the assets of all his dependents and not just the assets of his dependent children. Very significant, very important. And in relation to B, the words "dependent child" have been removed and replaced by the word "dependents" simpliciter.

Madam Speaker, with those few elucidations behind us, again, I beg to move. [*Desk thumping*]

Question proposed.

Dr. Moonilal: Thank you very much, Madam Speaker. The matter before us, while appearing simple, is very profound and engages the House today on arguably one of the most critical pieces of legislation emanating from the Government. Madam Speaker, the amendments before us speak to critical issues of the Bill and fundamental principles of democracy which I will touch as I go along. It will also be important, Madam Speaker, when you look at the amendments proposed by the Acting Attorney General, to root the amendments in the parent Bill, in the Bill itself, so that the members of the public and Members of the House, of course, can understand the change being proposed in the context of what is in the Bill. While a few may be grammatical and so on, there are fundamental issues involved in these amendments.

Madam Speaker, we look at the amendment, for example, and we can start immediately and I want to take it in the same order as the Acting Attorney General, in the numerical order that we have, but just to begin by saying that this, of course, comes a week and one day after a marathon session in the House championed by the Member for Siparia [*Desk thumping*] in which, Madam Speaker, for the record, in both this House and in the other place, the Opposition, United National Congress, had indeed proposed 100 amendments to this piece of legislation. [*Desk thumping*] And as I go through the amendments, I am now in a position to proudly declare that this Bill, Madam Speaker, one must really say, we are co-parents of this Bill. [*Desk thumping and crosstalk*] If the Government gave birth to this piece of legislation, it is the Opposition that gave oxygen. [*Desk thumping and crosstalk*] So that as a co-parent of this Bill, we are—[*Interruption*] And, Madam Speaker, as the Member for Caroni East would now inform us, without this oxygen it would have been a disaster of some kind. [*Desk thumping*] As a professional, he knows that analogy well.

Madam Speaker, in amendment 1—we gave 100. Now what, of course, the Member for Diego West did not tell us and he will not tell us, of course, because we all know of his love for the Opposition and the UNC, that at several points in this matter—

Madam Speaker: You mean Laventille West or Diego Martin West?

Dr. Moonilal: Laventille West, the Acting Attorney General.

Mr. Hinds: I have no love for you. [*Laughter*]

Dr. Moonilal: We know of the level of care that he has for the Opposition, not that he has a high level of care or love for anybody or anything but we know of the level.

Madam Speaker, clause 3, of course, is a very critical amendment and may I indicate that this amendment was proposed by the Opposition, United National Congress, accepted by the Government and the good sense of the substantive Attorney General and this, Madam Speaker, was accepted because if the definition stood as civil asset recovery, this would not have the reach to cover terrorist property or an instrumentality of crime, and that is a fundamental objective of this entire Bill. [*Desk thumping*] It is a fundamental objective and the Opposition, therefore, giving support to this measure, had to make such a proposal. This was indeed a fundamental error on the part of the Attorney General and it is really a classic example of another struggle we have with this Bill and others.

You see, Madam Speaker, had the Bill been passed without this amendment, it meant that it would have had consequences on the ability of State to go after terrorist property and an instrumentality of crime which would have been severely hampered if not curtailed in its entirety. Now that is a serious amendment that the Opposition gave and was accepted by the Government. [*Desk thumping*] It could have otherwise, Madam Speaker, I might add, because there are three principles here. It is instrumentality of crime, it is terrorist financing and corruption so therefore, two-thirds of your objective would have collapsed if you had not accepted this amendment by the Opposition. So, Madam Speaker, we substitute, of course, “recoverable” so that we can capture terrorist matters emanating from terrorism and properties and so on and also instrumentality of crime.

Madam Speaker, the other matter, of course, the Minister dealt with, in the definition of preliminary—[*Interruption*] [*Technical device goes off*]

Madam Speaker: Could the Member—[*Member exits*]

Dr. Moonilal: Madam Speaker, I was on the other matter of—[*Interruption*]

[*Device goes off again*] It continues. [*Crosstalk and laughter*] Madam Speaker, permit me to continue. At clause 3(b), of course, the matters raised, that was a simple enough matter, but might I add in the definition of “Preliminary Unexplained Wealth Order” where there are inserted now number “1” after number “6” and “61”, this amendment was proposed by the Opposition again. The legislation, as proposed, was not coherent as there was clearly a mistake by the drafters and there is no power to seek an Unexplained Wealth Order under clause 6 of the legislation as first proposed. Again, it was a drafting issue but a drafting issue that hit a fundamental objective of the legislation.

You see, Madam Speaker, drafting issues and the supervision of the Attorney General and indeed, the Legislative Review Committee, you can be excused if there are drafting issues with grammar, you know, the numbering scheme is not proper and so on, but it is very hard to excuse you when you make an error that defeats the principle and the intent of a Bill. [*Desk thumping*]

Madam Speaker, the other matter dealing with what would now be clause 3, as well, C in our list here, definition of “reasonable living expenses” and of course, this amendment was proposed, I believe, by an Independent Senator. It was accepted by the Government and the purpose was to ensure that transport and clothing expenses were allowed, where provision is made for reasonable living expenses by the court and so on.

The proposal at clause 5 was proposed by a Member of the Independent Bench, supported by the Opposition in this case, to make it clear and beyond doubt as the Acting Attorney General indicated, that the standard of proof in proceedings under the Act would be on the balance of probability. [*Desk thumping*] So that instead of “as applicable in civil proceedings”, we spell out in law the standard of

proof.

Madam Speaker, in clause 9, delete the word “of” after the word “compromise”. This was, of course, grammatical and an Independent Senator, we believe, had proposed that.

In 14, delete “criminal”. Now that links back to, of course, clause 3, delete “criminal” and substitute “recoverable” wherever it proposes itself and this was made by the Opposition for the same reason as we indicated earlier and that is, of course, a fundamental error that was made in drafting that we had to sort out.

The next amendment, and I am at 15, Madam Speaker, throughout the amendments, the 100 amendments proposed by the Opposition, throughout that process on that day, it was April 15th, throughout there was one issue that kept raising its head and that was this objective of the Opposition to instil amendments that speak to democratic principles, protection of citizens [*Desk thumping*] and transparency and accountability, and this at number 15 speaks to that issue.

Because before, for example, in the Bill that we had to debate in the House and we could only deal with what we debate in the House of course, Madam Speaker, at 15 where you provide at clause 15 for the Property Manager, I believe, functions, powers of the agencies and at 15, disclosure of interest, it was excluded by the Government to cover Property Manager in the area of disclosure of interest. They were looking at the trustee, which is a very critical position but this amendment was proposed by an Independent Senator and the purpose of the amendment was to make the Property Manager susceptible to the same conflict of interest restrictions as the trustee. Because, Madam Speaker, I mean it is very clear in public life that persons who are operatives, they are involved in the day-to-day action of an agency. They are privy to the knowledge, to information, to data, in

some cases, to very confidential information on corporations, businesspersons, professionals as the case maybe and they are not covered by conflict of interest laws, whereas the trustee and in some cases, directors and Ministers are all covered by certain law.

In fact, in the Parliament, Madam Speaker, we often indicate that Members, a backbench Member of the Opposition or the Government declare everything they have to declare to the Integrity Commission but somebody presiding on contract over billions of dollars declare nothing and inherent in that is a governance weakness, and this governance weakness was corrected as we inserted the Property Manager in that matter.

Madam Speaker, of course, in 15 as well, we are in 15, B, (2), the intention here is to delete the word “and” after the word “recklessly” and substitute with the word “or”. This was an amendment, again, proposed by the Independent Members. And I really want to put on record who is proposing amendments because [*Desk thumping*] I am not coming across here in this list before me much amendments proposed by a government that had time to review and rethink. And, Madam Speaker, this amendment, of course, was proposed by an Independent Member and it was to make reckless and knowingly requirements of mens rea disjunctive in order to capture a wider range of activity, Madam Speaker, and root it into some type of legal logic. Right. [*Desk thumping*]

And you know, on legal logic, I heard my friend speaking earlier and talking about the court and the court infers “may” from “shall”. I would ask him to get up when he is winding up and please correct the record because I know that he “may” not mean that. [*Laughter*] Because, Madam Speaker, he “shall” have an opportunity to correct himself because he “may” not have intended to say that.

[*Desk thumping*] Because you see, Madam Speaker, both myself and the Acting Attorney General are attorneys-at-law and I understand we both have the same track record but I never practised but we have the same track record and he may not intend to say that because in law, you cannot be taking “shall” to mean “may” and “may” to mean “shall” like that. It defeats logic. [*Desk thumping*] Because, Madam Speaker, when you are committed for unlawful killing, you “shall” suffer death. [*Laughter*] So the difference between “may” and “shall” is really life and death.

Madam Speaker, I am on clause 19. We have some amendments there proposed—17, Madam Speaker. Oh yes, 17, very critical and it was linked to 13 in the presentation by the Minister. Yes, Madam Speaker, in the subclause (4), insert after the word “President”, the words “in his own discretion” and, Madam Speaker, that is a fundamental amendment and that amendment, fundamental as it is, was proposed by the Opposition again [*Desk thumping*] and it removed from the law that we support and we are now co-parents, it removed from the law, Madam Speaker, this notion of locating power with the Executive, with Ministers, that you could go to the Cabinet to remove persons, to remove the Property Manager and the Cabinet could do that. Because, Madam Speaker, this is a very serious matter where a Property Manager may be involved in some type of business and understanding and it may be affecting persons—this is a very small society. It might be affecting persons connected to the Executive one way or another, whichever Executive may be in place.

Because I want to make the point and someone on the weekend told me to make the point, again, every time I speak. When you make law as Attorney General, Acting Attorney General, you are making law for the next Attorney

General and the next Government. [*Desk thumping*] You are not making law for yourself. And I dare say for this type of business to be implemented properly, it will take another Government in a few months' time, [*Desk thumping*] to properly implement this piece of legislation because it will not be you. It will not be you. So this is why we sought to protect with amendments to protect the constitutional rights of citizens and to ensure maximum transparency and accountability in this matter. [*Desk thumping*]

So, Madam Speaker, the President in his or her own discretion can now take steps to remove the Property Manager and we did not want this to be exercisable by an Executive re: politicians of the day. You want that protection for the Property Manager, and I will come later, you may want that protection for other offices as well. Because had this amendment not being made, you would have had the institution itself susceptible to political interference at the whim and fancy of a Cabinet, of a Prime Minister, of a Minister who drives this process and therefore, 17 is an amendment proposed by the Opposition that we really want to support 200 per cent today. [*Desk thumping*]

Madam Speaker, we look at 19 and I am just filing through with 19, the staff and experts of agencies and so on in the Bill before us. We took some amendments here, again, at clause 19 proposed by the Opposition, three amendments, all interconnected, proposed by the Opposition to make the legislation more accountable and protect decisions made from being impugned on the basis of bias, apparent or real. The amendment proposed had in its mischief ensuring that not only an expert but all persons involved in the agencies were independent and not tainted by bias. The amendments sought to include advisers, consultants into the range of persons who had the duty to disclose and who would now be subject to

criminal sanction in breach of those requirements. This is a fundamental proposal, amendment, again, launched by the Opposition [*Desk thumping*] because the drafting before, Madam Speaker, required disclosure but required disclosure only by the officeholders, so to speak, of the institution. The officeholders, not by persons who would be connected.

And, Madam Speaker, we made this amendment very, very mindful of a trend in governance and Government that has occurred within recent time where today, in the public sector, in institutions such as these, what you will find happening is that you will have persons appointed trustee, deputy trustee, whatever, but you will powerful hands and powerful clause [*Desk thumping*] coming in as consultants, as advisers. Madam Speaker, I only say in five seconds that it was consultants and advisers that destroyed Petrotrin. [*Desk thumping*] I move back to my provision before us. So to put consultants and advisers under the ambit of the law and subject them to sanctions for breach is a very fundamental approach that the Opposition intends to propose [*Desk thumping*] to keep this type of Government in check. To keep this type of Government in check because, Madam Speaker, I dare say, consultants and advisers could be running the show of this agency and therefore, it is very, very critical, Madam Speaker, that they are also subjected to the law.

Because had you not done this, you had the potential of undermining the independence and the work of the agency if you do not bring these consultants, and so on, in line.

1.00 p.m.

Madam Speaker, at B, we have another business to take care of here. Well, I think the Minister had explained this. Madam Speaker, the amendment of deleting

the words “to the satisfaction of the High Court” is really one of the amendments that we made. This amendment was a painful amendment to make because, in making this amendment, it demonstrated the level of incompetence we had in drafting the Bill [*Desk thumping*] and I say this with great respect to the professional people, and so on, because they had the High Court in the Bill and then discovered that the offence they were dealing with was triable by way of summary conviction. So it was an embarrassing amendment to make, I dare say, but we had to make it. We had to make it because we could not allow that to go, you know, unnoticed as it did.

And it speaks as well to what, you know, to what a colleague of mine said earlier in the day, that we must accept that this Bill was awfully flawed, to use that term. [*Desk thumping*] And this is why we proposed 100 amendments and we are here today, Madam Speaker, well, I did not count it, how much it is, but it could be about 30/40 amendments that we are making in 20 clauses of a 75 clause Bill.

Madam Speaker, at number 25, we are there now, and I just want to get to 25 here. Clause 25 deals with accounts.

“The agency shall cause to be kept proper accounts and records of transactions”—of its—“...affairs...”—and so on.

And the effect of this, of course, is you delete the words “as soon as possible thereafter”, which we all took note of at 25(2)(b), I think it is, and you insert “within sixty days from the date of receipt by the Minister”. Madam Speaker, the amendment was—well, not surprisingly, this amendment was proposed by the Opposition and it seeks to place—that is why I say we are co-writing this Bill with the Government, you know, we are co-writing and making it better. I mean, in our part, in our contribution to this product there is quality, because there are corrective

and remedial measures as we co-author this Bill. Madam Speaker, this was done by the Opposition because, of course, we could not allow the Minister with this type of leeway to “as soon as possible thereafter”.

Madam Speaker, every week we come here and we cringe when reports are presented from a state organization and a Minister rises and says, “Madam Speaker, I have the pleasure to present the report from 2005”. That is not a pleasure. So what we want is to curtail and constrain the Minister so that within 60 days from the date of receipt of the Minister, that the reports and so on would be made, Madam Speaker, financial statements, so what it will read now of course, is that,

“...such report, financial statements shall be forwarded to the Minister and shall be laid in Parliament”—within sixty days from the date of receipt by the Minister.

Madam Speaker, that also has certain implications because it means that citizens now may have some type of right to go to the court under an instrument. [*Desk thumping*] Yes, this brings the democracy. Any citizen, citizen Devant or others, might go to the court and say, “Look, this is, you know, you run afoul of the law” and go to the court to seek an order that mandates you to implement the law. So again, it is a very critical, it is an accountability amendment proposed by the Opposition.

Madam Speaker, we move to clause 29, and it is applying reliable proceeds, and so on, and there is an amendment to 29. Dare I say this amendment was proposed by the Opposition, accepted by the Government, in order to ensure the State contemplated before forfeiture proceedings could be commenced, Madam Speaker, and it was extended to any appeal all the way to the Judicial Committee

of the Privy Council. Again, there is a democratic principle here of having rights, the ability to assert your rights. So there is a—you have accountability principles in these amendments. You have justice principles, and that is what the Opposition brought to the table.

Madam Speaker, at clause 32:

Agency to require equity valuation for a company...

Madam Speaker, this is also critical. Well, I do not want to say it, but I have to: This amendment was proposed by the Opposition. The legislation as drafted presupposed that the order would be granted and as such this amendment preserves the presumption of innocence and the rational application of the legislation and that I am speaking about, the several facets of 32 that we are dealing with, Madam Speaker.

Madam Speaker, I just want to jump ahead because there are more, to me, fundamental issues that we would deal with. So the legislation at 32 and 33 needed tightening, needed qualification in some cases and needed clarity.

Madam Speaker, at clause 33, well, the acting Attorney General did not thank us for all the rest, but I think indicated that at 33, one part of the amendment was proposed by the Government to ensure that powers exercisable under the legislation are exercisable by Customs and Excise officers, as well as officers of the Board of Inland Revenue. I imagine later that may change somewhat.

Madam Speaker, at subclause (2), that amendment, for example, was proposed by the Opposition because the clause as originally drafted, 33(2) and 33(2) and 33(5) and I will get to it.

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

And we are deleting the words “or (2)”, right? And that is the amendment that was proposed by the Opposition because the clause as drafted was inoperable in relation to subsection (2), as there was no power to make an application *ex parte* under subsection (2). So, Madam Speaker, there we are.

And then a fundamental, fundamental issue. An amendment, another amendment, but to me now much, much more fundamental, was proposed by the Opposition and this has to do, Madam Speaker, with subclause 34(1)(b),

“...after the word ‘property’ in the second place where it occurs delete the words ‘alleged to be’ and substitute the words ‘of which there are reasonable grounds to suspect is’.”

Because, Madam Speaker, the Member for Laventille West touched but did not, you know, explain thoroughly the consequences of this amendment.

You see, Madam Speaker, in the Bill before us, if we look at it carefully, Madam Speaker, and I just want to get the exact reference, 34, A, so we are on sound—properly, and that is where, Madam Speaker, we deal with this matter “alleged to be”. Madam Speaker, it was in fact very loose to use terms in legislation “alleged to be”. Who is alleging? What are they alleging? On the basis of what are you alleging? And it could lead, Madam Speaker, not just to confusion but to the erosion of the rights of citizens who are subject to arbitrary action and allegation. [*Desk thumping*]

Because, Madam Speaker, this is Trinidad and Tobago. There are many “allegators” not all in murky lagoons. But there are many “allegators”. This is Trinidad and Tobago, you go anywhere and depending on how much you imbibe, you will hear allegations about everyone. So, Madam Speaker, the law cannot be approached that way; it is “alleged to be”. So we substitute “of which there are

reasonable grounds to suspect”.

The amendment was proposed, I do not have to tell you by whom. The rationale for this amendment was that the exercise of draconian powers for the grant of property restrictions orders cannot be triggered on an allegation. The amendment secures that the powers that are exercisable under this subclause are only exercisable where there are reasonable grounds to suspect, which is the standard used earlier in the legislation, and I believe also used in the Proceeds of Crime Act.

Now, how did they get away with “alleged to be”, we can only allege. But, Madam Speaker, this really is again rooting the legislation into proper legal terms. And these terms, they carry elements. They carry elements that a court of law, that a judicial officer, can reflect on elements and take a side A or B, rather than it is “alleged to be”.

Madam Speaker, at 34, B, we have “considers appropriate”, of course, well, this amendment was proposed by the Opposition in order to tidy-up the residuary powers of the court under this clause and the amendment is in accordance with powers conferred on the High Court under section 14 of the Constitution.

We go ahead, Madam Speaker, and at sub (iii), we have inserted, and I want to read it from the proper copy given to all Members, so we will be clear. We are at 34 and I am looking at sub (iii):

“Insert new sub paragraph (c) ‘includes any other matter the High Court considers appropriate in the circumstances.’”

The amendment was proposed by, you know who, and accepted by the Government to give the High Court omnibus power to make any order that it considers appropriate in the making of an order for a person to pay reasonable

legal expenses. And that we consider to be just in the circumstances.

Related at 35, the amendment was proposed by the Opposition to bring the legislation in line with the language of the Civil Proceedings Rules 1998.

Madam Speaker: Hon. Member for Oropouche East, your original speaking time is now spent. You are entitled to 15 more minutes to complete your contribution. You may proceed.

Dr. Moonilal: Thank you very much, Madam Speaker. I will seek to jump over a couple of the minor amendments proposed by the Government, which would be grammatical, and so on. Madam Speaker, the Minister in his presentation did give us somewhat an explanation of “leave” and “permission”. We will leave that where it is, only to say that the language also has to be consistent with the language of the Civil Proceedings Rules.

Madam Speaker, at 38 now, I could shoot off there; time frame. We proposed here, the Opposition made an amendment here, to ensure that the legislation specifies the time period during which property seized and a search could be held by the State. This is very, very critical, because what we have had in this legislation, others as well but we focus on this, is this type of legislation drafted with “it is alleged” and if it is alleged and you go and search and after the search you could return this or return that and nothing is pigeonholed in a timely manner to protect the rights of citizens and business. [*Desk thumping*] And this was really the intention, Madam Speaker, of the Opposition making these types of amendments that now speak to administrative fairness and efficiency and certainty, that if you are the subject of this piece of legislation, there is a time frame within which the State must act and there is a time frame in which you can resolve your matters.

Because Madam Speaker, we cannot, at this time, as I am aware, go back to the debate. But in the amendment we can consider a principle raised elsewhere and that is that persons must not be so affected and that office holders can have forever to take their time and proceed to implement the law, and in taking your time [*Desk thumping*] you destroy citizens' reputations. Because it involves here this issue of your reputation. When you are a professional, you are a corporate entity, reputation is a credit and you can take law and undermine reputation, destroy people, demonize, criminalize organizations. And they can do that in and around an election period, Madam Speaker. So this is why this is very, very important to pigeonhole and mandate the authorities, the agency, to take action. [*Crosstalk*] Well, Moruga/Tableland who has lost Moruga/Tableland seat and is elsewhere—

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1), please. [*Crosstalk*]

Madam Speaker: Well, no, I understand that the Chamber allows for some banter on both sides. Okay? But we will focus on the conversation that is relevant here.

Dr. Moonilal: Madam Speaker, they continue. They just would not listen to the Chair. Madam Speaker, the 28 days would be inserted from the date of seizure at 38. I just want to go to 38, so that listeners and viewers would understand clearly what 38 would be about.

“Further provision re: Property Restriction Order.”

And at 38, A and B, we are amending, Madam Speaker, to ensure that there is a time frame, Madam Speaker, of 28 days from the date of seizure, so that a search and other related activities can take place.

Madam Speaker, we also looked at another amendment and it is at 38, B:

“Where no application is made by the Agency within fourteen days of the of expiration of an order under subsection (5), the property seized shall be

returned to the person from whom it was seized within fourteen days thereafter or as soon as is reasonably practicable.”

Now, that is, of course, I believe, solid legal language. The amendment was proposed by—

Hon. Member: Guess who?

Dr. Moonilal: You have it right, and accepted by the Government. And this is there, Madam Speaker, to protect the right to property and the right not to be deprived thereof, except by due process of law. And this is a critical amendment.

In fact, on this amendment some of us were shocked that the Government accepted it. We were very shocked that they would accept this. Because this deals with ensuring that persons who are affected, they are not unduly, their rights are not unduly violated. [*Desk thumping*] So, Madam Speaker, this will ensure that where property is taken and no application is made, there is a positive obligation on the State to return the property in a time that is reasonably practicable and that has legal meaning as well.

So, you cannot now abuse. You cannot use this easily for victimization, for discrimination; because you hate somebody, you hate their business, you think there is a political affiliation, and so on, and you abuse. So you protect citizens by this. Madam Speaker, again the Opposition was very pleased to launch that amendment.

Madam Speaker, clause 41, “Requirement to inform specified agencies of Property Restriction Order”, that was what we dealt with at 41. Madam Speaker, at A:

“Insert the word ‘to’ after the word ‘Court’ wherever it occurs.” —And so on. And you have some grammatical business there that we take care of. But

Madam Speaker, at 41, C, we have, and I will get it properly for you here:

“After subclause (5) insert new subclause ‘(6) The Agency responsible for registration of Trinidad and Tobago ships in Trinidad and Tobago shall on an Order being granted under subsection (5), enter the...”

And this was done really to make a correction. The amendment was proposed by the Opposition to bring in line the provisions relating to ships, with the provisions in relation to land and motor vehicle, and so on, in the previous. And it was creating some order there. At 43—

Dr. Gopeesingh: The yachts as well.

Dr. Moonilal: The Member for Diego Martin North/East would be happy with that, because there will be proper registration of the boat.

Madam Speaker, at 43, I am not happy to announce, but there was an amendment proposed by the Government, it was simply grammatical. At clause 43, they proposed that the Government provide a date for the commencement of when time will run for the purposes of making a claim. At clause 43, you have an amendment proposed by the Government, and I must give credit to the substantive Attorney General, to simply provide the date for the commencement of when time will run for the purposes of making a claim for compensation where you have an appeal.

Madam Speaker, 44 is the same point really made earlier concerning police. So we need not go there. Clause 65, of course, is grammar. Clause 74, continuation of an earlier principle of ensuring that confidentiality requirements were wide enough to capture all persons carrying out the work of the agency.

At 74, B, I think we also have some business there, “recklessly or knowingly” comes in. And, of course, this is very important, while, you know,

people think it is just words, these words carry heavy legal consequences and legal implications. The amendment was proposed by the Opposition to provide for a mens rea requirement of this offence provided for under this clause. And Madam Speaker, the other matter here had to do with the fines and the jail terms.

Ms. Ramdial: Roody, you have five minutes again.

Dr. Moonilal: Good, plenty time again. The amendment, Madam Speaker, and in co-authoring this Bill in its corrective and remedial phase, the Opposition actually proposed to raise fines and terms of imprisonment that were provided for these sanctions, and that is at 74. The Minister, acting Attorney General, I think, clarified adequately the issue of dependants and children.

So, Madam Speaker, in closing, the Members of the Opposition, in my winding up remarks, may I add, that Members of the Opposition, led by the Member for Siparia, spent a marathon session on this business, [*Desk thumping*] provided 100 amendments of which the Government accepted, I believe, 13 or 14, and they found their way into this package as I have read earlier.

Madam Speaker, this Bill is much more important than “what dey calling “jessers” and—what dey call it?”

Hon Member: “Zessers.”

Dr. Moonilal: I cannot pronounce the word, but it is more important than this thing of gold chains that everybody is making it out to be. It deals with serious issues of forfeiture of property, of rights, of constitutional rights of citizens. We still have, Madam Speaker, an outstanding matter as to a dispute. We still have a running dispute over the constitutionality of this business, but Madam Speaker, I will leave that there and we are proud to take co-ownership of this Bill. I thank you. [*Desk thumping*]

Mr. Hinds: Madam Speaker, I heard the Member quite inaccurately tell this House, it is on the record, that they propose some hundred amendments. We saw no such thing. Of the few that they conjured up, 20 of them were purely grammatical. Let me start with that.

Madam Speaker, let me, for the benefit of Members exclusively, remind us quickly of the context. The UNC came to this debate objecting to it. They did not want it. [*Desk thumping*] That is the context. And permit me, as I pass on quickly a metaphor, a crude one. But if a man sticks a knife nine inches into your back and pulls it out three inches, he did you no favour. He did you no favour.

Dr. Moonilal: Standing Order 48(1).

Madam Speaker: All right, so Acting Attorney General, I will ask you to stay on course. And I would also like us to try and stay away from, well, the violence, the violence. Okay?

Mr. Hinds: Madam Speaker, I assure you I am a man of love. I am a Rasta man of peace, Christian in my orientation. Violence is not of me, neither am I of it. It was a mere metaphor. The distance between us on both sides is a sword's length. That is it, nothing violent.

Madam Speaker: Okay.

Mr. Hinds: We move on. It was a metaphor and I wanted really in that metaphor, without repeating it, to demonstrate when you put hurt on the people of Trinidad and Tobago by your conduct, and action is being taken to correct it and you opposed it and now you come pretending that you wanted it more than everybody else. "We not taking that. We not taking that." [*Desk thumping*]

So let me proceed, Madam Speaker, on your urgings. [*Continuous crosstalk*]
I hope my friend from Naparima—

Madam Speaker: Order! I know some of us get so caught up in our heads, we

Mr. Hinds (cont'd)

forget where we are. Member for Caroni East, I am so happy to see you today, but I know you would abide by the Standing Orders. [*Interruption*] We are not having a conversation. Please! Now, I am not sure what I heard. But whoever said it knows what they said and they could just get up and withdraw it. Okay? I think I heard a word. So Caroni East, you are sure you did not say a word that you need to withdraw?

Dr. Gopeesingh: No, no, no, Madam Speaker.

Madam Speaker: And Couva South, you are sure you did not say a word you need to withdraw?

Mr. Indarsingh: Absolutely not.

Madam Speaker: Okay. So all right. Maybe I misheard. Right? So—[*Crosstalk*] Caroni East and Naparima. You know, we are having a short sitting today. I do not know if people really want to go outside, take a little walk and come back. They could do that. Acting Attorney General.

Mr. Hinds: May I thank you quietly and warmly, Madam Speaker, for your invitation to continue. Madam Speaker, I heard my friend on the other side speak extensively on the question of “shall” or “may” in respect of statutory interpretation. I simply refer him to *Bennion on Statutory Interpretation*. And since he admitted he did not practice, but he said we had the same track record, we do not. He has the same track record with Anand Ramlogan and Ramdeen, not with me. Not me. So he needs to have a look at *Bennion on Statutory Interpretation* and he will there easily find the point that I had made and we would have no further exchange upon it. [*Desk thumping*]

Madam Speaker, in relation to clause 19, I move swiftly to that, having set the context of the Opposition’s objection to the measures, and, of course, I was

hearing from the Member opposite to me, immediately opposite, “We voted for it”. Oh, yes. That was their second thought because they could not otherwise explain, I recall, their basic objections to it. It was compelling when the AG presented these measures, as the Bill is still very compelling today before us. So we made a few minor adjustments, but not with their help or support, opposed to it.

And in respect of clause 19, the question of the declaration of the conflict of interest, if it exists, in relation to the advisers and consultants, it was the Government that deleted that. It was the Government. And I heard my friend for Oropouche East speak loftily about co-author, and co-author, and co-author. Very good for their supporters, but they were opposed to and hated these measures and they still do, because it did not require a special majority. I just want to say so. If it required a special majority the discussion today would not have even existed, Madam Speaker. I give you that assurance. I give you that assurance.

Madam Speaker, in respect of clause 17(8), it was the Government that took that out. And the reason for that is because we had come to this House, indicating from the very start that the Bill did not need a special majority. And that provision in 17(8) was a direct—it was found to be in conflict.

Dr. Moonilal: Standing Order 48(1), that is not before us now.

Mr. Hinds: Madam Speaker, I am dealing with clause 17(8), which the Member dealt with.

Madam Speaker: Continue please, Attorney General.

Mr. Hinds: Thank you very warmly. So I press on. I press on. I am just removing the mask from their faces so that the public would understand, with no descriptions as to those faces.

The Member for Oropouche East used the word fundamental, fundamental,

fundamental; an abuse of the word. To me, without reference to Mr. Collins or Webster or Google the word “fundamental” means “to the root”. It means basic, germane. It is an abuse of the word. Twenty of their recommendations they put to us were all grammatical issues, wasted our time in that sense, an abuse of the word. Nothing fundamental came from the Opposition on this matter, nothing. And this is all a rearguard recuperation for public consumption.

They demanded a special majority from the start, both here and in the other place.

1.30 p.m.

In relation to clause 34, Madam Speaker, the words “alleged to be” were removed on a proposal from the other side, of course, interestingly enough that is clause 34. Who better would know about a clause 34 than those fellas on the other side? [*Desk thumping*] Who better would know about a clause 34?

Dr. Moonilal: And you vote for it too.

Mr. Hinds: A painful history which is why I used the metaphor that I spoke of earlier, but I would not use it again. Thank God we are one sword length away from them, and it should be 10. [*Crosstalk*]

Madam Speaker, we removed the words—[*Crosstalk*]—“alleged to be” and they were replaced with “reasonable grounds”, i.e. evidence. From the very start when the substantive office holder of the office of the Attorney General presented this Bill, and when we went to market, when we went to public on this, we said for the benefit of the public who others in the society were trying to mislead about this law that would affect every citizen of Trinidad and Tobago—we said from the very start, one, it would begin with an investigation into criminal offences rooted in POCA. Thereafter it will go on an investigative report to the independent office of the Director of Public Prosecutions, he will assess the evidence that is before him

to see whether there was sufficient evidence to go forward with civil asset forfeiture or provisions.

If he is so satisfied, he then passes it to this independent agency established by Her Excellency for the most part, separate and apart from politicians, we said that. And then the agency is that which will make an application to the courts, independent under the Constitution as that is, politician far removed. So we showed that process, and we said it would begin with the police officer, or the Comptroller of Customs and Excise, or the Chairman of the Board of Inland Revenue on the basis of suspicion. So they have suspicions about something, they begin an investigation. By the time it gets to the DPP which is the next stage, he will be as lawyer and independent under sections 90 and 91 of the Constitution, he will be looking at evidence. So the business of evidence does not trouble us. We understood that, we said so from the “jump”, if I am permitted a colloquialism—

Mr. Imbert: From the get go.

Mr. Hinds:—from the get go. And then it goes to the agency which, with its expertise and its ability to hire independent advisers and consultants and experts. They will then take the matter to the court; all of that must involve evidence. So when we move the words “alleged to be” and replace them with “reasonable grounds” which is evidential in its orientation; that is not an issue for us. We came here with that from the very start—

Dr. Moonilal: Who proposed it?

Mr. Hinds: Not who proposed it, who opposed it? And the only Opposition to that in Trinidad and Tobago is the United National Congress. [*Desk thumping*] What is still to be found out, is why.

Dr. Gopeesingh: Why did you not put it in the first place?

Mr. Hinds: But once as parliamentarians we pass this law, we leave the rest in the hands of the investigators, the DPP, the agency and the courts. And for my part coming after Easter, I leave it in the hands of God. I leave “allyuh” in the hands of God.

So, Madam Speaker, in respect of clause 38 this touches and concerns the powers of the agency. And one always expects that agencies, public officers, persons who are elected will act in good faith. One will always assume that, but the records of human history, inclusive of Trinidad and Tobago’s jurisprudential experience, has been sometimes office holders do not act in good faith. We saw a whole Integrity Commission had to resign because it did not act in good faith, so a judge found.

So all we did here in recognition of that collective memory and wisdom is to put some time constraints. We still assume that the agency and its operatives will act in good faith and in accordance with this very important law. We still assume that, but we put in time constraints to ensure that they will act in a certain time. There is a Member of this House, very quickly, who was the subject of an investigation and it went on ad nauseam. If we had a time constraint, that Member would not have suffered as that Member did.

Mr. Charles: Why was it not in the initial legislation?

Mr. Hinds: So, we put that in to impose upon the agency to act within 14 days and failing that, an outside time of 28 days. We did that. And as you know, as I conclude, all that we do always is done in the best public interest. [*Desk thumping*] On the other hand, at all times, they put up all and out objections to these measures from the very start.

So, Madam Speaker, as I conclude, we on this side brought these measures to this House after three going on four years because we saw the value of it. We

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saw serious weaknesses in the legal jurisprudential, legislative arrangements in Trinidad and Tobago. This is watershed legislation. This came from the People's National Movement as your Government. [*Desk thumping*] We bring it here, as we must, we found opposition outside of here. They promised up to last week, when we were discussing this, the Opposition Leader was sitting shouting we will take it to court and do not be surprised if they do.

Mr. Charles: We still taking it.

Mr. Hinds: We voted for it, we support it, we made amendments, they will take it to court. So, Madam Speaker, with those truths said following the resurrection of the order, and the soul, and the essence of truth, the Almighty God, through Jesus Christ, I beg to move. [*Desk thumping*] Rastafari.

Madam Speaker: Member for Laventille West, I had cautioned on the last occasion, even though you said it in a way of praise, you know, we have a way in Trinidad and Tobago claiming Jesus Christ in a certain way, I would rather we leave him out. Okay. [*Crosstalk*]

Member for Naparima, what I would like to say to you, I am not "Miss" here. But, maybe the Freudian slip says something.

Question put and agreed to.

ADJOURNMENT

Motion made and question proposed: That this House do now adjourn to a date to be fixed. [*Hon. T. Deyalsingh*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 1.38p.m.