

SENATE*Tuesday, January 16, 2018*

The Senate met at 1.30 p.m.

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

Mr. Vice-President: Hon. Senators, I wish to advise that the President of the Senate, Sen. The Hon. Christine Kangaloo is currently acting as President of the Republic of Trinidad and Tobago.

Hon. Senators, I have granted leave of absence to Sen. The Hon. Dennis Moses, Sen. Daniel Dookie, Sen. Saddam Hosein and to Sen. Melissa Ramkissoon all of whom are out of the country. I have also granted leave of absence to Sen. Taurel Shrikissoon who was ill.

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency The President, Anthony Thomas Aquinas Carmona and also Her Excellency the Acting President, Christine Kangaloo:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS
AQUINAS CARMONA, O.R.T.T., S.C.,
President of the Republic of Trinidad and
Tobago and Commander-in-Chief of the
Armed Forces.

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

President.

TO: MS. AYANNA LEEBA LEWIS

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, AYANNA LEEBA LEWIS, to be temporarily a member of the Senate with effect from 16th January, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Daniel Dookie.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 12th day of January, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE KANGALOO Acting President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Christine C Kangaloo

Acting President.

TO: MR. NDALE YOUNG

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

UNREVISED

NOW, THEREFORE, I, CHRISTINE KANGALOO, Acting President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NDALE YOUNG, to be temporarily a member of the Senate with effect from 16th January, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Dennis Moses.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of January, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE KANGALOO Acting President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Christine C Kangaloo

Acting President.

TO: MR. BRIAN BAIG

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

NOW, THEREFORE, I, CHRISTINE KANGALOO, Acting President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of

the Opposition, do hereby appoint you, BRIAN BAIG to be temporarily a member of the Senate with effect from 16th January, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator SADDAM HOSEIN.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 15th day of
January, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE
KANGALOO Acting President of the
Republic of Trinidad and Tobago and
Commander-in-Chief of the Armed
Forces.

/s/ Christine C Kandaloo

Acting President.

TO: MR. ALBERT WILLIAM SYDNEY

WHEREAS Senator Taurel Shrikissoon is incapable of performing his duties as a Senator by means of illness:

NOW, THEREFORE, I, CHRISTINE KANGALOO, Acting President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, ALBERT WILLIAM SYDNEY to be temporarily a member of the Senate with effect from 16th

January, 2018 and continuing during the absence of Senator Taurel Shrikissoon by reason of illness.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of January, 2018.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE KANGALOO Acting President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Christine C Kangaloo
Acting President.

TO: MR. JOHN HEATH

WHEREAS Senator MELISSA RAMKISSOON is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, CHRISTINE KANGALOO, Acting President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOHN HEATH, to be temporarily a member of the Senate with effect from 16th January, 2018 and continuing during the absence from Trinidad and Tobago of the said Senator Melissa Ramkissoon.

UNREVISED

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of January, 2018.”

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Ayanna Leeba Lewis, Brian Baig, Albert William Sydney and John Heath.

AFFIRMATION OF ALLEGIANCE

Senator Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I am just awaiting further correspondence in relation to the last temporary Senator. Once I receive that correspondence, I will seek your leave to revert to that Item on the Order Paper.

TRIBUTES

(PROFESSOR GEORGE MAXWELL RICHARDS, TC, CMTT, PHD)

Mr. Vice-President: Hon. Senators, , as you are aware, Prof. George Maxwell Richards, former President of the Republic of Trinidad and Tobago, passed away on Monday, January 08, 2018. I now invite you to offer tributes.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):

Thank you very much, Mr. Vice-President. Mr. Vice-President, I thank you for giving me the opportunity to pay tribute to our fourth and distinguished President of the Republic of Trinidad and Tobago and, indeed, a most distinguished son of the soil. Prof. George Maxwell Richards TC, CMT and PhD, passed away

peacefully on January 08, 2018. He was 86 years old. His body lay in state in the parliamentary entrance yesterday where all parliamentarians had the opportunity to pay their last respects, as well as members of the general public.

Prof. Richards' life, in my opinion, can be easily categorized into four main domains: Firstly, Prof. Richards, the scholar and academic; secondly, Prof. Richards, the President; thirdly, Prof. Richards, the intense family man; and fourthly, but by no means least—and I will take the liberty here to call him “Max”—the quintessential Trinbagonian, lover of the culture, the arts and enjoyable time among friends and has been now known enjoying life to the max.

Let me first deal with Prof. Richards, the academic and the scholar. He attained his secondary education at Queen's Royal College in the 1940s. He became a staff trainee in 1950/'51 with what was called UBOT, or the United British Oilfields of Trinidad, which later became Shell Trinidad. And, Mr. Vice-President, let me tell you, to be a staff trainee in the '50s as a man of colour, was a tremendous accomplishment. He held managerial positions at Shell from 1957 to '65, along with another distinguished son of the soil, Prof. Ken Julien. He then entered academia as a senior lecturer in Chemical Engineering and worked his way up the academic ladder, so to speak, to become Professor of Chemical Engineering, Deputy Principal and Principal and Pro Vice Chancellor from 1985 to 1986.

At the professional level, he served on the boards, inter alia, of Trintoc, the National Gas Company and Chairman of the Institute of Marine Affairs. He also has been a member and served in very distinguished professional societies and bodies, including the Association of Professional Engineers, the Institute of Chemical Engineers of London, the Institute of Petroleum of London, among many

others. Mr. Vice-President, an academic and scholar par excellence—one of a kind.

Let me now deal with Prof. Richards, the fourth President of the Republic of Trinidad and Tobago. Mr. Vice-President, Prof. Richards served for two terms, from 2003 to 2013, as this country's fourth President, the only one to date without a legal background. In spite of that, he clearly understood his role as President and carried it out with clarity and decorum, and obviously sought legal advice when he required it.

The outstanding attribute of his tenure was his ability to have amicable and productive relationships with the Executive, with the Opposition, with the Parliament and with all stakeholders in Trinidad and Tobago. And probably more importantly, he served as Commander in Chief with distinction and, in my opinion, the most important role as a President, Minister of National Security.

And then we have Prof. Richards, the family man. Mr. Vice-President, it is common knowledge that he was a dedicated family man. Today, he leaves to mourn his loving and loyal wife, Dr. Jean Ramjohn-Richards, his son Mark and his daughter whom I know quite well and I know she loved him dearly.

And, finally, Mr. Vice-President, Max, the quintessential Trinbagonian. Max loved his simple life. He loved his culture; he loved his fellow citizens; he loved the common man. It is common knowledge that he loved Carnival. He loved the Carnival fetes and was virtually single-handedly responsible for making the UWI fete into the premium Carnival occasion for many, many years, and later, "Friends to the Max", a must-go-to Carnival occasion.

Mr. Vice-President, so therefore in closing this tribute, I want to say that if there was ever a well-rounded personality, it was George Maxwell Richards. If

there was ever a patriot in this country, it was George Maxwell Richards. If there was ever a plain and simple good man, it was George Maxwell Richards. And may I add, in Trinidad and Tobago today, we need more good men and more good women.

So on behalf of the Government of the Republic of Trinidad and Tobago, on behalf of the Members on this side of the Senate, and I am sure I speak for all Members in this Chamber, on behalf of the Party that I chair, the People's National Movement, we would like to offer our deepest condolences to his family, friends and close associates and to let them know that he has lived a good life. He has served his country well.

May his soul rest in eternal peace.

Mr. Vice-President: Leader of the Opposition Business.

Sen. Wade Mark: Thank you, Mr. Vice-President. Mr. Vice-President, it is with a heavy heart and a profound sense of shock and awe that I rise to speak on behalf of the Members of this side of the House to pay tribute to a fallen star and the loss of a true patriot. The late Prof. George Maxwell Richards was a man of multifaceted dimensions whose life, from the cradle to the grave, epitomized what is meant to be a true "Trini", a "Trini to the bone" with the marrow included. Mr. Vice-President, it is fashionable in our country these days to speak of distinguished personalities in a very banal and superficial manner. It therefore behoves me to tarry a little on the life and achievements of the fourth President of our Republic.

Our late President was born in San Fernando on the 1st of December, 1931. And with most of our citizens at the time he attended elementary school. However, most of the young citizens and brilliant minds of the day, under a brutally discriminating social and economic colonial system, the young Richards

won one of the few scholarships available which enabled him to attend Queen's Royal College, one of the few pre-eminent institutions of secondary education at the time.

In record time and with the speed and strength of a Usain Bolt, he ascended to the pinnacle of academic and intellectual luminescence. He attended Manchester and Oxford Universities in the United Kingdom where his academic prowess shone forth like a beacon.

On this return to Trinidad from studies abroad, he worked in the petroleum industry from 1950 to 1965 before leaving to pursue a career in academia. He joined the academic staff at the Faculty of Engineering where he became the head of the Department of Chemical Engineering and later Dean of the Faculty of Engineering. He was a pioneer in building the Department of Chemical Engineering and piloted the international recognition of that department to the benefit of not only Trinidad and Tobago, but to the wider international community.

He progressed from academia to administration and with a meteoric speed rose to become Deputy Principal, Acting Principal, Pro Vice Chancellor and ultimately Principal of the University. He made a sterling contribution both to the Faculty of Engineering and to the University as a whole. He was also Chancellor of the University of Trinidad and Tobago.

Mr. Vice-President, his capacity and capability were not only demonstrated in the spheres of academia and the petroleum industry, but equally in the service of the public and private sectors. He was a member of many boards and professional bodies. In the sphere of engineering, he was member of many associations, the most notable being the Association of Professional Engineers of Trinidad and Tobago, the Institute of Chemical Engineering of London, the Institute of

Petroleum in London and the Royal Society of Chemistry.

In many respects, he was Trinidad and Tobago at large. In the sphere of genealogy and socio-cultural association and assimilation, he was the epitome of a true, true “Trini”. If one should echo the sentiments of one of our calypsonians, a “Trini to the bone”, as I said. Mr. Vice-President, he was a man of many and diverse parts, and if I should quote the distinguished Nigerian parliamentarian, the legendary Kingsley Mbawe, he was a man of timbre and calibre.

Mr. Vice-President, what evidence can I adduce to substantiate such an assertion? There are many, but I will only give a few examples. He was the only one of our Presidents to date whose DNA harbours Amerindian and Chinese ancestry. Let us strike one for our First People. The jury is still out, however, as to whether he was of Carib or Arawak ancestry, or a mixture of both.

But, you know, Mr. Vice-President, he reflected our multicultural society, our multi-ethnic society. He was a mas enthusiast. He loved Carnival and the Arts. He played mas every year and under his tenure, as my colleague said, the annual ritual of the UWI Carnival fete attained unprecedented heights of excellence. It was one of the rights of passage to Carnival. If you did not make the UWI Carnival fete, you would have been considered as having missed the pre-Carnival boat. It was the gold standard of all such fetes, almost the mother of all Carnival celebrations.

He was an ardent advocate and supporter of the advancement of women. He was a flag bearer for a woman President. Within three months of his passing, his wishes will be fulfilled. He received several national awards and international citations. He served two terms as President, from 2003 to 2013, and to date, as my colleague said, the only head of State who was not a member of the legal

profession.

He liberated us, if only briefly, from the entrapment of having only lawyers as Presidents. Oh, what a difference he made and it made.

2.00 p.m.

His passion for critical thinking, precision in the use of language, as reflected in his erudite addresses to the nation, and his general love for life will be sorely missed and long be remembered. Indeed, Mr. Vice-President, it can truly be said, he was a man of a golden age. I am confident that Prof. Max Richards would be sorely missed. In fact, I dare say that anyone could dispute that his lifetime approximated to not only the age or what is called the Vedic, but also the era of the Confucian.

Mr. Vice-President, in closing, let me pay respect to members of his family, and particularly to the person who stood solidly at his side since that glorious wedding day, his wife, Jean Richards. Now, the creator who put them together in his infinite wisdom saw it was time to call him home to that graceful and beautiful place for his well-deserved and eternal rest. May his devoted spouse and children summon the fortitude and spiritual strength to sustain his loss and to enable them to continue walking in the presence of Almighty God, our heavenly Father.

Mr. Vice-President, may the Lord make peace with the soul of our departed brother and let perpetual light shine upon him. May he rest in peace.

Mr. Vice-President: Sen. Small.

Sen. David Small: Thank you very much, Mr. Vice-President, for allowing me the opportunity to join in our colleagues here paying tribute to the passing of Prof. George Maxwell Richards, husband, parent, engineer, teacher, director, chairman, professor, President. These were just some of the roles and titles ascribed to the

name George Maxwell Richards.

As noted by my colleague earlier, he would have been born on the 1st of December, 1931, and is from a family comprising of two boys and three girls. We are told that his favourite foods included cowheel soup, pelau and curry—a real Trini man. As noted earlier also, Prof. Richards was the first President to not have a legal background. When he was asked about that, whether or not he was surprised in 2003 to be put forward for the presidency given his lack of legal training, he said his training as a chemical engineer set the stage for his future life and opened endless possibilities.

On February 11, 2008, Prof. George Maxwell Richards was elected unopposed to serve a second term as this country's President. In an interview he gave just shortly after his inauguration, he indicated that among his top concerns was the problem of crime, and I quote:

“Unfortunately, life has become very cheap”—as he reflected on the killing of a 16-year-old school boy that same week.

He went on to say, Mr. Vice-President, that:

“It takes a village to raise a child...To some extent the present generation of young people do not seem to have (social support).”

He went on to also say that:

“Trinidad and Tobago is in need of a ‘social intervention’. The solution”—he indicated is—“involves getting guns and drugs off the streets.”

And most notably, he also indicated that:

“...he would support any call for more female leaders and, in particular, a female president.”

Mr. Vice-President, the parallels of his comments almost 10 years ago with current

events are indeed striking.

Prof. George Maxwell Richards was generous, ready to share his learning with others and allowing others to benefit from his calm judgment and accurate reasoning. His was a fertile mind, always planning positive ventures for this country that he loved so much. Prof. Richards was also a man who did not let the trappings of his office stymie his love for life and the culture of our blessed country. Most of us call it now “work life balance”. A lot of us struggle with that.

Prof. Richards has left us with memories of distinguished career achievements by a man dedicated to lifelong learning. He was endowed by God with a mind of exceptional keenness, the heart of a giant, and an administrative ability and drive to see things through to fruition. Prof. Richards was loved for what he represented, the determination to succeed against the odds, humility and an innate sense of fair play and a tremendous sense of service to the community as evidenced by his role as patron to many good causes.

Mr. Vice-President, it is truly unfortunate that greatness and other such adjectives are often only ascribed posthumously when the full impact of a person’s life achievements are fully germinated and borne fruit. Paraphrasing from the author Zig Ziglar, it is my humble retort that the life of Prof. Richards was: “...designed for accomplishment, engineered for success and endowed with the seeds of greatness.”

To the family of Prof. George Maxwell Richards, we on the Independent Bench join with you and the national community in mourning his passing. George Maxwell Richards had an infectious and indomitable spirit and love for life. This spirit touched virtually everyone who he came into contact with. There is a saying that “Everybody dies, but not everybody lives”. Well, we are all here to pay

tribute to a man whose life was well and truly lived. We are in some ways friends of the Max, and today we pay to our dear departed leader a rousing tribute to the Max. To his family, may Almighty God pour on you a balm of peace, comfort and healing as we have been assured that neither death nor life, nor angels nor demons, nor things present nor things to come, nor height nor depth can separate us from God's love.

Today we all mourn with the entire Richards' family, knowing that their loss is personal and profound, and valuing their willingness to allow us to share in a farewell to Max. We also mourn as a nation because we know we are saying goodbye to a true patriot. As he sits aloft upon the wings of the angels, the dear departed soul of George Maxwell Richards is looking upon us and exhorting us to comfort his family and all those who mourn his passing. Prof. Richards has gone home now leaving those of us who grieve his passing with loving and nurturing memories of the good that he did for his family and our blessed nation. Prof. Richards, you will be missed. Your name is carved in our hearts and your legacy is etched in our minds.

Mr. Vice-President, on behalf of my colleagues on the Independent Bench, I extend deepest condolences to the Richards' family on his passing. May God bless Prof. George Maxwell Richards and may he rest in eternal peace.

Mr. Vice-President: Hon. Senators, I join with you in offering my deepest condolences to the family of Prof. George Maxwell Richards, former President of the Republic of Trinidad and Tobago. I have noted since his passing on Monday 08 January, 2018, the many tributes from Members of Parliament, his many colleagues and members of the public in his honour. It is by divine law that we cannot take anything from this world when we leave it behind. However, by the

impact we have on others we can add to it.

By all accounts, through his service to students, colleagues and the wider community, as a former Professor Emeritus in chemical engineering and a former Principal of the St. Augustine Campus of the University of the West Indies, through his unwavering support of and contribution to culture, through his service to country on various state boards, through his service to an entire generation as the fourth President of the Republic of Trinidad and Tobago, through his life as one of our sons, one of our brothers, one of our fathers and one of our servants, we as a people gained the shining beacon, an example of citizenship, statesmanship and leadership.

His service to others was surely the emulation of the words “service above self” as he served this nation selflessly in various capacities for some 60 years. The impact of his philanthropy is well known, deeply appreciated and continues to ensure the development of youth at the tertiary level. As I reflect on his life and take note of the various contributions and accolades, I am reminded of the quote:

“In reading of the lives of great men, I found that the first victory they won was over themselves...self-discipline with all of them came first.”

Indeed, for anyone to have made or make such a stellar contribution to a nation, discipline is required. As a President he was tolerant, and as a leader he inspired production.

Today, as we remember the man as a servant of the people, let us not forget that he was also a husband and a father. To his family, I say on behalf of a country, thank you for understanding, thank you for sharing. Today we mourn with you as a nation, tomorrow we say our farewells as an extended family. May you find comfort, solace and peace in the knowledge that he served us well, he was

Tributes (Professor George Maxwell Richards
 TC, CMTT, PhD
 Mr. Vice-President cont'd)

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well loved by all, and that he rests in eternal peace.

Hon. Senators, we will now observe a minute of silence.

The Senate stood.

Mr. Vice-President: Hon. Members, I instruct the Clerk to convey to his family the sentiments expressed today.

MRS. DONNA CARTER-HUNT

Mr. Vice-President: Hon. Senators, as you are aware, former Sen. Donna Carter passed away on Tuesday, January 02, 2018. I now invite you to offer tributes.
 Hon. Leader of Government Business.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Mr. Vice President. Mr. Vice-President, Mrs. Donna Carter-Hunt, former Government Senator, died peacefully on Tuesday, 2nd of January, 2018, at her home, or should I say her adopted home in Costa Rica. Her funeral mass was held on Wednesday 03 January, 2018, at Jardines del Recuerdo Heredia—that is in Costa Rica. After her cremation, her ashes will be brought to Trinidad for final burial.

Mr. Vice-President, Donna Carter and I were very close colleagues. Incidentally, we both entered politics at the same time. She contested in 2000 the St. Joseph seat, I contested for the first time in 2000 the Ortoire/Mayaro seat. We also had one thing in common, both of us lost in 2000. She lost the St. Joseph seat, I lost the Mayaro seat, but as fate would have it, I got another chance, and as fate would have it, for reasons still unknown, she did not get the opportunity to contest St. Joseph again. But having lost the election in 2000—that was a unique period in the history of Trinidad and Tobago politics because we had three elections back to back.

In 2001, because of convulsions in the UNC at the time where the Government collapsed, the 2001 election saw the famous 18:18 deadlock. In 2002, obviously there was no Speaker so we could have only governed through the Cabinet for approximately one year. So in 2002, I would say it was the mother of all elections, and my claim to fame, personally, is that myself and the mother of our distinguished Attorney General, Mrs. Diane Seukeran, I winning in Ortoire/Mayaro and she winning in San Fernando West, we broke that deadlock and put the PNM solidly into Government.

At that point in time, during the 2001 18:18, December 28, 2001, to October 09, 2002, Mrs. Donna Carter was appointed a Government Senator and she became Minister in the Office of the Prime Minister with responsibility for ecclesiastic affairs. After the 18:18 deadlock was broken, a short while after that, she was offered an ambassadorial appointment to South Africa. Her appointment was on the 11th of November, 2003. She actually assumed duties on the 26th of April, 2004, and she demitted office on the 30th of April, 2008. She had unique stories to tell, Mr. Vice-President, because South Africa was in the early stages of its post-apartheid period and during that period there were a lot of convulsions in South Africa. They were trying to settle into this new society, and she had some wonderful experiences to tell about the calibre of a distinguished international statesman, a man called Nelson Mandela. She saw South Africa grow from a very divided society to one that is uniting for the betterment of all as the days go by.

South Africa still has its challenges, but it continues to be a model on the African continent as to how you can very, very maturely foster the cause of development for the benefits of all. It is called a rainbow country just like Trinidad, and despite its historical challenges, I think South Africa is fast overcoming a lot of these. So it is in that context I remember Donna. She decided

to spend the latter part of her life in Costa Rica. I never questioned her as to why because that was her choice, but for the short period that she served this country, she served it with distinction.

Mr. Vice-President, through you, I offer condolences to her husband and her immediate family, and may her soul rest in peace.

Mr. Vice-President: Sen. Ameen.

Sen. Khadijah Ameen: Thank you, Mr. Vice-President. Mr. Vice-President, I rise to pay tribute to a former Member of this Senate, Mrs. Donna Carter-Hunt, who served in the Seventh Republican Parliament from the period 5th of April, 2002, to 28th of August, 2002. She was born in March of 1945 and she was married to Mr. John Hunt. Her professional career included, before coming into the field of politics, being a teacher at the El Dorado Senior Comprehensive School. She did contest the St. Joseph seat—and I recalled that election because that was the year I was just getting involved in politics on the East-West Corridor—and she was defeated by Mr. Carlos John who went on to become a Minister. Shortly after, there was a change in Government and even though she did not contest in that particular election, she was appointed as a Government Senator in the Office of the Prime Minister with the responsibility of ecclesiastic affairs.

She was appointed as High Commissioner to South Africa in November of 2003, but it was not until, I think about 2005, she was able to pick up that appointment due to illness, and at that time the External Affairs Chief of Protocol, Mr. Carl Francis, was sent to South Africa to act as an envoy in her place. When she did eventually assume duties, again in 2007 she fell ill and had to go to Costa Rica for medical treatment. She eventually demitted office in April of 2008, and, Mr. Vice-President, that to me is one of the indications of the challenges of public office.

Even though her time in the Senate may have been short, even though she would have offered to give of herself for public service to Trinidad and Tobago, our own personal challenges, our personal health and family circumstances often could pose challenges to our desire to serve.

And so, as a woman, as a former Member of this House, the Senate, as a former holder of public office, as a person who served our great nation, Trinidad and Tobago, on behalf of the Members on this side, I express condolences to the family of Mrs. Donna Carter-Hunt, a Senator and diplomat. We thank her for her service to Trinidad and Tobago. May her soul rest in eternal peace.

Mr. Vice-President: Sen. Mahabir.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President. On behalf of the Independent Bench, I rise to pay tribute to our former colleague, Sen. Donna Carter-Hunt. Unlike my colleague, Sen. Khan, I never met Sen. Hunt, but in reflecting upon her profile and her life, what I am able to glean is that there is and was an individual who would leave the comfort of a job in the public service, teaching service, and contest a general election. It takes, in my mind, a measure of conviction, fortitude, commitment to a cause for an individual to make that bold step, and to take the consequences of losing at a general election because once that is done, it is very difficult to return to one's original place of employ. But her service subsequently to our Chamber, I think is a testimony to the fact that she was someone with a contribution to make not only to her political party, but to the general welfare of Trinidad and Tobago, and that based upon her contribution here, her contribution in the Office of the Prime Minister, we saw her promotion, her elevation to representing Trinidad and Tobago internationally, internationally in a very unique place South Africa, as my colleague Sen. Khan indicated, at a time when South Africa was in its period of adjustment.

I am sure she would have used her experience as a Trinidadian living as she did in an environment where I have always maintained, Trinidad and Tobago is an exemplar country. Despite all that can be said against us, it is an exemplar country where we have been able to obtain an accord amongst the various groups who live here and to provide an example to a country like South Africa which was now beginning to accept the equality of all who lived in that country. Her contribution in representing Trinidad and Tobago is something that I think is meritorious and her life has to be a testimony to not only people but women in general, that once there is a commitment to the cause of public service, one should heed that clarion call, one should fulfil that inner desire, that burning need to engage in public service and, in so doing, not only are you as a person elevated, but the country as a whole benefits.

Her life is an inspiration to all who wish to enter public service. It is a testimony that we can serve at all levels. We can serve at the levels of President of the Republic of Trinidad and Tobago, we can serve at the level of a Senator in the Parliament of Trinidad and Tobago. It is all aimed at one goal. That goal is to improve currently and in the future the welfare and the well-being of all the citizens of Trinidad and Tobago.

To the family of Donna Carter, I say we recognize and we celebrate her life. We express deep condolences and there is the greatest of appreciation for what she would have done to the Chamber, the Senate and to the Republic of Trinidad and Tobago. May her soul rest in peace. Thank you.

Mr. Vice-President: Hon. Senators, at this time, I too would like to join in expressing condolences to the family of the former Senator and High Commissioner of the Republic of Trinidad and Tobago to the Republic of South Africa, Mrs. Donna Carter-Hunt.

Mrs. Carter-Hunt came to this House as a former teacher and would be remembered for her sterling contribution to the development of the nation's youth. She entered the realm of representative politics, and although unsuccessful, still took the opportunity to serve as a Member in the Seventh Republican Parliament from December 28, 2001, to October 09, 2002, when she was appointed as a Minister of State in the Office of the Prime Minister with responsibility for ecclesiastic and interreligious affairs. Her soft but candid manner was surely a skill that was well developed from her former stomping ground and would have served her tremendously in the diplomatic arena when she was appointed as the High Commissioner to the Republic of South Africa. Mrs. Cater-Hunt demitted office in 2008 and moved to Costa Rica until her passing. Her service to country is appreciated and she now joins the ranks of exemplary citizens that have served and gone. She will be missed. May she rest in peace.

Hon. Senators, we will now observe a minute of silence.

The Senate stood.

Mr. Vice-President: Hon. Senators, I have instructed the Clerk to convey to her family the sentiments expressed today.

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, permit me to revert to Item 3 as indicated earlier on the Order Paper.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from Her Excellency the Acting President, Christine Kangaloo:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency CHRISTINE KANGALOO Acting President of the Republic of Trinidad and Tobago and Commander-in-Chief of the Armed Forces.

/s/ Christine C Kangaloo
Acting President.

TO: MS. ALISHA ROMANO

WHEREAS the President of the Senate has temporarily vacated her office of Senator to act as President of the Republic of Trinidad and Tobago:

NOW, THEREFORE, I, CHRISTINE KANGALOO, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, Alisha Romano, to be temporarily a member of the Senate with effect from 16th January, 2018 and continuing during the acting appointment of Senator the Hon. Christine Kangaloo as President of the Republic of Trinidad and Tobago.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of January, 2018."

OATH OF ALLEGIANCE

Senator Alisha Romano took and subscribed the Oath of Allegiance as required by law.

2.30 p.m.

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**MISCELLANEOUS PROVISIONS (MUTUAL ASSISTANCE IN
CRIMINAL MATTERS, PROCEEDS OF CRIME, FINANCIAL
INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO, CUSTOMS AND
THE EXCHANGE CONTROL) BILL, 2017**

Bill to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act, brought from the House of Representatives [*The Attorney General*]; read the first time.

Motion made: That the next stage of the Bill be taken later in the proceedings. [*Hon. F. Al-Rawi*]

Question put and agreed to.

PAPERS LAID

1. Annual Administrative Report of the Couva/Tabaquite/Talparo Regional Corporation for the fiscal year October 2014 to September 2015. [*The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein)*]
2. Annual Report of the Registration, Recognition and Certification Board for the year 2015. [*The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the North Central Regional Health Authority for the year ended September 30, 2009. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the North Central Regional Health Authority for the year ended September 30, 2010. [*Sen. The Hon. A. West*]

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5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the North Central Regional Health Authority for the year ended September 30, 2011. [*Sen. The Hon. A. West*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the North Central Regional Health Authority for the year ended September 30, 2012. [*Sen. The Hon. A. West*]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the North Central Regional Health Authority for the year ended September 30, 2013. [*Sen. The Hon. A. West*]
8. The Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Airports Authority of Trinidad and Tobago for the year ended December 31, 2013. [*Sen. The Hon. A. West*]
9. Annual Audited Financial Statements of the Education Facilities Company Limited for the financial year ended September 30, 2014. [*Sen. The Hon. A. West*]
10. Annual Report of the Financial Intelligence Unit of Trinidad and Tobago (FIUTT) for the year ended September 30, 2017. [*Sen. The Hon. A. West*]
11. Audited Financial Statements of the National Quarries Company Limited for the year ended September 30, 2010. [*Sen. The Hon. A. West*]
12. Audited Financial Statements of the National Quarries Company Limited for the year ended September 30, 2011. [*Sen. The Hon. A. West*]
13. Report of the Central Bank of Trinidad and Tobago (CBTT) on Insurance and Pensions for the year ended December 31, 2015. [*Sen. The Hon. A. West*]

14. Audited Financial Statements of the Trinidad and Tobago Tourism Business Development Limited (TTTBDL) for the financial year ended December 31, 2016. [*Sen. The Hon. A. West*]
15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Agricultural Marketing and Development Corporation for the year ended September 30, 2008. [*Sen. The Hon. A. West*]
16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Point Fortin Civic Centre for the year ended September 30, 2007. [*Sen. The Hon. A. West*]
17. Ministerial Response of the Ministry of Finance to the Sixth Report of the Joint Select Committee on State Enterprises, Second Session (2016/2017), Eleventh Parliament on an inquiry into the borrowing practices of State Enterprises with an emphasis on regulation of borrowing, purposes for borrowed funds and sustainability of debt servicing ratios. [*Sen. The Hon. A. West*]
18. The Ministerial Response of the Ministry of Finance to the Fifth Report of the Joint Select Committee on State Enterprises, Second Session (2016/2017), Eleventh Parliament on an Inquiry into the Administration and Operations of Caribbean Airlines Limited. [*Sen. The Hon. A. West*]
19. Consolidated Audited Financial Statements of First Citizens Holdings Limited for the financial year ended September 30, 2016. [*Sen. The Hon. A. West*]
20. Unconsolidated Annual Audited Financial Statements of Lake Asphalt of Trinidad and Tobago (1978) Limited (LATT) for the financial year ending September 30, 2011. [*Sen. The Hon. A. West*]

21. Unconsolidated Annual Audited Financial Statements of Lake Asphalt of Trinidad and Tobago (1978) Limited (LATT) for the financial year ending September 30, 2012. [*Sen. The Hon. A. West*]
22. Unconsolidated Annual Audited Financial Statements of Lake Asphalt of Trinidad and Tobago (1978) Limited (LATT) for the financial year ending September 30, 2013. [*Sen. The Hon. A. West*]
23. Ministerial Response of the Ministry of Works and Transport to the Eighth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the Examination of the Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Public Transport Service Corporation. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]
24. Annual Report of the Trinidad and Tobago Civil Aviation Authority for the year 2016-2017. [*Sen. The Hon. R. Sinanan*]
25. Freedom of Information (Exemption) Order, 2017. [*The Attorney General (Hon. Faris Al-Rawi)*]
26. Annual Report of the Legal Aid and Advisory Authority for the year 2012-2013. [*Hon. F. Al-Rawi*]
27. Ministerial Response of the Ministry of Agriculture, Lands and Fisheries to the Second Report of the Joint Select Committee on Land and Physical Infrastructure, Second Session (2016/2017), Eleventh Parliament on an inquiry into the allocation and utilization of State lands for food production. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
28. Thirty-Ninth Annual Report of the Ombudsman for the year 2016. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]

29. Ministerial Response of the Ministry of Housing and Urban Development to the Fifth Report of the Public Administration and Appropriations Committee, Second Session (2016/2017), Eleventh Parliament on an examination into the Ministry of Housing and Urban Development with specific reference to Accountability and Transparency, Inventory Control, Internal Audit, Sub-Head 02 – Goods and Services, Sub Head 03 – Minor Equipment Purchases, Sub-Head 09 – Development Programme – Consolidated Fund and Infrastructure Development Fund. [*Sen. The Hon. F. Khan*]
30. Trinidad and Tobago Housing Development Corporation (Vesting) (Amendment to the First Schedule) (No.6) Order, 2017. [*Sen. The Hon. F. Khan*]
31. Additional Information relating to the Administrative Report of the former Ministry of the Arts and Multiculturalism for the period 2014/2015. [*Sen. The Hon. F. Khan*]
32. Administrative Report of the National Library and Information System Authority (NALIS) for the fiscal year 2015-2016. [*Sen. The Hon. F. Khan*]
33. Annual Report of the Public Service Commission for the year 2016. [*Sen. The Hon. F. Khan*]
34. Ministerial Response of the Ministry of National Security to the Fifth Report of the Joint Select Committee on Human Rights, Equality and Diversity, Second Session (2016/2017), Eleventh Parliament, on the Examination of the Human Rights of Remandees at Remand Prisons. [*Sen. The Hon. F. Khan*]
35. Ministerial Response of the Ministry of Sports and Youth Affairs to the Second Report of the Public Accounts (Enterprises) Committee, Second

Session (2016/2017), Eleventh Parliament on the Examination of the Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Operations of the Sports Company of Trinidad and Tobago with particular reference to the development and upgrading of Sporting Facilities in Trinidad. [*Sen. The Hon. F. Khan*]

36. Petroleum (Amendment) Regulations, 2017. [*Sen. The Hon. F. Khan*]

PUBLIC ACCOUNTS COMMITTEE REPORTS

(Presentation)

Sen. Taharqa Obika: Mr. Vice-President, I have the honour to present the following reports:

Eastern Regional Health Authority

Tenth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the examination of the Audited Financial Statements of the Eastern Regional Health Authority for the financial years 2008—2013.

Land Settlement Agency

Eleventh Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the examination of the Audited Financial Statements of the Land Settlement Agency for the financial years 2008 and 2009.

Auditor General's Department

Twelfth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2016 with specific reference to the Auditor General's Department.

Ministry of Finance

Thirteenth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2016 with specific reference to the Ministry of Finance.

Ministry of Energy and Energy Industries

Fourteenth Report of the Public Accounts Committee, Second Session (2016/2017), Eleventh Parliament on the examination of the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2016 with specific reference to the Ministry of Energy and Energy Industries.

JOINT SELECT COMMITTEE REPORTS**(Presentation)****Public Administration and Appropriations**

Sen. Wade Mark: Mr. Vice-President, I have the honour to present the following reports:

Ministry of Sport and Youth Affairs

Seventh Report of the Public Administration and Appropriations Committee, Second Session (2016/2017), Eleventh Parliament on an examination into the Ministry of Sport and Youth Affairs with specific reference to Follow-up to the First Report of the Public Administration and Appropriations Committee and Current Expenditure Related to Official Travel to Tobago.

Ministry of Education

Eighth Report of the Public Administration and Appropriations Committee, Second Session (2016/2017), Eleventh Parliament on the examination into

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the Ministry of Education with specific reference to Inventory Control, Internal Audit, Sub-Head 02 – Goods and Services, Sub-Head 03 – Minor Equipment Purchases, Sub-Head 04 – Current Transfers and Subsidies, Sub-Head 09 – Development Programme, Consolidated Fund and Infrastructure Development Fund.

URGENT QUESTION

Ramai Trace Hindu School

(Completion of Work)

Sen. Wade Mark: Mr. Vice-President, to the hon. Minister of Education: Can the Minister indicate what urgent measures are being implemented to ensure the timely completion of works being done on the Ramai Trace Hindu School?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President. The construction works at Ramai Trace SDMS Primary School were terminated by the contractor because the Ministry of Education was unable to make payments that were due. Through the EFCL, the Ministry was able to get the contractor to rescind his termination and confirm his willingness to re-engage with the project.

Further, the Ministry has since made part payment to the contractor and is awaiting a release of funds from the Ministry of Finance in order to make additional payments. Once the outstanding moneys are paid, the contractor will resume work and complete the construction of the school. The construction works are 83 per cent complete. Thank you very much.

Sen. Mark: Can I ask the hon. Minister, in light of that response, could you advise this honourable House of a possible time frame for the completion of payments to the contractor so that he can resume fully his job to complete this school, as you claim, that is 85 per cent completed at this time?

Hon. A. Garcia: Mr. Vice-President, as much I would like to give a date, at this point, I am unable to give a date for the completion of works.

Sen. Mark: Mr. Vice-President, is the Minister aware that it is approximately between two or three years now that that school has been under construction and that some 271 students have been housed in a temporary Hindu temple and would he not agree with me that efforts must be taken to speed up this arrangement so that the students can have their school completed and they can resume classes under decent conditions?

Hon. A. Garcia: Mr. Vice-President, I have already indicated that we, at the Ministry of Education, will be doing everything possible to ensure the completion of that school is done as soon as possible. In terms of the exact date, as I have said before, I am not in a position to give that at this time.

WRITTEN ANSWER TO QUESTION

New T&TEC Mobile Substations

(Details of)

48. Sen. Taharqa Obika asked the hon. Minister of Public Utilities:

With respect to reports concerning the construction of ten new mobile substations for T&TEC, can the Minister state:

- i. the name of the company that was awarded the contract to construct the substations;
- ii. the procurement and selection process for suppliers; and
- iii. the terms of engagement, financial and otherwise, for contracts awarded to suppliers?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin

Khan): Mr. Vice-President, I crave your indulgence to indicate that the Government is pleased to announce that it will be answering all questions listed on the Order Paper. [*Desk thumping*]

A&V Oil and Gas Limited

(Petrotrin's equipment located)

10. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: Can the Minister state whether any equipment belonging to Petrotrin has been located on the compound of A&V Oil and Gas Limited, if yes, what action is being taken to bring an end to this situation?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Mr. Vice-President. Response to Question No. 10, Petrotrin has advised that to its knowledge, it is not aware of any Petrotrin-owned facilities or equipment that has been located on the compound of A&V at San Francique Road, Penal, which is not in the Catskill field. As a consequence, and unless there is evidence to suggest otherwise, no action is presently being contemplated.

Mr. Vidya Deokiesingh's Transfer

(Details of)

11. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: Can the Minister inform this Senate of the circumstances which led to the transfer of Mr. Vidya Deokiesingh from the position of Hospitality Officer to Custody Transfer Officer at Petrotrin?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you, Mr. Vice-President. Once again, in answer to Question No. 11, Petrotrin has advised that Mr. Deokiesingh was appointed Custody Transfer Officer through due process as inscribed in its collective agreement and based on his experience, which included nine years' prior working experience in the oil

transfer section, which was ultimately renamed the Custody Transfer Department, which means he had nine years' experience in working in that section.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Thank you, Mr. Vice-President. Could the hon. Minister indicate to this House precisely when was Mr. Deokiesingh appointed to this particular position of Custody Transfer Officer at Petrotrin?

Sen. The Hon. F. Khan: I do not have the specific date but it should not be a problem to actually get the exact date of his engagement in the Custody Transfer Section.

Sen. Mark: Mr. Vice-President, is the Minister aware that Mr. Deokiesingh was in fact initially employed at Petrotrin as a hospitality officer before being transferred into that particular position? Are you aware of this?

Sen. The Hon. F. Khan: Mr. Vice-President, Mr. Deokiesingh's last position before he was reassigned to the Custody Transfers Section was as a hospitality officer, but prior to that, he worked in the oil transfers section which was, in fact, renamed afterwards the Custody Transfer Section.

Sen. Mark: Could the hon. Minister indicate to this House and could he share with this House what particular process was involved in this gentleman being transferred or being promoted from being an ordinary hospitality officer to this very important position called Custody Transfer Officer? Could you share with the Senate the process?

Sen. The Hon. F. Khan: Mr. Vice-President, Petrotrin's collective agreement with the Oilfields Workers' Trade Union has some of the most involved procedural guidelines for taking any single action. Even promotions and transfers go through a robust process that is jointly administered and supervised by both the union and the management.

When transfers or when vacancies arise, first you have to look within your section. If it cannot be found within your section, then you go company-wide to see if there is any appropriate person, and then if not, well then you advertise externally. My understanding is that these processes were observed both in compliance with the collective agreement and it threw up Mr. Deokiesingh's name.

Sen. Mark: Mr. Vice-President, is the Minister aware that Mr. Deokiesingh was parachuted into this position and Mr. Deokiesingh, having been parachuted into the position, was strategically placed there to facilitate the fake oil scandal that took place in the country? Are you aware of that?

Mr. Vice-President: Sen. Mark, I will not allow that question. Next question on the Order Paper.

Sen. Mark: I have exhausted my supplemental?

Mr. Vice-President: Yes, you have exhausted all four. Next question please.

Recent Attack on Media Members

(Government's Action)

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

In light of the recent attack on members of the media in the vicinity of A&V Oil and Gas Limited, what action does the Government intend to take to prevent a recurrence?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Mr. Vice-President. [*Desk thumping*] Mr. Vice-President, the Government of Trinidad and Tobago recognizes its duty to treat with the wide range of unacceptable activity that may cause harm to individuals, communities and to the environment. In this regard, law enforcement and safety officers can give the assurance that incidents of anti-social behaviour, in all its forms, will be treated with the appropriate level of importance. In particular, the Trinidad and

Tobago Police Service can assure the public that once unlawful activities are reported, they will be thoroughly investigated and where necessary, perpetrators will be dealt with in accordance with the law.

Mr. Vice-President: Sen. Mark.

Sen. Mark: Yes, thank you, Mr. Vice-President. Can I ask the hon. Minister since this incident involving this media worker or journalist, has the authorities, the police, taken steps to ensure that other media workers, who may wish to traverse that area are, in fact, able to do so or are able to do so without being molested by elements of this company that used brute force to damage the journalist at that time? Could you give this House the assurance that action and measures have been taken to alert that particular owner that that road does not belong to him, it is a public road and any citizen of this country can traverse that road? Have you taken action in that regard, Sir?

Hon. Maj. Gen. E. Dillon: Mr. Vice-President, I am not quite sure which one of the questions I should answer. There were several questions that were thrown at me, I am not quite sure which one you want me to answer. Look, can I ask for some clarification please, Mr. Vice-President?

Mr. Vice-President: Sen. Mark. [*Sen. Mark rises*] Sen. Mark, hold on.

Sen. Mark: Yes, Sir.

Mr. Vice-President: I will ask you once. Rephrase the question in a neater fashion.

Sen. Mark: I am just asking one, Sir. Could you kindly inform this House what action, if any, you have taken or the authorities have taken under your control to ensure that journalists are able to traverse that road or the public without being molested by those persons who are owners of A&V Oil and Gas? [*Desk thumping*]

Hon. Maj. Gen. E. Dillon: Mr. Vice-President, the Trinidad and Tobago Police

Service controls and looks after all the roads in Trinidad and Tobago with respect to law enforcement and will continue regardless to where the road is throughout Trinidad and Tobago. [*Desk thumping*]

Sen. Mark: Mr. Vice-President, having regard to the fact that this road is a special road, almost like a fortress road, the question that is being asked, having regard to the experience, the experience of the journalist and journalists and even members of the public, can you give the country the assurance that they can now traverse that road without let or hindrance or being brutalized by the owners of that property? Could you tell us? [*Crosstalk*] Could you give us some assurance here, Sir? [*Continuous crosstalk*]

[*Mr. Vice-President stands*]

Mr. Vice-President, we would like to get some assurances, Sir, so I can go. I want to go.

Hon. Senator: He is on his feet.

Sen. Mark: Yes, and I am talking to the President.

Mr. Vice-President: I will not allow that question. Next question.

Sen. Mark: I may have exhausted my questions, Sir. Can I go on, Sir?

Mr. Vice-President: Sen. Richards, he has the next question on the Order Paper.

Sen. Richards: Mr. Vice-President, I do not have the Order Paper with that question before me. Thank you.

Draft Broadcasting Code

(Details of)

39. Sen. Paul Richards asked the hon. Minister of Public Administration and Communications:

With regard to the Draft Broadcasting Code published by TATT for public consultation since April 2014, can the Minister advise on the following:

- (i) when is the Broadcasting Code to be brought to Parliament;
- (ii) is it the intention of the Government to include in the Broadcasting Code a provision mandating commercial radio owners/operators to include a set percentage of local content in airplay; and
- (iii) if the answer to part (ii) is yes, what is the set percentage being considered?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Mr. Vice-President, I am pleased to respond to the question posed to the Minister of Public Administration and Communications. Mr. Vice-President, the Draft Broadcasting Code is expected to be brought to Parliament within the first quarter of the calendar year 2018. Amendments to the Telecommunications Act must be effected before the code can be laid. As such, Mr. Vice-President, the code is expected to be laid in Parliament subsequently or substantially contemporaneously with the effecting of the amendments to the Act.

In response to part (ii) of the question, Mr. Vice-President, as presently conceived and drafted, the Draft Broadcasting Code does not contemplate within its objectives of scope, the mandating of local content in the airplay of commercial owners and/or operators. The Government has established an inter-agency task force to address the matter of local content on which the Telecommunications Authority of Trinidad and Tobago has representation. Consideration is still under way whether the requirements, if any, for local content will be placed within a separate framework or within the existing draft broadcast code.

In response to the third part of the question, Mr. Vice-President, at this time, there is no final percentage contemplated as the matter of local content is still under consideration. I thank you.

Mr. Vice-President: Sen. Richards.

Sen. Richards: Thank you, Mr. Vice-President. Would the Minister be able to indicate if when the draft code is completed, it will include provisions for state media in the context of broadcasting in Trinidad and Tobago?

Sen. The Hon. C. Rambharat: Mr. Vice-President, the expectation is that the broadcast code would bind everyone in the media including the State.

Mr. Vice-President: Sen. Richards.

Sen. Richards: Thank you. Would the code also take into consideration the issue of the Internet and its impact on evolving broadcast provisions?

3.00 p.m.

Sen. The Hon. C. Rambharat: Mr. Vice-President, the simple answer is yes.

Mr. Vice-President: Sen. Richards.

Sen. Richards: That is it for that question, Mr. Vice-President.

Mr. Vice-President: You have no more supplementals?

Sen. Richards: No.

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

**Toco Port
(Construction of)**

40. Sen. Wade Mark on behalf of Sen. Saddam Hosein asked the hon. Minister of Works and Transport:

Having regard to the announcement by Government that a port will be constructed in Toco, can the Minister indicate the following:

- i. whether a feasibility study has been conducted for the construction of the port;
- ii. if the answer to (i) is in the affirmative, when was it commenced and when was it completed;
- iii. what was the cost of the study; and
- iv. what is the name of the firm that conducted the study?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Mr. Vice-President. The idea of a port in Toco to establish a ferry link between Tobago and the north-east of Trinidad was conceived from as early as 1987, with a project formulated report entitled “Sea Bridge: Across the Galleons Passage” prepared by a consortium of consultants called the Sea Bridge Team.

A report was also produced in 1988 by the Institute of Marine Affairs and that identified Toco Bay as an optional location for a ferry port. The consultants, the Sea Bridge Team, were later engaged by the Industrial Development Corporation to conduct a feasibility study to determine the optional location and arrangement in north-east Trinidad for a ferry port, which was completed in 1990. The consultants confirmed the findings of the earlier report produced in 1988 by the Institute of Marine Affairs.

Mr. Vice-President, despite the age of this study, the reports are considered to be still generally relevant and applicable since the same principles of and the demand for inter-island connectivity, economic development and coastal sea transport surveillances still apply. However, because of the age of this study, the Ministry was unable to access information on the cost of this survey. Thank you.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate whether the Government intends to rely completely and absolutely on those dated reports or whether it is the intention of the Government to conduct a feasibility study, given the current reality that we are faced with?

Mr. Vice-President: Sen. Mark, those are two questions, so which one do you want answered? The first one or the second one?

Sen. Mark: Well, I can say both.

Mr. Vice-President: Well, ask the first one first and the second one second. Rephrase and ask him one question at a time.

Sen. Mark: [*Crosstalk*] Yes, let me pay attention to you, Mr. Vice-President, okay, rather than this lady here. May I ask again, whether it is the intention of the Government to rely on those dated reports as the basis for its feasibility study as it seeks to move towards the construction of a port service at Toco?

Sen. The Hon. R. Sinanan: Mr. Vice-President, I will just repeat the last paragraph I read. Despite the age, these studies and reports are considered to be still generally relevant and applicable since the same principles of and demand for inter-island connectivity, economic development and coastal sea transportation, coastal surveillance, still apply. So the study is still relevant today. Thank you.

Sen. Ramdeen: Through you, Mr. Vice-President. I would just like the Minister of Works and Transport to confirm that the decision of this present Government to build a port in Toco is premised on a report that is 17 years old? [*Interruption*] Twenty-seven years old. [*Crosstalk*]

Mr. Vice-President: Do you retract the question or are you asking it?

Sen. Ramdeen: A report that was conducted in 1987, 30 years old, that this Government has decided to construct a port in Toco based on a report that is 30 years old?

Mr. Vice-President: I would not allow that question because I think he answered that question already and Sen. Mark would have asked a supplemental question along the same lines. So I am not going to allow that question. Next supplemental question, Sen. Mark?

Sen. Mark: May I ask the hon. Minister, has a cost been attached to that particular project or are you still seeking to determine a cost for that particular project, given what you have as a feasibility study at this time?

Sen. The Hon. R. Sinanan: Are you asking question 41?

Sen. Mark: No, I am asking a supplemental. This is a supplemental.

Mr. Vice-President: Minister of Works and Transport, supplemental question from Sen. Mark.

Sen. The Hon. R. Sinanan: Mr. Vice-President, the question is the same question as question 41 so I will give you the answer for that question.

It is expected that the construction for this port will begin in 2019. However, the actual start-up date of this project depends on the certificate of environmental clearance from the EMA. However, this project has not been tendered. So the final cost has not been developed. Thank you.

Mr. Vice-President: Sen. Mark, no more supplemental questions, or do you have another one?

Sen. Mark: I want to ask through you, Mr. Vice-President, no cost has been attached to date to the project. That is what you have indicated?

Sen. Ameen: He said no final cost.

Sen. Mark: No final cost has been attached? Is there a budgeted cost to that project?

Sen. The Hon. R. Sinanan: The project is in the conceptual stage and a budgeted cost will only be presented after the certificate of environmental clearance and all additional work on the project. That is the only way you can come up with an actual budgeted cost for the project.

Mr. Vice-President: No more supplemental questions on that question. Next question. Sen. Mark.

Toco Port

(Commencement, Conclusion and Costing)

41. Sen. Wade Mark on behalf of Sen. Saddam Hosein asked the hon. Minister of Works and Transport:

When is construction of the Toco Port expected to commence and conclude, and what is the overall cost of the project?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Again, Mr. Vice-President, it is expected that the construction of the ferry port will commence in 2019, for a duration of approximately three years. However, the actual start-up date for this project is subject to NIDCO acquiring the required certificate of environmental clearance and other statutory approvals. This project has not yet been tendered. Thank you.

Certificate of Environmental Clearance

Moruga Fishing Port

42. Sen. Wade Mark on behalf of Sen. Saddam Hosein asked the hon. Minister of Agriculture, Land and Fisheries:

Can the Minister indicate the following:

- i. whether a Certificate of Environmental Clearance (CEC) has been obtained from the Environmental Management Authority for the construction of the Moruga Fishing Port; and
- ii. how much of the sum allocated for fiscal 2018 has been spent to date on the project?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Thank you, Mr. Vice-President. In response to part (i) of the question, to date a certificate of environmental clearance has not been obtained from the Environmental Management Authority for the construction of the Moruga Fishing Port.

Prior to issuing a certificate of environmental clearance, the EMA will require an environmental impact assessment to be completed. Substantial work was done to complete an EIA, while the project was under the then Ministry of

Agriculture, Land and Marine Resources in 2005—2016.

However, in November 2016, the EMA advised that given the original terms of reference for the CEC, which was issued in December 2006, it is no longer valid. The EMA also advised that the original terms of reference could not be amended to capture changes in legislation and climatic conditions and recommended that a new application be submitted for the CEC. This would allow for changes in scope to be analyzed. The contract to complete the EIA, Mr. Vice-President, was awarded in October 2016. A new application for the CEC was submitted in February 2017.

In response to the second part of the question, Mr. Vice-President, to date the Ministry of Rural Development and Local Government, under whom the project falls, has not paid out any money on this project from the sum allocated for fiscal 2018. However, Mr. Vice-President, unbilled expenses are being incurred in relation to the ongoing work on the project. Thank you.

Sen. Mark: Mr. Vice-President, would the hon. Minister care to share with this House what is the value of those funds that have been paid out as you have just outlined?

Sen. The Hon. C. Rambharat: Mr. Vice-President, just to repeat. To date, the Ministry of Rural Development and Local Government has not paid out any money on this project from the sum allocated for fiscal 2018. However, unbilled expenses are being incurred in relation to the ongoing work on the project. Thank you.

Sen. Mark: Would you like to share with us what are these unbilled works that are going on and is there an attached value that you will have to meet at some point in time?

Sen. The Hon. C. Rambharat: Mr. Vice-President, in the normal way a project of this nature unfolds, you would have contracts. For example, there would have

been a contract as I said previously, a contract awarded for the completion of the EIA and contracts awarded in relation to the CEC, and there is work that would be performed but the contractor has not billed for that work. And when the contractor bills for the work, submits the invoices, it would be paid through the process involving the Ministry of Finance against the allocation for this fiscal year. So it is close to the end of the fiscal year we would know—having received the invoices and having paid out of the allocation in the PSIP—the actual payments for the project. Thank you.

Sen. Mark: Mr. Vice-President, I would like to ask my colleague again, in terms of the CEC, seeing that an application was made in February of 2017, I think I heard you say, could you indicate to us what time frame you anticipate the EMA will take before issuing that CEC to the particular agency?

Sen. The Hon. C. Rambharat: Mr. Vice-President, as I said in my opening to the response, the CEC would be dependent on the EIA. The EIA contract was awarded in October 2016. Once the EIA has been completed to the satisfaction of the EMA then the CEC will proceed, on the basis of what is in the EIA. So it is very difficult to say at what stage the EMA. We cannot bind the EMA to make a decision at a particular time. Thank you.

Point Fortin Anglican Primary School

(Reopening of Classrooms)

47. Sen. Taharqa Obika asked the hon. Minister of Education:

When will the classrooms that have been closed at the Point Fortin Anglican Primary School, owing to serious occupational safety and health hazards, be reopened?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President. The affected classrooms at the Point Fortin Anglican Primary

School that were temporarily vacated are now back to full operation following the successful completion of repair works.

While the repairs were being carried, out, Mr. Vice-President, those classes were relocated to other parts of the school so that there was no loss of teaching time. Thank you.

Sen. Obika: Mr. Vice-President, could the Minister of Education indicate when those repair works were done?

Hon. A. Garcia: Mr. Vice-President, those repair works were done during the Christmas vacation period.

Mr. Vice-President: Question No. 49 asked by Sen. Melissa Ramkissoon would be deferred due to her absence. We move on to question No. 50, Sen. Richards.

The following question stood on the Order Paper in the name of Sen. Melissa Ramkissoon:

Fanny Village Government Primary School

(Details of)

- 49.** With regard to the Fanny Village Government Primary School that was burnt in 2015, can the hon. Minister of Education advise:
- i. whether construction of the new school has commenced, and if so, the date of such commencement; if not,
 - ii. the reason(s) for the delay; and
 - iii. how long are the teachers and students expected to be housed at the Community Centre?

Question, by leave, deferred.

Scholarships Winners

(Monthly Stipend)

- 50.** **Sen. Paul Richards** asked the hon. Minister of Education:

Based on reports that scholarships winners have not received their monthly stipends as at the end of November 2017, can the Minister advise as to when this matter will be resolved?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President. The Ministry of Education is actively pursuing the release of funds to facilitate the payment of outstanding allowances to all of our national scholars. We are optimistic that such outstanding dues will be paid by January 31, 2018. Thank you.

Sen. Richards: Is it January 1st, you said?

Hon. A. Garcia: 31st.

Sen. Richards: 31st, thank you. Through you, Mr. Vice-President, could the Minister indicate how many students would have been affected locally and/or internationally by this interruption?

Hon. A. Garcia: Mr. Vice-President, I do not have those figures at my disposal, but again I can provide that to the hon. Senator.

Sen. Richards: Thank you. I appreciate that. Because of the economic situation that the country is experiencing, which would no doubt be part of the reason that these issues are occurring, could the Minister indicate if the Ministry is seeking to put measures in place that would mitigate these kinds of interruptions, given the psychological duress it places some of these students, particularly those studying abroad, for their assurance, if possible.

Mr. Vice-President: Sen. Richards, I would not allow that question. That is another question that would not come from the question asked. Do you have another supplemental question?

Provision of School Security Services

(Details of)

UNREVISED

52. Sen. Taharqa Obika asked the hon. Minister of Education:

With respect to the provision of security services at schools throughout Trinidad and Tobago, can the Minister state:

- i. the current amount owed to security firms; and
- ii. when will said amount be paid to such firms?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Mr. Vice-President. Mr. Vice-President, a total of \$72,610,927.74 is owed by the Ministry of Education to seven security firms providing security services to schools throughout Trinidad. The responsibility for security of schools in Tobago is vested with the Tobago House of Assembly.

Mr. Vice-President, the Ministry of Education has processed invoices from security firms to the value of approximately \$52million in the current financial year. And of this amount, actual payments totalling \$33 million have already been made. Payment to security firms takes place in an ongoing process as invoices are processed and releases are obtained from the Ministry of Finance. Thank you.

Sen. Obika: Mr. Vice-President, through you, also can the Minister indicate have any of the security firms threatened to withhold services from these schools?

Hon. A. Garcia: Mr. Vice-President, no such information has come to my knowledge.

Sen. Obika: Mr. Vice-President, through you, is the Minister aware that one primary school in Point Fortin in particular—I would not want to call the name because, of course, you have to protect the interest of the teachers and the students there, in the event that there is a security lapse. Is he aware that there is a primary school in Point Fortin that did not have security report for duty in December?

Hon. A. Garcia: Mr. Vice-President, in December? I do not have that information. That information is not with me and I am surprised that that is now

being brought forward now. A school not having security in December? We are in January. We are in the beginning of a new year. [*Interruption*] You keep quiet. You keep quiet.

Sen. Obika: I would just like to relay that the question did not arise before so I could have asked it prior. Also, well, by presenting the question I would have assumed that you would have made that check.

The question I would like to ask is: Is there a possibility of security being compromised, given this \$72.6 million being owed to security firms in this current economic time?

Hon. A. Garcia: Mr. Vice-President, we have been working together with the security firms. In fact, the Permanent Secretaries recently met with representatives from these security firms and we have their commitment that they will continue in the national interest and in the interest of education to provide security services to our schools. So they are aware, fully aware, of the financial situation that we are confronted with and of our challenges. They have pledged to work with us, and we are doing everything possible to ensure that they are paid. Thank you.

Mr. Vice-President: Sen. Obika, next question if you have no more supplements.

WASA's Delinquent Customers

(Sale of Property)

53. Sen. Taharqa Obika asked the hon. Minister of Public Utilities:

With respect to a recent announcement by the Water and Sewerage Authority (WASA) advising that it will be advertising properties of delinquent customers for sale, can the Minister inform the Senate:

- i. at what level of indebtedness would WASA determine that a property will be advertised for sale; and

- ii. what alternative arrangements will be put in place for persons who are infirmed or disabled?

The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte): Mr. Vice-President, the efforts of the Water and Sewerage Authority to recover outstanding money owed by delinquent customers through the sale of properties are a last-resort solution to a monumental problem.

It is the intention of the Authority to consider each matter on a case-by-case basis before any property is considered for sale, due to outstanding water rates.

It must be noted however, that the Rates and Charges Recovery Act, Chap. 74:03, provides that the power of sale:

- (a) shall not be exercised unless and until the rates or charges shall have been in arrear and unpaid for more than three months after the same became due; and
- (b) shall, where any sum of money charged on any premises is payable by instalments, be exercisable for the recovery of the whole sum charged or the whole of the outstanding instalments whenever any of the instalments remains unpaid for more than three months after the date on which the instalment was payable.

As such, the law does not specify the level of indebtedness. WASA will therefore follow the process for the recovery of outstanding rates and where there has been no success, the Authority will determine whether to pursue the sale of the property on a case-by-case basis.

Mr. Vice-President, as it pertains to persons who are infirmed or disabled, WASA will give consideration in how it exercises the power of sale.

The national community and especially those persons who face challenges with the payment of their water bills are reminded that there are mechanisms in

place to provide assistance to qualifying individuals.

The Ministry of Public Utilities, through its utilities assistance programme provides assistance with the payment of utility bills to low-income persons, such as pensioners, persons with disabilities and the beneficiaries of public assistance and the Conditional Cash Transfer Programme, food card.

In addition, WASA offers a payment plan to its customers who have fallen in arrears to pay their water rates.

Sen. Obika: Mr. Vice-President, through you, could the Minister indicate what would be the time frame for eviction or loss of property should an individual decide that they cannot pay?

Sen. The Hon. R. Le Hunte: Mr. Vice-President, as I outlined, we are encouraging all individuals to come in and set up payment plans and deal with their arrears. And we will be embarking on, as a last resort, the attempt to sell people's property on a case-by-case basis. Where people fail to avail of situations, or seek assistance or seek to come to the Authority to deal with their matters, the Authority will exercise their right to recover the large sums of money that are outstanding.

Sen. Ramdeen: Mr. Vice-President, through you to the hon. Minister of Public Utilities. Minister, what is the mechanism that the Ministry has in place to inform those affected persons? You have indicated in your first answer that there are a number of mechanisms in place to help persons who are in a position of hardship. What mechanism does the Ministry have in place to educate those persons, or to inform those particular groups of persons that these mechanisms are available to them, in order to alleviate the hardship that they may be suffering?

Sen. The Hon. R. Le Hunte: Mr. Vice-President, all the different poverty alleviation mechanisms are published on the utilities website. They are there and

the utilities have their own internal communication programmes and teams that go out from time to time, via invitations, or by other means that they see necessary to go to make presentations to different groups to let people know about these particular programmes. I think there is also, when these programmes were launched, there were appropriate communication tools that were used to also let everyone be aware that these programmes exist.

Sen. Obika: Thanks, Mr. Vice-President, through you, water is a human right, in my opinion and if persons are owing for lack of being able to afford TT \$75 a month and they cannot access a website or Internet, they may not have been around because they may have been looking for money to feed their family when these groups were being—]

Mr. Vice-President: Senator, are you asking a question or are you making a statement?

Sen. Obika: I would like to ask: What further mechanisms, besides the website and these groups, they will give these persons some time to address the situation, in terms of giving them the information beyond advertising on the Internet and beyond a group? What other mechanisms—

Mr. Vice-President: Senator, it is a little difficult for me to even follow you because you have given quite a long preamble. Could you just rephrase and summarize what it is you are trying to say? Ask it in terms of a question, so I could understand and I am sure other Senators could understand what is the question that you are asking.

Sen. Obika: Thank you again, Mr. Vice-President. Most of the persons who may not be able to afford to pay a water bill would be poor persons. So therefore, the question that I am asking is: How, beyond the website and the groups, how are you going to get the information to these persons to know what are the solutions that

are available to them to pay their water rates?

Sen. The Hon. R. Le Hunte: Mr. Vice-President, as you are aware, when it is reached to the position of selling or taking a position to sell someone's property, therefore that takes it to another realm of advertisement that is done before one exercises that particular right. So at that particular stage—and there are a number of times, as has happened presently, when the advertisement is there and people recognize that that is happening, a lot of individuals have come in and WASA has also engaged in negotiations with those individuals and put them on term payments.

During those times, when people—so therefore, there are adequate positions that are available—before a property is actually sold where adequate pieces of information are also sent out to all, aware that this is something that is also in place.

Additionally, as you are saying, there are a number of different mechanisms and there are a number of different programmes in place should any particular person have a problem that they could attend, they could go to WASA. WASA has been encouraging and inviting people to come to their offices to put plans in place.

The reality is, Mr. Vice-President, that the Authority has over \$600 million worth of money that is outstanding. The Authority is in dire financial positions. And I also want to make the point that water in Trinidad and Tobago is probably the cheapest in the world.

Mr. Vice-President: Sen. Obika, one more question.

Sen. Obika: Mr. Vice-President, permit me to ask the question that, given the Minister indicated that water in Trinidad and Tobago is among the cheapest in the world, are their plans to increase water rates, or advise of an increase in water rates?

Sen. The Hon. R. Le Hunte: Mr. Vice-President, I would answer that question again, as I have said a number of times before. The purview of increasing water rates is not that of the Minister. There is the RIC, the Regulated Industries Commission that is presently conducting a review of the water rates. That process entails a lot of consultations and that is being done by the RIC, the authority that has the responsibility for regulating tariff increase in the country. I am therefore not in a position to say whether there will be or will not be an increase.

3.30 p.m.

DEFINITE URGENT MATTER

(LEAVE)

Escalating and Uncontrollable Murders

(Failure of Government to Address)

Sen. Wade Mark: Thank you, Mr. Vice-President. I hereby seek leave to move the adjournment of the House today, under Standing Order 17, for the purpose of discussing a definite matter of urgent public importance, namely the continuous failure of the Government to address the escalating and uncontrollable wave of murders in Trinidad and Tobago.

The matter is definite because it pertains specifically to the failure of the Minister of National Security, and by extension, the Government, to address the rapid escalation and the unprecedented increase in the number of murders in Trinidad and Tobago.

The matter is urgent because we are only 16 days into the year and already there have been some 28 confirmed murders, which is a clear indication of the Government's continuous failure to address the rampant violent crimes throughout the country.

The matter is of public importance because the state of murders in the

Trinidad and Tobago has been causing widespread fear and distress to the citizens. It is felt that citizens are under attack by criminal elements, therefore, people cannot enjoy a sense of comfort in their homes and this country would not be free of the criminal elements until the Government gets a hold on crime.

Mr. Vice-President, I so move. [*Desk thumping*]

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

FREEDOM OF INFORMATION (EXEMPTION) ORDER, 2017
(ANNULMENT OF)

Sen. Wade Mark: [*Desk thumping*] Thank you very much. Mr. Vice-President, I beg to move the following Motion standing in my name:

Whereas it is provided by Section 5(1)(c) of the Freedom of Information Act, Chap. 22:02, that the President may, by Order exempt public authorities from the application of the Act;

And whereas the Freedom of Information (Exemption) Order, 2017 was published on December 14, 2017 by Legal Notice No. 151;

And whereas this Order seeks to exempt the Strategic Services Agency from the application of the Freedom of Information Act;

And whereas the proposed exemption will remove access to information by citizens, interest groups and the media, all of whom have an interest in the policies, rules and practices of the Strategic Services Agency inter alia;

And whereas this Order will directly affect the transparency, openness, accountability and the necessary checks and balances on all aspects of the operations of the Strategic Services Agency to avoid any potential misuse of office and/or abuse of power;

Be it resolved that the Freedom of Information (Exemption) Order, 2017 be annulled.

Mr. Vice-President, the arrogance of power knows no bounds of decency, and the seduction of power has no limits to its audacity. [*Desk thumping*] I want to say from the very outset that this Order represents a dark blot on our society. Mr. Vice-President, I will attempt in my time allotted to show how this Order appeared like a thief in the night. Because it came just about when we had left here on the 12th of December, and the other place met on the 15th, it was tabled then, and we are now meeting for the first time since that last day we met.

I will want to demonstrate how this Order represents an assault on the rights and freedoms of the people to the right of expression and freedom of thought. I will further show, Mr. Vice-President, how this is a direct attack and assault on the freedom of the press in Trinidad and Tobago. [*Desk thumping*] I will also demonstrate, Mr. Vice-President, how this is a denial of the people's right to what is called the discovery right.

I will further demonstrate, Mr. Vice-President, where this Order is a denial of people's access to justice and thereby undermining the officers of the court and the court by extension. And, Mr. Vice-President, in doing all of these things, I will bring to your attention what I would like to describe as the attempt by the Government to run a secret service, a PNM private secret service—[*Desk thumping*]—a service similar to SS Gestapo, under Nazi Hitler, Germany. [*Crosstalk*] I will demonstrate—

Hon. Al-Rawi: Mr. Vice-President, I rise on Standing Order 46(4), please.

Sen. W. Mark: I do not understand how (4) come in this. You are a Gestapo?

Mr. Vice-President: Sen. Mark, please. No, no.

Freedom of Information (Exemption)
Order, 2017 (Annulment of)
Sen. Mark (cont'd)

2018.01.16

Sen. W. Mark: I want to know what all of this is about. I have now started.

Mr. Vice-President: Please retract your statement and apologize. The last statement you just made, please retract it.

Sen. W. Mark: I have now started?

Mr. Vice-President: The last statement you just made, in relation to the hon. Attorney General, please retract the statement and apologize.

Sen. W. Mark: That he is a Gestapo?

Mr. Vice-President: Please retract, Sen. Mark.

Sen. W. Mark: You want me to retract that? Okay, I retract it Sir.

Mr. Vice-President: And apologize—

Sen. W. Mark: No, once you retract, you do not have to apologize.

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

Sen. W. Mark: I retract, Sir. [*Crosstalk*] I retract, Sir.

Hon. Senator: You have more power than the Chair.

Sen. W. Mark: I retract, Sir. I withdraw.

Hon. Al-Rawi: Incredible.

Hon. Senator: Despicable.

Mr. Vice-President: On the point of order raised. Sen. Mark, be extremely careful with your contribution in this House. Please be reminded of where you are. Continue.

Sen. W. Mark: I am arguing, Mr. Vice-President, that I will demonstrate—I have not even begun to demonstrate my argument, and the Government is jumpy because there are dark intentions on the part of this Government to undermine the rights and freedoms of the people of the Republic of Trinidad and Tobago. [*Desk thumping*]

Hon. Al-Rawi: I rise on Standing Order 46(6).

Mr. Vice-President: Sen. Mark, this is a final warning, a final warning.

Sen. W. Mark: For what?

Mr. Vice-President: On the point of order raised, final warning. Be very careful how you move forward with your contribution. Continue.

Sen. W. Mark: I will demonstrate in my contribution how this Government is attempting through this exemption Order to undermine, from my perspective, Mr. Vice-President, and I am entitled to my opinion, Mr. Vice-President.

Hon. Senator: You are shouting

Sen. W. Mark: I am not shouting at anybody.

Hon. Senator: You are shouting at—

Sen. W. Mark: I am sorry if I shouted at the Vice-President. Mr. Vice-President, it is my opinion that this Order is nefarious.

Hon. Al-Rawi: Address the Chair.

Sen. W. Mark: No, you cannot talk to me.

Hon. Al-Rawi: Address the Chair.

Sen. W. Mark: Get out of this Chamber.

Mr. Vice-President: Sen. Mark, take your seat. Take your seat. [*Crosstalk*]
Hon. Members, I will suspend this house for 10 minutes to allow Members to regain their decorum and remember where they are. This House now stands suspended for 15 minutes. [*Crosstalk*]

3.42 p.m.: *Sitting suspended.*

3.57 p.m.: *Sitting resumed.*

Mr. Vice-President: Hon. Senators, notwithstanding the passion and opinions that Members may have when presenting a particular Motion, at no point in time

will myself or the President of the Senate allow this Chamber to descend to a level of decorum not befitting the title that you all hold. That being said, I give a word of extreme caution, moving forward, that such behaviour will not be tolerated in this House—not yesterday, not today, not tomorrow. As we move forward, I remind each and every Member to avail yourself of the Standing Orders and the procedures of this House. Sen. Mark, you may continue.

Sen. W. Mark: Thank you, Sir. [*Desk thumping*] Mr. Vice-President, it has been said that information is the oxygen of democracy. So important and vital is this particular element to the importance of any flourishing democracy in the 21st Century that the United Nations General Assembly in 1946 declared, and I quote, Mr. Vice-President:

“...freedom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations is consecrated.”

I want to repeat, Mr. Vice-President.

“...freedom of information is a fundamental human right and the touchstone of all the freedoms to which the United Nations is consecrated.”

Mr. Vice-President, this was further consolidated by the Inter-American Commission on Human Rights in its Declaration of Principles on Freedom of Expression in 2009 when it stated, Mr. Vice-President:

“Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this”—particular—“right.”

And, Mr. Vice-President, the American Convention on Human Rights, Article 13 goes on to say, and I quote:

“Everyone has the right to freedom of thought and expression. This right

includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.”

Mr. Vice-President, I just want to quote the father of the American Constitution, James Madison. He said:

“A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both.”

He goes on to say, Mr. Vice-President, that:

“Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.” [*Desk thumping*]

Mr. Vice-President, I want to share with you that freedom is a fundamental ingredient that allows a democracy to strive and to flourish and, therefore, freedom of information is a statutory and legally enforceable right under the Freedom of Information Act and enjoyed by all citizens through Act No. 26 of 1999.

Mr. Vice-President, you know, this Act was passed and operationalized under a Panday-UNC administration in 1999. [*Desk thumping*] It represented a bold and daring response to decades of a culture of PNM secrecy. All public authorities spending public moneys, Mr. Vice-President, now had to account through this particular Act.

So, Mr. Vice-President, we have an Order that came into effect on the 13th of December exempting the Strategic Services Agency. But, Mr. Vice-President, when you look at the interpretation section of the Freedom of Information Act, a public authority would capture the Strategic Services Agency, because it is a statutory authority. It was incorporated by an Act of Parliament some 22 years ago

and, therefore, the Freedom of Information Order that came into effect via a Presidential Order on the instructions of the Cabinet, as you know, is now subject to a negative resolution, and we see this as a total disgrace on the part of this administration.

We believe it is a frontal assault on the citizens' freedom of expression and freedom of thought. It is also, Mr. Vice-President, from our perspective, a subversion of our values and principles of good governance, inclusive of transparency, accountability and open government. Now, Mr. Vice-President, if we are to properly analyse this particular Order that was issued on the 13th of December, I want to take you to this very important Act, Chap. 22:01, because in this Act under section 3(1), the objects of the Act are clearly enunciated, and I just want with your leave, Mr. Vice-President, to quote. In section 3(1)(a) it states that:

“(1) The object of this Act is to...:

- (a) making available to the public information about the operations of public authorities and, in particular, ensuring that the authorisations, policies, rules and practices affecting members of the public in their dealings with public authorities are readily available to persons affected by those authorisations, policies, rules and practices; and”

The second object is:

- “(b) creating a general right of access to information in documentary form in the possession of public authorities limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by

public authorities.”

So, in this Act, Mr. Vice-President, Chap. 22:02, it is very clear what the object of this Act is all about and, therefore, Mr. Vice-President, this Order that the Government has introduced in order to exempt the citizenry from accessing state information is a serious assault on that ability of the citizenry to flash a torchlight in dark places and corners of filing Cabinets and other areas of state bureaucracy. And why would a Government in 2018 seek to take away from the people a statutory, legally enforceable right? [*Desk thumping*] Why would a Government wish to do so?

I have not heard any reasonable argument because the framers of the Freedom of Information Act, I will demonstrate, was able to anticipate the public interests and in Part IV of the Freedom of Information Act from sections 24 to 35, law enforcement activities are exempt, security is exempt, also intelligence services. Anything that is prejudicial to national security, intelligence services and other law enforcement activities, you cannot get that information from the public authorities. And, Mr. Vice-President, if you insist that you want that information and you go to the court, the court is there to balance the rights between that of the State and the rights of the individual.

So I am arguing, Mr. Vice-President, that there are already provisions in the legislation to protect the State from any incursions and unnecessary invasion as it relates to the public interests re: law enforcement, national security and intelligence services as examples. So I have heard arguments coming from different quarters that this exemption is to protect the agency from revealing very sensitive national security matters and areas. Mr. Vice-President, I have not seen any evidence of it.

Mr. Vice-President, we need to get a proper rationale, a proper reason, a basis for the action that the Government has taken in order to deny the citizens the right to access information, Mr. Vice-President. Mr. Vice-President, I want to let you know that the SSA is not under the control of the Police Commissioner. The SSA is not under the control of the Police Commissioner. The SSA is under the control of the Prime Minister and the Minister of National Security. [*Desk thumping*]

Mr. Vice-President, it is dangerous for politicians to legislate for today and for themselves. When we take action we must have the long-term interest of the nation at heart. We do not know who will replace you tomorrow. We do not know who will replace us tomorrow because we all have to expire. So 100 years from today, Mr. Vice-President, we must put legislation on our books that will leave a rich legacy for our children and our children's children to inherit. [*Desk thumping*]
We must ensure that the rights of people are safeguarded.

Mr. Vice-President, I want to take you to the Strategic Services Agency Act of 1995, and to go to section 3(2) and it says, and I quote:

“The functions of the Agency shall be exercised by the Director after consultation with the Minister.”

So, first of all, the director is appointed by the Cabinet. So he is not a creature of the Public Service Commission. He is a creature of a political Cabinet. So the Cabinet appoints the director, Mr. Vice-President, and then the director employs people under his watch. But you know what, Mr. Vice-President? Let us go to section 4(5). It goes on to say:

“The Director shall”—Mr. Vice-President, listen carefully to the language, not may—“be subject to the directions of the Minister.”

And you have a situation, Mr. Vice-President, where a director, who is appointed by the political directorate is now being instructed by a Minister.

So, Mr. Vice-President, where is the public interest going to be? How is the public interest going to be benefited? How are we going to protect the public interest when you have politicians determining what to do and what not to do or who to hire, who to fire—their friends, their family. You have to have a party card to get inside the SSA? Mr. Vice-President, this is not an easy matter to address, and I would like to argue that the Government is attempting to exempt the SSA.

Mr. Vice-President, since this PNM came into existence in different incarnations—[*Crosstalk*—of course, they have one mantra. Their mantra over the years is to undermine and to subvert the rights of citizens in our country. [*Desk thumping*] Mr. Vice-President, I will tell you why I am saying so. [*Interruption*]

Hon. Al Rawi: Mr. Vice-President, Standing Order 46(6).

Mr. Vice-President: On the point of order raised by the hon. Attorney General, Sen. Mark, just be careful. Continue. [*Desk thumping*]

Sen. W. Mark: Thank you, Mr. Vice-President. So, Mr. Vice-President, here it is we have a situation where in this piece of legislation—Mr. Vice-President, I want to take you to section 14 of regulations of this legislation rather. Mr. Vice-President, would you believe that this organization has been in existence for 22 years, going on 23 years, and there are no regulations governing the activities of this particular agency? They can hire, they can exercise their powers whimsically, arbitrarily and capriciously. They can conduct and discipline employees as they choose. They can establish their own disciplinary procedures to be observed and we who finance and fund that agency, we do not have the regulations before us to determine how these agencies—how the members of the agency and, particularly,

the director of this agency, goes about hiring, firing and establishing grievance procedures. How our moneys are being spent, we do not have a clue.

Mr. Vice-President, would you believe in the last two and a half years—2015/2016, 2016/2017 and by the end of 2018—the SSA would have spent, at the end of fiscal 2018, close to \$500 million, half a billion dollars—they would have spent—and we in Trinidad and Tobago, the people, would not be able to access an accountability. We cannot enforce our rights to get information from that agency because the Government of the PNM decided to remove that statutorily enforceable legal right that they enjoyed prior to this Order exempting the SSA from the freedom of information applications. How can that be fair, Mr. Vice-President?

And, Mr. Vice-President, may I also indicate that if you have no checks and balances, how are we going to protect the national interests? We have been told that in the United Kingdom and in other places like the United States, national security and the CIA and intelligence services are not under freedom of information, and they are exempted. The literature is showing that the CIA falls under the FOIA of the United States. So where is this talk coming that the CIA is not part of the FOIA?

Mr. Vice-President, in the United Kingdom, the MI5, MI15, they have what is called an investigatory powers tribunal established, made up of professional lawyers who received the complaints from members of the public if they believe that MI5, MI6, MI15 is infringing, eavesdropping, wiretapping, conducting surveillance illegally on them and they can go to this body. Mr. Vice-President, we have no such mechanism established under the SSA. So why is the Government seeking to exempt the SSA from the sunshine of the rays of the

people so that they can see, they can understand and they can ask questions, Mr. Vice-President? Why are they doing it? That is question that we raised. There has to be an ulterior motive unless the Government can explain to us: What is the reason? What is the rationale? Why do you want to deny citizens the right of access?

Mr. Vice-President, I want to make it very clear, we are not concerned or interested in operational matters of the Strategic Services Agency. We are not concerned about that. We are concerned about how they exercise their power administratively and, Mr. Vice-President, the regulations if they were before us we would have known how they fired 37 people.

They fired 37 people, just so, in November and they say what? They are restructuring. And some of the workers are saying that the SSA is being used as a political tool of the ruling party so that is why they have to go out. Now, I am not saying this. This is what the workers are saying. And, Mr. Vice-President, if we had the necessary checks and balances with the SSA, we would have been able to get in there and find out, but we do not have it. We have a Joint Select Committee on National Security under the control of a Government Minister, himself investigating himself. That cannot be right. That should have been under the control of an Independent Senator if we are serious about accountability.

Mr. Vice-President, I want to share with you some information. I have done some research and the research has shown that since 2003 to the present time, the ruling PNM party in its various incarnations have been consistent with one thing and one thing only, exempting, Mr. Vice-President, one institution and organization after the other in order to deny the people the right of access to state information.

Mr. Vice-President, it started in 2003, when the first Exemption Order was tabled in this Parliament. You know what they did in 2003? They exempted the First Citizens Bank Group. And hear the institutions that they exempted from the people in terms of accessing information—not about people's personal account, you know, Mr. Vice-President, basic information—First Citizens Holding Limited, First Citizens Bank, First Citizens Corporate Services and First Citizens Bank, Mortgage and Trust Company Limited. All of those were exempted from our reach in 2003.

In the same year, Mr. Vice-President, they removed the Trinidad and Tobago Unit Trust Corporation. And that corporation right now is undergoing a lot of trouble. Had they been exposed we would have been able to get information from them, but they are hiding, so we cannot get information from the Trinidad and Tobago Unit Trust Corporation any longer. The Export Import Bank, they removed it; the Agricultural Development Bank, they removed it; the Trinidad and Tobago Mortgage Finance Company Limited, they removed it; the Business Development Company, they removed it; the National Entrepreneurship Development Company Limited, they exempt it; the National Enterprises Limited, they removed it and the Central Bank was removed from public scrutiny all because of the PNM. The PNM did not want the people to have access to information and state information, so they removed these institutions.

Mr. Vice-President, in 2005, the assault continued. They removed the Integrity Commission. So no longer you want to get information from the Integrity Commission within the administrative framework of its operation, you cannot get it because the Government in 2005 brought an Order to exempt the Integrity Commission from scrutiny of the public and then, not satisfied, Mr. Vice-

President, in 2014—in 2018 rather—in fact, it was tabled on the 13th of December, 2017—we are now debating the SSA.

4.25 p.m.

So in 14 years, Mr. Vice-President, they have brought 14, or they have made 14 exemptions, so that the population of this country has no access to these institutions to get information. Mr. Vice-President, there is something called, in legal terms, and my colleague, Sen. Ramdeen, will know about it, is a concept called discovery rights, and citizens, if they want information on an abuse that is taking place, or a misuse of power, they can apply to the relevant institution. When they get that information, Mr. Vice-President, that can form the basis of a decision to take action against the State. When the Government removes that right of access to information, you hamper, you undermine, and you compromise that discovery right. So, Mr. Vice-President, if you do not have a discovery right, how are you going to gain access to justice? What is the basis for accessing justice if you do not have the information? You have to get the information. So the Government has removed that right that people are supposed to enjoy. And then the Government, surreptitiously, I am not saying deliberately or maliciously, Mr. Vice-President, what the Government is doing is undermining, indirectly, and at times directly, the Judiciary of our country.

You know how, Mr. Vice-President, hear how they are doing it. When you do not have access to Government information, or, Mr. Vice-President, if you do not have access to Government information how can you bring action against a bureaucratic state that is misusing power? [*Desk thumping*] You have to get the information. And, Mr. Vice-President, you cannot go to court without a proper defence, or a proper set of information. So if you do not get that information, you

cannot take the State to court, or the Government to court. So what the Government is doing indirectly, as I said—maybe they have not thought it out or thought it through properly—what they are doing indirectly is to tell the Judiciary, we “doh” want you to get involved in freedom of information applications any longer. The Judiciary is the body that is supposed to protect our rights. So if there is a clash between the legislative arm of the State and the Executive arm of the State, Mr. Vice-President, the body that is charged under our Constitution to resolve that clash is the courts. Why are we denying the courts the right to adjudicate on matters that we cannot resolve?

Mr. Vice-President, I will tell you, I have done the research and it appears to me, whether it is this PNM Government or the one under the last Prime Minister, may his soul rest in peace, what happened is simply this: in the case of the Central Bank, the Maha Sabha asked for information on a “fella” called Selwyn Cudjoe, and the Central Bank denied the Maha Sabha information on Selwyn Cudjoe. They used all kinds of gymnastics to deny the Maha Sabha. The Maha Sabha had to take the matter to court for judicial review. They lost in the High Court. They won in the Court of Appeal, and, Mr. Vice-President, when the Government realized that they were going for victory, you know what the Government did, Mr. Vice-President, before the matter could have even gone a step further, the Government tabled in this Parliament an exemption Order denying citizens the right to go to the Central Bank for information, but, at the same time, undermining the Judiciary and allowing the Government to use its power to bring an exemption Order, putting an end to any further action on the part of the Maha Sabha.

The same thing happened, Mr. Vice-President, with the Integrity Commission. A “fella” called Chandresh Sharma, a former MP, Fyzabad, took the

Integrity Commission to court because of a failure to publish those people who were not declaring their incomes, assets and liabilities. And, again, when the matter reached to the court, first of all, the Integrity Commission denied any information to Mr. Chandresh Sharma. Mr. Chandresh Sharma then challenged that and took it for judicial review, and what happened, Mr. Vice-President, when the matter went to the High Court he lost, when it went in the Court of Appeal involving, I think, Justice Archie sat there, he won, and before the matter could go any further the Government of Trinidad and Tobago, under Patrick Manning, brought an exemption Order removing the Integrity Commission from public scrutiny. Any time the people decide to challenge these institutions, the PNM takes away the rights of the people. [*Desk thumping*]

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

Sen. W. Mark: Yeah. That is original time? [*Interruption*] No, remember I have 45.

Mr. Vice-President: Yes, I know.

Sen. W. Mark: Okay. You think I have exhausted myself? [*Laughter*]

So, Mr. Vice-President, I would like to say that we would like the Government to rethink its position. Mr. Vice-President, in 1777, in Sweden, there was a campaign by the media to get access to accurate information, and it was the media in Europe, starting in Sweden, that led the battle for the Freedom of Information Act. And it is through Europe that this concept emerged of freedom of information, so the media has a direct interest in this matter. So this is not only, Mr. Vice-President, an attack against the citizenry, it is an attack against freedom of the press and the media in this country. [*Desk thumping*] Mr. Vice-President, I call on the Government—it is not too late because they did not have that in their

manifesto—if they had told the people they were going to come to exempt that freedom through an Order, Mr. Vice-President, to remove the SSA, the people would not have voted them into office. They did not do it, but now that they are in office, Mr. Vice-President, they are whittling away, gradually, the power and the rights, and the freedoms of the people of our Republic, and that is dangerous.

Mr. Vice-President, do you know the kind of equipment that the SSA has? The SSA has equipment to almost pull from your iPad, any email. They have the power to pull from your cell any conversation. They can go onto your laptop and pull any information. They can zero in into your landline. That is that power, and sometimes I wonder, Mr. Vice-President, the reason why we have so much criminality and violence and murders in this country, at the rate that we have it, maybe the SSA is more concerned with spying on the public than it is in terms of getting at the criminals, [*Desk thumping*] it seems to me.

So, Mr. Vice-President, I would like to appeal to this Government not to be short-sighted. This is not a good move, it is going to be a blemish and a stain permanently on the PNM. The PNM has to withdraw this Exemption Order. They must remove this Exemption Order and allow the people to breathe once again. Let them exhale once again. They are crying out for that ability to have justice. So this thing is not only affecting, in summarizing, the citizens of our country but the media, it affects discovery rights. It undermines, in my estimation, the Judiciary from carrying out their responsibility in discriminating applications that are before them.

Mr. Vice-President, I believe that the Government has a duty and a responsibility to let us know what is the rationale, what is the basis, who did they consult, who advised the Government to do what they are doing. Mr.

Vice-President, in closing, I want to let you know, the mandate of the SSA has expanded so tremendously wide that sometimes, I believe, it is a parallel police service and it is parallel in the FIU. The same work the FIU is doing, they are doing; the same work the police is doing, this SSA is doing. So, Mr. Vice-President, we need to check, bring this institution into check, and the only way we can do that is to have this Exemption Order removed and allow freedom to reign in our country, and allow the people to access justice through accessing information through state institutions. With these few words, Mr. Vice-President, I beg to move. [*Desk thumping*]

Sen. Ameen: Thank you, Mr. Vice-President, I stand to second the Motion and reserve my time to speak later on.

Mr. Vice-President: The Motion has been seconded by Sen. Ameen. Before I put the question, it is now time for the tea break, and, therefore, this House will now stand suspended for 30 minutes until 5.05.

4.35 p.m.: *Meeting suspended.*

5.05 p.m.: *Meeting resumed.*

Question proposed.

Mr. Vice-President: The Minister of Agriculture, Land and Fisheries. [*Desk thumping*]

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Mr. Vice-President, I thank you for allowing me to join the debate on this Motion at this time. Mr. Vice-President, let me first commend Sen. Mark for bringing the Motion. For me there is no doubt that a matter of this nature is deserving of a debate in this House. I will address several issues, Mr.

Vice-President, but I want to talk first about the nature of the Motion. I read the Motion several times and I listened very attentively to Sen. Mark as he proposed and defended his Motion, and while I accept that there is value in having the matter before us debated, I believe that the Motion that is before us is misconceived. I say that, Mr. Vice-President, because I listened to Sen. Mark, and I will get into the nitty-gritty of what he shared with us today, but in my mind, Sen. Mark, the bulk of his presentation related to an interference with certain fundamental rights. And very shortly, Mr. Vice-President, I would make the point that he seemed to have conflated fundamental rights with access to information; I would say that. But I say that it is misconceived because nowhere in the Motion he talks about the exemption being an interference with fundamental rights. I thought that if that was the extent of his argument the Motion ought to have said, very squarely, that the exemption involved a fundamental interference with certain constitutional rights. If I am mistaken on what he has said today, and if I am mistaken on the thrust of his argument, well, forgive me. I gathered from it that it was essentially a presentation on an interference with fundamental rights, which is unsupported by the Motion itself that he has proposed, and, on that basis alone, I believe the Motion ought to fail.

In addressing some of the things he has said, and of course, in dealing with Sen. Mark, we have to have a special scientific talent, if I should put it that way. We have to discard the things that are flimsy, the things that are whimsical and wishy-washy, and inflammatory, the contradictions and the misconceptions and try to get to the meat of the matter, and that in itself always poses a challenge. So the first thing I would say in direct response to him is, I do not believe that there is an interference with fundamental rights, but I believe that, at least in the first half of

his presentation, he seemed to have been confusing fundamental rights with the issue of access to information under the Freedom of Information Act. And that, Mr. Vice-President, took me back to first year in the University of the West Indies, and the case of *Collymore v The Attorney General*, which still represents an excellent examination of the issue of fundamental rights. And *Collymore v The Attorney General* dealt with the response to the predecessor to the Industrial Relations Act, the Industrial Stabilisation Act, and it involved the issue of the right to strike, and what Collymore and Abraham, the two trade union members who advocated their rights, did, is they tried to hitch the right to strike to the fundamental right of freedom of association. In other words, their argument was that you could not enjoy freedom of association, which is, in their case, the right to join a trade union, without having the right to strike. And the courts in the various stages examined the issue and ultimately concluded that the right to strike was not part of freedom of association.

More importantly, the court made it clear, and I think we have all been guided by that even though from time to time, recently, we had the issue of the right to privacy, and whether it was an absolute right, and all of that. The court in *Collymore v The Attorney General* established that none of these fundamental rights were absolute. In fact, the Constitution itself provided for the derogation of even the fundamental rights in certain circumstances established in the Constitution. So that I do not agree that the Order made by His Excellency the President, exempting the SSA from the application of the Freedom of Information Act, I do not agree with Sen. Mark's proposition that an exemption of access to information under the Freedom of Information Act is an interference with any of the fundamental rights. And he set out a few of the fundamental rights, he talked

about freedom of speech, and other things, and I tried my best to grab on to which word, the specific fundamental rights he was getting at and I did not succeed entirely, but I know that he dealt with freedom of speech. So the first thing I would say is that I do not believe that freedom of fundamental rights are interlocked with access to information under the Freedom of Information Act.

Secondly, Mr. Vice-President, and I really thought, honestly, I really thought that I should avoid the Resmi Ramnarine discussion; I thought so. And I am saying, Mr. Vice-President, that I thought so mainly because in my life at the time as a columnist with the *Trinidad Express*, I did in fact write more than one piece on Resmi Ramnarine, and referred to the issue on many, many, many occasions. And I really felt that it being a new year, I should avoid Resmi Ramnarine altogether, until Sen. Mark, to my disappointment, because I think if it is one thing that the UNC should own up to is the mess made in the appointment of Resmi Ramnarine; I think if it is one thing. I want to say, Mr. Vice-President, because I know the young woman has moved on with her life, and I do not hold her responsible, unless convinced otherwise, for her appointment, because Sen. Mark is right, it was a political appointment. In fact, that is what the legislation provides, nobody breached the legislation.

But, Mr. Vice-President, the SSA, and I will come back to the old nature of the SSA and the new nature of the SSA, the SSA was created in a particular environment, and the SSA, in its original creation and its state up until 2016, was essentially focused on the country's link to the trade in narcotics, and it was the agency that was conceived and set up and operated in order to deal with the country's counter-narcotic strategy. And one of the most important roles of a director of the SSA, Mr. Vice-President, was to conceive the country's

counter-narcotic strategy and oversee the implementation, which meant dealing with several regional and international agencies and having a broad level of experience, specifically in the issues relating to the narcotics trait, issues involved with intelligence-gathering, and issues involved in the development and implementation of a counter-narcotic strategy. And whether political or non-political, nobody seized with the qualifications and the experience and expertise of Miss Ramnarine ought to have proffered to His Excellency the President, such a candidate to head this agency. So that I was surprised that Sen. Mark would go there and ask, you know, whether the PNM intends to hire friends and family. Because I am not saying that Resmi was anybody's friend or family; I am not saying that she was a political hire, or anything, but if ever, because he raised the issue of protecting the public's interest—and if ever there was a duty, Mr. Vice-President, to protect the public interest, that duty arose in the consideration by the UNC, its Cabinet, its Leader for the consideration of a candidate to head the SSA, and the UNC stands on no moral ground in accusing anybody in relation to appointment of a director of the SSA. [*Desk thumping*]

I say, Mr. Vice-President, that Sen. Mark was also very contradictory, not for the first time, it is something I say all the time, because he grabbed on to, and that is why I say he conflates the concept of fundamental rights and fundamental freedoms with the exemption under the Freedom of Information Act. And he makes heavy weather of the word, freedom, talks about freedom in a most whimsical way, of course, but he talks about freedom, and he has put a lot of weight on that, but what he did not talk about, Mr. Vice-President, is the series of exemptions in the Act, starting with section 5(1)(c) of the Act, where we have a clear statement that by Order the President may exempt certain institutions from

the application of the Act. And there are a series of exemptions, there are restrictions, there are conditions, there are exclusions, and plus, Mr. Vice-President, it is not every citizen of the country—when Sen. Marks talks about the filing cabinets and the torchlight, and so on, unless you want to enter the realm of breaking and entering, it is not every citizen who could just walk into the SSA with a torchlight and go looking for information. There is an administrative framework set out where you make an application, and the application must specify the nature of the request, and you must do several things.

There is a framework in which the authority is required to respond, and there is a form of the response and there is following that a recourse to the court on the basis of the response or the non-response.

5.20 p.m.

So that the freedom, in the world of Sen. Mark in the way he has defended his Motion, was made to look like an unassailable right, a right to walk into the SSA and go searching for documents and going through the filing cabinets and so on. I say in response that while, and in the most exemplary way, the legislation was welcomed—Sen. Mark talked about a bold and daring response by Mr. Panday and his administration, I would go so far as to say a necessary intervention—but it was not a piece of legislation without a series of caveats attached to it, which included section 5(1)(c) and the opportunity in certain circumstances to exempt. And when you go through the Act, and I will get to that, you would see a series of provisions dealing with exemptions.

I would also in response to Sen. Mark deal with the issue of the rationale, and this is what I would offer, Mr. Vice-President. You see, what Sen. Mark did not address is the context in which the SSA was created, and the things that flowed

over a period of time in relation to both the SSA and the Freedom of Information Act. And I would say this, the Freedom of Information Act became law in 1999, but before that the SSA legislation became law. The SSA was created by a 1995 piece of legislation. So that when the Freedom of Information Act came in, in 1999, the SSA already existed, and in that form of its existence the SSA dealt strictly with the country's counter narcotic strategy and so on, as I explained before.

But in this House and in this Parliament, Mr. Vice-President, you may recall, we approved an amendment to the SSA legislation in 2016. And in doing that we broadened as a Parliament the scope of the SSA, bringing into the SSA different forms of criminal offences, and different operations, and different requirements in relation to the counter crime strategies and so on. So that the SSA in 1995 that may have been addressed by the 1999 Freedom of Information Act is not the SSA that exists now. The SSA that this Parliament created by way of expansion in 2016, in the view of this Government, requires a complete exemption from the Freedom of Information Act. That is why in relation to Sen. Mark's question on the rationale, that is the rationale. The rationale is we believe that while throughout the Act—and I will get to the Act shortly, if you bring everything together in the Act, you may find that what the SSA currently does, can be exempted.

The Government has determined that there are significant impracticalities to picking and choosing and sifting through the various things that the SSA is involved in, and the Government has exercised its right, as it is entitled to under section 51(6), to have an order published exempting the SSA from the requirements of the Act. And that is the rationale.

So, Mr. Vice-President, let me place before you the question that is before the House. And this is the question in my mind; the question is: whether the exemptions contained in the Freedom of Information Act 1999, particularly those contained at section 25(3), whether those exemptions are sufficient to protect the country's national security interests, or is there need for a blanket exemption of the SSA? The Government's position is that while we recognize that there are provisions in the current legislation to which the SSA may have recourse, the impracticalities of doing that and sifting through and dealing administratively with every application that is made, the impracticality leads us to the view that there should be a blanket exemption under section 5(1)(c).

Let me address, Mr. Vice-President, the Freedom of Information Act. And I want to address it to dispose of the view that this freedom was an invitation for people to go into any building, in this case the SSA as Sen. Mark spoke about, with a torchlight, and remove what files you feel that you needed to get. I will point to seven aspects of the legislation. The first I have already addressed. Section 5(1)(c) allows His Excellency the President by Order to exempt an authority, and Sen. Mark listed some of those authorities that have been exempted. If I have time at the end I will address his list of exemptions.

The second area relates to the exemption of certain documents. So you would see at section 12 of the Act, a person is not entitled to obtain access to certain information or certain documents, and those documents are documents which are available otherwise. So documents which are already publicly available, documents which are with the Registrar General or another public authority. For example, at the Registrar General you could go and apply for a certified copy of a deed and you would be able to get it, and there should be no freedom of

information application to it. So section 12 deals with things to which a person is not entitled. But I am referring to that to make the point that the legislation is not a carte blanche invitation to go and get information. There are restrictions and exemptions from it, and what the Government has done in this Order is exercise its rights under section 5(1)(c) to make an exemption.

The third area I would point to in the legislation relates to the nature of the decision making on the applications for access to information, and that is dealt with in sections 22 and 23. You would see in the legislation, Mr. Vice-President, that there are certain persons in section 22 who are authorised to make a decision in relation to an application, and you would see in section 23 that there is provision for a deferment or a refusal of the request. So that, again, I am making the point that this is not automatic or carte blanche access to information. There is an administrative framework which requires that an application, as I said before, must be made, and a process for consideration, a process for giving reasons which include reasons for deferment or for a complete refusal and, following that, further access of the applicant to the courts.

You would see at section 24 of the Act, specific documents—this is the fourth point I would make on the Act—you would see specific documents being exempt. So it includes official record of any deliberation or decision of the Cabinet, documents made for the purpose of submission of a document to Cabinet, documents prepared for the purpose of briefing a Minister of government in relation to issues to be considered by the Cabinet, documents that is a draft, a copy which contains extracts of information, to which I previously referred, and so on. Of course, there is in that same section a time period for which that sort of exemption will expire, and in this case it is 10 years from the last day on which the

document came into existence. But there are exemptions in section 24, and as I say it in support of my view, that the nature of the legislation is on the one hand giving access, but on the other hand putting in place a series of exemptions, restrictions, conditions and administrative provisions, and it is not a free for all in relation to anybody who wants to access information.

I get to, as I point to the fifth area of the Act that I want to talk about, the important section 25. Section 25 deals with the area of defence and security documents. Section 25, if I may read a little bit about it, seeks to exempt documents:

“if it contains information, the disclosure of which would...”—likely be prejudicial to—“the defence of...Trinidad and Tobago.”

And at subsection (2):

“A document is an exempt document if it contains information, the disclosure of which would be likely to prejudice the lawful activities of the security or intelligence services...”— in the country.

And that, Mr. Vice-President, creates an opportunity for an agency like the SSA to seek an exemption, because section 25 goes directly to the business of the SSA. Subsection (3) allows the Minister responsible for the SSA to sign certifying that the document is of such a nature that it ought to be exempt.

The next area I want to point to is section 28, and section 28 is even more detailed. Section 28 sets out five areas of law enforcement that as I said are directly related to the work of the SSA. It deals with investigations. It deals with a series of things. Some of the things that I consider to be important would be sources of confidential information, and information which would likely, if disclosed, prejudice the physical safety of somebody involved either in the

investigation or the provision of information to the intelligence or security agencies. So section 28 and the five areas set out in detail in section 28, contemplate—and in any modern system of security intelligence and law enforcement, you would expect to see a balance being struck between the public's ability to access information and the need to protect, not only documents and not only information relating to law enforcement matters, but also the lives associated with it, including the lives and the confidential information of sources of informants and persons involved in investigations, and that is natural.

We could argue—and in this way I consider the Motion to be deficient. In relation to its framing and in relation to its defence by Sen. Mark, I consider it to be deficient because it does not talk about the need to strike the balance between a citizen's or the public's right to be informed and the public authority's duty to protect the interest of the majority of the population. [*Desk thumping*]

Mr. Vice-President, the final two areas I would address in the Act is to refer to first, section 32(1), which talks about a very important area, the issue of material obtained in confidence. If ever there was a critical part of the operations of the SSA, in my mind, it is this work that the SSA is involved in, where they acquire information in confidence. I mean, Sen. Mark is entitled to “ra ra” about pulling things off your email and pulling things off your cellphones and all of that. I mean Star Wars was released recently I believe, [*Laughter*] but the reality—and it is well established at least in Commonwealth jurisdictions—in today's world, in fact in the world 20 years ago, the ability to tap, the ability to access, the ability to capture information is fundamental to law enforcement.

The experience of planting informants in gangs, the experience of doing that has shown to be difficult, and if you want to find out you go to the attempts to

prosecute the Hell's Angels. But we have through the technology the ability to infiltrate persons who are involved in the planning and the commission of crime, and the SSA is a vital authority to do that, and they must be able to do it in confidence. And not only to do it, but to secure the information so gathered in its intelligence operations. That is already provided for in the Act, and all the Government is doing now is removing the need for an administrative decision to be made in relation to every single application, removing the need to sift through and to redact and to try to figure out which is exempt and which is not exempt and all of that, and treat with the matter of intelligence as so intrinsically linked to each other, that it is difficult to have an agency like the SSA operating in Trinidad and Tobago in 2018, and not be able to safeguard its work from the access of people who may be involved in mischief and who may wish to undermine the work of the intelligence gathering people in the country.

Mr. Vice-President, let us understand the importance of the Freedom of Information Act. Let us understand, because I do not want anybody to leave here thinking that I do not value the Freedom of Information Act, and let me just put it into context. You see, the Freedom of Information Act came in at a time when two other important things came in. There was a time in this country, for example—so freedom of information came in at a time when we did not have a clear path to access information, particularly on decision making and reasons. So the Freedom of Information Act was vital in order to get to the root of decisions and decision makers and the context in which decisions were made. That was the first thing.

You have to understand too that around the same time, the Freedom of Information Act was 1999; in 2000, two equally important things were done in this country. We had in this country, and I am sure Sen. Ramdeen would talk about it,

something called the “ouster clause”, which on reflection many of us would find it difficult to understand how we operated with something I consider to be so draconian. That ouster clause meant that the service commissions operating under established and operating under the Constitution were answerable to nobody, and had no requirement in law to disclose the basis of the decisions that they made. And by Act No. 43 of 2000, we removed the ouster clause from the Constitution, allowing the citizens of this country to be able to access information relating to decisions made by the service commission.

Also in 2000, Mr. Vice-President, while previously we operated on the basis of the common law and very limited statutory provision in relation to judicial review, in 2000 again, brought into law was the Judicial Review Act which in the statute enacted a process, first a right to, under certain conditions, and a process to be able to access judicial review in relation to decisions made by public bodies. So the Freedom of Information Act 1999, the removal of the ouster clause by Act No. 43 of 2000, and the Judicial Review Act, represented a triumvirate which attacked nondisclosure, which attacked the unavailability of information which was important in the hands of the public.

But as I started off with *Collymore v The AG*, none of those things, whether it is fundamental rights or whether it is rights or access granted under the Freedom of Information Act, none of it is absolute. There are exemptions, there are conditions, there are exclusions, there are requirements and there are administrative provisions which come with it. The objective of the Government in its Order to exempt the SSA is an understanding that while the 1999 Freedom of Information Act dealt with certain, if not all the work of the SSA in the form it was in 1995, we believe that a more practical and a more modern approach to dealing

with the SSA and its information gathering and its intelligence work is to exempt it completely from the requirements or the provisions of the Freedom of Information Act.

Sen. Mark asked for a rationale, and that is the rationale of it. And I do not believe—I do not believe—in the context of our friends on the other side and Resmi Ramnarine, we should really be here explaining to this country about it. But I feel, as I said at the start, I am very happy that the Motion has been brought so we get an opportunity to discuss something that I consider very important for the public to understand, in relation to the role of the SSA and the level to which the Government has placed the SSA in its crime fighting efforts.

I want to close just by talking about the list that Sen. Mark raised, which is First Citizens and NEDCO and the other, the ADB and so on. Mr. Vice-President, the fact is that there are avenues for information to be publicised from those agencies. For example, FCB through the SEC, through the Central Bank; FCB reports to a series of regulators. ADB is a statutory body that reports, that submits its reports to the Parliament, that is audited by the Auditor General and is accountable, either through the line Ministry or through other bodies of Parliament, in the forms of the JSC.

I will close by saying that we must understand that the Freedom of Information Act—and the exemption applies only to the Freedom of Information Act. There remains the right of any Member of Parliament to ask a question in the respective Houses in relation to the SSA, and there remains the opportunity for the appropriate bodies of the Parliament to hold SSA accountable if it wished to do so.

I thank you.

Sen. Dr. Dhanayshar Mahabir: Thank you very much. Mr. Vice-President, with

your leave I shall refer to a few documents. I shall not be quoting extensively, but I need to refer to them to make my points.

This subject is not a superficial one. In my mind, this is a deep issue that the country should now pay some closer attention to. I would like to quote one quotation, and I will come back to it at the end of my contribution, from a book by William Stevenson. Who is Sir William Stevenson? Sir William Stevenson, as he chronicled his experiences in a book called *A Man Called Intrepid*, was the chief architect of the British intelligence establishment during World War II, and in his introduction he said:

“Among the increasingly intricate arsenals across the world, intelligence is an essential weapon, perhaps the most important. But it is, being secret, the most dangerous. Safeguards to prevent its abuse must be devised, revised, and rigidly applied.”

This is from one of the foremost experts on intelligence in the world. He continues, but I will, with your leave, come back to his continuation because there are recommendations.

We know that we cannot function in this dangerous world. In the 1940s nations posed dangers to other nations. Today, individuals pose dangers and smaller organizations to other nations. One understands the need for intelligence agencies to work in secrecy, to work without fetter. One understands the needs of the agency to quietly discharge their functions so that they can keep an eye on the nefarious elements of society, and there are many. But when Sir Stevenson said that it is intelligence being secret the most dangerous and he asked for safeguards to prevent its abuse—its abuse—the problem for me, Mr. Vice-President, is that these agencies which are meant to identify all the destructive elements in society

and to keep an eye on them and to keep a file on them, they are supposed to aid and assist the police in finding where, not Resmi Ramnarine, that is another issue, but where Ria Sookdeo is. Where is Ria Sookdeo? [*Desk thumping*] That is what an agency is supposed to do, collect the information. Who murdered Shannon Banfield at a store in Port of Spain? She is a girl who went from Republic Bank I think to buy some item, and she was found murdered. Two carnivals ago, Asami Nagakiya, we have not yet obtained information on what led to her murder, when this young lady, a foreigner to our shores, was simply doing what people are supposed to do on Carnival Tuesday, play in a band.

So we need the agency to keep an eye out, to collect information, to use the techniques available to it via all technology available, eavesdropping, monitoring electronic communications, keeping an eye on cellphones and computers, finding out who is speaking to whom. We need the agency to do that. But the problem is what happens when that power is abused? Is it that I am being told that someone with this mass of information is not going to abuse it? Trust me; well, I trust no one except God. And I need, as Sir Stevenson said, to look at whatever safeguards we have, understanding the need for agencies to work quietly to collect information to protect the public interest.

Clearly there is a need for a balance, and Sen. Rambharat is right. We need to ask ourselves, what is the balance between the agency's right to secrecy without which their efficiency would be compromised, and the public's right to know? What is the right of the public? Well, I am guided by the Constitution. Section 4:

“Rights Enshrined

4. It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by

reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:...

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

“To respect”—what does respect mean? It means, according to the definition I have, due regard for the wishes or rights of others. So the Constitution which I have sworn to defend tells me, in no uncertain terms, that the individual citizens of Trinidad and Tobago have a right to respect for his private and family life.

What happens however is that an agency without fetter will collect information. It is going to collect information on agencies, individuals, organizations. It is going to monitor chatter. It is going to collect private information. What guarantee do I have—I have no criminal record—that this agency does not have a file on me? What guarantee do we all have as citizens—and I am speaking for the entire population, 1.3—that this agency is not monitoring all of my activities, listening to all of my conversations and filing it away?

Now the counter argument would be, and I have heard the argument that you do not have an absolute right to privacy. It is true. Every year I dutifully file, and I encourage everyone to so do, file your statement of assets and liabilities with the Integrity Commission on the due date, because one year I somehow slipped. I did not file for 2012 because I was sworn in as a Senator in 2013, the Integrity Commission published my name, because they said you are supposed to file for the year, and I was shamed and embarrassed and I said, “No man, I cannot allow this again to happen”.

So the Integrity Commission has my private information in its files. It is not as if I have it alone. The law says I must supply that, and I have. That is between me and the Integrity Commission. If that information were to be leaked, however,

I know that someone at the Integrity Commission has violated my right to privacy, and I can have some kind of recourse. But I know what information the Integrity Commission has, because I supplied it. I do not know what information a strategic agency, as SSA, has on me.

Is it that it is collecting information, not only on the criminal elements in society, where it should? In fact I would like to think, but I am not so convinced, that they are collecting information on all human traffickers in this country, or if it were, I think the murder detection rate would have been a little bit higher, they would have been assisting the police saying that we are tracking, and we kind of know who the questionable characters are so you can narrow your search in this area.

Is it that they are collecting information on private citizens, just because as a matter of course that is what they do? Information which—and it does not mean that you need to have a criminal record, but just because they think you are a public figure or you are a figure of some use. Is it that there is information on the health status of the population?

You see, Mr. Vice-President, you could not be a criminal, you could not be someone with a criminal charge. Maybe you do not even have a parking ticket to your name, but you could be monitored, and you could have some private information that if it were to get out into the public domain, it can cause you serious social sanction and harm. You may, for example, be under the care of a psychiatrist. You have some kind of medical problem, a phobia; you are under medical care, a psychiatrist, you may not want that to go out. You may have a problem with substance abuse, alcohol, you may not want that to go out. It is your private business between that and your doctor. You may be HIV positive; there is

still social stigma against that, between you and your doctor. So you have the information, your doctor has the information and it could be some agency has that information.

Well, if they have it, you know something, I would like to know that you have it, because you did not get it from me. You would not get from my doctor. I would like to know what information you have on me that is of a private nature, a matter of national security does not arise. You have collected it somehow, I want to know what it is. Such is the case with CSIS in Canada. In Canada you could apply to CSIS. I have interacted with individuals who have asked, and information is collected when you download articles which CSIS finds a little bit questionable. You could be looking at the French Revolution, the Industrial Revolution, anything with revolution on it. The revolution of the spinning wheel or whatever, and they say, "Aha, this fella is interested only in revolution, let us just keep a little eye on him." But you know upon application what information they have on you, and if that were to get out into a domain where you do not wish for it to go, then you know that your privacy rights were violated. You see, the Constitution says we have a right to privacy. Practicality says that the SSA has to collect information.

5.55 p.m.

In defending the public interest we need to know that whatever information of a private nature that is collected is going to be safeguarded, and not to be used in any way for the injury of the private citizen. You see, I want to protect, I want the criminal elements to face the full brunt of the law and the private citizen to get all full protection of the Parliament and the law. We want to get that balance, and for me a balance can be struck. I need to know what you have on me because, Mr. Vice-President, it is private, it is mine.

If I am hypertensive that is my business. If I am diabetic, and I do a little problem with the blood sugar, that can be made public, but that is my information, and I would like to know what it is, they are collecting it, and maybe how they are collecting it too. We do have the Interception of Communications Act. Is it that my private conversations are being monitored? Well you know something, if you are violating my constitutional rights I would like to know that I have some kind of recourse. What recourse do I have?

I had occasion a while back, Mr. Vice-President, to read this book called *Fair Game: My Life as a Spy, My Betrayal by the White House*, Valerie Plame Wilson. It is a famous one because there was a gentleman by the name of Scooter Libby who exposed her identity and he faced the sanctions in the United States, he was a close assistant to Vice-President Cheney. This is a very interesting book to read. And on page 13 when Miss Plame Wilson who is now outside the CIA because she has been exposed, her identity, she was an undercover agent and she is chronicling her experiences, she says and she is talking about her skills.

“As the weeks went by and we learned...”—blank, blank, blank—

“As the weeks went by and we learned...”

So three sentences were blanked out by the CIA.

“As the weeks went by and we learned...skills perhaps more appropriate for an Army ranger than a CIA case officer...”

You were able to read between the lines and to know well, okay, the CIA does not want me to know what is the content of its training, but the lady is telling me, well the kind of crew were trained in weapons. There were sensitive parts that were blocked out before the book could be published. It is a very important document for us. It is the first time that I purchased a novel where page after page, Mr.

Vice-President, completely blocked out. What is the point I am getting here? The point is, this book was not banned in the United States. The material that was clearly in the opinion of the senior officers of the CIA, possibly injurious to national security, were blanked out and she was allowed to tell her story.

And I think in protecting the public interest of Trinidad and Tobago—and this is for the Government, of course, to consider—instead of having a blanket refusal to reveal files which pertain to any one of us here, any one of us outside, we are not criminally minded, we just want to know what you have on us. I see no reason why an individual should not make an application to the agency and if the agency is of the view that the information is so sensitive, well why do we not involve the Judiciary of Trinidad and Tobago simply to look at the file and to say, well we will blank out certain things and the rest of it because it is your information we will let you have it. This is what is done in the Canadian jurisdiction. Are we following the advanced countries in some way and are we not following them in other ways?

So, I think we do need, Mr. Vice-President, to look at the balance carefully and instead of having one or the other, look at what mechanisms exist. Does a mechanism exist for an individual to have his file reviewed by a judge in the High Court? Well, I do not know if there is a file in the first case, but if there is a file, what the contents are and to find out, simply to satisfy the Constitution, this section 4(c) of the Constitution.

That, Mr. Vice-President, is one possible solution to the problem at hand as opposed to the abuses because, Mr. Vice-President, I will tell you within recent times I have seen on the media, it is as if we violate privacy in this country with immunity, [*Desk thumping*] text messages which I should not see are in the seven

o'clock news between two people. What happens in the living room of some public official is none of my business, it is on the seven o'clock news. The issue is, someone I know is violating someone's privacy rights and they are doing it with immunity.

Maybe the problem is, maybe the problem is that the laws in Trinidad and Tobago are not yet refined enough to implement section 4(c) of the Constitution. We need to look at those privacy laws. I do not think that a text message between two people is anybody's business and should be on the news. So, we do have a history of violating privacy rights and no one is being held accountable. Not that I am saying the SSA would have leaked those things. I am just saying that we are not respecting privacy rights and we should start doing it now. And including the agency which has the licence to collect data, we need a mechanism to ensure that there is no abuse of individuals' privacy rights for whatever reasons.

There are reasons, you see, whenever you have people in control of information and other people would like to get that information because it is juicy and delicious and scandalous, it is going to find an outlet and we want to prevent that happening. We want the SSA to start collecting data information on the criminal elements so that the number of missing persons in this country will be found, the murder rate [*Desk thumping*] will be reduced, the incidence of violent crime can somehow be lowered and that the dark side of the society can, in fact, be made a little lighter.

Mr. Vice-President, there is another issue which arises, and the issue which arises deals with operations of agencies which are not subject to scrutiny or which are not subject to much scrutiny. Recently, the Parliament appeared before the PAAC of which I was a member. Sen. Mark was a member of that, and the

Parliament answered to the PAAC on its expenditures. The Office of the President appeared, and the Office of the President answered. The Judiciary can be called. So no agency can be exempt from having to account for its public expenditure. Well, I will come to that.

I want to focus on covert operations. These agencies engage in actions not only the surveillance on private citizens, but on actions which are not open to much scrutiny. I want to quote from this book *By Way of Deception: The Making and Unmaking of a Mossad Officer*. Mossad is the Israeli spy agency. And I am not referring to the Israeli spy agency though I know we use a lot Israeli equipment, they produce excellent equipment. The author says, and it is a book by Victor Ostrovsky and Claire Hoy. It says:

“While the nature of the intelligence business, by definition, involves considerable secrecy, certain elements of it are nevertheless open in other democratic countries. In the United States, for instance, the director and deputy directors of the CIA are first nominated by the president, subjected to public hearings by the Senate select committee on intelligence, and finally must be confirmed by a majority in the Senate.”

So that the directors and the deputy directors of these agencies are appointed in an open manner. Former President, the senior George Bush, was at one time head of the CIA before he became a vice-president and then the President of the United States. It is all transparent. We know who they are, we know their various qualities and so on, they are subject to parliamentary scrutiny, and then they are confirmed by the Senate. Does such a process exist in Trinidad and Tobago? You see, I come back to the original point I made. We are now starting to look at a subject from which we could learn on the experiences of others.

At the opening of a hearing in the United States, a country that is much to be admired for the democratic traditions and so on, there exists a Senate subcommittee on intelligence, and on February 28, 1989 in a public hearing Sen. Boren who was the chairman of that committee states that:

“While some other nations provide for legislative branch oversight of their intelligence activities, the extensive nature of the process in our country is truly unique.”

In the United States there is legislative branch oversight.

“‘While we have no power to veto proposed covert actions,’ he continued, ‘presidents have in the past heeded our advice by taking actions either to modify or cancel activities which the committee believed to be ill-conceived or which we believed posed unnecessary risks for the security interests...’”—of the United States.

So there is covert action, but it is not covert action at the behest of the President only. Covert action under the behest of the President of the United States is Executive action. Here we have covert action subject to the scrutiny of the Senate subcommittee on intelligence.

And the reason for that is that they would like to know that the covert actions undertaken by their agency conform with the laws of the United States. Whether it conforms with international law I do not know because they did have some issue with torture and so on, but we do want to know that our agency also subscribes to domestic law. The only thing I know about the law, Mr. Vice-President, is this, you know, I must not break it. That I know. So, we want to make sure that the agencies themselves do not break the law, domestic law or foreign international treaty. We do not wish to run afoul of that.

And we also would like to subject their expenditure to scrutiny. I have heard of the Resmi Ramnarine issue; that was not right. But it has to be that every agency which utilizes funds approved of by the Parliament post the Appropriation Bill, approved by the Senate, must give an account for how the funds are spent. And so it has to be that every agency is also following the laws which we pass in the Senate together with the other place. We do not want any agency to break the law, covert action, non-covert action, private action, do not break the law. And how are we ensure this? Are we to take the word of the agency that they are not breaking the law or are we to subject them to some kind of scrutiny? Well, here is a way to strike the balance.

Let us look at what our Parliament can do to subject—and Sen. Rambharat indicated that we can pose questions. We need to go beyond that. This Parliament now has a Joint Select Committee on National Security. It may be a duplication to establish a separate committee simply to look at strategic services, but that committee which is represented, which has all benches represented from the Parliament can be a means where this particular committee in camera can be made to answer to the Parliament and to the people of Trinidad and Tobago with respect to its actions and its activities. So, a solution that we can consider is that people should have their files. I would like to see what someone is going to tell me when they say, I should not see a file on my private information. I know that I have that right and you cannot deny me that right.

Similarly, the Parliament must have a responsibility to scrutinize expenditures by all agencies. We can do that through the Joint Select Committee system where the SSA is brought before the Joint Select Committee, in camera, does not have to be for security reasons in public, and at the same time there is no

good reason why the Public Accounts Committee cannot also look at the accounts of this particular organization. And there is no good reason why the Public Accounts Committee and the committee on national security cannot sit together. Provisions in the Standing Orders do exist. Members of one committee can sit on another committee, arrangements made so we could look at your covert operations and we could look at your financial arrangements.

Mr. Vice-President, Sen. Mark has brought a very valuable Motion. We need to be looking at the dark space in state operations. We need to be looking at how we can protect the public interest by respecting the privacy rights of individuals and giving them recourse. We need to be looking at how to make the agency very efficient despite its responsibility to the population because my fear is this. Whenever an agency which is charged with a particular responsibility seems not to be able to do that very well, it will choose a line of least resistance and it will find things to do that may not be in the public interest. [*Desk thumping*] I would like to keep an eye on them. This is the Parliament of the Republic. The buck stops with us. It cannot be that you are free to do what you want to do in the name of national security.

The United States Supreme Court had ruled that this national security defence cannot be used to protect you when you break the law with respect to torture. The invoking of the blanket secrecy on national security was not a good defence at all. You had and there were mechanisms by which every single agency of the State, the SSA and the equivalents were subject to the scrutiny.

Having this agency subject to Executive action only, whoever the executives are, in the game of musical chairs it will be one group today and another group couple years from today, the fact is, with no oversight on the part of the Judiciary

or no oversight on the part of the Parliament there is going to be a potential for abuse. And I think as a responsible legislator, I would want to ensure that what could be done to ensure that the potential is minimized is done.

And so I would recommend that the Government reconsiders its position and look at some of the suggestions on how this particular agency like all agencies in the country, despite its very sensitive mandate, can still be made accountable, and to give the society and the citizens the assurance that private rights of law-abiding citizens will not be infringed, trampled upon and violated. Mr. Vice-President, I thank you. [*Desk thumping*]

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

Sen. Khadijah Ameen: Thank you very much, Mr. Vice-President. I thank you for the opportunity to join in this debate which is on a private Motion filed by the Opposition and Sen. Wade Mark to annul the attempt by the Government to exempt the Strategic Services Agency from the provisions of the Freedom of Information Act.

Mr. Vice-President, I agree with the speaker before me that this is not a matter to be taken lightly and there are serious implications for the democracy, transparency and accountability by the publishing of this Order and if it is to be enacted.

But, Mr. Vice-President, before I go into the body of my contribution I must respond to Sen. Rambharat. And I “cudda take ah bet” that the first speaker on the Government Bench would have jumped on Resmi Ramnarine. And in my opinion that in itself is a reason for this Order to be annulled because we saw where information would have come out and the correction could have made, and, in fact, the then Prime Minister when it came to her attention the very next day, Resmi Ramnarine was removed from the position. And recently, I think it was, the

former Prime Minister apologized to the nation and this, in fact, in my opinion is a further argument as to why the public, the citizens and indeed the Parliament must continue to have that transparency when it comes to the SSA and other agencies that receive government funding and taxpayers' money. [*Desk thumping*]

Mr. Vice-President, even more so the Director of the SSA is not a public servant or a public officer who is insulated from the political directorate. The director is appointed by the Cabinet and subjected to the directions of the Minister. The director of the SSA is a political creature. [*Desk thumping*]

Further, as was mentioned by Mr. Rambharat, I thought that the Government would be for the very instance where he mentioned the hiring of Resmi Ramnarine, I thought that the Government would be anxious to put mechanisms in place to ensure that something like that does happen again, and that if it does happen that the population will be able to raise the matter and have it corrected.

Issues that ought to come under or to be made available include issues of who is being hired and how money is being spent. And I think, Mr. Vice-President, it is a very immature form of governance to come forward and say, "Well, when you were in Government you made that mistake, so what if we continue the same mistake". That is immature, it is irresponsible and to me it goes against good governance. [*Desk thumping*] I want to say that this is a matter concerning a security agency, the Strategic Services Agency, the SSA, and the population is fed up of the finger pointing and the blame game that this Government continues to engage in. [*Desk thumping*]

But I really intend to base most of my contribution on my belief that the publication of this Order and the intention of the Government to remove the right by citizens to access information under the Freedom of Information Act which is

an Act of Cabinet, an Act of the PNM, an Act of the present Government. [*Desk thumping*] And on numerous occasions during the contribution of the hon. Minister Sen. Rambharat, he stressed on the fact that this Order was published by the President, His Excellency the President of the Republic of Trinidad and Tobago. Listen, “doh” play foolishness with this thing.

Mr. Vice-President, the Order is published by the President. The President has no discretion in this matter. The Order is published by the President on the advice of the Cabinet and on the advice of this Government. [*Desk thumping*] So do not try to remove yourself from the responsibility. This is an Act which undermines the principles of good governance in public administration, the tenets of good democracy including transparency and accountability, and yes, citizens’ right to access information. And it also undermines the duty of this Government to protect the public interest at all costs. [*Desk thumping*]

Mr. Vice-President, I want to just touch on a few matters concerning public administration in itself as a branch of political science dealing primarily with the structure and the workings of agencies charged with the administration of governmental functions such as the SSA is. And the general sense of accountability is required or is expected to justify actions or decisions of the Government, of the public service, the protective services, and that is more or less the dictionary meaning of accountability.

But in government affairs and in particular in public administration, the administration of public business, it has implications and the concept is regarded as a very important part of the administration of public business. It implies that the representatives who are elected by the people must give explanations to the electorate for all their policies and their actions, and it is a very important part of

democracy. And you may ask why I raised that—because the SSA is not an elected body. But the SSA is, Mr. Vice-President, appointed by the elected people, appointed by the Government, whoever is in Government. The director of the SSA is appointed and then proceeds to hire staff, and also can at any time be directed by the Minister.

Will the SSA be directed by the Minister?—not necessarily the sitting Minister. We must think of future generations and the institution of Trinidad and Tobago. Can a future Minister direct a future or present director to hire certain people? Can the SSA then become an entire creature of virtually political appointees, therefore conducting their business with a political slant? And then with the change of a government, our term of office is five years in Trinidad and Tobago, then a new director will be appointed by the new Cabinet and then what happens? And this makes the SSA a susceptible organization based on the legislation that gives it its life.

And therefore, I think it is even more critical for that accountability, those measures of accountability to remain in place, and the PNM is doing an injustice to Trinidad and Tobago to remove this exemption from the SSA. [*Desk thumping*]

Mr. Vice-President, the SSA is not only politically appointed, it receives state funds, and when it comes to millions of dollars in taxpayers' money, I think the taxpayers ought to have mechanisms to find out how their money is being spent. We can ask questions in Parliament. Yes. But let me tell you, I sit here as a Member of Senate, but the fact is that many citizens do not tune into Parliament Channel. [*Desk thumping*] They do not see everything that takes place in the Parliament, and we must leave mechanisms open for the citizens to access information.

There is a requirement and an obligation for any agency or any state body receiving tax dollars, funding, to answer to the representatives of the people—that is, we who sit in Parliament—and directly to the people via, for instance, the Freedom of Information Act on the disposal of their powers and their duties and, Mr. Vice-President, to act on any criticisms that will arise out of that.

When a person is entrusted with a job or a duty, he is supposed to do it to the best of his ability, his experience, his honesty and his efficiency, but that is not—we do not live in a perfect world.

6.25 p.m.

We have Members of Parliament who swear an oath and then you hear so many things, and then so many things happen that are contrary to that oath. You have members of the protective services, the police for instance, they take their oath to protect and serve, yet there are corrupt elements within the police service. We do not live in a perfect world. And I am not suggesting that any member of the SSA is dishonest. In fact, I do not know any person who works in the SSA.

But, Mr. Vice-President, if at any point, whether it is the Government or a state agency fails to satisfy the chief employer, which is the citizen, that agency should have to explain if their actions violate the rights of a citizen or any person, if the population feels that it is not getting value for money. And I think that is important, because national security as a whole consumes a big chunk of our national budget, and that accountability through the Freedom of Information Act allows us to ask the right questions. How will we know where wrongdoing is taking place if we do not ask the right questions and have access to that information? I am sure that this Government would not want presently or in the future for any runaway horse to spend taxpayers' dollars without accounting for it,

and to have the wide powers that the SSA has. That is dangerous, Mr. Vice-President.

Accountability means one is bound to give an explanation for the policy or for the work done by these state agencies. And you know, democracy, and we come out of ancient systems of democracy, and decades ago in the Greek city states, the citizens used to assemble in open places and take decisions on legislative and administrative affairs, and then they progressed to the point where the citizens appointed some persons to do that job on their behalf, and in that system which gave birth to the present democracy, representative democracy, there was some sort of accountability. In other words, the citizens even though they would have put representatives, could demand an explanation from these officers. And that principle, Mr. Vice-President, is a very integral part of democracy even up to today. With the progress that we have had, we have representative democracy, the type of governance that has emerged, the need for accountability is a very key idea that remains very valid

and, Mr. Vice-President, the need to balance in our current public administration system, to balance that idea of accountability.

Freedom to access information by citizens, by the media, and even by the Parliament whether it is through questions from the Opposition, all our Joint Select Committees, our public hearings, are critical methods of accountability. And that balance means that when someone is entrusted with a job he is supposed to do it. You trust that he will do it. But if his performance fails to satisfy then he is required or he should be called upon to provide an explanation for his failure, and there you have the balance, and it constitutes the very foundation of democracy.

There must be elements, and we must continue to protect those element that

provide ways of controlling our various processes in public administration. And there is a calypso that later on I learnt came from a quote from Aristotle—not Aristotle—[Laughs] when he asked a question, “Who will guard the guardians?” And there is a local calypso by King Austin, “Who will guard the guards”, and it speaks to the very issue of governance and those who we put in charge, and the protective services, if you read the words of the calypso by King Austin. And the question arises here with regard to the SSA, because they do play a role in national security, and they are guardians and protectors together with the other agencies. Who will guard the guards? Who will ensure that there is no abuse of the powers given to the SSA? The Minister who appoints the director, who gives directives at any time to the director? We have to put people to guard him. And in an instance where we have so many issues, even now in the present political environment, the present issues with law enforcement, the murder rate and other violent crimes. And, Mr. Vice-President, we question as to the competence of the Minister of National Security, and the other Ministers in that Ministry. Then the question will come as to his competence to direct the director and to direct the officers of the SSA. And it does not obtain only when we speak of the present Minister. It would apply to any person who sits in that office at any time.

Mr. Vice-President, the bureaucrats in the protective services are not elected by people. And naturally, for instance our Ministers are accountable to the general public directly, because they are MPs and so on. Naturally they are not bound to give any explanation for their policy or for their work, and this would have posed a serious question to that concept of balancing transparency and accountability with giving certain powers. And it is a great shortcoming for any state agency to remain outside of the scrutiny of the general public, and the ethics of public

administration, Mr. Vice-President, in my opinion demand that the controls or scrutiny not be dispensed with. And I quote Ball and Peters who are public admin authors, very well recognized:

“The need for controlling bureaucratic discretion and power is apparent in every political system.”

But I want to add, that with the present issues popping up in the Government, the apparent inability of the Government to deal with key issues in our society, there is an even more critical need for those controls.

We in the Opposition, and in fact the UNC, has been consistent in our call for putting certain measures in place. For instance, in the debate on the amendments that the Government brought to the SSA Bill, and even before that, in other matters, we have been consistent in requesting the need for oversight in that SSA Bill which was debated here. We spoke about accountability, the need for there to be proper controls in place, and I just want to read, Mr. Vice-President, if you would allow me, one of the things the Opposition had proposed was the establishment of a civilian oversight committee comprised of former judges and empowered to conduct investigations into the SSA's activities and make recommendations. That is an oversight mechanism. That is a form of transparency that was rejected by the Government. We also proposed that the agency respect human rights standards adopted by Trinidad and Tobago to prohibit discriminatory use of power on the basis of political affiliation, gender, ethnicity and other factors. We live in a cosmopolitan country and we like to talk about Trini life sweet, but the fact is that from a lot of political quarters, a lot of division is pushed within society in the interest of people who want to gain political power. When people are on platforms talking about Calcutta ship, you have to ask yourself, you cannot

doubt that there is that venom that runs along the lines of political affiliation and ethnicity as well as other factors, and there is the need to protect the citizens and to ensure that their rights are protected.

We also asked, Mr. Vice-President, for the insulation of the director and the deputy director from the political directorate by their appointment, so that their appointment would be by the President in consultation with the Prime Minister and the Leader of the Opposition, whoever the Prime Minister is and whoever the Leader of the Opposition is. So that in future you protect the citizens from that political appointment of a director and a deputy director. We also would have made recommendations for the creation of criminal offences for employees of the agency and the Intelligence Review Commission. You could have called it by another name if you want.

Mr. Vice-President: Sen. Ameen, I do not want you to rehash too much of debate that would have happened already in this parliamentary term. Could you bring it back to the Motion that is in front of us in relation to the Freedom of Information Act. I understand what you are saying, but if you go on too long then you end up just rehashing a debate that we already had. Continue.

Sen. K. Ameen: Thank you, Mr. Vice-President. My point in reminding this House and reminding our citizens is that the Opposition remains steady, available and keen to work towards remedying the legislative loopholes that have facilitated the current disturbing abuse of power by this agency, and the removal of the exemption of the SSA from the Freedom of Information Act together with these shortcomings, which I have outlined in terms of the Opposition's recommendations, which were not accepted by the Government. Mr. Vice-President, it is dangerous.

Mr. Vice-President, I just want to get back to, in terms of all forms of government, especially in liberal democracies, and the need for controls and controlling bureaucracy, and the need for that control to be very strongly felt. There are two types of executives, and one is the temporary Executive: the elected people; the Ministers of Government, and their term is limited to their five years; and we have the more permanent executive, the bureaucrat, which is intended to insulate the population from the whims and fancies of the political directorate. So the intent of a bureaucracy, the intent of a public service, the protective service being non-political is so that you will have continuity, you will have institutional knowledge continuing, but you will also prevent the population from feeling the harshness of changes in policy and changes in political directions.

That obtains to the police service, but that does not obtain to the SSA, because the director and the deputy director are politically appointed. And you are in danger of any government, whether it is this Government or another government, essentially having themselves a secret police agency. And earlier I know the Attorney General took offence to the term Gestapo being used but—

Mr. Vice-President: Do not go back. Just go forward.

Sen. K. Ameen: Oh. No, Mr. Vice-President, I just wanted to say that history is full of areas where you have special secret security agencies who are given special powers and even today it obtains. And if you know the history of the Gestapo and the CIA and the other secret agencies, you will know why there is a need—
[Interruption]

Mr. Vice-President: I understand the point that you are making, but like I said, I ruled on that particular frame, point that was put forward before. Move away from that and move forward.

Sen. K. Ameen: Thank you, Mr. Vice-President. But there is a need for intelligence gathering to supplement the work of the police service and the bureaucratic police service. When I say bureaucratic, not in a negative way, the permanent executive of the police service, which is an independent body, and normally, in this case because it is a political appointee, the tenure of the director will be tied to the tenure of the Government who appoints him or her. And at the end of that five-year period you would have massive changes. And of course this may affect the operations, and I think it is important for people to know how the change in Government, the change in director, the change in policies would affect key issues, key administrative issues in the SSA.

Mr. Vice-President, I also think that the common man, the common people, the common citizen, however you want to call it, must be conscious of their rights and their duties in our society. And for us to allow the publication of this order to just happen in secret, and not speak about it, would be a dereliction of duty on our part. The Minister of Agriculture, in his contribution, indicated, rightfully so, that section 25 provides for exemption, and he said that the exemptions are enough ground for the SSA as an agency to be exempted from the Freedom of Information Act. But I want to reiterate that there are certain aspects of law enforcements in terms of the operations, the actual investigation, who is being investigated, who are the investigators, because you want to protect those persons. Who are the informants? Where are you getting your information from? What is your source of information? Did you get it from tapping my computer? Did you get it from a surveillance camera? Did you get it from a snitch?

Those are matters, Mr. Vice-President, that I would expect to be exempted. And the Freedom of Information Act already provides for that. [*Desk thumping*]

So that in my view makes his point mute. Because there are provisions in the Act to exempt, or based on those issues. [*Desk thumping*] And if the SSA feels that it should not give information to a person, the claimant, I believe he is called, could go to the court and file, and the Judiciary, the independent Judiciary will then give a directive, and we have had numerous instances where there were requests for information from agencies, and not even national security agencies. But the fact is that there have been numerous instances where people went to court and the court made a judgement.

But we are talking, Mr. Vice-President, about the administrative aspects: recruitment, procurement, human resource matters. Those are areas that I feel they could answer without jeopardizing national security, or the core functions of the agency, and those must remain things that we could ask about, because that is where the taxpayers' money is going to be spent. I do not want to go back to the debate on the SSA, but one of the things as I mentioned, recruitment, it also has to do with disciplining of officers. So one of our recommendations at that time was to have penalties for officers who more or less abuse their power. Those are human resource matters. So even if you may not want to disclose the nature of the documents they destroyed, or the information they destroyed, or the actual offence, we should be able to access information as to when offences are committed, or if offences are committed. Just as we would like to know when there are corrupt police officers undermining the police service, undermining law enforcement, we should be able to know if any officer of the SSA is undermining that agency. [*Desk thumping*] That is a matter that is administrative, that the public ought to be able to access through the Freedom of Information Act. That does not hinder the operations of the body.

There are also judgments from the court that the state agencies will be obligated to follow, and under the freedom of information there have been numerous judgments, and those judgments should be treated as law. And I think that because of these cases being filed, the public agencies, the public service, the protective services have become more cautious in ensuring that they adhere to the principles in the Freedom of Information Act, and one example is, for instance if you write to a state agency and they feel they should not give you the information they will write you and tell you, "I cannot give you" and probably quote a part of the Act. But the Act spells out how you should conduct an inquiry or an investigation to determine whether that is information you should disclose or you should not disclose. And I think our citizens making use of the Freedom of Information Act has made the public service and our protective services, and all the other state agencies even more knowledgeable about what they should do in instances of requests for information.

And the concern raised by Sen. Rambharat about people with mischievous intent is very valid, and that is precisely why the Freedom of Information Act gives you the power to go to the court for the Judiciary to determine whether the information should be given. [*Desk thumping*] And that is a safeguard. So, you have the provisions in section 25 for the exemptions, but you also have the opportunity to go to court. And, Mr. Vice-President, while our officers have a moral or ethical reason to be accountable, the fact is we know that sometimes they are not necessarily perfect. But when you have the Judiciary making a judgment, and I am reminded of an instance where an exemption was brought by the Government for, I think it was the Central Bank.

Mr. Vice-President: Two points: One of the points that you are making now Sen.

Mark would have made in his contribution. Secondary to that I am starting to hear circular arguments coming out. That issue with the Central Bank and the Judiciary, pretty sure I heard Sen. Mark raised that and used similar example. If you can raise a new argument in relation to the Motion, I would invite you to do so now.

Sen. K. Ameen: That you, Mr. Vice-President. I did not intend to go the same direction, I was using it to emphasize the point about recruitment being a matter that should be disclosed, because it is an administrative matter. And when it comes to the Central Bank you would not expect sensitive financial information to be disclosed, but administrative matters such as recruitment which was the subject of that court matter, is what I wanted to indicate.

Mr. Vice-President, one of the other parts of, in terms of public administration and the relationship between the elected Executive and the—

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

Sen. K. Ameen: All right, thank you. The elected Executive, the Minister and the Permanent Secretary or the technocrats, is that the technocrats would advise the Minister, and of course it is the Minister's duty and the Cabinet's duty to take what action they feel necessary.

I want to ask, what was the advice of the technocrats on this Order? What is the reason for jumping to publish this exemption for the SSA to be exempted from the freedom of information? We have seen on previous occasions where the Government of the day, in a hurry, went to the Parliament to pass legislation, or in fact to publish the same order to exempt an agency from the Freedom of Information Act that would have undermined the decision of a judge, of a court, for that agency to disclose the information to the applicant. Are we seeing that

being repeated? I am asking this question because there was an article in the *Newsday* three days ago, based on the debate in the lower House, and the Attorney General was quoted—I hope he could share some more information, but he was quoted in the article by Clint Chan Tak:

“Al-Rawi said it was interesting that his predecessor Anand Ramlogan and others were before the court trying to obtain certain information from the SSA, after having no interest in that information for five years under the former People’s Partnership government.”

And my question is: Is it that the Attorney General has knowledge that the former Attorney General, or any specific person is requesting certain information from the SSA that this Government does not want to be made public and they have rushed to publish this order to stop that from happening? [*Desk thumping*] It has happened before, and it was the PNM Government but it was—you had different persons sitting in the chair, in those chairs. But, Mr. Vice-President, again it underscores the need to ensure that we have good law to protect our citizens regardless of who is in office. And I hope that the Minister, the Attorney General in his contribution could be able to provide the justification—and not the justification in a philosophical sense, but in terms of where the advice would have come from, what ill are you protecting the nation from in the current environment, and so on.

But I want to reiterate, as I close, the need for us to protect that sensitive national security area, which is already protected in the Act, and further protected by the Judiciary, but the need for us to be able to examine human resource issues such as recruiting and staffing, compensation and benefits, the training and learning of the officers, labour and employee relations, the development of the

organization, areas of procurement, very critical, the planning and executing of their projects, the monitoring and control, the progress, because they are spending taxpayers' dollars to do those projects. But the method of procurement as well we must be able to examine. Areas concerning safety, OSHA requirements, areas concerning value for money...

Mr. Vice-President: Senator, your time is up.

Sen. K. Ameen: Thank you, Mr. Vice-President. [*Desk thumping*]

Sen. David Small: Thank you very much, Mr. Vice-President, for allowing me the opportunity to join in on this debate. This debate, as I understand it, is on a Motion to annul the Order that exempts the SSA from the FOIA.

Mr. Vice-President, I think that I am a person generally I believe that more information is better than less but that is not something that I expect to be applied to everything. There is a quote that says that the "Information is the currency of democracy." And I generally subscribe to that. But in many instances too much information is currently held in secret, and processes that are happening that are not transparent, and for too long. We have a discussion here, Mr. Vice-President, about the right to know versus the need for secrecy, and I have a clear view that I am going to outline. In the US there is a guy called Ralph Nader who is an activist for all sorts of things relating to citizens of the country, and he had taken a position that a well-informed citizenry is the lifeblood of democracy. But it has been argued by several other speakers that this position is not inviolate.

Mr. Vice-President, I do not think it is difficult to see instances where reasonable people would prefer that some information the Government possesses be kept from the public.

6.55 p.m.

In the interest of, for example, public safety, are citizens being watched or surveilled by the security officers operating according to the law? This should not be information that anybody should have other than the secret agency they should have. In the interest of personal privacy, the public should not have access to personal records of Government officials without good cause. And similarly, Mr. Vice-President, I accept that genuine national security information should not be publicly available. We already have challenges in our current system, Mr. Vice-President, you know, we have strange things that happened in Trinidad and Tobago. The police announced that they are going to do a roadblock here and it is on WhatsApp five minutes later and everybody knows to avoid it and random people get the WhatsApp and they are trying—“oh there is a police roadblock happening here”. There is already challenges in the system in the way in which we manage information.

I am sure, Mr. Vice-President, that those who support transparency in government, like myself, do not generally advocate complete transparency in all facets of government. There must be a certain level of transparency but there would always be things that based on discussions that are going on or activities that are taking place it is in the public interest to keep those things off the radar. I posit, Mr. Vice-President, that many citizens would accept that simply there must be limitations on the complete disclosure of information in the hands of a state security agency. Just from that basic logic is where I am going.

So, Mr. Vice-President, the SSA. What does the SSA do? I go to the Act and I look at the functions of the agency.

“(b) develop strategic intelligence and make recommendations to Government on the formation of policies in relation to counter

narcotic matters;

(c) prepare drug interdiction strategy and simulate action towards...”—
advise.

“(d) disseminate information and intelligence to the appropriate...”—
agencies.

“(f) provide intelligence and analytical support for the appropriate
operational and intelligence arms...”

There is a whole three pages of activities here that if you get someone who is properly minded you could actually dismantle the whole security apparatus in the country by having this information and I am not saying it is going to happen, but I think that where we are, we are in a place, Mr. Vice-President, where I agree with my colleague, Sen. Dr. Mahabir, about privacy rights. We have a problem with privacy rights in this country. And then the support systems to really protect citizens does not exist. But is opening up the SSA to FOIA going to fix that? I am not convinced, Mr. Vice-President, I am not convinced. And I am concerned, I too have a concern and I think I have said it here on more than one occasion.

The way in which certain offices are appointed, in particular, the offices of the SSA and the structure of that process now, I think could use a review. I would be supportive of having that process reviewed. Unlike the US system the nomination is to be, go before the Senate Committee and there is a nomination hearing and everybody understands who this person is, what your history has been, who is your friends, who is your family, who is your contact. I love that system. It is completely transparent. But that is not before us today.

I would love to see that amendment to the Act, to make the persons director, the senior personnel in those agencies, make those appointments in a way in which

our current structure, the best way we are supposed to do that is to have those persons be appointed by the President. We are not yet at the stage where we can have confirmation hearings and a special committee to deal with those things. But that should be the ideal. We should not dispose of it because it does not exist in our current system.

Mr. Vice-President, I want to share, I went to the United States FOIA website and they have some very elegant language. And I want to quote when they talked about Limits and Exemptions. I quote:

“The FOIA does not grant absolute right to examine”—or access—
“government”—records; “the FOIA establishes the right to request records
and to receive a response to the request.”

And even inside of that they have a whole schedule of exemptions. Exemption No. 1 is called, protection of information that is classified in the interest of national security. So that, I think that where we are we have an agency that is sole remit. It is national security, its sole remit. And I think we have to be clear. I also want to quote something interesting about the US system where people have been asking for information about a particular person, personal records, all sorts of issues. And they have something called a balancing test and they say that information requested on a particular individual may be requested:

“...but release is subject”—to a—“balancing test to decide whether the
privacy interest of the affected party outweighs the public interest in the
release of said information.”

And I think those are structures and systems that they have in place that we do not have now and if we allow the SSA to be subject to the FOIA without these types of protections I think we are creating problems. And let me be clear, I do not

think putting the SSA under the FOIA is a perfect fix. I do not think it is a perfect fix, but given the fact that we do not have some of the supporting things in place I think it is something that will allow for us to be able to be in a place while we are getting the other elements together. This at least allows agencies to operate and get its work done.

Mr. Vice-President, I want to—you know we have checks and balances already in the system. The Attorney General, forgive me, the Auditor General can go in there and do a full audit on all aspects of how public money is spent. That is available now within the SSA Act. So I understand the concern, how money is spent, procurement, but the Auditor General has that right and ability today, last week and will continue. So, okay. So if I have a concern about how money is being spent, the Auditor General goes in there and does an annual report. So good.

Issues to do with any or the operational issues, the SSA Act provides for them to do an annual report and the reports are up-to-date as far as I am aware. And I want to reference to the *Trinidad Express* article on May 01, 2017, where—by Anna Ramdass and they quoted about, the report quoted 600,000 plus calls were intercepted. And what was interesting, people have to understand that the SSA just cannot intercept your calls. You have to get a warrant. It is not just, well, we are the SSA, we are going to listen to Sen. Dr. Mahabir calls. They have to go and get a warrant and they have to justify why they want it. It is not just—well they want to know who Dan is talking to. No. So the report gave how many warrants were granted and for how long the warrants were valid. And this information is in the publicly available report of the SSA that allows people to understand what the SSA has been doing.

So for me what I am saying, I am saying, okay, this is not something that is

operating completely in a black hole and we do not have any idea of what is going on and if we ring fence it with the FOIA then, well we do not know. I am not sure that I am convinced of that argument, Mr. Vice-President.

Mr. Vice-President, I do not intend to detain because I think these points for me are pretty clear and pretty straightforward in my mind. On the balance of privacy and the right to know, my position is neither, it should be absolute and restrictions are required. I think that, Mr. Vice-President, we live in a connected world. I was having a discussion with one of my colleagues upstairs about how— if you sit on your computer and you do Google and you look for tyres for your car and then you find that an hour later you get bombarded with all kind of ads because there is something called Google analytics, about your information and privacy.

So all these tools, Instagram—I have Instagram, Twitter, all of these things, your information on how you use the internet, they actually recognize your information that you have—there is a whole series of privacy filters you can block so that as an individual you can decide who to restrict. You can restrict everybody and just have your account private only to who you want to see what is going on in your world. And if you extend that to what we are talking about here, what you are doing is taking—carving the FOIA and say listen, leave the SSA alone. There are reporting mechanisms, the Auditor General; there is the Joint Select Committee process; there is an annual report. It is not that the SSA is just naked by itself, on its own, on a frolic of its own, as the attorneys love to use that phrase, they are not. There are things in place now and based on—certainly things I have seen in the national press, there is a lot of information about what comes out in the report. And if anybody has any particular issue I am sure they could be addressed either

through the JSC, through a public hearing or depending on the nature of the issue the JSC could do a private hearing. I do not think anything restricts that from happening now.

So I am not sold on the position that having the SSA under the FOIA will make them more accountable. I am not sold under that argument, Mr. Vice-President. Secrecy is not understanding and restrictions, restrictions are nothing new. We are living in that world right now. It is my considered opinion, Mr. Vice-President, that having the FOIA apply to SSA could cause more harm than good from where I sit. I think that the potential for harm is greater than the potential for good. That is my considered opinion. And I am not saying that it is a perfect solution, I am not. Keeping the SSA outside of the ambit of the FOIA is not a perfect solution, but we live in an imperfect system and we would all recognize that the system that we have in place there are gaps. There are gaps in the system and then you have the main system, but the supporting structures to make things work are not there and that is so key, Mr. Vice-President.

Mr. Vice-President, we would always argue that there is a potential for abuse. You have an agency not under the FOIA, there is potential for abuse. In another part of this building I hold a particular portfolio and I have seen lots of abuse. The systems in Trinidad and Tobago are open for abuse as we speak. Almost every system that I have looked at in the past couple of year,s there have been various levels of abuse. And I am not saying that it is right, but it speaks to a general systemic problem in the way it which the governance runs in this country. There is a systemic problem. But is putting an entity under the FOIA going to fix that? I posit, no. I posit, no.

And, Mr. Vice-President, I think that where we are Trinidad and Tobago is a

small society and that is part of the challenge that we have, in that, the SSA, there would always be parties that would want to know what an entity is doing. People have axes to grind, people have genuine grouses and that is fine. But if somebody has a genuine issue, I am not sure as it is now, if I have a genuine issue against the National Gas Company or if I have a genuine issue against Petrotrin, what can I do? We can ask for information, yes, great, and then there is a whole series of exemptions. But the job that the SSA is doing is security. I mean, the depth, I think every major speaker is aware that the depth of the crime problem of security in this country is serious and we have to be able to give that agency or those agencies the arms, the tools to be able to get that job done. And I think that the role that they perform, when I go back to the schedule of—all the areas—the things that they are doing, drug interdiction, a whole series of things. Those things you do not want anyone to even have a sniff of that information until they are ready to come out and say they have enough information to take to the relevant authority just make, to press charges.

So, Mr. Vice-President, as I begin to wind up, I have looked at this Motion. I understand the way in which the timing of it occurred. However that occurred, that occurred. Mr. Vice-President, here is the world I operate in, it is in front of me now and that is what I am dealing with. If I come to this Chamber and I start to ascribe negative motives then I cannot work. I work on the basis that this is what is in front of me and I have a position on the matter and I have the privilege to be able to voice my opinion on the matter and that I have already done.

So thank you, Mr. Vice-President, for giving me that opportunity. [*Desk thumping*]

Sen. Taharqa Obika: Thank you, Mr. Vice-President, for allowing me the

opportunity to make my contribution to this very important debate which I believe is a watershed moment for the people of Trinidad and Tobago. We have to understand that for a time in memorial secrecy has been a tool used by regimes for control and I posit, political persecution, Mr. Vice President, is a hallmark of a regime that seeks to oppress its population and where that by the creation of a secret police that remains above the laws of the land. We at the UNC are declaring that the SSA must not be above the law. So that being said, that basically would be the basis of my brief, but very, I feel, pointed contribution today.

Now, when I look at the Motion brought by our Leader on the Opposition Bench, Sen. Mark, there were many issues that came to my mind and one wondered why would a Government that has sworn to uphold the Constitution bring this change for such a key institution regarding our national security in Trinidad and Tobago, and again to ensure and to allay the fears of Senators opposite that I am not speaking out of turn. I too understand that in operational matters we do not expect that you will give us information that you are currently investigating X drug dealer and he has a shipment on the docks coming in at 5.00 p.m. Of course, that would lead to a tip off and information that will not necessarily redound to the benefit of the interdiction of the drugs and whatever else he may bring into the country.

So I understand that aspect. However, secrecy and the public purse is something that we must understand and that there is need to draw a line. And let me start with the human rights. So the United Nations has defined Freedom of Information as:

“...the right to access”—if you would allow me to read—“to access information held by public bodies...” [*Crosstalk*]

This detail was not given and this is for the public record. I was just answering the hon. Attorney General, Mr. Vice-President.

So:

“It is an integral part of the fundamental right of freedom of expression, as recognized by Resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948), which states that the fundamental right of freedom of expression encompasses the freedom ‘to seek, receive and impart information and ideas through any media and regardless of frontiers.’”

Now, when you look at the terms that they used, “the freedom to seek ideas and information, to impart information”, what this change to the law would bring is a debarring of every citizen of Trinidad and Tobago that fundamental right as declared by the United Nations, none other than the United Nations. So this is not a United National Congress declaration, this is the United Nations, a charter that we as a member [*Desk thumping*] have sought to uphold. [*Crosstalk*]

So from freedom of information, legislation reflects the fundamental premise that all information held by Government and governmental institutions is in principle public and may only be withheld if there are legitimate reasons, such as, typically privacy and security.

Now, to ease the tension being felt by the Attorney General, I would not go to explain what that means because Sen. Ameen has already done so by indicating that the legislation, that is the Freedom of Information Act, already takes into account there are some aspects of the operations of our security agencies that should remain private.

However, it still flies in the face of this fundamental human right. And if

nothing else I think this should be sufficient reason to take on board the Motion by Sen. Mark. Now let us look at our own newspaper, the *Trinidad Guardian* when they looked at freedom of information. And they hailed it, it was a long article written, it was in—

Mr. Vice-President: Could you give us the date please.

Sen. T. Obika: It was on the 3rd of December, 2012. And what they basically did was outline to the population, the headline is:

Freedom of Information.

Hon. Senator: What newspaper?

Sen. T. Obika: The Trinidad and Tobago *Guardian*. So they outlined the aspects of the law because, of course, you can understand, Mr. Vice-President, the average Trinbagonians though we would see ourselves as studious and intelligent may not necessarily want to wake up in the morning to read 56 pages of law, far less even one page of law. So the *Guardian* distilled the legislation and presented it to the population. So I encourage all to look at that as well. But there is something that they mentioned there:

“The Act defines who is a public authority and sets out what documents or information can be accessed.”

So it is not saying that everything is available. So this is another source that we can look at to say that not all is available, not all is accessible. There are restrictions in the law that prevent one from getting information A or B. Then of course we know the usual redress to the courts which I would not go into because that was already hammered by prior contributions. I would like to go to another jurisdiction, one that I am sure our lawmakers here are very familiar with, that would be the United Kingdom and by extension the European Union which they

may be to a lesser extent familiar with. And I myself would lay before the Senate that I am not in any way a legal mind, so I am only guided by what I read and I stand to be corrected.

However in the *Guardian*, not Trinidad and Tobago *Guardian* by the way, this is from the UK and the date is the 5th of June, 2017, written by Owen Bowcott, legal affairs correspondent. It is regarding—the headline of the article is the EU—Mr. Vice-President, if you would allow me:

“EU judges may be asked to rule on legality of UK surveillance powers”

Why do I bring this into question? Because we are looking at an agency that has the ability among many things to conduct surveillance. But when you begin to go down the road of secrecy it brings into question in the mines of average citizen what else can they do and we may not even know what they can do.

And I would like to stick a pin there before I go into the contents of the article and draw our minds back to some videos that would have circulated, Mr. Vice-President, on social media for the world to see. Police officers, no, not police officers, actually they were police officers but at that time they were conducting the affairs of bandits. So police officers dressed in official police gear taking from the home of someone resident in Trinidad and Tobago, the video does not say if they were a national or not, I would not say their ethnicity because it was a video that was public knowledge. They were attired in official gear and they relieved the individual of a sum of cash from his home. They visited him at his residence. It was captured live and in living colour on video for the world to see.

Now, this is the police service and my grandfather was a member of the police service, he was a Sergeant in the police force and you know that before an officer of the law can exercise his duty he knows that there are checks and

balances, significant checks and balances against every single action he takes. In fact, even the very action of arresting and laying a charge can maybe be reversed. And he is fully aware of this, but to the benefit of the citizenry the average Trinbagonians is also so aware. Now to take it a step further, the police officers are required to now wear in some cases body cameras so they do not have to depend on the citizen's word or the police officer's word. You can see for yourself what was happening. What would be the guidelines for the SSA? So here we have an officer, an arresting officer with the powers of arrest who is precepted, who can detain a citizen, legally so, has all these checks and balances—*[Interruption]*

Hon. Al-Rawi: 46(1), Mr. Vice-President. I cannot connect it at all.

Sen. Ameen: You will have the time to speak.

Mr. Vice-President: I myself are interested to find out how you are going to connect this to the article that you are referring to. If you could do so quickly for me, because what you are actually doing is repeating a point that was, again, made by Sen. Ameen and Sen. Mark, as well as, Sen. Small to certain extent and I think Sen. Dr. Mahabir did so as well, "That is the idea of corruption in the police force and corruption in other entities" and so forth and so forth. So if you are making the connection to the article which you stuck a pin in, I would ask you to get back to that article now and quickly make that connection. But do not expand upon the point that you are making in relation to corruption in the police service. I have heard that numerous times, throughout the evening so far. Continue.

Sen. T. Obika: I thank you very much, Mr. Vice-President. So let me go directly to the article so you can glean the point and get the thrust of my argument. And I quote if you would allow me:

"In December, the European court of justice ruled that 'general and

indiscriminate retention' of emails and electronic communications by governments is illegal. The far-reaching judgment was in relation to previous surveillance legislation but it may now effect the Investigatory Powers Act—the so-called snoopers' charter. Only targeted interception of traffic and location data in order to combat serious crime—including terrorism—was justified, the EU's highest court said."

So to connect it. This agency that the EU was seeking to arrest the powers of is similar to, maybe, what the SSA does, because the SSA again is shrouded in secrecy. But even with that agency, which is not the police service, but similar to our SSA, the European court is saying that, the court of justice is saying that their powers must be checked and it must be targeted. It must not be far-reaching and broad because in that way it would be difficult to have checks and balances.

So I am saying, just as the police officer in every single aspect he has to even count the bullets that are discharged from his gun and explain why in a report, just as he has to account in detail—we are not saying necessarily that some of the actions of the SSA should be, but we are saying do not remove them from the cover of the Freedom of Information Act because then that removes the checks and balances entirely.

Then the article went on to say:

"Notwithstanding such terrible threats to human life"—in reference to the potential terror threats for insurgents in Europe—"notwithstanding"—those—"threats...the constitutional rights to personal privacy sets limits on states surveillance powers..."

So just as the European court of justice covered by this article, in *The Guardian* in the UK, argued, just as they argued we are saying here that in

Trinidad and Tobago you cannot use the looming threat of insurgents who are returning from whence they came, wherever they went, you cannot use the potential of any type of violence to remove the fundamental rights. Now we are looking at two rights of citizens of Trinidad and Tobago, the freedom of information and privacy. You cannot use those things to take a carte blanche removal of our rights.

Now, with regard to the SSA. So I said, Mr. Vice-President, my contribution would not be long and it would be pointed. Just as a point of note, when we look at financial institutions, given that the Exemption Order was made for several institutions, I would not mention their names, Sen. Mark already mentioned them, but these are state enterprises, it begs the question. What we can see here could be, one rule for one and another rule for the other. And as we seek to move forward with business confidence, as we seek to do these things we want to ensure that we correct that. I know that is not on the matter at hand but I just want you to state that for the public record.

So as I move on, do not worry I assure you that I am very close to the end of my contribution. We are looking at accounting for expenditure. Now, this point I am making is in relation to lack of knowledge of the expenditure of the SSA in detail, where it can be detailed there is. So where it can be aggregated, it is aggregated, where it can be detailed, it is detailed—at least to account to Parliament. For example, there was an article on the 17th of October, 2017, in the *Newsday* where they reported that:

“A water cannon for crowd control will be among \$4.5 million worth of equipment to be bought for the police...”

And I am hearing that it was used at some point in time or may have been used. I

am not sure of that, but I look at it from this perspective. This is for the police so therefore we are aware of it. However, what is being bought for the SSA, Mr. Vice-President? What is being bought for them should also be told.

7.25 p.m.

So for example, what if—because we do not know. What if they decide to buy a large shipment of tear gas and even more water cannons? So that one day we may wake, we may arise in this nation at a protest site, instead of an approach where the people's voices are being heard because of this lack of information of the expenditure of the SSA, lack of information of the activities of the SSA, given that they have been removed from the Freedom of Information Act, we can find that instead of the people's voices coming across and being heard, you may find, just as in Grenada where the Mongoose Gang took effect—you may find a similar thing happening here, and we are warning that that must not be.

Mr. Vice-President: Senator, as much as the examples you are changing, the points that you are making are relatively the same. So I am going to ask you if you have something new to raise in relation to the debate, or the Motion at hand, to bring it forward now as you make your contribution.

Sen. T. Obika: Thank you, Mr. Vice-President. So I would look to wind up with a couple points. [*Desk thumping*]

Sen. Ameen: “Why you doh get up and talk one ah these days? Doh disturb de man.”

Mr. Vice-President: Please, please, just—just both sides—

Sen. Ameen: Oh gosh.

Mr. Vice-President: Both sides.

Sen. Ameen: “You always in de public gallery.”

Mr. Vice-President: Continue, Senator. [*Desk thumping*]

Sen. T. Obika: Thank you, Mr. Vice-President. Now, essentially, you have to look at what are the supporters and the opponents of any legislation when it is brought forward and in future you would want to always reflect on who would have supported and what would have been the reasons advanced for so doing.

Now, today, the substantive Motion is regarding the freedom of information legislation. Okay? And when the Freedom of Information Act was being debated in 1999, in April, a Member from the other place, who would have been part of those opposite us—and if you would permit from the *Hansard*, page 555 of April 30, 1999, Mr. Imbert, the Member of Parliament at that time, for Diego Martin East, would have said:

“The fact of the matter is that this Bill is an abomination. That is a fact. Really, it should be called the ‘UNC Secrecy Act’. That is what this Bill should be referred... as...However, I now understand what the Government is up to, and I think it is necessary for us in the PNM to give an undertaking that when we are returned to government, we would reverse these...pieces of legislation.”

Sen. Ameen: Hmm. Imbert said that?

Hon. Senators: “Aaayyy! Nah! Who say dat? Imbert?”

Sen. Mark: Imbert, Imbert.

Sen. T. Obika: It worries me tremendously, Mr. Vice-President, that what we are seeing today with these 14 exemption orders, and counting—because we do not know what else will come—a realization of those exact words of the then Member of Parliament, and who is still a Member of Parliament for his constituency in the other place. I mean, I can go on and on. I can go on and on. I see the Members on

the other side would like—you would like clarification on anything? [*Laughter*]

Hon. Senators: “Is all right.”

Sen. T. Obika: But at this point in time I think there are contributions to come which I am sure we all want to benefit from, and I have made my essential point that, really and truly, there are two fundamental freedoms. There are many others, but two fundamental freedoms that we must protect in Trinidad and Tobago. One is the freedom of information. Persons must have the right to seek and access information and privacy.

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

Mr. Vice-President: Before I call on the next contributor, I would just like to remind Members of Standing Order 53(b) as it relates to tedious repetition. There have been quite a number of individuals who have contributed to the Motion thus far. A lot of points have been put forward. So just be mindful when you are making your contribution going forward, in terms of rehashing points that have gone before, because you will be running afoul of that particular Standing Order. Sen. Chote, I think it is, next? Yes?

Sen. Sophia Chote SC: [*Desk thumping*] Thank you, Mr. Vice-President. The legislation that we are looking at primarily is the Freedom of Information Act and the consideration of the inclusion of the SSA by virtue of the negative resolution into section 5 of that Act. Now, the SSA deals not only with drug trafficking but it was amended in 2016, so it deals with ammunition, crime prevention, firearms and serious crime, if I may just abbreviate it.

I am a little confused, I must confess, as to why the Government would want to black out the SSA, and I say so because during the course of this afternoon I went up to the Parliament’s library and pulled up the SSA reports which are

available there—and apparently which had been laid in Parliament, and I pulled the reports to get a better understanding of what the SSA does, and I found reports from 2009 right up to 2013.

Now, these reports were very useful because they told me a number of things. First of all, the SSA was not afraid to report about its own activities. After all, the Director of the SSA is the official, perhaps the most important adviser to the Minister of National Security. So when I read these SSA reports, I wished that the average citizen had access to these reports because the average citizen has the general idea that crime is spiralling and Government is spending money and getting nothing for it. I think if the average citizen had access to the information contained in these reports, what we would see is that there has been considerable effort made by different governments—or differently constituted governments—to upgrade our crime prevention and crime interdiction system by various means, by cooperating with international agencies, by training, by purchasing equipment, and so on.

What we do not seem to understand is that the SSA primarily is a policy institution, at least, that is what its ambit is supposed to be under the legislation, and having regard to the way in which it has worked as reflected in these reports. So I just want to bring some points to your attention which have come out of these reports.

Now, before I go into that, though, I ought to say that the last report that I have in my possession is the report for 2013, but that report contains a very detailed strategic plan for the period 2013 to 2023. So it means even while we stand here and speak, the SSA is continuing along a path which has been set since 2013—we are now in 2018, five years ago—and they had formulated their plans

and their policies, and it appears as though they are continuing with it.

So what I am not getting is why, all of a sudden, do we need to throw a heavy blanket over the SSA? To me, it would do more harm than good, because citizens now feel that they have access. They can now go and try to find out: okay, what is the SSA? What do they do? Do they provide reports? Who are their external links? How are they viewed by their international partners? And in a certain way, if citizens are aware of that, one thing will follow. And I think that is crucial for crime fighting in this country. That is to say, citizens will recognize that the governments have been trying their hardest to put things in place for crime interdiction, but at the end of the day it is the citizen who has the first-hand information who will be able to assist best in the arrest and prosecution of offenders.

Crimes are not prosecuted with wishes. Crimes are not prosecuted with only scientific evidence. There must be a human element in the prosecution of crimes before the court, and I think our hon. Minister of National Security has said it. I believe the Acting Commissioner—several acting Commissioners—have said it. Citizens need to understand their role in crime fighting. And I think persons who have, or who could have had this kind of information, would have been a little less wary about this SSA and about making it look as though it is this spy agency, and they do not know what purpose it serves, and this kind of thing.

But it still does not answer my question, which is to say: if the SSA is reporting on itself, doing so in a very professional manner, very open manner, what is the need to blanket them? What is the need to cover up their activities? And I have not found, or I have not heard anything from any of the persons who have spoken so far, and perhaps it is all boxed up as a nice surprise at the end for us to

discover. [*Desk thumping*] But at that point we will not have the opportunity to offer any suggestions or criticisms of what is contained in that nice little box.

Now, I am just going to run through, for the purposes of the record and for those who may be listening and who may be viewing, some of the things which I pulled out from the reports and which may assist us all in understanding what the SSA does. The SSA has the responsibility for regular country assessments and the fulfilment of official reporting criteria to the United Nations and the Inter-American Drug Abuse Control Commission. So that is one of its main duties.

OAS members—and we are one—follow a process called Multilateral Evaluation Mechanism, to measure the progress made in drug control throughout the hemisphere. This mechanism promotes the dissemination of information on progress achieved through individual and collective efforts of governments and on this basis it promotes dialogue.

Now, the information I am getting, I can cite my source—

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, in accordance with Standing Order 14(5), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

FREEDOM OF INFORMATION (EXEMPTION) ORDER, 2017

(ANNULMENT OF)

Sen. S. Chote SC: Thank you, Mr. Vice-President. Now, Mr. Vice-President, you may find that I have to read out certain portions because they are not my words, they are the words of the reports, so these points that I make come from the reports

of 2009 to 2013 of the SSA, and if the Hansard reporters require them, I can always pass them on when I am finished. Now, I move on to my next point which I think is absolutely crucial. It says:

One of the things that the SSA does is that it ensures that there are mechanisms to promote the centralization of statistical and other data for policymakers and researchers, and they provide a source of communication to the public on government's response to the drug problem.

Because initially the SSA was all about drug interdiction. So one of the aims, or one of the clear aims and intentions of the SSA, or one of its mandates, was clearly not only helping to formulate policy, but also to carry the message through to the public via the Government. So I cannot now understand why we would want to cut that channel of communication. Because, to me, that channel seems to be only carrying good news, which is something that we in this country are short of. And certainly I think we need an explanation for this sort of arbitrary act of seeking to place the SSA under a blanket to say that the Freedom of Information Act will no longer apply without saying why.

Because I am looking at the mandate and I cannot find anything there to justify it. And if I may continue. I think we must remember that as citizens we are stakeholders in our own security, so we need to know. We already know that if your phone is seized by the police, the police are entitled to interrogate it. That is not news. That does not need to be hidden from members of the public. We already know that the police have surveillance equipment and they can carry out surveillance, not in the old way by sitting down in a car and watching on a street, but they can carry out surveillance through the wireless systems which map our country. So why are we trying to hide that? How is that something new that if it is

discovered will harm crime fighting in this country? I regret that I fail to appreciate it.

Now the other thing that disturbs me is that the SSA has various Memoranda of Understanding and they have various Memoranda of Understanding with institutions such as the TTDF, the TTPS and Immigration. So what is going to happen now? Is it that any agency that has a relationship with the SSA will find that their dialogue, their correspondence, their activities, will now be covered by this blanket? I think this whole thing leads to a great deal of uncertainty as to the application of this blackout. Now, one of the quite amusing things that I also discovered is apart from doing reports, the SSA does publications, because it is mandated to advise on policy and the formation and dissemination of information and intelligence to the appropriate services.

Now, one of the things that we do not know is that several years ago the SSA started doing work and disseminating information about Islamic terrorism. Now, from what I heard in this Parliament recently, we would have thought that this was a new thing, that the Minister was now approaching this issue of Islamic fundamentalism and terrorism in this jurisdiction, having regard to statements made last year.

The fact of the matter is, this agency has been working on this and had the foresight to work on it years ago. Now it is quite possible that the Minister may not have had sufficient time to tell us about all of the good things that the SSA has done, but it is here in black and white, ladies and gentlemen, fellow Senators, Mr. Vice-President, through you. It is here in black and white, and I have not heard anything to suggest that what the SSA has done is to—I do not know—misuse funds, mislead the public, collect information on people illegally, and this kind of

thing.

We have their reports which were laid in Parliament and I presume that once they are laid in Parliament they are open to scrutiny and questions could have been asked thereafter if it was thought that anything contained in these reports from 2009 to 2013, they could have been called before Parliament to answer questions about it. And I do not believe that that has ever occurred.

Now, in particular, in the 2010 Report, the SSA says that it is the country's main point of contact for the UN Programme of action. It was aided by its international partners. It has ensured that government's commitment to tackling the proliferation of firearms, trafficking as consistent with its international obligations. It provides reports on our behalf to the UN and the OAS. And why does it do so in the words of the SSA?

To promote transparency in order to benefit from much needed assistance.

Now, I find something really wrong with this, as a citizen of this country, that one of our national agencies should be working to provide information to ensure full transparency to foreign partners and, on the other hand, the citizens of the country are now going to be told that you cannot have that information. There must be something fundamentally wrong with that proposal or whatever brought about that thought in the proponent's mind. Now, if I may just, perhaps, step back a bit and read for you what the SSA has set out, or what it has identified as its functions under the Act, that perhaps would clear it up.

The "SSA's main function—"

It is set out in all the reports but I just happened to pick up the 2012, so this is the one I am looking at. It says:

Its "main function as stipulated in the Act may be classified as follows:

Coordination...”

And they talk about coordinating:

“all matters relating to the dangerous drugs supply-reduction programme, including coordinating operations for the suppression of illicit drug trafficking and drug related activities and cooperating with international strategic and operational partners.”

Now, the reason for the focus on drug interdiction, as I say, is because the legislation widening the ambit only came in 2016, and these reports go up 2013:

“Policy: advise on policy in relation to all matters pertinent to the illicit supply of drugs and related criminal activities.

Trends: Analyse and interpret patterns of criminal activity that relate to, but are not limited to dangerous drugs.”

You see, intelligence support does not carry the narrow meaning that many people it think it does. Intelligence is not collecting information about bad people, so that they may be later prosecuted. It includes collecting data and statistics about crime and trends of crime in general. If I may continue:

“Strategy: provide strategic direction to Government through the development, interpretation, implementation, monitoring and evaluation of strategies aimed at reducing the illicit production, sale, distribution and transiting of illicit drugs and related criminal activities.

Technical Support: provide specialized technical assistance to the appropriate services to augment the national institutional capability to address the illicit trafficking in drugs and its attendant crimes.

Legal: provide support for the review or upgrade of the domestic legal framework.”

And I suppose one of the outcomes was the amendment in 2016.

So having set out what its mandate is, quite frankly, I—and criminal lawyers are known for being paranoid and cynical, but I do not see that what they have set out there as their mandate is something dangerous or that is likely to undermine the fabric of our society. So why should it not be scrutinized if need be as required by the Freedom of Information Act? When we look at the agencies which are covered under section 5, why would we pull the SSA out, out of all of the agencies that we have in this country and include it along with institutions such as the President, and the President's office? I mean, to me, that is a huge promotion and there must be some reason for it. But I am looking here; I am looking in the paperwork; I am listening to my friends and I am not seeing it.

Now, one of the things that the SSA does in its interaction with international agencies such as the European Union Commission is that it receives technical assistance and training for security, and with that will come funds.

7.55 p.m.

Now, I am sure that on the other end that the European Union would have some sort of accounting and some sort of transparency with respect to funds they give to us. So I do not understand why we must say that any funds that we receive from an agency, such as this, should be covered by our absence from the Freedom of Information Act. I would think we would want to know how those funds are being spent.

Now, I also thought that administration and governance was going philosophically and practically along the lines of oversight. We hear about oversight in every respect. We have oversight for the police, we are talking about parliamentary oversight. What oversight is there going to be for somebody or a

group of people advising a Minister of Government? Why is there not going to be any oversight for that particular group? To me, to suggest that that must be so, sounds arbitrary, it sounds unreasonable. There seems to be no logical basis for the introduction of this negative proposal, and I dare say, Mr. Vice-President, that when we have to look at matters such as these we have to first say, okay, what is the problem we want to address here, and having gone through the material which I have gone through, I do not know what is the problem we are addressing, or why we are being asked to address or treat something as a problem in the first place. And without that knowledge, quite frankly, I do not think that this ought to be allowed.

I do not think that this negative resolution makes sense at all. It makes absolutely no sense, and especially when you do the research and you have the SSA telling you what it does. There is no harm—if the SSA wishes to refuse an application for information it can do so. Nothing prevents it from doing so, but why are we taking away judicial scrutiny? Why are we doing that? You know what is going to happen there? We take away judicial scrutiny and we head straight to the courts who will tell us you ought not to remove judicial scrutiny. So this Parliament will be contributing to the backlog of the courts, to the cost of litigation, when instead what we can simply do is look at this intelligently and come to the right conclusion. I do not see what is so difficult about that.

So with those few words, thank you for the opportunity to speak, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: Sen. Ramdeen.

Sen. Gerald Ramdeen: Mr. Vice-President, good evening and thank you for the opportunity to contribute to this Motion and to support the Motion brought by my

fellow Senator, Sen. Mark, which seeks to annul and to use the words of section 5(1)(b) of the Freedom of Information Act—5(1)(c) to negative the Order that seeks to disapply the Freedom of Information Act to the Strategic Services Agency. Mr. Vice-President, I hope in the time that I have allotted to me to share with my fellow Senators some of the knowledge that I have about the Freedom of Information Act and the way in which it operates. In the other place, the Attorney General declared that I was one of those persons who is very familiar with the operations of this particular piece of legislation, and I am always grateful to share in my knowledge and experience with my fellow Senators. So in my 40 minutes I will try to do just that.

I want to start off, Mr. Vice-President, by quoting one of the most recent judgments of the Court of Appeal in this area of the law in Civil Appeal No. P200 of 2014—a matter that is on appeal to the Judicial Committee of the Privy Council—and one of our most celebrated Justices of Appeal, Mr, Peter Jamadar, said this of the Freedom of Information Act:

“It”—is—“may be worth reminding ourselves that whereas freedom, transparency and accountability are the hallmarks of a participatory democracy, secrecy lies at the heart of a dictatorship...” [*Desk thumping*]

That is our Court of Appeal.

Sen. Mark: Repeat that for the record.

Sen. G. Ramdeen: “It”—is—“may be worth reminding ourselves that whereas freedom, transparency and accountability are the hallmarks of a participatory democracy, secrecy lies at the heart of a dictatorship...”

And that should underlie to all of us here, the very serious step that we are asked to take this afternoon of removing a public authority from the scrutiny of the Freedom

of Information Act. Like I said, Mr. Vice-President, I want to start off my contribution by emphasizing how important and how the landscape, the jurisprudential landscape and the democracy of our country in 1999 was changed by the passage of this particular piece of legislation. Like Sen. Rambharat indicated, the Judicial Review Act and the Freedom of Information Act are perhaps two of the most fundamental progressive pieces of legislation that have ever been passed by the Parliament of this country [*Desk thumping*] and it is no coincidence that it was passed by a United National Congress administration.

I want to quote from the *Hansard* of the 30th of April, 1999, in the second reading of the debate on the Freedom of Information Bill, and I want to quote the then Attorney General, Mr. Ramesh Lawrence Maharaj, and this is what he had to say about the Freedom of Information Act, and it is very, very important for when we consider what we are doing here this evening to understand what we are doing.

“The rationale for this kind of legislation has been to make government more accountable by making it more open to public scrutiny. It is also to improve the quality of decision-making by Government, to enable groups and individuals to be kept informed of the functioning of the decision-making process as it affects them, and to know the kinds of criteria that will be applied by government agencies in making those decisions, to enable individuals, except in very limited and exceptional circumstances, to have access to information about them held on Government files so that they may know the basis on which decisions that can fundamentally affect their lives are made and, have the opportunity of correcting information that is incorrect or misleading. Also, it is to increase the level of public participation in the process of policy-making and Government.”

Mr. Vice-President, it is very ironic that an administration that promised good governance, accountability and transparency to the people of this country before 2015, and before they were in Government, will now while in Government take steps that are totally opposite to those principles that they promised the people of this country. [*Desk thumping*] There is one particular piece of learning that really brings home why it is so important to not shield any public authority from the eyes and the lens of the Freedom of Information Act, and a lot of it—I want to quote from a judgment of *Ashford Sankar v the Public Service Commission*, because I heard the Attorney General in the other place say that the state of the law in relation to the Freedom of Information Act is in a state of flux. Well, I do not know what that means because I can say I practise in this area and I do not know it to be in any state of flux, but let me quote here from Mr. Justice Narine.

“...the object of the Act”—that is the Freedom of Information Act—“is to make information freely accessible to the public with a view of promoting transparency...accountability in the decision-making of public authorities. It is an important piece of legislation”—and this is the important part, Mr. Vice-President, for us to understand where we have come from and where we are being taken by this administration—“in a post-colonial society in which bureaucrats have historically been reluctant to expose their decisions to the glare of public scrutiny. Freedom of access to information is also important in a society that is politically polarized along ethnic lines, and in which the appointment to public office, and decisions involving the allocation of state resources are often the subject of speculation and mistrust. Against this historical and social background, the right to access information from public authorities must be jealously guarded, and must not be allowed

to be whittled down.”

That is the Court of Appeal of Trinidad and Tobago warning us against doing exactly what is being done in the Parliament today, by taking away the Freedom of Information Act from the SSA. The Court of Appeal has warned us about that, and this is what the Government has done and we are asking to reverse.

So we must be very careful, Mr. Vice-President, and we must be careful because one must understand that the information that is in the bosom and the possession of public authorities belong to the people. Those public authorities exercise those powers on behalf of the people of this country, and because that information belongs to the people, it is held on trust by those public authorities, and we have reached the point in our democracy where we have matured to have enacted legislation that by the Freedom of Information Act allows every single citizen the right of access. What possible good ground could we have, or the Government can have to reverse that kind of progress? I can find none.

Mr. Vice-President, I want to deal with one issue before I go any further. You see this issue about Resmi Ramnarine, the first debate I ever did in this Senate was on the amendment to the SSA. My learned friend, the Minister of Agriculture, Land and Fisheries, replied to me on my first contribution, my maiden contribution, and the first issue that was raised in that was Resmi Ramnarine. Resmi Ramnarine was a mistake that was made by the People's Partnership Government. It was a mistake. It was reversed within one week of being made, and I and the leader that leads me have apologized to this country for that mistake, but you see it is very convenient for the other side to talk about Resmi Ramnarine.

You know what the problem in our country is and why we are having this debate? Because we suffer from a high degree of mistrust. The people do not trust

this administration. They do not. [*Desk thumping*] It is convenient for the Minister of Agriculture, Land and Fisheries to tell us about Resmi Ramnarine and he did not want to talk about Resmi Ramnarine, but you know why we are in this position today, and you know why we are so concerned about what we are asked to do? We have apologized for Resmi Ramnarine, but I have not heard any apology from the PNM. I have not heard any apology from the PNM for what they did when they were in power.

Sen. Ameen: Malcolm Jones.

Sen. G. Ramdeen: No, I do not want to talk about Malcolm Jones. Under the PNM, the PNM—and I am glad— You know, I was very heartened to hear the Leader of Government Business say in response to Sen. Mark, “The PNM does not have any different incarnations you know. The PNM is one PNM. From 1956—2018 is one PNM.” I am happy about that because you see it was that same one PNM in that same incarnation, that one incarnation that they are known to be in, that had something called the Secret Intelligence Agency, and something called the Special Anti-Crime Unit of Trinidad and Tobago.

So we acknowledge on this side we are not perfect. We do not proclaim to be perfect, but I want to remind those on the other side—and I want to read in this very important debate where we are asked to take the activities of the SSA away from the Freedom of Information Act, from a statement that was made by the Prime Minister of this country, to the Parliament of this country, in the House of Representatives. I want to read from the *Hansard* so that all of us could understand and take it in. On the 12th of November, 2010—and you will understand why we have these concerns about agencies like the SSA, and why we have concerns when this administration tells us that we must not let the SSA be

subject to the FOIA.

Mr. Vice-President, in November of 2010, a statement was made by the then Prime Minister about the activities of these two agencies, the Secret Intelligence Agency and Special Anti-Crime Unit of Trinidad and Tobago, and let me quote from what the then Prime Minister said was going on in those two agencies, no different from the SSA.

Permit me to cite a few examples, Mr. Speaker. A covert project code named Operation News commenced in March 2005.

Who was in Government then? The People's Partnership? It was the PNM and has been ongoing since then.

Among the targets were—so let us read and let me refresh the memory of the PNM.

Kamla Persad-Bissessar, Anand Ramlogan, Suruj Rambachan, Wade Mark, Manohar Ramsaran, Jack Warner, Fuad Khan, Gary Griffith, Anil Roberts, Ashworth Jack, Keith Rowley.

Sen. Obika: Is everybody?

Sen. G. Ramdeen: Judiciary—no, I am calling some. I am not calling all—the Chief Justice of this country, Satnarine Sharma—his phone was the subject of the SIA and SAUTT—Herbert Volney, Justice Narine, Madam Justice Carol Gobin—and the list goes on. I do not need to go down to all of them—Colm Imbert, Faris Al Rawi. This is the legacy of the PNM. We have apologized for Resmi Ramnarine, I have not heard the PNM apologize. Resmi Ramnarine was fixed in one week.

When you invaded the privacy of these people you violated their privacy, you violated the fundamental rights that are guaranteed to them under the

Constitution. We are in 2018, this happened in 2005 and not a member of the PNM has apologized for this that happened in our—[*Desk thumping*] and you want to tell us about moral authority to talk. Moral authority? Mr. Vice-President, let me stand here today and say none of us in here are perfect, none of us, but we have taken a decision on this side that if we do like the PNM and concentrate on the past we will never move forward. We have all made mistakes. We are not going to get anywhere by talking about Resmi Ramnarine and I am citing what went on under the SIA and under SAUTT.

We are here to negative this because we think this is in the best interest of the people of Trinidad and Tobago. [*Desk thumping*] It is in the discharge of our functions to uphold the Constitution and the law, the oath that we have taken there that we have brought this Motion to negative this that the PNM has brought, because we consider it is paramount on this side to act in the best interest of the people of this country and we will continue to do that whether we are on this side or we are on that side.

Mr. Vice-President, the problem that we have is that this is an administration that we cannot trust, and that is why when they tell us let us take it away—and I will get to the provisions of Freedom of Information Act one by one and show you how this does not make any sense. But I want to give you one more example before I move on. One very shocking example. A shocking example that it bothers me. You know why, Mr. Vice-President? Because our country was embarrassed by the PNM administration when a matter had to go to the Privy Council on two occasions. You know why it went there on two occasions? It went there on two occasions because you had an administration that commanded the corridors of power in this country that discriminated against a particular group of

people in this country and without an apology. Without an apology let me tell you what they did. What I am reading from is a judgment of the Privy Council, the highest court in our country, and let me tell you what the legacy of the PNM is.

I am reading from a judgment in Sanatan Dharma Maha Sabha, *Central Broadcasting Services Ltd v the Attorney General of Trinidad and Tobago*, delivered on the 4th of July, 2006, by one of the most brilliant Law Lords, Lord Mance, and after quoting from a letter, a Cabinet letter, let me tell you what he said about the PNM Government.

“...The letter discloses a situation”—and listen carefully, Mr. Vice-President, because this is why we do not trust them—“in which the Court of Appeal was allowed to proceed under a serious misapprehension in and throughout the course of two substantial hearings.

The Court of Appeal was twice allowed...”

Mr. Vice-President: Could you tie it in to the Motion before me, specifically the Freedom of Information Act.

Sen. G. Ramdeen: Sure.

Mr. Vice-President: I understand that you are reading from that judgment, but just, again, tie it in specifically for me.

Sen. G. Ramdeen:—“to give judgment on false premises...”

Twice! How that ties in to what we are doing here, Mr. Vice-President, is that we cannot trust that administration.

The reason why the Freedom of Information Act in 1999 made a fundamental change to the landscape of our country was, you know why? Because for 30 years, from 1956 to 1986, and which continued between 1990 and 1995, people in this country were discriminated against. You know why? Because they

did not have access to the information that formed the basis of the discrimination that they were facing, and that is why UNC administration in 1999 decided to make this fundamental change to allow all public authorities to be open and transparent in the form of the Freedom of Information Act. And for those who do not know, let me say it openly, I practise in this field and the Freedom of Information Act has brought justice to people who would have never had a chance to access justice in this country. That is what it did. Almost every single promotion matter, every single promotion challenged by way of judicial review, you know how it starts? It starts off by someone accessing that information by virtue of the Freedom of Information Act, and today, as a Parliament, we are being asked to take that Act and disapply it.

So, Mr. Vice-President, let me get down to the Act, but I just want to premise what I say by this. Sen. Chote indicated that throughout her listening this afternoon we were trying to find well what is the rationale behind all of this, what is the rationale for asking us to do this, and I think Sen. Rambharat provided the rationale for us as shocking as it might be. Unless I misinterpret what he said, but I wrote it down when he spoke it. He said the rationale for doing what we are asked to do this afternoon is serious impracticality. I have it here and I could not believe it. I sat patiently to get my opportunity because I cannot understand how any Government can tell you we do not want to abide by the law because it is serious impracticality. I mean, it is astonishing that a member of the Government obviously indicating what the position of the Cabinet is because the Cabinet is who informs His Excellency that this is the position. This is a Cabinet decision. This would have been subject to Cabinet deliberation and we are being told, as a Parliament, that the reason why we are asked to this is because of serious

impracticality.

Now, Mr. Vice-President, I do not know, but if this is where we are going with the Freedom of Information Act and the SSA, I know for myself a serious impracticality that the State faces with the litigation that they face every day. So the next thing that we are going to hear, “Well, let us disapply section 14 of the Constitution because that is serious impracticality to defend”; let us disapply section 4(a) of the Constitution because that is serious impracticality on the part of the State. I do not understand. I do not think the Government understands what they are saying because it does not make any sense. How can you come to a Parliament and say it is impractical? This is what it all boils down to. This is the core of what the Government has told us this afternoon.

The Freedom of Information Act was enacted to give you access to information. The Act provides a statutory scheme whereby the court is allowed to balance the right of access with the public interest. That access to information is not an absolute right. The Act is premised upon giving access to information to the public. It is designed that way. There are certain exceptions that are provided in the Act—if I have the time I will go through them—but there are certain exceptions that disallow information to be given, and apart from the exceptions there is a second tier which says that even if a request for information falls within one of those exceptions, in the public interest the court has an overriding jurisdiction to override that exception.

Mr. Vice-President, there cannot be any greater protection for a public authority than what is enshrined in the Freedom of Information Act, and what the Government is telling us, to put it simply so that people will understand, is that the SSA is impractical for them to apply the provisions of the Act and be able to say,

this falls within an exception, we will not give you that information, and then go to section 35 and decide if we will do it in the public interest. If the Government really is proffering that as the rationale for asking us to do what they are seeking to do by this Order, there is no other way of describing this administration, than being an administration that is clearly bent on making our democracy a dictatorship. [*Desk thumping*] You cannot describe it any other way because how can an administration say that they do not want to comply with the law, and therefore, we will use the power given to us to disapply the Freedom of Information Act to the SSA. How could you possibly say that? It begs the questions as to what is next, and I am serious.

As a practising public lawyer you have to ask yourself: Are they going to then say tomorrow we will bring the Judicial Review Act and disapply it from somewhere else, or disapply it to another authority? Suppose they decide tomorrow they have too many judicial reviews of the Trinidad and Tobago Police Service, or a service commission, are they going to come and say let us disapply that too? Is that how we are going to run our country? The progress that we made by enacting this type of legislation, is the PNM bent on taking us back to between 1956 and 1986? That is where we are going? Well, we cannot support that and we will not support that.

8.25 p.m.

Mr. Vice-President, one of most fundamental—I listened in shock, and I cannot describe it any other way, to the contribution of the Attorney General in the other place. I listened in shock because the Attorney General said there is a mosaic principle about freedom of information and the world is going in another direction and the law is changed, and national security is important. Mr. Vice-President,

perhaps the most fundamental protection or exception that is made to the Freedom of Information Act is in relation to Cabinet deliberations and Cabinet documents because that links indirectly to national security. It is perhaps the most significant.

Mr. Vice-President, I want to suggest in the kindest of ways that the Attorney General read the decision in Chris Ryan and the Cabinet office versus the Information Commissioner. A decision handed out by the Information Tribunal on the 27th of January, 2009. You know what this decision has done, Mr. Vice-President? Because the Attorney General gave us a landscape tour about the jurisprudence throughout the Commonwealth and the US when he was doing his contribution, I am sure that he will do it here again. I do not wish to anticipate but I will listen carefully. You know what this decision does, Mr. Vice-President? This is a decision where the Information Commissioner in the United Kingdom allowed a request for information of you know what? The Cabinet decision of the United Kingdom to go to war in Iraq. That is what it is. They overturned the courts and gave access to the Cabinet Minutes of the decision of the United Kingdom Cabinet to go to war in Iraq. That is the extent to which the freedom of information has allowed a citizen, throughout the Commonwealth, to access information in the public interest.

Mr. Vice-President, the Freedom of Information Act provides every protection possible for any public authority to properly exercise their discretion, to withhold information that ought not to be in the hands of a member of the public on specified statutory grounds. And I heard the Attorney General say, because I cannot reply, Mr. Vice-President, so I have to just go on what was said in the other place. I heard the Attorney General say that one of the reasons why this must be done is because it is an offence and you have secrecy provisions under the SSA

Act and, therefore, that is why we need to do this, so we will bring the law, the FOIA, into line with the SSA. Well, Mr. Vice-President, unfortunately, I have to say again, that makes absolutely no sense, and I will tell you why.

Because the Act itself says that:

“A document is an exempt document if it contains information, the disclosure of which would be likely to prejudice the lawful activities of the security or intelligence services.”

So, I do not know. My friend, the Minister of Agriculture says that these exceptions that are provided in the Freedom of Information Act provide a proper basis for us doing what we are asked to do this afternoon. Well respectfully, again, Mr. Vice-President, I do not see the logic or rationality in that because if the law itself, as it presently stands, provides these protections to a public authority faced with a request for information and also gives you, the citizen, the additional protection that that information can be provided— notwithstanding it forms an exception in the public interest—then, Mr. Vice-President, how could we, as a Parliament, recognizing that we abide in a democracy based upon a Constitution that recognizes the separation of powers, ever come to a rational conclusion that it is better to allow the political directorate to balance our rights than the courts? It just, again, does not make any sense. But, Mr. Vice-President, I think I have about five more minutes, I think.

Mr. Vice-President: Ten.

Sen. G. Ramdeen: Ten. Great. That is just enough time I need to deal with one issue that the Attorney General had raised as well.

Mr. Vice-President: Actually, Senator, the time is—almost 8.30 and I think it is prudent that we take a 10-minute recess at this point. So this House will now stand

suspended for 10 minutes, we return at 8.40 p.m.

8.30 p.m.: *Sitting suspended.*

8.40 p.m.: *Sitting resumed.*

Mr. Vice-President: Sen. Ramdeen, you have 10 more minutes. [*Desk thumping*]

Sen. G. Ramdeen: Thank you, Mr. Vice-President. The particular section that I wanted to make reference is section 34 of the Freedom of Information Act which says:

“A document is an exempt document if there is in force a written law applying specifically to information of a kind contained in the document and prohibiting persons referred to in the written law from disclosing information of that, whether the prohibition is absolute or is subject to exceptions or qualifications.”

So it does not form a rational basis for us to tell us that because there is a prohibition and an offence that is created under the SSA for the disclosure of information, that that forms the causal link between the Order that is sought to get parliamentary approval or the Order that is enforced now because of a Cabinet decision and the provisions of the Freedom of Information Act. And perhaps, the most important provision is the section 35 override—what we call the section 35 override, which is:

“Notwithstanding any law to the contrary, a public authority shall give access to an exempt document where there is reasonable evidence that significant—”

And look at the factors that the public override is based upon, Mr. Vice-President:

- “(a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual; or

- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorised use of public funds.”

Mr. Vice-President, just to go back to the example that I raised earlier: In another incarnation, the SSA, in what it used to be before, which is the SIA and SAUTT, our experience that we had with those entities before should not be allowed to repeat itself. We should at least learn from what happened wrong in the incarnation of those two authorities. I was involved in litigation where you had to defend the actions of people in those two entities that were giving out contracts. No procurement. Hundreds of millions of dollars: meals, uniforms, anything you could think about. And you know the position that the State had to take in those matters, Mr. Vice-President?—that they had no authority to do that and therefore the State was not liable for it.

So you had people who were supplying goods and services to an entity funded by public funds, not paying. When they are sued, the State paying for litigation to be defended and what the defence is? They have no authority to do that. Who loses at the end of the day? Everybody. And that is why it is important, at the end of the day, to have scrutiny over any public authority. There can be absolutely no good reason, absolutely no good reason for doing this.

Now, Mr. Vice-President, I want to just say, just like how I apologized for Resmi Ramnarine, I want to say, I do not apologize at all for representing people in this country and giving them access to justice. [*Desk thumping*] I do not.

Sen. Gopee-Scoon: [*Inaudible*]

Mr. Vice-President: You are going to retract, right? Say the words: “I retract the statement.”

Sen. Gopee-Scoon: I do retract the statement.

Mr. Vice-President: Thank you.

Sen. G. Ramdeen: I would not bother to respond to that. You see, I can stand up here and say that I represent the people of this country who cannot afford and cannot access justice, [*Desk thumping*] and I have done it for 17 years and I will continue to do it. I am waiting for one on that side to say how many people they have represented because you see, it is not passing strange, every time the Attorney General addresses the Parliament and speaks about Ramdeen and Ramlogan, “he always citing some case that Ramdeen and Ramlogan doing”. I am still waiting for the Attorney General to cite one case that he did. [*Desk thumping and laughter*] “Dais wah ah waiting for.”

You see, Mr. Vice-President, in the debate in the other place, I want to set the high—you see, I have a duty to correct what is on the *Hansard* in this country because people have—[*Interruption*]—Mr. Vice-President—

Mr. Vice-President: Members, Members, please allow the Senator to continue. [*Desk thumping*]

Sen. G. Ramdeen: Let me tell you how important the freedom of information is. I would not reply to anything in the House. “Leh me talk about the Bill that here.” [*Crosstalk*] “No, I not getting vex. I will tell you wey it is about.” There were two matters: *Darryl Heeralal (No.) 1* and *Darryl Heeralal (No.) 2 v the Minister of Finance*. The Attorney General is very familiar with this. Let me tell you what this was about, freedom of information. This administration removed a Governor of the Central Bank and this side wanted to know—[*Interruption*] [*Crosstalk*] “How it sub judice?” Anyway, Mr. Vice-President, these are matters that have been determined by the court, I have the court orders here. [*Crosstalk*]

Mr. Vice-President: That is absolutely true. You do not have much time left.

[*Laughter*] So just be mindful. You do not need to respond to anything, just respond to the Chair.

Sen. G. Ramdeen: Mr. Vice-President, these are two matters in which a citizen of this country invoked the provisions of the Freedom of Information Act and because the State that is represented by section 76(1) of the Constitution by the Office of the Attorney General did not provide the information in time, you know what they had to do in this case, Mr. Vice-President? Not only the figures are important, you know, I will tell what it was. The Attorney General consented in two freedom of information applications for the taxpayers of this country to pay over \$400,000 in costs because of the actions of the State. Because of the actions of the State, consented. And you know why that was so? Because the orders of a judge of the High Court, Madam Justice Gobin, was breached by the State. That is why and that is the cost.

And, Mr. Vice-President, I will end by saying this: never before, never before in the history of this country has the State of Trinidad and Tobago ever lost so much litigation as they have lost since September of 2015 to January of 2018. [*Desk thumping*] But sanity will be returned to the Office of the Attorney General very soon, I guarantee you that. Thank you. [*Desk thumping*]

Sen. Paul Richards: Thank you very much, Mr. Vice-President. I did not intend to initially participate in this debate, but given what I have heard so far and the fact that the media has been cited and referenced by many speakers before, and I would not be too long because fortunately, to use the old cricket analogy, coming in this late, you just have to add two, three runs and let the chips fall where they may.

But you know, in going through many of the resources online, there are several quotations regarding the freedom of information in the context of

democracy in any jurisdiction. You know, one, in an opinion poll in Lagos, Nigeria by Macdonald Uchenna Enwere stated:

“There is no doubt to admit that the freedom of information is an indispensable part of true democracy is seen as the system in which people have free access to information contained in government record.”

And it goes so far back to quote:

“Athenian democracy in the 5th century BC required the people to seek, receive and import information and ideas in government.”

You know, I have to admit that my mind is open where this debate is concerned given what I have heard and I look forward to the contribution of the Attorney General to assuage—I do not want to say “concerns”, but questions about what reasons can really be proffered to add this carte-blanche-seeming insulation of the SSA in this context, given the fact that, I mean, any sensible Trinbagonian will admit that it is obvious that no one should have access to information that would jeopardize national security, national security policy and anything that can aid and promote public safety, especially given what we face in Trinidad and Tobago today.

You know, I will go so far as to reference a statement made by Sen. Ramdeen in his contribution just now, that well, he stated and I quote:

The public does not trust the present Government.

And I will go further. The public does not trust any Government, past or present, or politicians for that matter. And when you have agencies like the SSA and agencies like the SSA are extremely important in today’s context, in any society given the kind of criminality and transnational criminality that we are seeing, in gathering information and using that information to contribute to policy formation

because of the fast evolution of crime in any jurisdiction, those agencies have to have the powers they have.

But when you think of the fact that these agencies and their powers really abrogate our fundamental rights in many instances and they have a right to because it is in the interest of all our public safety, we have to ask with that kind of power of agencies like that, and from as simple as the police to us in Parliament, have to also be held accountable at some level. Have to be and I am waiting with bated breath to find out under what circumstances and conditions, barring national security, will we not want to be able to scrutinize these agencies and their operations? As I said before, barring anything that would compromise the national security of every citizen and the public safety of every citizen.

And you know, another interesting document I was able to come across, especially in the context of public information and the International Right to Know Day which is an idea proposed on the 28th of September, 2002, at a meeting of freedom of information organizations from around the world held in Sofia, Bulgaria, and that day aimed to highlight and raise awareness of people's right to access government information keeping in mind that freedom of information is an essential component of both democracy and good governance.

A couple of years ago, the world was a very different place. We have seen the elections of what I would only describe as leaders of questionable taste, moral compasses, able to say things unthinkable in the past and now we have to accept it, and these are leaders in so-called developed countries, First World countries. So my concern is not questioning the moral compass of the present Government but we need to pass laws and amend laws in Trinidad and Tobago with the possibility of considering who may end up in power. And as we have seen around the world,

literally anyone could end up in power. [*Crosstalk*] Anyone can end up in power in some or one of the most powerful countries in the world with totally obtuse moral, ethical and social compasses to our own and sensitivities.

And would we want those kinds of people to have unfettered unscrutinized access to power and information? And that is the question. And would we want that kind of situation in Trinidad and Tobago where someone in the not-too-distant or far future to have access to an agency like the SSA who would do things that the present Government or past Government could not conceive of doing and absolutely abrogate the right of every citizen? Is that not a frightening spectre? I shudder to think.

So again, I said I was not going to be long but I am waiting with bated breath for the hon. Attorney General to indicate just what the circumstance is that belies the need for this seemingly *carte blanche* insulation of the SSA in the absence of anything that can compromise national security because I think that is important for the people of Trinidad and Tobago. Especially in the context of their—because I remember in one of the Bills that we were debating last year, there was a fervent discussion as to whether people have the right to privacy and I kind of agree with the Attorney General in terms of really and truly, whether you think it is constitutional or not, you really have no privacy. Once you have a cell phone, a computer, you have no privacy.

The question is whether that information that is gleaned by the agencies or anyone else can be used against you legally, and that is when dealing with these kinds of amendments, or not, become important. Because it is okay for someone to have your information, you know, but for them to be able to use it against you under the ambit of a law is a totally different matter, and that is where my concern

lies. Because as they say, I tell all my friends and family, presume everything you have on your phone is going to go public one day, all the filters are going to come off. Can you live with that? Because one day, the great hack will come.

The salient part of this is whether or not we want the State to be able to have a *carte blanche* access and legal options to act on that and that is to me where the question is. And as I said before, this is not an implication or throwing shade at the Government in any way. I always think of what can happen in the future because the past 16 or so months around the world has shown me, as I said before, that anyone can come to power.

We have seen what happened in the last 50-plus years in Trinidad and Tobago and every administration, we can ascribe some greatness and some faults. We can ascribe allegations and overt corruption to every administration so I do not think anyone can throw stones. The political divide will dictate who believes who is more culpable. That is irrelevant at this point in our history, to me, in Trinidad and Tobago. We have to look forward and we have to pass and amend laws that can correct what has happened in the past and make all of us, to me, more accountable to the people of Trinidad and Tobago.

And with those few words, I say thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Anita Haynes: Thank you, Mr. Vice-President, for allowing me the opportunity to contribute in this very important debate, which seeks to ask the Government to halt on its move to exempt the SSA from the scrutiny afforded by the Freedom of Information Act. Before I get into the substance of my contribution here tonight, which is quite short, I would just like to extend best wishes for 2018 to the staff and Senate colleagues alike and this is the first time I

am seeing most of you for the year so I would like to extend my best wishes. I have one major observation and then one point that I would like to make and that would be the essence of my contribution.

Tonight, Sen. Mark raised a Motion that I felt, when I read it, was critical to our political philosophy and how we view democracy in our nation. And I anticipated, when I came here, that there would be intense discourse, that we would have our points to make, that the Government would have their points to make and the Independents would have their points to make. I was disappointed that the Government saw it fit to field only one speaker so far on this Motion, and that says to me that perhaps they did not see it fit because not just to talk to us but to tell the nation why they feel it is so important to exempt the SSA from the scrutiny.

Well, they could say that Sen. Rambharat made all of the points that they needed to make, and I mean, while his contribution was quite good, Sen. Chote still had questions, a number of people still had questions so it was not, you know, what I anticipated. As a freshman Senator and as someone who has a keen interest in politics and politics in Trinidad and politics on the whole, I think that we should be here discussing our ideology. And my personal ideology is that we should not seek to give any Government any absolute power, and that is where I come from when I looked at this particular Motion and the Government, I assume, disagrees and they should have stood here and defended their position and so that we would have had a discussion and maybe some people would have left here more comforted. Yes, so that was my one observation.

My angle on this Motion is that we have heard a lot about balancing. Balancing the access to information versus the duty of the public authority to

insulate themselves, to carry out their duty in the best interest of the public. And while we spoke about balancing and everybody had their take on it, I sat here and my thought was: What about this wider essence of checks and balances and a check on Executive power? And while people may say they already had this power, when Sen. Ramdeen raised the point that the rationale given was serious impracticality, it really boils down to if you take everything else aside, that it is the Executive flexing its muscles. You can do this, you do not need our vote which is evident by the fact that you did not see it fit to contribute today in any meaningful fashion. [*Desk thumping*]

So you did not say this is the Legal Notice, you do what you want, we will do what we can do. And when you think about that in the context of democracy and in the context of the balance of power, it is the Executive saying that we will take onto ourselves increasing power and there is a finite amount of power so that power must come from the citizens. So the power that you are taking, you are taking not from the United National Congress, you are taking it from the people of Trinidad and Tobago. [*Desk thumping*]

And you may not think that every citizen wants to walk in and look at files or that there would be this wealth of applications under the Freedom of Information Act but these are the people that you go out in an election cycle and you ask them to vote for you because you will protect their interest. If you are saying that this is in the protection of their interest, then you should have come here today and said that; you did not. You came here and you said that “We doh even really know why we defending this”. I heard somebody say in crosstalk, “It is a waste of time”. Absolutely not. You have to be prepared in public life, in Government, in Opposition, to defend the stance that you choose to take and to—

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Sen. Haynes (cont'd)

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Hon. Senator: And to work, to work.

Sen. A. Haynes: Exactly. And the reason you should be prepared to do that is because you do not stand here for yourself; you stand here for the people of Trinidad and Tobago. [*Desk thumping and crosstalk*]

And there is a lot of political thought on how democracies will survive and the political thought that I subscribe to and that I lean towards is that for democracies to survive, you do have to limit Government's power and keep power in the hands of the citizens of the country. I mean, there is a constant talking point on the other side about patriotism and whether the United National Congress has patriots, right?

And Thomas Paine said that it is the responsibility of the patriot to protect the country from its Government. Because you are aware that if you have power, the tendency is to want more power, and then the role of the Opposition is to check that, the role of the Parliament is to check that. And the Executive, and in this case, the PNM Executive and the PNM Government, has said there is no respect for that check, there is no respect for that balance. John Stuart Mill, in 1859, in his treatise *On Liberty*, he spoke about innumerable vultures and the idea of this wrestling for power.

And that you would have this group that, once you gain power without an appropriate check, they will seek more and more. My fear is that that is what we are witnessing here today.

9.05 p.m.

Sen. Mahabir made a point on oversight. Again, because I anticipated more discourse on this, I think that the oversight that he is looking for is the strengthening of the Parliament, which would then strengthen our democracy.

Whereas the Government has chosen to strengthen themselves. And so we are seeing a trend. Sen. Ramdeen referred to a tendency towards a dictatorship. And I am just here to warn against. And I think Sen. Richards made the point as well, that today a PNM administration led by Keith Rowley is in power and you are making laws, and to me it appears as if it is because you believe that you will hold the reins of power forever. And even if that is your belief that also says a lot about what you think democracy is; that you believe that you know each person that will hold power in this country forever and that cannot be the basis with which you bring laws and make laws and bring things to this Parliament and ask us to subject our citizens to. Because many of us in here are quite young and yet to have children, people who will live in this country for many years to come.

So I implore you, when you are thinking about the things that you would bring into this House for us to consider, do not act, as Sen. Richards said, as if you are acting for yourself or as if you are acting for today, but act in the future of this nation. Because it is in your hands right now, but given again, the trajectory that you are taking, it probably will not be in your hands for very much longer [*Desk thumping*] and I really, really hope that this Exemption Order, is the Government saying to us: “Trust us. Do this for us. Give us. Exempt us from this scrutiny and we will keep you safe and we will protect you”? That is dangerous.

Stop coming here and asking us for more. Stop coming here and asking us for more taxes to keep the economy stable, for more power to keep us safe. It is now your mid-term. Start to tell us what you have done with the power that we have given you in 2015, because you got power in 2015. From then until now, what have you done? What have you accomplished, and what justifies you asking us for more? And then, perhaps, we can meet in the middle. But until you do that, we

cannot help you.

And so, with those few words, I would just like to say that this is an important debate and I support Sen. Mark's Motion wholeheartedly and I hope the Government can see the light and see that they should legislate for the future of this country. Thank you.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, obviously it is common knowledge that I did not intend to participate in the debate, and I want to take this opportunity to say a few words to rebut probably our youngest Senator here, who I think attempted to make some points that, as attractive as it may have sounded, is not rooted in the facts. And I think it is incumbent upon me as Leader of Government Business to defend the situation of the Government.

Mr. Vice-President, a lot has been said today about democracy. A lot has been said today about a creeping dictatorship. A lot has been said today about the abuse of Executive power; jargon, jargon to say the least. I have always made the point when I speak in this Parliament that in Trinidad and Tobago you have an Executive that has very limited Executive power. It is a fact of life and that came out of the Marlborough talks in London during the Independence deliberation when Dr. Capildeo and Dr. Williams and the AG's grandfather, Lionel Seukeran and the Bengal Tiger and all these guys went to London, and they said they would not support the Independence movement and they went to the colonial power and say they were scared of the PNM having so much Executive power that they will discriminate against a section of the society. And that was rooted in a fear, real or imagined, that there would be a PNM so-called domination of Executive power.

And therein lies the whole concept of the service commission. Today, the

service commission seems to be outliving its usefulness but yet we have to protect it. I have always said here in this Parliament, any government that wants to lose an election, tackle the service commission. Because the people feel it is protected by the service commission. So you have the Public Service Commission. You have the Teaching Service Commission. You have the Police Service Commission. You have the Judicial and Legal Service Commission and then you have a quasi-commission called the Statutory Authorities Service Commission. They have all the rights of recruitment. The Executive has absolutely no say in that. They promote. They employ. They discipline; an Executive with no Executive authority.

Sen. Mark continuously speaks about the US system and we should have a system like the US system. The President selects everybody. The President has Executive power. The Congress and the Senate just have oversight as a Parliament. The President signs Executive Orders without consultation with the Senate or the Congress. Here in Trinidad and Tobago, we are stymied.

As a Minister you work in a public service. Sen. Rambharat was quoted as saying this week on the newspaper when you speak to the public servants, it is as if you are asking them for a favour. He cannot discipline a public servant in his Ministry. They are autonomous. They are independent. We have had very good and qualified public servants in the past. But the Executive, which is the Cabinet, has limited Executive authority.

Then you come again and see where the President has the rights of appointment. Who can the Prime Minister appoint in this country? Very few, if any. And any time there is an opening where the Cabinet appoints somebody, it is all criticized by the Parliament. The President appoints at his own discretion. The

procurement board, he appointed them last week. He appoints the Integrity Commission and he appoints a series of other positions and agencies in Trinidad and Tobago in his own right. The President, as ceremonial as he is, has more executive authority sometimes than the Cabinet.

With the new Standing Orders of Parliament there is a proliferation, if I should use that word, I am not using—[*Crosstalk*]

Sen. Gopee-Scoon: You opened the debate on abuse of power.

Sen. Ramdeen: Did I speak to you? I was not speaking to you.

Mr. Vice-President: The Leader of Government Business is responding to the last speaker on the Opposition Bench. That speaker on the Opposition Bench would have broadened the debate ever so slightly. That being said, Leader of Government Business, do respond and move on.

Sen. The Hon. F. Khan: Well, I did not even plan to move on. I just wanted to respond. But having said what I have said I am coming to the conclusion of my short intervention. It is that there is very limited power that the Cabinet has, in terms of recruitment. There are a couple of legislation that calls for the Cabinet. The SSA Director is one, but those are few and far between.

The Joint Select Committee of Parliament. A lot of it, the new Standing Orders, the author was virtually the then Speaker of the House, the same Sen. Wade Mark. A lot of them are working quite well. What stymies its operation is that we have such a small Parliament and the Parliament is also the Executive. So a significant number of our parliamentarians are also Cabinet Ministers and it is not the best thing to have oversight of your own self. That is good for a US system and for a system of England, where you have a very large Parliament and a huge back Bench. So to say that there is a creeping dictatorship in this country, I

think is ill-founded, ill-advised and is not based on facts. [*Desk thumping*]

With regard to the specific issue, as it relates to moving out the SSA from the Freedom of Information Act, I know the capable Attorney General will deal with that very shortly. With those few words, Mr. Vice-President, I thank you very much. [*Desk thumping*]

Sen. Jennifer Raffoul: Thank you. Colleagues, as always I thank you for your attention and your time, especially that it is late. I did not expect to speak today, but given the gravity of the subject matter, I decided to put in my two cents, briefly.

The debate today is on if the Freedom of Information Act should or should not apply to the Strategic Services Agency, the SSA. This was one of the most contentious Bills we have debated. Well the SSA is one of the most contentious Bills we have debated in our time here, at least in the two and a half years I have sat here. So I do not want to go into the SSA Bill itself but rather focus on if the Freedom of Information Act should or should not apply.

For clarity for the listening public, I want to briefly explain what the SSA is and the FIA. The SSA is the Strategic Services Agency and it is the agency of the State that deals with collection of data that has to do with criminality. It was started, I think, about 20 years ago in 1993 or 1999. Forgive me for not knowing exactly.

Sen. Mark: In 1995.

Sen. J. Raffoul: 1995. Thank you, Sen. Mark. So it was started in the 1990s, 1995, specifically for information collection on drug trafficking. And then it was expanded. In May 2016, we debated adding a lengthy list of other areas of criminality. And that included such open-ended things, but it was quite

contentious at the time. That includes things like treason. And then at the end of the list there was a long paragraph. There was basically a “dot, dot, dot, or any other serious matter”. So it was extremely, extremely open-ended and I see that as matter of risk to the population for not having transparency of the information that it does collect and the impact on citizens.

The Freedom of Information Act is a means to allow citizens to have transparency over what the State does on its behalf and it ensures accountability of public officers. Regarding the SSA expansion, at the time I did not feel comfortable approving it for four brief reasons. I am not going into depth. I am just going to briefly touch on those. One, I thought that it was a duplication from an economic standpoint. I did not see why at the time there was need to expand the SSA if the list of activities that were within its remit were things that the police system was already doing or should have already been doing. And I see the existence of this agency in a way, as being similar to a systemic problem in Trinidad and Tobago public sector, in that, something might not be working, in this case it might be other methods or mechanisms by which public service collects data on criminality. So something was not working effectively. So instead of trying to fix the problem we just create another agency to do it. So I saw that as an extension of the duplication problem and what is happening throughout Trinidad and Tobago public sector.

The second reason at the time I did not approve it was because there was zero impact that could be pointed to from it. None of the information that was collected, since the time of its existence, has been used to actually lead to any arrest. Third, the human rights perspective; the right of the individual citizen to privacy.

And, fourth, the quality of life perspective. As a citizen, I am tired of living in fear. I am tired of feeling that all of my phone calls are monitored and that everything that we have is being listened to by other ears and changing my words when I am on the phone with someone, lest it, as Paul said, lest that one day end up in a public space.

Today, the topic of the debate should be FIA, the Freedom of Information Act, be applicable to the SSA or not, to the Strategic Services Agency? There are two core things that I see here in the debate today. One, the argument, or lack therefore, for justification. Why was this resolution changed to be an exemption? I have not heard any reason other than the minor argument for practicality. Other than that, I have not heard any major justification. So why this agency should not be subject to transparency?

I have found that in previous debates communication has been an issue. So I am hoping that we hear from the Government side as to why, what the rationale is. When I say communication I would give an example. In the debate that we had in May and June on the Motor Vehicles and Road Traffic (Amdt.) Bill, it was lengthy. We debated it over the course of about two months. And at the end of the debate, well during the debate, we went into much discussion on all of the demerit points and exactly how the Bill was structured. And really great quality debate. I found that everyone was extremely well researched and some really great suggestions and amendments came from it. Unfortunately though, during the wrap-up we were told the legal and review commission is working on all of this stuff behind the scene, the content. The only reason why we are here for the traffic Bill is to decriminalize traffic offences. So they are not going to backlog the court system.

And then in September, this is May/June 2017, we are going to come back because that is when the Judicial and Legal Service Commission is going to be producing their final output, harmonizing all the laws. Now, that is very understandable. We all said okay given that assurance; we are okay with that. And we have seen changes since then in the sense of the smaller, more digestible pieces of the traffic laws coming to us. But we were not communicated that upfront. So, spending all of that time going in depth into the legality and the practicality of the laws and the demerit points, in so much that in the end, almost felt like a waste of time. And communication, I think, should be much more upfront, especially on grave matters like this. I do not feel we have had that communication.

Recently, there was another Bill we were debating, last month or the month before.

Mr. Vice-President: Senator, I know that you are using past debates to sort of make your point. I think you have made that point. I just want to, not really caution you, but actually ask you to refrain from bringing up debates that we have completed in this House already. Continue.

Sen. J. Raffoul: I am guided. Thank you. On the debate today on the SSA being exempt from the Freedom of Information Act, or being exempt from the subjects in the Freedom of Information Act, there are four points that I feel very concerned about as a citizen and the risks inherent in allowing exemptions.

One, we have seen in the past where other security agencies, not the same as this one but other agencies, were used for spying on the population. There is nothing to say that this agency cannot be used in the same way.

Second, again that list of potential crime scenes so open-ended that there can

be an abuse of power. As one of the Senators pointed out in the last debate, there are so many outdated laws that we have in Trinidad, it is still illegal to be gay, and if a citizen is gay then that technically is still an illegal act and any citizen can be spied on for that.

I was chatting with a colleague recently who said that in our immigration law it is illegal to be disabled, to be entering the country if you are disabled. I am not sure if that has been updated since that conversation. It was before I was a Senator. But there are so many outdated things in our legislation that, being able to spy on the population for anything that is illegal, I see that as being too risky.

Thirdly, I do not feel comfortable with the fact that there is no oversight whatsoever, and again, force that potential for abuse. What I do think a proper control on power would look like is what would exist if the Freedom of Information Act is subject, well the SSA, the Strategic Services Agency, is subject to the Freedom of Information Act. What would happen is that, if a citizen applies for information and they are denied, if they would like, they can go to the court and then a judge can decide? If a particular issue, if information on the issue, is being withheld because of national security interest or if it is because of some other reason and if that information has to be handed over.

So, that is what would happen if the agency is not exempt from the Freedom of Information Act. So, I would not want that to be removed, and I would feel safer as a citizen knowing that the judicial system and the court system would apply to this agency, the SSA.

So, I look forward to hearing the conclusion of the debate and I am still here to listen. I thank you all for your time. Thank you.

Sen. Wade Mark: Thank you very much, Mr. Vice-President. May I, from the

outset, thank all my colleagues, the two who spoke on the Government Bench, Sen. Khan, Sen. Rambharat; and those who spoke on the Independent Bench.

Mr. Vice-President, it is the duty of this loyal, responsible, alternative Opposition to assume office very shortly, to bring to the public's attention any matter that would whittle, reduce or in any way undermine our democracy, freedoms and rights. And, therefore, I would like to thank everyone for making their contributions.

I want to say, before I respond to some of the statements made by my colleague, Sen. Rambharat, as well as some misleading statements made by the hon. Leader of Government Business, to remind this House of a very great American historian, Charles Baird. He was once asked—a very prolific writer of American history. He has written scores of books on the American history. And he was asked, Mr. Vice-President, if he could provide some great lessons from his study and experiences of history, and he said he would provide four. I recall three of them, which I would like to share, because it is very pertinent to this debate.

The first lesson of history that Charles Baird said we should take note of is this first one, those whom the Gods wish to destroy, they first intoxicate with total power. [*Desk thumping*] That was Charles Baird talking to the world. The second lesson he said we should take on board is a simple one but a very profound one. He says the bee fertilizes the flower that it robs. The bee fertilizes the flower that it robs. And the third lesson he says we should take on board, Mr. Vice-President, only when it is dark enough can we see the stars. Three lessons, but he left us with a very great gem, and it was this, evil carries the seed of its own destruction. [*Desk thumping*] Evil carries the seed of its own destruction.

We do not have the numbers here today to annul this Motion. The

Government will defeat it because they have the numbers. But the population will take note of every single one of those Members of Government who, on this day, Mr. Vice-President, took a decision to vote to take away their statutory legally-enforceable right to access information out of the State.

Mr. Vice-President, my colleague, Sen. Rambharat made reference, because apparently he was not following my statement. I do not know if he was asleep like Rip Van Winkle for 20 years, and he was snoring somewhere. I do not know. But nowhere in my contribution did I make reference to freedom of speech. I spoke to freedom of expression and freedom of thought. But I heard him elsewhere. Because do not believe because I was not here I was not following the debate. So I followed the debate. So do not. You misquoted me. Remember, Mr. Vice-President, I made reference to Article 13 of the American Convention on Human Rights. And I want to quote for my dear friend, Sen. Rambharat, to see the link between freedom of thought and expression and the right to information. And this particular Article 13 says:

“Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice.”

That is the link.

So when you deny people access to information, you stifle them. And this is the other point, the puerile, infantile responses you get, Mr. Vice-President, from our colleagues where they keep giving this argument, even the Attorney General, when he is in full flight, he will tell the country that we are seeking to give the country, the people, access to the SSA. So to tell the country everything, they

could just shove a door, like my colleague said. When I talk about a torchlight and flashing into files and cabinets, I do not mean to go into the SSA and physically flash a light and take out every document.

9.35 p.m.

He did not connect the dots, he did not connect the dots. I know that we are all getting older and sometimes we have senior moments. So I do not know if my colleague is in that zone. You know, but he totally did not connect the dots. The point I was simply making Mr. Vice-President—you remember I told you my doctor told me, my neck, I have to move from left to right—[*Laughter*—in order to—otherwise I get “stiff neck” here, Sir. So, please forgive me, Sir.

Mr. Vice-President: But still try.

Sen. W. Mark: I will try Sir, because I know you cannot pay my medical bills. [*Laughter*] Anyway, Mr. Vice-President, may I continue, I will try to look at you, as much as I can, although I prefer to look at Paula, I must say. [*Laughter*]

Mr. Vice-President, the point I am simply making is this, we never gave the impression that we wanted an open door to access information from the SSA. So that is a false argument that is being proffered by the Attorney General and by Sen. Rambharat, we never said that. And Mr. Vice-President, Sen. Rambharat supported my arguments, because when he went to Part IV, 24 to 35, he was able to show this Parliament that there were exemptions. So the framers “and ting”, recognized the need for exemptions, so you supported my arguments, [*Desk thumping*] that is what you did.

But, Mr. Vice-President, I do not know if he would have recalled—that is, the hon. Senator—but I was glad that when he said that he supported this effort. [*Desk thumping*] I think that was a very powerful statement. Mr. Vice-President, he

said when the Act was brought into being it was a very appropriate intervention, a necessary intervention—[*Interruption*]*—*but I want to tell you, your colleagues, the same PNM that Sen. Franklin Khan talked about, they were totally opposed to the legislation in 1999. So much so, Mr. Vice-President, that when you go to the *Hansard* records and you read, the hon. Imbert at that time as the Member of Parliament for Diego Martin North East, they asked him what recommendation would you put forward to really strengthen this legislation. He said, my recommendation would be to make everything that is exempted, every possible area of exemption, he wanted the exemptions to be removed.

Hon. Senator: Yes.

Sen. W. Mark: His recommendation was, there must be no exemptions whatsoever. And today, the Government that he is part of has brought an order to exempt the SSA when in 1999 he was not in favour of exemptions. So, Mr. Vice-President, I raise that point in order to let my friend, Sen. Rambharat, know that he is a lone ranger in this matter [*Laughter*] and his colleagues do not support him, whatsoever.

And my colleague, Sen. Franklin Khan, he has a coded message that he sends every time he rises—if he had the authority, Mr. Vice-President, he would have removed every service commission. That is the message he sends every time, and the justification is that they do not have power. They do not have power, and Mr. Vice-President, do you know that we have a prime-ministerial dictatorship in this country, because of the kind of governorship that we have in terms of power [*Desk thumping*].

The Prime Minister is the supreme powerhouse in Trinidad and Tobago. So when you tell us that the Prime Minister does not have power, that is wrong. The

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Prime Minister has total power in this country; that is why he was able to call in the Chief Justice, and tell the Chief Justice at Whitehall, resign or I will impeach you. That is power.

Hon. Senator: That is right.

Sen. W. Mark: You do not know that?

Mr. Vice-President: No, no, sit, sit. Let us not go down that road; I do not know which Prime Minister you are referring to—[*Crosstalk*]

Sen. W. Mark: I am talking about Patrick Manning.

Mr. Vice-President:—but any Prime Minister—

Sen. W. Mark: Listen, I find this evening, Mr. Vice-President, you—

Sen. Khan: No, you do not query the Chair. [*Crosstalk*]

Sen. W. Mark: I am not ruling. I feel somehow that—anyway. [*Crosstalk*]

Hon. Senator: You threatening him.

Sen. W. Mark: I am not threatening anybody.

Sen. Obika: When is time to vote, you will get to contribute. [*Crosstalk*]

Mr. Vice-President: When I rise, it is to give guidance and caution in relation to your contribution. It is not for challenge, Sen. Mark. You are so guided, continue.

Sen. W. Mark: I know when that happens, to bring a Motion, Sir. I know, I understand.

Mr. Vice-President: Continue.

Sen. W. Mark: Yeah. So, Mr. Vice-President, I keep saying, you remember when Sen. Khan rose, he went into an area and it was ruled here that Sen. Khan was responding to Sen. Anita Haynes; I am now responding to him and saying that what he said in this Chamber was totally wrong.

Hon. Senator: And irrelevant.

Sen. W. Mark: And irrelevant, almost, [*Desk thumping*] that is what I am saying. So I must have the right to respond to him. That is my right, to respond to him and to correct the record, because he got up to correct the record and I am saying his correction was totally inaccurate.

He said the Prime Minister does not have power, Mr. Vice-President, the Ministers do not have power, and all I am saying is that they have power. The Prime Minister has power in this country, total power and total control. But I understand your concerns, Sir.

Mr. Vice-President, I want to say that when we go to the Act, I want to tell you when we talk about public authority, under page 7, section 4. I am dealing with, what “public authority” means, Mr. Vice-President—the Parliament, a Joint Select Committee of Parliament or a committee of either House is a public authority, and the public has access to the Parliament and all of these committees. Mr. Vice-President, would you believe the Court of Appeal, the High Court, the Industrial Court, the Tax Appeal Board or a Court of Summary Jurisdiction, the population has access to provide through application FOIA applications and they can get information within the exceptions and the exemptions? That is in the Act.

Mr. Vice-President, the Cabinet as constituted under the Constitution, a Ministry or a Department, all of these are public authorities. Mr. Vice-President, the Tobago House of Assembly, municipal corporations, a regional health authority, a statutory body, a company incorporated under the laws of the Republic, a service commission that my friend spoke about and my colleague talked about the ouster clause earlier. A body corporate, all of these are public authorities, Mr. Vice-President.

And citizens have an entitlement, right? Mr. Vice-President, I think that

when we next take office, and that should be shortly, [*Desk thumping*] this is a ghost, we have a ghost in this country, you know. It is a Government, it is a ghost, it is a ghost government. You cannot see them, you cannot feel them, they just exist, ghost. But I want to tell you, Mr. Vice-President, that it is only a matter of time, you know.

You know, in South Africa when Nelson Mandela took power in 1994, in order to give the South African people the right to participate in their democracy, he enshrined into the Constitution of South Africa, so no future government can tamper with it, the freedom of information that is a Constitutional entrenched right of the people of South Africa.

Mr. Vice-President, I think that the UNC, when it returns to office, may have to go and amend the Constitution to avoid any repetition of any PNM Government coming in the future to tamper with the rights of the people. [*Desk thumping*] We will have to entrench it in the Constitution, enshrine it into the Constitution, give the people that Constitutional right of access.

Sen. Rambharat: You know you will be there for a short time.

Sen. W. Mark: So, Mr. Vice-President—I would not take you on—Mr. Vice-President, I will focus on you.

Sen. Obika: He was speaking about himself; that is what it is.

Sen. W. Mark: Mr. Vice-President, I want to indicate that one of the points that we have not emphasized this evening that I think I need to emphasize in closing is that, apart from transparency and accountability and openness, one of the critical ingredients of having an FOIA—and giving people access to the SSA—is that it allows the ordinary people of T&T the right to engage in participatory democracy in our country.

The ordinary people, I hear my colleague Sen. Rambharat saying, and some other person made the point, I do not know if it was the AG, somewhere else. But they made the question about asking questions and they have oversight committees. Mr. Vice-President, you know, even in this House a Minister can simply invoke a particular part of the Standing Orders if you ask him a particular question and say, “On the grounds of national security, I cannot answer”. But if they were to do that—under the Freedom of Information Act, I want to go to section 28 of the Act. Mr. Vice-President, if you go to section 35, rather, of the Act. It says and I quote:

“Notwithstanding any law to the contrary a public authority shall give access to an exempt document...”

So even though, Mr. Vice-President, a document is exempt, the court can, if the authority refuses, can on the following grounds where “reasonable evidence” is advanced and it is shown, Mr. Vice-President, that:

“(a) abuse of authority or neglect in the performance of official duty;”
—has taken place.

So if there is an abuse of authority and I apply for information, they are required to give me that information; if they refuse, Mr. Vice-President, I can go for judicial review and the court can then determine if I shall be granted the information I require.

9.50 p.m.

The other ground, Mr. Vice-President, is injustice to an individual. If an individual believes that an injustice has been done to him by a particular public authority, Mr. Vice-President, that individual can then apply to that public authority for the information required, and if he is refused or she is refused, then

you can take it for judicial review. Where there is a danger to the health or safety of the individual or of the public, and also where unauthorized use of public funds exists. So, Mr. Vice-President, under section 35 of the current law, there is a provision that says that even if you are denied access, even though the document is an exempt document, these grounds can be used in order for you to access the information.

Mr. Vice-President, I have not been provided with any major justifiable reason by the Government. I think Sen. Clarence Rambharat was very weak and deficient in dealing with practicality. His argument was practicality. So the law is going to be used in the practical sense in order to determine whether information—and because it is going to be too much work for the SSA to determine which person or which piece of information ought to be given—whether this information is secret or not—they have taken an arbitrary decision to simply have a complete blackout. They say, Mr. Vice-President, no information.

Mr. Vice-President, I do not want to get involved in who is the director. I do not even want to deal with the national security Minister and his relation with the director. All I can tell you, Mr. Vice-President, we must guard against “fren fren”, “fren fren”. Not because I was your best man in your wedding—you understand, Mr. Vice-President—[*Desk thumping*]—“Yuh gimme ah directorship wuk”. You cannot do that. [*Crosstalk*] I am not saying anything about anybody. I am saying not because I am your best man, you give me a job. You do not do these things.

So, Mr. Vice-President, the point I am making, the danger that we face as a democracy is that you have a situation where “fren fren” could get into this arrangement and the “fren fren” is politically driven and politically influenced and, therefore, they can determine your life and your destiny, and that cannot be proper

and decent in a civilized democracy, in a modern democracy. As my friend and Senator, Dhanayshar Mahabir, said in his contribution, even the Director of the CIA and his deputy, Mr. Vice-President, they must be of impeccable character, well known to the citizenry.

I do not know the composition. Nobody in this Parliament knows the composition of the SSA. What we do know is that when we had a discussion with them, I saw a lady who was then Acting Commissioner of Police when there was a police shutdown of the country for a whole day—and not a policeman has been arrested—that lady is now a deputy in that organization. That is what I know.

So the question has to be asked, Mr. Vice-President, how do they go about choosing these people? But in the United States of America, the CIA subjects the director and his deputy to congressional hearings. You have to come before a congressional hearing of the Senate and the House of Representatives—and “where yuh born, where yuh mother come from”, if you were an infidel, it does not matter. All that is exposed because they want the best to be in charge. But, Mr. Vice-President, when I talk about secrecy and conspiracy and impropriety, that is what I am talking about.

How can a Government in the 21st Century, in 2018—how can an Attorney General who is coming to speak after me—how can an Attorney General who is the guardian of our democracy cannot understand he must shift his hat and understand he must wear the hat that protects the interests of the people. The Attorney General wears a political hat and he tells you that. He is not after the public interest. He is not. Mr. Vice-President, you know why we are calling for this particular Order to be annulled? Mr. Vice-President, as someone said earlier, when the SSA was conceived in 1995, its mandate was intelligence gathering on

drug trafficking, drug interdiction, narcotics and psychotropic substances and they used to have relations with international organizations and countries.

Mr. Vice-President, hear what the Attorney General and his Government gave to the SSA without any checks and balances for the citizens of this country. They give them the power to deal with homicide. Homicide! So the police dealing with homicide and the SSA dealing with that. So this is a parallel police service.

Mr. Vice-President, they have the power to deal with treason, terrorist acts, terrorist financing, hijacking, kidnapping, trafficking in persons, trafficking in children, gangs, illegal trafficking in narcotics—that is what they had before—corruption, money laundering, smuggling, terrorist acts, terrorist financing, arms and ammunition, chemicals, biological and nuclear weapons and weapons of mass destruction, cybercrime, transnational crime—and the point that Sen. Raffoul referred to earlier—or any offence which carries a penalty of not less than five years' imprisonment. Mr. Vice-President, that is the mandate of the SSA. The SSA is a parallel police service and it is a PNM police service. That is what this is.

And, Mr. Vice-President, if you want checks and balances, we had proposed when we discussed this matter since it was not under the control of the Commissioner of Police that in order to give this director this neutral and impartial approach, and for there to be continuity because, Mr. Vice-President, you know what happens? When you have a director who is politically appointed, when we come into power, very shortly, or into office, I should say, then we have to remove the director. But that should not be, Mr. Vice-President. The Director of the SSA has information, a lot of information, and there should be continuity, but because there is no neutrality in how this person is appointed, the person has to leave office and, Mr. Vice-President, it causes a lot of challenges, and that is why I would like

to appeal to the Government that it should rethink its position. This is not a good move, Mr. Vice-President. This is not in the interest of the people of Trinidad and Tobago.

I would like to call on the Government to withdraw—to take a decision to withdraw this particular Order to exempt the SSA from the freedom of information application arrangement. I think it is in the interest of the people and the interest of the country. Mr. Vice-President, you would know that we must deal with the future. I think Sen. Richards made the point. I want to emphasize that we are legislators and we are dealing with the future. We are not legislating for today. We do not know what will happen tomorrow, but if we have strong institutions, Mr. Vice-President, and if we have the appropriate checks and balances governing those institutions then our democracy will be strong, will be robust and we will all be proud of our institutions.

And, therefore, Mr. Vice-President, in closing, I want to appeal to the Government to revisit their position. I think their position is a wrong position. I do not think that they should be going down that road. There is time for them to reflect and to not go forward with this particular Motion which is taking away an enforceable statutory legal right that people have enjoyed for the last so many years because, Mr. Vice-President, remember the SSA was founded in 1995 and this Freedom of Information Act was passed in 1999 and it took effect in 1999, early 2000. So, clearly, we would have taken into account—because I was part of that administration when that Freedom of Information Act was passed and I was part of the administration when the Judicial Review Act was also passed [*Desk thumping*] and I was also part of that administration when the Equal Opportunity Act was also passed.

So, Mr. Vice President, we have had a history of progressive laws in this country to advance the interest and welfare of the people. What the Government is doing is trying to reverse these progressive steps and progressive moves, and I ask the Government to rethink its position, Mr. Vice-President, on this Order to exempt the SSA. On those few notes and points, I beg to move. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you. Thank you, Mr. Vice-President. I rise under Standing Order 44(2) to conclude this debate insofar as it falls within the square parameters set out within the Standing Orders that allow a Member of Government—a Minister or Parliamentary Secretary—to wind up a debate which is critical of the Government.

I would start off by saying a Happy New Year to all Senators as this is the first occasion that I have had the chance to address this honourable House. I would like to say that the debate has been a lively one. Some very interested questions have been raised as to the bona fides and justification for the application for this exemption.

The matter before us is the movement by the Opposition, under Sen. Wade Mark's hand to annul the Order which came into effect on December 13, 2017 which seeks to take avail of a statutory provision under the Freedom of Information Act. Under section 5(1)(c) of that Act there is the absolute power and privilege for the President, to be read as the Cabinet of Trinidad and Tobago—because the President acts upon the advice of Cabinet—to list an exemption under the law. So Parliament in its wisdom, in 1999 in the Freedom of Information Act provided for an architecture for the operation of the law, and the architecture of the Freedom of Information Act is very clearly set out. The Act itself is not too complicated. The Act is No. 26 of 1999. There are in total 42 sections and one

Schedule to that law, and the Act itself is the starting point for this Motion. My attempt is to persuade hon. Members of the Upper Bench to think again in relation to some of the submissions made by my learned colleagues opposite. Let us start with the object. Section 3 of the Freedom of Information Act is a very interesting one:

“The object of this Act is to extend the right of members of the public to access information...”

We heard Sen. Obika in his peculiar contribution to the Senate. He is very good at crosstalk but I tried hard to make sense of what he said on the floor. What he said on the floor was that there was a right to information, a fundamental right to information. I think what the hon. Senator was trying to say is that there is clearly, under this Act, a statutory right to information so set out in the objects in section 3 of the Freedom of Information Act.

But section 3(2) really comes for consideration:

“The provisions of this Act shall be interpreted so as to further the object set out in subsection (1) and any discretion conferred by this Act shall be exercised as far as possible so as to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information.”

Put quite simply, section 3(2) of the Freedom of Information Act is a statutory bias, an open-stated statutory bias, properly stated in the law towards disclosure. So our Freedom of Information Act has this leaning towards disclosure.

Very importantly, when we look to the Act and we look to Part IV of the Act, we see what the exemptions are set out to be. So the law clearly stated what the qualities of exemption should be. Sen. Ramdeen referred in passing to it and gave a good description of some of the provisions of the law. The exempt

documents set out are to be found in sections 24 to 35, and Sen. Ramdeen was quite correct. There is, essentially, a two-tiered approach where we are dealing with the situation set out between sections 24 to 34 and then the second tier is really where we apply the public interest argument in section 35.

Quite simply, section 26, which provides for international relations documents, section 25 which provides for defence and security documents and section 34 which provides exemptions for disclosure for documents to which secrecy provisions apply, those are the headlights to pop out of the exemptions Part IV . Section 35, which is the public interest argument is, in fact, in my view—and in the view of attorneys acting for the State—unsettled in terms of what the law in Trinidad and Tobago is ultimately going to be.

Sen. Ramdeen started off with a very powerful line out of the judgment of Mr. Justice of Appeal Jamadhar. “Secrecy lies at the heart of dictatorship,” he said. He then went on in his advocacy to how many cases he had done or not in this court and what a great lawyer he is or is not, to then say to Trinidad and Tobago that the State has lost the greatest number of matters under this Government. Well he is right in part. The State has lost quite a number of matters begun under the United National Congress’ tenure and which have come to fruition now. [*Desk thumping*]

But what Sen. Ramdeen did not tell the honourable Senate a little while ago is that Mr. Justice Jamadhar, in P200, the case that he was referring to which is, of course, the *JCC case v the Minister of Planning and Sustainable Development* was the judgment of the hon. Justice of Appeal referring to the refusal of then Attorney General, Anand Ramlogan and the Cabinet under Mrs. Persad-Bissessar, the Member for Siparia, to refuse to give the information to the JCC on the unlawful

procurement which prevailed in relation to the Invaders Bay land. Sen. Ramdeen skipped clean over that. And he is right that the State had problems there. But in that judgment there was a 2:1 split and Mr. Justice of Appeal Narine gave a very powerful dissenting judgment which caused me, as Attorney General, to take the case to the Privy Council, because the law in relation to the public interest argument in section 35 is unsettled.

Now, Sen. Mark made a most scandalous suggestion that as Attorney General, I am acting not in the interest of people and that I was acting as a political character. Let me address that squarely this way in the context of this very case that Sen. Ramdeen and I are now both referring to.

Sen. Obika: Very true.

Hon. F. Al-Rawi: Sen. Obika, stick to crosstalk. There is where you should reside. Let me put it this way. In the JCC case, politically speaking, this Government would have been very happy to reveal the advice which demonstrated that the last Government was acting with subterfuge. Politically speaking, I could have taken the judgment of the two majority judges in the Court of Appeal in the JCC case and said: “Aha, hear Trinidad and Tobago, politically we were right when in Opposition we said this should be revealed.” And the last Government spent millions of dollars on litigation and hundreds of thousands of dollars on this particular litigation to hide what should have been brought out. If I was acting as a politician, I would have done that. As Attorney General of the Republic of Trinidad and Tobago, I took the case to the Privy Council to settle the law on section 35, public interest arguments and that case alone demonstrates that we have not acted with political interests at heart. We have taken the law to settle it.

So let us get to the law. There are a few reasons why the FOIA should have

an exemption. Sen. Ramdeen has not told this country the full particulars behind some of the matters. I will come to them in a little while and I will demonstrate the impropriety of his advocacy. He is a good advocate. He makes it sound as if, you know, it is a solid point. I commend him for his skills in advocacy, but I would like to persuade you to think about it differently.

For starting points, coming back to where I was a moment ago, the architecture of the Freedom of Information Act is slanted towards disclosure. Secondly, the exemptions that exist under Part IV of the Freedom of Information Act in sections 24 to 35, they are such that on a case-by-case basis, the Director of the SSA—the entity which is in question in this particular Order—would be called upon to apply the provisional exceptions and then to demonstrate why in a public interest argument it should not prevail.

Hon. Members opposite have said we are not asking for operational material. We are asking for administrative functions. Well, apparently, Sen. Mark did not talk to Sen. Obika, because Sen. Obika was talking the opposite to what Sen. Mark just said, and if they could have such blatant disagreement sitting with merely two people in-between them as to whether you are going for operational material or administrative material, as Sen. Mark tries to persuade us, then obviously it is open to other people to come up with other suggestions. Two small seats apart and Sen. Obika says the opposite of Sen. Mark.

Sen. Mark: Why you want to exempt the thing, man? That is all we want to know.

Hon. F. Al-Rawi: When we come now to the application of these provisions for exception and the section 35 position which is developing in our country, we have to consider, number one: what prevails in relation to the international entities and

countries that we are in discussion with and in relationship with? And I will address a point raised by Sen. Chote which is a material difference between the two.

Secondly, the nature of secrecy falls for operational consideration, because for the successful operationalization of the SSA in the battle against crime so described in the 2016 amendments, as serious crime, there must be confidence in the agency. And the international agencies and countries that report to and work with the SSA are to be found in the other annual report, Sen. Chote, in the period beyond 2013 because they are all up to date.

The SSA Act and its reports have been brought up to date and, specifically speaking, in particular, the United Kingdom, the United States of America, the Government of Canada, the Netherlands and Australia as international partners to Trinidad and Tobago have secrecy laws and have freedom of information laws which are very different to ours.

Let us start with the fact that in these other jurisdictions which are operating entities, disclosures to international organizations are public in nature. There is nothing secret there. It is public. However, the operability between countries and law enforcement agencies in those countries, in particular, Canada, the United Kingdom, the United States of America and Australia, that is secret and they are, therefore, two different things, Sen. Chote, most respectfully, in terms of your enquiry as to if we are disclosing under the international organizations, what is the problem in relation to the other aspects.

But in the United Kingdom, in the United States, in Canada and in Australia, we have a very different position which marries into this Bill. Let us start with the law as it relates to Australia. Let us go to Australia first, or perhaps we should

leave that last. Let us start off with the United States of America. Under the United States of America's law, the fact is that they operate in a system where there is no specific exemption for their security intelligence agencies, save that they have a level of classification which comes to override any disclosure, and that classification is something that does not exist here in an equivalent of an Official Secrets Act in Trinidad and Tobago. So in the United States of America the first position is that their statutory regime is different from ours.

Secondly, in the United States of America, their courts have consistently erred on the side of national security, and in erring on the side of national security, the courts in the United States of America, even though they have developed principles including the Vaughn disclosures and principles there, in the United States of America, their case law demonstrates that there is a complete bias towards information being disclosed by intelligence agencies and, therefore, there is the opposite to section 3(2) of our Freedom of Information Act which statutorily says you must give a bias towards disclosure.

In Australia, the Freedom of Information Act in Australia does not define their intelligence agencies as public authorities as our law does, but it goes further. It actually statutorily exempts the Australian Secret Intelligence Agency, the Australian Security Intelligence Organization, the Inspector General of Intelligence and Security, and their Information Act going further into exemptions, again stands different also in the manner in which their courts have interpreted the law, and their courts also see a bias in favour of national security. Their jurisprudence is replete with references to the fact that national security considerations are best left for national security.

When we get to the United Kingdom we have another position. In the

United Kingdom, there is the common law approach and then it was codified in their equivalent of the Freedom of Information Act, but in the United Kingdom, there is an institutional exclusion for security bodies. It does provide for an exemption for information provided to security bodies and in their possession, and information held by a public authority is exempt specifically in relation to their agencies. But, more particularly, when we look to their jurisprudence, we look to their case law, again, we see the judicial arm telling the State, the Government is to be preferred when it says that there is to be no exclusion and exception to the rules of secrecy being locked down.

Sen. Mark: But there is a tribunal there.

Hon. F. Al-Rawi: Sen. Mark is raising across the floor something raised by Sen. Ramdeen, and that is the role of the Information Commissioner. Sen. Ramdeen did not tell the Parliament that the case that he referred to in the United Kingdom concerning the disclosure of Cabinet's decision to go to war was a 2:1 split case. He did not say that, nor did he draw the distinction that the role of the Information Commissioner in the United Kingdom is very different from this here, because the Information Commissioner dealt with the issues of the veto of the Minister. So, number one, in the United Kingdom, there is a deference to national security and non-disclosure. Number two, their Freedom of Information Act equivalent allows for a blanket refusal for disclosure. Number three, if there is to be a veto by a Government Minister that can be considered but, number four—Sen. Roach—*[Interruption]*

Sen. Roach: Thank you very much, Attorney General. Can I just ask: What is the equivalent in our instance? The Americans usually have something called classification and declassification of information over a period of time. What is

our answer to that as an instrument of balancing the—

Hon. F. Al-Rawi: Sure. We have none, unfortunately. There is no classification blanket approach as the United States has. But coming back to the United Kingdom, we do not have an Information Commissioner.

10.20 p.m.

Sen. Ramdeen, of course, did not tell the Parliament, the honourable Senate, that notwithstanding the passage of the Data Protection Act in 2011, the Information Commissioner established under that Act was something that was not appointed for many years now residing in the domain of the President of the Republic of Trinidad and Tobago. And as and until our data protection laws are fully operationalized, as to one part, and then we broaden the role of the Information Commissioner under that particular law to take care of a classification, or the equivalent of what the UK has, we are left in the lurch of considering what our laws actually say. And our laws actually say right now, number one, lean in favour of disclosure; number two, make sure that if you have to deal with disclosures you do it on a case-by-case basis; consider the application of the section 35 exemption under the Freedom of Information Act, which from our perspective as the Government is in a state of flux, hence its residence right now before the Privy Council for clarification on that law. But this position is carried over into Canada, and when we look to Canada we notice that there is also a similar provision where security agencies are exempted, and in Canada their Access to Information Act again has a refusal for security intelligence agencies to give disclosure.

But Sen. Ramdeen said something which was quite interesting in responding to the debate in the House, in this House before I had spoken, he said that he was

in shock over reference to the mosaic, or “mos-a-ic”, as he called it, prejudice principle, which I referred to in the House. The mosaic prejudice principle is something which is very relevant to this particular debate, because it forms part of the jurisprudence of the international communities as it relates to the law in relation to disclosure. And that particular practice of observing the prejudice to the mosaic principle, the prejudice that can be caused where there is disclosure of what appears to be innocent or innocuous information at one point in time. In fact, *Information Rights: Law and Practice* has stepped forward. It was adopted in *R v Shayler* (2001). It was adopted in the American jurisprudence, in the Canadian jurisprudence, but in the international practice, as coming from the *Information Rights: Law and Practice* at page 17 in paragraph 034, and I quote with your permission:

“...any disclosure of information supplied by, or relating to, security bodies is necessarily harmful because it will contribute pieces to a public domain, ‘mosaic’ or ‘jigsaw’ of information about those bodies. This argument gives rise to the theory that such disclosures cause ‘mosaic prejudice’ because apparently innocuous information connected with security and intelligence matters can prove to be acutely revealing when read in conjunction with other pieces of the mosaic or when used as the basis for deductions and inferences about gaps in the picture. Most of the domestic judicial dicta dealing with the dangers of mosaic prejudice have arisen in relation to the need for...brightline rule...” I have “stressed the particular risks run by individuals who attempt to assess for themselves how an intended disclosure will add to the public mosaic.”

There is a landmark case in the United States of America, it is *Halperin v*

CIA, and in that particular case the application to the *CIA* was for disclosure of legal fees, seemingly innocuous, seemingly transparent relating to costs. But in that particular case the discussion which ensued, and it can be found in the body of the case, was that disclosure of the quantum of legal fees, and particular of legal fees if it got that far could very well unearth the type of investigation and the type of particulars that were in fact being investigated by the security agencies.

But in Trinidad and Tobago, sure we must consider the fact of what our international partners do, sure we must consider the fact that they may very well not agree to disclose the information if they believe that the information may come into the public domain. What appears to be innocuous information from an administrative law perspective, as Sen. Mark argues, is apparently a very different concept to what Sen. Obika was referring to in talking about the accountability provisions. But in Trinidad and Tobago some of the justification for the SSA has come on board in terms of public enquiry asking what this piece of law can do, what is the effect that we can see in our society, what are the checks and balances, as Sen. Raffoul pointed to. Sen. Raffoul, in fact, said that there were absolutely no checks and balances. That was the expression you used, I wrote it down, because I was quite surprised to hear you say that, because the information which Sen. Chote referred to in the 2012 or 2013 annual report that you referred to, which Sen. Chote said was good news, showed the information.

In that particular approach one has to remember that the SSA Act does, in fact, have built-in measures for disclosure of information which is of an administrative nature, and for proper auditing and accounting provisions. I refer you, specifically, to section 10 of the accounts and audit provisions for the SSA Act; section 11, which sets out your financial year; section 13, which refers to your

annual report, and—[*Interruption*] Yes, please.

Sen. Raffoul: Thank you. I meant for privacy concerns.

Hon. F. Al-Rawi: I see. Okay. I took accountability and checks and balances at its broadest measures. So in terms of privacy concerns, and you are right, there is none in respect to privacy concerns because the law, as it stands since 1995 for 23 years now, has been built that way, and that law as it prevails in every other jurisdiction which deals with it has been built that way, and the balance of the public interest in national security is a severe one. So it is not an easy point, I agree with you, and you are correct to say from a privacy concern point. The best that we can get is the disclosures that we see under the Interception of Communications Act.

But Sen. Ramdeen in pointing out the fact that Trinidad and Tobago's current Government was losing plenty cases, he was right again, because one of the cases that we lost, for instance, was when Devant Maharaj, as Member of Cabinet sitting in the UNC Government, went to court and applied, essentially, to condemn the Government for not producing the annual reports for the SSA for 2013, 2014, 2015, and Mr. Justice Seepersad had to ask the attorneys appearing for Mr. Devant Maharaj why it is that he was now coming to ask about these points? The judge essentially gave the Government the opportunity to bring those reports up to date. I refer you to the 2015 annual report which the Government lost in that case because we had no defence. The UNC had not done it, we were brought to court; it is a fact, you are bound to lose the case, and we had to pay costs too. So Sen. Ramdeen is absolutely right. [*Interruption*] Sen. Chote?

Sen. Chote: Thank you for allowing me to speak. There is just one question I would like to ask, because I have not seen the reports of '15 and '16, and because

the SSA has the power to recommend the policy and legislative change, and so on. Have they in those reports made any recommendations with respect to their coming out of the Freedom of Information Act?

Hon. F. Al-Rawi: No, they have not. May I ask, Mr. Vice-President, just for the record, time is different in the House, what time I am due to finish?

Mr. Vice-President: 10.43.

Hon. F. Al-Rawi: Thank you, Sir. They have not, and just for the record, all of the reports are now laid in Parliament and they are up to date. The State did lose the case, similar to when we lost another case. We lost another case and we had to pay costs. When Anand Ramlogan went to court and sued for not having forms under the Proceeds of Crime Act for a law that he passed and failed to put the forms into effect for, he went to court, sued the Government for not having the forms and we had to pay costs. Sen. Ramdeen was right, we lost another case.

It is similar to another case that we lost on freedom of information. It comes to the point of costs, what do all of these things cost? Sen. Ramdeen told the Parliament a little while ago that the Attorney General consented to the payment of costs in the Heeralal cases. I want to put on the record, the attorneys for the State who dealt with the Heeralal number one and Heeralal number two cases, the attorneys for the State gave Sen. Ramdeen, as a matter of fact, because he was paid the cheque, they gave Sen. Ramdeen, in CV No. 2006-02603, Darryl Heeralal, in that particular case, \$209,998.47 cheque received by one Gerald Ramdeen, 4th of the October, 2017. In CV No. 2016-024495, Darryl Heeralal, Sen. Ramdeen, in his capacity as attorney-at-law for the claimant received \$220,982.01; again cheque collected on the 10th of August, 2017, and Sen. Ramdeen said that the Attorney General consented to those matters. I want to put on the record, as

Attorney General I am required to give approval for consent of entry of orders, my approval was not sought. That matter involved one court attendance on each of those matters, one, where the matter was withdrawn and, very happily, some \$430,000 was collected for one day's work in the court.

So I say congratulations to Sen. Ramdeen, but I say pity the people of Trinidad and Tobago for a withdrawn judicial review application which cost \$430,000 to the taxpayers for one day's work. Well done, Sen. Ramdeen. Another case lost by the people of Trinidad and Tobago. Sen. Ramdeen is right, you see, I make the submission—[*Interruption*] I am okay. I make the submission, Mr. Vice-President, I find it astounding for Senators—[*Interruption*]

Hon. Senator: That you could have lost?

Hon. F. Al-Rawi: Yeah, I find it astounding that we could have lost, you know why, because the State lost, Sen. Obika, because the State lost because attorneys that brought law into effect and sat in Government and did nothing to protect the taxpayers, those attorneys go and profit on the other side. So Sen. Ramdeen is absolutely right.

Mr. Vice-President, I would like to say, when we deal with the statistical improvements I think it is important at this junction to state some of the positions. When we look to—and, you know, I was really hoping I would hear Sen. Baig talk today. He worked for the Government of Trinidad and Tobago at the Attorney General's office for a full seven years, two years under me. I saw him in the Parliament on many occasions whilst working hours were in effect at the Ministry of the Attorney General. I really hoped that he was coming to talk here today, because I would have asked him what he was really doing at the Ministry, but his entire contract went well. I wish him well in his new incarnation, and I am looking

forward to hearing you in action, Sen. Baig.

I want to put into effect that the SSA, as it is currently constituted, has dealt with the task-forcing of the anti-terrorism laws, and when we dealt with that we dealt with the listing of, to date, 353 listings under that particular law, moving from zero in 2016, with the assistance of the SSA as reformulated to 353 listings under the Anti-Terrorism Act, and, in fact, 13 current investigations and 136 targets under investigation. But under the SSA in 2017, I am able to report, that the SSA has contributed to the prevention of 29 homicides, cocaine seized, 275 kilos; marijuana, 51.25; arms seized, 14; firearm components, 35; ammunition, nearly 1,000; kidnapped victims recovered, 15; disruption of robberies, intercepts in the prisons, 164,755; number of police arrests from SSA intelligence, 42; number of serious crimes detected through SSA intelligence, 381; that is 2017.

Let me tell you what the statistics looked like for the years prior, and they are to be found in the annual reports of the SSA; annual report of the SSA, under the hand of the United National Congress, when we looked to those statistics we see, intercepts, 660,000-odd of communication; data, 134,000-odd; data, 60; offences: drug trafficking, gang activity, larceny, corruption, murder, money laundering, fraud, tending to pervert the course of justice, all before the law changed; number of persons arrested, one; number of criminal proceedings, three.

Let us look at 2014 annual report; 2014 annual report, under the operations of the last Government, 500,000-odd speech interceptions; 208,000 data interceptions; gang activity, drug trafficking, trafficking in persons, corruption, again, the law was not designed for that interruption, but it was. Number of persons whose identity became known, 8; two pending criminal proceedings to come. Let us look at 2013, that is it, 2013, number of speech interceptions,

284,000-odd; data, 70,000; one criminal proceeding pending.

You heard the numbers I just gave for 2017, it is not lost on the people of Trinidad and Tobago that after each event of criminality that we are seeing now you are seeing an arrest coming with quicker time. It is not lost on the people of Trinidad and Tobago who go through the savagery of a murder and the victims of the families, et cetera, that there is in fact an arrest that is happening now. You see the statistics that come out of the SSA, 2013, 2014, 2015, and you compare them against the figures I have just given you for 2017. I think, ladies and gentlemen, hon. Senators, that it is a marked difference.

But where are we today? We are with the Opposition telling us that they have been caught by surprise. Sen. Mark said it came like a thief in the night, because on December 13th everybody was going to make sure that they were celebrating their Christmas and they had no notice. Sen. Mark, please, read the Standing Orders of the Parliament. Standing Order 78 specifically allows this Parliament the privilege of moving a Motion to negative a statutory instrument, subsidiary legislation, an Order such as this, and the time frame for counting that does not include when the Parliament is on recess, and it does not include holidays. So I do not know where Sen. Mark is coming from in saying that there was an ambush, in his reflection.

Sen. Mark must be intimately aware that right now there is a sustained attack against the criminal empires of this country. While we were sitting here, Mr. Vice-President, there was another murder in Petit Valley. We have crossed 34 murders. While serious crimes may be going down, the most serious crime of murder is going up, and whether we met with—we met with JR Applications where some people profit handsomely, Mr. Vice-President, handsomely. I would

love to get \$420,000 for one day's work on a withdrawn application. I would love to, but not so is the luck of everybody. When you come out of governance you know where the weak spots are, you make sure you go and attack the weak spots. Well, you know what? On behalf of the citizens of Trinidad and Tobago who want to see crime wrestled to the ground, who want to give agencies like the SSA that are reporting statistics, as I have just given, a fighting chance, I say, no thank you, Sen. Ramdeen. I do not need your assistance.

Sen. Ramdeen: I will give you back your briefs.

Hon. F. Al-Rawi: Sen. Ramdeen said he would give me back his briefs, what he should be saying is, "You are the first Attorney General not to fire every lawyer you inherited". That is what he should be saying, but I do not think he has the courage to say that. [*Crosstalk*]

Sen. Dr. Mahabir: AG, I need to ask a question. [*Crosstalk*]

Hon. F. Al-Rawi: Sen. Mark, I need no assistance from you. I "doh" need any assistance.

Sen. Mark: I want justification for your exemption.

Hon. F. Al-Rawi: Sen. Mahabir, I only have three minutes, I apologize.

Sen. Dr. Mahabir: All right.

Hon. F. Al-Rawi: I am answering Sen. Ramdeen's direct requests put onto the Parliament floor, and what I am saying is that, "Gopaul luck eh Seepaul luck", and what I am saying to the people of Trinidad and Tobago is that when you finally see an opportunity to treat with crime and to wrestle it to the ground, at least with some effort, and you are seeing success of the type that we are seeing now, it requires a fighting chance.

So what are the rational reasons in summary? One, the architecture of the

FOIA is designed such that there is natural inclination statutorily given under section 3(2) in the objects provision of the Act to lean towards disclosure—

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

Hon. F. Al-Rawi: Thank you, Sir. Two, the route that one has in defending an application that the exemption provisions, which exist in Part IV in sections 24 to 35, the route that you have to defend yourself is in judicial review proceedings; three, judicial review proceedings at the hand of UNC lawyers come fast and furious, and are very expensive for the taxpayers of this country for one day's work, nearly half-a-million dollars off of that; four, our international partners that share information with us have said to us, unless we have the guarantee of secrecy, in particular in today's world of a terrorist threat, et cetera, we are not sharing information with you.

They have pointed us to the mosaic prejudice. They had pointed us to the inclination in their laws where there is a natural bias against disclosure. They had distinguished the argument in the United Kingdom where there is a blanket exemption, where they have an Information Commissioner, which we do not have, where their courts lean towards no disclosure. Canada has pointed us to the fact that they too have a blanket exemption and their courts do not lean towards disclosure. The United States of America does not have the expressed statutory exemption, but they have a system of classification which applies, which is not in existence in our laws. Australia has pointed us to a blanket exemption and the fact that their security intelligence agencies are not public authorities.

There is also the point that the section 35 argument for public interest disclosure under the Freedom of Information Act is on appeal at the Privy Council right now because of the 2:1 split in the Court of Appeal with Mr. Justice of

Appeal Ralph Narine saying that there should be no disclosure. If we were acting as politicians we would never have appealed the case to the Privy Council, we would have taken it and beat the UNC for the corrupt activities which happened under the procurement provisions.

We would have done that, happily beat them, but we know there is a lot more to beat them on in the days to come, and I would not be celebrating too quickly on anything that they are planning right now. But when we take now the distilled crystal points, it is true to say, as Sen. Raffoul has asked, and has been answered, that there is in fact no guarantee for privacy disclosure; what is in fact being intercepted, that is traded off in the context of the public law argument in terms of the public interest provisions in saying that national security should be in the hands of national security.

And notwithstanding all of the exhortations of my learned colleague, Sen. Wade Mark, who sat in Government for 10 full years of the operationality of the SSA Act, and who did not take a single step to amend the laws he now suggests—I want to say, there were not 14 exemptions granted on the Schedule to the Act, look at it, there are four, this is going to be the fifth one.

The exemptions out of the Central Bank and of the FCB group, that is obvious. You had to put FCB on the same footing as Republic Bank and Scotiabank and others that are not public authorities and are not subjected to the Freedom of Information Act, so you had to take them out. Otherwise they would close down, and a successful salvation of a banking operation would have fallen flat. Of course, the UNC skips over the 2005 amendment made to exempt the justice protection people, but they give you half the story; they do not give you, do so—“doh do as I did, do as I say”, and all of the exhortations in the world come to

naught. Mr. Vice-President, I thank you for the opportunity to contribute, and I look forward to the collection of voices. [*Desk thumping*] [*Crosstalk*]

Question put.

The Senate divided: Ayes 10 Noes 19

AYES

Mark, W.

Haynes, Miss A.

Ameen, Miss K.

Obika, T.

Ramdeen, G.

Baig, B.

Mahabir, Dr. D.

Chote SC, Miss S.

Raffoul, Miss J.

Heath, J.

NOES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Sinanan, Hon. R.

Moses, Hon. D.

Hosein, Hon. K.

West, Hon. A.

Le Hunte, Hon. R.

Lester, Dr. H.

Singh, A.

Cummings, F.

Huggins, R.

Romano, Miss A.

Lewis, Miss A.

Roach, H.R.I.

Small, D.

Richards, P.

Sydney, A.

Motion negatived.

Mr. Vice-President: Leader of Government Business.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday the 23rd of January, 2018, at 1.30 p.m., and on that occasion we will begin the debate on a Bill to amend the Mutual Assistance in Criminal Matters.

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

Royal Bank of Canada

(Closure of Sangre Grande Branch)

Sen. Wade Mark: Thank you, Sir. Mr. Vice-President, I raise this particular matter which deals with the failure of the Royal Bank of Canada to properly inform its customers of the closure of its Sangre Grande branch and the need for

the financial services ombudsman to intervene in this matter in the interest of the affected persons, particularly senior citizens. Mr. Vice-President, in January of this year, in fact very early in January, I think the 3rd it was, or 2nd of January, Royal Bank of Canada, a foreign bank, decided to close its branch in Sangre Grande which had existed for some 30 years, servicing the community, not only of Sangre Grande but places like Toco, Cumana, Matelot, Sans Souci, Balandra, Matura, Manzanilla, Sangre Chiquito, Biche, Plum Mitan, Coalmine, Cumuto, Guaico, Tamana, Fishing Pond and Valencia, among other communities.

10.50 p.m.

Mr. Vice-President, this particular hostile act by this particular commercial bank was apparently executed without properly informing the various stakeholders and customers. So I have in my hands here an article in the *Trinidad Business Express* dated Wednesday, 03rd January, and the headline is:

“Scant courtesy from RBC”

—according to the Sangre Grande Chamber, and it reads:

“The new president of the Sangre Grande Chamber of Commerce, Ricardo Mohammed, said yesterday that the decision by RBC Royal Bank to close its Sangre Grande branch and merge it with its Arima branch appears to be rash and irresponsible as it shows no regard for the bank’s Sangre Grande customers who only became aware of the closure because of a newspaper article on Sunday.”

When you went to the *Business Guardian*, there is a headline:

“Business group irate over RBC branch closure”

In the *Newsday*, there is another headline:

“RBC Sangre Grande closes”

And then we understand from that closure the bank is claiming that they informed the stakeholders, but the people are saying that they were never informed by the RBC.

This is where the role of the Office of the Financial Services Ombudsman comes into play, because that office as you know was established in 2003, and among its responsibilities is to deal with customers at commercial banks as well as insurance companies. The ombudsman is to investigate complaints from individuals and businesses with respect to financial services provided by the commercial banks and their subsidiary licence under the financial institutions.

Mr. Vice-President, the Office of the Financial Services Ombudsman reports directly to the Governor of the Central Bank, and it is passing strange that that particular bank can close down a branch. Obviously they would have informed the Governor of the Central Bank or some agent of the Governor that they were going to close down, and the Office of the Financial Services Ombudsman ought to be aware or ought to have known of this closure. Therefore, before they closed that branch there ought to have been some intervention by the Office of the Financial Services Ombudsman on behalf of the Central Bank. So that the customers would not be complaining about the kind of mistreatment, the almost disrespect and the haste in which Royal Bank of Canada left the people of Sangre Grande literally stranded.

I believe there is need for the Governor of the Central Bank, through the Office of the Financial Services Ombudsman, to come and explain to this country how a bank, even though they took a commercial decision that is within their right, they can close branches, but of course you need to communicate what you are doing with your customers, and you cannot leave your customers high and dry.

Everyone was taken by surprise.

You know what happened, Mr. Vice-President? Pensioners who went to the bank the morning to collect their pensions they saw a big sign, "Closed" and they had to travel to Arima. They have now said they have merged the Arima branch with that of the Sangre Grande branch. And to add insult to injury, Minister of Labour and Small and Micro Enterprise Development, they have now introduced for the first time, this foreign bank, Saturday work. And they are using Saturday work in order to justify service to those persons who have been displaced in the Sangre Grande, Matelot, Toco, Guaico, Cumuto areas. Now, this is a scandal of epic proportions.

Sen. Baptiste-Primus: You know I cannot do anything.

Sen. W. Mark: I know you cannot intervene because your hands are tied, but we need changes to the laws of this country to not allow a foreign bank to come into this country and treat our citizens in that kind of way.

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

Sen. W. Mark: Therefore, I am asking the Government, through the Minister in the Ministry of Finance, to give this Senate an account of this development, and what action has been taken to ease the plight, particularly of the elderly and the pensioners, Mr. Vice-President, who have been dislocated. Then, you know, you have all kinds of other situations that the businessmen have raised about this closure, about they transferring money and how they are going to get from one point to the next.

I think it is a total disrespect, insult by this bank called the Royal Bank of Canada and we need to get some answers on behalf of the people of those communities, Sangre Grande and its surroundings, so we will know exactly what is

going on and what the Government is doing, that is, through the Central Bank and the Financial Ombudsman to address the grievances of the people, and finally how to avoid this debacle from repeating itself in the future without the knowledge of the people of the particular community.

I thank you very much, Mr. Vice-President.

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Thank you, Mr. Vice-President. Banks and other financial institutions, which are referred to as licensees under the Financial Institutions Act, are required to notify the Central Bank prior to opening or closing a branch in accordance with section 50(4) of the Financial Institutions Act of 2008. That section states as follows:

“A licensed domestic institution shall not, without at least seven days prior notice in writing to the Central Bank—

- (a) establish, acquire or open a branch or representative office in Trinidad and Tobago; or
- (b) close or relocate—
a branch in Trinidad and Tobago;”

While this requirement is a prerequisite to the opening or closing of a branch, the legislation places no authority, power or obligation on the Central Bank in respect of any such closure. It is a notification requirement only and as such there is little the Central Bank can do in respect of a proposed branch closure.

With respect to the specific matter of the closure of the Sangre Grande branch of RBC, section 56 of the Central Bank Act, Chap. 79:02, prohibits the Central Bank from disclosing any information related to the affairs of a licensee. So I can disclose no details in respect of that specific matter. However, any customer who has a complaint related to the branch's closure that cannot be

Royal Bank of Canada (Closure of
Sangre Grande Branch
Sen. The Hon. A. West (cont'd)

2018.01.16

resolved satisfactorily by the bank, has recourse to the Financial Services Ombudsman. I am unable to say whether any complaints have been placed.

But, Sen. Mark, what I would recommend is if you do have constituents who have concerns they raise the matter with the Financial Services Ombudsman and he will act in accordance with his remit once he has done his investigation. I thank you, Mr. Vice-President.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.59p.m.