

SENATE*Wednesday, September 11, 2019*

The Senate met at 1.30 p.m.

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

Madam President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Dennis Moses and Sen. Hazel Thompson-Ahye, both of whom are out of the country.

VACANT SEAT

Madam President: Hon. Senators, I have received the following correspondence from the Office of the President.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Paula-Mae Weeks

President.

TO: MR. FOSTER CUMMINGS

WHEREAS by the provisions of section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, the President, in exercise of the power vested in her, and acting in accordance with the advice of the Prime Minister is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the

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power vested in me by the said section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you FOSTER CUMMINGS, to be vacant, with effect from 21st July, 2019.

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 22nd day of July, 2019.”

SENATOR'S APPOINTMENT

Madam President:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

Appointment of a Senator

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

/s/ Paula-Mae Weeks
President.

TO: MS. DONNA COX

In exercise of the power vested in me by section 40(2)(a) of the Constitution of the Republic of Trinidad and Tobago, and in accordance with the advice of the Prime Minister, I, PAULA-MAE WEEKES, President as aforesaid, do hereby appoint you, DONNA COX, a Senator with effect from 21st July, 2019.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and

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Tobago at the Office of the President, St.
Ann's, this 22nd of July, 2019.”

VACANT SEAT

Madam President:

“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 Kangaloo

Acting President.

TO: MR. GARVIN SIMONETTE

WHEREAS by the provisions of section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, the Acting President, in exercise of the power vested in her, and acting in accordance with the advice of the Prime Minister is empowered to declare the seat of a Senator to be vacant:

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 the said section 43(2)(e) of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you GARVIN SIMONETTE, to be vacant, with effect from 14th August, 2019.

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 14th day of August, 2019.”

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SENATORS' APPOINTMENT**Madam President:**

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Senator

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

/s/ Christine Kangaloo

Acting President.

TO: MR. FOSTER CUMMINGS

In exercise of the power vested in me by section 40(2)(a) of the Constitution of the Republic of Trinidad and Tobago, and acting in accordance with the advice of the Prime Minister, I, CHRISTINE KANGALOO, Acting President as aforesaid, do hereby appoint you, FOSTER CUMMINGS, a Senator with effect from 14th August, 2019.

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 14th day of August, 2019."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By Her Excellency PAULA-MAE
WEEKES, O.R.T.T., President of the
Republic of Trinidad and Tobago and

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Commander-in-Chief of the Armed
Forces.

/s/ Paula-Mae Weekes

President.

TO: MR. NDALE YOUNG

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

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, acting in accordance with the advice of the Prime Minister, 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 a member of the Senate, temporarily, with effect from 11th September, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable 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 11th day of September, 2019"

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

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

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/s/ Paula-Mae Weekes

President.

TO: MS. SHERVON IFILL

WHEREAS Senator Hazel Thompson-Ahye is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MS. SHERVON IFILL to be temporarily a member of the Senate, with effect from 11th September, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator Hazel Thompson-Ahye.

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 10th day of September, 2019."

AFFIRMATION OF ALLEGIANCE

Senators Donna Cox and Ndale Young took and subscribed the Affirmation of Allegiance as required by law.

OATH OF ALLEGIANCE

Senators Foster Cummings and Shervon Ifill took and subscribed the Oath of Allegiance as required by law.

WELCOME

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West):
Madam President, may I take this opportunity to welcome back my colleagues and

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members of staff of the Senate and I hope that at least some of us enjoyed the vacation during the last couple of months.

PAPERS LAID

1. Consolidated Annual Audited Financial Statements of Trinidad and Tobago National Petroleum Marketing Company Limited and its Subsidiaries for the financial year ended March 31, 2018. [*The Minister in the Ministry of Finance (Sen. The Hon. Allyson West)*]
2. Annual Audited Financial Statements of the Deposit Insurance Corporation for the year ended September 30, 2017. [*Sen. The Hon. A. West*]
3. Annual Audited Financial Statements of the Deposit Insurance Corporation for the year ended September 30, 2018. [*Sen. The Hon. A. West*]
4. Annual Audited Financial Statements of Trinidad Nitrogen Company Limited for the financial year ended December 31, 2018. [*Sen. The Hon. A. West*]
5. 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, 2012. [*Sen. The Hon. A. West*]
6. 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, 2013. [*Sen. The Hon. A. West*]
7. 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, 2014. [*Sen. The Hon. A. West*]

8. 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, 2015. [*Sen. The Hon. A. West*]
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2012. [*Sen. The Hon. A. West*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2013. [*Sen. The Hon. A. West*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Fair Trading Commission for the year ended September 30, 2018. [*Sen. The Hon. A. West*]
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2013. [*Sen. The Hon. A. West*]
13. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2014. [*Sen. The Hon. A. West*]
14. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority –

- Environmental Trust Fund for the year ended September 30, 2015. [*Sen. The Hon. A. West*]
15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2016. [*Sen. The Hon. A. West*]
 16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2017. [*Sen. The Hon. A. West*]
 17. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Environmental Management Authority – Environmental Trust Fund for the year ended September 30, 2018. [*Sen. The Hon. A. West*]
 18. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2013. [*Sen. The Hon. A. West*]
 19. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Public Transport Service Corporation for the year ended September 30, 2014. [*Sen. The Hon. A. West*]
 20. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Regulated Industries Commission for the year ended December 31, 2015. [*Sen. The Hon. A. West*]
 21. Annual Report of Taurus Services Limited for the financial year 2018. [*Sen. The Hon. A. West*]

22. Annual Audited Financial Statements of Clico Investment Fund for the financial year ended December 31, 2018. [*Sen. The Hon. A. West*]
23. Annual Audited Financial Statements of East Port of Spain Development Company Limited for the financial year ended September 30, 2013. [*Sen. The Hon. A. West*]
24. Consolidated Audited Financial Statements of the National Gas Company of Trinidad and Tobago Limited for the financial year ended December 31, 2018. [*Sen. The Hon. A. West*]
25. Report of the Central Bank of Trinidad Tobago on Insurance and Pensions for the year ended December 31, 2017. [*Sen. The Hon. A. West*]
26. Ministerial Response of the Ministry of Finance to the Nineteenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the Cocoa Development Company of Trinidad and Tobago Limited for the years ending September 30, 2014 to 2016. [*Sen. The Hon. A. West*]
27. Ministerial Response of the Ministry of Finance to the Twenty-First Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the Trinidad and Tobago Free Zones Company Limited for the years ended September 30, 2012 to 2017. [*Sen. The Hon. A. West*]
28. Ministerial Response of the Ministry of Finance to the Seventeenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Export Centres Company Limited for the financial years 2008 to 2011. [*Sen. The Hon. A. West*]

29. Ministerial Response of the Ministry of Finance to the Eighteenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of Caroni (1975) Limited for the years ended June 30, 2010 to 2018. [*Sen. The Hon. A. West*]
30. Response of the Office of Procurement Regulation to the Sixth Report of the Joint Select Committee on Finance and Legal Affairs on an Inquiry into the Implementation of the New Public Procurement System. [*Sen. The Hon. A. West*]
31. Annual Report and Consolidated Financial Statements of accounts of the Central Bank of Trinidad and Tobago for the year ended September 30, 2018. [*Sen. The Hon. A. West*]
32. Annual Administrative Report of the Trinidad and Tobago International Financial Centre Management Company Limited for the year ended September 30, 2018. [*Sen. The Hon. A. West*]
33. Annual Report of the Industrial Court of Trinidad and Tobago for the fiscal year 2016/2017. [*The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus)*]
34. Ministerial Response of the Ministry of Labour and Small Enterprise Development to the Twelfth Report of the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) on an Inquiry into Occupational Safety and Health Compliance within the Public Service. [*Sen. The Hon. J. Baptiste-Primus*]
35. Annual Administrative Report of the Ministry of Works and Infrastructure (formerly) for the year 2013. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]

36. Ministerial Response of the Ministry of Works and Transport to the Seventh Report of the Joint Select Committee on Land and Physical Infrastructure on an Inquiry into the Public Transport Service Corporation with specific focus on the Public Bus Service and Maintenance of Buses. [*Sen. The Hon. R. Sinanan*]
37. Ministerial Response of the Ministry of Works and Transport to the Twenty-Fourth Report of the Public Accounts Committee on the Examination of the Audited Financial Statements of the Port Authority of Trinidad and Tobago for the financial years 2008 to 2011. [*Sen. The Hon. R. Sinanan*]
38. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Nineteenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the Cocoa Development Company of Trinidad and Tobago Limited for the years ending September 30, 2014 to 2016. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
39. Annual Administrative Report of the Betting Levy Board for the period July 01, 2016 to June 30, 2017. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]
40. Annual Administrative Report of the Betting Levy Board for the period July 01, 2017 to June 30, 2018. [*Sen. The Hon. P. Gopee-Scoon*]
41. Annual Administrative Report of the Evolving TecKnologies and Enterprise Development Company Limited (eTeck) for the year 2016. [*Sen. The Hon. P. Gopee-Scoon*]
42. Annual Administrative Report of the Evolving TecKnologies and Enterprise Development Company Limited (eTeck) for the year 2017. [*Sen. The Hon. P. Gopee-Scoon*]

43. Annual Administrative Report of the Trinidad and Tobago Creative Industries Limited for the year ended September 30, 2015. [*Sen. The Hon. P. Gopee-Scoon*]
44. Ministerial Response of the Ministry of Trade and Industry to the Twenty-First Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of the Trinidad and Tobago Free Zones Company Limited for the years ended September 30, 2012—2017. [*Sen. The Hon. P. Gopee-Scoon*]
45. Forty-First Annual Report of the Ombudsman for the year 2018. [*The Vice-President (Sen. Nigel De Freitas)*]
46. Annual Report of the National Information and Communication Technology Company Limited (iGovtTT) for the fiscal year 2017/2018. [*Sen. The Hon. A. West*]
47. Annual Administrative Report of the National Maintenance Training and Security Company Limited for the year ended December 31, 2016. [*The Minister of Public Utilities (Sen. The Hon. Robert Le Hunte)*]
48. Annual Report of the Strategic Services Agency, Ministry of National Security for the year 2018. [*The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)*]
49. Annual Report of the Criminal Injuries Compensation Board for the period 2016 to 2017. [*Sen. The Hon. F. Khan*]
50. Administrative Report of the Ministry of Planning and Sustainable Development for the period October 2012 to September 2013. [*Sen. The Hon. F. Khan*]
51. Ministerial Response of the Ministry of Planning and Development to the Sixth Report of the Joint Select Committee on Land and Physical

- Infrastructure on an inquiry into the Establishment of Systems for the Maintenance of Drainage and Roadways. [*Sen. The Hon. F. Khan*]
52. Annual Report of the Environmental Management Authority for the year 2013. [*Sen. The Hon. F. Khan*]
53. Annual Report of the Environmental Management Authority for the year 2014. [*Sen. The Hon. F. Khan*]
54. Annual Report of the Environmental Management Authority for the year 2015. [*Sen. The Hon. F. Khan*]
55. Ministerial Response of the Ministry of Planning and Development to the Fifth Report of the Joint Select Committee on Finance and Legal Affairs on a Critical Assessment of the Waste Management Policies and Initiatives of the State (with specific focus on Solid Waste). [*Sen. The Hon. F. Khan*]
56. Annual Administrative Report of the Ministry of Community Development, Culture and the Arts for the fiscal year 2015/2016. [*Sen. The Hon. F. Khan*]
57. Ministerial Response of the Ministry of Community Development, Culture and the Arts to the Seventeenth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance and other Financial Statements of the Export Centres Company Limited for the financial years 2008 to 2011. [*Sen. The Hon. F. Khan*]
58. Ministerial Response of the Ministry of Social Development and Family Services to the Seventh Report of the Joint Select Committee on Land and Physical Infrastructure on an Inquiry into the Public Transport Service Corporation with specific focus on the Public Bus Service and Maintenance of Buses. [*Sen. The Hon. F. Khan*]

59. Annual Administrative Report of the National Institute of Higher Education (Research, Science and Technology) for the fiscal year 2015/2016. [*Sen. The Hon. F. Khan*]
60. Annual Administrative Report of the Youth Training and Employment Partnership Programme for the fiscal year 2015/2016. [*Sen. The Hon. F. Khan*]
61. Ministerial Response of the Ministry of Education to the Seventh Report of the Joint Select Committee on Land and Physical Infrastructure on an inquiry into the Public Transport Service Corporation with specific focus on the Public Bus Service and Maintenance of Buses. [*Sen. The Hon. F. Khan*]
62. Annual Administrative Report of the University of Trinidad and Tobago for the fiscal year 2016/2017. [*Sen. The Hon. F. Khan*]
63. Annual Administrative Report of the National Energy Skills Centre for the fiscal year 2015/2016. [*Sen. The Hon. F. Khan*]
64. Civil Proceedings (Amendment) Rules, 2019. [*Sen. The Hon. F. Khan*]
65. Criminal Procedure (Amendment) Rules, 2019. [*Sen. The Hon. F. Khan*]
66. Criminal Procedure (Amendment) (No. 2) Rules, 2019. [*Sen. The Hon. F. Khan*]
67. Maintenance (Amendment) Rules, 2019. [*Sen. The Hon. F. Khan*]
68. Ministerial Response of the Ministry of Health to the Tenth Report of the Joint Select Committee on Social Services and Public Administration on an inquiry into the Potential Benefits of Traditional, Complementary and Alternative Medicine in the Treatment of Non-communicable diseases affecting the Trinidad and Tobago population. [*Sen. The Hon. F. Khan*]
69. Ministerial Response of the Ministry of Energy and Energy Industries to the Tenth Report of the Joint Select Committee on State Enterprises on an

inquiry into the operations of Lake Asphalt of Trinidad and Tobago (1978) Limited, and to determine its effectiveness at fulfilling its mandate. [*Sen. The Hon. F. Khan*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Cybercrime Bill, 2017

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Third Interim Report of the Joint Select Committee, Fourth Session (2018/2019), Eleventh Parliament, appointed to consider and report on the Cybercrime Bill, 2017 in the Fourth Session, Eleventh Parliament.

Gambling (Gaming and Betting) Control Bill, 2016

The Minister in the Ministry of Finance (Sen. The Hon. Allyson West): Madam President, I have the honour to present the following report as listed on the Order Paper in my name:

Second Interim Report of the Joint Select Committee, Fourth Session (2018/2019), Eleventh Parliament, appointed to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016 in the Fourth Session, Eleventh Parliament.

Public Administration and Appropriations Committee

East Port of Spain Development Company Limited

Sen. Wade Mark: Thank you, Madam President. I have the honour to present the following report as listed on the Order Paper in my name:

Seventeenth Report of the Public Administration and Appropriations Committee, Fourth Session (2018/2019), Eleventh Parliament on an

Examination into the Expenditure and Internal Controls of the East Port of Spain Development Company Limited.

Human Rights, Equality and Diversity

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you, Madam President. Madam President, I have the honour to present the following reports as listed on the Order Paper in my name:

Treatment of Child Offenders

Eleventh Report of the Joint Select Committee on Human Rights, Equality and Diversity, Fourth Session (2018/2019), Eleventh Parliament on the Follow-up Inquiry into the Status of the Implementation of the recommendations of the Third Report of the Joint Select Committee on Human Rights, Equality and Diversity into the Treatment of Child Offenders.

Child Prostitution and Child Pornography

Twelfth Report of the Joint Select Committee on Human Rights, Equality and Diversity, Fourth Session (2018/2019), Eleventh Parliament on the Sexual Exploitation of Children in Trinidad and Tobago with specific focus on Child Prostitution and Child Pornography.

URGENT QUESTION

St. Joseph Secondary School

(Measures to Secure Site)

Sen. Saddam Hosein: Thank you very much, Madam President. Madam President, In light of reports yesterday that there has been theft of material and other illicit activities at the new St. Joseph Secondary School, can the Minister indicate what is being done to properly secure the site?

Madam President: The Minister of Agriculture, Land and Fisheries.

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, based on these reports which have been received by the Ministry of Education, in relation to the existing school site the Ministry has taken three steps. One is to increase the number of security officers available at the school round the clock. Two, the Ministry has taken steps to have the perimeter fence fortified because of breaches in that fence; and third, the Ministry has taken steps to get a contractor to improve the lighting on that school compound.

Madam President, in relation to this construction site, the Ministry has taken steps to engage a contractor to secure the site, in particular the materials. I thank you.

Madam President: Sen. Hosein.

Sen. S. Hosein: Madam President, can the Minister explain why, after 2015, 96 per cent of the school has been completed but yet today the school remains a construction site?

Madam President: That question does not arise. Next question.

Sen. Ameen: Madam President, can the Minister indicate an approximate cost for the measures outlined to be taken by the Government?

Madam President: Minister?

Sen. The Hon. C. Rambharat: Madam President, I am not in a position now, but I would be able to provide to the House the estimated cost of the three measures which I have indicated in relation to the existing school and the increase in security for the construction site, and the Ministry of Education will provide that in writing. Thank you.

2.00 p.m.

ANSWERS TO QUESTIONS

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

Khan): Thank you very much, Madam President. Madam President, the Government is pleased to announce that after the recess we will be answering all questions and I will further indicate that there are four questions for Written Answers and we will be submitting answers to questions Nos. 288, 299 and 301.

WRITTEN ANSWERS TO QUESTIONS

Government Public-Private-Partnership Arrangements

(Details of)

288. Sen. Anita Haynes asked the hon. Minister of Housing and Urban Development:

With regard to the Minister of Finance's announcement that the Government will engage in public-private-partnership arrangements for the construction of multiple housing units, can the Minister indicate:

- (i) whether the US \$75 million loan from the International Finance Corporation by Republic Bank will be used to finance said construction projects;
- (ii) where will these units be constructed;
- (iii) the number of units to be constructed; and
- (iv) the anticipated completion date of the construction of said units?

Rental of Buildings/Office Spaces

(Information of)

299. Sen. Saddam Hosein asked the hon. Minister of Public Administration:

Having regard to the buildings/office spaces being rented by the State during the period September 2015 to May 2019, can the Minister provide the following information for each rental agreement:

- (i) the building and address that is rented;
- (ii) the name of the owners of the building;

- (iii) the purpose for renting the building;
- (iv) the cost per month to rent the building;
- (v) the date on which the lease agreement was entered into; and
- (vi) the period of each lease agreement?

Petroleum Act Licence Provisions

(Details of)

301. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries: Having regard to the provisions of the Petroleum Act, Chap 62:01, can the Minister provide the following information:

- (i) the names of all of the companies which have been licensed under the Act and the Regulations;
- (ii) the types of licences issued to each; and
- (iii) the commencement and expiration dates of each of the licences issued?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

Industrial Court Judges

(Contract Approvals)

202. Sen. Wade Mark asked the hon. Attorney General:

Having regard to reports that several judges of the Industrial Court are now employed by way of month-to-month arrangements, can the Attorney General indicate when will substantial contracts for these judges be approved?

The Attorney General (Hon. Faris Al-Rawi): Madam President, the question as posed by my learned colleague Sen. Mark is based on a false premise that is entirely wrong. Judges are not employed by month to month arrangements as

suggested by Sen. Mark. In fact, judges of the Industrial Court are appointed in accordance with sections 4 and 5 of the Industrial Relations Act, Chap. 88:01. Judges are appointed by the President of Trinidad and Tobago and they hold office for periods not less than three years or more than five years as specified in their respective instruments.

Where a judge's term of office has expired, section 49 of the Industrial Relations Act provides that a judge may continue in office for such period after the end of his or her term as may be necessary to enable him or her to deliver judgment or to do any other thing in relation to proceedings that will commence before the term of their office expired, with the permission of the President of Trinidad and Tobago acting in accordance with the advice of the president of the court. In those circumstances, I can say that currently there are four judges operating on continuation in office basis, ranging from three to six months. These judges are eligible for reappointment under section 5 of the Industrial Relations Act and their continuation in office is of course, completely vires and lawful and of course, in accordance with section 49 of the parent law.

Sen. Mark: Madam President, can the hon. Attorney General indicate whether these four judges, in accordance with the law and being entitled to or eligible for reappointment, can the Attorney General advise this honourable Senate, whether these judges will be appointed on a full time basis, meaning for the next three years having completed their three to six months period of contractual obligations?

Madam President: Sen. Mark, I would not allow that question based on the response of the Attorney General. Another question?

Sen. Mark: Can I ask the Attorney General if the Government intends to take action to address the issue of tenure of security of Industrial Court judges?

Hon. F. Al-Rawi: If my friend is referring to security of tenure, I can in fact say

that the law is a fulsome piece of law and has stood the test of time. The security of tenure as defined under the Industrial Relations Act and has been well entrenched and subject to even Privy Council appeal is known for all and sundry. Sen. Mark has served in successive governments himself, never once had the inclination to be an advocate for an amendment to the law, as to what I am not quite sure on this occasion, but the Privy Council has certainly spoken in relation to security of tenure. The tenure is secured by virtue of the appointments as conducted by the JLSC in the first instance for certain officers and by the Cabinet acting through the President in certain other circumstances, where the tenure is described either as a three-year contract or up to five years.

Sen. Mark: Madam President, as a superior court of record, can the Attorney General indicate whether it is the intention of the Government to remove that power from the Cabinet and place that power in the hands of the JLSC?

Hon. F. Al-Rawi: The power of the JLSC is entrenched in the law as it relates to the President. The hon. Senator ought to know that. He is a long standing Member of this Parliament and several committees. It seems my friend has forgotten all of the law that he has been exposed to in the many, many years he has been in the Parliament. With respect to the appointments that are done by the President acting on the advice essentially on instruction of the Cabinet, that has been well tested again up to Privy Council level, so I am not going to join Sen. Mark in this frolic that he is on, of raising an issue that does not exist in Trinidad and Tobago.

Madam President: Sen. Mark.

Sen. Mark: Can I ask the Attorney General whether the Cabinet is considering the establishment of a new appointments committee that will address this issue of an arm's length relationship between the judges of the Industrial Court and politicians at the level of the Cabinet?

Madam President: Sen. Mark, I will not allow that question. Next question, Sen. Mark.

**Egypt Village, Point Fortin
(Measures to Safeguard)**

203. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:
Given that subsequent to the Minister's undertaking to appropriately secure the oil seep in Egypt Village, Point Fortin, livestock have since fallen into the seep, what action is being taken to safeguard against similar occurrences?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, the Ministry of Energy and Energy Industries installed a warning sign on March 27, 2019. The sign was installed on the roadway from which it is believed the boys gained access to the location. In addition, the location was cleared of the overgrown vegetation, another sign was installed at the vehicular traffic access side of the location, and most importantly, fencing was installed by Heritage Petroleum. It is my understanding that the fence surrounds the entire seep, and the fence is six feet high so the place is fairly or very well secured at this time.

Madam President: Next question, Sen. Mark.

**National Flour Mills
(Details of Dismissals)**

206. Sen. Wade Mark asked the hon. Minister of Trade and Industry:
In view of the March 2019 dismissal of four senior managers at the National Flour Mills, can the Minister advise as to the following:

- i. the reason(s) for the dismissal;
- ii. whether similar dismissals are likely in the short-term;

- iii. whether the dismissals referred to in (i) were carried out in accordance with proper industrial relations practices?

Madam President: Minister of Trade and Industry.

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

Thank you, Madam President. In reply to part (i): In keeping with its strategic direction to achieve sustainability and profitability over short, medium and long terms, the National Flour Mills Limited conducted a comprehensive job evaluation and organizational review in 2018. This review revealed that the company's structure comprised excessive and non-value-adding organizational layers. In addition, the organizational review also highlighted that such multi-tiered, or stacked organizations are almost non-existent in the competitive local manufacturing sector. In this regard, the Board of Directors of NFM sought to restructure its management level by making the positions of general manager redundant. This course of action was adopted with a view to reducing bureaucracy, to better allow the company being more efficient and market-driven providing for faster decision making, shorter communication paths and an improved customer service culture.

The answer to part (ii): National Flour Mills has no plans for any similar redundancies in the short term. To part (iii): National Flour Mills adhered to establish industrial relations practices in making the positions of general manager redundant. Further, the managers were paid salary and allowances during the period which ended on April 30, 2019, as outlined in the terms and conditions of their existing contracts of employment. Following this, all termination benefits would have been made available to the affected managers. It is important to note that the four positions were not part of a recognized bargaining unit.

Madam President: Sen. Mark.

Sen. Mark: Madam President, can the Minister identify for this honourable Senate, the offices of the four senior managers that were made redundant? Can she identify those offices?

Madam President: Minister.

Sen. The Hon. P. Gopee-Scoon: Thank you, Madam President. Whilst I do not have the actual name of it, I can tell you that it would have been operations, marketing and exports, those are the areas I am attending to, finance, and there was one other, but I can supply the correct names of the position to the Member in writing—to the Senator, sorry.

Sen. Mark: Madam President, can the hon. Minister indicate since the dismissal of these four senior managers, can the Minister indicate whether new personnel has been engaged by the National Flour Mills to literally replace those four senior managers but in different position? Can the Minister share with us whether new managers have been engaged since the dismissal of these four senior managers?

Madam President: Minister.

Sen. The Hon. P. Gopee-Scoon: That has not happened.

Sen. Mark: Can the Minister indicate whether the dismissal of these four senior managers was all part—well can I put in another way, Madam President? Can the Minister indicate in seeking to arrive of a certain efficiency level at the National Flour Mills, can the Minister indicate whether it is the intention of the Government through these dismissals to work towards the divestment and ultimate privatization of the National Flour Mills?

Madam President: Sen. Mark, that question does not arise. Any further question on this?

Sen. Mark: No Ma'am.

Madam President: Sen. Hosein, next question please.

Boeing 737 Max 8 Aircraft
(Update on Agreement to Acquire)

292. Sen. Saddam Hosein asked the hon. Minister of Works and Transport:

Having regard to the issues surrounding the Boeing 737 Max 8 aircraft, can the Minister give an update on the agreement to acquire said aircrafts from Boeing?

Madam President: Acting Prime Minister and Minister of Finance.

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you. Madam President, in December 2018 Caribbean Airlines executed lease agreements with two lessors for operating leases of a total of 12 B737 Max aircraft to replace the current fleet of B737 NGs which range in age from eight to 20 years. Subsequent to the two accidents which occurred involving Max aircraft, Caribbean Airlines has been in constant contact with the lessors and Boeing in order to be fully apprised of the developments and findings as regulatory investigations take place. In terms of the status of the agreement to lease the Max 8 aircraft, this agreement is subject to the lessors providing all approval documentation and certifications of airworthiness from the Federal Aviation Administration which has not yet occurred. If the aircraft are not certified as airworthy, then Caribbean Airlines would be under no obligations to accept them or pay for them. In the interim, Caribbean Airlines has made arrangement to extend its current fleet of Boeing 737 aircraft as and when required in order to ensure the smooth continuity of flight operations.

Madam President: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam President. Madam President, can the Minister—can the Acting Prime Minister, sorry, indicate whether or not any moneys had been paid out to Boeing under the lease agreement for the 12 aircraft?

Madam President: Acting Prime Minister.

Hon. C. Imbert: Thank you, Madam President. A down payment was made.

Madam President: Sen. Hosein.

Sen. S. Hosein: Can the Acting Prime Minister please indicate what is the amount dollars and figures, the dollar figure sorry, for the down payment please?

Madam President: Acting Prime Minister.

Hon. C. Imbert: I do not have that information with me, but in discussion with the CEO of Caribbean Airlines today, the position at this time is that if the aircraft cannot be delivered and certified to be airworthy, the money will be refunded.

Madam President: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam President. In light of the Minister's answer with respect to awaiting the approvals from the FAA for the lease agreement, has Caribbean Airlines taken any other steps to acquire any other aircrafts in the event that this lease agreement does not pull through please?

Madam President: I will not allow that question because the answer dealt with that as well. Sen. Mark.

Sen. Mark: Can I ask the hon. Acting Prime Minister whether given the need to ensure safety of passengers in the air, whether the Government in light of what has happened with two of those aircraft in the past, whether the Government is inclined to instruct CAL to cancel that arrangement and seek alternative arrangements to acquire new aircraft for its fleet.

Madam President: Acting Prime Minister.

Hon. C. Imbert: Madam President, as I indicated, Caribbean Airlines has made arrangements to extend the leases of its current fleet as and when required.

Madam President: Next question. Sen. Hosein.

May 2019 Prison Break

(Circumstances re Use of Helicopter)

294. Sen. Saddam Hosein asked the hon. Minister of National Security:

In light of the May 15, 2019 prison break, can the Minister provide the circumstances surrounding the use of a helicopter from the National Helicopter Services Limited (NHSL)?

Madam President: Acting Minister of National Security.

The Acting Minister of National Security and Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much, Madam President. The prison break of May 15, 2019, resulted in six prisoners escaping from the Maximum Security Prison. Information received indicated that they were in forested, densely populated areas, and possible aerial assistance was required in order to locate them as quickly as possible. In adapting a multi-divisional approach to the situation, the Trinidad and Tobago Police Service requested the use of the helicopter from the National Helicopter Services Limited, to assist the Ministry in providing a wider viewing advantage for law enforcement, thus allowing for greater coordination of the ground assets in the pursuit of those escapees.

Madam President: Sen. Hosein.

Sen. S. Hosein: Thank you very much, Madam President. Madam President, can the Minister indicate whether or not that helicopter that was used on that day was equipped with national security equipment to properly coordinate the ground assets in that operation please.

Madam President: Minister.

Hon. F. Hinds: I would think that the answer I delivered a while ago would have rendered the answer to that question unnecessary. It is self-evident. It was used. And it used successfully in coordinate the ground assets.

Madam President: Sen. Hosein.

Sen. S. Hosein: Madam President, can the Minister then confirm whether or not that was the helicopter that crashed?

Madam President: Minister.

Hon. F. Hinds: Madam President, the question was, remains, whether the aircraft was suited for coordinating the ground exercises and the answer to that remains yes.

Madam President: Sen. Hosein.

Sen. S. Hosein: Can the Minister then confirm whether or not it was as the result of the non-maintenance of the helicopters that under the Ministry of National Security led to the lease of this helicopter on that day which crashed? Because of the non-maintenance of the present fleet, Madam President.

Madam President: Minister.

Hon. F. Hinds: Madam President, the asset was certified for use as indeed it was, and it did the job on that day.

Madam President: Sen. Hosein.

Sen. S. Hosein: Madam President, the Minister still has not answered the questions that I asked. But, Madam President, can the Minister indicate why an unsuitable aircraft was used in that operation, and crashed on the day in which the prison break incident took place?

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

International Monetary Fund

(World Economic Outlook)

295. Sen. Saddam Hosein asked the hon. Minister of Finance

Having regard to recent reports, can the Minister state what data was submitted to the International Monetary Fund (IMF) to update Trinidad and Tobago's position in the World Economic Outlook (WEO)?

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Madam President, the following documents were provided to the International Monetary Fund to update Trinidad and Tobago's position in the World economic Outlook:

- The Central Statistical Office tables on nominal and real GDP including 2018 projections;
- The CSO's analysis of the 2018 GDP;
- Crude oil production for the months January and February of 2019;
- Updated estimates for crude oil and condensates and natural gas production and utilization;
- 2018 monthly bulletin from the Ministry of Energy and Energy Industries;
- Natural gas production forecast for 2019;
- Provisional quarterly nominal and real GDP data from the CSO for the period 2012 to the third quarter 2018;
- Petrochemical production and prices for 2017 to 2018; and
- A news link to increase gas production, an article from the Minister of Energy and Energy Industries relating to increased gas production.

2 20 p.m.

Sen. Obika: Thank you, Madam President. To the Acting Prime Minister, can the hon. Minister indicate whether there were any objections by the IMF to this submission?

Madam President: That question does not arise. Sen. Obika.

Sen. Obika: Can the hon. Minister indicate whether the IMF changed its position post the submission from the Ministry of Finance?

Madam President: Sen. Obika, that question does not arise in relation if one reads the questions that was posed. Sen. Hosein.

Sen. S. Hosein: Madam President, can the Acting Prime Minister indicate why this data was not first submitted to the IMF, that subsequently updated information had to be provided for them after the report has been made available to the public?

Madam President: That question does not arise based on the question posed and the answer given. Sen. Mark.

Sen. Mark: May I ask the hon. Acting Prime Minister and Minister of Finance to share with this Senate whether he as Minister of Finance has taken a decision not to invite the International Monetary Fund to Trinidad and Tobago for its usual Article IV Consultation for 2019? [*Desk thumping*] Can I ask the hon. Minister to share this with this House?

Madam President: Sen. Mark, that question does not arise. It seems that I am reading a completely different question as on the Order Paper. Next question, Sen. Hosein.

Legal Fees Invoiced and/or Paid

(September 2015 to May 2019)

298. Sen. Saddam Hosein asked the hon. Attorney General:

Can the Attorney General provide the total amount of legal fees invoiced and/or paid by the Ministry and any state enterprises for which the Ministry assumed conduct of the matters, for the period September 2015 to May 2019?

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, the legal fees incurred—the legal fees spent by the Ministry of

the Attorney General in the period September 2015 to April 30, 2019, represents an expenditure of three Ministries effectively put together, the Ministry of the Attorney General, the Ministry of Legal Affairs and the aspects of the Ministry of Justice, which were absorbed in September 2015. In that period the cost of fees expended in the manner asked by the hon. Senator is \$237,539,793.66. Madam President, included in that figure, there is approximately \$150,544,281 that was—sorry \$140,544,281.74 that was spent on the Office of the DPP. The balance of the money is being spent at the Attorney General's, Ministry of Legal Affairs and the aspects of the Ministry of Justice.

Madam President, it is material to note that the average expenditure for the Office of the Attorney General, in the period 2015 to 2019, has been \$44 million whereas if one takes a comparison to that spent by the last administration for one Ministry only, that is, only for the Office of the Attorney General, it was close to \$106 million per annum therefore, representing a 45 per cent reduction in cost, Madam President. I should add that the entire figure left by the Ministry of my predecessor Attorney General was \$137,128,742.16.

The moneys spent to date by the Office of the Attorney General has been spent in liquidating these arrears left by my predecessor who had also spent \$444,444,197.16 in the period of that tenure, in total aggregating a part of the \$1.6 billion spent by my predecessor Government in office and in particular the Office of the Attorney General. So I am very warmed to receive this question which demonstrates very prudent expenditure on the part of this Government. Factional expenditure at the Office of the Attorney General now running three Ministries as opposed to one. Thank you.

Madam President: Next question, Sen. Ameen.

Venezuelan Children of School Age

(Placement at Schools)

316. Sen. Khadijah Ameen asked the hon. Minister of National Security:

Having regard to the Venezuelan children of school age who have been granted temporary stay in Trinidad and Tobago for one year, can the Minister advise as to the following:

- (i) does the Government intend to provide school placements for said children; and
- (ii) if so, how soon will these placements be provided?

The Acting Minister of National Security and Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very warmly, Madam President. Madam President, the Government has been acutely explicit and very thorough in its assertion that there was no guarantee of places in public schools for those Venezuelans who were registered here for a temporary stay. That was made pellucidly clear. In light of this, any issue as to when will placements be made by the Government does not arise.

Madam President: Sen. Ameen.

Sen. Ameen: Madam President, can the Minister indicate if facilitation of education—apart from placing in the Trinidad and Tobago public schools, any facilitation of education is planned for these children?

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

Additional Resources for Regional Corporations

(Re: School Maintenance Works)

317. Sen. Khadijah Ameen asked the hon. Minister of Rural Development and Local Government:

Can the Minister indicate what additional resources will be given to

Regional Corporations in light of the mandate given to them to do maintenance works in schools?

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you very much Madam President, for the opportunity to respond orally. Madam President, I wish to advise that with the proclamation of the Miscellaneous Provisions (Local Government Reform) Bill, 2019, the municipal corporations under section 35I(d), shall be responsible for:

“maintaining Government Schools and Government assisted Schools within the Municipality;”

Madam President, as is customary with any projects, programmes, of the Ministry of Finance, all requests—requested all municipal corporations to add a line Item to their 2019/2020 Development Programme Draft Estimates of the expenditure for Local Government transformation initiatives in which funding for school repairs will be allocated to the municipal corporations from fiscal 2019 to 2020. Madam President, this Government is fully committed to fulfilling its promise of local government reform and intends to allocate additional resources in keeping with its local government policy and the sustainable development goals where it is normal stream of revenue. Thank you.

Madam President: Sen. Ameen.

Sen. Ameen: Madam President, I appreciate the Minister's response with regard to future developments and local government reform and so on, but I am speaking more specifically to the present financial year because this mandate was given to regional corporations sometime late last year. So the question is more for this financial year, what resources will be given to them because they have been asked to maintain schools now.

Madam President: Minister.

Sen. The Hon. K. Hosein: Madam President, it is normal for schools—because I have been at the helm of a corporation once and it is normal for schools through the 14 corporations to assist with schools like plumbing, electrical and so on. But according to the question, Madam President, it states specifically whether additional resources will be given to regional corporations in light of the mandate given to maintenance in schools. So based on that, I answered the question. So in the new—in the 2019/2020 fiscal year funding will be made available. *[Interruption]* Well, we are coming to the financial closing of the year, Madam President, so we have to wait till we get into the—budget is the 7th October.

Madam President: Sen. Mark?

Sen. Mark: I want to ask a question, place a question.

Madam President: Okay. Sen. Ameen. any further questions? Yes.

Sen. Ameen: Madam President, just a follow-up question on question No. 317. Madam President, let me be very clear, the Minister of Local Government would have held meetings with the regional corporations—

Madam President: Sen Ameen, you need to have a seat. You need to pose a question—

Sen. Ameen: Okay.

Madam President: Okay, yes.

Sen. Ameen: Madam President, can I ask if any resources have been planned to be disbursed within the current financial year for this purpose?

Madam President: Minister.

Sen. The Hon. K. Hosein: Madam President, schools have—resources had been allocated from the corporations. Because as I said before, I mean, I have evidence here where schools were being repaired by the corporations in July/August refurbishment programme.

So, they have money in the allocations for them to do electrical and plumbing repairs—Madam President—[*Interruption*]

2.30 p.m.

Madam President: Sen. Ameen, please allow the Minister to finish his response. If you want to raise something further you will have the opportunity. Minister, continue.

Sen. The Hon. K. Hosein: That is it, Madam President.

Madam President: Sure. Sen. Ameen, anything further?

Sen. Ameen: No.

Madam President: Sen. Mark.

Sen. Mark: Hon. President, I will like to invoke Standing Order 27(16) as it relates to question number 276 for written answer which has been languishing.

Madam President: So, Standing Order 27(16) will be invoked in respect of question number 276.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL, 2019

Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50 [*The Attorney General*]; read the first time.

ANIMAL (DISEASES AND IMPORTATION) (AMDT.) BILL, 2019

Bill to amend the Animals (Diseases and Importation) Act, Chap. 67:02 [*The Minister of Agriculture, Land and Fisheries*]; read the first time.

JOINT SELECT COMMITTEE

(CHANGE OF MEMBERSHIP)

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Madam President, I beg to move the following Motion:

Be it resolved that this Senate agree to appoint Mr. Daniel Dookie in lieu of Mr. Garvin Simonette on the Joint Select Committee appointed to consider

and report on the Miscellaneous Provisions (Local Government Reform) Bill, 2019.

Question put and agreed to.

EVIDENCE (AMDT.) BILL, 2019

[Second Day]

Order read for resuming adjourned debate on question [April 02, 2019]:

That the Bill be now read a second time.

Question again proposed.

Madam President: On the said Tuesday April 02, 2019, the hon. Attorney General Faris Al-Rawi MP was the mover of the Motion and there were nine other Senators who spoke on this Bill, so we will now resume the debate. Sen. Sobers.
[*Desk thumping*]

Sen. Sean Sobers: Thank you very much, Madam President, for recognizing me this afternoon to also be able to contribute on the Evidence (Amdt.) Bill, 2019. Now, Madam President, I am very aware the last time that this Bill came to this honourable house, in terms of the batting line-up on that particular day, I am coming number eight in terms of attorneys who were also Senators who presented. So that it is not my intention at all to rehash any issues that have been comprehensively touched on by any of those Senators who were also attorneys. I did in fact listen extremely closely and I would have re-read all the *Hansard* as well too, so that it is my intention to really raise issues that have not been touched before and explore them as I proceed with respect to my contribution.

Madam President, in terms of the first time that I heard that the Evidence (Amdt.) Bill was coming to the House, I honestly got extremely excited because I understand, based upon my quasi-practice as a criminal practitioner before the Criminal Bar, the importance of evidence in terms of police investigations and

securing proper convictions, so that I am well aware how many matters fall down and are fractioned before the court based upon insufficient evidence coming before the court for judges and magistrates and jurors to decide upon.

So that, when I had a look at the Evidence (Amdt.) Bill itself, I was really and truly expecting a particular prescription as it pertains to forensic science legislation within this country. And I was really and truly a bit disappointed with respect to what the Bill contains. I know that on the last occasion I think it would have been hon. Sen. Senior Counsel Chote as well indicated that what the Bill really contains is a lot of processes as it pertains to interviews and oral admissions, identification parades and procedures, as well as witness anonymity, special measures and whatnot.

And so, as it pertains to procedure, the Bill mirrors what hon. Senators would have also mentioned on the last occasion: issues regarding PACE, Police and Criminal Evidence Act in the UK, and also the Police Standing Orders. I think it would have been on the last occasion Sen. Heath also indicated that it is a welcome approach to try to legislate now and prescribe legislation for conventions and practices that occur in our daily society as it relates to the Police Standing Orders.

But, where I, again, I think the Bill itself falls a tad bit short is that in terms of securing proper convictions, and in terms of the gold standard that is used the world over with respect to evidence, we are really dealing with forensic science. And the measures meted out in this particular piece of legislation as they pertain to identification parades and also interviews and oral admissions have been largely discredited world over for their unreliability when the matters themselves actually come to court. And there are many cases to demonstrate these particular measures and their failings and their shortcomings.

I think on the last occasion many Senators would have also discussed *R v Turnbull* and the directions given in *Turnbull* and the dicta coming out of *Turnbull* itself, as it pertains to the unreliability of eyewitness evidence and testimony. So, I will not get into that at all. I think it has been properly fleshed out in terms of contributions on the last occasion.

But I wanted that to be the silhouette for my discussion further today because I would really want the Government to understand that in terms of moving forward, keeping convictions and police investigation at the forefront of their minds, as an attempt to arrest the criminality and crime in this country, their minds should be squarely pointed to increasing forensic science, the studies behind forensic science within this country and its use in securing proper convictions as a matter of evidence that would really glue together a tapestry of material that would come before the court. It is my humble opinion that that is the only way we as a society would really and truly be able to secure proper convictions when they come before the court. At the end of the day there are certain things that are indisputable and when we consider forensic science, we consider hair, DNA, skin, whatever the case may be. That is really and truly issues that are indisputable, and could in fact secure proper convictions when matters come before the court.

Now, when I looked at the Bill as well, in particular I looked at several clauses within the Bill, and I will start ultimately—start at the beginning here with respect to Division 2. Now, at page 6 of the Bill we look at 12A(c) at page 6, I believe it would have been Sen. Heath on the last occasion, he indicated 12A(6) treats—well, 12A really treats with the first description. Sen. Heath would have discussed the fact that in terms of questions asked by the investigating officer to the eyewitness as it pertains to the first description, that section C should also include a question whether or not anything obstructed the view of the eyewitness.

And I think that that is a welcome measure here. When I looked at 12B which is located on page 7, 12B treats with:

“Prior to the conduct of an identification procedure, an investigating officer may use photographs to assist in establishing the identity of a suspect.”

In particular, when one looks at 12B(4) it deals with:

“Where a suspect has been positively identified by an eye-witness, the investigating officer shall, in respect of the matter under investigation, take all necessary steps to ensure that all photographs used are kept securely...”

This is an issue with respect to chain of custody that arises squarely here. There may be—once the suspect has been positively identified it is extremely important that the police officer who is conducting the investigations in the matter secure the photographs so that they do not—they are not misplaced. The markings on the photographs and whatnot are not misplaced or shuffled or mixed up. Especially when the matters come to court in terms of cross-examination, it is important that they are able to demonstrate the flow of the photographs with respect to the identification.

I also looked at 12B(7) which is also on page 7, which dealt with the destruction of photos subsequent to an eyewitness not being able to positively identify a suspect. And to me, it was very important to look at that because I also appreciate the problems that could be caused with these photographs lingering about subsequent to an eyewitness not positively identifying a suspect—the problems that it could pose if unfortunately the suspect is re-arrested on a subsequent charge on a later occasion. Those issues arise even when persons have been charged and officers have been tasked to destroy criminal records, the difficulties that could arise if a criminal record is not destroyed. It could pose an issue with respect to an individual securing future employment or even attaining

bail at a subsequent occasion if he or she is in fact charged.

I then turn to page 9, in treating with 12E(1). I think Sen. Heath also—this particular 12E(1) dealt with the procedures to be utilized as it pertains to identification procedures and the first procedure being video medium. I as well too had a difficulty with this being the very first procedure. I have a difficulty on the whole with respect to video medium being used in terms of identification. I will get into some of those issues later on when I actually delve into video medium itself. But I do in fact agree with Sen. Heath that the video medium should not be the first port of call in terms of identification procedures.

I then moved on further at page 10. I looked at 12F and in terms of scrutinizing 12F, I looked at 12F in conjunction with 12F(2) and 12G(3). Now, when one reads 12F(1), it states:

“Where an identification procedure is to be conducted, the identification officer shall—

(a) inform the suspect of—

(i) his right to legal representation including legal representation under the Legal Aid and Advice Act;”

And then when one turns to page 11 and you look at 12F(2) it says:

“Where the consent of the suspect is required to participate in an identification procedure and the suspect has been informed of all his rights under 16 subsection (1), the suspect shall be given the opportunity—”

And when you go to:

“(b) to obtain advice from his representative, if practicable,”

And then when you look at 12G(3) located on page 12, in particular it says:

“For the purposes of subsection (1), a suspect shall be given at least nine hours’ notice of the time and place at which the identification procedure

is to be conducted.”

Now, when you marry these three sections together, basically what it says is that when a suspect has been detained, he is going to be advised of his right to retain counsel.

It speaks to legal aid. Now, for the benefit of hon. Members here and for the listening and viewing public, legal aid is not something that is instantaneous at all. The only form of representation from the Legal Aid and Advisory Authority that is generally met with some degree of urgency, and on most occasions quite instantaneous, would be under the Duty Counsel Scheme. The Duty Counsel Scheme was set up to treat with juvenile offenders who have been detained on suspicion of committing some type of criminal activity, and for adults who would have been detained suspected of murder. But as it pertains to adult individuals who have been detained suspected of any other type of offence, they have to go through the normal channels to retain an—well, to get an attorney provided to them from the Legal Aid and Advisory Authority. That process in itself usually takes weeks. In some instances it could take months. Because an attorney could be appointed, they could return the brief and so the cycle continues.

2.45 p.m.

So that, when you are prescribing that you are giving the suspect the opportunity to attain an attorney through legal aid that he is also allowed to seek legal advice at a further stage under 12F(2) and then in terms of the notice period given for him—for the identification parade to be conducted within nine hours, but realistically speaking, when you juxtapose that with the amount of time it takes for an attorney to be assigned, it is virtually impossible for him to do all those things within this period of time prescribed under the legislation. In the interest of priority and fairness, it does not provide the suspect with ample time to get proper

legal representation, at least that which can be afforded to him through the Legal Aid and Advisory Authority.

So that in terms of the time limit here—nine hours—I know that in terms of the Standing Orders it is a bit more than nine hours, but even in the Standing Orders it still falls well below what is the accustomed situation in respect of getting legal aid counsel from the Legal Aid and Advisory Authority. And if we are prescribing here properly, in a progressive manner, understanding the system itself, the time limit here should in fact be increased to possibly maybe even as much as 36 hours, or at least we consider making certain changes at the Legal Aid Advisory Board to have situations like this maybe brought under the Duty Counsel Scheme. I know that could in fact be an expense, but it is something that we have to look at.

I then looked at 12H(1) which is located on page 14. So 12H(1) deals with:

“Where a suspect involved in an identification procedure is unable to secure a representative for himself pursuant to 12G(1) to (3), the identification officer shall be responsible for ensuring that a Justice of the Peace is present to witness the procedure.”

Now, this is what obtains normally in practice. A JP is usually called if it is for whatever reason the suspect does not have an attorney present because he cannot afford one, legal aid is taking too long to provide an attorney and none of the suspect’s family—they have washed their hands of the entire situation and they have basically said, “Listen, he is on his own, or she is on her own.” So in situations like that, the identification procedure officer, usually holding the rank of inspector or above, who has nothing to do with the matter, he would usually call a Justice of the Peace.

Now, my only issue here and this is definitely not to pour scorn on Justices of the Peace on the whole, but the reality is that JPs, according to the Summary

Courts Act, they are appointed and they usually operate within certain districts, and it is a fact that most of the JPs within a particular district, by their very nature in terms of their jobs, they have formed relationships with the police officers who operate within that district.

So that it is not a far stretch of the imagination. I mean, I have seen it in practice in terms of cross-examining JPs who would have been involved not only in issuing warrants, but in terms of identification procedures that they are very familiar with the investigating officers in the matter. And in terms of, again, being fair one can, not even stretch, but in terms of cross-examination, illuminate that fact that could cause problems in terms of how fair and how proper the JP would have conducted him or herself in treating with the identification procedure itself.

I know, again, it could in fact be a stretch, but if we are being progressive and thinking about being fair here, I would humbly suggest that maybe we consider amending the clause so that equalling the fact that the identification procedure officer is not at all involved in the investigation and is only there just to conduct the identification parade itself, that maybe the Justice of the Peace as well too is not a member of that particular division and falls outside.

So there is some degree of distance between the Justice of the Peace and the matter itself and the players of the matter in terms of the investigating officer which would mirror what exists with respect to the identification officer being involved in the matter, he being not involved in the investigation but specifically with respect to the identification procedure because I have seen in practice it is in fact a problem. It has been illuminated through cross-examination and it is an opportunity for us to prescribe here in terms of the legislation to have that stamped out.

I also looked at 12I which is on page 15. Right. So 12I deals with what

could be considered a notice to the eye-witness by the identification officer. So it reads:

“12I. Before an identification procedure is conducted, an eye-witness shall be informed by the identification officer...”—

Madam President: Sen. Sobers?

Sen. S. Sobers: Yes please.

Madam President: If I could just provide some guidance. There is no need to read through the Bill as you make your comments on the particular sections. Okay? Everyone has the Bill before them. So you could perhaps just get to your point in respect of the particular sections on which you speak. Okay?

Sen. S. Sobers: Guided please, Madam President. Okay. So that 12I deals with somewhat of an information or a notice being given to the eye-witness by the identification officer, and I am simply saying then in terms of this notice that is given here, it should marry or be similar to what the notice that is given in 12K(6) which is located on page 17. Now, the notice on 12K(6) given on page 17 is a notice that is given in the presence of the suspect's representative as well as and/or the suspect's attorney. I am saying that here it is not prescribed that this notice is also to be given in the presence of the suspect's attorney or his representative, and I am thinking that it should be given in the presence of the suspect's attorney and his representative as similar with respect to 12K(6) on page 17.

I also looked at 12J(5) which is on page 16, and 12J(5) deals with the video medium being utilized in terms of the identification procedure. In this particular section, basically it indicates that the suspect shall not be present whilst the video medium is being utilized, and the difficulty that I have with that is that when you look further down at that 12K(4) it allows for a representative or the suspect himself to object in a normal identification procedure if the other members of the

parade do not fit the same age, race, ethnicity of the suspect himself. But if the suspect is not present while the video medium is being shown to the eyewitness he does not have the equal opportunity to object if the members of that video medium do not fit the same description as himself, and it is something that should be amended to demonstrate some equality here as well too.

So I looked at 12K(1) as well too. I think Sen. Hosein would have dealt with that with respect to the fact that the room in which the ID parade is conducted, it should always be a properly equipped room with the one-way mirror so that you do not have a situation where it is just a normal room—we do not know what could actually obtain in such a circumstance. I totally agree and endorse that.

I looked at 12M which is located on page 19, in particular 12M(3). Right. Now, this is a serious issue that I have experienced as well too. So 12M(3) or 12M on the whole deals with identification procedures in a public place. Now, what obtains here is that if for whatever reason—I think Sen. Heath touched on it on the last occasion—that most members who make up identification parade, it is very difficult to go out into the public to get persons who would fit a similar mould as your suspect, and the manner in which the police would have done it in the past—I do not know what obtains today—would be the use of drink or whatever the case is to get them there. So when that fails and individuals cannot be found to make up their identification parade, the police would usually go on to doing an identification procedure in a public place. So in San Fernando, I can tell you that it is usually done in a food court by Eden Centre or even in Gulf City Mall, and what would happen is the identification officer would accompany the witness and the lawyer and they would go down to this food court, however the case is, and then suspect would come. He is not handcuffed, but he is made to sit at this table in the food court or whatever. But the real issue is that when the suspect is placed to sit

in the food court you would usually have about five or six constables now who would be standing around the table where the suspect is seated.

Now, in most instances—I could dare say in all instances that I have been present—they do not wear police uniform. They will come sometimes in police fatigue, they will take off the T-shirt, they will have the cargo pants on, but any discerning citizen, any normal citizen would be able to watch and say, “Well, that has to be the suspect”, because they do not even attempt to be inconspicuous. They will tell you, “Well listen, well what you want us to do? We cyar wait out. Next thing the man run away and escape”, having already spoken to suspect and he has assured that he would not. [*Laughter*] But I am saying the difficulty is that it is extremely—it makes no sense. As soon as the eyewitness is brought into the food court they will say, “Yeah, that is the fella right there”, because you have these five officers standing around him looking extremely serious and whatnot, and you know that they are guarding this person seated there. And no matter how many times you try to protest to the identification officer, “Well listen, this is not fair. Maybe you could advise them to step back a bit or place them strategically at all the exits or something.” They will always have some sort of excuse, next thing the man take somebody hostage and all sorts of foolishness. But that is the situation and it does not augur well because I have never been in a situation like that where the suspect has not been positively identified.

So that I do not know if in terms of prescription here that we can treat with it in terms of maybe saying that they stand as inconspicuous as possible, and if not then maybe it should be removed because it does not give the suspect a fair shake. And if we are in fact prescribing to amend and alter such a situation with respect to the police officers’ position around the suspect, I would also want to invite the hon. Attorney General to consider that these identification procedures in public are

always conducted in an environment. We live in the 21st Century; most of these environments have CCTV footage as well too, CCTV cameras, so that the proceedings are properly taped as well too. I would not expect that the police would have someone actually videotaping the proceedings because that as well would point squarely—wherever the camera is facing it will point squarely to who the suspect possibly is. But as it obtains right now it is really an untenable situation and it does not give the suspect the parity and the fairness that we would want to see within the legislation.

I also looked at the 12N(3) which on page 19 as well too. This is another area where I wanted a bit of clarity. So I understand in terms of 12N, in particular, it deals with the identification again in a public place but without the consent of the suspect. I know when one looks at 12(3)(a), it indicates when such a situation should occur and it says that a situation where (a) the suspect is not in custody or (b). Now, I understand if you were doing identification procedure in public where the suspect is not in custody you can just simply bring the witness down to possibly his workplace or something and just tell the witness, you know, have a look and see if you identify anyone who you would have seen in terms of the incident or whatever.

But when look at 12B, Madam President, if you would permit me just to read this particular one:

“12N(3)(b) ...the suspect has refused to give his consent to the conduct of a procedure under section 12M or it is impossible or impractical to obtain the consent of the suspect.”

So that when I read that I could in fact be absolutely mistaken, but it appears to me then that the suspect obviously has refused to give his consent. This is a situation where the suspect is also in custody. So is it then that we are saying that the police

now have the authority to basically drag the suspect down to this public place, kicking and screaming, to have him take part in this identification proceeding in a public place obviously without his consent? And that obviously would not augur well for that particular situation. So that I would have expected in the event that he refused to give his consent whilst in custody, the police would simply go on to another identification procedure which is in fact the confrontation. So I am not entirely certain why 12N(3)(b) is present, and maybe in terms of the hon. Attorney General's wrapping-up he could indicate the reason for placing that there.

I also looked at Division 3 which deals with interviews and oral admission. Now, at 12Q(2) it deals with the fact that interviews should always ever be video recorded. I think Sen. Bisram Singh spoke on that when she was here, and I do in fact agree with her that all interviews should be video recording and it would stamp out the possibility of a suspect indicating that he may have been beaten, or coerced, duressed, or whatever, or lack of sleep. I will not get into that. I looked at 12R(1), however, on page 22, and it dealt with the register of interviews which would be a register wherein certain information regarding the interview would be placed, and albeit that it would indicate in this particular section what information is to be recorded in this register of interviews.

It made me consider whether or not further questions and maybe clarity could be placed within this section to sort out that particular situation as it pertains to where this register of interviews would be kept, who would have access to this register of interviews and whether or not a log should be put in place to treat with this register of interviews; who would also be allowed to make entries in the register of interviews apart from the interviewing officer if it is any other officer within the police station or it should be senior officers within the station; are the records also checked, and if so by whom; who is allowed to access this book and

check the records that are there?

Usually as it pertains to the Station Diary, when someone writes in the Station Diary it would be an investigating officer or an officer who would have been out on patrol, and then the information placed in the Station Diary would usually be checked by all the other officers, and then it would be signed off by the most senior officer. So it allows for a level of security as it pertains to the content of the information so that there is no divergence with respect to the story or the incident that took place. And then I also thought that maybe the information being placed in the register of interviews should also be as contemporaneous and updated just like the Station Diary would be in 12Q(8) which is on page 21 as well too. So those are some things that I think should be prescribed here within this particular legislation at 12R(1).

I also looked at 12S. So 12S actually deals with the video recording of the interview, and in particular at 12S(3) and (4), it speaks subsequent to the video or audio interview being recorded, that the suspect is allowed to review what was said and to alter and amend and make changes as per necessary. Now, is it—and this is another issue as well too—that when the interview is being video recorded no notes whatsoever are being taken by the police officer? And is it that when the suspect is being allowed to review the video, he is being allowed to review the audio recording, if he has a difficulty, is it that that particular segment is now going to be edited and changed and he would be allowed to make his input and his amendment? Is it that he is going to be given an opportunity to also test and check the audio of the recording itself? These are some of the concerns that I had to raise because I mean—it is going to be such a new dynamic change that we would want to ensure that as prescriptive as we can be with respect to the definitions and the placement of words here that police officers are not confused and members of the

public are not confused as to what would obtain in such a situation.

I also looked at 12U, page 23 into 24. Now, 12U also dealt with at the conclusion of the interview what should obtain and, Madam President, humbly again I crave your indulgence just to—grateful. So when you look at 12U(b) it says:

“in the case of an interview that is recorded by video or audio recording—

- (i) place his marking on the recording medium, label it as the master copy and request the interviewee or his representative to sign it;”

That is relatively straightforward. So this is a video or audio recording at the police station subsequent to an interview.

- “(ii) make two copies of the master copy in the presence of the interviewee or his representative, label each copy as a working copy, give one copy to the interviewee and give one copy to the investigating officer;”

So, you are now saying that the police officer who conducted the interview is supposed to make these copies in the presence of the suspect and his representative and present them with a copy. What infrastructural measures are in place for this to occur? How is the police officer in their presence going to make this copy and then give them a copy? What instruments are there for something like that to happen? And if it is that the recording cannot be copied at that point in time, when does the suspect or his representative have to come back to get the copy? And if it is not given to them, what issues could arise at cross-examination with respect to the authenticity of this recording that they have been given? If they have to come back at a later date, is it that they are going to be shown the recording that they are going to be entrusted with and that it must now match up with the recording of the master copy?

It is easy for us to just write these things, but when you think about them logically and logistically, I do not know if we are ready for something like this. [*Device rings*] Do we have the money to put things like this in place? Because—

Madam President: Sen. Sobers, could you just give me a minute?

Sen. S. Sobers: Yes please.

Madam President: Hon. Members and all those who are in the Chamber, I know that it takes us a little while to get back into the groove, but the groove is that all cell phones are kept on silent. So please try and get into the groove from now. Okay? Continue, Sen. Sobers.

Sen. S. Sobers: I do apologize. Madam President, if you would allow me, what time do I conclude at?

Madam President: If you take your full 40 minutes, you will finish at 13 minutes past 3.00.

Sen. S. Sobers: I am grateful, Madam President. So that logically this is something that we have to look at. Sen. Hosein was also just commenting that. At this stage we are in problems with respect to even purchasing paper to print Orders for the court. [*Desk thumping*] So are we in a position to man every single police station in this country with medium to record, medium to copy video and audio recordings to give a suspect and his representative?

I also looked at 12V(2) and this really and truly just dealt with the Commissioner of Police having to create a registry for master copies. This is also something infrastructurally. I am wondering whether or not we are in a position too. You are talking about a registry to keep thousands of interviews. So we need to be certain that we are in such a position to have this done.

I also looked at 12W which is on page 25, and it spoke to breaking the seal for the master copy. I know Sen. Bisram Singh would have indicated that the best

practice, through PACE, would have been a recording of the actual process with respect to breaking the seal in the event that we are not infrastructurally ready. We are not resourced for such a situation which I—

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

Sen. S. Sobers: Grateful please, Madam President—believe that we would not be in. I am thinking that maybe we can have an affidavit or a statutory declaration done by both the JP and the officer who is breaking the master copy seal where it would indicate why the seal was broken; whether or not a notice was in fact sent out to the suspect with respect to the date and time; the status of the notice, whether or not it was received or not by the suspect; and a date and time when the JP would have been present with the relevant markings to break the seal.

And in 12X, at page 26, really and truly just dealt with the issues of pocket diaries. I think Sen. Bisram Singh would have indicated the need for pocket diaries, the problems that we have within the service with police officers not being issued pocket diaries to make the proper contemporaneous notes as the legislation would now be calling upon them to do.

Subsequent to that I also looked at Division 4. Now, I agree with some of the measures that are contained here in Division 4 with respect to the special measures. We would have seen it in practice recently with a minor and the screen being placed to block the minor from the suspect, and I have no difficulty with that. I have no difficulty with the evidence by video link. I practise in the civil realm as well. I have done trials with witnesses coming by virtue of video link. I would have done an arbitration where some of the experts were actually in Dubai and we had to sit at a particular time to facilitate the witnesses. So I am comfortable with that as well too.

Where I have a very big problem—and I think most of the other Senators

who are lawyers, who contributed on the last occasion—is with this Witness Anonymity Order, and my issue with that is that there have been several matters where persons have come to court, would have given statements to the police, all of the statements would have been fabricated. They would have gone so far as going into the box and giving false evidence. We recently had a situation in this country, sometime in June, where a particular judgment would have come out dealing with an individual who lied to the police, had these fellas committed. Certain officers of the court may have known about the situation, did not say anything until one particular officer did in fact indicate that, “Listen, we had a deposition with this man and this man has indicated that he fabricated his evidence because he wanted to be a vigilante and to treat with these persons who he considered nuisances in the community.” For my part, based upon situations just like that, we cannot put this into legislation. [*Desk thumping*]

Madam President, the amount of travesties of justice that would occur if such prescription is made into law, that our children and our children’s children will not forgive us for doing something like this. Madam President, you cannot as a Government—because you are failing in doing certain things especially when you are dealing with witness anonymity you are talking about the failure of the witness protection programme. Instead of rolling your shirts up, your sleeves up, and doing what you are supposed to do, and probably ensuring that the witness protection organization is working as it is supposed to, the best thing that you could come and tell the country is let us deal with witness anonymity. It demonstrates a level of ineptness that I cannot fathom, and we have to stay very far away from that, Madam President. We must reject witness anonymity in its entirety. [*Desk thumping*] There should be no amendment. It should just be taken out of the Bill. It is a situation where we need to really and truly consider the

effects and the dangers of such a situation if we prescribe this into legislation, and understand that there is no benefit whatsoever that could come out of such a situation.

With these few words, Madam President, I thank you for allowing me to contribute in this debate. [*Desk thumping*]

Sen. Taharqa Obika: Thank you, Madam President. I want to start where Sen. Sobers ended by indicating that should we in the Parliament of Trinidad and Tobago pass this Bill into law we would in effect be passing a perjurious charter because it is allowing persons to give evidence against an accused without the accused being able to know who they are, or of course see them. It presents a very dangerous possibility and I will get into that because I have brief points to make, and I want to make one point regarding section 12K and the ID parades because I did not see it particularly in the ID parades notwithstanding the provision for anonymous witnesses which I have to deal with. I did not see in the provision for ID parades under the provision for children or the vulnerable, and I want to submit that we need to look at also—[*Clears throat*—]sorry, I apologize. My apologies, Madam President.

We need to take into consideration notwithstanding the rights of the persons who are so accused, the special conditions of children, and I hope once this Bill is committed to a joint select committee we will look at that because it can be very traumatic being part of an ID parade even before you reach the point of confronting the suspects. Simply entering the police station or the buildings that are under the control of the TTPS, a child, of course, will be under significant pressure and psychologically it can have a significant impact. I will not venture into areas where I am not specialized in as we have a specialist on the Independent Bench who can speak to psychology, and I for one cannot. So I just wanted to

raise that point if it were to be raised after me.

Now, regarding the anonymity orders, even in Bahamas, Madam President, there was a similar Bill for anonymous witnesses that was passed empowering a judge upon application from a prosecutor, or defendant, to permit a witness to be seen and heard. Even in The Bahamas there were significant issues, and there were attorneys that were adamant that such legislation would be struck out in the courts of law.

3.15 p.m.

But let us look at an example right here in Trinidad and Tobago and if we look at 12AG, Witness Anonymity Orders, subsection (4):

“In deciding whether the conditions under subsection (3) are met, the Court shall...take into consideration...—

(b) the extent to which the credibility of the witness concerned would be a relevant factor when the weight of his evidence is to be assessed;”

Now, notwithstanding the brilliance of the legal minds in the bench of Trinidad and Tobago, notwithstanding the breadth and depth that is there at the Magistracy, I do not think anyone in the judicial system would have a catalogue of all the personal experiences and grievances that every individual who is a suspect in Trinidad and Tobago would have with other citizens in this country. So therefore, if we agree and we accept, Madam President, that it is impossible, if not highly improbable for the judicial officers, the magistrates, the judges and the masters to know all the grievances persons will have against other people who are so accused, then we can understand that it would be very difficult, if not impossible, for that under 12AG, subsection (4)(b) to even be something that they can balance regarding the credibility of the witness concerned.

And I want to give a simple example and I wish to read from a moment in

time in history, and this deals with—I believe it was in 2006 in January and it has to do with a story and it starts like this:

“Minister Williams is wanted on seven fraud charges arising out of allegations of financial bribes from a local government councillor, Dansam Dhansook, over two years ago in return for lucrative government contracts relating to seismic projects.

The Energy Minister is one of the two government ministers accused of accepting financial payments...”

Madam President: Sen. Obika, can you please state the source from which you are reading?

Sen. T. Obika: So the source is *CaribYard*, Forums and it is a rehash of an article and the title is:

“Trinidad’s Energy Minister to face fraud charges”

CaribYard.com. All right, I am sure this would have been in the newspaper that they copied and it continued. The second sentence which is all I will read from it:

“The other accused is former Works and Transport Minister, Franklyn Khan who was charged last year with six counts of accepting bribes.”

The same person, Dansam Dhansook. Now Dansam Dhansook, obviously, to any magistrate, police officer, master or judge in our judicial system, they would find it difficult, if not impossible, for him to be a credible witness regarding the two persons after they discovered “he lied on them”. So in the fullness of time, it would have been discovered that this individual, Dansam Dhansook was not a credible witness but that was because it was public information.

Now, let us assume, as we know can happen in the course of life, there are persons who are accused who have persons who have axes to grind against them that are not public as was in the case of Dansam Dhansook, was not published

wildly in the news media as in the case of Dansam Dhansook as well as his lies in the end. Okay. It would be very difficult, Madam President, for any judge, any master, any magistrate, regardless of how long they have served, to know the extent to the credibility of the witness concerned given this part of the section 12AG.

So I am saying this Bill by the anonymous witness is a perjurious charter. Persons committing acts just as Dansam Dhansook did on the honourable now Minister of Energy and Energy Industries, had his lie not been told publicly, we may not have the benefit of our current Minister of Energy and Energy Industries. So I am saying that let us not put haste before good reason. Let us not put haste before good reason when we are contemplating improving, advancing the laws of Trinidad and Tobago and I am sure the hon. Minister would agree with me wholeheartedly.

Now, there is a point I want to just end on and it was a point raised by Sen. Sobers regarding the copying of video and audio recordings and you have to ask yourself the question: How would someone who is accused, someone who provided a testimony, audio and video, how would they be able to determine if the recording that is in the possession of the police service, a carbon copy for want of a better expression, for what they have in their possession unless of course, they are going to sit and watch the entire testimony that the police have in their possession before they leave? So the issue with this law, it shows that there are many things here that may not necessarily be practicable.

And I want to point to even the use of that word “practicable” when we turn to section 12N where the suspect refuses to give consent.

“(3) The conduct of an identification procedure under this section without the consent of the suspect, may only be conducted where—

(b) the suspect has refused to give his consent to the conduct...”

And also a similar case where the person refuses. Sorry, on 12AG where the anonymous witness—12AG subsection (3)(d) where the witness would not be willing to testify if the proposed anonymity order is not made.

Now, in a different profession, Madam President, in the financial sector, there is an issue of moral hazard. Moral hazard is where someone has the ability to act without the responsibility of the outcome. So therefore, they are managing your money and you can lose your house, your savings, they are not responsible for the outcome, therefore moral hazard steps in. The same thing can be said to occur, for want of the legal term, this question of moral hazard, where there is an anonymous witness. Because here you have someone who can fabricate an entire scenario, it can be about some text messages that you purported to send, it could have been some words that you purported to utter, it could have some actions that they claim that you made without themselves being cross-examined by your legal representative if you are so accused.

So, therefore, they have no responsibility because they are not attached to the statements that they are going to make against you because you are the best person, when you are accused, via your representative, Madam President, if we are to submit to our legal system, you are the best person via your representative to cross-examine the witness, not a board of magistrates or judges or masters of the court with all due respect to them. It is you, as the person so accused who is best positioned to do so. So I want to submit to those three things. It must not be that persons can simply say that they are not willing to and if it is not practical for them to be part of and as well, where we are relying not on the historical circumstances that are only known to the person accused but we are relying on the statements of a board of magistrates and judges and so on.

With that said, I wish to submit, Madam President, that this Bill has much work that is left to be done and I hope with wide and deep debate and public scrutiny, we can get better and more quality legislation because this Bill leaves much to be desired, and with that, I thank you. [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Madam President, and let me start off by saying what probably might be my epitaph, “I should have listened to my wife”. She warned me that we would probably hit the ground running today and I said no, today was going to be procedural mainly. [*Laughter*] I could not have been more wrong because this legislation is so fundamental for trial lawyers I had to scramble back to the office and start to pull back my notes and try to reconstitute my thoughts, but it does not really get bigger than this for trial lawyers in terms of legislation.

For the young lawyer, you know one of the hardest things to understand, because you are coming wide-eyed and bushy-tailed and think, you know, the truth will always emerge in a court, is that trials are not necessarily about getting the truth but about evidence. It sounds cynical but under our adversarial system, courts reach their decisions solely on the basis of the evidence as presented by the parties. The court itself does not undertake the search for evidence. Now what is evidence? Evidence has been described as information by which facts tend to be proved and the law of evidence is that body of legal rules regulating the means by which facts may be proved in a court of law. It goes without saying that the law of evidence is fundamental to the workings of our court system and the rules and principles of evidence are deeply ingrained in the psyche of trial lawyers.

Now, these rules and principles have evolved over time. They have evolved under the common law largely, that is to say judge made law, developed over time, not so much rules of law but rather rules of practice and trial lawyers appreciate that the

evidence which gets in and the evidence which is shut out is critical. Evidence largely will determine success or failure at trial. This Bill amends the Evidence Act which came into effect in 1848 and it will also have the effect of abolishing certain common law rules.

Now, I think most trial lawyers will agree that there is room for improvement regarding the law of evidence, including the way interviews are recorded, identification parades are held and the need to protect vulnerable witnesses. The challenge presented in this Bill is determining whether the proposed measures are justifiable. Are they proportionate? Are they workable? Will they achieve the balance needed for fair trials or are they too heavily weighted for or against the victim or the accused? In interrogating this legislation, it is important that we keep in our mind's eye what it is about and it is about what is the ideal of a fair trial. So we cannot afford for this legislation to be disconnected from reality, it must be in step with our social norms and needs and it must be workable. It makes no sense importing provisions from other jurisdictions if our courts and our law enforcement lacks the necessary support systems.

And I would also just like to draw attention to Regulation 15 under the Legal Profession Act because that provides that an attorney-at-law shall endeavour by lawful means where the needs of society require to promote and encourage the modernization, simplification and reform of the laws. So I wear two caps here today, not just as a Senator but also as a lawyer with duties as a lawyer as prescribed under the Legal Profession Act.

Let me start by complimenting the Government for bringing this important legislation. [*Desk thumping*] I agree with the hon. Attorney General that Trinidad and Tobago is at a crossroads and this legislation will go a long way towards development of our criminal justice system. The law of evidence, as I have said

earlier, is critical. I also agree with some of the concerns raised by Senators Chote, Heath and Ramdeen. In fact, it was the hon. Attorney General himself who pointed out that this legislation contains a landmine of nuclear importance. I think right now, we are at a state in our country where it is a case of all hands on deck. Now, what does all hands on deck mean? All hands on deck arises when ships at sea are in a perilous situation, usually stormy weather and I think for most citizens, they will agree that we are in the midst of a crime storm. They are looking to the powers that be to help individually and collectively, however we can, to resolve this situation. So we need all hands on deck to solve the crime situation, it cannot be left to the Government alone.

The Attorney General said that they have been in consultation for two years with this legislation. He wrote to all stakeholders and only got some comments from a few. I, quite frankly, am disappointed by the tepid and lacklustre approach on the part of certain key stakeholders. I am going to recommend that this Bill go to a select committee but I do feel with or without the select committee, we cannot dither on this. We do need to push this legislation forward. It is our responsibility as parliamentarians. I also agree with—

Sen. Khan: Through you, Madam President, I take this opportunity to indicate that the Government intends to take this Bill to a special select committee of the Senate.

Sen. A. Vieira: Well thank you. Thank you, Minister. That makes my task a lot easier because I was going to try to persuade on that point. Because in debating on this Bill, I feel it is necessary to look at the pros and cons, the two sets of arguments in tandem because you have some really heavy weights in the legal profession who are against witness anonymity orders for example. But then you also have very strong arguments why we should consider these measures. So, for

example, the Law Lords in *R v Davies* said and I think this is where we must be alive:

Where it is necessary for measures to be imposed, Parliament must act. And as a responsible Parliament, we need to canvass and we need to take all views on board.

I acknowledge that this Bill has a legitimate aim. I acknowledge that a lot of research and thought has gone into drafting this legislation and I acknowledge that the Evidence Act needs to be brought into the 21st Century. All right. I would only add that when you are making changes to the law of evidence that has to be considered through very calm and careful deliberations. We need to think through all the possible advantages and disadvantages of this legislation. We need to look beyond the passions and the emotions of the time. Good intentions and careful drafting, though necessary and important, not enough. We as a Parliament are under duty to scrutinize the work of Government, to carefully scrutinize and examine these Bills and to guard against the possibility of negative consequences for a failure of a statute to achieve its desired result. So there is much that is good in this legislation and I want to support it.

As Sen. Simonette pointed out, in a constitutional democracy such as ours, the Constitution is a supreme law. The Constitution does not say that the right to a fair trial is absolute and cannot be interfered with. What it says is that a person is presumed innocent until proven guilty according to law. It says he has a right to a fair and public hearing by an independent and impartial tribunal and those important rights may not be abrogated, abridged or infringed outside of sections 53 and 54. Section 53 recognizes that Parliament may make laws for the peace, order and good government of Trinidad and Tobago and section 54 stipulates where section 55 is being altered in this case, the number of votes required. As

legislators, we have a common responsibility in the face of a common danger, the current crime storm. As legislators, we are in a unique and privileged position where we can make a difference. We have to take responsibility for this legislation. We have to get it right.

So now I turn to this specific provision: identification procedures at section 12A. The use of identification parades evolved over time and where crime is mainly local, they are a useful tool in criminal investigation. But criticisms have been made both from victims and the accused about identification parades. It used to be but it has since changed that in identifying a suspect, the witness had to go up to the suspect and physically touch him. Now, imagine doing that in a rape case. That requirement was used by career criminals, usually burglars who would rape their victims with the motive of psychologically immobilizing them from going to testify in a court because the witness would be too afraid and too embarrassed to physically confront her attacker in an ID parade. That practice was both inhumane and unworkable.

Now, the accused. There have been complaints about innocent persons whose wrongful convictions stemmed from unfair ID parades where the police improperly prompted or otherwise influenced the witness to go with a particular suspect, where other members of the line-up parade were so dissimilar that the suspect stood out like a sore thumb. So for example, in the case of *Daniel Charles v The State*, and that was a decision of Her Excellency The President when she was a Court of Appeal judge. According to the accused, everyone else on the ID parade wore dark-coloured jerseys and jeans but he was dressed all in white—a white jersey and a white pants.

There has also been a lot of research about the inherent weaknesses and problems associated with fleeting glances, faulty memories and problems with

perception. So I am not a fan of ID parades at all, especially today where you have DNA evidence and other forensic evidence available and where photographic evidence is ubiquitous, whether through CCTV or mobile phones or other forms of social media. So I regard the improvements brought under this legislation in respect of identification procedures as a positive development.

Section 12A requires the witness to give a description of the suspect before participating in any identification procedures. That recorded description will include distance, weather conditions, the time of sighting and other relevant particulars. Well, these will certainly aid in the investigation and will mitigate against selective or improved memory as one gets closer to trial. A witness's first description is a very useful anchor because people can get confused when they watch people in a line-up or they watch plenty different pictures.

Section 12K provides that the parade line-up should include persons who resemble the suspect as far as possible in terms of race, age, height and general appearance.

Section 12C makes clear that an identification procedure need not be conducted where it is not practicable to hold one, where it is not disputed that the suspect is already well known to the witness, where the eyewitness merely describes a piece of clothing or provides an insufficient description of the person he claims to have seen or where the identification procedure would serve no useful purpose in proving or disproving the suspect was involved in committing the offence.

I want to agree with Sen. Sobers about JPs. If they are going to be used as a safeguard for suspects who do not have a lawyer or representative, then I will strongly recommend that JPs should have a proper and appropriate investigative training. On the issue of ID parades, I would say the Bill favours the accused to

the extent that it mitigates against the police doing or saying anything that persuades or influences the witness to identify the subject they prefer. So very positive step forward.

Interviews and oral submissions, section 12Q. Well, I love English detective shows and I am always impressed when you see them doing their police interview and they put on the recording, you know. Section 12Q requires the investigative officer to record the interview of any person suspected of or charged with committing an offence, preferably by video recording where possible. So I do not see how anyone can seriously object to the proper use of technology in police investigations and the conduct of court proceedings. The courts should not be denied the advantage of readily available technology. Recordings of interrogations of suspects at police stations should be routine. Not only will they be effective at ensuring that the accused really did in fact confess but they will also assist in ensuring that the accused did not confess for the wrong reasons.

Section 12R requires recorded interviews to be properly logged, registered and kept safe. Well this is in keeping with admissibility requirements. The prosecution must be able to prove the accuracy of the record, the voices are properly identified, the chain of custody, that the recording is authentic and original, it is not a fake and it has not otherwise been interfered with. A proper record of all verbal transactions between police and suspect will certainly reduce the possibility or the scope for factual dispute between them at trial. Recordings will also enable the jury to decide whether the accused did confess and will assist the judge in determining factual issues relevant to admissibility.

12S is geared towards ensuring that the recording machine was switched on and working at all material times. A problem I anticipate is how to edit out of the recording inadmissible or irrelevant material. Now I guess that would have to be

negotiated between the prosecution and the defence, failing which, that matter would have to probably be resolved by the court.

12Y(6) refers to the Audio Visual Recording Rules. They are detailed and they are helpful, so I think we also need to look at the rules in conjunction with the legislation.

Now, these provisions, of course, assume that there will be workable recording machines at the police stations and that they will be of good quality. I note that the Attorney General had indicated that the Trinidad and Tobago Police Service has I believe 20 rooms equipped with audio visual facilities. I hope that these are used and that they will be maintained.

Closed Circuit Television, section 12AI. Well, CCTV is everywhere. It is in shops, it is at homes, it is at the traffic lights. So by making CCTV evidence available and admissible as evidence, we are helping both prosecution and we are helping the defence. The use of recordings will be a great aid and convenience to the finders of fact—the judge and jury. They can also be played over and over again. But what about video evidence via mobile devices? These are equally ubiquitous. Will these be admissible? Perhaps we can get some guidelines to assist in determining authenticity and credibility. Video links, and as Sen. Sobers pointed out, this is becoming quite routine in the civil courts.

Section 12AD allows the court to issue a special measure direction for a vulnerable witness to give evidence by means of a video link. Courts are routinely using video link technology but there are some points of legal and practical interest.

3.45 p.m.

One has to weigh the balance of inconvenience and cost as against prejudice to the parties. Will the witness be in a courtroom or in a venue where there is a

judicial officer present to guard against the witness being improperly prompted or reading from a script?

I had a situation once where it was a Family Court matter and the witness wanted to give evidence in her lawyer's chambers in Canada. We had real problems accepting that proposition. I think once you are having those kind of linkages, you have to make sure that there is some independent judicial officer present to ensure that the rules of evidence are being observed and probity.

And now we come to the big ticket, Witness Anonymity Orders. Well, “ah ha’ tuh say, eh”, I have been back and forth with this one. When this debate first came up, I was dead against Witness Anonymity Orders. But I have been reflecting on it over time and now I am less sure. I can actually see the need for Witness Anonymity Orders. My concern is that they do not become commonplace and routine, that they are really used in very specific circumstances. But it goes against the grain of criminal law practitioners, I want to tell you.

From ancient times, the Roman Emperor Trajan said anonymous accusations must not be admitted in against anyone as it is introducing a dangerous precedent and out of accord with the spirit of our times. That was in 112 AD.

Henry Charles Lea, 1887, *A History of the Inquisition*:

Yet evil was all this, the crowning infamy of the inquisition in its treatment of testimony was withholding from the accused all knowledge of the names of the witnesses against him.

So, witness anonymity, as I say, goes against the grain and it has been condemned as a fundamental breach of the right to fair trial.

But, on the other hand, while the accused has a general right to ascertain the true and complete identity of prosecution witnesses, that right is not absolute. That right may be curtailed in certain respects, where the prosecution can demonstrate

that full disclosure would endanger the personal safety of the witness. So there is a balance to be struck, a balance between satisfying the strong public interest in prosecuting serious criminals and ensuring open justice and fair trials.

Now, I think ultimately it is going to fall to our courts to resolve the issue by weighing the possible harm to defence from non-disclosure against the risk to witnesses from disclosure, and they will probably have to do a modern judges' rules type of thing. And I am going to say a little bit more about that and the need for what I think is judicial activism.

But let me just put on the record that two legal heavyweights, Lord Diplock and the Gardiner Commission, concluded that witness anonymity was inconsistent with any procedure appropriate to trial by judicial process in a court of law. And so their conclusions warrant substantial weight in any consideration of witness anonymity. *R v Taylor*, the leading British authority on witness anonymity, encourages trial judges to undertake a balancing exercise, but it does not oblige them to do so. And the practical is that the risk of unfairness to the accused is played down or dismissed as hypothetical. Amnesty International has concluded that anonymity is an illusory method of protecting victims and witnesses. So there are a lot of voices against it.

Now, I work in mind maps and I created this little spectrum, which I am going to try and see if I could make sense out of my nonsense. On the one hand, it is a pivotal issue: How to keep witnesses safe and still give the accused a fair trial? And you have on the one hand, it is immutable in our jurisprudence. This will abolish the existing common law rules. Lord Diplock, Jeffrey Robertson, the Gardiner Commission, all against it. The defendant has a right to face his accuser as part of due process. And they ask: How would you like to be faced with accusations and complaints from an anonymous accuser? How can you get at

motivation? How could you test veracity? How could you be assured that the witness is not a chronic liar or just a cat's paw for other interests over someone with a grudge? So there is a very real risk, this voice says, of false evidence going undetected. And it is a challenge for the defence, in terms of testing credibility.

And on the other hand, you have those saying: Well, the right to confront and cross examine an adverse witness is an important safeguard but it is not absolute right. It can be curtailed. The judge must consider a number of factors before making a decision. And 12AG(3) and (4) speak to that.

Justice is defeated, this voice will say, where witnesses are discouraged from coming forward because of the risk of harm to themselves, their family, their friends and because of fear of reprisal.

In the case of *R v Meyers* it was said Witness Anonymity Orders are a special measure of last resort only to be used in limited circumstances. It is not enough to just say you are afraid. It should be investigated and a full assessment should be made. You should be able to explain why other protection measures are not sufficient. So they stress the necessity principle before going down into the witness anonymity.

I ask myself: If I or a member of my family was at serious risk, would I be willing, or would I be willing to let them go and give evidence in a court of law? You would recall we have had a doubles vendor being assassinated and people being killed for no apparent motive, only to learn afterwards they were witnesses about to give evidence.

We know about organized crime. We have talked about it in this honourable House many times. We know about terrorism. We know about people being killed just for going on a tips anonymous, not just the risk of violence but social ostracizing, blackmail. We live on a small island. Nothing is ever kept

confidential. Things are always being leaked. We have seen problems with witness protection. So, in the UK, the Witness Anonymity Order was borne out of terrorism, in particular the IRA. But it is relevant to Trinidad and Tobago. And so I do not dismiss it out of hand. It is certainly something we need to consider. I think there is a place for it. My concern really is that it does not become a routine mechanism.

So I come back to it. How to keep witnesses safe and still give the accused a fair trial? Does the legislation achieve a fair balance? Are there other options that we can consider, that we can adjust or ramp up, depending on the circumstances?

Parliament is the proper body to make these changes and to devise an appropriate system which envisages a fair trial. I recognize that the integrity of the judicial process is at stake. Court will refine the law, but it falls to us to navigate the storm we are in. I know it goes against the grain. I accept what those who warn us about it are saying. I accept the concern about the risk of Witness Anonymity Orders sliding towards being a routine instead of an exceptional measure; it should not become a normal feature. But I do think it is not something to just write off.

So, in conclusion, I want to support this legislation. There is much to commend it. I understand what happens on the street to snitches and the need for witness anonymity orders. But I also understand that the integrity of judicial process is at stake in this legislation. Right? And with those few words, I thank you. [*Desk thumping*]

Sen. Nigel De Freitas: Thank you, Madam President, for the opportunity to contribute to the Bill that is engaging the attention of this honourable House, which is the Evidence (Amdt.) Bill, 2019, Chap. 7:02. Let me state from the outset, and before offering my viewpoint and observations, that I must join with Sen. Vieira

and go further to commend the Attorney General and his team for this piece of legislation that is before us. [*Desk thumping*]

Madam President, from my layman's perspective, the Bill that is before us is a robust piece of legislation that continues the analytical and structured approach to crime fighting, although legislatively, that the Attorney General has embarked on since 2015.

If you will permit me for a brief moment, just to create the context from which I draw my conclusion. It is not that Trinidad and Tobago is without a crime-fighting system. That has not been the case. But like any system Madam President, there is a requirement to checks and balancing, to update, maintain and manage the system as time passes. Sen. Vieira would have spoken to the age of the original Act of this piece of legislation that we are trying to amend today. So that speaks to the idea of upgrading the system, but one of the ways we do that, is we amend the laws to reflect the changing environment or changing reality in society.

So Madam President, in the most simplistic way that I can describe it, the system by which we address crime in this country resembles this process: a crime is committed, an investigation takes place where a suspect or suspects are identified and evidence is collected. Sometimes those two do not go in hand. A threshold is either met or not met to determine whether a trial of the suspected individual should take place. An analysis of the evidence presented takes place in a court of law by prosecutors and a defence. Finally, guilt or innocence is either determined.

So, Madam President, like any system that utilizes a process or moving parts, if any part of the process slows or comes to a halt, then the entire system is affected at the expense of efficiency and output. In this case, the output is the

ability to treat with crime and the effect is an increase in crime-related activities and, well, social chaos.

From the get go, the Attorney General indicated to this Chamber and in the other place as well, and also in the public domain that there was no shortage of analysis of the system. We know what is wrong. But analysis without action does not solve the problem. As the AG likes to say: It is analysis paralysis. So, Madam President, action had to be taken. And since 2015 we began, when you think of the process, to treat with that. So, we did a police manpower audit report, which was full of recommendations. We appointed a substantive Commissioner of Police that can receive and treat with those recommendations. We spoke to, and Sen. Sobers would have spoken to in his contribution, the idea of beefing up forensic science. So we initialized the DNA Regulations as an extra tool in this fight.

But from the standpoint, and on the other side of the equation, which is the Judiciary, we dealt with the inefficiencies and the backlog there. So we dealt with judge only legislation, plea bargaining. We increased the number of judges and magistrates. We revamped how traffic violations are dealt with. And today, Madam President, we deal with one thing that bridges the process; from the time the TTPS realizes that there is a crime to the time where the Judiciary makes decision, and that is evidenced.

So Madam President, as I stated before, I commend the AG on what is before us. This Evidence (Amdt.) Bill is a 55-page Bill with only six clauses in total, and clause 4 takes up the bulk of the Bill. There are five divisions that treat with evidence collected by way of eye witness statements, identification procedures, interviews, oral admissions. It makes provision for special measures, evidenced by video link and something that I thought was really good, and we have had a lot that was said about it today in this debate, which is the Witness

Anonymity Order.

So Madam President, from my understanding of what I read, this Bill, in light of the collection of various types of evidence, seeks to maintain the protection of the witness, whilst simultaneously maintaining the rights of the suspect who is innocent until proven guilty.

Through the use of this due process, as I go through the logistics of what is proposed, you will hear of the checks and balances put in place to ensure due process is taking place and the rights of both individuals are protected as I outlined. Throughout the various new clauses, under clause 4 of the Bill, there is constant reference to recording confirmation of recording of the procedure in the appropriate form, consent where necessary from the suspect, a procedure for when the suspect has representation and procedures for when the suspect does not have representation, procedures requiring the suspect to confirm what has taken place, as well as procedures for recording when the suspect originally gives and then removes consent.

[Electronic device goes off in Chamber]

So, Madam President, under clause 4, Division 2, subclause 12, the Bill treats with the identification procedures, of which there are five in total and they are listed in order of priority. And I am not going to read them out because several Senators would have gone through that process before. And, so Madam President, other Senators would have also spoken to several procedures within the Bill put forward. *[Laughter]*

It happens. I mean, when you are on your recess and you forget to turn off your phone I could understand why that would happen. *[Laughter]*

So Madam President, as I was saying, there are several procedures in the Bill that speak to the checks and balances put forward when we are dealing with the

collection of evidence. The first one being that of collection of a first description before we do identification procedures.

Now, Sen. Sobers would have gone through that process in great detail and would have made his points in relation to that particular process and issues that he would have had. He pointed out some good things and he pointed out, based on his experience in that field, some of the things that might be problematic. And what I would say for that is the Bill itself really does have a lot of processes in and it tries to go through, in as specific as it can, as it relates to legislation outlining what needs to be done. I am comfortable in the fact, as much as it may be layman, of these procedures as they have been put in place, as it relates to the checks and balances, the recording, the re-recording and the ensuring of the disposal of certain evidence that is collected. What I would say to Sen. Sobers is, as much as it may need to be more specific, relating to specific things that you would have experienced, you would have heard the Leader of Government Business speak to the intention to put this to a Special Select Committee and it is at that point that we can delve into it much deeper to probably treat with some of those things that would come up, and see if we can address it legislatively as we are going forward.

So Madam President, as I indicated, I will not go through those procedures, as it relates to first description or the identification procedure. What I would do actually is start at the point of interviews and oral admissions. I really need to respond to Sen. Obika, and I think Sen. Sobers would have mentioned it ever so slightly in his contribution. And it seems to be a common thread on the last day, which was April 02, 2019, when this debate started, in relation to that interview and/or oral admissions process. And one of the things that I heard coming through—and I could be wrong so I would give way if Sen. Sobers wants to correct or Sen. Obika—the idea of doing these interviews and these oral

admissions and how would this be implemented by way of acquiring the equipment to do the stuff throughout all of the police stations in Trinidad and Tobago. And one of the things that I would say to that, it is at page 31, Sen. Sobers, page 32 actually, where the legislation actually goes in to identify what it meant by recording medium. And I would just ask you to turn to clause 12Q(7) where it speaks to, Madam President, if you permit me:

"for the purposes of this section 'removable recording medium' includes magnetic tape, optical disc, solid state memory or any removable physical recording medium which can be played and copied."

Now, we are in 2019, and I could understand that point of cost and how you are going to implement something like that across the board in relation to police stations.

Madam President, on Monday of this week—everybody has cellphones, Samsung, Apple—the Apple Company announced an iPhone 11. If you look at the back of that phone it has three to four cameras on it. On the front of the phone there is one, and I am not suggesting that police stations buy phones and use that for their recording medium, but my point is that access to equipment, in relation to recording, is no longer as expensive as it used to be a number of years ago. I remember when cameras used to be extremely expensive. There will be 12 mega pixels. There will be 20 mega pixels and you would actually buy a camera separate and then you would have your phone separate. The fact is that technology has gotten to a point where you can get these mediums relatively cheaply. So, I do not think that that is a deterrent, Sen. Sobers in relation to implementing this part of the Bill by way of doing interviews and oral admissions by way of recordings, that that is a deterrent. I believe that that can be done relatively easily and that could be implemented easily. And if you want an example of what I mean, there

are things called SD cards, which you could put into your phone if, by way of the Special Select Committee, we discover that or prescribe in the legislation that the use of a phone is admissible and that we can do that.

So the point is an SD card is something that is very small and we know what that is, and even that is relatively old technology. Because the legislation speaks to something that is removable and that can be copied. So that is my response to Sen. Sobers' contribution, in relation to the implementation of this particular part of the legislation that is before us.

So, Madam President, I want to talk briefly about the Witness Anonymity Order, which I think happens to be the part of the legislation that is engaging the attention of several Senators that have spoken before. Now, I listened to Sen. Vieira and I listened intently to what you said, and it seems that, at first glance a lot of individuals would be taken aback by this particular piece of legislation or what it wants to do. And the question I really have to ask myself, in relation to that is, the mischief that the Witness Anonymity Order is trying to deal with is threats to witnesses. We know in Trinidad and Tobago, we have seen it. It is littered all over the media. I do not need to read out newspaper articles. We know that witnesses do lose their lives in relation to cases in Trinidad and Tobago. That is a fact. As a matter of fact, I did not even need to go into any newspaper articles.

There is another programme that exists in Trinidad and Tobago right now that is trying to deal with that issue. It is called the Witness Protection Programme. So, obviously, within our judicial system there is a programme that tries to deal with the idea of witnesses being threatened because of their involvement in a particular case. And, therefore, if there is a need for a witness protection programme, then definitely there is a need for a Witness Anonymity Order that tries to do the very same thing. And I did not hear anybody talk about

that.

And if you want to take it even further, there were several questions, either through urgent questions or through other means or parliamentary processes that spoke to the cost of the Witness Protection Programme in Trinidad and Tobago. And I remember the Attorney General speaking to that and indicating, regardless, the need for such a programme. But yet we have now an opportunity, in this legislation before us, to add another level to protecting witnesses that may not cost as much. Because, if at the point of executing the case in the judicial system you are able to protect the witness, then you may find that you do not need to put individuals in the Witness Protection Programme, therefore incurring that cost, if you can.

So, Madam President, when you look at the legislation that is before us and the Witness Anonymity Order, one of the other things that was said, I think it is Sen. Obika that said it, and he was alluding to the fact that there are instances where you may have a witness who might not be truthful, and therefore that could be a deterrent to implementing this order. And my understanding of the legislation before us, being as robust as it is, put forward by the Attorney General, is that it is by the order of the court, or by assessment of the court—and to me, when I hear assessment of the court, I am thinking the judge, who is an individual tasked with determining guilt or innocence in the first place—and therefore is not an individual inclined to be fooled very easily. And therefore, if that person is tasked with determining whether this order is necessary, then by all means I believe that they will follow a due process. But even so, in this piece of legislation that is before us, that due process is laid out. It is actually specified in 12A(a) to 12A(h), exactly what conditions would satisfy that order.

And even if by some fluke, Sen. Obika, somebody was able to, let us say,

fool the judge, there are provisions in the legislation that that order could be revoked. So, the way I see it, Madam President, is that there is absolutely no reason why this Witness Anonymity Order should not be implemented as part of the legislation. There are enough checks and balances here, and if you go to page 41, you will see them. And I will just go through them quickly.

Madam President 12AA(2)(b):

“the quality of the evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.”

And that is before issuing a special measure direction, the court shall be satisfied. So it lays out the criteria by which the court, vis-à-vis the judge, will determine as to whether a Witness Anonymity Order should be given, and it is not, to me, something that could be abused by, let us say a prosecutor. I do not get that from what is in front of us here.

So to me, it seems as though everything would be taken care of and if you go right to certain parts of this legislation it speaks to the revocation of that order, Madam President. And that, to me, says that even if somebody was able to get through and was able to have this order given and it was discovered later, as Sen. Obika indicated as he spoke to a case involving the hon. Leader of Government Business in the past, then that could be brought to the attention of the judge and that order could be revoked.

So, in terms of encroaching upon the right of the accused to face the accuser, to me, in my humble and layman's perspective, it does not seem as though that is encroached upon, given that there are several instances where the court takes into account that right; the very same right to loss of liberty and freedom, in terms of a judgment that could take away that freedom that the court is responsible for. And

it makes that assessment and determines whether this order is necessary. And where the court thinks that it may have made a mistake can then subsequently revoke that order.

So, Madam President, to me, as I indicated, the argument put forward by Senators or the concern, I think, is not necessary and I do not want to say unfounded. It think it is just a matter of trepidation, in relation to the fact that someone could accuse someone and you do not know who the person doing the accusing is. But the fact of the matter is, I think a lot has been thought out in that process. I think that that is actually a special process to me, because the actual legislation does speak to the use of other forms of protecting the witness, either by video link, either by screen, before you even consider the Witness Anonymity Order. And therefore, to me, as put forward by the legislation, comes forward as last resort. And if there is need for a Witness Protection Programme then there is definitely a need for a Witness Anonymity Order.

So, Madam President, as indicated, this Bill is robust. It attempts to balance the rights of both witnesses and suspect whilst following due process. It is another piece of legislation, which when added to the others, can only strengthen the system that is already in place to treat with crime. And, therefore, all that remains to be said is to tell the Attorney General in this fight, by God's will may you continue to act with his blessings and move with God's speed. With those few words, Madam President, I thank you. [*Desk thumping*]

4.15 p.m.

Sen. Anita Haynes: Thank you, Madam President, for recognizing me as I join in this debate, a Bill to amend the Evidence Act, Chap. 7:02. Madam President, as I join this debate after Sen. De Freitas, I just want to quickly contextualize what I intend to do here in my contribution, today. Sen. Vieira made a very important

point during his contribution, which is that as we move to amend an Evidence Act, that, because of its importance, we must do so with caution, and we must do so thinking about the balancing act that we are trying to achieve. And I listened to Sen. De Freitas as the Senator outlined the previous pieces of legislation that the Attorney General has brought to this House, and that it was all designed as a package to assist in our fight against crime, and that is the national fight against crime.

So I want to start there. In my preparation for today's debate, I reviewed the *Hansard* of the hon. Attorney General and Senators who went before, and my approach would be somewhat academic, because that is how I process the information that is in front of me. And the keywords that Sen. De Freitas used, was that this is part of a package of legislation to deal with crime. And so therefore, I too reflected on the package of legislation that was put before us. And I have said, in the past, that we have to be very careful and cautious when amending laws, making laws, and doing so, that when we do so, from a position of fear. And when we do so from a position of a society and our population that is deathly afraid of the spiraling crime wave that we are seeing. Because what we are doing is creating laws and creating systems and if we weaponize our fear, we will tilt the balancing act, and therefore, our justice system would not do what it is intended to do and serve the purpose that it was intended to serve.

And as I approached this particular piece of legislation, I went through a number of papers, and the idea was the protection of the anonymous witness versus the right of the defence for a fair trial. And, Madam President, I think that is where I understood where Sen. De Freitas was coming from, and I understood the points that he was trying to make, in terms of if there is a need for a Witness Protection Programme, this is a logical next step to follow. But you cannot now divorce

yourself, no matter how fearful we are as a society, and no matter how much we know that everybody in the population wants us to act and act decisively in terms of crime. That there must still be consideration for the rule of law, the right to a fair trial, and all of these things that seem to be lofty ideals rather than part of our day to day reality because we are so fearful.

And I started again by thinking about what is the problem we are trying to solve, here, with this legislation, with this Bill to amend the Evidence Act. What is the problem we are trying to solve? We are trying to create a safer society, a more effective justice system, a more just justice system. And the Attorney General when he piloted this Bill said that the Government forms the view that this piece of legislation is an essential adjustment to the system, an essential adjustment to the system, and the manner in which evidence relates to significant issues such as witnesses.

And the driver of this legislation, therefore, is meant to strengthen the prosecutorial arm of the State. And, like I said before, I took an academic approach to this, because there is a raging debate going on in the United States of America, right now, in terms of where they stand as a society a much more—a much older democracy than we are. And they would have done a lot of things by trial and error. But the debate that is going on as part of the democratic primary, amongst other things, is this idea of a heavily prosecutorial State. Where you again—the fear would have been used and you empowered prosecution because you wanted to ensure that you were seen as tough on crime. And most political entities understand crime and the conversation around crime as a binary conversation, either you are tough on crime or you are not; either you stand with us on this or you are standing for criminals. And I think that conversation and taking the conversation along that angle is a dangerous rhetoric, because we here—we stand

here, I think primarily, well not I think, I know. Primarily as legislators and to look at the law as Sen. Vieira urged from a very sober and rational and logical point of view. And, therefore, you have to take yourself out, I think from politics, you have to take yourself out even as a citizen even as a person who may have been a victim of crime and all these things and think about the balancing act that we are trying to achieve.

And, Madam President, I use that introduction to just say early on my intention is to look at the clause on the witness anonymity and I am doing so, and I do not intend to traverse paths that others went, but I want to put on the public record; one, I was happy to hear from the Leader of Government Business that the intention is to go to a Special Select Committee, because what pieces of legislation like this needs, one would be a significant amount of consultation and that we do so not just on the fly and that is not discounting, that it may have been years of work. But also that we think about what we are trying to achieve, and thing about whether or not this is the solution. And Sen. De Freitas, like I said spoke about the pieces of legislation that were previously brought to the House. And that got me to thinking about the space in the United States, right now. Because as you are talking—the reason so many people right now are fearful about witness anonymity, Madam President, it is because of the pieces of legislation that we have seen coming before. And when you are thinking about it, you are looking at whether or not what we are pushing towards is a society that the United States is now trying to correct, where you have so many persons going through a prison pipeline. so many persons going through to this prison and creating a level of criminality, and creating a system, a justice system that is essentially unjust and skewed against persons who may be poorer, may be a little under privileged, and may not be able to benefit from the system in the way that it ought to be, which is why, I said, we

have to be very careful and very clear on what we are trying to do. And if we are trying to create a justice system that is effective, we must not then tilt that justice system in a way that is now unjust because we are so fearful.

And, Madam President, the Attorney General when he opened the debate made the point of looking at the New Zealand model in this particular piece of legislation. So I too then followed the example and went to see what New Zealand did because the Attorney General was so impressed. And there is a paper from the law commission in New Zealand that would have been done since September 1997, that looked at the evidence law and witness anonymity. It was a discussion paper that was created and then put out for public discourse and public discussion.

And I think when you are looking a fundamental changes, and again understand the idea of “analysis paralysis” and when are we going to act. But there are certain fundamental changes, Madam President, certain fundamental changes that you have to allow for that wider area of consultation and that wider area, and that you would benefit from more thoughts and more diverse opinions coming into there because it is such a fundamental shift. And I listened to Sen. Vieira as he said, you know, he grappled with whether or not you can be for or against. And that he started off as being strongly against. And I think that a lot of us, because a lot of people looking on at this debate would be listening to us saying “do not protect criminals”, forgetting that all persons who are accused are not in fact criminals and therefore that is the whole point of the justice system. And that is why I said we have to be so careful with our discourse around crime Bills that we do not criminalize our entire society because of how we approach the language around crime Bills.

Anyway, Madam President, so that discourse in terms—the key points that I

noted from the New Zealand model and their approach to even getting to this law was how wide their consultation model was, and how deliberately focused, and the number of years that it took. Because they understood how fundamental the change was, and they understood that they needed to take their time and do this thing properly, and not do it in a reactionary manner.

And in New Zealand the office of the Prime Minister produced a paper in March 2018 and it is entitled “Using evidence to build a better justice system: The challenge of rising prison costs”. And I am introducing this to the debate, very briefly, because it goes back to my question in terms of prison pipelines and are we becoming so heavily prosecutorial that we are creating a system that you can see has not succeeded in America, right now. And that we are not benefiting from looking at our neighbours and looking at what has happened to other people. And running down a road where you see things like the Bail Bill, et cetera, and pushing us in a direction that we may not necessarily want to be, but we are fearful enough to go down right now.

And, Madam President, this paper produced in New Zealand looked at what the evidence and the data is telling us with respect to crime and that data should be the driver in where we put our resources which includes our time, which includes Government energy, which includes Government policy. And I am bringing this in, because like the Attorney General stated that the Government’s policy at this time is to focus on this end of the crime spectrum. And again we are at the end of the pipeline when you come to this—well for the Evidence Act we are somewhere in the middle.

And the 2018 paper from New Zealand where the Attorney General said he looked very specifically at in preparation for this Bill and what they produced here for us. The paper urges that we think about the justice system in terms of

prevention and that we put our focus there because of how well understood now it is that prisons act as recruitment centres, et cetera for persons who are disenfranchised. And like I said I am introducing it into the debate, because if you are going to look at the New Zealand model then why not look at what their most recent research and the years of data is telling them, whether or not this is the way to do or the approaches that they are now looking at is the better way to go.

Because nobody from the Government has told us, as Sen. De Freitas tried to tell us that the legislation is their main crime fighting ambit. The Attorney General told us that this is a central point in their crime fighting ambit, but then nobody is telling us what you are doing on the front end. And that I think is an important conversation what are you doing in terms of prevention and fixing the system in a way that we are not pushing people through the system. We are not looking at what, you know, anonymous witness, and et cetera. But we are making our society essentially safer.

And those discussions—listen if anybody from the Government came forward with a coherent and cohesive prevention policy and plan I have no doubt that they will get support, but they have not done that, it has not been done at any point in time. And we keep getting legislation after legislation telling us the population is afraid, people are dying, et cetera. And we have to do this we have to do it now, and if we do not act now more people will die, blood is on your hands. And that is an essentially destructive conversation around everything. And so I wanted to—

Madam President: Sen. Haynes, if I may. Hon. Senators, at this juncture we will suspend the sitting and return at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam President: Sen. Haynes.

Sen. A. Haynes: Thank you, Madam President. Before we left for the tea break, I was making the point that what the population is really hoping for and urging everyone who is responsible and in a space of leadership to have a productive conversation on crime prevention and what we can do to alleviate the problem that is facing us. And the legislation that has been before us has been at the other end of the spectrum, and it is not intended to make any of us safer. But it is overly criminalizing our State and creating a conversation that is inherently destructive to the rule of law and the system of natural justice as it were.

Madam President, it is not my intention to delay the proceedings of the Senate since we have already been told that this piece of legislation will go to a Special Select Committee. But I would like to close by saying, and by agreeing, with Sen. Vieira that when we are thinking about legislation that requires a delicate balance that we do so with logic, we do so with thinking about the kind of Trinidad and Tobago that we hope to see, thinking about the kind of society that we want to create. And that we do not pass legislation from a space of fear, but understanding that the things that we do directly impacts our society and the kind of society we hope to create. And I thank you. [*Desk thumping*]

Madam President: Hon. Senators, I will suspend for exactly five minutes and I hope that when I return the relevant speakers will be in place.

5.02 p.m.: *Sitting suspended.*

5.07 p.m.: *Sitting resumed.*

Madam President: Sen. Deyalsingh.

Sen. Dr. Varma Deyalsingh: [*Desk thumping*] Thank you, Madam President, for allowing me to partake in this discussion, on this important piece of legislation. And, first of all, I must say that as I spoke to persons on the outside they mentioned

to me that, you know, we have to be cautious with certain pieces of legislation that we do not erode the rights of individuals. And I was actually told that the trend that they are seeing is that, you know, the Bail (Amdt.) Bill, other pieces of legislation, it seems to me that even the Firearms Bill we had recently, it seems that certain persons may be thinking that we are trying to go into pieces of legislation where you may need “two-fifths, three-thirds” majority, you need certain aspects where we may be stepping on the Constitution by eroding the rights. And, you know, I had to explain to that person sometimes we have to make decisions here, in this Senate, that you look at the rights of the individual, you look at the rights of the accused, and you have to look at society at large. And this same balance that, you know, the same sort of problems that I see, that I had to face, to sort of think, I saw, Sen. Vieira actually spoke about the fact that he had to grapple with certain pieces of this legislation.

So then I have to ask myself, what is the price we have to pay for this piece of legislation? Should we—will it really be taking away the rights of some individual? And, you know, we looked at certain pieces of legislation that came and those pieces of legislation came because we found that there was a tardiness in the judicial system, magistrate cases taking too long. We found that, you know, even there was talk about if there are a lot of cases for marijuana possession. We may have to look at certain laws to see, the problem that exists where changing the laws to try and get to those problems. While more efficient systems in running the affairs of the Judiciary, the police service, would actually—if more resources were spent in those departments; DPP’s Office, et cetera, we may not have to be running to Parliament to try and change these pieces of legislation.

So, you know, I looked at why not improve the system first and then we can implement our laws, we can change the laws, you know. I mean, the death penalty

is still on our law books, why is it not implemented? But as it may, I love my country, and I will try my best actually to see if I can do any piece of good here to support the Government and to support the Attorney General, if he can pass legislation that will give some social ease in the communities because the communities are suffering from the crime and as Sen. Vieira say it is like a “crime storm” that we are experiencing.

So, I would look at this legislation, and I looked at our country here, with both evidence and both witnesses disappear. And it shows a system where much improvement is needed. So therefore, we have missing evidence we have, you know, witnesses—I remember certain cases where witnesses were gunned down just before the trial and it was mentioned recently a doubles vendor and other individuals, even from Clint Huggins days, we remember that scenario. Where persons were in protective custody left and they were gunned down. So we have to have a system where we can protect our witnesses and we can also make sure that the full arm of the law is able to take it, you know, its effect in finishing certain cases.

So, you know, the rule is that you are innocent until proven guilty; that is the golden rule. We have people in prisons staying in conditions that there is left much to be desired. So any legislation which help speed the process I will support this, once it does not shortcut the rights of the accused. And this is where I have some difficulties with certain pieces in this legislation. It is well aware that the European Convention on Human Rights in 1962 spoke about the rights of the individual. Then our 1976 Constitution looked at the protection and freedom of individuals and in particular section 5(f) says that, you know, it look like that persons are:

“to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person

the burden of proving particular facts.”

Also, within that whole, you know, subsection the right:

“to a fair and public hearing by an independent and impartial tribunal”—is there.

Reasonable bail is there.

So, again, I look at the caution that I may have to have in looking at these pieces of legislation. And as I looked at this Bill, I notice it was divided into evidence, it was divided into identification of suspects. And the identification mechanism that was set out in Division 2 and set out in clause 4 in sections 12A to 12B. All those new sections, you know, it actually looked from 12A to 12B we actually were formulizing the Standing Orders that the police have been using so it not to say it is anything new. So those parts are easy takes on it. It is giving the police service a structure, giving the police officers a structure to work in, giving the individuals who come before the system a level where if the recordings are there, you can have a level of recordings that are set up there the video recordings and if an attorney wants to challenge it the evidence would be there.

So those aspects of it, the 12A to 12B, I have no problem really in supporting those changes. But I must say, when I looked at some of these, Madam President, I wanted to make a comment here that when I looked at 12A “Identification Procedures” in Division 2 and it actually includes part (c), you are looking at the, you know,

“Before any identification procedure takes place, a record shall be taken by the investigating officer of the first description of the suspect given by the eye-witness.”

So it actually gives a description of how you can write down the description, it actually gives an idea of the conditions that are necessary, distance of the eye

witness, the weather conditions, lighting conditions, time and particulars that investigating officers think fit.

So I am wondering there, should part of that—would that include any sort of, what I may say, if someone has any defects in their—or visual problems, or any sort of declaration of their visual problems, it should be somehow included in this piece of legislation. So I am just thinking of that aspect of it. So if someone has a visual problem should it be declared to the police officers, so when he is making that determination it will be factored into this.

I also would like to look at the fact that when I looked at 12B(7):

“Where a person has not been positively identified by an eye-witness as a suspect, the Commissioner of Police shall cause all photographs of that person to be destroyed.”

Madam President, this subsection (7), I am looking at, when we looked at the PACE guidelines from the UK. The United Kingdom has the PACE Guidelines, the Police and Criminal Evidence Act. And when I looked at it they actually went a bit further with this piece of legislation where they were saying that why, you know, at the PACE legislation it says that the persons whose photographs are there should actually be witnessing the destruction of the photos.

And I think we—I would like to expand that subsection (7) there to come in sync with the PACE legislation. Because I would hate to imagine I have a mug shot of me existing and which could influence somebody. And we all know having photos of persons in the police, if there is a file folder and they actually put in those photos to the persons, witnesses, there are a lot of mistakes that can occur. And I want to elaborate the point that mistakes can occur from an eye witness, and if they are seeing photos of any one of us they may mistake us and mistakenly think that we are also part of the criminal evidence. So I am thinking that

subsection (7), I would like to see if we can somehow expand.

When I am looking at part 12C and I want to look at subsection (6):

“Where an eye-witness had previously made an identification”—of—
“photographs or a computerised or artist’s composite or similar likeness, he shall not be reminded of such photograph or composite likeness or any description of the suspect, once a suspect is available for identification by any other means.”

And when I looked at it I understand why you may not—you know, you should not remind someone. There is a logic you may not remind that you have that person there now.

But I may want to add that remember the Police Commissioner recently spoke about cold cases. So the cold cases, you have old cases existing and he—I think he had promised there will be a team to look into those investigations and those old cases. And in cases like that after a period of time the memory of that individual may need to be jogged, may need to be jogged. And so I am thinking this may go against the whole train where we have photos of those persons and we may have to show them it. And there are now computerized apps where even if you see an individual five/10 years ago that individual can be aged according to computer to see what they look like now.

So with cold cases, I am thinking, somehow we will have to put something there in terms that we may not have to—we may be able to remind the individual to jog his memory that, this was a suspect you had years ago, this is the photo of him and this is his aged photo that exists now. Something has to come into play because I think there will be a problem with the process if we find somebody years after and we are not able to utilize something in the law for this.

5.20 p.m.

Madam President, I would like to look at section 12G, and in 12G, a suspect may have a representative and 12G(1):

“Subject to sections 12J(5) and 12N where a suspect is involved in an identification procedure, he shall be given a reasonable opportunity to have his representative present during the identification procedure.”

And when I look at section 12G(3):

“For the purposes of subsection (1), a suspect shall be given at least nine hours’ notice of the time and place at which the identification procedure is to be conducted.”

I think that nine hours is too little and I am hoping that, you know, the AG could consider 12 hours at least. The traffic jam alone sometimes to go from certain parts of the country would probably preclude someone into this. So this is an avenue I think we have to look at there, the longer hours.

But, again, somewhere along here, Madam President, should be the methods that were used to contact the representative, because in a case like this it is easy for the police officers to say, “We give one call, nobody answered.” So I am saying somehow we may have to tie into this some sort of directive where they actually will call someone, they could actually go to the scene of someone, because it is really—to me it is a vital part of the whole system to have a representative present there to look at the proceedings.

So, another concern I had, Madam President, is if a representative is present. Now, a representative could be an attorney, but a representative, if they are present there to look at, you know, the witness said—you are looking at the line-up, will the representative be present in the same room as the witness? And this is where I have a little problem because, you see, my representative could be my fellow gang leader. My representative could be someone there who in the society, in the

community, is known as a person with, you know, certain questionable characteristics, and I will fear if I am coming in as, you know, a witness to look—you know, you have the screen there, you are going to look at that line-up, but in the room present with me is a representative who can give me that element of fear or somehow just his presence there may make me change my mind and say, “I am not going to give evidence again.” So that aspect there I am thinking we have to locate. Do we put the representative there at different times? Do we put them there in a different room? And this is something I am hoping that we could get some answers to when it goes to the select committee.

Another concern I have is actually with the actual set up of the room, and this I see here it is an identification parade and it is under 12K(1):

“An identification parade shall be conducted in a police station or other building under the control of, or regularly...used by the Police Service in the normal conduct of their duties, either in a normal room...”

—and I have some concerns with a “normal room”, because having a witness in a normal room without that screen, to me, it gives us that level of fear. It defeats the whole purpose where we say we want to put certain pieces of legislation in place to protect the witness. So that normal room, I think we may have to consider that aspect to see why it is there and should it be there.

“...or one equipped with a screen permitting the eye-witness to view the suspect without himself being seen.”

Madam President, sometimes you may have a screen, and there were instances where I know a witness went to give—you know, to choose somebody in a line-up, and as the witness stood there, the alleged individual, the criminal, simply stared at that screen, stared at that one-way mirror. And just staring at that caused that witness to have that fear, to change their mind to say, “I am not going”

because he just simply stared. He probably would not know at which point they stood in front of that mirror, but just looking at that individual staring at you could cause some problems. So I am looking. Does it have to be—and I hoping the AG can answer this—a screen?

I mean, we are looking at these pieces of legislation to improve the whole evidence and system. We are looking at putting in, as I say, those recommendations that look at AV, you know, audio visual evidence. So if we are going above the line, can we not have a line-up where you may not even have that mirror but you can have, the AV system could actually look that the individual—look at that individual line-up, look at that individual, make a judgment from a remote place? Not necessarily the police station because coming into the police station and a representative of ill repute coming into that police station can cause a witness to change their mind. So I am thinking another way to protect that is if we can get some AV—you know, another building, and you could look at that line-up in the same way and say, “Look, that individual, you know, in that line-up is the one who I am thinking that may have caused that crime.” So the witness intimidation is something I am hoping that we could address by this.

Madam President, most of the other pieces of legislation here that I looked at, I had no major issues, no major problems. I looked at the fact that, you know—I commend the AG for the fact that—the Minister of National Security for the fact that there are 20 rooms equipped with audio visual recording capabilities, and I am thinking this shows that we are heading in the field of best practice, we are moving in the right direction and, you know, we have to, you know, look at these improvements and most of these improvements I support.

Section 12C deals with objection by interviewee to video or audio recordings. Again, all those are pieces of the legislation which I support, because

you object to the video or audio, you go back to the old diary system. I need to say though that police officers should be trained for these new techniques and handling and interviewing, and this is something I am thinking, you know, has to be done and should be done.

When I looked at the fact that, you know, the anticipation of launching the video Remand Yard facility, this is something I commend the Government on. It is long overdue. It is a cost. It is a horrendous cost to the taxpayers. It is 80 million a year—I heard some figures—to transport prisoners back and forth. So I will support any measures to help this. I mean, sometimes when you are driving and you see the transport vehicles blowing and pushing people off the road, that is a fear that persons have. It causes a lot of distress to drivers. So I am looking for the day that we will not see these transport vehicles being like road bullies and people just having to move off the way. So that is something that I commend and I will fully support.

Now, the issue I think where most people would have had difficulties is with the—you know, when you have the anonymous witness there, and you are looking at that aspect, and I think this is what you know, as Sen. Vieira says, it goes against the grains of you know—I am thinking that we are looking at this. Now, I am seeing the need, but I am also a bit cautious and I have to be cautious. You see, when we are looking at a witness, a witness that I cannot question, I cannot look at, we have to see, Madam President that, you know, if we are looking at going with science, there is a Dr. Paul Ekman. He actually said—and if you are looking and you having cross-examination of people, there is something called Facial Action Coding System. You look at each muscle. There are 43 facial muscles, and this technique has been there for 50 years where we look at micro expressions. So that training is something that, you know, some attorneys are so good at it, some judges

could look at somebody and read if they are lying. So in a sense, you know, by having this anonymous witness, you may be now putting those individuals at a disadvantage for this.

And why I mentioned this Facial Action Coding System, is the fact that you know you look at eye movements, lip movements. The FBI, CIA, all these people use these to actually utilize the face, voice, body language of potential assassins, terrorists. So it is a well-established field in science. And I am saying that it is there, it is to be utilized. There are experts trained on it. And why I mentioned this, Madam President, you see, if we have experts trained on this, and if we are thinking about an anonymous witness, I am thinking if somebody is going to give evidence against me, and it is within the power of the judge to say, “Yes, I will give you that, you know, you will be anonymous”, I am thinking we should somehow utilize safeguards within that.

And one of safeguards I am thinking is the Judiciary should have access to personnel trained—psychologists train in this technique, that if I am a judge, and I am going to take away someone’s right—and it is taking away someone’s right—I will now be able to have the experts trained, to look at this witness, examine that witness and say, “Listen, judge, we do not think that person is telling the truth.” So at least that training I think we need.

I am submitting that if we have to look at the anonymous witness, besides looking at those personnel training in the facial recognition, we may have to look at also, a lie detector test. So you are using more modalities that, you know, that will help the judge decide that, “Listen, I will listen to this witness and probably allow that.” So I am thinking, looking at these scientific measures, modalities, I am thinking we have to probably put that and factor that in.

And when I looked at the piece of legislation, it went into details about the

lighting system, the distance, the measurement, the weather condition, and even there are personnel trained now in forensic science, where they study the lighting. They call them the lighting experts, where they could look at the lighting. They could look and see if somehow the obstruction of the view of that individual, if, you know, he could have made a mistake. And, again, we have to factor those personnel into the equation to assist the Judiciary and to assist the judges.

But, Madam President, I have a problem also. Even if we look at the individuals, and we test them with facial recognition and we test them with a lie detector test, and the lighting expert comes on the scene and studies all the dynamics, and says, “Well, you know, they could probably at that distance and see”, it will help us scientifically. But, you see, there is a problem where witness—you look at the whole eyewitness system, and really speaking, from cases that we had globally, it looked at, you know, the eyewitness system is not really a reliable system. So here you are, we are depending on the eyewitness and an eyewitness may see, or the eyewitness may think or actually believe—[*Cell phone rings*]

Madam President: Please, please, I am not going to ask anyone to leave the Chamber at this time, but please try and silence your mobile phones, please. Continue, Sen. Deyalsingh.

Sen. Dr. V. Deyalsingh: Thank you, Madam President. So what I am saying is that there is what you call the Innocence Project, Madam President, and the Innocence Project, they looked at the DNA. What you call it is DNA exonerations. So, they looked at DNA evidence and they looked at certain crimes that were committed, and up to date it is 367 DNA-based exonerations that were given. But, you see, why I mentioned that, Madam President, the startling thing is, out of those 367 DNA exonerations, 69 per cent, the eyewitness claimed that those persons

were the persons involved in the crime. So 69 per cent you had eyewitness misidentification.

So, even though we may try to put safeguards into the piece of legislation, an eyewitness may actually believe and may pass the lie detector test. That eyewitness may actually have the facial recognition, and they are not lying. According to them—there is something called false memories. Sometimes gaps in the memories, they may create these gaps in the memories and create a situation. So to them, you know—it is hard for us to really see that even if there was a fail-safe system, Madam President, I will feel comfortable.

But, even with those persons giving evidence anonymously, we find that you have that miscarriage of justice that could still occur because those persons have that level of thinking of filling in the gaps. So all of these factors have to play in. The forensic individual says there is something called visual noise where you actually see a crime, and you may think it is occurring. So, there are a lot of factors that we have to take into account, Madam President.

So I am saying now that, you know, we may need to have a paradigm shift where we are depending less on the eyewitness and more on the DNA and the camera system, because I think that is the way to go. So it is frightening to me that the majority of the eyewitness in those cases would have given evidence and really believe that evidence in some of the cases due to no fault of theirs.

So, while I look at the legislation, Madam President, you know, that aspect of it, giving those individuals the fact that you could be anonymous, you can just, you know, you do not have any sort of way to question these individuals to see if they have some bias against you. I remember in the Scott Drug Report there were allegations made after that certain characters came out of the woodwork and actually pointed fingers to some persons there, and you did not have the evidence

really to back it. So we have to be caution that, you know, this piece of legislation is not misused.

Could we be accused of setting up another Star Chamber? And as you know, Star Chamber, it was an English Court which sat in the Royal Palace of Westminster, the late 15th to 17th Century, and it was common law judges and Privy Councillors were manning this court. Now, the thing is, the Star Chamber originally was established to ensure fear enforcement of laws against socially and politically prominent people so powerful that they thought the ordinary courts would not be able to handle them. So the thought of having this court initially was something that, you know, at the time, it was welcomed. And even so, Edward Coke, who was an English barrister judge, a politician who is considered to be the greatest jurist of the Elizabethan and the Jacobian eras, he quoted that this court was the most honourable court that is in the Christian world, both in respect of the judges in the court and its honourable proceedings. And it turned out actually to be a tool used to oppress opponents of the King at the time.

So while I hear my own Edward Coke, our esteemed Attorney General, singing praises for this piece of legislation, we have to look at the history. We have to look with it, you know, yes its sounds good, yes we want to support it, yes we think it is a good—it may help the society at least, but again we have to look—history often repeats itself. Human nature and behaviour will propel others to act in a similar way. And, you know, evolutionary psychologists think it is a matter of survival which make people act in this way, act that they may want to abuse, they may want to use the law to retain power. Machiavelli in *The Prince* thinks leaders with power would use such means. So we have the history. People could take laws and actually misuse them. So we have to be careful in giving full support to this.

So, Madam President, when I look at this part of the anonymity area, I want to say that I am thinking, as Sen. Vieira suggested, that you know we have to look at the good of society. We have to look at the good because people are suffering. Now, I am looking at if we could have a system in place where the judges can look at the scientific means and personnel available to give that order, we have to put that into the legislation to utilize it.

I am also suggesting that our AG had always painted a picture that, you know, the pieces of legislation will all fit in and I am hoping and praying for that day, because the country really needs those pieces of legislation to kick in. We really, really need that. So what I am thinking is if, you know, the other pieces of legislation kick in, if the gang legislation kick in, Firearms Act, Bail (Amdt.) kick in, come into full fruition, then if it was working good, we may have no need to come with this evidence Bill because things would have been working and gangs would have been put away, guns would have been off the street. Bail, people who do not deserve bail would have gotten bail. So if things were working, we may have no reason to bring this piece of legislation. But as it is, it is there, and as the AG promised—and I am hoping his promise of things kicking in come into place—I am suggesting, I can support this if you know, to help the social needs if we probably give it a sunset clause, probably a sunset clause for about two years. Give it a clause from the time, let something kick in there to see what will happen, what will transpire with all the mechanisms which I am hoping do kick in, do actually come into fruition and actually will give us some sort of ease in society.

So, Madam President, as I close, I would just want to mention that the other part in this legislation which I actually applauded was the piece in the legislation where it actually took into account that, you know, that trauma to witness, that those are the persons, the vulnerable witness. So 12AA, I was pleased to see that

we are now looking at conditions that, you know, that new subclause (3):

“... ‘vulnerable witness’ means a witness whose ability to give evidence or the quality of whose evidence is likely to be affected by reason of—

(a) the age or immaturity of the witness;”

—children, which we already see existing. Then:

“(b) the physical disability or mental disorder...”

And I actually support this in cases of people who have some sort of mental disorder, also in any trauma suffered by the witness because persons who are victims of crime, they may suffer post-traumatic stress syndrome and even just to come and face that person could cause great distress. So, those are the pieces in that legislation where I am looking at and I am thinking it is good.

Even the part:

“(e) the witness being a virtual complainant in proceedings for a sexual offence.”

We already know re-traumatization of rape victims is something that we try to see if we can help in any way. Even when a doctor examined and questioned a rape victim and they go back again by another officer, it always traumatized them. So expedition of these cases I think is need.

And I also look at, further down, when we look at risk factors, and part (a) says:

“(a) the risk that the personal security of a particular person including the accused person, may be endangered...

(b) the risk of the accused person escaping...”

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

Sen. Dr. V. Deyalsingh: Okay, thank you. Thank you, Madam President. The risk of the accused person escaping, I think we need this piece of legislation. We

have seen the closing off the streets of Port of Spain, disruption to the business community, traffic. All those are things there I am thinking if we have, you know, if all these could help alleviate that it will go a long way.

Madam President, I also want to look at this aspect of it. We have to consider that when we are looking at the witness being threatened, we also have to think—let us say you are a witness and somebody is trying to find out who is the witness and the witness, again, is anonymous. So you do not know who is the witness, but would the attorney not also, the attorney I am paying—and I do not want the attorneys next to me to attack me—would the attorney I am paying also not be tempted to tell me? Because that is my attorney, and I am asking him, who is the witness? And, again, what if the attorney's family is threatened? We are back to square one, because here I am, I hired you as my attorney and you do not want to tell me who is that witness. Back to square one.

So, again, I commend the Government for the utilization of the CCTV footage in section 12A(1). We know that the UK has a system where there are cameras everywhere. The Chinese Government have cameras there that they could track and do facial recognition. We could either approach the Chinese Government to work with us to get this, and a lot of neighbourhood associations have implemented camera system. So this, again, Madam President, is something I am hoping that we can work with the Government to tie in our camera system to their camera system to give evidence to help, you know, alleviate the crime we have. So, Madam President, as I am closing, I say thank you for allowing me to partake, and I am hoping our own Sir Edward Coke could give us some knowledge on helping the select committee to get a Bill that I think most people will be happy with. Thank you. [*Desk thumping*]

Sen. Wade Mark: Thank you very much, Madam President. Madam President, I

am very happy to join this debate and to make my input and a few suggestions as we take this Bill to another level. The Evidence (Amdt.) Bill, Madam President, on the face of it, some of our colleagues are of the view, could be addressed. We could probably seek to amend it, but structurally and constitutionally, I do not know if it can be fixed.

Madam President, you know, I am a person who quotes from the Constitution, because that is my Bible, apart from my Bible, and whilst it is not in section 4 of our Constitution, that is, a right:

“...to a fair and public hearing by an independent and impartial tribunal”
—it is in fact stated in section 5(1)(f)(ii). So, we have to be extremely mindful, Madam President, that what we are seeking to deal with, as the Government has advanced, is criminality and violence in our society, and bringing about safety and security for our citizenry. But we have a written Constitution and we have something called a Bill of Rights.

And, Madam President, the United States Constitution and the framers of that Constitution was so concerned about having an accuser confront face-to-face his accused that they amended their Constitution, and it is called the Sixth Amendment of the United States. In fact, I think the United States is one of the few countries, if not the only country, that has a provision in its Constitution that says that any person who is accused, Madam President, of a criminal act must, under the laws of the United States, come face to face with their accusers. That is in their Constitution. We have it in section 5 of ours. Madam President, I also looked at what is called the European Convention on Human Rights, and there is a provision in that convention under Article 6, Madam President, on page 10, and it reads that every person who is accused of a criminal offence:

“Everyone charged with a criminal offence has the following minimum

rights.”

And, Madam President, under this Article it says the right:

“to examine or have examined witnesses against him”—and/or her—“and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;”

5.50 p.m.

So, Madam President, that is a fundamental right and we have to be very, very careful in seeking to dismantle fundamental rights in our society, and tilt the scale towards what can be called, as some people have described this Bill, as a “prosecution paradise”. This Bill can, in its present form, if we were to pass it, would become a prosecution paradise according to some commentators.

We also have to be conscious of the fact that we know in our country of Trinidad and Tobago, all is not well in many sectors, and one of the key sectors that would be responsible for taking this Bill, if it becomes law, forward in getting evidence and charging persons would be the police service. And again, the way how the Bill is structured at this time it can really lead to a recipe that can lead to the covering up of questionable police operations. So this is a very extremely serious matter that we are dealing with here today.

There are so many areas of the Bill in the various sections and parts that really require serious and fundamental overhaul. Some of the areas must be deleted completely if it has to pass muster, fundamentally altered.

When I look at the legislation, I went to England, because as you know this anonymity order concept that is being inserted in this Evidence (Amdt.) Bill, 2019, found its way in legislation in the United Kingdom, first in a Bill that had a sunset clause called the Criminal Evidence (Witness Anonymity) Act of 2008. That was the first Bill that was introduced by the British after the Law Lords ruled in favour

of a particular accused in what is famously called *R v Davis*. That Bill, which became an Act, was eventually as I said it was a sunset clause, it fell through and it was replaced in 2009 by something called the Coroners and Justice Act of 2009.

I do not know who have crafted this legislation, but when I looked at some of the provisions in this Bill that we have before us, and I looked at—some of the provisions were taken lock, stock and barrel, hook, line and sinker, copy and paste, from this particular law in the United Kingdom. But what I found very strange were certain very fundamental provisions that would protect and balance the scales of justice. I noticed that these things were not incorporated and I wondered, was it an oversight, or was it a deliberate attempt to ensure that this legislation is weighed in favour only of the prosecution at the expense of the defence? I wondered. So that is why I said, Madam President, very early from a structural point of view you have a lot of work to be done to this piece of legislation if this legislation is to fly, because right now it has no wings. It has no wings.

Whether we look at the provisions that deal with identification, whether you deal with the whole question about photographs, you realize there are many sections in Division 1 of this legislation in which, for example, very early in the legislation we saw something called on page 3 of my Bill, under “Definitions” and “Interpretations”, something called “an approved form”. It says:

“‘approved form’ means a form approved by the Commissioner of Police;”
When I go through the heart of this legislation, this approved form keeps popping up. But I am saying, if you want us to pass legislation of this nature in which people’s constitutional rights are going to be subverted and undermined and weakened and violated, I do not want any Commissioner of Police regardless of—I like Gary, that is the Commissioner of Police, he is a nice person, a good person, trying his best—but I do not want him in a matter like this involving the rights of

citizens to approve any form. That form must be approved by the Parliament and it must be appended to the law, so we would be able to determine balance. Because you remember, Madam President, it is the Executive arm of the State that will be responsible at the end of the day, along with the Judiciary, for giving effect to this measure. So we are passing through, we are a conductor of this exercise. But at the end of the day after we play our music we gone, people dance.

So we want to have a role in this matter. We “doh want no” Commissioner of Police to approve forms. Any form or forms that are to be approved, it must be approved by the Parliament. That is what we are here for. We are not a rubber stamp, especially when you are dealing with the rights of citizens. No, Madam President.

And there are other areas when I looked at it, I see where we are referring to information. We talk about forms, and that is in Division 2 of the legislation. When you look at the Division 2 of the legislation, Madam President, you are seeing where we would want to ensure that not only the approved form before—if you look at subsection (3) of 12A, we do not only want the investigating officer to confirm first description given by the eyewitness as recorded in the approved form, but we want it as well to be recorded in the Station Diary. We want that to be recorded in the Station Diary.

So there are several areas as I went through this legislation, and like my colleague, Sen. Dr. Deyalsingh, I have a copy of the PACE legislation of the United Kingdom. I studied it too, I looked at it, and whereas in our legislation we are talking about destroying photographs, in the PACE legislation they say, “No, you do not destroy photos, you have to retain that because that might be critical in a matter before the court that the defence may be able to use.” So that is in the PACE law of the United Kingdom, but for some strange reason, the drafters and

crafters of the legislation have left out that. They say, Madam President, when you finish with photos you must destroy them. PACE in the United Kingdom said no, those things must be preserved. I am just giving you some examples, Madam President, where there is need for us to pay attention, and to ensure that the Government does not run afoul any further in this particular matter that is before us.

Madam President, as I rifle through these pages of the document, we saw where the identification parade that is taking place in this particular section of the legislation, we are proposing, as I have here several new clauses in order to strengthen the rights of those persons. Madam President, you remember someone who is charged with a criminal offence is innocent until he is found guilty. But this legislation, how it is worded and crafted could be misinterpreted, because a lot of the rights of the accused are not being considered in this legislation. It seems, as I said, to be one-sided, and the essence of the legislation hinges around, as I go further, secret witnesses—secret witnesses.

That was for another era, as my colleague talked about the Star Chamber and the period of the Inquisition. We are in a Republic, democratic sovereign State and we are going back to the Star Chamber, and we are going back to inquisitorial arrangements?—where, as I go immediately into this area of anonymity, Madam President, you realize that we are asking people—somebody accuses someone of a crime, and all that person has to do, according to this legislation, is to make an application to the court, and if that application is granted by the court then that witness does not have to be confronted by his accuser. That is what is going on in the United Kingdom, but as I understand it, and I may be wrong and the lawyers may be able to correct me, if the Government is bringing legislation to deal with anonymity orders as it relates to witnesses, I would have thought that the

Government would have wanted to do that with serious crime: terrorism, gangland activity, as an example.

When I was reading this literature I was not even aware, but I became aware when reading the literature that murder in the United Kingdom and piracy are bailable. These are bailable offences in the United Kingdom. In Trinidad and Tobago they are non-bailable. What I am saying, do not come here, cut and paste, bring hook, line and sinker, in terms of provisions without understanding our cultural context.

Murder, treason, piracy, non-bailable in Trinidad and Tobago. In that place called the UK, murder I saw is non-bailable. So there is a different culture, Madam President. We have a written Constitution, they do not have a written Constitution in the United Kingdom.

Madam President: Sen. Mark, I just want to intervene here to ask you to just be a little more specific to the Bill at hand. You are making some statements comparing the United Kingdom to here, but you are not linking it to what we are treating with, which is the Bill.

Sen. W. Mark: Madam President, let me deal with what you consider to be, and I agree with you, I need to, what you would say, connect the dots. We are dealing with this particular section of the legislation that deals with what is called:

“Division 4

Special Measures, Evidence by Video Link and Witness Anonymity Orders”

There is a provision in the legislation which when I compared with that of the United Kingdom legislation, the court in Trinidad and Tobago according to the legislation is proposing—we are proposing that the court—Madam President, let me see if I get the specifics for you so that I can link it—the court is going to consider whenever an application is made, that is 12AG subsection (3):

“Before a Court grants a Witness Anonymity Order, the Court shall consider whether...”—and it goes on to outline.

Madam President, in the Coroner and Justice Act of 2009, the word is not “consider”. The court must be satisfied, and they give you all the reasons that are going to guide the court in coming to a satisfactory conclusion before it can grant this Witness Anonymity Order.

In this case here, as I saw it in the legislation, all we are being asked to do is for the court to grant a Witness Anonymity Order and it shall do so by considering the following. No, Madam President, it has to be more than that. This is a matter in which the rights of people are being threatened.

Madam President, in a matter like this where we are talking about witness anonymity, one would have thought as I said earlier, that the Government of Trinidad and Tobago would have been paying attention to matters like terrorism, as an example, gang activity as an example. So you categorize the areas that you are going to concentrate and pay attention to. But in this legislation it is not that way.

If you go to 12A, Division 2 of this legislation, you are seeing where there is a voluntary arrangement that is being advanced in the legislation. So in 12A(1) we are proposing that this section is seeking to have the identification procedure take place and the record shall be taken by the investigating officer of first description of the suspect. We are saying this is mandatory and we are saying that should be voluntary.

And Madam President, wherever in the legislation you have “approved form”, we are proposing that we add in addition a notation in the station diary. That is another area that wherever that appears we are proposing that you make those amendments to the legislation.

When it comes, as I said, to this section on vulnerable witnesses, who is

going to determine who or when a witness is vulnerable? Who is going to determine at the material point in time if a witness is going to experience harm? Is it the prosecution, is it the court as the case may be? In those circumstances any witness utilizing this legislation in its current form can take advantage of these provisions by feigning or pretending that harm is going to come to me, and the prosecution will buy that story and at the end of the day you as an accused, and your attorney who is defending you, will not have the right as I am seeing under this legislation, under the provision that I have just outlined, anonymity section, vulnerable section of the legislation. You are not going to have the right, Madam President, to cross-examine your witness or the witnesses involved.

What the Government is seeking to do in this legislation is to create a situation in the legislation where a witness can remain behind a screen without you witnessing or seeing that witness, and that witness will be cross-examined via a screen. Not only that, Madam President, you are not seeing the witness but in addition to not seeing the witness, the witness's voice will be modulated electronically so you will not be able to hear and understand who is giving the evidence. That cannot be fair in a society that has respect for democratic rights and freedoms. That cannot be right in a society that is seeking to balance the scales of justice. It cannot be fair.

This particular section of the legislation, along with the earlier section I mentioned, is cause for alarm and serious concern for us in the Opposition, and therefore we are suggesting and we are hopeful that when this measure, as we were informed by the distinguished Leader of Government Business, when it is referred to a select committee of the Senate, we will get an opportunity, the members of that committee will get an opportunity to bring very important organizations before that select committee so we can get a better understanding and appreciation of their

concern.

I did not hear from the Attorney General whether he has received any communication from the Law Association of Trinidad and Tobago. I know that when we were dealing with it, it was aborted because he was awaiting further communication from the Law Association. We would like to know if the hon. Attorney General would have by now received any communication from the Law Association.

Madam President, this particular provision in the legislation can be subject to abuse, and therefore it is incumbent upon us to ensure that there are certain safeguards in the legislation to ensure the rights of both parties. Madam President, you are talking about the accused and you are talking about those persons and so on, the defence. So those persons—the victim, the person and so on who has been the subject of aggression, as well as those persons who have committed, or the person rather who has committed the act of aggression, there must be some semblance of balance insofar as the rights and privileges are concerned in a society that has respect for the rule of law.

So these are some of the areas that we have looked at, I have looked at, and we are putting forward for the committee's consideration, the AG's consideration. We would like to, Madam President, indicate to your good self and the Attorney General that if we are going to introduce this concept of Witness Anonymity Orders it must only be available in limited circumstances, and it must be in the context of fundamental guarantees of a defendant to meet and face and cross-examine his accusers. It cannot be—it cannot be that the Government is seeking to put this matter across the board. It cannot be. At all times we have to balance the rights of the accused against the rights of the witness in regard to this question about anonymous testimony.

So these are the concerns that I would like to put on the table this afternoon for the consideration of the Government. We want to ensure that at all times trials are fair and there is balance as it relates to the rights of those persons who are involved in the exercise before the courts of Trinidad and Tobago.

Madam President, in this context the law as it stands now is extremely dangerous and far reaching, and we call on the Government, when they are considering this matter, to have the widest possible consultation with the various interest groups so that this matter can be properly addressed and properly ventilated.

I thank you very much, Madam President.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. I am very pleased to wrap up this debate and I thank all Senators for their contributions. Certainly this has been a fulsome debate, and if I were to underscore in the importance spectrum where this Bill lies, this Bill lies as one of the most important laws that we as a Parliament and we as a country can debate. Let me repeat that: This law is one of the most important laws that we as a Parliament can debate.

Sen. Vieira has the exact submission. It is for us in this Parliament to pass this law. Why? The Constitution says that we make in section 53 laws for the peace, order and good governance of our society. Section 2 says that the Constitution is the supreme law. Sections 4 and 5, the fundamental rights, the bible of rights that Sen. Mark quite correctly refers to, are subject to and subordinate to the Constitution. And the Constitution itself, in section 13 and in section 54, prescribes the manner in which we may derogate from rights in the Constitution—the manner in which we may accept that the section 4 and section 5 rights are not absolute.

Has that been upheld at the highest level possible? Certainly in Trinidad and Tobago that is the case. The Court of Appeal judgments in Northern Construction, in Barry Francis, you name it. In the Privy Council the locus classicus in the Suratt case and Baroness Hale in particular in her position that not every right is of course an absolute right, nor does one need to call into aid the three-fifths majority out of necessary purpose, even though it may touch and concern a three-fifths right—a 4 and 5 right.

6.20 p.m.

So let us get to the crux of this debate. This Bill proposes very important core concepts. I respectfully take no guidance from Sen. Mark on the law, none at all. According to Sen. Mark and the UNC bench, there are two views because certainly Sen. Sobers, Sen. Ramdeen when he spoke, there was a young lady who spoke on the UNC bench, forgive me I forgot her name, Sen. Bisram Singh. Those submissions, even that of Sen. Hosein seemed to collide with the Leader of the Opposition bench, Sen. Mark. In this particular position the law has been cast in very simple purpose to do the following things: Number one, to introduce special procedures identified in the law.

Number two, to introduce a core concept of witness protection where we introduce anonymous witness evidence by way of anonymous witness orders.

Number three, to introduce the viability of CCTV evidence. If we were to desiccate the law, put it into its most nuclear form, those are the three main purposes in the law.

In dealing with the proportionality of this law, obviously we must first traverse whether there is a legitimate aim, are the measures in this legislation rationally connected to the legitimate aim, and have we gone only so far as we must in treating with the law? In other words then, is the law proportionate to the

measures that are attached to the legitimate aim?

Where is Trinidad and Tobago today? What is occupying our attention? I came across recently the submission in 1973 when the constitutional provisions were being looked at, and in the 1973 reflections, there was a commission established to look at what Trinidad and Tobago sounded like, and I am able to say that Trinidad and Tobago in the reflections coming then, looked very properly like it does at present. Trinidad and Tobago had inside of its positions in that publication, a description of society which fit with what it looks like today. They were reflecting upon people be fearful, people being locked into their homes, rampant criminality, guns, ammunition, and that was in the early 1970s. Fast forward to 2019, our society does not seem to have changed much.

We heard the contributions coming a little bit earlier about connecting the dots, about Sen. Deyalsingh's position of perhaps supporting this legislation if there were other laws that seem to work. So I am bound in speaking to this law, to speak to the rational connection of this law to other pieces of law, I am bound to speak to the constitutionality of the law, I am bound to speak to why this law is not excessive; the question is where to begin?

We know for certain that the criminal justice system is spoken of as a bare thing, the criminal justice system. The criminal justice system is not working, but what is the criminal justice system? What makes one capable of having a determination of guilt or innocence? What allows a person who is a victim, to have justice considered and delivered? What allows somebody who is an accused, to have justice considered and delivered? How does society foster that arrangement? What is Trinidad and Tobago today? Trinidad and Tobago today is pre-PACE reform.

In the reforms in the United Kingdom you often refer to pre-PACE and

post-PACE. In the pre-PACE, P-A-C-E reforms, we are talking about the use of things like preliminary enquiries, old school evidence approach, lack of technology, and the English system saw a reformation where there was an abolition of things like preliminary enquiry, modernization of the rules of evidence, modernization of court processes.

We right now foster preliminary enquiries which can run as long as 20 years, and if you are in a preliminary enquiry and you are on a charge for murder, you are incarcerated for up to 20 years in pre-trial incarceration. It costs the taxpayers of this country anywhere between \$15,000 to \$25,000 per month per prisoner, and we have spent billions of dollars in our society going absolutely nowhere quickly. So this system which is the root of this Bill, this system which this Bill fits into, this system was a very purposeful form of reformation by this Government. Put in its simplest version, we looked at the structures.

To have a trial, you need a court; to have a court, you need a judge; to have a judge, you need a defendant; to have a defendant, you need a prosecutor; to have a prosecutor, you need to have rules managing the system. You need a witness, you need the articulating elements around the witness which are the police, which are the prisons, which are the support officers.

In the shortest form possible you are aware that we went work increasing the number of judges, increasing number of courts, increasing processes, divisioning the courts, Criminal Division, Family and Children Division, Civil Division. The true test of that was added upon by putting a layer of rules, Criminal Procedure Rules, children's proceedings rules, Family Proceedings Rules, maintenance rules, Civil Proceedings Rules as they were amended again.

After that came the plugging of laws, anti-gang laws, laws to treat with firearms, laws to treat with crimes involving money, laws to treat with how we

manage the hard structures. Are these laws working?—as Sen. Deyalsingh asked. Yes. We have had arrests under the Anti-Gang Act. Yes, we have had people denied bail up to yesterday, denial of bail for having been caught on the two-strike principle. Are we seeing the money laundering and other provisions at work which is another layer? Yes—because if you cannot get the hard crimes, we went behind the aids to criminal enforcement, follow the money, follow the land, follow the companies, follow the ownership. And after we did that, we then said, “How are you going to prosecute anybody if you do not have evidence?” Who brings evidence?—a witness. What is the risk to our society at present?—witnesses are intimidated in stepping forward.

Sen. Vieira referred to a doubles vendor being shot. The one that echoes in my mind is the mother holding her children’s hands on a corner taking the child to school, mowed down in a spray of bullets, killed as a witness giving evidence in a trial.

In my own constituency in San Fernando West, multiple witnesses have been shot dead in their beds and in their homes. And today, Sen. Mark, having been part of an Opposition which voted down whistleblowing protection laws, let me repeat that, which voted down and saw the failure of whistleblowing protection laws, Sen. Mark comes today to say, “This law is to take you back to the Star Chamber inquisitorial period”, and then Sen. Mark jumps to the European jurisdiction to analyze constitutionality. So let us go there immediately in treating with one of the major limbs of this law which is the use of anonymous witness evidence.

That use of evidence is to be found in the Bill, that is to be found in clause 4 of the Bill where we introduce a new “Division 4, Special Measures, Evidence by Video Link and Witness Anonymity Orders”, new section 12AA, and we go

straight through to 12AH; that is one of the main planks, one of the three limbs that I was referring to.

In looking at the Witness Anonymity Orders, I would like say, hon. Members are well aware this Bill has been in circulation for a considerable amount of time.

Secondly, this Government submitted to all hon. Senators the regulations which accompany this Bill; that is a first of its kind. Most usually you get law and the regulations come years after. In advancing this law we did the law and the regulations, we circulated the regulations, and why did we circulate the regulations?—because we wanted to make sure that hon. Members had the benefit of the material which would next be on deck.

We consulted far and wide, we consulted the Trinidad and Tobago Police Service, the Judiciary, the Law Association, the Criminal Bar Association, the Director of Public Prosecutions and we received commentary coming from members of the public in the time that we allowed this Bill to sit on the Order Paper even though we had started division consideration.

But today, Sen. Mark comes to tell us that, he as an hon. Senator, as he is entitled to do, has a problem with constitutionality, and we are returning to the inquisitorial period of the Star Chamber. Let me put this on the record.

Trinidad and Tobago Police Service, Judiciary, Law Association, Criminal Bar and the DPP had nothing of the same quality of contribution as Sen. Mark. All of them had nothing to say along the line that Sen. Mark offered. And do you know why, hon. Senators? That position is so because Sen. Mark in his rhetoric, parliamentary rhetoric of saying, “lack of constitutionality, cut and paste, did not do it right”, Sen. Mark obviously forgot to go to the rest of the world where this law was considered in a different form.

And I would like to remind Sen. Mark that this law is a combination of laws coming from other jurisdictions. The combination of laws as they provide reference for the witness anonymity orders is to be found in the vulnerable witness and special measures accorded in a number of jurisdictions, they include, first of all, Trinidad and Tobago.

In Trinidad and Tobago when we look at the Sexual Offences Act, Chap. 11:28, when we look at the Children Act, Chap. 46:01, when we look at the Evidence Act, Chap. 7:02, the one which we are amending now, all of these laws already have the same position of special measures including the fact that child witnesses, for example, or victims of sexual offences can be remotely examined. So let us start with Trinidad and Tobago law. Sen. Mark is ignorant of that, I do not pour scorn on the hon. Senator, he is entitled to his point of view, I am stating it not in a pejorative sense, but ignorance of the law.

Where next did we get our positions from? We went specifically to jurisdictions including the United Kingdom, New Zealand, Australia, Canada, we went to a number of jurisdictions to ensure that we had careful precedent for this purpose. But the one that I would like to point out in treating with constitutionality is specifically coming out of the European context.

Sen. Mark is correct, the European charter does have at section 6 a process of fair trial consideration that is very similar to our Constitution, but Sen. Mark did not go necessarily into the law that was set out very, very, very, usefully in an important case which I would like to refer hon. Senators to, it is the case of *Al-Khawaja and Tahery v the United Kingdom*. It is No. 26766-05 and 22228-06, 15th of December, 2011, ECHR, referred to as Al-Khawaja. There is also the case of *Ellis and Simms v the United Kingdom* and *Martin v the United Kingdom*, decision numbers 46099/06, and 46699/06, 2012, ECHR 813 which to referred to Al-

Khawaja and went into detail on that.

And very importantly, not the Star Chamber that Sen. Mark refers to, but the Grand Chamber had a positive ringing endorsement and consideration of anonymous witness evidence. Let me repeat that. In considering section 6, in considering the very section that Sen. Mark referred us to, two cases coming out of the Grand Chamber endorsed the use of anonymous witness evidence.

And very importantly they considered absent witnesses, they considered anonymous witness evidence in two forms, where there is complete anonymity or where there is partial anonymity. And the court very instructively went through the considerations and elements as to when and how a court ought to use this. And, yes, quite simply put, using the Davis language, it is something to be used sparingly and in very certain circumstances. Again, Sen. Vieira hit the nail on the head, that this ought not to be the general principle, this ought to be the exception to the rule.

Very importantly, there is an active debate as to whether this law, in fact, is procedural, that is, the use of anonymous witness orders, or deeply rooted in our Constitution, there is a live debate. Does this law really need a three-fifths majority? It is open, it can go either way, and I say so because if one were to have regard in particular to the decisions in *The State v Boyce*, a Trinidad and Tobago case, we look at the Privy Council decision there, 2006, UK PC1, 11th of January, 2006. And then, of course, that case which we are all familiar with, when we looked at preliminary enquiries, you will remember the case of *Hilroy Humphreys v the Attorney General of Antigua and Barbuda*, that was No. 8 of 2008, delivered on the 8th of December, 2008. There is an active debate as to whether in the context in which this law is fashioned, the context in which Division 4 of this Bill is fashioned, whether this is in fact a Hilroy Humphreys-type or in fact a proper

three-fifths majority debate.

We have come to err on the side of caution with a three-fifths majority Bill, because the only part of this Bill which requires a consideration of whether a three-fifths majority ought to be applied, is in fact the use of the anonymous witness evidence.

But I wish to point Members to the fact that in Division 4 in clause 4 “Special Measures, Evidence by Video Link and Witness Anonymity Orders”, there are detailed counter-balances to the risk to fair trial that a judge and only a judge must consider.

And I would like hon. Members, through you, Madam President, to focus upon the fact that there must always be the overriding consideration of the interest of justice. There must always be permitted the right of objection, because you do not use the witness anonymity without a witness anonymous process, and without a witness anonymity order. You must apply to have the benefit of the order, you make that application to a judge who must consider all of the circumstances in the round, and the judge exercising a very careful jurisdiction with legislative pointers as to what the judge must have in mind, the judge considers whether to grant that, and I wish to point Members to section 12AG—as in “golf”—to be found at pages 32 and 33 of the Bill.

The judge must have in mind the fair trial, the interest of justice, the conditions:

- “(a) the general right of an accused person in criminal proceedings to know the identity of a witness...
- (b) the extent to which the credibility of the witness concerned would be a relevant factor...
- (c) whether evidence given by the witness might be the sole or decisive

evidence...

- (d) whether the evidence of the witness could be properly tested without his identity being disclosed;
- (e) whether the fear of giving live testimony by an intimidated witness is well-grounded and that the risk of intimidation justifies it;
- (f) whether there is...reason to believe that the witness—
 - (i) has a tendency to be dishonest;”—et cetera, et cetera.

This is amplified by the proposed order must be considered in the context of:

- “(i) ...safety of the witness...
- (ii) ...serious damage to property; or
- (iii) ...real harm to the public interest;”

And 12AG sets out in combination with the other measures the preservation of due process. The preservation of due process is the Suratt principle which tells you that you have the exception to being bound by a section 13 requirement for a three-fifths majority; so it is debatable.

Do we wish to run the risk of debate in the court?—because we could consider this on a simple majority basis, but do we wish to run that risk, is the question. It is by far better a proposal to invite hon. Senators to put the clothing of protection that section 13(2) of the Constitution offers, because that section 13(2) clothing has never been tested in our courts. The Privy Council is yet to consider the proportionality being preserved in a democracy such as Trinidad and Tobago within the meaning and context of section 13(2) of the Constitution. So, hon. Members, that is a lot of legalese, that is a lot of protection. In a short way I can say this law is constitutional, this law is proportionate, the rational aim is to have the statement resoundingly said by this Parliament that witnesses' lives matter too. Let me repeat that; witnesses' lives matter too, they are being assassinated, they are

being intimidated. Let me draw a litmus test.

For anyone who has ever gone to the Hall of Justice and witnessed what the room of jurors who are called to do service do when they turn up to say, “I do not want to be a juror”; the cup runneth over. Hundreds of people turn up in the High Court, every man jack with a medical certificate or some reason why they cannot serve as a juror—I see Sen. Sobers smiling because he knows it is true—why they cannot serve as a juror. You know largely why? “Not me and no jury”, they say. “I doh want to face down no criminal”, they say. If a juror could think that way—and I want to say this. The characteristic of the juror that turns up for exemption is usually your best and brightest and most affluent. True or not true, hon. Senators?

So you leave your category to the largest representation and litmus test, nobody wants to be a juror, certainly not in a capital matter.

Mr. Hinds: Wade Mark was never invited.

Hon. F. Al-Rawi: But, hon. Members, this law provides an opportunity in very rare and careful circumstances, statutorily prescribed using the benefit of the chamber from the European Court telling us what the prescriptions ought to look like, telling the judge to do it, but there are further safeguards, hon. Members.

In our system of assize courts you still have the right of appeal; Court of Appeal and to the Privy Council. Is there evidence that this law has been tested all the way through? The Grand Chamber certainly tells us that in the cases that I have referred you to. The Supreme Court in the United Kingdom, House of Lords in its day certainly tell you that. Our courts tell us that, but if you ask the average person, ladies and gentlemen, hon. Senators all, through you, Madam President, let us use a live example. Trinidad and Tobago is in the habit of replicating the Roman Coliseum; let me explain what I mean by that.

The Roman Coliseum was the venue that opiated the Roman masses.

How?—by sacrificing Christians and gladiators to the sword and to the lions. We seem to relish as a country in gore, bacchanal, scandal and death. Read our newspapers, they do not look like the United States newspapers. There have been close to 130 mass murders in the United States of America. A mass murder is when more than four people are killed in one shot; not a reflection in their papers. Jamaica which is living under a state of emergency in certain parishes, not a reflection in their papers. Guyana, not a reflection in their papers. Trinidad and Tobago from page one to the sports page, all you could see is gore and guts.

Our country witnessed in the use of video evidence, CCTV evidence, a more horrendous example. A lady had an epileptic fit on the road, fell to the ground, cameras caught her live, a car rolled over her head—

Sen. Baptiste-Primus: Twice.

Hon. F. Al-Rawi:—twice. Two vehicles passed on the CCTV camera footage and looked out the window and continued along. Our country which prides itself on “God is a Trini” and “God will help people”. We saw viral video evidence going around by WhatsApp, telling us that nobody would stop to look at this woman, and why? Is it because we are that insensitive? No, perhaps? Is it because the people who were passing were fearful that that had happened by virtue of some crime, and therefore, did not want to find themselves as witnesses in the event? Does this law not, in the use of CCTV evidence, allow us for the first time in our country to use CCTV evidence? To allow a witness who may be fearful to step forward and say, “I am prepared to think about being a witness, if I have a chance at doing the right thing safely”. Is that not how Crime Stoppers was born?—anonymous tips, et cetera, hon. Members?

I am not saying that the danger of the pendulum swinging too far does not exist. I am pointing to the rational connection to an aim which is something in our

society that we can recognize by litmus testing. And I am saying that the law provides prescription in relation to these matters. I am saying that, superior courts of record all the way to the highest appellate divisions have considered this issue, and none of them speak the way Sen. Mark has spoken today. If we were to refine Sen. Mark's submissions, yes, there is need for concern, and therefore—Madam President, if I may ask, what time do I end in full time?

Madam President: Two minutes past seven.

Hon. F. Al-Rawi: Much obliged. And therefore, I say that, yes, there is need for caution. This law is not complicated. Let us deal with the first part; the second division in clause 4 because the first division is general terms.

In the first division, hon. Members, there is a powerful clause, perhaps you have not spotted it, we have amended the interpretation section of the Evidence Act specifically so that when we are getting into the trial of very complex matters in fraud in particular, that we have the evidence available by document as now defined to include any medium of storage. In other words then, you can admit the evidence electronically. Imagine a case as it exists in Trinidad and Tobago in multiple versions where you have millions of documents by way of evidence. What are you going to do? Mark every exhibit in the formal fashion of admission, sign every page a million times. That is what we are facing in our country.

Clause 4, Division 1 treats with that. Division 2 treats with the special procedures. Did we invent this? Did we copy and paste it as Sen. Mark says? No. We did not, certainly. We took an amalgamation of approaches, we took Code D, Revised Code of Practice for the identification of persons by Police Officers, coming from the Home Office which is the PACE reforms. We took the Trinidad and Tobago Police Service Standing Orders, certainly No. 29 "Identification of Suspects". We took Standing Order No. 16, "Pocket Diary". We took Trinidad and

Tobago Police Service Standing Order 17, “Station Diary”. We took *Trinidad and Tobago Gazette (Extraordinary)*, published Friday 16 September, 1994, which treats with suspect identification. We took the Criminal Procedure Rules 2016, issued pursuant to Act No. 12:02. We took next the learnings out of *Blackstone’s Criminal Practice*, Turnbull guidelines, identification of suspect by eye witness.

We did not invent this out of the blue. We took the criminal justice advisory approach coming and hosted for us, offered to us by the kind courtesy of the combination of the Canadian Government and the UK Government. And do you know what? That criminal justice advisor and those successor advisors have been in this country working for umpteen years. Do you know what the by-product of that was? If we listen to Sen. Mark, the Evidence Act was amended in 2012; that is the last time the Evidence Act was amended. The Evidence Act as amended in 2012, leave it to the Opposition’s hand, was amended at section 19, subsection (4), to say that the Government expert includes a forensic DNA analyst—full stop.

6.50 p.m.

Five years, three months, witnesses dying, “cyah” use CCTV evidence, cannot get special procedures. Why do we want special procedures? Why do we want Code D? Why do we want the Standing Orders harmonized? So that there is a consistency to ensure that convictions are borne on the back of a consistent legislative standard; so that there is regularity so that trials do not become ad hoc and that you do not fall apart. All that we saw by my learned friends opposite on the Opposition Bench was to amend section 19(2D), subclause (4)(j):

Insert the following words: a forensic DNA analyst.

That is the sum total of the UNC’s amendments to the law of evidence. That is why I take no advice from Sen. Mark, none, absolutely none. Because it does not address consistency and standard of identification, it does not address vulnerable

witness, special procedure approaches, it does not address CCTV. So, let us convert this into what it means for Trinidad and Tobago.

Why do we want CCTV evidence? What did we as a Parliament do? Motor Vehicles and Road Traffic (Amdt.). Number one, red light camera enforcement. What is on a red light camera? A camera. What does the camera capture? Your vehicle identification, your face. The Bill which is laid today in the House, spot speed, a camera, a device. The National Operations Centre prospering on a programme of open source CCTV evidence, it is called, "eyes everywhere". Business places putting facial recognition cameras, the internet service providers, facial recognition cameras, they are out there right now, but how do you use the evidence? This Bill is how you use the evidence. This Bill, this quantum leap in evidence brought by this Government, connected to what we as a Parliament did: red light, spot speed, cameras everywhere. Would you not like to have the ability like Singapore does, to prosecute even people who commit the offence of littering by virtue of CCTV cameras? Praedial larceny by CCTV cameras? Heinous crimes by CCTV cameras? Does that not sound like the modernization that hon. Members want? Particularly when you have built a system where we are about to lose the bottleneck in the Judiciary. Let me connect the dots further.

We have 146,000 cases that come to the Magistracy every year, 105,000 of those cases are motor vehicle and road traffic offences; 29,000 are preliminary enquiries. Take out preliminary enquiries, take out motor vehicle and road traffic, you are taking out 132,000 cases from the court, from 146. Let me repeat that, you are taking 132,000 cases from 146,000 cases that come annually. What does that mean? You have 46 magistrates in 13 Magistrates' Courts and two Out Courts dealing with 146,000 cases. Imagine what Trinidad and Tobago will have purchased when you have 46 magistrates, in 13 courts, two Out Courts, dealing

with 16,000 cases. Where you have computerized evidence, where you have voice recording, where you have the benefit of Criminal Procedure Rules, where you have a Criminal Division, where you can pay electronically for your fine, for your offence, for your filing fees, where you can file your documents electronically in the court, where you have a public defenders system, so that if your lawyer is busy, if Sen. Sobers as a practitioner at the Criminal Bar—and he is reputed to be a good one—has 10 clients and needs to be in court for 10 people at the same day, at the same time, the system of the expansion of the Legal Aid and Advisory Authority is such that, if your counsel of choice is not available, you will be appointed a competent counsel. Your trial will move on. Why? Because we have now added legislatively, we have moved from 36 judges to 64. We have moved from four Masters of the court, two installed, to 10, with another 10 to come.

This Parliament, hon. Members, that we sit in right now is to be the home of the civil courts. What does that mean? The Hall of Justice moves from 10 courts to 65. Let me repeat that. Sixty-five courts before 2020 has come midway, 65 courts will have been created on top of Children Court, Fyzabad; Children Court, St. Clair, with the multiple courts inside of there, you are talking 70 to 75 court facilities for criminal matters alone, hon. Members. [*Interruption*] And whilst we talk about Chaguanas, let me take you on, Sen. Hosein, through you, Madam President.

We did not build the Chaguanas Court that cost millions of dollars in excess only to find out that it did not improve the situation. Your Government did. [*Interruption*] You hear how the story twists and turns all of a sudden? It—but, and it—but, and it—but. [*Crosstalk*] The point is, the fact is as we move to consider the opening of the Family Court in San Fernando, at the St. Joseph Cluny, a building which was purchased 10 years ago and is the home for vagrants, this

Government will consider that. [*Desk thumping*] As we build the Magistrates' Court in San Fernando, Rio Claro, I know Sen. Chote will be warmed by that one, Princes Town, Arima. We are not the ones who said, let us have an administrative complex, spend money on plans, breach the Central Tenders Board Act and not a single court room built. [*Crosstalk*] Well, what I can tell my hon. friends, through you, Madam President, is wait and see. That is all I have to say. The proof is in the pudding and in its eating. That is all that I will say.

Hon. Members, the international assessors that have viewed Trinidad and Tobago, particularly in certain fora, I cannot mention it in precise form, but suffice it to say it is much like our parliamentary Joint Select Committee, you cannot speak prior to the publication of reports. I just want to tell you—

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

Hon. F. Al-Rawi: Much obliged, Ma'am. I would just like to tell hon. Members, feel confident and be proud of our collective effort. We have feared very well. Today I was visited by a telephone call from an international desk, from a specialist agency in an international country partner of Trinidad and Tobago, a very large country partner. You know what the conversation was about? "Dear Attorney General, we wish to come to Trinidad and Tobago with a team delegation to replicate the successes that this country has purchased in its criminal justice system, in its court processes, in its Family and Children Division." So I take no basket from the UNC, you know, a bunch of un-performers. That is what goes on. This country can manage its reputation and will manage its reputation.

Madam President, we have accepted a number of the recommendations coming from Senators. Sen. Sobers has raised some very sensible positions; Sen. Hosein on the last occasion gave us a couple; Sen. Chote I wish to thank personally for the observations and recommendations that came through; Sen. Vieira today,

all hon. Members who spoke. I think I will only exclude Sen. Mark from the equation because he was so far off into the wilderness of the lack of research. But what I can say, bearing in mind that and in particular, due to the fact that we received further submissions from the Office of the DPP and the Law Association, we think it prudent to fine-tune this Bill in a Special Select Committee. And we in fact advised of that long before today's date. We shared that with all hon. Members and that was the Government's intention all along. The purpose today was to bring conclusion to this legislation, refer it to a Special Select Committee so that we can preserve the good work that we have done. It would be a tragedy to allow this law to lapse, Madam President.

So in those circumstances, confident of the fact that we have some improvements to make, not significant improvements but good improvements to make, confident of the fact that the law is proportionate and that there is example elsewhere, confident of the benefit to the people of Trinidad and Tobago, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam President. Madam President, in accordance to Standing Order 66(1), I beg to move that a Special Select Committee of the Senate be hereby established to consider and report on a Bill entitled an Act to amend the Evidence Act, Chap. 7:02, by September 27, 2019, and that the following five members be appointed to serve:

Mr. Clarence Rambharat	Chairman
Mr. Nigel De Freitas	Member
Ms. Donna Cox	Member

Evidence (Amdt) Bill, 2019
 Sen. The Hon. F. Khan (cont'd)

2019.09.11

Mr. Saddam Hosein Member

Mr. Anthony Vieira Member

Question put and agreed to.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you again, Madam President. Madam President, I beg to move that this Senate do now adjourn to a date to be fixed.

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

District Registrar of Births and Deaths

(Need for Government to Appoint)

Sen. Charrise Seepersad: [*Desk thumping*] Thank you, Madam President. I wish to raise the following matter on the adjournment: The need for the Government to appoint a district registrar with suitable accommodation and adequate personnel to reinstate the registering of births and deaths in the Port of Spain and environs district.

Madam President, you are already familiar with the many complaints from diverse sources and groups about the poor customer service quality which the general public must endure for most of the offices of the public service. Today, however, I want to speak specifically to the need to appoint a district registrar with suitable accommodation and adequate personnel to reinstate the registering of births and deaths in the Port of Spain, Diego Martin and environs.

Since the fourth quarter of 2018, the district registry for the following areas are all housed together with the Arima District Office: north-east and south-east Port of Spain, central Port of Spain, Laventille West, St. Joseph Road, Laventille East and Morvant, St. Ann's, St. Ann's Ward and Blanchisseuse, north-western

and south-west Port of Spain, Diego Martin First and Second Districts, St. James, Carenage, Chaguaramas and Maraval. The challenges the public face from these areas using one district registry are incredulous.

Madam President, just imagine somebody from Port of Spain trying to get to Arima for 8.30 a.m., because that is when the office opens, joining a line extending into the road and waiting up to three to four hours for service and that is assuming that your documents are in order. There is a waste in time and productivity to the many persons who must use this facility. The stress and frustration are incalculable. The facility is woefully inadequate to efficiently service the public applying for birth and death certificates. Now, while the staff at the Arima District Office are making every effort to deal with the increased demand for services, they are overwhelmed daily. Even the security personnel are acting as customer service reps to assist the staff. However, they just do not have the necessary physical, technical and human resources.

Therefore, Madam President, there is an urgent need to have a district registrar office dedicated to serve the people in Port of Spain, Diego Martin and the environs. The public sector must get serious about customer experiences. Government agencies need to build a holistic view of the customer experience so they can put themselves in their client's shoes, understand their journeys as they access services and find out what really delights or displeases their customers. The stumbling blocks include a monopolistic mindset, customers do not have a choice in accessing services, the principle of one size fits all, lack of the capabilities needed to assess and address gaps in customer experiences. Those with the necessary deep analytical skills as well as the human-centred design skills are in short supply. Data which is necessary to make decisions is typically incomplete or not available.

Madam President, a growing body of behavioural psychology research shows that bad events have more power than good ones to shape experiences and opinions. Negative defining moments on average affect overall government customer satisfaction scores four times more than positive defining moments. Therefore, good experiences by the public, at public sector agencies should matter to all Government leaders.

Madam President, through you, I am asking the hon. Attorney General to advise specifically when suitable accommodation and adequate personnel will be provided for the Port of Spain, Diego Martin and environs district registry, so that the service delivery to the general public is significantly improved and at the same time the general public do not have to suffer just to comply with what is supposed to be a simple and painless process to register the birth of a baby or the death of a loved one. Thank you, Madam President. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you. I thank the hon. Member for raising this Motion and I am very pleased to provide some comfort with the response. Madam President, it is very true that post the earthquake there was a shutdown of the registry facility at the Port of Spain General Hospital. As the country is well aware, the Central Block at the Port of Spain General Hospital is a very old block and notwithstanding the fact that a seismic report was produced in or around 2011 which demonstrated that any earthquake could likely expose hundreds of people to disaster and death. Unfortunately that was not attended to.

When the earthquake came upon us, the need to quicken the pace of retrofitting the Central Block became immediate and we decanted the Central Block and whilst we were decanting we had to put temporary site for placement which unfortunately resulted in the move of the District Registrar for the northern

region, if I could call it that, across to Arima. That was complicated as well, Madam President, by another very important factor and that is that the Legal Affairs Division of the Attorney General and Legal Affairs was housed at the South Quay premises. At that location, Madam President, suffice it to say, time was spent more so on putting sandbags to avoid flood, rodent eradication, document facility management, it was a disastrous place. And worse yet, none of the servers or computer software was allowed to continue in licence. Regrettably, the last Government allowed all the licences to lapse and they were still working on Windows XP; 12 computers daisy-chained together like big old Curtis Mathes boxes of televisions, the big box television, that is what was the server for the information.

What we did, Madam President, is that we moved the District Registrar's office to Arima, we decanted the site and I am very pleased to say that at the same time we moved—as the hon. Member would be well aware, working in a very prestigious law firm herself, we moved the Civil Registry, 11 million records, 150,000 company records and 3 million civil records. Eight thousand boxes, one month flat. [*Desk thumping*] Brand new accommodation, hundreds of people.

So there are two ends of the equation, the Registrar General's cycle end, that is the house and where they are and how they process, the experiences that people need to have in accessing births and deaths registration. That is back-ended or rooted in the Registrar General's facilities. We cured that. We did an epic move and in doing that, in fact a member of the law firm that the hon. Member is a part of, sat on the committee that we consulted with, we demonstrated on umpteen occasions what we had done, where we were and how we kept our word, because the entire registration system was at risk.

On the hard end receiving side, which is birth and death in itself at the Port

of Spain General Hospital, we are very pleased to say that we have in fact secured a location which is to be confirmed by the Registrar, now, the District Registrar. That meeting is in fact—we had several meetings already, there is one further meeting to be had and then we will be reintroducing that office into the Port of Spain General Hospital now that we have decanted the construction site out of the area. So we have got the space ready, but there is better news, hon. Senator.

Thankfully, we have purchased the benefit of electronic documentation. We are already in the position where we have nominated by virtue of the Exchequer and Audit Act and by the Electronic Transactions Rules 2015, we have already nominated FCB as the intermediary to do the electronic transactions so that people will very shortly after registration, after the event which the hospital is going to manage at the moment of birth or the moment of death, you are going to be able to apply for these services, pay online, God willing in the month of October 2019, you will be able to pay online and receive everything by TTPost.

By doing that we will eliminate 15,000 people every three days from attending the Port of Spain office alone. Let me repeat that. Every three days 15,000 people approach the Registrar General's Office in Port of Spain alone. The news gets better. San Fernando is in woefully inappropriate accommodation. The Registrar General's Office which is the other back-end to the San Fernando registration even though we have got it at the San Fernando General Hospital, that office is soon to move into modern accommodation.

All of this was purchased by the effort of this Parliament. Because as you would recall, we did the payment and filing laws in part, in this session. What we did is to deal with the back-end software, arrange the IT structures, bring to life the electronic transactions to allow for payment because this is now exponentially important. It means you no longer have to line up at the Companies Registry,

which is another service, pay your \$25 to register. It means that you no longer have to order your certified copies in person and pay for it, all of those services are now going to the e-transaction services.

It gets better yet. We have already done the specifications to do queuing on your telephone. You get to the Registrar General's Office, you will receive, "It's your turn" while you are seated in your seat because you now have queue management systems. So we have been spending a lot of time in what I consider to be the golden registry of Trinidad and Tobago in making its presence much better and the experience much better. I will end on a small anecdotal note.

The first day that we opened the registry within the one-month time, at Richmond Street, I called the Registrar General downstairs, it was raining cats and dogs, buckets of water and I said to her, "RG, how do you feel"? "What do you notice that is different?" She looked at me, after a little while of chat, she said, "What do you mean"? I said, "It is first time we are watching the water flow away from the building and not into the building". Those things might sound small, but I can tell you when tropical storm Bret was passing, it was the Deputy Registrar and the TTDF and members of the AG staff, that were packing sandbags by the door to make sure that the books of Trinidad and Tobago, the golden resource was served.

I wish to pay homage and tribute to the excellent effort and work and dedication of Ms. Karen Bridgewater, the Registrar General, [*Desk thumping*] Ms. Nicole Moonan, the Deputy Registrar General, Ms. Rionne Boyke, Mr. Francis Sandy and the many people that work at the RG's Division, including our IT staff and the support services that have managed to make this dream that we have been talking about, of ease of doing business, become a reality. God willing, all things being equal, the month of October is electronic transactions time.

The hon. Member will know that we have gone a step further in the Property

Business Real Estate Solution, PBRS system, where we have digitized the system for electronic filing of all land registration, tied into GIS survey mapping information. That goes into its first stage in October 2019 and will be completed in February 2020. These are good days for Trinidad and Tobago. You have a Government that paid attention to processes, to flows, to work environment. Come and see it for yourself down at the registry. We apologize to people for the inconvenience but at least we never shut down. [*Desk thumping*] We had an earthquake, we had an inadequacy of position, we went to Arima and we have done the IT and support and increase in resource personnel at the RG's Division and I am very pleased that I will be one of two Ministers in the AG's Office who will birth this for reality in the first space ever in Trinidad and Tobago. I thank you, Madam President. [*Desk thumping*]

Government of Trinidad and Tobago

(Austal Contract)

Sen. Wade Mark: Thank you very much, Madam President. Madam President, the disinfectant for secrecy is the sunshine of transparency and accountability. Madam President, this Motion calls on this Government to immediately table the recently signed AUD \$126 million contract, equivalent to TT \$600 million between Austal and the Government of Trinidad and Tobago. [*Desk thumping*]

Madam President, we had to go to the Austal website to learn of this secret contract between the Government of Trinidad and Tobago and Austal, amounting to \$126 million for two cape class patrol boats. Madam President, what is very significant about this is that there has been different prices given for these boats. I looked at the *Newsday* of August 02, 2018 and it is stated that an official stated that the boats were costing or would cost us US \$35 million per piece or per vessel, \$70 million. Then in January of 2019, 06 and 07, "Mind your Business"

presentation, the Prime Minister provided to this country another number which was \$600 million. So the goal post shifted again.

Madam President, we got from Austal in Australia a price of \$100 million and this was supposed to include a multi-year ongoing maintenance and support package. That would be \$600 million. Madam President, we go further. We got from the Government, from Austal, a final price, as I said, on the 16th, Madam President, of August, AUD \$126 million. We do not know who to believe. Believe the Prime Minister, believe for instance what we read about US \$35 million, believe what we got from Austal, \$100 million in 2018, believe what is in the final contract, of course, for \$126 million.

But, Madam President, what is astonishing and requires a police investigation and enquiry is the fact, Madam President, on the 14th of December, 2015, the Australian National Bank bought two vessels on behalf of the Royal Australian Navy from the same Austal for AUD \$63 million. Madam President, may I repeat? Two 58-metre cape class vessels were bought by the National Australian Bank on behalf of the Australian Navy for AUD \$63 million.

7.20 p.m.

We are being told that Trinidad and Tobago is paying twice the price for the same two vessels. So the price that we are being called upon to pay is AUD \$126 million. Madam President, that is \$300 million more of Trinidad and Tobago dollars. This is not—it is surreal. You “cyar” believe. I “cyar” believe what I am reading here, Madam President. I believe that this thing requires some answers from the Government. Why are we being called upon to pay \$300 million more for two vessels that cost the Australian Government \$300 million for the two vessels? So something is amiss; something is wrong and I have brought this matter to your attention today so we can get some answers from the Government.

The first thing we want them to do is to table the contract in the Parliament [*Desk thumping*] for us to see, and for the public to see. We also want for this Government to tell us what is going on with this contract. It is either we are being taken for a ride by this builder, or Austal in that country called Australia—that is Trinidad and Tobago is being taken for a ride—or the Government of Trinidad and Tobago is taking the citizens for a ride, and we need answers on this matter. This is why we would like the hon. Minister of National Security to tell us what has gone wrong. Why are we paying that kind of price? And, Madam President, may I remind you, when the Prime Minister and his Minister of National Security visited Australia in the month of May 2018, after going to Beijing in China between the 14th and the 19th of May, 2018, when they arrived in Australia, the first port of entry, the first port of call, was Austal. They went to Austal. And we want to know what is going on here.

We are not accusing anyone of anything at this time, because we are doing our investigation. We are going to write to the Police Commissioner on this matter, because Trinidad and Tobago, in the kind of crisis that we are in today, cannot afford to be taken for a ride by anybody—for \$300 million more, Madam President? How can that be real? We need answers, and I hope that the Government can provide the citizens of this country today with answers on this matter. Madam President, I have the evidence before me. I have all the evidence. We have done the research. It is a 58-metre in length vessel that can take you 4,000 nautical mile range. That is the range. It can remain out there for 28 days patrol cycle with a crew up to 22 members.

Madam President, we are told that this vessel that we are buying from these people suffer from severe defects. The border patrol of Australia, or the border force of Australia, they are experiencing a lot of difficulty with this particular

vessel. So we would like to know what are the guarantees that are being given to us. Madam President, we understand from our research that there are eight similar vessels being used by the Australian border force, formerly the customs and immigration department, and which are experiencing frequent breakdowns because “how they call” stern tube deficiencies. Madam President, we have been able to access two reports, one in December of 2014 and one in December of 2018 by the Australian National Audit Office which identified and highlighted severe deficiencies in these vessels.

So we want to know if the Government would have done due diligence on this matter before they purchased this vessel. Madam President, in closing, we want answers. We want answers. Explain to this Parliament why it is costing more—twice the amount of money for the same amount of work. Thank you very much, Madam President.

Madam President: Acting Minister of National Security.

The Acting Minister of National Security and Minister in the Ministry of the Attorney General and Legal Affairs (Hon. Fitzgerald Hinds): Thank you very much. [*Desk thumping*] Madam President, at the outset let me state, quite clearly, there is no legal, or constitutional, or parliamentary requirement for any contract signed by Government Ministries for the provision of goods and services to be made available to be tabled in the Parliament. There is none. “We starting” with that.

Hon. Senator: Secrecy.

Hon. F. Hinds: Accordingly, no undertaking has ever been given by this Government to table that, or any other signed contracts. This Government has been optimally transparent in its conduct of public business and has consistently informed the public of its actions and decisions in relation to this matter. The

affairs concerning this purchase has been extensively reported in the media, buttressed by numerous statements by the hon. Prime Minister and, of course, the Minister of National Security.

During the Caricom Leaders meeting in July 2017, the then Australian Minister of Foreign Affairs invited the Prime Minister to visit Australia. Following this, during the Commonwealth Heads of Government Conference in London in April 2018, the Prime Minister requested a bilateral meeting with the then Australian Prime Minister. In that productive and worthwhile meeting, it was agreed that Trinidad and Tobago would procure two naval vessels to assist the Trinidad and Tobago coastguard in shoring up our borders and securing our citizenry and our property and assets in that way. Like the ill-fated OPVs, these were engaged on the advice of, and at the request of, the Trinidad and Tobago Defence Force. They did not come from whim or out of our head.

In May 2018, Cabinet agreed that the Prime Minister would lead a delegation to the Republic of China and as well, to Australia. During the delegation's working visit to Australia, the Australian government arranged meetings with shipyards, both Incat and Austal. Subsequent to these visits, the Office of the Prime Minister issued a press release under the headline: "Government actively looking for the best marine vessels to service Trinidad and Tobago". This was done in the essence of openness and transparency. We chose two shipyards, Madam President, so that the construction of these vessels could happen simultaneously rather than in a line, one after the other, "becor" we needed them to tighten up our borders with urgency.

Upon return of the delegation, a press conference was held where the public was informed of the details of the visit to China and Australia, including the fact that the Government is interested in procuring cape class patrol vessels to

strengthen our border security and to reduce our vulnerability that they complain about every minute, every day. Madam President, this, too, was done in the essence of, and the honour of, transparency and openness.

During the period June 24, 2018, to July the 1st, 2018, a delegation from Trinidad and Tobago Defence Force visited Australia and they conducted an assessment of the Austal cape class patrol vessels to finally decide on their suitability for use by the Trinidad and Tobago coastguard. The Trinidad and Tobago Defence Force delegation submitted a report which came to the Government, dated July the 3rd, 2018, in which the recommendation was made by them to acquire the two cape class patrol vessels. This was not only prudent, Madam President, but it also was the essence of openness and transparency and the way to do government business.

I heard the Senator talking about secret, but he said he saw it on a website. A website “cyar” be secret, wherever you see it. And he talks about the cost discrepancy, but he buttressed that by saying he saw a statement, supposedly from some official in the *Newsday*. That is the evidence he wants to use to talk about the price. The Australian government, he said, pay one price for their vessel and we “paying” more. That is like buying an electronic massage chair for T&TEC, taking it home and using it like a Morris chair. [*Laughter*] That is the equivalent to that. He cannot tell you one word about specifications, one word about capacity, “buh he here” shouting loudly about the cost, and he knows nothing about it. The only thing that cost this country more than \$300 million was the Curepe Interchange. Where they were costing us \$620 million, we are doing it now for less than \$300 million. [*Desk thumping*] “Dah is de only ting.”

Hon. Senator: “Wha bout de” waste water plant?

Hon. F. Hinds: Following all of that, the Cabinet appointed an evaluation

committee, a sub-Cabinet team, and it was set up to review the proposals received from Austal. Based on that committee's recommendations in July 2018, the Cabinet agreed to acquire these two patrol vessels for the Trinidad and Tobago Coast Guard to patrol offshore. One of them, or even the OPVs we lost, could have been down in The Bahamas right now, spend six months servicing the people "ah de Bahamas." But they have the temerity to tell us we should send vessels down there.

Madam President, Cabinet also agreed that the Government would pursue financing—the arrangements with the Export Finance of Australia—that is the Government's export credit agency—as well as financing from the Government of Australia to fund these vessels. Thereafter, and only thereafter, the Ministry of National Security proceeded to order the two cape class patrol vessels. The contract for the purchase of these vessels were signed on August the 15th, 2019, and some moneys were made in advance in accordance with the contractual terms. The vessels are expected to be delivered in the second half of 2020, a wise decision to do them simultaneously, rather than one behind the next. You understand, Madam President? We have absolutely no secrets. This Government is the epitome of openness and transparency. The most open Government for years in this country, it is this one. [*Desk thumping*] But what they want is to scandalize—

Sen. Mark: Table the contract.

Hon. F. Hinds:—and to "Sandalize" this arrangement, but they cannot touch it. [*Crosstalk*] That is what they want to do. That is what they want to do.

Madam President, they wrote—he is threatening now to write the police, but they wrote the Attorney General of Australia in this matter who dismissed them out of hand.

Mr. Al-Rawi: "He geh dem ah Australian steups."

Hon. F. Hinds: “Steups at dem in Australian accent.” [*Laughter*] Dismissed them, and I am sure the same would happen when they write the Police Commissioner here.

Sen. Mark: Table the contract.

Hon. F. Hinds: The Government has been more than proactive in disclosing details surrounding these purchases and the records would show that there were a host of media engagements dealing with this issue.

Sen. Mark: Table the contract.

Hon. F. Hinds: And, in fact, I can boastfully say that the approach we have taken in the purchase of these vessels is a blueprint for future transactions. We did not just go down China and say, in a drunken state, “Gimme one ah dat.” You see the process we went through.

Sen. Obika: Standing Order 46(1). If the Minister wants to speak—

Hon. F. Hinds: I called no name.

Sen. Obika:—about his drunkenness, that is his business. Leave that out of the Senate.

Hon. F. Hinds: Not mine. I am a sober man.

Madam President, that is the way we did it. And, Madam President, as I said, we did not do it wildly and whimsically. I have outlined the careful processes that we have gone through and that is all done in the interest of the people of Trinidad and Tobago and we look forward to 2020 when these brand new cape class vessels will arrive on the shores in Trinidad and Tobago and we would be able to accord the protection to the citizens [*Desk thumping*] and the assets of Trinidad and Tobago, including our marine and oil assets, for the benefit of all of us.

Madam President, I thank you. [*Desk thumping*]

Sen. Mark: Table the contract!

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.34 p.m.