

SENATE*Wednesday, December 04, 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. Franklin Khan, Sen. The Hon. Dennis Moses and Sen. The Hon. Allyson West, all of whom are out of the country.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from Her Excellency the President, Paula-Mae Weekes, ORTT:

“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 Weekes

President.

TO: MR. HARVEY BORRIS

WHEREAS Senator the Honourable Franklin Khan 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

UNREVISED

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, HARVEY BORRIS, to be a member of the Senate temporarily, with effect from 04th December, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator the Hon. Franklin Khan.

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 02nd day of December, 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.

/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 04th December, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator the Hon. 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 02nd day of December, 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.

/s/ Paula-Mae Weekes

President.

TO: MR. WAYNE A.M. INNIS

WHEREAS Senator the Honourable Allyson West 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, 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, WAYNE A.M. INNIS, to be a member of the Senate temporarily, with effect from 04th December, 2019 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Allyson West.

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 02nd day of December, 2019."

OATH OF ALLEGIANCE

Senators Harvey Borris and Wayne A.M. Inniss took and subscribed the Oath of Allegiance as required by law.

AFFIRMATION OF ALLEGIANCE

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

PAPERS LAID

1. Ministerial Response of the Ministry of Agriculture, Land and Fisheries to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of InvesTT Limited for the years 2014 to 2017. [*The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat)*]
2. Ministerial Response of the Ministry of Works and Transport to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of InvesTT Limited for the years 2014 to 2017. [*The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan)*]
3. Ministerial Response of the Ministry of Trade and Industry to the Twenty-Second Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of CreativeTT for the financial years 2014 and 2015. [*The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon)*]

4. Ministerial Response of the Ministry of Public Administration to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of InvesTT Limited for the years 2014 to 2017. [*Sen. The Hon. C. Rambharat*]
5. Ministerial Response of the Ministry of Planning and Development to the Twenty-Third Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Financial Statements of InvesTT Limited for the years 2014 to 2017. [*Sen. The Hon. C. Rambharat*]
6. Ministerial Response of the Ministry of National Security to the Twelfth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Sexual Exploitation of Children in Trinidad and Tobago with specific focus on Child Prostitution and Child Pornography. [*Sen. The Hon. C. Rambharat*]
7. Annual Report of the Legal Aid and Advisory Authority for fiscal year 2014—2015. [*Sen. The Hon. C. Rambharat*]

JOINT SELECT COMMITTEE REPORT

Evidence (Amdt.) Bill, 2019

(Presentation)

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 in the Supplemental Order Paper in my name:

Interim Report of the Special Select Committee of the Senate on the Evidence (Amdt.) Bill, 2019 in the Fifth Session, Eleventh Parliament.

URGENT QUESTIONS

Paria Fuel Trading Company and Unipet

(Breakdown in Negotiations)

Sen. Wade Mark: Thank you, Madam President. To the Minister of Energy and Energy Industries: In light of reports of a breakdown in negotiations between Paria Fuel Trading Company and Unipet resulting in an immediate discontinuation in the supply of fuel to Unipet, can the Minister state how this decision will impact the motoring public?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): [*Desk thumping*] Thank you very much. It is my pleasure to answer this question as Acting Minister of Energy and Energy Industries of the Government of Trinidad and Tobago. I am advised, Madam President, that NP presently has a network of 117 operating service stations which are strategically located throughout the length and breadth of Trinidad and Tobago. Unipet has 24 operating service stations which are primarily located in densely populated areas also served by NP service stations.

I am further advised that NP has the existing capacity and capability to meet the fuel requirements of the motoring public and that additional resources are being put in place in terms of the supply and delivery of fuel at NP service stations to deal with any issues that may arise. I can also advise, Madam President, that Paria Fuel Trading which is the wholesale supplier of motor fuels, and Unipet, are currently involved in negotiations and it is expected that the impasse will be of a short duration, minimizing any disruption to the motoring public.

Sen. Mark: Madam President, can the Minister indicate what are some of the factors, or issues that are contributing to this unhealthy situation as it relates to a breakdown in negotiations causing a discontinuation of supply of fuel to Unipet? Can he advise?

Hon. C. Imbert: Firstly, let me correct Sen. Mark, there is no breakdown in negotiations. What has happened was, when Paria Fuel Trading was formed last

year, there was a short-term written contract put in place with Unipet. That written contract expired in March of this year. Since March, in the months of April, May, June, July, August, September and October, the arrangement between Paria Fuel Trading and Unipet has been by way of a monthly arrangement which is executed by a letter on the same terms and conditions as the previous arrangement in terms of credit and so on, which is signed by both sides. Between April and October, Unipet signed the letter and adhered to the credit terms for the supply of fuel, which are in the first instance, 45 days, then it goes to 55 days and so on, from the first supply of fuel.

In November, Paria sent the usual monthly letter to Unipet for its signature, Unipet declined to sign the letter. Unipet was given fuel in good faith by Paria. Unipet declined to pay for fuel and owed Paria \$172 million as of a couple of weeks ago. Paria and Unipet met and Unipet agreed to make a part payment of \$68 million, however, it only made a payment of \$64 million and it has still declined to sign any written arrangement with Paria and it now owes Paria in excess of \$100 million for fuel supplied without any written agreement.

Sen. Mark: Madam President, through you, can the Minister indicate how soon given the circumstances outlined by the hon. Minister, how soon does the Minister anticipate or expect a resolution to this very important matter that could eventually and ultimately have an adverse impact on the motoring public?

Hon. C. Imbert: Certainly, Madam President, let me reemphasize that this is an issue of non-payment for fuel supplied, it is an issue of non-signatory of an agreement which has been enforced for several months. As the Acting Minister of Energy and Energy Industries, it is my intention to intervene in this matter to bring some relief. However, we have to ensure that anybody who is supplied with fuel that is paid for by taxpayers' money, pays their bills and pays them on time.

As I said, NP has the capacity to supply fuel, but I intend to intervene and see if I can get this matter resolved in the shortest possible time, get the parties back together so we can produce a proper agreement between Paria and Unipet going forward without any difficulties.

Deaths from Influenza Virus

(Treatment of Suspected Cases)

Sen. Wade Mark: Thank you, Madam President. To the Minister of Health: Given the recent revelation that there have been 24 deaths over the last two months from the influenza virus, can the Minister state whether health institutions are being directed to treat with suspected cases of influenza as critical?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, the Chief Medical Officer in accordance with existing protocols has directed health institutions to treat with suspected cases of influenza as critical. Thank you.

Sen. Mark: Can the hon. Minister indicate if that is the case, can the hon. Minister indicate why we have had thus far, 24 deaths in this country?

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

Sen. Mark: Can the Minister indicate what comprises the elements that would constitute “critical” in the context of what he has outlined? What would inform it?

Sen. The Hon. C. Rambharat: Madam President, critical actually begins much before the influenza season, as the Ministry of Health refers to it. Every year prior to the October to May period, all physicians in the Ministry of Health, in fact, and all physicians in the country are re-sensitized with respect to the management of the influenza. The Ministry ensures that all WHO protocols are followed, the Ministry ensured in relation to influenza that the required number of vaccinations are in the country and available to the public.

Now, in response to a statement made previously by the Head of the Pharmacy Association, the Minister of Health indicated that provision is not made for every citizen of this country to be vaccinated. In relation to the influenza there are particular categories of risks, and these categories include the elderly, those suffering or affected by diabetes, minors and people in particular vulnerable circumstances, pregnant women and children six months to 5 years.

So the risk is a particular period of the year, October to May. The risk measures are in place during that period and prior to that there is some sensitization. The deaths you are seeing are consistent with previous years and those deaths have been confined to elderly persons and children in that age group, five months to 6 years, and persons suffering from critical illnesses or debilitating illnesses. There has been no instance in which someone from outside that category has died of this influenza. Thank you.

ANSWERS TO QUESTIONS

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, there are three questions on notice and one question for written answer. The Government will be answering question No. 10, Question No. 12 and asking for a deferral of question No. 11 and the written submission would be made during the course of this sitting, thank you.

Madam President: A deferral of 14 days for question No. 11?

Sen. The Hon. C. Rambharat: Madam President.

Madam President: So, question No. 11 is deferred for 14 days.

Sen. Mark: Just for clarification, Madam President, could you clarify the written one in the appendix?

Madam President: The Leader of Government Business indicated that will be circulated during the sitting.

Sen. Mark: Okay, thank you very much.

WRITTEN ANSWER TO QUESTION

Minister of National Security

(Details of Official Overseas Travel)

30. Sen. Wade Mark asked the hon. Minister of National Security to provide the following information on his official overseas travel for the period September 2015 to April 2019:

- (i) the names of the countries visited and the purposes of each visit;
- (ii) the period of time spent in each country;
- (iii) the names of the hotels at which the Minister stayed on each occasion and the costs of accommodation;
- (iv) the return airfare on each occasion referred to in (i);
- (v) the names of the persons who accompanied the Minister on each occasion;
- (vi) the costs associated with the travel and other expenses of the persons referred to in (v); and
- (vii) the names of the officials with whom the Minister met on each travel engagement?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

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

Procurement Department Dismissals

(Details of Outsourced Consultant)

11. In light of the sudden dismissal of six persons employed by the Ministry's Procurement Department and the decision to outsource the Ministry's

procurement functions to a Consultant, can the hon. Minister of Housing and Urban Development provide the following:

- (i) the name of the selected consultant; and
- (ii) the terms of engagement of said consultant?

Question, by leave, deferred.

Studley Park Landfill Health Hazards

(Steps to Address)

10. Sen. Wade Mark asked the hon. Prime Minister:

In light of reports of concerns by Mount St. George residents over the health hazards posed to their communities by the Studley Park Landfill, can the Prime Minister indicate what steps the Tobago House of Assembly will be taking to address said concerns?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, the Tobago House of Assembly has advised that the Studley Park Waste Integrated Facility is currently operated according to industry best practices. This facility has two sections; the liquid waste and the solid waste sections. The liquid waste disposal site is well maintained and uses stabilization ponds as the method of liquid waste treatment. These ponds are cleaned annually and all leakage from the landfill is collected in the first pond. All runoff from the final pond is also treated through a chlorination process and collected via a tank which is then reused at the solid waste section.

The solid waste disposal site uses engineering cells to treat domestic water. The waste is disposed of via these cells and covered every other day or each day if the quantity of material is sufficient. This covering assists with the reduction of flies and pests as well as reduces the scent at the landfill. Burning of waste, Madam President, does not occur at the landfill. However, due to the high content

of methane gas and flammable material, fires may occur from time to time and this is dealt with by the fire services. I thank you.

Sen. Mark: Madam President, given what the hon. Minister has outlined, could the Minister indicate why then residents of Mount St. George have been expressing grave concern as it relates to their health arising out of this Studley Park landfill? Why have they been expressing these concerns?

Sen. The Hon. C. Rambharat: Madam President, the THA certainly cannot stop the residents from expressing concerns. But, from time to time, there are concerns expressed by the affected communities, communities named by my friend, and these concerns are addressed and there is also the opportunity for concerns to be reported to the public health department, public health inspectors. But as far as possible the THA has been addressing the issues and taking steps to reduce the risk to the population. But it is impossible to stop people from talking and making complaints which may or may not be true and as far as possible the THA addresses these complaints where they are legitimate.

1.55 p.m.

Cedros District Health Centre

(Details of)

12. Sen. Wade Mark asked the hon. Minister of Health:

In light of pleas by residents of Cedros for the District Health Centre to be opened on a twenty-four hour basis, can the Minister advise as to the following:

- (i) whether such a decision will be taken; and
- (ii) if the answer to (i) is in the affirmative, when will said service commence?

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence

Rambharat): Madam President, my colleague Sen. Mark would be happy to know that the Cedros Health Centre currently offers a 24-hour accident and emergency service. However, serious consideration is being given to making available a full 24-hour service in Cedros. Of course, that comes with the requirements for human and financial resources. The Minister of Health is giving active consideration to it, and will determine whether he has the financial and human resources to expand the current 24-hour arrangement for accident and emergency to a full health service facility in Cedros. Thank you.

Madam President: Sen. Mark.

Sen. Mark: Thank you. Can the Minister give this Senate any possible indication as to a possible period when a decision would be taken, one way or the other, to address the other areas outside of accident and emergency matters?

Sen. The Hon. C. Rambharat: Madam President, as I said, the Minister of Health has indicated that he has given active consideration. Taking into consideration the availability of both the human and financial resources, and when that exercise is completed, he would make a determination on whether it is something that is feasible, if it is something that can be phased in, if it is something that based on the demand, he can offer particular services beyond accident and emergency over a 24-hour period. That would be determined based on the availability of resources and the demand for the specific services in Cedros. Thank you.

DEFINITE URGENT MATTER

(LEAVE)

Paria Fuel Company and Unipet Company Limited

(Government's Failure to broker agreement)

Sen. Wade Mark: Thank you, Madam President. Madam President, in

accordance with Standing Order 16(2), I hereby seek your leave to move the adjournment of the Senate for the purpose of discussing a definite matter of urgent public importance, namely, the failure of the Government to broker an agreement between Paria Fuel Trading Company Limited known as the Paria Fuel Company and Unipet Company Limited.

The matter is definite as it pertains specifically to a critical decision taken by the Paria Company to terminate the supply of fuel to Unipet, effective from Tuesday December 03, 2019.

The matter is urgent because Unipet operates several fuel stations and/or service stations that provide a convenient and alternative source of fuel for thousands of motorists, and the potential closure of these stations will impose significant inconvenience to motorists and the wider population.

The matter is of public importance since the decision of the Paria Fuel Company will eliminate competition in the fuel retail sector and will therefore create a monopoly. Additionally, Unipet employs hundreds of persons who will all sadly be on the breadline as a result of this decision.

I thank you for your consideration of this critically important matter, Madam President.

Madam President: Hon. Senators, I have considered the Motion as presented and I am not satisfied that this matter qualifies under the Standing Order. I just want hon. Senators to note that this issue was raised under Standing Order 25 as an Urgent Question.

PERSONAL EXPLANATION

Apology

(Sen. Taharqa Obika)

Sen. Taharqa Obika: Thank you, Madam President. Madam President, when it

comes to my action in question, to all who have been offended, including Madam President, Mr. Vice-President, all Members of the Senate, and the people of my beloved nation, I offer an unreserved and sincere apology and a commitment to uphold the sanctity that is the Senate in adherence to my Oath. I thank you, Madam President. [*Desk thumping*]

SPECIAL SELECT COMMITTEE

Evidence (Amdt.) Bill, 2019

(Extension of Time)

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, having regard to the Interim Report of the Special Select Committee appointed to consider and report on the Evidence (Amdt.) Bill, 2019, I beg to move that the Committee be granted an extension to December 31, 2019, to complete its work and submit a final report. Thank you.

Question put and agreed to.

MISCELLANEOUS PROVISIONS

(LAW ENFORCEMENT OFFICERS) BILL, 2019

Order for second reading read.

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

That a Bill to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service, Act, Chap. 15:01, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01, be now read a second time.

Madam President, the criminal justice system is comprised of many cogs in what is understood to be the system. On the one hand, we have of course, the judicial system comprising the courts in which the law is heard, interpreted, decided, and delivered. And on the second hand, we have the several actors in this

particular matrix, all of whom, in very important focus, are captured in terms of law enforcement and coordination in this Bill.

This Bill seeks in seven clauses, Madam President, to address recommendations which have passed through the House of Representatives and which seek to tighten the laws in relation to the Prison Service, the Police Service, the immigration authorities of Trinidad and Tobago, the fire services and the customs authorities.

Madam President, this law was born, this Bill was born in an exercise commenced at the Office of the Attorney General. Upon coming into office, Madam President, there was a hue and cry and in fact, there was genuine concern, evidence best in legal proceedings, brought by the Prison Officers' Association against the Government of the Republic of Trinidad and Tobago. The Prison Officers' Association complained that they had attempted on many occasions to meet with the then Government, headed by the Leader of the Opposition now, to specifically concern themselves with ameliorations to the law which would protect them.

In fact, there were three occasions of correspondence passing to and from the Prison Officers' Association to the hon. Leader of the Opposition, then as Prime Minister, asking for specific attention to be focused upon improvements in the Prison Service. Regrettably, that did not materialize, but fortunately, in the continuance of governance as an incoming Government must, the Office of the Attorney General focused upon this issue in a very square term. Specifically, as Attorney General I invited the Prison Officers' Association and the prisons authority to sit with the Attorney General's Office, established a working committee comprising the Law Reform Commission, and we set about to address

the concerns by an active drafting process of law. This type of engagement is one which of course the Office of the Attorney General has used on umpteen occasions, where we invite stakeholders specifically into the Office, to sit and draft what is required in an environment where all minds are effectively put onto the table.

This specialist committee, comprising the officers of the Prison Officers' Association Second Division, representatives of the Commissioner of Prisons, the Law Reform Commission, and the Ministry of the Attorney General, in fact, with me sitting at the head of that exercise, personally, set about in November 2017, specifically on the 29th, to get about drafting concerns. Two aspects what were focused upon in this exercise: What legislative improvements needed to be addressed and what operational structures needed to be addressed.

In terms of operational structures, obviously, the provision of firearms to the police service was an issue which arose; the provision of housing for emergency matters where officers' lives were under threat, arose; the provision of improvements to the plant and machinery at the prison system arose, and we got about treating with those. As the public record now shows, the Ministry of National Security through the Commissioner of Police have in fact handed over firearms to officers at risk. We have addressed the situation of emergency situation for housing. We are in the course of improving plant and machinery at the Remand Yard, at the Women's Prison, at the child rehabilitation centre. That left us, Madam President, with issue of the law, and the Prison Officers' Association in my public compliment to them, in particular to the officers of the Prison Officers' Association, headed by Mr. Ceron Richards, they sat about and agreed with the Government's proposal that we amend the laws with an equal

balance, and to hold the scales of justice with equal poise.

What we agreed upon and which is found in this Bill, particularly beginning at clause 3, is a formula by which we say to Trinidad and Tobago, that all of us, stakeholders in the equation, the prisons authority, the Prison Officers' Association, the Attorney General's Office, the Ministry of National Security, all of us agreed that there is a problem inside our prisons. The expression "turn key" in Trinidadian parlance. Turnkey for those who do not speak Trinidadian parlance. Turnkey is the expression many years ago used to express how a prison officer's job was effectively managed. Their job was to receive prisoners, to turn the key, and to let due process of justice work its way out until they were set free. The situation in Trinidad and Tobago has system changed dramatically. Prison officers have been assassinated, their family members brought under threat. There is an active trade of trafficking in the prisons.

I can tell you, Madam President, that in discharge of my responsibilities as Attorney General, I had cause to be at the prisons myself, in conducting raids—

Madam President: Attorney General, just—hon. Senators, please, please. I would like to hear what the Attorney General has to say, so it is too early for the crosstalk, all right. Continue, Attorney General.

Hon. F. Al-Rawi: Thank you, Madam President. I have personally attended at the prisons and witnessed the supervision of raids with arm's-length distance. And, in the supervision of raids I can tell you, Madam President, flat screen TVs, grenades, bullets, cigarettes, mobile devices, electronic devices, were all found in the prisons. That says that there is a problem, because you have gone from a situation of the prisons being a place where you ought to be confined and put away from life, to a place where criminal enterprise operates and does so actively.

2.10 p.m.

In complimenting the Prison Officers' Association, they agreed that that should be stamped out and that the law needed to be improved; that the rules and regulations ought to be a feature of the management of the system, and they also agreed that in treating with the offences that we have in the prisons, which are effectively replicated in the police service, immigration, custom—as we see in the fire services as well in the Bill before us—they agreed that whilst we put in heavy criminal offences for trafficking, for possession, for breach of fiduciary duty, at the same point in time, the Government in providing law should make sure that prison officers, fire officers, police officers, immigration officers, customs officers were protected by way of the law providing against retaliation, threats to members of their family, to their property, to intimidation, to harassment and to other forms.

And so, that is the general construct of this. We took the work from the Prison Officers' Association committee, we then engaged in consultations with the Trinidad and Tobago Police Service, the Customs and Excise Division, the Immigration Division, the fire services division, the Fire Service Association Second Division, the Trinidad and Tobago Police Service Social and Welfare Association throughout the course of 2018. That then brings us squarely to the law before us, Madam President, having given that perambulation of the issues as I just have.

And before us, Madam President, in the Bill, obviously, clause 1 treats with the short title to the legislation. Clause 2, we jump immediately to an amendment to the Criminal Law Act, Chap. 10:04, and in causing an amendment to the Criminal Law Act, Chap. 10:04, we seek specifically to amend the provision contained at section 6 of that law which treats with:

“(1) Where a person has committed an arrestable offence”—and—
“(2) a person causes”— what we call—“wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, he is liable on summary conviction...”

As the law is cast right now, the penalty is a fine of a whole \$1,000 and six months imprisonment. Of course, “and” is to be read as “or”. We propose in clause 2 of the law to amplify that penalty by providing for:

“...one hundred and fifty thousand dollars and to imprisonment for five years.”

I would like to stick a pin. I would like to say pursuant to an undertaking that I gave to this honourable Senate whilst we were treating with the bail amendments and restrictions to bail, I informed that the Prime Minister had instructed me to look at the issue of a framing law, a law to treat with where persons are framed unlawfully, wrongly, set up for an offence, set up for a charge to treat with that. I can inform that I held specific discussions with the Director of Public Prosecutions himself as well as his Queen’s Counsel from the United Kingdom, Mr. Jenkins. We explored the issue in great detail and the DPP urged me not to introduce a statutory offence for framing, but instead to rely upon the common law fixtures which the DPP has advised strongly, ought to prevail. That is misbehaviour in public office, perverting or defeating the course of justice and also, Madam President, therefore, relying upon where someone causes wasteful employment to the police. There are, of course, other offences that exist, but I want to assure hon. Senators that I did take the obligation seriously and had a very

specific discussion with the DPP about this position who has strongly advised against it. Madam President, obviously police time is important and that is where clause 2 treats with the wasteful employment of police time.

Clause 3 is where we jump to the Prisons Act. The Prisons Act, Chap. 13:01 is a law commencing 16th of October, 1900. Of course, we had the 1800s law, which as a colony we managed, et cetera. But very importantly, we are also treating with the Prison Rules, and the Prison Rules are equally archaic, Madam President. When we look to the Prison Rules as currently in effect, they are 1943 Prison Rules. We did cause amendments to the Prison Rules, those amendments cannot yet be operationalised, because if you operationalise those amendments, you will find yourself in a situation of unconstitutionality, because the plant and machinery has not been brought up to standard.

I am able to report that the Government has been in an aggressive reformation of the Prison Service, largely through the head of corrections in Canada, and that has been facilitated by a joint venture between the Government of Canada and the Republic of Trinidad and Tobago, and we are at the cusp of doing the physical repairs at the Remand Yard and at the MSP and other positions. We have already attended to improvements at the child rehabilitation centres what was previously referred to as the youth centres, under what was then called—we called it an acronym—YODA, the young offenders legislation, and we have now brought ourselves into a position where we will soon be able to cause the amendment to the law by proclaiming the Prison Rules as amended in the last session of Parliament—in the last Parliament, in the Tenth Republican Parliament. That is to be joined by the work that we are doing at the prisons as well, in general, in terms of the law which I am pleased to say have been drafted and is shortly to be taken to

the Cabinet to treat with the whole concept of probation, Madam Speaker, and how we deal with offender management.

This Prisons Act, Madam President, is proposed to be amended, particularly by the definition of “prohibited article” being significantly expanded. A “prohibited article” as cast in the law as it stands right now, means:

“...any article declared to be a prohibited article by the Prisons Rules for the time being in force.”

You will note, Madam President, that law only allows for Prisons Rules. It did not allow for regulations. We actually proposed in the Bill before us now, for the first time, the introduction of regulations. Why? The regulations are more nimble, and we are able to treat with them that way, which is why you will see the proposal for an introduction of a new section 22 to the Prisons Act that allows the Minister “subject to affirmative resolution” to make regulations to give effect to the Act.

In the definition of “prohibited article”, we have effectively captured all of the things that we note are in existence in the prisons. That includes 3(a):

“dangerous drugs, explosives, firearms, ammunition...weapons, mobile telephones, cameras, sound recording devices, electronic devices...”

Why? They are actually in our prisons. We treat with articles that also have the effect of anything that the Commissioner of Prisons would consider to be offensive. And, Madam President, we therefore, in defining that in a wider category, give ourselves the opportunity to tackle the criminal enterprise in the prisons by way of application of the law for prohibition.

We have expanded by a new proposed section 3, the number of prisons in Trinidad and Tobago. The old law, as it stood, did not contemplate the Remand Prison Golden Grove, the Women’s Prison Golden Grove, the Eastern Correctional

Rehabilitation Centre, the Carrera Convict Prisons, the Tobago Convict Prison or, indeed, the child rehabilitation centres, all of which are now modern features of the criminal management through the prisons.

Madam President, we then go to the proposed introduction of a new section 8 which treats with prohibited articles. That was last amended in 2010 and, effectively, it only provided for a summary conviction, \$25,000 exposure and three years. We have now gone in the proposal in this Bill, beyond a person who brings in or carries out—bringing in prohibited weapons, prohibited articles—and we now go into the iterations—someone who:

- “(a) brings, throws, conveys...prohibited article...
- (b) brings, throws or conveys a prohibited article from a prison”—
to or from—
- (c) leaves, hides or places...
- (d) causes another person...
- (e) knowing a person is a prisoner, gives a prohibited article”—or a
person who—
- “(f) is found”—with—“a prohibited article”—in—“a prison and
does not have the express authorisation...”

We split it out now, instead of it being a summary offence, we have gone for an offence triable either way. We allow for summary route and for indictable route. And, Madam President, we are, by the agreement of the Prisons Officers’ Association, now separating out where the offence is committed by a person as opposed to a prison officer. And in the new 8(2) we propose:

“Where a prison officers commits an offence under this section, he will be liable”— again on a triable either way route—

“(a)...summary conviction”— exposed— “to a fine”—potentially—“of two hundred and fifty thousand dollars and imprisonment for ten years;”

And in the indictable route, exposed:

“(b)...on indictment to a fine of five hundred thousand dollars and”— a fine of—“fifteen years.”

Madam President, we propose in this Bill the introduction of a dedicated offence to treat with trafficking in the prisons, by the introduction of a new section 8A. And I want to say that this is a very powerfully important clause because trafficking, as it is managed in the current law, is dealt with pursuant to the Prison Services Regulations, in particular, regulation 20(2)(c), which says that you may be subjected to a range of treatment, anything from dismissal down to a fine, abatement of your money, deferral of promotion, et cetera because they specifically employed that you will be subjected to the Public Service Commission Regulations, in particular, section 110 of those regulations.

That, Madam President, is entirely inappropriate in terms of treatment for the trafficking offence, and so we propose an introduction in a new section 8A of the law, as this Bill proposes where:

“A prison officer who—

- (a) carries out any pecuniary or business transaction with or on behalf of a prisoner;
- (b) accepts any present or consideration from a prisoner;
- (c) brings into a prison or carries out of a prison, or attempts to”—carry in or out prohibited article, et cetera, whether—

“(d) ...directly or indirectly, any pecuniary interest”—et cetera or—

“(e) has any dealing, whereby he obtains or might expect to

obtain...immediately or in the future any benefit of any nature...”

And, again, we propose that that is treated by way of summary conviction or indictable conviction i.e. trials either way. You can elect for the prosecution in those circumstances. Remember that summary convictions must be brought within a six-month period and, therefore, sometimes if you miss the boat on the summary time frame, the statutory time frame for summary offences, it is appropriate therefore to allow for the indictable route to bite.

Madam President, the new 8B which clause 3 proposes is, again, a very important aspect. It is in this clause, in this proposed new section 8B, that we specifically treat with the taking of photographs, the making of sound recordings, the transmission of electronic communications for persons inside attempting to communicate outside, the bringing or conveying or causing of restricted documents to be brought to convey it in and out of prisons or the transmission of restricted documents. And in the definition of “restricted documents”, you will note that we treat with the whole concept of:

- “(i) a photograph...
- (ii) a sound recording...
- (iii) a personal record...
- (iv) any other document”—containing—“information...”

We deal with electronic communications in the current form.

You will be surprised to know, Madam President, that in the prisons, we have found 4G technology, LTE technology and communications on Voice over Internet Protocol, VoIP. In other words then, they are not communicating on telephones, subjected to interception, they are communicating on the Internet and, therefore, depending on technology for interception, there is a significant difficulty

which is faced there.

I should flag now, it is not laid in Parliament yet, we will be bringing a very powerful Bill to amend the Interception of Communications Act to treat with the advances in technology. So I put you upon notice that there is companion legislation to come along with this. But, Madam President, we allow the taking of photographs, recordings, et cetera, to be done only in strict circumstances. Obviously, the concept of legal profession privilege, the access to your lawyer, the provisions that apply in law, those have to be preserved as the rules contemplate and as professional privilege allows, but we are ensuring that a jail is a jail. When you are there, you are in jail. You are not to be exposing Trinidad and Tobago to the running of criminal enterprises whilst you are incarcerated, be it under remand condition or under conviction, of course.

Madam President, we proposed to specifically treat in a new 8C with the concept of a prison officer accepting a bribe or gratuity or a perquisite, meaning a perk, or reward, pecuniary or otherwise. Again, in these sections, we proposed both summary and indictable processes, and we have introduced in a new section 8D, a very important clause which treats with the concept of tipping-off. And I would like to say as we proposed in clause 3(d), the tipping-off introduction, we replicate it across the other clauses—4(d), 5(b), 6(e) and 7(b)—we introduce the standard, what I call the gold standard for tipping-off, which is section 51 of the Proceeds of Crime Act. We are specifically causing in the services treated with under this legislation—prison officers, police officers, customs, immigration and also fire services—that we criminalize a tipping-off. Where there is an investigation for an offence which is ongoing, we are making it an offence for an officer to disclose information.

We, of course, repeat the very safeguards coming from the Proceeds of Crime Act where legal professional privilege is carved out as an important safeguard. We have kept within the strict terms of the formula in the Proceeds of Crime Act, because the concept of tipping-off is giving too much of an advantage to criminal empires.

Madam President, we propose in amending section 10 of the Prisons Act, to treat with an uplift in the penalties for persons who aid and abet the escape of prisoners. We have seen escapes across the prisons, be they at the child rehabilitation centre-level or in fact at any of our other prisons, it is a phenomenon which has been noticed.

The importance of the next clause that jumps out at us—may I ask what time I must end in full time, Madam President?

Madam President: You finish at 2.47.

Hon F. Al-Rawi: Much obliged. The importance of the new section 11, which clause 3(f) proposes, is something which we replicate across the other services again. This clause 3(f), which is in *pari materia* or in equal level to, clause 4(i), 5(b), 6(e) and 7(b), we introduce here something which we had brought to life, this Government, when we did the anti-gang legislation. We propose specifically, that we treat with assaults and retaliatory action against prison officers. Why? Whereas as we have in the current law, in the Prisons Act, for instance, in section 11, an offence—if you assault, obstruct or resist or aid or incite any other person to so assault, obstruct or resist, the Commissioner of Prisons or any prison officer—we did not go far enough to where society is now.

We have introduced the concept of:

“11 (1) A person who—

(a) assaults, threatens, obstructs or resists”—so threats were not there before.

“(b) aids or incites any other person to”—so do—
“a prison officer in the execution of his duty, or any person aiding or assisting a prison officer...”

That was not in the current law. Why? There are civil aids to enforcement, including persons engaged in the transportation of prisoners and, therefore, we need to protect those ancillary bodies to the structures, and we say that if that person:

“with intent to impede, intimidate or retaliate against a prison officer while engaged in the execution of his duty”—that person so—“commits an offence.”

We add, specifically, the concept of retaliatory action against:

“(a) a prison officer;”
(b) against his—“relatives, friends, associates or property of a prison officer,
on account of that officer’s execution of his duties.”

And we defined for the purposes of that section a “relative” to mean:

“...in relation to a prison officer—
(a) his parent or step-parent;
(b) his spouse, cohabitant or fiancé;
(c) his child, step-child or other dependent;
(d) his brother, sister, stepbrother or step-sister;
(e) his grandparent;
(f) any other person whose care and support is the responsibility of

the prison officer.”

And then we allow for it to be treated either summarily or indictably. That formulation comes from the anti-gang law, which this Senate participated in crafting. We were very careful to preserve vertical dependents, meaning parents and children, as well as horizontal dependents, whether—[*Crosstalk*] Madam President, the chatter on the Opposition Bench is a little distracting.

Madam President: Hon. Senators, could we please have some silence while the Attorney General makes his presentation. Attorney General, continue.

Hon. F. Al-Rawi: Thank you, Madam President. I thank my colleagues for their attention, as well. It is hard to make a serious contribution if nobody is paying attention, respectfully. Madam President, the fact is we have preserved—and I mean the Opposition—the issue of horizontal support, meaning dependents in the wider sense. There may be persons who are reliant upon salaries.

The whole concept of “in the course of your duty”, is something which has been debated in law. Are you to only be afforded the protection whilst you are in the course of your duty? We have taken from the experiences in the English courts, in particular, as to what “in the course of your duty” means which is why we have introduced this retaliatory action saying that on account of the officers execution of his duties. In other words then, you are upset with the officer, you target the officer.

In the last 22 years, there have been over 22 assassinations conducted against prison officers. We have seen them killed in action, we have seen them killed out of “action”, we have seen threats to their property, to their family, et cetera, and this is something that we specifically recommend borrowing from the anti-gang formula.

Madam President, you will note that we then jump to the proposal for a new section 22, specifically, Madam President, in putting in clause 3 this new section 22, we are allowing for a more nimble form of assistance to the law, the power of the Minister to make regulations. The current section 17 of the Prisons Act only allows you the power to have rules. Again, we put it for affirmative resolution. It is not often that a Government proposes affirmative resolution, but if you are going to be treating with the prisons, we feel on this occasion it is appropriate to have affirmative resolution of regulations of this type.

There is this archaic provision, section 63 of the Interpretation Act, which is cumbersome and foolish, if I dare say so. I intent to amend it in a Bill which will come to Parliament shortly, but until then we cause the exception to section 63 of the Interpretation Act, because section 63 says if you do not provide in the parent law that the breach of a regulation has a particular level of offence, you are going to be subjected to \$500 as the breach. So we have accepted out the application of section 63 of the Interpretation Act, we are allowing for breach of regulations to be treated with either summarily or indictably and we have set the maximum at, in summary sense, \$75,000 imprisonment for three years, indictment \$150,000, an offence for five years, Madam President.

This theme carries across—I have spent a lot of time on the prison side, because it carries across into the police service, it carries across into the Immigration Act, the Fire Service Act and the Customs Act. The Police Service Act, of course, has the need for us to amplify how we treat with certain things. Section 50 of the Police Service Act onward, from letters A up to F allow for the police to do certain things—to take photographs, to take fingerprints, to come back again to take fingerprint, to take them in respect of deportees and persons at ports

of entry, to manage the notices of attendance if you are under criminal investigation and how you treat with children or persons who are otherwise deemed to be in need of supervision, incapable persons as described in the law.

Whilst you are allowed in section 50F, the ability to use reasonable force to take fingerprints, et cetera, we did not treat adequately with section 50H—“H” as in hotel. We have sought to amend this law from that which was done in 2014 by improving the law to add in that it is an offence to assault, obstruct or resist an officer in the exercise of his duties in section 50 up to 50E or a person assisting an officer. And we do that specifically because there are persons at ports of entry or persons who are assisting police officers in the course of their duty, and we have sought to manage the proportionality in the use of force and in the compellability of these circumstances.

Trinidad and Tobago is going to come to the point where we need to do, like the rest of the world has and say: “You must mandatorily give your fingerprints.” I can tell you now, I am working on a specific piece of law which is a unique identification number for every citizen and resident of Trinidad and Tobago where your bio data will be captured, specifically so that like the United States of America, where you have a security services number, we can therefore eliminate fraud and other ills in our society and that legislation ought to come at you very shortly. That harmonizes with our digitization platform, our eyes everywhere platform and harmonizes with work that we are doing, for instance, in our joint select committee—special select committee sorry, on the law of evidence and how we treat with that. So there is a whole combination of laws that all articulate together with each other.

Madam President, we, of course, seek to treat with punishment for serious

offences by clause 4 amending section 53 of the Police Service Act. We split it out away from indictment into both summary and indictable treatment and we treat, very importantly, with the situation where police have their firearms or their accoutrement—their clothes, their vests, et cetera, as they say, “rented out”. And you will see an amendment to section 53(2) where we expand under paragraph (f) where a policeman pawns, sells, transfers, loans, provides makes available. We have added in:

“4(c)(ii)(i)...transfers, loans, provides, makes available;” —et cetera—

“53(2)(f)...arms, accoutrement, clothing or any public property;”

It is important seeing the information that comes up in our offences in the charges before the court to capture the wider categorization of ills.

We, again, as I said earlier, treat with tipping-off in the same way we did in the prison service. We also treat with where a policeman keeps his property for private benefit in an amendment to section 54. We amp up the offences there. We treat with the delivery up of articles upon retirement or resignation or dismissal, again, improving the category of offences. We treat with improper possession of articles supplied to police officers by causing an amendment to section 56 and section 57. We, again, we borrow from what we did under the Prison Service and the Anti-Gang Act, we caused a new section 59 to be considered in this clause which is where we treat with assaults, threats or retaliatory action against police officers, protecting police officers. If we are going to ask our police officers to continue to stand in the breach, to continue to stand in the fight against crime, we must protect their families, we must protect their property and we must protect them against the savagery that they are exposed to, and this is this Parliament’s way of expressing support for the police officers.

Madam President, we also amplify the concept of a police officer accepting bribes, et cetera, and treat with that in a new proposed section 61A:

“A police officer who accepts a bribe, gratuity, perquisite or reward, whether pecuniary or otherwise, for the neglect or non-performance of his duty...”

And then we split it for treatment in summary route or indictable route.

Madam President, we amplify the treatment of offences for impersonation of police officers. We have seen people complained about people with blue lights and what looks like a police uniform stopping people along the roads and, therefore, we ought to amplify the offences for that management, Madam President.

Madam President, I turn to clause 5. Clause 5 treats with the Immigration Act. Now, the Immigration Act is in the course of an overhaul. Why? It is just too archaic. Several governments have attempted to amend the law taking the long route, which is one perfect product. This Government has taken the mantra of “just start,” quite seriously. We propose amendments to the Immigration Act here to treat with assault, threats, obstruction. We treat with the commission of offences, what we called in section 41 of the Immigration Act. We have amplified the treatment. Madam President, listen to what you are exposed to in the current law, section 41(1) of the Immigration Act. Every person who, for example, wilfully assaults or obstructs or resists or interferes with an immigration officer or issues any false document, certificate, et cetera—a range of offences—you are liable, 41(1)(e)(i)—

“...on summary conviction for a first offence”—hear this—“to a fine of one thousand dollars and to imprisonment for twelve months, and on any

subsequent...conviction to a”—whopping—“two thousand dollars and to imprisonment for eighteen months...”

Madam President, that just does not signal the odium which we ought to have for fraud, for threats, for assaults as it relates to immigration officers.

2.40 p.m.

Madam President, we propose the introduction of the tipping-off clause. Why? In a society such as Trinidad and Tobago, where the immigration authority has a significant responsibility, we have to make sure that if there are offences that are under investigation that tipping-off is managed. Far too often the criminal empire knows what is going on because they are tipped-off by people, including people in service. I do not say that every officer has a problem, but there are certainly occasions where this has found itself into the court system and we must recognize it.

Madam President, we again treat with a standalone assault and retaliatory action by the introduction of a new 41B. We treat with offences and penalties in the amendments, in the amplifications we propose in section 42 of the Immigration Act, and we except out section 63 of the Immigration Act for breach of regulations. It is not acceptable to be subjected to \$500 for breach of a regulation. We have amplified that to allow for even conviction on indictment.

Similarly under the Fire Service Act, clause 6 treats with the amplification of offences. Obstruction of a firefighter in the course of performing his duties. Fires are not to be taken lightly. You ought to have specific penalties that you are exposed to if you obstruct the serious work of firefighting. We treat with the assault and threatening and obstruction. We treat with it in the summary context and indictable context. We treat without reasonable excuse failing to comply with

the authorized request of fire officers, and we treat with an amplification of fines that way.

We treat with false fire alarms, because we see false fire alarms happening in our country, and you can shut down effectively large enterprises, serious businesses, and it is not appropriate to be subjected to a whole \$1,200. That is what the law in 1993 suggested was an appropriate fine for the fire alarm. We have gone instead to a maximum exposure of \$150,000, and we are moving from three months' imprisonment to up to five years.

Madam President, we treat with unlawful assemblies—

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

Hon. F. Al-Rawi:—much obliged—by a proposed amendment to section 49 of the fire services legislation.

Hon. F. Al-Rawi: We introduce in a new section 51A the tipping-off provisions, as we have already explained that to apply. We treat with assaults and retaliatory action in a new 51B. We treat with amplification of offences at section 52 by going upwards from the very inadequate offences of \$1,200 up to \$50,000, et cetera. We treat with fire officers accepting bribes, et cetera. We split that out into summary and indictable exposure as opposed to just summary exposure because we cannot play fast with people's lives.

Madam President, we also come now to clause 7 of the Bill, which is the last clause, where we seek to have amendments to the Customs Act. Again, the Customs Act is a long haul project. The Customs Act is a pre-1962 law. There are saved powers inside of there. There are a number of powers. People may not know this, but the customs officers are perhaps with greater power than the police officers in certain circumstances. The power of forfeiture, the power of immediate

and serious action, customs officers rank number one. It is no secret that their contribution from the customs authority is a large part of our GDP, and we have to take our customs law seriously.

Madam President, that is why we treat with obstruction of customs officers by amplification, up from summary offences, the whopping fine \$1,500. We just cannot live with that. In section 5 of the Customs Act, we have moved to summary conviction, exposure to \$250,000, imprisonment for 10 years, conviction on indictment to a fine of \$500,000, imprisonment for 15 years. This will feed into the Revenue Authority structure. You cannot have inadequate offences and penalties if you are going to take your revenue seriously.

Madam President, let me say this, if everybody in this country pays their fair share on the lower limb, more people paying smaller amounts consistently and fairly, our country has the opportunity to be one of the most profitable, spectacular and decent countries in the world to live in. After all, I am certain God is a Trini. Our society can afford what we wish to do. It is no secret that we have moved away from oil and gas dependence. The oil and gas sector contributes approximately 27 per cent of our GDP as opposed to 50 per cent where it was in 2008. Our non-oil sector produces the vast majority and the customs laws have to be ameliorated.

We introduce the assault and retaliatory actions. We again treat with tipping-off, and we deal with smuggling offences, et cetera, in the amendments that we propose, and we deal with customs officers taking unauthorized fees, et cetera.

Madam President, there is more to come. This is a proposed omnibus approach to several focussed areas. This law is something that can improve our circumstances. It is something that is in my view entirely proportionate. There is

umpteen precedent for the treatment of the laws in the manner that we have proposed.

I look forward to the contributions of hon. Senators as to any improvements that we may make to this law, and I beg to move. [*Desk thumping*]

Question proposed.

Sen. Sean Sobers: Good afternoon, Madam President. I am very grateful to be given the opportunity to contribute to this particular Bill that is before us. But I would definitely want to, before I start my contribution and get into it properly, I would want to take this opportunity to congratulate the Leader of the Opposition for a very good showing at the local government election on Monday. [*Desk thumping*]

That being said, this particular piece of legislation I do in fact agree is extremely important. I think for far too long there have been several calls from different sectors within the security service industry or professions that require a lot more deliberation and assistance, and the level of protection to be meted out to them properly. This is a start to get that done.

When we consider the persons who make up our security service industry within this country, we have to think carefully as to what they are actually doing. The natural human instinct when a crime is going on and bullets are being shot from various persons within that particular scenario, is to run from such a situation. You have individuals who are now being trained to run into situations like that. The natural human instinct when a building is burning is to run away from the building. There are persons within this Act who are running towards that burning building. The natural human instinct for persons who operate within the prisons' conditions, dealing with guarding some of the most dangerous individuals within

our society, is something that should be lauded.

Persons who work at the Immigration Division, I think we do not really appreciate what they actually do, but immigration officers on a day-to-day basis are the guardians of our borders. They would prevent persons who may have nefarious plans and activities from coming into our country by asking them a series of pointed questions. The role and the responsibility of customs officers as well too is something we should also consider to be extremely important as well too. So any piece of legislation that offers them extra protection, whilst performing those important and stellar duties and obligations to our society, should in fact be welcomed.

I think for some time now especially too there are a lot of individuals, few of them in number, who contribute to a series of negative and, in some cases, criminal acts against these members of our security services. It is an obligation as legislators to defend our security servicemen and women against persons like that. So the random videos that we may see where persons would be heckling police officers whilst in the execution of their duties, this is an opportunity for us as a Parliament collectively to say and send a direct message to those persons that these things would not be tolerated, that the random grandmother, as we say, who would find themselves within a scenario to say, “Allyuh too wicked”, all of those things are acts that we may laugh at, but they are very serious because they cause a certain degree of obstruction that we should not promote at all. Any type of protection that we can offer our servicemen and women, as I said before, should be welcomed.

But in saying that, Madam President, I would want this honourable House to consider that a balance must be struck as well. So that servicemen and women in

our country have a great degree of power, and with that power comes a great degree of responsibility as well. In this country we are not strangers to particular men and women within our service industry, again, very few in number, who have corrupted the system with certain actions that they would have taken. Our press these days are constantly littered with judgments being handed down by our high courts condemning the actions of police officers, condemning the actions of some prisons officers as well too, and in some instances as well too going as far as condemning the actions of some immigration officers.

So that when we are drafting legislation to offer extra protection to our servicemen and women, we must also contemplate that that must be brought against or constructed so that it balances well with respect to the errant individuals who operate within our service industry.

As recently as last week there would have been a judgment that would have been handed down in the High Court dealing with a death at the maximum security prison, where the judge would have awarded I think \$.7 million to the family of that person who would have passed away within the prison itself. There was another judgment that was recently handed down by Justice Seepersad as well too for a person who was also kidnapped by errant police officers and beaten, and held in custody for five hours.

There was also another judgment that was handed down for a person who, again, was assaulted within the prison, and within the evidence that came out from that matter persons were made aware that some of the cameras, the majority of the camera at the MSP were not working up to recently, since 2015. So there are many instances unfortunately that are coming out. I think when I did my last tally, over \$2 million in judgments would have been handed out against errant security

servicemen and women for actions that they would have taken against our citizens.

In speaking about that balance, it brings me to contemplate from the onset some of the difficulties with this particular piece of legislation. I was a bit upset that within this piece of legislation there was no mention made of making persons within the service industry personally liable for damages being handed out by the High Court and I think we have advanced enough as a society to accept that there are errant officers, and those errant officers should be made to pay for the injustices that they mete out to the persons within in our society. [*Desk thumping*]

It may not be that we legislate now that they pay the full 100 per cent of the damage that is handed out by the courts, but there should be some type of starting position so that it would send a message to those who are willingly doing the wrong thing within our service industry that they would now be made to pay out of their own pockets. It cannot be that the State is being forced to pay, as I said before, almost \$2 million within the past couple of weeks for errant actions by a few individuals who have no regard for the same law that they have been sworn to uphold, who have no regard for the citizens that they have been sworn to protect. I thought that this Bill, as we are clothing them with the necessary protection, should have also touched on an aspect of that.

I listened to the Attorney General's contribution as he made mention of having certain discussions with the DPP and Queen's Counsel Jenkins concerning the framing legislation. The framing legislation is something that I thought should have also accompanied this particular piece of legislation, this Bill. [*Desk thumping*] But I would also want to call upon the Attorney General to also consider speaking to the Law Association, consulting with them, consulting as well too with the Criminal Bar, because it is my humble opinion that there should be a

legislation for framing. It should not just be the common law position.

I think that we have spoken about that particular legislation coming to this House as early as the Bail Bill this year. I know that the hon. Attorney General would have given certain undertakings as it pertains to that, so we would have to wait and see. But those are two fundamental parts of this Bill that I thought should have been there, but they are absent and if we are serious about really offering the necessary protection to our servicemen and women, a balance should have been struck and those things should have been put into the Bill itself.

Madam President, when I looked at this Bill in its entirety, the Bill introduced a number of things, it dealt with a number things. There is a new penalty basically introduced as well too for errant members of the Bar who may take information from persons who may be in custody and utilize it for nefarious gains. I guess other Senators may speak on that. It is a reality—it is a reality. I mean members of the Bar, be it Criminal, Civil Bar or whatever, may not want to discuss it or openly say it, but it is a reality that there are very few lawyers who would participate in such activities, and if the evidence comes to light, well then I hope the TTPS would deal with it accordingly. But we should never bury our heads in the sand and think that it is not a reality.

The Bill also deals with obstruction, as would have been mentioned before, and tipping-off. In terms of obstruction it appears throughout the legislation being drafted in a particular way. The construct is mirrored throughout the legislation to touch with respect to the prisons, the police, immigration, fire and customs.

Now, I understand the need and the importance for amplifying the fines and the sentences as it accompanies persons who obstruct members of police, immigration and fire and customs. In terms of the way in which the obstruction

aspect of it is drafted it offers a significant degree of protection for the officer, the serviceman or woman, and also a certain degree of protection for an individual, a member of the society who may assist the serviceman or woman within the execution of his or her duties. The obstruction aspect as well too offers this new element of protection against intentional retaliation, which is good because any member who falls within that particular construct of a relative, if there is no aspect or demonstration of intentional retaliation for the execution of the individual's particular duty, then it may very well be a number of persons falling within this particular construct.

But what is absent within the obstruction framework, is the fact that the construct does not protect a citizen's relatives as well too. So there may very well be a case where police officer A is executing his duties, and as it pertains to police officers, there is also a particular section, clause 4(j) which is located on page 21 of the Bill, that also amplifies or indicates then that a person who without good or reasonable cause who does not assist a police officer in the execution of his duties, within reasonable cause, as I said before, could in fact be charged. So if we are more than encouraging citizens to aid police officers, which is laudable, but we do not offer the citizens' families or relatives and their property the same level of protection that we have offered the serviceman or woman, it could put a citizen in a precarious position. Because you are now being called upon to assist this particular service person, and now your family, your relative, is not going to be offered the same protection that the serviceman has.

When these service people are out in particular areas, and you a citizen within that area may see a police officer getting stress to execute his or her duty, and you a member of that community go out to assist that policeman or

policewoman, and the other individuals within the community who are not doing anything to assist in the situation, watching you, that citizen, adhering to your call, your civil duty, under the legislation now as we are creating it, what you think is going to happen when you go back home? They may not attack you, but your relatives are now at risk; your house, your property is now at risk. We should offer that same blanket of protection to citizen A or B or C who assist the police officers in terms of executing their duties. As we have done for police officers and their families. So that is the issue that I have with respect to the obstruction framing.

The second thing with respect to tipping-off—so tipping-off is equally located, the construct of the—*[Interruption]*

Hon. Al-Rawi: Senator, may I.?

Sen. S. Sobers: Yes.

Hon. Al-Rawi: Thank you very much. I am honestly enjoying your contribution. Throughout we have in relation to the protection of the other persons, we have specifically included the retaliatory clause. For instance, “a prisons officer in the execution of his duty or any person aiding or assisting a police officer in his execution”. Is it something beyond that that you were looking for, and if so could I trouble you to guide me on that?

Sen. S. Sobers: Yes. So let us look at the police, that is on page 20. So at page 20, clause 4(i), I think it is, the way in which it reads is:

“A person who—”
—and you go through—

“assaults, threatens, obstructs or resists;”

And then it goes down to:

“a police officer in the execution of his duty, or any person aiding or

assisting...”

So it covers the police officer with respect to the obstruction and it covers the person who may be assisting. But when you go down to (2) it reads:

“A person shall not intentionally take any retaliatory action against—

- (a) a police officer;
- (b) the relatives, friends, associates or property of a police officer...”

But it does not contemplate the relatives, friends of the citizen who may have been assisting the police officers as well too. And those persons because it is a community-based situation that may very well arise, may find themselves at risk. So I am saying that we should amend to assist them as well too.

Hon. Al-Rawi: Thank you.

Sen. S. Sobers: Then in terms of tipping off again. So “tipping-off” is located throughout the legislation, the Bill before us. So an offence is created for persons within the society, citizens who may tip off members of the criminal element and whatnot to investigations, to a raid or whatever that may be taking place and I think it is laudable that we actually have created an offence for such actions. But what I think is missing as well too here is that the particular service individual— So you as a member of the public, you have A or Y information about a raid that is going to take place tomorrow at dawn or whatever the case is, and you go and you inform the elements that are going to be the subject of that raid, or you inform an element of the subject of an investigation that is currently ongoing that has reached a critical stage.

But the question is asked now: Where have you procured that information? It must be that you received that information from a member of the service industry. So it is definitely that a member of the police service, or a member of the

prison service, or a member of the immigration, fire or customs would have provided you, citizen A, with that information for you to now go and tip off these criminal elements about this impending raid or this investigation. But the legislation as it is framed currently or is being offered does not provide an offence for the service person who provides this information to person A to actually go and tip-off. I think because the source of the information would inevitably be that member of the service industry, he or she should carry—a greater penalty should be affixed to that person, and it is absent within the current Bill that is before us.

So those are two important points because obstruction and tipping-off is littered throughout the Bill before us, and I think those were two important points that are extremely pivotal and were missing when it comes to obstruction and tipping-off.

Now, getting into the Bill again specifically, I looked at clause 2 which dealt with the Criminal Law Act and the amendment. I mean, for far too long there have been many persons who would make false reports. I mean sometimes it is almost a common occurrence on a weekly basis of persons making false reports, and because the penalties are so low currently that police officers tend to basically just reprimand the individuals in some instances as opposed to charging and going through the process. Now that we are at least proposing to raise the fines and penalties and amplify it a lot, it is a welcomed approach because it would warn persons off from committing such an act. Why this was significant to me, there is an epidemic in the States—and you know we in Trinidad to an extent we like to copycat—so there is an epidemic in the States called “swatting”. What swatting is, it really started with video gamers. So gamers would be online playing all these video games online and because you are battling persons within the US and you

may know the person's tagline and where they are from, to distract them whilst this game is ongoing online they will pick up the phone and call the police and say, "Listen, in X house it have bomb that about to go off, and allyuh need you know to go down there now, now, now, now, now." And the SWAT team—[*Interruption*] Yes, that is exactly how it started. It is an epidemic in the States called "swatting".

I am informed from members of the service as well too that there have been one or two instances in Trinidad where instances like that have in fact occurred. So I think this is extremely serious that we nip that in the bud now to ensure that persons do not adopt such a foolish approach in wastefully employing police time. So I wanted to really put that on the record, because it is an epidemic in the States and it should not ever be allowed to reach our shores here in Trinidad.

Moving on, when you look further we start getting into the Prisons Act. Now, clause 3(c) of the Prisons Act—no, actually the section 3(d) that deals with trafficking. Trafficking in the prison service is also a very serious offence. It happens on a daily basis. I thought it was a good attempt to craft legislation to treat specifically with trafficking, because as the Attorney General indicated it is only dealt with within the regulations, and the sanctions that accompany trafficking is very miniscule. It is a waste of time. So that in terms of creating legislation to treat with trafficking it is a good step.

But my issue with trafficking or the way in which it is constructed here, is that what was not done is that there is no contemplation for how trafficking actually occurs. Trafficking as it is crafted here is specifically to deal with the prisons officers, but trafficking involves a chain of persons. So you would have instances where it would start, the person within the prison would inform a relative as to what is required, what is the particular item in the prison at that point in time

that is a hot seller. That prisoner may inform a relative, “Well listen, we need to get X amount of cigarettes within the jail”. And the relative now who forms part of this criminal chain now would go and either, in some instances, approach maybe the lawyer or approach the police officer now to get the item to the prisoner while they are in the courthouse, because that is where the majority of the items would flow into the prison.

Sen. S. Hosein: Really?

Sen. S. Sobers: Yeah. There are several persons throughout the chain that should have been addressed with respect to this particular trafficking legislation. One of those persons—and the time is running out. So the construct of the legislation only deals with the prison officer, and it should also have contemplated treating with both the police officers who would assist in such stuff at the courthouse, any other individual connected to it, be it the lawyer or the relative who assisted in terms of bringing the item. Also the prisons officer is actually the last person on the line when it gets to the prisons itself, because in terms of the random searching, if the prisons officer is paid properly well then they would forego making that person strip and do the squats and whatnot, whatever obtains there.

3.10 p.m.

So that is something that, I think, was missing with respect to the trafficking aspect of the Bill before us. Now, clause 3(d) also makes a specific offence for—well it has restrictions and penalties for transmission of videos and messages. And when I read this, it immediately brought me back to the second year of my call when, you know, we had to adopt a particular approach to a particular client that we had and stop dealing with the client.

Persons have to understand within our society that, again, a jail is jail, is a

jail, is a jail, so video recordings glorifying persons liberally walking through the prisons, smoking marijuana within a prison should never be allowed to see the light of day, and any person transmitting such videos should be penalized. But going further into the sting behind such activities is the fact that within some of those videos that you watch, there are coded messages that are passing through to the viewers who they intend to reach. Messages that would instruct persons upon how to continue illegal and nefarious activities while these gang leaders and bosses are currently within the prison. Coded messages that would instruct individuals to commit “hits” upon persons as well too are found within these videos, are found within normal texts messages, and that is one of the main reasons that it is extremely important for us to ensure that this particular construct is allowed to stand.

Apart from the coded messages of “hits” and instructions to continue trade on the outside, one aspect of the construct that it does not touch on is the fact that, I think, apart from the prison officers and maybe the prisons—the prison officers who may be charged under this particular legislation for sending these messages out, the persons, the civilians on the outside who are participating in these activities, they should be charged, because there is nothing that you could tell me, and as an attorney that would encourage me to allow you, a citizen or civilian on the outside, to be taking any telephone call from any prisoner whilst they are in jail. You want to see the person, there are particular hours at the Maximum Security where you can go and see them, go up there and sit down and wait. Yes, the service should be a little bit more efficient, because we as lawyers when we go there to see clients as well too, we have to wait sometimes hours before persons are brought for us to see them in the barristers’ room. But I would never be in support

of any citizen being able to take any phone call or video anything like that from any person within the prison walls.

I can tell you without a doubt, without reservation, when I used to practise criminal law heavily, anytime a client calls me from prison, I used to hang up the phone, I am not going to encourage that, and I would never want, especially now as legislator, to put it on the record, that that should be encouraged. So any civilian involved in such activity should also be caught under this legislation and be charged accordingly.

When we—so the Bill also deals with the Police Service Act as well too, and clause 4(c) of the Bill is amended to treat with situations where police officers would rent out equipment, clothes, guns and whatnot as well too, and I think that is a welcomed approach because for far too long now we have had several situations within the public domain where persons have been utilizing clothes and equipment and committing illegal acts upon our citizens without proper abatement, so crafting legislation to specifically deal with situations like that is, in fact, a welcomed approach. Right.

In terms of the Immigration Act now, I have practised immigration law for quite some time, and it has always been a pet peeve of mine when persons, foreigners, are charged under the Immigration Act in particular section 40 of the Act for a number of offences, be it entering the country illegally, being in possession of a false or fraudulent passport, being in possession of a legitimate passport but with a false stamp, being in possession of a legitimate passport with a legitimate stamp but with a false signature for extension. All of those offences in section 40 of the Immigration Act from (a) to (j), the penalty is three years and \$50,000, first-time offenders, everybody coming before the court, that is the

penalty.

But when one looks further at section 41 of the Immigration Act, you would have a situation where the—so it was highlighted by the Attorney General a particular part of the section 41, but my commendation with respect to increasing the penalty under section 41, squarely lies that it brings immigration officers definitely within the framework of being properly penalized, because previously as the Attorney General pointed out, you would have been fined \$1,000 and, I think, two months in prison.

When someone is held with a passport and there is some question as to the validity of the document in their possession, that passport has to be sent to the forensic centre. Immigration has a forensic centre at the Piarco International Airport where they will run certain tests on the passport to determine the validity of the passport, the validity of stamp, and the validity of the signature.

I have had numerous amounts of clients who would have been charged under that same section 40 coming before the courts, and upon taking instructions, I am told that they would have been brought to an immigration office, sometimes in San Fernando and in Port of Spain, would have met with an immigration officer who was in uniform who gave them the stamp for the extension on their passport, and then do a little “chicken scratch” signature and tell them, “Look, take that”.

So when they are caught in road block or in a raid and the Immigration checks the passport, each signature upon a stamp corresponds with an officer, because the stamp that is located on their passport is assigned to a particular immigration officer. So the Immigration officials know that there are errant officers amongst them, several of them. There is no way, you as an immigrant or an individual or a foreigner will be in possession of this stamp without having

visited an immigration officer. There are very minor situations where the stamp themselves are out of circulation or rotation as they are, and an officer would carry home a stamp or whatever and affix it upon a person's passport.

And after all, after highlighting this on a number of occasions in the media and elsewhere, at that juncture the law was not changed to bring immigration officers into proper question for their errant activities. If ever they were charged, basically compared to what the migrant or the foreigner would have gone through, they would just get a slap on the wrist and just get a fine of \$1,000, if ever charged.

So to increase the penalties now for these errant officers, I think it is a definite welcomed approach. It cannot be that we are continuing to do business as usual when these officers are the ones, in some instances, very few in number, taking advantage of persons within our country, the foreigners especially, and to finally craft legislation to treat with a situation like that, is something that I would definitely support.

As it pertains to Customs, there was a section 40 [*Interruption*]*—*you are sure about that?*—*where a customs officer would have simply been, the legislation allows for an amendment to just the actual dismissal of the customs officer, as opposed to increasing fines and penalties for that particular customs officer. I think in terms of the committee stage, I would want to raise an issue as it pertains to the wording of that particular section.

But, Madam President, all in all, as I said at the beginning of my contribution, I do believe that the time has definitely come for us as a Parliament, for us as a people to offer the necessary protection to our service men and service women, but as I indicated at the start, we need to conduct a proper balancing exercise to ensure that servicemen and servicewomen, given the responsibility that

they have to our citizenry and to our country, that they are also held to account for the wrongs that they may do, and that they purport upon citizens with this country. But as it pertains to the current ambit of the Bill with maybe some minor changes, I think, it is a welcomed approach, and it would redound to the benefit of the servicemen and servicewomen within our country. I thank you. [*Desk thumping*]

Madam President: Sen. Deonarine. [*Desk thumping*]

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate on the Miscellaneous Provisions (Law Enforcement Officers) Bill, 2019, which seeks to amend the Criminal Law Act, the Prison Service Act, the Police Service Act, the Immigration Act and the Fire Service Act, and also in addition the Customs Act. We are presented here today, for yet another time, legislation in an attempt to deter criminal activity in Trinidad and Tobago.

The Bill seeks to primarily do two things, increase protection to law enforcement officers through increasing the fines of various offences that range from use of prohibited articles, resisting assault, refusing to assist an officer in need, tipping off, to impersonating members of these law enforcement services. It also attempts to increase the fines for those law enforcement officers charged with misconduct in many forms. My approach to this Bill today is brief and for more an overall interpretation and I will comment in the context of our fight against crime and violence, as opposed to a clause by clause review.

So, Madam President, why do we need to increase the protection of law enforcement officers? Is it because the surge in crime over the years has made the job of law enforcement officers more vulnerable in their respective lines of duty? The job is obviously risky today as criminals are finding themselves innovative ways to sabotage the jobs of those protecting and serving. Or is it because of the

growing number of reports of police officers involved in crime such that such citizens are increasingly treating law enforcement officers with less respect and as a result we need to penalize the persons who misbehave with them? All of us are very well aware of the bad reputation that law enforcement officers get when we see headlines like, and I am quoting:

“Three police officers held in connection \$30,000 theft”

“\$350,000 in bail for cop on drug charge”

“\$750,000 bail for cop charged with accepting bribe”

“Safety officer assaulted, beaten by cops in the police station: Judge...criminally-inclined officers”—in the Trinidad and Tobago Police Service.

So, Madam President, we all know that the list goes on. It is quite easy for the public to make generalizations of the entire police service, prison service, customs and immigration services based on the criminal behaviour of a few, because law enforcement officers are meant to protect and serve, and they are expected to respect their offices. Even one case of abuse of their power is too many, but when the public hears the reports, some parts of us say, thank God they are caught, but another part of us is wondering, how many more of them are corrupt. It does something to public confidence and trust.

According to the Global Competitiveness Report 2019, the reliability of the police service in Trinidad and Tobago was ranked at 122 out of 141 countries. Although this is an improvement from the 2018 report where we were ranked at 128 out of 140 countries which I am assuming correlates to the appointment of the Commissioner of Police and his associated interventions, but being in the bottom 20 countries on a global scale says something is seriously wrong, the people are

having problems depending on the police service.

Madam President, while it can be quite attractive to increase penalties for breaches, how are we going to ensure that the increase in penalties is translated to increased accountability in the services? How are we going to ensure that there is sufficient oversight? While it may be clear that charges associated with misconduct, bribery and corruption, in all these services need to be increased, detection of criminal misconduct in the service must be handled more swiftly, and persons must feel safe in reporting such acts.

More importantly, identification of misconduct may be prevalent, but how are we going to encourage reporting of misconduct both within these services and among the population? How much of the population is aware of the role of the Police Complaints Authority and the avenues that exist through this independent authority for filing claims? We need to have campaigns informing the public on the avalanche of amendments to criminal laws that we make on a regular basis in the honourable House.

Besides, when the Police Complaints Authority completes an independent investigation and makes recommendations to the Director of Public Prosecutions of the criminal charges to be laid the Commissioner of Police, for example, also has to put in place disciplinary offences, and we expect that action must be swift. Depending on the type of investigation being conducted on average, a murder allegation takes almost one year with the Police Complaints Authority, and for assault allegations, investigations can take almost four months. After recommendations are made, then the case enters the courts where we know bottlenecks do exist. Even prison officers caught in corrupt practices have very low conviction rates due to timely processing, matters are stalled for years and

sometimes eventually dismissed.

According to the Fifth Report of the Joint Select Committees on National Security, Third Session (2017/2018) of the Eleventh Parliament on the final report on the Police Manpower Audit Committee laid in the Senate, in this honourable Senate on July 02, 2018, over 40 per cent of all ranks and ages of officers stated that corruption in the police service exists either “very much” or “much”, with a higher proportion of young officers feeling this way. In fact, the report continued to say that over 48 per cent of officers with less than 10 years’ service felt that corruption in the service exists “very much” or “much”; this is on page 71 of the report.

As we continue on page 71 of the report, the Joint Select Committee on National Security was told that there are officers who refrain from whistleblowing because of the fear of reprisal. This creates a challenge to gathering the evidence to support suspicions of wrongdoing within the police service.

In prison service, for example, the Commissioner of Prisons gave insights into a recent crackdown on corruption, prison officers. It was aired on the *Morning Edition* on TV6, on January 08, 2019. He indicated that there are challenges in terms of the technological deficiencies such as scanners et cetera, to scan prison officers. He also mentioned that despite ongoing monitoring to ensure prison officers do not pass through the system with drugs, it is made even more problematic because of the configuration of prison dorms. They do not meet international standards.

The issue of cell phones by prisoners and also prison officers continues to be a problem, and though I understand a threat analysis unit was established in the prisons, I am not sure how effective this unit has been in terms of finding these

corrupt prisoner officers.

So, Madam President, being a little bit forward thinking I cannot help but ponder what effect the amplification of these penalties would have on breaches under these different Acts. What would be the impact many years from now, two years from now, one year from now? At that point in time we should be in a position to say whether or not the increase in penalties would lead to a reduction in breaches by prison officers, police officers, immigration officers, et cetera.

In the absence of rigorous evaluation the effectiveness of these measures cannot be concluded with certainty. This brings me to the point on crime and violence, data collection and analysis. Correct me if I am wrong, but currently I am not aware of any law that governs the collection of and the sharing of data relating to crime and violence.

Currently, the Crime and Problem Analysis Branch of the Trinidad and Tobago Police Service collates official crime data, both at the divisional and at the national level therefore, this division determines what data is useful, both at a divisional and the national level. This unit is responsible for collecting, processing, analysing and dissemination of crime data generated by the Trinidad and Tobago Police Service.

So, Madam President, legislation that continues to come to this Senate to deal with escalating crime, mostly focuses on measures which seek to come into effect after the crime has actually occurred, and it also focuses largely on increasing penalties.

Studies that look at crime and violence from a public health standpoint, criminologists since 1976 have argued that exclusive reliance on suppressive approaches tend to fail since they fall short in identifying and addressing the root

cause of the problem, and as a consequence, the criminal justice system becomes overwhelmed because the rate of illegal behaviour may increase to the point where the justice system lacks capacity to adequately deal with the number of cases. Does this sound familiar?

Now, reverting to my opening statement where I said we are here, again, to pass laws in an attempt to deter the rampant crime situation, we have passed a multitude of legislation since my time here in an attempt to assist the Government and the Commissioner of Police in the fight against crime. We have passed two bail amendment Bills, the Civil Asset Recovery and Management of Unexplained Wealth Bill, firearms, magistrate protection, proceeds of crime, amendments to the Financial Intelligence Unit, non-profit organization Bill, Sexual Offences Bill just to name a few. But while we do so, it seems as if the criminal problem in Trinidad and Tobago is mushrooming, and it is mushrooming at a faster pace than these laws can seem to fix. Gang culture has become more entrenched in Trinidad and Tobago, and I say this based on my daily perusal of news in the newspaper.

So, Madam President, the amplification of penalties is okay once you have sufficient oversight of the Trinidad and Tobago Police Service, the prisons, the Immigration Division and customs officers. We have to ensure that organizations exist such as the Police Complaints Authority, such that they are fully functional and fully operational and have the necessary powers to deal with misconduct. With those few words, Madam President, I thank you. [*Desk thumping*]

Madam President: Minister of National Security. [*Desk thumping*]

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam President. Madam President, it is indeed a pleasure to have the opportunity, once again, to

join the debate in the Senate.

And, Madam President, I would like to emphasize at the outset the importance of this Bill, and the passage of this Bill not only to the Government of Trinidad and Tobago, but also to the officers, the men and women in the various services and the divisions of national security who this Bill touches their lives directly.

And at the beginning, I would like to place on record my personal thanks to the Attorney General and the former Minister of National Security Minister Dillon, for them listening to the cries which are the genesis of this Bill of the Prison Officers' Association, and then for them doing the hard work, and I came in at the end to assist in the mopping up and working with the Attorney General to produce this Bill, but also to thank the Attorney General for piloting it this afternoon. In fact, he was surprised that I asked him to pilot it because we are juggling a whole host of things.

Madam President, lest anyone in the Senate has a disconnect or not to use the word "disconnect", but does not understand the genesis of this plain genesis of this Bill, it came from a request of the Prisons Officers' Association who felt, and rightly so, that they were under a particular attack by the criminal elements in society, some of whom unfortunately are behind the prison walls. And it came at a time when the prison officers felt that their membership was being singled out by certain elements in the criminal empires including behind prison walls and targeted, and unfortunately it led to a couple murders of prison officers.

So one of the things when we met with the Prison Officers' Association is they said, increase the penalties, increase the sentences for those who target prison officers, and we listened to them. And then the Attorney General in his wisdom

turned around and said and it forms the mantra of this particular legislation. Well, if we are going to protect you in that manner, and we are going to increase the penalties in an effort to offer you that extra sense of protection, and I repeat, when we sit in this Senate and in the House, all we can do as legislators whilst in the Parliament, is pass law. So it always amuses me to an extent when I hear persons suggest, “Well, all you are bringing is law, all you are bringing is legislation for debate to solve crime”. That is the only thing that can be done in the Parliament, there is nothing else legally that I am aware of that parliamentarians can do to contribute to the fight against crime apart from being advocates on the outside against crime, but most importantly charged with the responsibility be it in the House or be it in the Senate to pass legislation to take the fight to crime.

So to get back to the point, we said to prison officers, if we are going to increase protection for you and your membership and your family members via legislation, it comes with the flip side of responsibility. You pick up one end of the stick, you must pick up the next end.

So on the same hand we understand or on the other side we understand that there are prison officers who engage in corrupt acts and activity, and this is unfortunate. And as I tell them on every occasion of interaction, once you go down that slippery slope and you cross the line once, there is no coming back. And the prison system is the perfect example of that, because unfortunately the prison officer who falls prey to the criminal element within the walls whilst performing his or her duties and thinks that they will take simple one-off act to take a cell phone in or to take prohibited goods in for prisoners on that one occasion, that is the beginning of the end for them, and they are on that slippery slope and there is no coming back out of it.

3.40 p.m.

Because we see in the prison system, and we are aware, we are not burying our heads in the sand, we are aware of the difficulties taking place in the prison system, and you would have seen, Madam President, as the population would have, over the last few months we have increased the asset base at the prison system. So, we have also gotten dogs, and we thank the US Government for that, that helps. We have increased the searching of persons going in and out of the prison system, and almost unfortunately on a weekly basis, fortunately and unfortunately on a weekly basis you are seeing the busts of prohibited items and the attempts to get them into prison. The difference is that we are making inroads and we are actually picking up the items before they get in. So this legislation on the flip side increases the penalties to the prison officers if they engage in any such activity, they engage in the helping. I have heard all of the conversation, I would like to take the opportunity, because I was listening whilst I was in my office to Sen. Sobers, I was pleasantly surprised, and when we have those types of contributions we should say so, and we should say that as citizens we appreciate, and no pun intended, with the sober conversation, and the way that Sen. Sobers presented his discourse to the Senate, and I want to place that on the *Hansard*. [*Desk thumping*]

So, this piece of legislation here today, as you have heard before, deals with the prisons, the police, immigration, fire and customs, and I would like to focus initially on the prisons. There is also a section in this proposed Bill, that has been passed by the House, that deals with a very important prevalent problem that we are facing in the prison system right now, and that is the use of devices, and the use of Internet, and the use of social media, and the use of what is deemed here electronic communications via devices, to not only communicate directly with the

outside world, but also to communicate via putting things up on social media platforms. I see Sen. Sobers has returned. Senator, in your absence I took the opportunity to tell you what a good contribution you gave and how refreshing it was, so in your presence now I repeat it and I thank you. Do not let those water it down.

So, electronic communications is covered in this legislation, and I just want to tell the population that we are very aware of those both inside the prison system, and those outside of the prison system who are using electronic means to communicate in an illegal manner, and the Attorney General, after listening to it and seeing the reports, brought this particular section for us to deal with it. So, for the first time we will have it as an express statutory criminal offence for the posting on social media platforms, but also the voice over Internet conversations. So the WhatsApp conversations that may be taking place, and these other means of communicating, which are really the continuation of the criminal empires on the outside by the criminals who are incarcerated.

And as Sen. Sobers said, when you are in jail, jail is for jail and it is all about jail, and he is right, and this particular section goes directly to the heart of ensuring that a jail environment is a jail environment. Because you see, despite what people may think, at the end of the day one of the reasons for incarcerating people is to take away some of their liberty. You must not treat them cruelly, you must not treat them in an inhumane manner, and we work towards those things, the improvement of the conditions. But there must be no free flow of communication, and it is a fact that right now there is too much, because one conversation is too much. There is too much communicating going on with those in the prison system and those on the outside of the prison system. And again it is an opportune

moment to put down yet another marker that those in the prison system who are incarcerated, some of them for murder, continue to communicate with the outside world to carry on their criminal empires, and unfortunately sometimes the people who are falling prey to being the communication tools in those instances are the lawyers in our society.

Every time we say this, is an outcry, but it is a fact. And now this legislation is a step in the right direction to criminalize that type of activity. Of course, lawyer/client privilege and confidentiality and those conversations are fine, but when you step over the line and you are now assisting in the carrying out of criminal activity and a criminal empire, that is something the authorities have requested of the Government, via legislation, that specific criminalization of that activity takes place. What this legislation seeks to do for the prison officers is to increase the fines, the penalties for those who attack prison officers and their families and threaten their families.

But it also, as I said, at the new introduced—the proposed introduction of section 8A, which falls under, I believe it is clause 3 of this legislation. [*Peruses document*] Correct, at clause 3 of the legislation, the proposed new section 8A, it deals with the trafficking in the prisons by prison officers. And this is the particular section, Madam President, I was referring too, that we are telling prison officers, do not go down that road. Do not assist in the provision of tools for the carrying out of criminal activity. So, if you do so, we are increasing the fines, and the sentences, and even imprisonment with respect to those prison officers who may find themselves in those particular situations.

Then when you go on and you look at the proposed section 8B and the other offences related to prison security, this is where now we are dealing with Voice

over Internet Protocols and communication and social media, and to deal with persons making videos, et cetera, and transmitting it from within prison. And you are right that we have seen the videos. In fact, just yesterday some were circulated, I think they were old videos of a certain gang, or members associated with a gang within prisons carrying on and seemed to be smoking illicit drugs and saying how they would continue their criminal empires. So we are telling them that is unacceptable, and we are passing legislation specifically to deal with it, but also as I say, the electric communications that are taking place.

A lot of discussion was had about tipping-off, and I want to join with the Attorney General in saying that the need for tipping-off legislation, and to criminalize tipping-off with all of the various services that this particular Bill seeks to deal with, and to capture, are necessary. Because just this week in a particular briefing, the Commissioner of Police, the Chief of Defence Staff, and the director of our intelligence services and myself were being told of just last weekend a particular operation being planned and about to be implemented, one that had been in the planning for quite a while, and as they set off it became apparent that there was tipping-off. And we are saying that when you do these acts of tipping-off, which are the service men and women, you are putting at risk the lives of your fellow officers, and we are finding ways from a practical, logistical, point of view to try and get around it, and this is not unique to Trinidad and Tobago unfortunately.

The criminal tentacles have a way all over the world of reaching from top to bottom, but once again the Senate today can show its commitment to provide the tools via legislation, and that is all we can do via the Senate and via the House, provide legislative tools in the fight against crime. And I heard the remarks that

the Government, all this Government has done, or a lot of what this Government has done legislatively, is bring legislation to deal with crime. And that is because the commitment of the Government is understanding, as I have said on numerous occasions in the Senate over the last few months, the reality of crime and how crime is affecting, and this is what we can do. The passage of pieces of legislation to deal with the evolution of crime that is continuously evolving almost on a daily and a weekly basis, the legislation must keep up with it, and we cannot criticize the bringing of legislation to deal with it, and criticize and say, well, why did you not do this previously, et cetera. We cannot change the past, we are dealing with it now. We also here are increasing the penalties for prison officers accepting bribes. I think it is obvious why we would want to do that. So what we are saying to the prison officers, and interestingly, just before coming here, I was speaking to Ceron Richards, the president of the Prison Officers Association, and they are happy, and they are waiting for the passage of this legislation, because they worked with us on the creation of this legislation, importantly assaults and retaliatory action against prison officers found at the proposed section 11, amendment to the Prison Service Act, and we are saying:

- “11. (1) A person who—
- (a) assaults, threatens, obstructs or resists; or
 - (b) aids or incites any other person to assault, threaten, obstruct or resist,

a prison officer in the execution of his duty, or any person aiding or assisting a prison officer in the execution of his duty, with intent to impede, intimidate or retaliate against a prison officer while engaged in the execution of his duty, commits an offence.”

Madam President, this is the provision that they are looking for, meaning the prison officers. This is married and coupled with the firearms they have been provided with, the stab vests they have been provided with, the other areas of national security we are working with through multi-agencies to offer our prison officers, the men and women who go out there and do their duty as prison officers, to offer them that extra protection. Not many people would have had the opportunity to tour the prisons and to see what it is that prison officers on a daily basis face, and the difficulties of their environment. So whatever we can do to make their lives that much safer, that much more palatable, I say to you the Senators here today, this is one of those occasions that you can assist them.

We then in this Bill move on to deal with the police service, and again we start off immediately by introducing increased fines and sentences for those who assault or resist or obstruct officers in the exercise of specified functions in the exercise of their duty. Unfortunately we see all too often again via social media that on occasions when our policemen and women go into certain communities to conduct their duties and to exercise their authority in a lawful manner, what they are faced with, and the attitude, and the push backs that they get by the community, certain elements of the community, and as we talk about in our briefings and when we are planning, you are seeing very often now the use of women and children when the police officers go in, and they are now being used by the tools to prevent police officers when they are going in to carry out in to carry out their lawful duties and activities, to prevent them from doing so, to make it more difficult. This is an opportunity for us to send a signal to them. There are certain things that are being done on the operational side, and I am sure the population would see in the not too distant future, but legislatively this is the opportunity for us to put down

our stamp, to put down our objection to that type of behaviour, when our men and women in Trinidad and Tobago Police Service, and the fire service, and our immigration officers, and all of the other officers discovers, are carrying out their duty.

And I say, respectfully, Madam President, it is a most important amendment being made to show the change in times. I am sure when everyone in here was younger they would recall when you saw police officers on patrol and the police vehicles going into certain areas, the respect that they were given. We need to show society, and it is the minority of those in society that we stand up here as legislators and provide that level of support by saying it is not going to be a \$500 fine, it is not going to be a \$1,000 fine. This is serious when you obstruct police officers in the conduct of their duty and we are sending a strong signal here. Again, the tipping-off, tipping-off is important, this particular offence, in dealing with some of the operations, or a lot of the operations that the police service go through. The Commissioner of Police himself and the executive are continuously battling with this problem. You saw the Commissioner of Police yesterday in a press conference talk about how difficult it is sometimes when you have police officers taking photographs, and leaking photographs of station diaries, et cetera.

The next section dealing with police officers again deals with assaults and action against the police officers, and it is us sending the signal that that is unacceptable. Police officers accepting bribes. There was a particular section in here that when we had dealt with it in the other place it drew the attention of the public, what some people were not aware of. What we are also doing here is seeking in this Bill to increase the fines and the penalties for those who provide officers whilst on duty with alcoholic beverages. And persons can immediately

understand in our society and the prevalence of that unfortunately taking place in our society of—this is a fact. Very often I am sent messages and photographs of police officers on duty, or you will see they will spend me pictures of a police vehicle, a marked police vehicle, outside of a bar, or police officers with alcoholic beverages in their hands driving motorcars, et cetera. So, again, we are sending the signal via legislation that we think this is unacceptable.

Immigration. Our immigration officers—so for example when you go down, when I went down to Cedros and I toured the immigration office down there, the officers down in Cedros told the very real examples that they faced at a time before the registration process, where locals would turn up and threaten them if they did not give passage and they did not allow certain immigrants in, et cetera, what could happen and these types of things. In fact we had one incident with an immigration officer up at Piarco saying that she was followed to her vehicle by an individual who is making a living, it appears, out of trafficking of persons. So what we are seeing here is we also capture the immigration officers to provide them with that extra assistance. And as I heard Sen. Sobers say, the live examples of unfortunately the bad apples, even in the immigration service, who may be providing the false stamps or assisting in the committing of illegal offences, and offences against the Immigration Act, so we are telling them on the one hand we will offer you protection, but on the other hand we are also going to increase the fines and the penalties if you breach the law, and if you engage in corrupt activity. Similar for the fire services, and then the customs.

So, Madam President, this piece of legislation, as I said at the outset, captures, the prisons, the police, the immigration, fire and customs, and what it is meant to do quite simply, is on the one hand, offer them increase levels of

protection by increasing fines, and in some instances, introducing new criminal offences, that may be committed in those environments, but on the other hand, increasing the levels of responsibility that we expect out of the various men and women in these services. At this juncture, Madam President, through you and through the Senate, I would like to use the opportunity to thank the men and women who, on a daily basis, 24/7, under these various services, sometimes in extremely difficult circumstances and environments, continue to do their duties and their jobs to make the lives of citizens of Trinidad and Tobago a safer one, and a better one. So I thank the prison services, the police, immigration, fire, customs. I use the opportunity to tag on there as well the life guards, defence force, our probation officers.

And all I would like to say, Madam President, in this very short contribution, but important contribution, I would like to just tell all of the Senators, that we look forward to your assistance in the passage of this Bill, and your contributions towards the effective passage of this Bill, and the effects that this Bill, and the specific offences, and the specific increases in penalties and sentences will have on the men and women in these various services, and to thank you all for continuing to have that conscience to help all of these officers make Trinidad and Tobago a safer one. Thank you very much, Madam President. [*Desk thumping*]

Sen. Saddam Hosein: Thank you very much, Madam President, for allowing me the opportunity to contribute to this debate, this Miscellaneous Provisions Bill, an Act to amend the Criminal Law Act, the Prisons Act, the Police Service Act, the Immigration, Act, the Fire Service Act and the Customs Act. All, Madam President, that deals with the increased fines and the creation of offences for persons involved under these various pieces of legislation who are classified as law

enforcement officers.

And, Madam President, from the Bill, it is quite an omnibus Bill, as it seeks to deal with all of these officers together, and tries to create some sort of consistency when it comes to the types of offences, the sentences that would be imposed for someone who is convicted, and also bringing all of these persons under the same piece of legislation, so that when we treat with all of these the court at the end of the day can really understand and discern what is this Parliament's intention when it comes to sentencing. And, Madam President, the Government gave the impression that this piece of legislation will assist with respect to dealing with some sort of corruption within all of these services, and also to bring some sort of comfort to the citizenry.

But, Madam President, we all know at the stage in which the criminal justice system works, for sentencing to take place is post-conviction. Because for any person to be sentenced first you must be found guilty of an offence. And while we may increase all of these offences, the sentences for them, and also to create new offences, it is no guarantee that this Bill will be effective. It would not be effective unless we deal with the problem of securing a conviction. We must increase our detection rate, we must ensure that the time in which you get a conviction is fast, and you must also ensure that you get a safe and secure conviction. Because, at the stage of sentencing, there are several factors in which the court will take into account, and this Bill deals directly, and most of it, with sentencing and the creation of maximum offences. And I think the population must understand what a maximum offence is, because in this case the offences that are being created are what are the highest thresholds which the court can order. And if, for example, let me just look at the first clause in the Bill which is clause 2. Clause 2 increases the

offence for wasteful employment of police time from \$1,000 to—all the way up to \$150,000. A \$149,000 increase, and also increase the term of imprisonment from six months to five years. But, Madam President, this does not mean that if a person is convicted of wasteful employment of police time, that they are going to be automatically fined \$150,000 or imprisonment for five years. It does not mean that? It means that that is the maximum sentence that person can receive.

So, creating an impression that we are increasing fines is not the end of it. There is a sentencing commission in Trinidad, there is also the Judiciary which is independent, and Parliament must not tell the Judiciary how they must sentence, because at the end of the day that is the discretion of the judicial officer. But, Madam President, I as a member who practises at the Bar, let us just say hypothetically I am representing a client who is charged with wasteful employment of police time, and my client is convicted of that offence, I find it very difficult for a judge to sentence that person to a fine of \$150,000 and/or any term of imprisonment. Because, Madam President, you will appreciate that there are more serious offences in this country, and persons are not given such a harsh penalty. So, I do not see whether or not just raising this fine to this enormous amount would actually be something that a judge or a magistrate may actually sentence a person to. I do not know if my colleague Sen. Sobers will agree with that, because there are much more serious offences that may not warrant such a high fine. So I am saying that when we create offences we must look at other offences and create that sort of comparison to see whether or not what we are implementing in the Parliament is in line with other more violent and serious offences. Because it cannot be that an offence for just wasteful employment of police time could probably carry a higher penalty to that of, let us just say an assault on someone's

person. So that is the first point I would like to make, Madam President.

The second point is that this Bill is really geared towards deterrence. It is geared towards deterrence, because you have increased fines and you impose harsh sentences if you want society to behave in a particular manner. Because if these offences carry these high penalties and high sentences, you would appreciate that someone will be not inclined to committing a crime because they know that, listen, I would be fined this enormous amount and I would also be imprisoned for such a long period of time. So it acts as a deterrent. But, in order for a deterrent to be effective you must have two other factors, and those two other factors are: One, that you must have the certainty of a conviction, and you must also have the expediency of a conviction. Because that in itself will comprehensively deter a person, because once you have detection rate increase and you have the surety that a person will be convicted, you also have that happening very expeditiously in a few months, or—and also you have harsh sentences, persons may not be inclined to committing criminal activities in the country. And that is a problem that we currently have in the criminal justice system, because we have cases that are sitting in the criminal courts for decades in some instances, and there can be no light at the end of the tunnel in those cases, and criminals understand this. They are bright. They conduct an enterprise because they know they commit their crime, but they are not going to be convicted until the next 10 or 20 years, in some instances. So, we must fix that overhaul in the criminal justice system [*Desk thumping*] if we are to increase these fines for there to be some sort of effectiveness with respect to this legislation.

I can give with one instance, Madam President, and this has been in the public, this deals with the prison break instance where recently members of the

service commission appeared before the Joint Select Committee on National Security in a public hearing, and you would have found that in some instances disciplinary action alone by an administrative tribunal in this country can take years, can take years, Madam President. So imagine an administrative tribunal where the rigidity of the evidence in terms of admission of those evidence is not as harsh as the criminal courts, take three years. Imagine what happens in the criminal courts where there is rigid objection and very strict rules with respect to the admission and testing of evidence. So, all of these things may sound good, but it must be implemented in the reality of the system. And the current reality of the system is that, I am sure if somebody is, when this Bill is passed and somebody is charged with any one of these offences, that a conviction is not soon, a conviction is not coming any time soon. So this Bill will take several years before it is probably applied because you have to first find and secure a conviction, and that is an important point that the Government needs to take into consideration.

Madam President, under the police service, because this Bill deals with the police service comprehensively, when you look at the police service there are three ways in which a police officer can in fact—a police officer, with respect to all of the other officers, has to answer most accountably. And I say this because they are subjected to, one, the criminal courts, two, the Professional Standards Bureau, and three, the Police Complaints Authority. The other officers do not have all of this rigidity and layers and manners in which they are to be accountable for their actions.

4.10 p.m.

But, Madam President, the police service in terms of their convictions for officers who are errant, I was expecting that the Government could have provided

some sort of statistics with respect to these manners in which the police service and those officers are convicted. But luckily, Madam President, just last week all of us as Members of the Senate received a package which was the Police Complaints Authority 2018 Annual Report. And in that report it was very worrying, and I am looking at page 32 of that report which gives a statistical report for the period 2017/2018 with respect to the Police Complaints Authority.

And, Madam President, that report says that there have been 725; 725 initial reports for the period October 01, 2017 to September 30, 2018. And, if that figure is not worrying, especially in our police service with respect to those high numbers of complaints that are being made, then there is some sort of issue that we must address. And my respectful view is that this Bill, while it may be well intentioned, it is not going to address that issue. And they gave a breakdown with respect to the allegations that were made against police officers. The first one is police corruption and it is 29. That is the number of allegations. Serious police misconduct, 389; the commission of a criminal offence by a police officer—the police officer who should be charging persons for committing criminal offences—there are allegations of 255 complaints made against police officers who committed criminal offences within one year. That is some worrying statistics with respect to this matter. And the time in which these matters are disposed of, we do not have any sort of statistics to guide us with respect to that.

Now, I am looking at the types of criminal offences that these officers will be engaged in. They are engaged in assault, 176; larceny, 58; fraud and corruption, 54, and the reason why I am quoting these two figures, Madam President, is because these are offences of credibility. And clearly, if we have an issue with respect to credibility within the police service, we have to look at the recruitment

exercise and the sub-culture of the police service. Because, if we have to come to this Parliament to bring a Bill to increase fines to deter our police officers from committing criminal offences, we have a serious issue. And it goes inconsistent with the Government's policy. Let me say this, because this week you have brought a Bill to the Parliament to say, well, we have a serious problem in the police service with respect to the conduct of officers. But last week you brought a Bill to the Parliament that deals with bail for police officers who can in fact frame citizens of this country and deny a person bail for up to 120 days.

So it shows some level of inconsistency with respect to the Government's approach on policy when they deal with legislation. Because, Madam President, you will well appreciate that there are in fact members of the police service who engage in criminal conduct based on the statistics. But I just ask the Attorney General for some guidance, whether or not these offences and the amendment to the Police Service Act, through you, Madam President, to the hon. Attorney General, and I could probably give way just to get some clarification, is whether or not these offences will also apply to the special reserve officers, because I know they are governed under a separate Act of Parliament.

Hon. Al-Rawi: The SRPs are governed under a separate Act and they would have to be treated with in a different way. The amendments that are going on with respect to them right now involve us trying to work out the process from the Privy Council decisions. So we have kept that apart. There are estate constables as well, so there are a few other categories of people not yet included but specifically not yet addressed because there is some Privy Council decision retrofitting that is going on.

Sen. S. Hosein: Thank you very much. Thank you very much, Attorney General,

for the guidance. And the reason I raise this point, hon. AG, is because when I looked at the Police Complaints Authority Annual Report, at page 83 of that report they also raised the concern. Because it reads that, they made a recommendation that:

...the PCA Act—the Police Complaints Authority Act—also be amended so that special reserve officers can fall under the regulations, so that they can also be dealt with under the PCA with issues of serious police misconduct allegations.

And according to the Police Manpower Audit Report, Madam President, there are 1,477 full time SRP officers and 626 part-time officers. So it shows that we have a large complement of officers that would not be captured under this particular legislation before us. So that is about, let us just average, about 2,200 officers who will not—police officers, SRPS, who will not be captured under the present legislation.

Now, Madam President, when you look at the particular piece of legislation it goes on to talk about correctional rehabilitation centres. But I heard and I listened to the Minister of National Security and he spoke about prisons, that it should be a place of—he spoke as though that the prison should be a place of punishment. And yes it is a place of punishment, because it restricts someone's liberty. But the ultimate aim of the prison service is that of rehabilitation. So at the end of the day, Madam President, you cannot just speak of the prison service as though it is just going to incarcerate persons. And you would realize that we have to treat with what is happening in the prison service now, with trafficking, with prohibited articles that are all covered under the Bill because there is no proper

rehabilitation at the prisons, Madam President. [*Desk thumping*] Because the Government must also deal with that, because as the Minister of National Security says that all this Parliament can do is pass laws. But as a Minister what you have to do is do the work and you have to implement your policies and distribute your resources in such a manner that we do not have to come to this Parliament to pass this sort of legislation in order to deal with these things.

But quite interestingly while reading the Bill I saw that the Attorney General included in the Bill the list of prohibited articles and it is an exhaustive list with respect to Paragraph A and I appreciate that the Attorney General also kept prohibited articles under the Prison Rules, because that way you can include other items as you go along.

But, Madam President, when you see the list of prohibited items I was very concerned when I was reading that they included letters, papers and books, but then I saw the caveat at the bottom which says that it must be prejudicial to the safety, security and good order and discipline of the prison. So I was satisfied when I saw that part of it. But it also includes something very interesting, which is mobile telephones, cameras, recording devices.

Now, Madam President, and I expect the Attorney General to address this issue in the winding up of his presentation. That issue deals with the prison jammers. I do not know what is happening with the prison jammers at the prisons, because—

Sen. Ameen: Phone jammers.

Sen. S. Hosein: Yeah, the phone jammers. Because quite recently and very frequently you see lots of videos being filmed from the prison service. And there is a range of things that happen inside of there. You see sometimes, fights, you see

men smoking, just singing and liming in the prison and then sending these things out on Facebook, on social media. And it is quite worrying, Madam President, because some persons outside of the prison system, right here in Trinidad and Tobago, cannot afford to have data on their cell phones, whereas you have prisoners in our prisons filming videos courageously showing their faces and then publishing it on social media. That in itself is how blatant and arrogant these persons are, that they know that they can do these things without any sort of serious repercussions. And that should not be where Trinidad and Tobago should be. It is just mind-boggling to see some of this craziness that happens in the prison service.

I was doing a little research on the prison jammers and I happened to come across a Joint Select Committee Report on Human Rights, the Human Rights Committee, where an investigation or an enquiry was done with respect to the prisons. And this was the Fifth Report of the Third Session of the 11th Parliament, and it dealt with the operation of the cell jammers at the Remand Prison, the women and MSP, the Maximum Security Prison. And in 2017, Madam President, the report indicated that these jammers were operational. But if these jammers are operational, I cannot understand why these videos find themselves on social media, because they can only come out of the prison service. And if we have all of these things in place and they are operating properly, you can actually cut the criminal out of they sending certain messages and directions from inside of the prison wall. Because that is real. Because there are crimes in this country that will take place because of instructions and directions given inside of the prison service.

I looked at the amendment to new section 8B of the Prisons Act, Madam President, and I saw that it included images and sound recording. I do not know

whether or not that would have—if video recording will also be covered in 8B, because it spoke directly of “image” and when I look at the definition of what image is, a photograph, it spoke of:

“(e) ‘photograph’ means a recording on any medium on which an image is produced or from which an image may by any means be produced;”

Hon. Al-Rawi: Restricted document.

Sen. S. Hosein: Restricted document. I do not know if—yeah, that is the definition found at page 9 of the Bill, AG. I am seeing “photograph”. I thought it would have been whether or not we should specify “video” because I know we are dealing with a particular piece of legislation and we have found a formula that would have defined video. But I do not want to go into details of that as it is before a committee. So we can probably look at that definition of video.

Now, Madam President, I am moving on again to clause—the amendment to the Police Service Act with respect to section 50G and that is found at page 15 of the Bill. And this deals with a person who refuses to give his measurement or take a photograph or fingerprint when he is in the custody of the police. And the fine in that case, in that instance, is increased from \$10,000 to \$50,000, and imprisonment from two years to three years. Now, Madam President, that deals with the police taking the person’s measurement, taking their photograph, and three, their fingerprint. So I married that and I looked at the DNA legislation, the DNA Act. And the offence for the DNA Act, if a person refuses to give an intimate sample, the maximum sentence there is \$10,000 and two years’ imprisonment.

So the bottom line is that if a person refuses to give a DNA sample, the sentence for it is actually less than if you refuse to give a fingerprint, a measurement or a photograph. So I think we should have some level of

consistency with regard to those requirements that police officers have to comply with when a person is in custody and being processed for the court. And you know, this is a little segue, Madam President, that I cannot understand why someone who is in custody will refuse to give a fingerprint, because at the end of the day it is beneficial for them to give a fingerprint because when you come to court, Madam President, and you make an application for bail the police will say, well, listen, we have no tracing on this person because they refuse to give a fingerprint. So I cannot understand why someone will refuse to give their fingerprint in the police station, because it is actually beneficial to them in order to secure bail in a quick manner. That is one of the other issues I would like to raise with respect to that.

Now, I know there is a lot that has been said about lawyers and I would not repeat the words that the Prime Minister would have described lawyers in this country. But I would just like to say, Madam President, that I am totally—I want to put it on the public record, that I do not support the view of the Prime Minister and I condemn it to the highest degree. [*Desk thumping*] While there is an issue and there may be issues with respect to attorneys, you cannot label them like that, Madam President. It is inappropriate and disrespectful to the legal profession to label attorneys in that manner. And I say this because this directly deals with clauses in the Bill.

In terms of the tipping-off offences and the protection of legal professional privilege. I am glad that there is a defence with respect to that particular offence when it comes to legal professional privilege. And I totally agree with it. That if an attorney at law is engaged or furthering any criminal enterprise you should face the court, you should be arrested and charged if you are furthering a criminal

enterprise. But you do not go on a public platform, on a political platform and cast all attorneys as some other word that is not even parliamentary that I cannot repeat in this House, Madam President. I cannot repeat it in this House.

The other offence and the new offence that is being created is with respect to the trafficking offence. The trafficking offence, Madam President, there is a series of actions that will constitute trafficking. And I saw—I am looking at the prison, all of the trafficking offences are very similar. And I see that there is a caveat with respect to that, it deals with pecuniary interest and business enterprise. So that prison officers—it deals with the issue that prison officers sell items to prisoners. And I remember I had a client, and I am not prejudicing anyone, but he indicated that a cigarette sells in the prison, one cigarette for \$100. So you could imagine what a cell phone or a phone call may go at. And you also have to imagine where the criminal and the prisoners are getting this money to pay for these items. And these transactions, yes, must be clearly dealt with. But I agree that we should create that fine for trafficking. But what about detection, Madam President. The best way and the best evidence and the best deterrence for this to stop is to ensure that we have proper CCTV cameras working in the prisons so that you can track and you can see whether or not the prison officers—and it is easy to detect and convict based on the CCTV evidence in the prison, and that is an issue that we have to deal with seriously.

But I know, hon. Attorney General, I also would like if you can touch on this in the winding up, is that I saw in the last clause it deals with, with respect to trafficking, is that you speak of any benefit whatsoever. Now, retaliatory action is a separate offence and this is where I am going with this, is that if someone who is a prison officer is threatened, that I need a phone call otherwise I will kill you or I

will kill your family or whatever. Whether or not that—and they carry the cellphone, whether or not that will be a defence for that person. Yes, the prisoner will be charged for that retaliatory action.

Now, I know there will be the defence of duress and all of those other common law defences, but, Madam President, in this particular instance whether or not just like how we have the exception to the legal professional privilege, I know prison officers will want to use it to their benefit and say well, listen, all of them threatened to kill me or my family so I am going to give them the call. Two issues; one, whether or not if they do it they will be captured under this if they have been threatened by any sort of prison officer.

The second issue is whether or not we create some sort of exception or some sort of mechanism to deal with those instances. Because those are where it comes because you will have the prison officers, you will see them on TV very often having press conferences with respect to the threats on their lives, that they are forced to do certain things with respect to the criminal element that is in the prison system.

Now, Madam President, I want to end before we go for tea so I am going to conclude my contribution if you will give me the extra two minutes if I can? [*Laughter*] And I just want to say that the Attorney General started off, he started off his contribution with the blame Kamla syndrome, but I thought by now that may have concluded after Monday's results, Madam President. [*Desk thumping*] Then I heard that the Minister of National Security was congratulating our bright Senator, Sen. Sobers, so I thought that the licks got them a little “bazodee”, Madam President. [*Laughter and desk thumping*]

Madam President, as I conclude my contribution on this Bill I just want to

say that we have some issues that we will deal with at committee stage and thank you very much for giving me this opportunity. Thank you. [*Desk thumping*]

Madam President: Hon. Senators, we will suspend the sitting and we will return at 5.00—two minutes past five. [*Laughter*]

4.30 p.m.: *Sitting suspended.*

5.02 p.m.: *Sitting resumed.*

[MR. VICE-PRESIDENT *in the Chair*]

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

Sen. Paul Richards: Thank you very much, Mr. Vice-President, for recognizing me and allowing me what I hope will be a brief interjection on this, a Bill to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01.

Let me say from the onset that it will be figuratively criminal of me not to support this Bill because of its intention. It is very clear that we are doing right by our members of our protective and law enforcement services in Trinidad and Tobago to provide an extra layer of protection for them and their families in the execution of their duties. And as many speakers before me who would have indicated, many of these areas have seen in particular prisons and the police service, persons losing their lives because of the criminal element having a sense of impunity where they are concerned.

To me this Bill is extremely commendable because it seeks to offer greater levels of protections and deterrence against criminals threatening and harming members of our services, including, police, prisons, fire, immigration and customs and to me it is about time. But as many have said before and in the context of we

as a Parliament passing laws, according to the words of the hon. Minister of National Security, all we can do is pass laws, he said but to me we must always pass laws in the context of what exists in society and not in a vacuum. So while we as a Parliament have continued to pass laws to give more and more discretion, authority and power and resources to many of our armed services, to whom much is given, much is also required. There is a responsibility that comes with this added power they have. And I believe that quite frankly, that some of these fines could have been increased and heavier fines may have been proposed to errant officers inside these services who continue to do a disservice to their colleagues and to members of the public in many cases.

In many cases we see officers have information and insight to undermine their colleagues and put them and members of the public in grave danger, in some instances contributing to their murders and death. Among my main concerns are the mechanisms that facilitate the identification, prosecution and conviction of errant officers in these categories especially when we are offering these extended layers of protection as we should to them and their families in terms of us passing and amending laws. Because in Trinidad and Tobago as we know, we are very good, we are very efficient at passing laws and amending laws. But our record is abhorrent on effective and consistent application of these laws for many reasons, including in many cases the mechanisms and structures inside and independent of these organizations that in most cases have not evolved to deal with the issues.

So the errant officers have and continue to operate with impunity and boldness because they know that the likelihood of being caught is so marginal. So greater penalties do not necessarily translate into effective meeting of the objectives in terms of the protection of the officers and their families. For

example, Mr. Vice-President, through you, the Police Commissioner is on record as saying in many interviews that he created SORT, the Special Operations Response Team because he could not trust intelligence to all aspects of the police service. In many instances he said, very recently on an interview that they would plan operations to take down criminals and when they get to the venue of the target the alleged criminals will be waiting and offering them a cup of coffee and tea, welcome. Because they got the information beforehand. And this is not uncommon.

So I think dealing with the—one, putting the several, different and more intense layers of deterrence in terms of the penalties and fines for persons who seek to harm protective services and their families but also the mechanisms for weeding out corrupt officials is equally as important and to me part of our responsibility if we are to pass law that is effective. A classic example to me and I will give two examples actually.

One is something described in Trinidad and Tobago that occurred on March 23, 2015, as a day of total policing, which I would like to call a day of disgraceful policing, because of the impact it had on Trinidad and Tobago. So we should just stop calling it a day of total policing because it was not policing it was disgraceful. And in that regard we have never been able to get closure on who would have been responsible if we are to believe some sinister motive was afoot on that day. So I think we really have to look at those situations.

Another example that I can give is the prison break of 2015 and the fact that to date, no one has been held responsible and someone may have been complicit inside the walls of the prison among the ranks of the prison officers who may have actually facilitated the weapons that ended up inside the prison walls and the

facilitation of that prison break which ended with the life of a police officer being cut short. And these in the context of what I say with this law being very commendable, we also have to look at that side of it. Because without that we cannot bring those complicit persons to justice.

And I will tell a little story about a friend of mine who gave me a story several years ago, he no longer lives in Trinidad and Tobago. That while—I think the Attorney General and the Office of the Attorney General have been very careful in terms of the provisions in this Bill to provide detailed specification as to many different opportunities for malfeasance on behalf of persons inside and outside the protective services to be identified in court. As individuals this story will show that there are actually gangs of officers operating within the TT Police Service; gangs of officers who act collectively and who in many instances threaten officers if they want to report what they see as corruption within the TT Police Service.

5.10 p.m.

And this story is a pretty short story, with a young man going into the service when he was 23 years old being taken out on training and taken on a run to Blanchisseuse by officers doing what he thought was a routine run, and when he got there what he encountered was obvious criminal activity on behalf of his colleagues. So he said, “I doh want no part ah dis. Dis is not wha I sign up for.” And they told him in no uncertain terms that, “Leh meh tell yuh something. It have officers in front ah yuh and it have officers behind yuh. So if yuh doh shut yuh mouth about what yuh see, is very easy fer yuh tuh pick up something and fall dong on de ground.”

And that is an example of a gang of officers operating collectively, and this

young man was new in the service. When we got back to the station he saw in his locker \$20,000. So he put his hand into the locker and took it out. A couple hours after he saw a video of him taking the money out of his locker. So one of his colleagues filmed that as evidence that he may have been also complicit, and told again to shut his mouth. He did not last three years in the service because he just could not operate in that manner. He was not brought up in that. And that is not one officer operating individually. That is a gang of officers operating and breaking the law within the TT Police Service.

So I am not surprised that the new Commissioner of Police formulated SAUTT, the special operations unit in the TT Police Service, because with all the goodwill he has that he has shown for the rank and file of the TT Police Service, he really cannot trust information across the rank and file because it will just serve to undermine his efforts and put many of their colleagues in danger. And when we look at what is happening, there is—of course, we all know about the blue code of silence, and the adverse effect that has on officers who may see wrongdoing, may suspect wrongdoing, know it is their lawful duty to report the wrongdoing, but because of the culture in the TT Police Service—I am using the TT Police Service, but it translates into prisons, customs, immigration, fire, et cetera. So the police service I am using as a euphemism for all the protective services.

And why is that? So I looked at a really interesting book by Dr. L. Scott Silverii, called *Why Good Cops Go Bad*, and it proffered several sociological theories which we really have to take note of if we are to understand how to deal with the issue of the culture of corruption, that if not dealt with—and it has not been dealt with in Trinidad and Tobago for a long while—grows and grows and fosters within organizations like the TT Police Service. And part of it is called “the

code”, which is the abstract concept of the thin blue line which solidifies participants’ loyalties while excluding the served public from engagement and accountability. Two, and this one is a very, very interesting—not theory now, but something that is widely established. It is called: “Detrimental Homogenetic Entitlement”, which: “...occurs when people of influence exercise force or intimidation to protect a false sense of deviant entitlement or privilege”

—which is what happens in those circles. And they call the groups that form “Special Operations Groups” (SOGs) that foster and grow in the absence of some of the provisions in this Bill that seek to deter that sort of activity. But it also has to work, according to the details in the book, with a really strong internal and external mechanism for identifying and prosecuting these errant officers in any of these establishments. And I think that is partly where we need to place our emphasis when we do the commendable things, and in the AG’s case, bring legislation like this that seeks to protect officers who are, to me, the primary issues being undermined by corrupt police officers.

And the other aspect is called “Fitting In”. So as officers become more and more acculturated, they move further and further away from the central tenets of the organization, which is to protect and serve. And because they now operate like a gang and a group within the service, they are less likely to, one, report, or two, conform to expected modes of behaviour. And if you look at the last 20/30 years of the TT Police Service that is exactly what has happened. It is precisely what has happened, and the laws, for example, the provisions in this Bill, have not kept up with the criminality that is happening inside and outside of the service. So I think while every one of the provisions in this proposed legislation, I support, I would support stiffer penalties, stronger fines and I would also—and I do not know if it is

legislatively possible, but also put some stronger penalties and fines for officers who are found to be operating as a gang. Because in these provisions they deal with individual responsibilities and the implications for individuals caught thwarting the law in any of these arms of the protective service.

So I think if officers are found to be working in concert with each other to break the law and to threaten people and to induce criminality, they should be dealt with in no different ways than we deal with gangs outside the TT Police Service or prisons, or any of these organizations. So I think that is something that the AG can take on in terms of a consideration. Because what really happens is that they develop more and more brazen understandings of what they can do and get away with, and you find that instead of becoming better, it becomes worse. And, you know, my colleague, Sen. Deonarine, also spoke about the importance of institutions like the Police Complaints Authority and us making sure that that is resourced effectively. I understand—which is some good news—that the Director who has been in abeyance since November 7th, is soon to be reappointed, which I think is good news, finally, because my understanding is since November 7th, because there is no substantive director of the PCA, the organization is rendered impotent. So I understand that is soon to come to fruition and he is to be reappointed, and I look forward to him to continue his good work.

Hon. Al-Rawi: The President's office called in today, so it is something that is being perfected, I believe, with immediacy.

Sen. P. Richards: Thank you, AG. As a media practitioner I do not want to give out my source, but that is also the information that I have heard. So I was really happy to hear that, because I think—and I will put it on record—Mr. West has done an excellent job in that regard [*Desk thumping*] and there is no reason why he

should not be reappointed to continue his good work. So I am really happy that he is going to be reappointed to continue his good work, given the kinds of—the number of cases that Sen. Hosein has pointed out in terms of complaints that have come before him—over 200 criminal complaints.

And I am not saying that the PCA is there to convict errant police officers. It is also to carry out fulsome investigations to exonerate officers who have been wrongly accused. So very often we go to the default, well, once they are accused they are guilty. That is not the case and the PCA has been very effective in being fair and transparent in terms of championing those investigations, and I think it needs to be commended.

One of the things also we need to look at—and it is in all the oversight material in literature that is widely available—is a concern we have, or I have, about a possible duplication or duality where the Police Complaints Authority and the Police Professional Standards Bureau are concerned, where, according to—I hope I am interpreting it correctly—the Police Complaints Authority is the only body legislatively with the remit of investigating criminal allegations on behalf or within the ranks of the TT Police Service. So I am wondering if that is there, what is the purpose of the Police Professional Standards Bureau? Because I know—and the AG is laughing because he realizes there is a problem there also, and the Police Professional Standards Bureau should actually have ceased to exist once the PCA came into being, because the Police Complaints Division investigates, to my understanding, complaints of indiscipline as opposed to criminal activity.

So when you have that sort of situation, it is very easy for errant officers to slip through that duality and, to me, that needs to be urgently addressed, and also the cries of the director and former director, who is now Justice Gillian Lucky, to

give wider remit of particularly investigative powers, or more stronger investigative powers to the Police Complaints Authority, because very often the Police Complaints Authority has to wait on information from the TT Police Service. So it is very easy to cherry-pick what information you send and do not send to the Police Complaints Authority in terms of investigations. And that cannot be an ideal situation.

If there is a police killing, which may be very lawful and within the realm of what the police faced and how they acted in terms of protocol, to me the Police Complaints Authority should be on spot as soon as possible to oversee the collection of evidence to ensure that they get all the possible evidence to either exonerate or recommend a prosecution of the officers who may have crossed the line, and that is not presently the case.

I also want to go to, in terms of understanding the link between process and achieving the objectives of the provision in this Bill in terms of the prison service and their investigative processes and why possibly we cannot look at—and this is a suggestion—widening the ambit of the Police Complaints Authority to the Protective Services Complaints Authority so it includes police, prisons, immigration, customs, et al. Because there is no need to have three or four agencies doing that one functionality, and they all need independent credible investigative processes. So, to me, that is a possibility, a suggestion, to widen it to that and call it “The Protective Services Complaints Authority”. Because the PCA has proven beyond a shadow of a doubt that it is able to fulfil its mandate and it can do a lot more in terms of bringing errant officers to justice. So just a suggestion.

AG, I also want to question, or just ask if in terms of the remit of the provisions in the Bill—because I saw a definition, as, I think it was Sen. Hosein

said, specifying audio recordings, and I looked at the part that you directed us to and I did not see any reference to video recordings. So is it understood that “photograph” means video? Because it specifies photograph, and I did not see a specification of video recordings.

Hon. Al-Rawi: Thank you for giving way. I thought Sen. Hosein made a good point. I had an interesting discussion with our CPC’s team who thought that images went there, but out of an abundance of caution we may very well be looking at an amendment at committee stage just to be expressly wide in our views there. So we are taking notes as we go along.

Sen. P. Richards: Thank you very much. Much appreciated. And also—and this may sound like my conspiracy theorist mind going on, because I have heard information that is not covered here, that has happened in other jurisdictions where inmates who want to communicate with their criminal colleagues outside have developed certain codes: someone who visits me three times continuously, the deal is on; three different people visit me, the deal is off; continuously. And other jurisdictions are looking at all sorts of manner of coded communication between inside and outside to facilitate continued criminal activity. I know it is kind of mind-boggling, but we have to understand how revolutionary and evolutionary the criminal element is in other jurisdictions, and we learn very quickly in Trinidad and Tobago, and we seem to be able to import those modalities very, very easily in Trinidad and Tobago. So out of an abundance of caution I think it may be something we have to look at down the road, especially the way technology is evolving and the access to technology is evolving inside and outside the prison walls.

I just also want to add that when we say prison services in Trinidad and

Tobago, and castigate the mechanisms, I have had the privilege of recently being allowed access to several inmates inside maximum security because of a project I am working on, a sociology research project and also a video project which is aimed at really a deterrent factor for young people who may be thinking or involved in crime by using testimonials of convicted inmates. And I will tell you, maximum security is a well-run organization. And not only that, the technology for jamming is operational there. So we need to disaggregate maximum security as an institution from what may be happening in Port of Spain and/or in Golden Grove, and the conditions and the disparities within those.

I also want to add that, in talking to over 20 persons at maximum security, their restorative justice programme is excellent there, because they have several programmes: music, art, information. They get certificates for participation; they show a sense of contrition that is obviously akin to some sort of effective rehabilitation programme. The problem is—and this is in the words of the President of the Prison Officers Association, Mr. Ceron Richards, when he recently came before a Joint Select Committee—and it was broadcast, Mr. Vice-President, so I know I am not breaching the Standing Orders—that there is no mandate to offer restorative justice or rehabilitation protocols to remandees, and remandees, as we well know, can spend up to 15 or 17 years on remand. So if there is no mandate to, at some level, offer some sort of rehabilitation services to somebody who is spending upwards of 10 years under those conditions, they are being socialized in the way that we do not want them to. So just because they are in the remand situation—and I understand why in principle it is not so, because a remandee has not been convicted and is not expected to spend a lot of time behind bars before he or she goes through the criminal justice system to either be convicted or

exonerated—our scenario is that remandees are spending up to 17 years. So, in principle, we have to operate in the context of what is our reality. So if someone is spending 10 years on remand, that person should be exposed to a significant level of restorative justice protocols, because if you do not, and in the conditions that we know remand is, they are going to come out—and we have seen it—harder and harder criminals, as is evidenced by our 51 to 55 per cent recidivism rates. So I would like to suggest that that policy—and I know it is a policy born out of sound principle, but is it not grounded in terms of our reality of what exists in Trinidad and Tobago.

I said I am going to be short. My suggestions in terms of the other aspects of this is that—and the AG has already covered the main one—is the issue of the video recording. And I know there is a clause about streaming, but with the advent of AI, artificial intelligence, there are now some programmes that allow bits of recording material to be streamed in parts with delayed transmission that is re-aggregated at a later time. So we have to just keep in mind technology is evolving and people inside prisons walls will never be using conventional methods to get their information outside. So whatever we are doing we need to—and it has been done several times in this Bill. But we need to also keep in mind that we need to be thinking ahead of where the criminal mind may be heading so we are not always playing catch-up where these situations are concerned, because their objective, if they know they are in there a while, is to get their message out to continue their criminal activity. That is their mandate. Their mandate is not to conform to law enforcement or rules of society. Their mandate is to break the system.

So, with those few words, Mr. Vice-President, I totally support the provisions as presented here. I commend the AG and the Government for bringing

this in terms of the protection of our protective services, and I thank you very much. [*Desk thumping*]

Mr. Vice-President: The Minister of Communications. [*Desk thumping*]

The Minister of Communications (Sen. The Hon. Donna Cox): Thank you very much, Mr. Vice-President, for the opportunity to contribute briefly so this debate on the Miscellaneous Provisions (Law Enforcement Officers) Bill, 2019. I wish to take the opportunity to thank the Minister of National Security and the Attorney General for their contributions to this Bill, because, Mr. Vice-President, this is a ground-breaking piece of legislation, indicative as it is, of a caring government responding to the modern realities confronting our society.

Mr. Vice-President, there are few in our country today who would deny that the members of our protective services have a tough job. Indeed, there are few, if any, of us gathered in this Chamber today, who would willingly exchange their current positions to experience a day in the life of a member of the protective services. Simply put, Mr. Vice-President, it is unfortunate, also true, that working as a member of the protective services is not for everyone, and though our agencies work hard and against tremendous odds to adhere to the highest ethics in law enforcement, some bad apples slip through the back and get into the service.

When our law enforcement officers report for duty, Mr. Vice-President, they have no idea how their day will unfold. Spouses of our law enforcement officers will tell of the dread and the terror they experience when the telephone rings late in the evening, or in the night, and when their spouses are on duty, for they can never be certain of the news and what they will hear at the other end of the telephone. When our officers respond to a domestic violence call, they do not know whether an abuser with a gun or a small child will meet them at the door. And whenever

they are called upon to intervene in a dispute in the community, they do not know if the individuals they encounter will be friends or foes.

As they patrol the nation's streets, maritime borders, prison corridors, our air and sea ports of entry each and every day, thousands of brave men and women put on their uniform and answer the call to protect and to serve. Mr. Vice-President, as a former member of the other House and as a citizen of Trinidad and Tobago, I have encountered hundreds of courageous, caring and compassionate members of the protective services who are fully cognizant of the fact that their roles are to confront danger on a daily basis. They are fully cognizant of the risk they expose themselves and their families to every day, and yet they do so bravely and courageously.

The loss of a single member of the protective service is a tragedy and the loss of as many as have been recounted here today, demands a national solution. The time has come for us, as a Parliament, to heed the calls from the various associations representing the Trinidad and Tobago Police Service, the Trinidad and Tobago Fire Service, the Trinidad and Tobago Defence Force, and as well as our immigration and customs officers, to provide legislative clothing that would help protect our law enforcement officers from the threats which they encounter on a daily basis.

Mr. Vice-President, providing monetary compensation to officers killed in the line of duty, as necessary and as important that it is, does nothing for the young son who is left without the guiding hand of his father or the young girl who is left without the nurturing touch of her mother. Monetary compensation will not erase the memories of Police Constable Richard Babwah's parents, the loss of their son to gun-toting bandits in December 2017. That compensation cannot replace the life

of Police Constable Sherman Maynard who was shot and killed on July the 24th, 2015, when three prisoners, armed with guns and grenades, shot their way out of the Port of Spain State prison. That compensation cannot replace the life of Prison Officer Richard Sandy who was killed in a bar in Gasparillo on October the 8th, 2017.

Mr. Vice-President, I recall the words of the President of the Prison Association at the time, Ceron Richards, and of course, some of my colleagues did refer to Ceron Richards who, at a candlelight vigil outside the Port of Spain prison on October the 17th, 2017, said, and I quote:

“The vigil was held in an effort to get recognition from the Government and Parliament so steps could be taken to put legislation in place to better protect the prison officers.”

Noting at that time that 16 prison officers have been killed between 2002 and 2017, Officer Richards went to note that, and I quote:

“We are recognising ourselves. We are not waiting for the State to recognise us because true recognition begins internally and then externally.”

And I want to say to Prison Officer Ceron Richards who is head of the Prison Officers’ Association, today, that section 11—clause 3(f) of the Miscellaneous Provisions (Law Enforcement Officers) Bill, and new section 22, speaks about assault and retaliation against prison officers and penalties:

“The State is not recognizing the contribution of prison officers...”

This is what Ceron Richards said:

“...so we are taking this opportunity to remember the officers who have fallen in the line of duty, in our heart and in our prayers.”

And this is when they were involved in the vigil because of the death of prison

officers.

So, Mr. Vice-President, prison officers serve as the last bastion of the nation's security and constitute one of the four primary agencies in the criminal justice system, which includes the police, the Judiciary and probation being the other. And not only is it their job to secure the public from persons who would have run afoul of the law and for a significantly longer period than the police at that, but also to devise and implement strategies and programmes aimed at the prisoners' rehabilitation and subsequent re-integration into society. And this holds true whether the inmate is remanded or convicted.

The congregation of these criminal elements in one common area brings with it a heightened level of risk for the prison officers that does not accrue in any other of the criminal justice system agencies. In recent times the proliferation of threats to officers and the actual follow-through on these threats, serve as evidence of the inherent risk. So when we come to the Parliament today, Mr. Vice-President, to debate legislation that would criminalize threats and attacks against the members of the protective services, we are, in fact, answering the call of every single member of these bodies. We are saying that we have heard the cries and are answering these calls. And I am certainly hopeful that all the Members on the opposite side would join us and support this legislation.

In telegraphing Government's intention to respond to the officers, the Minister of National Security, the hon. Stuart Young, in January 2019, captured the essence of the proposed legislation before us when he said he intended to lay in Parliament legislation that would allow for better protection of prison officers and other members of the protective services while on and off duty, while also imposing stiffer penalties for those officers found breaking the law. And, Mr.

Vice-President, this is, in fact, what we are doing here this evening. Succinctly put, Mr. Vice-President, that is what we are about because although most, the majority, many officers are good, upstanding and hardworking individuals, we know that even good officers can sometimes go bad. So while we seek to protect them on the one hand, we are also mindful, sadly so, of the need to protect them from each other.

And, you know, as I was writing this I thought about—I would like to see more associations coming out and not just defending officers but also speaking to them about some of their errant ways and bad behaviour. We would like to see—they are very vocal defending each other, but I also would like them to also—you know, because some things that take place in the different services, they are at fault. So, Mr. Vice-President, this Bill is not merely about punishing those who would dare to attack our law enforcement officers; it is, in my respectful view, also about conveying to the wider national community the absolute respect and gratitude this Government holds for those who daily put their lives at risk for others. The fines and prison sentences that are featured in this Bill can never equate to a life that is lost, a career that is truncated by injury, a reputation permanently damaged by callous and unfounded allegations. The message that is being sent is that such behaviour has no place in a modern society; that such behaviour, once identified and proven, is not going to be allowed to go unpunished.

Mr. Vice-President, there was a time in this society when the three persons who garnered the most respect in the community were the priests, the school principals and the police officers. Over time, for reasons—some of them, self-inflicted, sad to say, in each of these institutions, some of them have lost their ability to command significant respect in the communities. And the effect of the

decline in respect is a situation where communities are turning on each other. Mr. Vice-President, you and I are perfectly aware that legislation cannot bring respect. Indeed, as we have seen even in this august Chamber and in the other place, the existence of rules and Standing Orders do not necessarily guarantee that those of us entrusted with the responsibility of leadership always live up to the expectations of the populace. Mr. Vice-President, we too would be burying our heads in the proverbial sand if we do not accept that sometimes it becomes necessary to not only wave the book of Standing Orders, but occasionally when we step out of what is demanded of us, to crack the whip as well, and impose the necessary sanctions.

5.40 p.m.

Mr. Vice-President, one thing I have learnt from my mom is that you cannot legislate “broughtupsy”. It is a character trait that is developed internally and individually, but nurtured by a wider societal belief in what is good and proper behaviour, and the imposition of increased penalties and prison sentences for crimes against our law enforcement officers should therefore serve as a deterrent for those who step outside of what is permissible conduct when interfacing with them. I am aware, and painfully so, that the quantum of the fines and the severity of the prison sentences alone will not deter the citizen bent on disrupting the societal order, but the existence of these sanctions alongside societal respect for our law enforcement officers will certainly help.

Mr. Vice-President, the Trinidad and Tobago Police Service, Prison Service, Defence Force, and all the other institutions that are represented in this legislation are microcosms of the wider society, and if there are thieves and there are vagabonds in the wider society, then one must expect the presence of them within these institutions. And I say this, Mr. Vice-President, neither to trivialize the

gravity of the situation before us, nor to express support for rogue officers, but rather to demonstrate that within each institution in this country there are those, who by virtue of their humanness, will engage in behaviour that is less than honourable. And that is why, Mr. Vice-President, this Bill before us can be likened to a double-edged sword, for while it protects our law enforcement officers from outside attacks, it is also designed to protect officers from the unscrupulous behaviour of their colleagues and the society at large who they took an oath to serve with integrity.

Only recently, Mr. Vice-President, in an article published in the *Newsday* dated November the 30th, 2019, the outspoken Justice Frank Seepersad had this to say about two errant police officers who were before him and I quote:

“...‘It is outrageous that Mohammed has not been subjected to disciplinary proceedings and that criminal charges not contemplated.

Police have a war not only to fight crime on the streets but an internal war to root out and hold accountable those police officers who are engaged in criminal activity.’”

And speaking on December 2018, the same Justice Seepersad opined as follows and I quote:

“‘The abuse of lawful authority by police officers, as that which occurred on the factual matrix before this court, contributed in part to the deterioration in the public’s trust and confidence in the service over the last few years.’”

So there can be no denial, Mr. Vice-President, that actions of some officers jeopardize the health and well-being of their colleagues. Arms and ammunition, cell phones and cigarettes do not get into the prisons by themselves. Televisions and alcohol do not find their way into the prison system without the active

collusion of some errant officials, and I know that some of my colleagues spoke about the errant ways of some officers. Community blocks that are known—and Minister Stuart Young spoke about tipping-off—by all and sundry to be locations for drug sales do not end up sanitized and drug-free during police raids unless the traffickers are tipped-off by those either coming to execute the raid or those with prior knowledge of the raid and, Mr. Vice-President, this Bill deals with tipping-off also.

So drugs can be dropped off within our maritime borders for collection by divers later on if the pilots of these superfast boats are not aided and abetted by those aware of the specific timing of our border controls. All these, Mr. Vice-President, are reasons enough for the inclusion in this Bill of severe penalties too for law enforcement officers found in breach of the law. Such breaches are not victimless crimes because every time an officer breaks the law he endangers the lives of his colleagues. Every time an officer tips off a drug dealer he increases the chances of his own family members becoming addicted to the curse of crack.

Mr. Vice-President, law enforcement is not everyone's cup of tea. Well, as far as I am concerned, it is a thankless job very similar to politics, it is a job that can desensitize even the most empathetic of persons, it is a job though that many would die for and indeed have given their lives for. Whenever there is a recruitment call for candidates for the various arms of the protective services, their respective locations are overwhelmed with applications, all eager and willing to serve their country. As legislators we have a responsibility to all those aspiring for entry into the protective services as well as for the thousands of professionals who make up the ranks. As legislators we have a responsibility to them, to their families, and to the community, and that responsibility mandates that we take the

necessary steps to increase their protection as we are doing today. But to whom much is given, much is expected, Mr. Vice-President, and therefore, is it also incumbent on us to protect these officers from their own and to protect the wider society.

So, Mr. Vice-President, it is a very necessary piece of legislation and forms a part of the compendium of legislation designed to improve the criminal justice system in Trinidad and Tobago, and I am extremely happy to stand here today to support this Bill and urge my colleagues to do the same. I thank you. [*Desk thumping*]

Mr. Vice-President: Sen. Haynes.

Sen. Anita Haynes: Thank you, Mr. Vice-President. It is indeed an honour to contribute to a Bill to amend the Criminal Law Act, Chap. 10:04, the Prisons Act, the Police Service Act, et cetera. Mr. Vice-President, I think all of us approach this debate today understanding the importance of what is being asked of us, and as I stand in my contribution here today I would just like to put a couple of things on the record for clarity. I am from a policing family; I grew up with police officers. I am declaring my interest very early on. Both my father and stepmother are members of the police service, so in my household we have two police officers. My godfather, my entire—I am telling you, my uncles, cousins, are members of the TTPS. So that when I stand here today—and like I said I declared my interest, but I have always been keenly aware of what members of the TTPS have faced.

My dad joined the service at 18—before I was born—and has worked in various arms at the highest level of dangers within Trinidad and Tobago, and it is a case where the better police officer you are, this question of retaliation and threats becomes very important. The better you are at your job, the more dangerous your

job becomes. So on the first point that I want to make—well, actually I had to rearrange after the contribution of the Minister of Communications because the Minister of Communications started with in terms of compensation for police officers who died in the line of duty, and I cannot agree with you more that compensation will not replace the lives of any police officer that is lost in the line of duty.

I think I would have been in Form 5 or Form 6 when a very close family friend—well, when you grow up in the police service, family friends are police officers too—a member of the TTPS was killed in the line of duty. Around 2011, one of my dad's cousin, my mom's cousin actually, was killed in the line of duty as well. That would have been around 2011/2012, and you know, this idea of compensation replacing, that is not the conversation. When you have persons putting their lives on the line as the job has gotten progressively more and more dangerous, the question of compensation comes to the forefront because if you are in Form 5 or Form 6, approaching university, and the main breadwinner in the household is killed in the line of the duty, it is not about replacing the individual, but it is funding your life after the main breadwinner has been killed in the line of duty.

So when we raise the issue of compensation it is not at all the political issue or it is not something that we are looking at to score points, it is a lived reality that if something happens to the main breadwinner in your household what happens next to the family. I saw it first-hand where all of us were around the same age, myself, the child of the police officer who was tragically murdered, and I mean we knew what we were going to do for me to go to university, but he had no other option but to figure out how to start to work after Form 6 because university was

no longer an option because there was no main breadwinner in that family and there were younger children. But I just remembered that because we had that conversation as to what happens next, and to be deciding at 18 how you are going to earn a living because your dad died in the line of duty, is a very painful space to live in.

So when we bring up this status of the compensation for police officers—and it is my respectful view, Mr. Vice-President, that compensation ought to be at least thought of here because I have seen what happens to the lives of families if they lose a member in the line of duty. You are already dealing with the tragedy of the circumstances of the loss, and then you have all of these questions after on how do you survive. So I raise that point not to take away from what the Minister said about compensation because I agree, but to say there is another element that is part of it.

Going to the legislation itself, I looked at—this is new section 59(1) which deals with:

“A person who—

(a) assaults, threatens, obstructs...”—et cetera.

But looking at part (2):

“A person shall not intentionally take any retaliatory action against—

(a) a police officer;

(b) the relatives, friends, associates or property of a police officer...”

And I was having a discussion with my colleagues because as I looked at it I thought about a scenario. A lot of us, again, who I know first-hand as well, once your parents are in the police service the threat usually comes the way of the children, the easier targets, and we have always had that kind of thing.

So I am very appreciative of the section, but I had a question, which is, if you have a police officer making a murder charge—and we know the process, the justice system, and how long some of these things take. So you have a person who is on remand for a number of years. So the police officer would have made the arrest and you will be going to court, and then you would have subsequently retired, or left the police service, and this person then comes out of prison or comes out of remand, the case collapses, whatever happens, but this person still wants to retaliate. You would have been in the line of duty when you made the arrest. You are no longer an active police officer, and therefore, you are not covered under this provision now. Because as it stands, it talks about police officers in the execution of their duties, but your duty could have been executed many years ago and the retaliation comes years after.

So when I looked at the legislation, and I do not know if it can be amended to include persons who—after they may have served, and that we can find a way to consider including persons who after they may have served and still had cases pending, et cetera, because the prospect of retaliation extends way beyond. I know this again from first-hand experience because a threat came my way when they would tell my dad in this instance, “Well, don’t do X because we know your daughter who is going to this school”.

So they know which school you are going to, they know everything about the families of police officers. You get arrested and they say, “When I come out, we coming out for yuh”. I had finished school, I was back in Trinidad and I was working, and I was walking past a prison truck—so they would still be going to and from the case—and somebody shouted from the truck, “I know you, Haynes”. “When we come out, we coming for allyuh.” That kind of thing and these kinds of

things happen. So as the cases go on, whether or not you are still in active duty your families still are a target because they are—I mean, Trinidad is a small society. Everybody knows everybody. They know where you live, they know who you are, that kind of thing. So I would like for this legislation to consider looking at extending beyond the life of the police service, your time in the police service, and I also want to make a brief intervention in terms of what the day-to-day life of police officers are in Trinidad and Tobago.

The Minister of Communications is right. Every time you have a call for persons to enter the service, there are a number of persons who are very interested. It is still a very viable career position in Trinidad and Tobago, and I have stood here in a number of crime legislation, pieces of legislation, that would have come towards us to say let us find ways to make the entry into the police service, something that—well, I know a lot of the interest is because it is a stable job. A stable job in a time when not many people have stable jobs, but we can make it a career path that is bar none.

I went to school in New York and I have made this point time and time again, that if you go to do a degree in criminology, or forensic science, or something that benefits the police service, the structure is put in place that once you enter NYPD and you start to work, they start a debt forgiveness programme for your university education, and these kinds of things will incentivize people to join the police service, but it also gives you a sense of empowerment and a sense of a career that is pushing you through. And so, while we do these pieces of legislation we can also think of ways that improve the lives of the persons who decide to serve, who join in to serve. So that is one point.

The other point is the state of some of these police stations. So while we are

doing this on one hand, and I am sure persons will say, yes, we are grateful for it, and then you are going to work in some of the worst conditions and you have to go on a daily basis, I think there are some stations when you cannot get water. Just a number of things that make just getting to work difficult, and if we are serious about saying thank you for your service, thank you for putting your life on the line in an increasingly dangerous job, then we ought to really put the operational part in place as well because that is the most genuine way to say we care about you, we care about the work that you are doing, and we want to make it so that you understand that Trinidad and Tobago is on the side of the TTPS.

Every time there is a discussion about the police service there is always a flip side of the ones who may not be so good. Having declared my interest maybe I know all the good ones, but I have always said that when you—we have to be very careful I think, with our rhetoric when it comes to our—well, most people, anybody really, you should be careful with language in general and what you say and what you put out there because people talk about returning that idea of respect for people in the police service, respect for people who wear uniform, but oftentimes that disrespect comes from not just the small communities, not just the “allyuh wicked” people, but from people all around who by the very words that they use, paint an entire service as not a good thing. And so, if I am hearing people at all levels of the society saying, “We need to get smarter police officers”. “Plenty ah dem not bright. We need to get X, we need to get Y”, and you are saying it like that, my desire to come out and serve diminishes. I mean, you are coming out to protect and serve, and then people never have good things to say unless they feel like it serves some other end.

So I want to urge all of us as we look at—and that is not to say that we ought

not to talk about the bad apples and the bad elements, but to just always be careful with our language simply because today we are passing legislation that is for our servicemen. There will be another day when we are passing legislation and we put a kind of language out there and people looking on say, “Well, I do not have to respect them because everybody knows these bad apples, and this one corrupt, and that one corrupt”, and that kind of thing. And so, as we enter this discussion here today and we look at what we can do as a Parliament to assist in the lives of our servicemen and women, I also want to urge the Executive arm of the Government to also look very closely at what they can do and do quickly to improve their lives overall beyond just our legislation, because we will do one part today but they can also very quickly—Thursday is Cabinet, that is tomorrow—do more from an executive level, and if we do that I think we would be in a better space, and with those few words, I thank you. [*Desk thumping*]

Mr. Vice-President: Sen. Thompson-Ahye.

Sen. Hazel Thompson-Ahye: Thank you, Mr. Vice-President. Robert Kennedy—we usually talk about John F, but Robert Kennedy wrote a book the *Pursuit of Justice* in 1964, and he said:

“...every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists...”—upon.

[MADAM PRESIDENT *in the chair*]

So we deserve the kind of criminal that we get because we nurture them. They do not come from the sky. We breed them. But in terms of our protection services we have to insist, and today we have before us a Bill—the long title is a long title:

“An Act to amend the Criminal Law Act, Chap. 10:04, the Prisons Act,

Chap.13:01, the Police Service Act, Chap. 15:01, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01.”

In my contribution today, I want to focus on one type of law enforcement officer, the police officer. What kind of police officer are we going to insist on? You heard the hon. Minister speak about the genesis of the Bill and the fact that the prison officers came and they said “We are under siege here, you know”. These are my words. “Dey killing us off and we need protection. We need you to look after us. In fact, we are looking after you, so it is time you look after us.”

But this Bill has come with a dual purpose. It is not only protecting the police officers and assisting them, but it is also insisting on the type of officer that we want, the type of enforcement officer that we want. So we have a range of provisions and at the end of day I do not find them adequate for my purposes. So what do we expect of the police? We expect policing of the police. What does that mean? There are several duties involved. We want them to maintain order and safety, to protect us, to prevent crime, to detect and investigate criminal activities. They protect persons and property. They counsel and we expect them to be everywhere, and at all times when we call on them. We expect them to respect us and they expect that we would also respect them. So we expect them to be respectable.

The police need our cooperation. It is no way we can think of solving crime without the cooperation of the citizen. Crime is a big problem. Every political party makes that a flag. They make promises. Everyone has a solution to crime before they get into power. There is a high standard that we expect, a high standard of conduct. We have increased penalties in the Bill for police

misconduct, and when we talk about police misconduct we are well aware of what happens, and I want to look at an article written by Rachel Harmon of the University of Virginia School of Law, “Legal Remedies for Police Misconduct”, and she writes:

“In the name of public order and crime control, police sometimes cause individuals and communities substantial harm: they break down front doors and enter homes; they take personal property; they injure, and they kill. The law permits these harms under limited circumstances, and individuals are required to bear them. When police interfere with liberty in ways that go beyond the bounds of the law...they not only harm people without legal justification, but they also threaten the trust between the government and its citizens that is fundamental to a democratic society.”

So we must have that trust between the citizens and the police officers.

In a case that was decided this year by the Privy Council, a Jamaican case, judgment was given by Lady Hale on the 25th of March, 2019, and it involved the question of whether we should look at the conduct of the police, look at reports given against the police before we promote the police officer. So this case was brought by Jamaicans for Justice—I do not know if we have a similar organization here—and the police service commission where the question was whether the superintendent should have been promoted to senior superintendent even though there were charges involving extra judicial killings, and Lady Hale said that:

“The Board is also disposed to accept that the right to equality before the law, like the right to the equal protection of the law, affords every person protection against irrationality, unreasonableness, fundamental unfairness or the arbitrary exercise of power. These are, in any event, fundamental

common law principles governing the exercise of public functions.”

So we have protections under the Constitution and we expect that they will not be violated. So the Bill now is looking at increased penalties for police misconduct, offences committed against the police. So we expect the police to protect us and we expect also that the police will be protected from bad behaviour against them, and not only against them, but against their relatives. Offences are assaulting, threatening, obstructing and resisting an officer in the performance of his functions; failure to assist police officers in the performance of their duties—well, that is not addressed to any extent—inciting other persons to do things against the police; taking retaliatory actions against the police officer, his relatives, his friends—and I am not sure to what extent friends are protected. Who are the police friends? How far are we going to extend that? Associates—we look at property of a police officer, account of the officer in the execution of his duties, all of these things. It speaks to tipping-off or disclosing to others proposed or ongoing police investigations.

There are heavy penalties for a police officer selling, transferring, lending, providing or making available property assigned to him, accepting bribes, gratuities, perquisites or reward whether pecuniary or otherwise for neglect or non-performance of his duty.

6.10 p.m.

Now, we have no doubt that the police are under increased pressure to perform and when you are under increased pressure, sometimes, we do not always do what is correct because of all of the emotions, but we insist on the police doing the right thing, we insist on effective enforcement. We are giving the police wide powers and we expect that those powers will be used wisely.

But when you hear the reports coming out from—well judgments from the Judiciary that have been alluded to by two different Senators, Opposition and also Independent, we realize that we do have a problem and governments have been paying out a lot of money for false imprisonment, police brutality, police corruption, extrajudicial killings and you know. These things are not specifically addressed, some of them, in the Bill, but these are things that we need to look at because at the end of the day, we need to ensure that we have a police service that we are proud of and a police service that is working well for us.

So there are many areas of misconduct, coerced false confession—we hear about that—intimidation, false arrest, false imprisonment, falsification of evidence, spoilage of evidence, police perjury, witness tampering, police brutality, police corruption, unwarranted surveillance, unwarranted searches, bribing or lobbying legislators—a curious one in Wikipedia.

“Bribing or lobbying legislators to pass or maintain laws that give police excessive power or status.”

Very interesting, very interesting. And we have selective enforcement so that if you are liked, the police will not enforce a law against you but if you are not liked and then that is where the discrimination comes in, and we have cases of sexual misconduct.

So these things are not specifically addressed in the Bill and some of us are old enough to remember the very senior police officer who took the young girl up on Mount Saint Benedict, had the priest bless her, and then had sex with her and he got a very long term of imprisonment. We have off-duty misconduct, we have using badges or ID to get entry into concerts, to get discounts and so on. We see the police officers there and they display their badges and people let them in or

they might get free meals and so. All of this is corruption that we have to deal with.

But we have in the Bill influencing and giving the police officer, entertaining the police officer. I am not sure what that means and drinks and so on. Now that the Christmas season is coming around, we have to be very careful how we entertain if at all we could entertain a police officer. Do we always know if they are on duty or not because many police officers are not on duty, “dey in plain clothes”? You see? So that if I know a police officer and he passes by my house, I mean it is Christmas time and because of my name, he may be thinking I am hailing out to him, that people are saying come by me, you know, because “dey hearing ah lot of ayee, ayee, ayee” [*Laughter*] and then you find that what do I do? Tell him well I cannot entertain you because it is going to be a criminal offence.

Sen. Dr. Dillon-Remy: Give him water to drink.

Sen. H. Thompson-Ahye: Or, right, I should give them water to drink.

So we have a number of problems that we need to address because at the end of the day, we want a safe society and we really cannot have a safe society without law enforcement officials who will do their job. We are prepared to assist them as best we can. We cannot always assist and one has to be very careful how one in fact interprets the law of requiring assistance of the persons when you see a crime is committed because I may not be as strong as some of my fellow Senators so I may decide I will go in a different direction if I see a police is under threat because I may fear for my own safety. So we have to consider all of those things, but at the end of the day, we really want a police service that is free from misconduct.

But it is not only the public that threatens the police service. So perhaps one also ought to consider threats from within the police service against the members

of the police service. So you may have a senior police officer who may impede a junior police officer in the exercise of his function. How do you treat with that? You may have one police agency that is impeding the investigation of a case by another police agency by not giving the required evidence that has been gathered. Maybe it is the Anti-Kidnapping Squad not passing information to the homicide bureau. All of these things are happening. They are not figments of my imagination. So we ought to look to see interagency if the required cooperation is happening or if it is that senior police officers are in fact not doing what they are supposed to do. Who is the junior to report it?

I passed by a police station one day to collect something for one of my law students and he was getting married in another country and a police officer came and he sat. He was looking very sad and he confided in me that he had been transferred and he was not happy about it. He said I have a junior officer and this junior officer is not doing what he is supposed to be doing and I have been complaining about him. I have now been transferred. "Do you know why, Miss?" So I mean I am polite sometimes so I listened to him. He said it is because he is related to a senior officer. You have so many officers who bring their children and nephews and cousins into the service and one also has to be very careful about how they interact, you know, the whole nepotism thing and in fact, slow down the whole process or impede the process of the police officers doing their duty. So it is not only without but within the service, you find that officers are experiencing problems among themselves.

So it is not only the public who have them under threat, not only the criminals who have them under threat but sometimes in their very workplaces, they are having problems that need to be addressed and I do not know if the legislation

deals with that and if it is that those things are being properly investigated. But police sometimes confide that they have a variety of problems to deal with and we always have to help them. I can tell you a lot of them are suffering you know. When I was in the law school, sometimes I am in the Tunapuna court, they will call me and tell all their problems and I am telling them “I am not Dr. Bonterre”. You know Dr. Bonterre gone long time. All right. So they need because they do not want to be identified as going to have a problem to go to the person who is supposed to be an assistance programme, they want to go privately because they do not want people to know their business. So we have to see what we can do to help them, they are under stress and many of them work very hard. But I do not think we can gainsay the fact that things are not as they used to be.

The police officers who have retired, they meet at times and I tell them “Yuh should call that meeting ‘nostalgia’” because what they talk about is the good old days and how they used to solve crime and I say I miss you so much. Because you can tell me when I tell you something has happened at my home, you say, okay, it is this person because they know the modus operandi. So we need a lot of training of the police. We need to have that trust between us, the society and the police service because I still believe there are many who want to do well but sometimes the bad apples are so powerful that they can cause the other parts of the police service to become rotten.

So we will support the Bill. I would like you to look at some of the provisions that are missing, Mr. Attorney General, and see what we can do because police suppression of evidence, disappearance of evidence, we know about the cocaine and the rats and so on, failure to investigate, ignoring witnesses, failure to take reports sometimes or they may take a report in a half-hearted way or take it in

a partial way. I have seen some reports—I had occasion to show somebody a report a couple of days ago where they do not say everything because they do not want certain people to be implicated so they do “ah mamaguy, look, look yuh receipt and when yuh look at the receipt”, it is woefully inadequate. So we need proper storage and so on.

So we are here to assist the police but what we will not agree to is the police not doing their jobs and not doing it properly. We need to be vocal about that and we need to have people to listen to us and believe that the police can do better and should do better because that is the kind of police service that we want. We are all in this together, it may sound familiar but it is true. We are all in this together so let us go forward and see what we can do with this Bill. It may need “ah lil tweaking” here and there but we are here to assist because at the end of the day, we want a safe society. This is our home, “yuh eh going nowhere”.

Thank you, Madam President. [*Desk thumping*]

Sen. Dr. Varma Deyalsingh: Thank you, Madam President, for allowing me to partake in this discussion. A lot of what I was going to say was already said. Sen. Thompson-Ahye actually went into the elements of corruption that exist in the police service and even Member Donna Cox mentioned the fact that we need a new ethic, new persons that will have the level that if they are on certain jobs, that they will take that seriously and the culture of having less corruption within these various elements.

This Bill seeks to actually look at two things. Looking at protecting the security personnel in the prisons, in the police service, in the customs, immigration. It looks at protecting them, giving that level of protection as well as punishing those who are going beyond the law, who are being accused of taking

bribes as well as looking at the individuals who may be trying to involve these officers to partake in these activities which would all go against the whole fabric of the nation in trying to get a nation that is crime free and a nation that we could look at and be proud of.

So, Madam President, I must say that when I looked at this legislation, I realised that there was an attempt to get things in order because we have had cases where the prison system has left a lot to be desired. We had prison breaks; we had prison officers being shot, killed; we had mentioned on that side, certain officers got shot. So we know it is a situation where we had to do something, where the Government is forced to do something.

But when I looked at the Bill Essentials, I wondered if this is really the solution because already we had certain sections in the old Bills which gave punishment, gave conviction with time and actually the different fines for these offences. So even though this legislation mainly sought to increase the fines and increase the amount of years that you can spend in prison, I look and see, did the old legislation really work? Because the old legislation was there and there were already years in place and fines in place but yet still I hardly heard of any persons being caught for these atrocities that occur. So it seems that even though we had legislation, we were not catching the person. We did not have things in place to detect, as a deterrent or to hold these persons and catch them.

So even though we passed new laws and it looks impressive. I mean, it looks—from moving from, you know, a case where you have, for instance, we looked at increasing the fines, a person who breaches the section in the clause 3, section 8, when we are looking at bringing and throwing or conveying prohibited articles into or out of the prison, we have increased it from five years, \$150,000 to

seven years at \$300,000. But we already have this law existing and I am not hearing that we are catching persons bringing in articles, I am not hearing that we are catching prison officers who are at least causing the havoc by allowing the scenario that occurs. So if we are not catching them in the old law, I ask a question: Would we catch them with the new law? I am not impressed about that.

What I must say though, even though we are looking at the laws, I have to say if we have really to look at the Bill Essentials, what it intends to do, I would like to go through certain parts of it but I am saying, Madam President, I feel ashamed when persons hear that we have to take taxpayers' money to put jammers in prisons because prisons are supposed to be the highest security area in Trinidad and Tobago. If you cannot see what is coming into a prison or even sometimes out of a prison, how would you give us the level of satisfaction that you could protect the rest of society? If you cannot shut down a prison properly and you cannot have items going into the prison, how could you give us that guarantee that the rest of the society would be protected, our borders would protect us? So my level is, I think while this legislation is there and I am thinking, yes, the Government may try to give us that legislation to give us a level of comfort that, "Hey, we are doing something", I am still thinking we are not tackling the cause. We are not getting the area where we need to get at. Let us look at the prison officers, where we need to get is the errant prison officers.

You see, Madam President, I looked at Loop News active review of prison security measures after contraband video by Darlisa Ghouralal on 18th of May, 2018, where:

"Continuous evaluation of measures in place at the nation's prisons to ensure that contraband items are kept out, remain in place."

So there are continuous evaluation of measures.

“That’s the assurance from National Security Minister Edmund Dillon who says jammers and scanners have been implemented at T&T’s jails to prevent the use of cell phones within the prison walls.”

So we may have felt comfortable with this yet it gave me a little comfort to know we have to be spending money to get jammers, taxpayers’ money to get jammers, while if the prison officers were doing their duty, this would not have been a necessity.

So when I looked at what happening in this report in the 18th of May, 2018, coming down, 174 days ago, the *Guardian* had an article on Thursday June the 13th, 2019 and it was also on CNC3 television.

“WIFI devices, 35 phones among seized prison contraband”

So here you are, you got a level of comfort in 2018 and even before, every time there is something found in prison, you hear certain promises but it continues, and in this article, it showed that the:

“...officers found 350 loose cigarettes...”

Now, that is lot of money because another Senator mentioned, I think, it is “ah \$100 for ah cigarette”.

“20 cigarette lighters, 35 cell phones, 40 sim cards, 5 cell phone batteries, 39 headsets, 400 loose wrapping paper...”

Loose wrapping paper, Madam President, I will come to that in a while. So the wrapping paper obviously, we know, is for marijuana but I will come to a point that I would like to elaborate later.

“4 WIFI devices, razor blades, scales, improvised weapons and over 2 pounds of plant-like substance.”

So again, plant-like substance. It seems that we cannot take a substance and analyse it even though we have “top pot” in the University of the West Indies. So therefore, what alarmed me is razor blades. This could be used as weapons. Scales, what are you having scales for? There is some sort of business going on in the prison.

“The massive haul is being described as the largest find of 2019.

A release from the TT Prison Service says the raid was conducted by officers from combined units of prison service and there were no reports of injury to either officers or inmates from the search.”

Madam President, I am happy that this search was done so it tells me that things are still being done, personnel are still going. So I congratulate probably the Police Commissioner who may have instituted this raid and I am saying a lot more of these raids may be needed. We may need a team of soldiers and other officers to go in from time to time to do spot checks, because if we do not, Madam President, all this legislation that we have here will be a waste of time.

So, Madam President, I looked at the fact that we have the legislation, I wondered how could we get the legislation to work because the old legislation was there. Granted the fees went up, the charges went up and the time spent went up for any sort of infractions but how could we get it to work. What could we do as deterrent? I am not looking at police officers because Sen. Thompson-Ayhe did mention about police officers and these things. But I say deterrent. What could we do? I am suggesting, Madam President, that what this Bill might be missing is if a search is made and we do find that there are contraband articles there, the person in charge of that shift, it should be tied in where he will be denied promotion for two years. So I am saying, Madam President, yes, the element of the Bill wants to

somehow protect prison officers, want to put things in place, want to hold prisoners accountable, hold errant prison officers but I am saying that we have to look at if I am in charge of that shift and contraband is found, part of my agreement will be no sort of promotion to me. So I will make an extra effort.

Also, the Police Commissioner in the past had problems trying to get lie detector tests to certain individuals. I am saying, yes the lie detector test has its limitations but I am thinking that even when we are looking to hire certain persons in the police service, the prison officers or even spot checks to give them certain lie detector tests, I am thinking that that should be somehow mandated, somehow we should discuss this. Even though I am saying it is 100 per cent guarantee but I am thinking it is nice to have that level in.

I am also suggesting that the Attorney General consider somehow within this Bill we have anonymous calls to the Ministry of National Security or the Police Commissioner to say, "Hey, something is going on there". There are some drugs there, some contraband there, something going there that could now help us with the detection or somehow to detect what was happening before. So when I am looking at it at that aspect, I also look at the prisoners now, Madam President. So let us say you are a prisoner and you are now going to increase my fine if I am involved in any activity, I am saying that we should have to consider, again, certain spot checks on the prisoners for drugs and this is why when I mentioned they found a plant-like substance.

Madam President, a few years ago as I was working as a Registrar in the St Ann's hospital, we had a prisoner who came into the institution. He was very psychotic, hearing things, seeing things. And I actually was the one who said, well, you know, the prison system itself is stressful. Probably he succumbed to the

stresses of the prison, the conditions, the fact that he is not seeing his relatives and whatnot and he was in prison for around six months. So when he came to us now, we diagnosed him as having a psychotic disorder and we were thinking schizophrenia, right, but Madam President, something told me let me do a drug test and I did a drug test on him. Now this is a guy in prison, he is not supposed to have access to any sort of drugs and when I did the drug test, we were alarmed to notice, hey, he had marijuana in his system. So therefore, Madam President, something was amiss. Here you are, we were not even thinking—we were thinking high-security prison, so that was a period in time when I actually woke up to the realities of what happens in the prisons.

Now, Madam President, if you are in the prison for six months, there is no way your urine test should come back positive for marijuana because if you are doing a urine test, people with a single use, it takes three days before it comes out of your system, if you are taking moderate use, four to five times a week, five to seven days and if you are heavy use, it takes 30 days to come out of your system. This man was in prison for six months so obviously he was getting it there.

So, Madam President, I would like to say that obviously there is something not right going on in our prisons if persons could have access to drugs and I am thinking that this legislation may help but we have to detect it. So how could we detect it? Spot checks to the prisoners. You do spot checks to the prisoners, you do drug testing and I think it is within the prison rules you can do that spot check on prisoners and the urine with the medical officer there. So I am thinking if you do a spot check on a prisoner and you find marijuana or cocaine or other substance and they have been there for more than a period of—you know, once you are there more than 30 days, if you are a heavy user, and you still find that you know

something is not too right at that prison and therefore you do a detailed investigation of what is going on. So that is one way we could be alerted.

And, Madam President, even cigarettes, as a person mentioned, it is a prohibited item. You are going in with cigarettes. I mean, cigarettes, it causes cancer, it causes a lot of problems. Probably prison is a place where you could stop people from smoking and I am saying they might have withdrawal but there are smoking cessation clinics the Government has started and I am thinking we can extend it into the prison where we can help those persons who come in there and suddenly have to stop the cigarette cold turkey. But I am saying if it is a prohibited item, they should not be getting it.

So, Madam President, when I looked at the old legislation and increases, I also looked at the fact that new pieces of law came into being. The tipping-off, section 53A with prison officers tipping-off, then 41A tipping-off, immigration officers, then section 50H under the Police Service Act. All those were new laws that we saw were necessary for the tipping-off. And we heard someone mentioned that when the police officers went on a raid, the persons who they visited were inviting them for a cup of coffee, expecting them. So this may help but we have to know how we are going to get them, how we are going to get some sort of evidence that tipping-off occurs.

Madam President, the greatest threat to a prison officer is another prison officer. I always say that, the greatest threat because whilst you are there and you are getting phones in the prisons, you can call out, you can make that hit, you can make that threat to that family. So therefore, it is a system where you have to be looking behind your back at your fellow workers because due to monetary gain, they may sell their soul for some money, for a mess of pottage. I am saying it is

wrong and it is something we have to address but we have to know how we are going to get them. The law is there and we are not getting them presently. My suggestion is probably it is time that we consider certain other means to get at these people.

Sen. Sobers mentioned that, you know, personal liability should be a starting position for certain individuals who are breaching the laws and getting away with it. But what I am saying, we may also have to look at a starting position where the police officers, the prison officers and immigration officers somehow be put under the Integrity Act where we could look at their salaries. I know personally a police officer, years ago, he had three Laurels, he had a lot of girlfriends outside and I always wondered how he could have maintained that lifestyle. *[Interruption]* No, I am not calling any names. But the idea is we have to look at the ways to get them. So declaring their assets and putting them under that scrutiny may help us catch these individuals also.

Madam President, I would like to say that when I looked at this legislation here, I looked at also the fact that, you know, it occurs, the corruption occurs. We have in the Prison Service—

6.40 p.m.

And I would like to just mention, from the United Nations Office on Drugs and Crime *Handbook on Anti-Corruption Measures in Prisons* where they stated:

“Prisons are particularly vulnerable to acts of corruption in comparison to other key justice institutions. This is due in part to the closed nature of imprisonment, the associated risk of insufficient public scrutiny...”

And this is where we have to look at public scrutiny and develop something, and even the raids that occur now and then.

“and the fact that prisons, by definition, hold individuals accused of or sentenced for having committed criminal offences, including serious crimes.”

So, Madam President, I would look at this legislation. I would support it, but then I also say that there must be other things in place. And the United Nations Office on Drugs and Crime in 2017, presented their *Handbook on Anti-Corruption Measures in Prisons* and from this handbook, there are various recommendations, but I mean, they were saying corruption risk assessment should be carried out. You have to also have questionnaires and prisoners would come out and voluntarily give information.

I am thinking, Madam President, since we have this piece of legislation, if you want to know what is going on in prison, can the Attorney General not tie in the—let us say that a prisoner wants to squeal, and say well, I could now come to the warden and say: “Listen, this prison officer or this prisoner has certain articles.” Now if I give that information anonymously, no one knows it is there, somehow let it be tied in to reducing my sentence. So it is a way that a prisoner, seeing something happening, you are giving them an inducement. I am seeing something happening, I want to say something, but if I can go now, it goes against my time whereby I am providing information which will help the prison system and providing security measures, and I am thinking somehow we should tie in that in that legislation. So it gives an incentive for this person to come forward. In that way, we will be getting persons coming out and telling us what is going on in that prison. So, it is just a suggestion I have.

So again, this report Madam President, the United Nations report in 2017, they also said:

“Prison authorities should consider the establishment of a dedicated anti-corruption or similar unit within the prison administration’s headquarters or the designation of corresponding focal points in individual prison facilities with the necessary mandates, power and resources to carry out their tasks.”

So this is something that we may have to look on, if we want to change this, Madam President. Because as I am saying, in the past, the existing laws did not change it and I do not think the new laws will change it.

There was also—New York State Inspector General actually spoke to, to combat smuggling and trafficking, and he actually said that, you know, we looked at the security system. Front gate security staff should open and examine contents of all bags, containers, employees entering and exiting prisons. Limits on the numbers and sizes of containers would be enforced. Clear bags and containers required. Again, increased use of metal detectors. Random selection of employees would be pat-frisked upon entering and exiting prison. Random use of canines to detect contraband will be considered. We have the canine unit. So, they may have to have a system where they can go in with the police officers and see if any drugs are detected.

Prison management will implement effective monitoring through both person and camera surveillance to ensure compliance with front gate procedures. So it is a checked manner. And during shift changes the lieutenant or high-ranking security officer will monitor front gate searches. So, there are already recommendations in place from the New York personnel who looked—and I am seeing there are changes, I am hearing, that are coming. The Minister of National Security mentioned they are going to beef-up security and certain aspects. So there

are things there, I am hoping, that we can see.

But, Madam President, even with all these legislation, I want to quote an article:

“Prison Officers want Dillon removed”

—by Jensen La Vende, in *Trinidad Guardian*, January 27, 2017. At this article, the prison officers basically asked for a functioning alarm system, and they said:

““Would you believe that over the past year and more we have this prison operating without an alarm system? If there is an issue, God forbid, there is an incident occurring in that prison the officers has no way of notifying or raising the alarm’ Richards said.”

Not this Richards, whoever this Richards was. Right? So other officers told the *T&T Guardian*, that in their training two decades ago, they were instructed that in their time of stress to always use the alarm. So 20 years, some officers are waiting for an alarm. One said that:

“Added to that, there is no way of being innovative as the prison now has cell phone jammers even if they decided to sneak in their”—own— “cell phones...”—they would not be able to raise an alarm outside.

You see, so there are fundamental issues that the prison officers had mentioned here. Thank God, I see within the last months, prison officers were afforded firearms. So this is something good. This is something—I am happy that they were afforded that additional protection and this is something that the Minister of National Security and the Commissioner of Police should be congratulated, because they have given them that little level of comfort when they are outside, that hopefully they can protect themselves and their families when they are called

upon to do so.

Madam President, I would like to look at the Bill itself. I am looking at— according to section 6(2) of the Criminal Law Act:

“...a person causes the wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police enquiry.”

Madam President, a few years ago, I had a patient who suffers from paranoid delusions. This patient is always thinking people are spying on her, the neighbours are against her, the neighbours are looking at her bathing, the neighbours have some device in her house. So she would call the police from time to time. And really speaking, the police would have probably been fed up, but the majority of the police officers in the station would have known the individual. The minute she called, they would probably go and humour her. But one day there was a young officer and he was very impatient and he charged the lady for wasting police time. And this is where I am looking at this piece of legislation and I am thinking we may have to educate the younger police officers or some of the police officers that, you know, you may say that persons are wasting police time, but that police, even though we told him the lady had paranoid delusion, still insisted on going to court. And he was actually wasting the court's time. Thankfully, Magistrate Forde at the time, I think it was Nanette Forde, she just, while she heard the history, dismissed the case. So we have to be aware of certain things that occur outside.

Madam President, I would like to look at clause 3 of the Bill, where it said prohibited articles coming into the prison like mobile telephones, electronic

devices, money, tools, all these articles to disturb the safety and the security of prison. And you know, I mentioned before the drugs that are coming in and I have concern about that and I mentioned before that we have ways of testing the prisoners by their urine to know if this occurs.

I would like to look at clause 3, Madam President, where we looked at section 8 of the Prison Act. And it is replaced with a new section 8, which addresses instances where prison officers or other persons bring, throw, or convey prohibited articles into or out of a prison. And I am happy to see the “convey” too. Because Madam President, a prison officer told me someone used a drone to drop something in one of our prisons. So, at least we have to be aware of what is going on. I think Sen. Richards said we have to move up with the times that people are using better techniques and even they may have new coding systems. And, you know, in cases like this we have to look out for what those prisoners are doing.

Madam President, when I looked at the section which dealt with a person who commits an offence and is liable on summary conviction to a fine of \$150,000 and imprisonment for five years or on conviction indictment to a fine of \$300,000 and imprisonment for seven years. When I look at section 8, and I realize that even a prison officer who breaches this section commits an offence is liable on summary conviction to a fine of \$250,000 and imprisonment for 10 years or on conviction on indictment to a fine of—

Madam President: Sen. Deyalsingh, there is need to read out the clause, once you make a reference to it. Yeah?

Sen. Dr. V. Deyalsingh: Thank you, Madam President. Madam President, when I looked at the clause here, I am thinking that we are looking at the offence of sometimes trafficking in prison by prison officers, and we are seeing there is an

increase in fine and we are seeing that there are ways that we may be able to get at those prison officers if we get the urine samples from the prisoners. I am looking at the checks and balances that were put in place that the issue of officers there being in a situation where they may be at risk, where their family may be at risk.

I looked at the issue, Madam President, section 8C where if a prison officer accepts a bribe and he accepts that sort of on inducement, you know, and the fine increased, but I am saying as I belabour the point, putting these officers under the Integrity Commission, I think, is something I would like to recommend again.

Section 8D, Madam President, the tipping-off, I am saying it is new pieces of legislation which I am thinking at least it is moving with the times that occurs, where we had instances of persons claiming that they were tipped-off.

Madam President, I want to—I was very saddened when I heard Sen. Haynes' story about the police officer who died and the child could not at least continue the university. I think it is a very serious offence if you are doing your job as a prison officer and you are assaulted, you are threatened, you are obstructed, and you know even not going to that, they go on to your family members.

A prison officer told me he was approached by a prisoner once and all the details of his two children, where they live, what time they leave, what schools they go too, it was related to him. Now that officer obviously would have been in a great deal of distress, and I understand if officers have to go through this, you are risking your life and your family, how could I perform my job efficiently? Madam President, I am thinking the time has probably come—just as how some surgeons wear masks when they go to work and do surgery—probably the prison officers may have to have that level where they are anonymous where they go to work,

they wear some level of face mask. So persons would not know which officers are in that prison system.

I had mentioned that even though, with the Caribbean movement we may have look at getting prison officers from the other Caribbean islands to come in and assist us. So at least we would not have that level where persons may feel threatened and their family threatened when they are performing their duties.

So I support this 100 per cent, in the sense that I think that we need to send a message to those prisoners that they cannot threaten the persons who are put there by the State to maintain the law and order. But Madam President, I would like to say that I think this part of the legislation did not go further, did not go much. I wanted more. I wanted a greater degree of punishment. Because what I am saying is, if a prisoner could stay in prison and put a hit on someone outside, I do not think just increasing the amount of years or fine should be sufficient.

When I looked at the Prison Rules, Madam President, there is something called cellular confinement. And I think corporal punishment is still on our law books. So what I am looking at is if those things are there and it is within the purview of the Commissioner of Prisons to give some level of punishment, you know, as I would like to look at the Prison Rules, and I looked at the Prison Rules, I would like to look at—[*Interruption*] The Corporal Punishment Act I was now hearing about. But I am thinking, Madam President, the powers of awards, IOP 272 of the Prison Rules. I looked at it and actually here mentioned that:

“When a prisoner is reported for one of the following offences:—

- (a) Mutiny or incitement to mutiny;
- (b) Gross personal violence to an officer or a servant of the prison; or
- (c) Any offence described in paragraph (1) of this Rule being an offence

as an aggravated nature, the Commissioner shall forthwith report the offence to the Inspector, who shall proceed as provided by the next preceding paragraph and make awards under the powers set forth in the next preceding paragraph, or, in the case of a male prisoner under sentence of hard labour, order corporal punishment, in addition to or in lieu of any such awards.”

So it is probably a time to send a clear message to the prisoners: “You who there, yuh feeling you bad? Yuh feeling yuh could put ah hit on somebody? Let us put an element of corporal punishment there.” And I am thinking that also, part of punishment, there is something called cellular confinement, and even under the Act we can probably put in that cellular confinement, where you put that person in a cell for a while. I am thinking that should be—

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

Sen. V. Deyalsingh: Yeah, I am thinking, Madam President, those could be put into the Act.

Madam President, I looked at the fact that looking at the prison officers, I am thinking, you know, most respectfully, I think we left out the Inspector of Prisons. Because according to the Prisons Act, you know, I am looking at the Prisons Act that we had here in 1974, and I am looking at Chap. 13: Prisons assaulting, obstructing the Inspector of Prisons, section 21:

“A person who assaults or obstructs the Inspector in the execution of his powers or duties under this Act or the Prison Rules or Rules made under this Act is liable on summary conviction to a fine of one thousand dollars or imprisonment for six months.”

I am saying we are increasing the fines for the prison officers. We should probably consider also the Inspector of Prisons, Madam President.

Madam President, I also want to make a point that, you know, under clause 4 of the Bill, it seeks to amend the Police Service Act by repealing section 50H, where it says:

“...person who assaults, obstructs, or resists an officer in the exercise of his functions...”

The present penalty of the fine of \$10,000 and imprisonment of two years is increased to \$150,000 and imprisonment to five years.

Sometimes, Madam President, you know, you may have someone who looks like a police officer and may be a false police officer. A police officer may come. You may think he does not look like a police officer. You may decide look, I am not going to listen to him. Because remember, Madam President, November 07, 2019, in the *Trinidad Express*:

“Fake cops in fake squad car arrested after robbery”

Then on the 17th of May, 2017, there was an article in the *Guardian*:

“TTPS probes possible impersonation of police officer”

Again, we had another article, Madam President, where 19th of July, 2018, CNC3 reported:

“Gasparillo man in police custody for impersonating a police officer during robbery”

Madam President, if a police officer stops me and I am not sure he is a police officer, I may simply drive to the nearest police station. But if he happens to be a real police officer, he may charge me under this. So I am thinking, you know, it is a bit—we have to kind of balance now, where people may be caught up in this, because we have instances where police officers may come to the scene and we are not sure if they are fake or not.

Madam President, clause 4 of the Bill seeks to amend section 54 of the Act:

“by inserting a penalty where a police officer keeps or uses for his private benefit, any article which has been supplied to him at the public expense;”

I think this was increased to \$150,000 and imprisonment for five years. I think it is too harsh. It is too draconian. A police officer may have an article there like an iPad and probably, I am not seeing the other side of it, probably the AG will clarify why it is like that.

I also think section 55 of the Bill also looks at the return of an article supplied to a police officer upon leaving the police service. He may forget. He may have had a computer. And I think increasing that to that figure was too much, from \$10,000 to \$150,000 too much, and I think the imprisonment to five years is too much. An officer may retire and may forget. His memory may be going. He may have post-traumatic stress. He may not remember and yet still we are increasing this.

Again, looking at section 56, which deals with the improper possession of a personal article supplied to a police officer. You know, so we are looking—all of these I looked at, Madam President. I think it is a little too harsh, too unfair. Even when the Bill seeks to look after a deceased police officer if someone, you know—the return of an article supplied to a deceased police officer. Somebody like a wife may not know that this belongs to the police station and she may be caught into this. Her husband may die, but she may not know that the iPad belongs to it.

One other aspect, which I think our Senator mentioned is that the legislation with the refusal to assist a police officer who is assaulted during the execution of his duties. I do not think that should be there, Madam President.

In medicine, we have something where, long ago doctor see somebody in

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Sen. Dr. Deyalsingh (cont'd)

distress we could go and help them. In the States there is something now telling us, insurance-wise, if you go and attend to someone and you do not have the equipment you could be sued. So they even warned doctors about helping. So I am saying if a police officer has some confusion—

Madam President: Sen. Deyalsingh, your time is up.

Sen. V. Deyalsingh: Yes, sure.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. [*Desk thumping*] I thank my colleagues for that warm reception, albeit somewhat delayed. Madam President, I thank all my learned colleagues for very sober and solid contributions today. I have to say that, perhaps, Sen. Hosein is right in some sort of way.

Sen. S. Hosein: What?

Hon. F. Al-Rawi: And let me explain what I mean. I can safely say that hearing from Sen. Hosein, Sen. Haynes, Sen. Sobers, today was, perhaps, the most refreshing day I have had in this Senate, and I think that the message, notwithstanding both parties claiming victory, as we properly have, notwithstanding both parties claiming victory, as it relates to this Bill, I see the effect that losing 50,000 votes has had to the UNC, and it certainly is refreshing in a debate such as this today to hear honestly, all joke aside, to honestly hear excellent contributions coming from my learned colleagues. I really congratulate them all. It really is a wonderful day to have a day like today. I think that it is—

Sen. Thompson-Ahye: Call an election.

Hon. F. Al-Rawi: No, we would not call an election just yet, Sen. Thompson-Ahye. We have a lot to roll out still. Our machinery is yet to crush.

Madam President, I think the best way to wrap up this debate is really to go

in the order that commentators brought the debate forward. So I will start with Sen. Sobers' contribution. Again, fine contribution from Sen. Sobers. I think that he really hit the nail on the head on a number of the issues.

I believe that the first point that is to be addressed here was Sen. Sobers, for the record, the cameras at the maximum security end of the equation, those are not cameras that were not in operation. It was really the Port of Spain Prison, Frederick Street, and that was largely because there was an electrical upgrade that was required. When we came into office there were no functioning cameras in that system. There was work that had started, but it was not yet done and we had to put that into effect.

I will remind hon. Senators that the use of video technology of CCTV evidence is a core function of another piece of work, which we are doing. It is in special select committee in the Evidence Bill. I would not go too far into anticipating that work, but I think that when we get to the evidence amendments we can have a lot of work in relation to that. It addresses some of what Sen. Richards raised in addressing the lack of finality on the prison break issue. There was video footage available, not the best of it. But evidence of that type, to avoid the rules of hearsay, will certainly find merit when we pass appropriate amendments to the Evidence Act.

Madam President, Sen. Sobers raised the issue of whether it is time for us to introduce the concept of personal liability. That is a genuinely large issue. Trinidad and Tobago does have to really wrestle with that concept. It is a careful balancing act. The balancing act to be had, in saying to a policeman: "Look, you ought to be personally liable for your wrongdoing." How we treat with that in terms of law is quite interesting. Right now, the Police Service Regulations which

incorporate section 110 of the Public Service Regulations, that is where we find some of the answer. I do not believe that goes far enough. I think that the Public Service Regulations are certainly not appropriate. Listen to what section 110 of the Public Service Regulations says:

“The following are the penalties that may be imposed by the Commission by disciplinary proceedings brought against an officer in respect of misconduct, indiscipline or unsatisfactory service—

- (a) dismissal...
- (b) reduction in rank...
- (c) reduction of remuneration...
- (d) deferment of increment...
- (e) stoppage of increment...
- (f) reprimand...
- (g) fine.”

And unfortunately for us, Trinidad and Tobago is grappling with its very Constitution.

Madam President, my own grandfather who participated in the Marlborough House discussions tells me, told me, and then wrote about it, of the difficulties that they faced in the constitutional debate and of my grandfather's own view that Trinidad and Tobago would lament the entrenchment of its service commissions in the way that was being proposed. Because effectively, we would not have a functioning society.

And I often say to people, and I will say it here today publicly for the *Hansard* record, if you ask the average Trinidadian and Tobagonian to name the head of the Teaching Service Commission, head of the Public Service

Commission, head of the Judicial and Legal Service Commission, head of any of the service commissions, they cannot name a single person. And yet it is our service commissions who employ, discipline, manage the entire public service. If this were a public forum, I would volunteer to sit now and point to someone and say: "Name the head of X." But really and truly that point raised by Sen. Sobers, such a deep and important point, is where we are. Do we do as we do in this piece of law and criminalize the effect of bad behaviour, trafficking, misconduct, obstruction by the officers themselves? That is what we have elected to do in this legislation here.

But as Attorney General, I can certainly say with confidence malicious prosecution, false imprisonment claims, they cost the State millions of dollars year on year. The danger in putting the personal liability to the officer is that you may be met with the argument: Well we will do no work because we will be exposed to the odium of personal liability. It is why, in every piece of law, take the Central Bank Act, there is effectively the good faith argument, that there is no liability or sanction and there is in fact indemnity and immunity for acting in good faith. It is to allow people to move without the fear of consequence. Because there is a fine line in how one balances acting with anxious propriety and acting in bad faith, particularly in the context of the civil law.

So I agree with Sen. Sobers, it is really a point that our country is going to have to wrestle with. Do we in fact cause the service commissions to start to account in a more rigorous fashion? I think that that is where we ought to be. Is there a remedy right now, albeit an expensive one in malicious prosecution, false imprisonment, misbehaviour matters? I think that we are in that zone right now. Why? Because we are in the course of right now ameliorating the entire structure.

Remember we are talking building plant and machinery, people, processes and laws.

And this would not really make sense to Trinidad and Tobago until a couple of years from this date, when we start to see the outcome of laws. I can tell you that you will see the outcome of laws in a matter of days, in certainty contexts. And there are some laws that have the genuine opportunity to sober up our society. So I agree with Sen. Sobers, I think it is a very important point. From a policy point of view as we grapple with crime right now, I do not think that we are yet capable of putting the personal liability, but I find faith in the Judiciary.

7.10 p.m.

There was recently the judgment by Mr. Justice Seepersad, Frank Seepersad, where he ordered in that kidnapping and extortion matter by the two policemen, so found to be in that circumstance by him, he ordered the personal repayment by one of the policemen. So the Judiciary and the law still has an opportunity in the separation of powers structure to get it right, and obviously, open judicial thinking and management helps us with that. Justice Seepersad, again, was after all the person in the *Simmons v Ho* matter that thought about the concept of privacy and how, in that instance, revenge porn was used in circumstances that it ought not to have.

So I think Sen. Sobers is right, it is a situation that we have to look at. I do not think we are quite there yet as we are very aggressively managing a situation after we have CCTV evidence, after we have anonymous witness statements, after we have the birth of this building being new courts for civil and 64 odd new courts for the criminal courts coming on board, we have a better chance as the system begins to quicken. I have given the undertaking to look at the issue of framing

legislation. I cannot find a precedent, Sen. Vieira and I had an informal discussion off the floor. I have already reported that I have spoken to the DPP about it who is very firm in his view that we ought not to do that, but it does not stop us. As Sen. Vieira said to me, when we created works of mas in the copyright law, we were the first country in the world and only country in the world to have that particular concept in law, and there is nothing to stop Trinidad and Tobago from being novel. And I give you my word that I am working on a structure, which I intend to actually discuss with all of us, Opposition and Independents, in the course of coming up with that law in presentation.

Madam President, I noted the very good suggestion coming from Sen. Sobers on the retaliatory action. The law as is crafted across each of the Acts that we seek to amend be it prisons, police, et cetera. We have a part one and a part two, and we say in that retaliatory action:

“11(1) A person who”—in part one—

“(a) assaults, threatens, obstructs....; or (b) aids or incites”—
another—“person to assault,”—and here is where we go—

“a police officer in the execution of his duty, or any person aiding or assisting...with intent to impede...commits an offence.”

It is in subsection (2) that we went:

“11 (2) A person shall not intentionally take any retaliatory action against—

(a) a police officer;”—et cetera.

I think there is merit in including that person who has aided and assisted and I have asked the drafters to produce that draft for us to consider at committee stage. I thank Sen. Sobers for making that recommendation. I think because it is tied in

with subsection (1) that we can do it in subsection (2) across the various pieces of law. I would have to come back to treat with the retaliatory mechanism in the anti-gang legislation and I could always do that in another Bill as I come with more miscellaneous provisions laws.

Madam President, Sen. Sobers raised the issue of tracking the source of tipping-off, and I think that he is right that the source is applied. We respectfully believe that the source of tipping-off is sometimes hard, because you often see the result of it coming at least from one person but you may not be able to track it to the first person who gave it out. There is, of course, the common law that can speak to that. There is, of course, the ability that the tipping-off may include that person if the “chain of custody”, if I could use that expression is actually followed.

Forgive me for jumping directly to Sen. Haynes. Sen. Haynes shared with us the perspective of being a relative of police officers from her vertical and horizontal relationships; parents, step-parents, family members, et cetera, and that is nothing to sneeze at. We have it on our side too, we have the Member of Parliament, Mrs. Glenda Jennings-Smith, a hard-working police officer in her time, et cetera. There are many people that have really given service to country and find themselves in a new incarnation. And I think it is a very novel point that Sen. Haynes raised about persons who continue to act, for instance, in the course of giving evidence after they have retired. I am not quite sure about extending it that way. I undertake to look at it, to see if I can carve it out, and I will say why. The whole connection to the anti-gang legislation and then the impact across sectors, because should it apply to prison officers, should it apply to immigration, customs, et cetera, should we treat with that? I think the hon. Senator has raised an important point that deserves a little bit more exploration. I think it is novel and I certainly

undertake to look at the point. I thank the Senator for raising the issue as she has capably done.

Madam President, Sen. Sobers again raised the contemplation of how trafficking occurs; the chain of trafficking. In answer to that, I had a look at it. I believe that the current section 8(1) that we propose in clause 3 captures persons other than the prison officer. I think that the capturing of the prison officer in section 8A perhaps addresses the situation in the right way, and I think that that point is address in the legislation as drafted.

Sen. Hosein raised and Sen. Sobers touched upon it, the concept of video and whether we had actually caught video images in using the term “photograph” and then “images”. Even though the CPC’s department believes that we have caught it, I think there is merit in Sen. Hosein’s recommendation and I have asked for an amendment to include the expression “video” to be applied to it. I thank the hon. Senator for making the recommendation.

Sen. Deonarine, raised several points: how will we encourage reporting misconduct? I think the Senator is right. Sen. Richards, raised the propriety of the Police Complaints Authority versus the Professional Standards and the internal mechanisms that the police actually use. There really ought not to be two divisions treating with it. I think that there is a very novel thought by Sen. Richards in saying let us have a PCA for all. I think that that is a recommendation worth looking at, particularly with persons that have police powers. I think we should, of course, except out the army and anybody falling under those mechanisms, because they have boards of enquiry and military law is a different regime itself. But I think that that is an excellent point. I think that in the reform that I am looking at right now in the Police Complaints Authority that that is something that I would

certainly add to the table. I thank Sen. Richards for raising that.

Sen. Deonarine's point about how we encourage reporting misconduct, I think is critical. It really is something more than just 800-TIPS or Crime Stoppers, and we intend to lay the whistle-blowing legislation in this Senate. Whistle-blowing laws have the impact that they do in many jurisdictions and with whistle-blowing legislation, as we have crafted, I think that we have a shot at encouraging whistle-blowing. Because the Senator was right, who would be encouraged, and Sen. Thompson-Ahye raised it and several other Senators, who would want to give evidence knowing that there could be retaliation? There is a fear and there is a position, Sen. Richards raised it in the context of gangs, the person in front of you and person behind you in a gang-operating sort of context. I think all hon. Senators are correct.

Madam President, the threat analysis unit in the prisons, I can tell you that that has been working extremely well. We have, as a Government, taken the SSA, married intelligence to the prisons, the TTDF and the police. And it is not by mistake that you have been seeing the police with so many successes. Let me repeat that, it is not by mistake that you are seeing the police with so many successes. Trafficking in persons, young Latina and local girls caught in situations of abuse, firearms find, cocaine find, marijuana find, these things have not been by mistake— arrests of persons alleged to be gang leaders. These things were things that you have not been hearing about, but so successfully have they one by one been operating that now, unfortunately, we do not pay attention. Because what happens is they reach page 6, page 8, page 12 of the newspapers.

There was a time when we wanted the Anti-Gang Act to work well. We had several alleged gang leaders arrested, that was page 12 in one of the newspapers.

That is big news for law enforcement that deserves celebration. And Sen. Haynes is right, we have to be careful with our words, and when we make derogatory statements of our police, when some activists are more interested in how the police dresses, and what colour their uniform is and are pixilated uniforms allowed as opposed to the power of seeing masked policemen on raids causing justice to be delivered.

I can tell you that the law enforcement officers in the Trinidad and Tobago Police Service, every time I witness them with their badges around their necks, with their uniforms on with a sense of certainty in the crowd, it is not business as it was before. And I will remind that is why our Prime Minister said repeatedly, the first order of business is to select a Commissioner of Police. You get the right Commissioner of Police, you begin to set the tone. And Sen. Haynes was right in the reflections that we make. But then again we do ourselves an injustice as politicians, because the kind of remarks that we hear people make, really just does not apply on the political field. We are expected to have, by far, thicker skins. I do not know, if you have noticed, I may be sharp in my responses, but I am not derogatory to personalities, myself, as a politician, as I have now come to call myself that. I make it my effort to acknowledge sensible contribution and sensible people. We can agree to disagree, we can throw barbs and talk at times, but there comes a point when we have to agree that we agree to disagree and we can agree upon personalities being respectful.

Madam President, we had Sen. Hosein make an interesting point that I thought was worthy of distinguishing. Sen. Hosein said that there appeared to be some degree of inconsistency in the Government's policy as it related to this Bill and then the proposals on the bail legislation. I would like to say that with respect

to this Bill, as we treat with law enforcement, I think that we are clearly within the confines of consistent policy as it relates to the bail because the bail restrictions which we offered apply in the context of judicial scrutiny. We never proposed legislation under the bail amendments where there was not judicial scrutiny, it is very different from all the other laws that stood up to 2016. We have always preserved the right for the judges to have supervisory authority as they ought to in the separation of powers principle in the legislation which we passed in this Senate. So I do not think we are being inconsistent in anyway by way of response to the hon. Senator.

Sen. Hosein raised a very important point that is whether we ought to treat in this law with the special reserve police. I will remind that Chap 15:01 is the Police Service Act, Chap. 15:02 is the Supplemental Police Act, you have the estate constables and the rural constables, Chap. 15:03 is the Special Reserve Police Act. In particular section 18 of the Special Reserve Police Act, clothes all SRPs with the powers of police. We had considered bringing it into this law, but held it back because we were doing a very important exercise, which is looking at an amendment to the SRP legislation, to do something very critically important. We want to professionalize the Police Service. Let me repeat that, we want to professionalize the Police Service. In the same way that the army permits, entry of officers once there are qualifications, et cetera, professionals into the service, we are trying to do the same thing in the police.

I can tell you that the special prosecutorial unit that the police have now, the white-collar special prosecutorial unit from the United Kingdom, which is in conjunction with the special prosecutors in forensics and accounting, they are SRPs. So we have already introduced a professional class into the TTPS of a kind

that this country has never seen. This is not Bob Lindquist. Bob Lindquist was never a police man. The investigators and prosecutors that we utilize as a country now in the TTPS are police, and to manage that, we have to do some surgery in terms of rank, because the SRP legislation does not allow us certain privileges there. So we have held apart the SRP to bring one piece of law to treat with those two, but Sen. Hosein caused me to think twice today as did Sen. Vieira who had a similar concern and we spoke off the table.

I have instructed the team, the CPC's team, to draft the amendment to include the provisions that we would for the SRPs. We can look at it at the committee stage to see if to add it in now. It is not that we have omitted it for want of thought, but we had omitted with a reason. But maybe it is prudent to do it now because we have a Bill that treats with tipping-off, retaliatory action, breaches of offenses, et cetera. So the team is working on those amendments now, and we can have a look at it at committee stage to see how we can do some surgery to this particular Bill.

I can say Sen. Hosein raised another very important point, which is, what is happening with the happening with the grabbers and jammers at the prisons, that is the telephone blockers and interceptors. I can tell you they are all in operation. What is not working is what you cannot operate: VoIP, Voice over Internet Protocols, WhatsApp calls, in some instances, we are not capable of being managed. In regular VoIP aspects there were some limitations, they have been upgrades to suites, et cetera. What is certainly in gear right now is that we are bringing a very novel approach to the Parliament.

We will be bringing law to amend the Interception of Communications Act to do a radically important thing. It is to allow for interception of live

communication, not over a telecommunications network alone. In other words then, “bugging”. Every single place in a prison, except the areas where you have legal professional privilege, because you must have those, will be subjected to being listened to and being viewed. The prison must be, the prison must be, the prison. And we propose in that law, not yet before the Parliament, we have just finished it in conjunction with the DPP and other persons. We are looking as well at non-warranted use of the information.

In other words then, once you are inside a prison and you find yourself on a telecommunications network that you will be subjected to that going into evidence. We are going to balance it with certain safeguards. In the context of bugging if I can use that, obviously, you cannot have entrapment. The court must see to the admissibility of the evidence. There are a number of cautions which the English courts have really put out and which we have borrowed from and there are significant improvements. But we intend to treat with locking down the prisons so that we are not confined to grabbers and jammers. We are not confined to who brought a cell phone or who did not.

We are not confined to the situation of the prison officer, Sen. Hosein raised it, being under duress, “I’ll kill yuh family if I doh get the phone call”. Our simple solution to that is no phones in the prison. No police officer, no prison officer, no cell phones. You are not allowed to enter the prison with those things. So there are some very important and far reaching amendments for us to consider. Obviously, there are loads of safeguards which I do not have the time to introduce nor is it relevant strictly beyond the reply that I would like hon. Senators to just be aware of.

Madam President, I want to accept what Sen. Sobers said and slightly

Miscellaneous Provisions (Law
Enforcement Officers) Bill, 2019
Hon. F. Al-Rawi (cont'd)

disagree with what Sen. Hosein said when the Prime Minister targeted on the political platform which is a very different place from a forum—

Sen. Dr. Deyalsingh: Thank you, Mr. Attorney General. You had mentioned previously the WhatsApp communication or communication phone, communication with others, right? I wanted to know, did this piece of legislation look at the persons receiving calls from inside the prison, because what I looked at, the Prisons Act, 13:01, section 12, it said:

“Any unauthorised person holding intercourse or interfering with a prisoner while in any prison or public place”

Sen. Baptiste-Primus: Intercourse?

Sen. Dr. Deyalsingh: Well, that is what it said, eh, “intercourse”. Discussion, right? Or—yeah?

Sen. Vieira: What is authorised intercourse?

Sen. Dr. Deyalsingh: Yeah. Well, I know the word “intercourse” got a few Members on the other side excited, Madam President. But, so:

“Any unauthorised person holding intercourse”—I see it and I said it again. I see—“or interfering with a prisoner while in any prison or public place is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.”

So this clearly would say that if I can call and make a call out, is that person receiving the call—

Hon. F. Al-Rawi: I am sorry to rush you.

Sen. Dr. Deyalsingh: No probs.

Hon. F. Al-Rawi: Madam President, what does full time end?

Madam President: 7.46.

Hon. F. Al-Rawi: 7.46. That “intercourse” does not mean dialogue. [*Laughter*] Under section 12 of the Prisons Act. Right. It is a different form of intercourse. To just put it nakedly. No pun intended. Right.

So the person receiving the telephone call, we are going to treat with who receives, who makes, we are going to treat with prohibited articles in section 8A, trafficking, and we are going to treat with who makes calls, under the Interception of Communications Act and who receives. So we are treating with those aspects in a different piece of law. That is why I mentioned the amendments to the Interception of Communications Act which is about to be brought to the Parliament subject to Cabinet’s approval of its form and content.

But that whole concept of conjugal activity and reform, that is something that we are actually looking at in the prisoner rehabilitation context. So there is a different aspect of that. The interaction of a mother with child, a parent with child, the current laws, in fact, only allows it once a year, and that is obscene in offender management. You cannot be talking about recidivism and you cannot be talking about offender management if you are allowing contact once a year. So I am saying this with the passion that I am, because we are doing a massive amount of work on it, but the products require a little bit more surgery before we bring them forward.

Madam President, Sen. Haynes, raised a point of the Executive and Cabinet being tomorrow and doing more and of persons killed in the line of duty. I think the Senator is obviously attuned to the issue of what happens in life after death, meaning for the dependents. I would just like to assure the hon. Senator that even though the compensation for persons killed in the line of duty stood before the Cabinet prior to ours for a number of years, it was never operationalized. Under

the Minister of National Security, Dillon, that was operationalized and we have paid out the \$1million per death in the line of duty, we have actually made the payments. So we agree with the hon. Senator, we did what was necessary, we have put it into effect and that is notwithstanding other benefits that come to you on death. So I want to assure the Senator that we have looked at that issue, we did that since 2016.

Madam President, the issue of dis-incentives or rather incentivizing people to join services, I think it is a laudable concept. We do not yet have some of those facilities. Should we adjust the GATE Programme into a pseudo scholarship bounding arrangement for the police, et cetera? It is novel, but we have to grapple with where we are financially at present. We have had a massive reduction in revenue in this country. We operate with \$20 billion less at times per year than our predecessors did, and our focus has been on maintaining employment in the public service. That is—people take it for granted, we look at the action of that the private sector takes other companies, et cetera, companies, not countries have the role to do things that Governments just do not. We thought it important to focus upon doing as much as we could with the little money that we have and certainly whilst it is a good idea, perhaps it is best seated in the GATE arrangements or structures.

Sen. Thompson-Ahye raised a number of thought provoking concepts and positions. How we deal with inter-agency management, how we create focus upon and build confidence in the services, how we make sure that we meet the needs of the people that are working and it is at this moment that I would like to congratulate, in particular the Commissioner of Police, because the Commissioner of Police, Mr. Griffith, has been sincerely dedicated, as the Government has been, on cost savings. Less people on suspension, less overtime arrangements, utilizing

that money for the benefit and welfare of persons instead and that aspect of making sure that we look after our own is certainly something which is prevalent.

We have just as a Cabinet decided to support further mechanisms inside of the Commissioner of Police's arrangements for football, ancillary matters, the Second Division welfare, et cetera. So there is a lot of that that is going on but what is critical for us is to ensure that people are honest in the job. The first way to look after police men properly is to make sure we eradicate corruption. Eradication of corruption in the public service, in the political life, in just Trinidad and Tobago, should be the number one priority we all have. That is why we brought the civil asset unexplained wealth legislation. That law alone, the unexplained wealth factor has the potential and will cause a sobriety of the kind that we have not seen in our country. Please.

Sen. Thompson-Ahje: There is a provision which speaks to a judge having being impressed by the work of a police officer been able to award no less than \$100. Has that been amended at all? I find personally it is insulting. Police officers—you cannot say \$100. Is it now five? Even that.

Hon. F. Al-Rawi: We agree that the reward factor is obscene. There is an across-the-board formula that we are looking at, because in the same way we brought omnibus legislation here to treat with several aspects: customs, immigration, police, fire, we thought it prudent—and prisons, we thought it prudent if we are looking at that “incentivization mechanism” let us do a second haul at that. What is important right now is to make sure we treat with the hemorrhaging; tipping-off, massive problem; retaliatory action against officers and their family, massive problem; trafficking, misuse of office, breach of fiduciary responsibility, massive problem.

So what we have done on this particular haul, knowing that we have the interception of communication amendments coming, knowing that we have the SSA regulations coming, knowing that we have a significant number of other pieces of law to work in tandem with this, knowing that the criminal justice system will slowly get its chance to prevail. I can tell you now, Madam President, there is one more amendment to the abolition of preliminary enquiries that we must do.

The Government has taken the opportunity, I, as Attorney General, before proclaiming any law sit in a process of consultation with all stakeholders. The last of the consultations before we abolish preliminary enquiries with the Judiciary, the police and the DPP's office in particular, has resulted in a few amendments to be done. I intend to take that Bill to Cabinet next week and to lay it into the Parliament immediately to debate, because all things being equal, we may very well have the chance of abolishing preliminary enquiries as soon as January next year.

Madam President, we have been talking about preliminary enquiries for decades and the problems that have been involved there. That law is 1917 and it existed in a form before that. It is time for us to remove the bottlenecks in our system. Yes, there is a shift. Yes, if you have in your sufficiency hearing the opportunity to go to the court, you are obviously going to have a difficulty in moving the point but at least you do not have 10 years in the waiting for preliminary enquiries, if not longer.

Madam President, Sen. Deyalsingh raised a number of issues. I think that the hon. Senator's points in relation to the—what he believed to be an improper focus of fines and penalties for failing to assist police officers. I think—hon. Senator, I just wish to assure you, you are not exposed to that unless you fail to have

reasonable cause. The law is couched in the form that you are exposed to a charge for failing to assist, which was always the law if you do not have a reasonable excuse; you feared for your life, you did not think it was appropriate, your insurance told you not to do it, all of those are reasonable excuses you will not be subjected to the penalties. But to leave it at \$1,200 or \$1,000 or \$2,000 was just inappropriate. I will remind you that the law is that you set the ceiling in law. The discretion of the court is to apply anything from the max right down to zero and you may very well, in certain matters, have the ability to be reprimanded and discharged. That is a feature of the law where the court can actually impose no sentence upon you, remand you and discharge you in certain circumstances, but we had to raise the ceiling.

Madam President, there comes a time when we have to accept that waiting on the perfect product is not appropriate that we will just have to layer our approach through. I constantly use the refrain of “just start”. We have had many starts, many layers, we are at the cusp of delivering significant benefit to Trinidad and Tobago. People are hungry for the product, but the product cannot happen unless it is built right. We know that the country is crying out for its fair share that is immediately upon us. Certainly, in the next couple of months, we will see the fruit of that arrangement come to life.

7.40 p.m.

PROCEDURAL MOTION

The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat): Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continues to sit until the completion of the business at hand. Thank you.

Question put and agreed to.

MISCELLANEOUS PROVISIONS
(LAW ENFORCEMENT OFFICERS) BILL, 2019

Hon. F. Al-Rawi: Thank you, Madam President. This product that people are clamouring for is one which has been a multi-arrangement enterprise. Trinidad and Tobago has not come into territory that it has not been in before, Madam President. We have, as a country, witnessed many situations of difficulty, of propriety, but I want to just read something for hon. Senators with your permission.

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

Hon. F. Al-Rawi: Thank you, Madam President, I intend to end shortly. This is a report of the Constitution Committee of 1974 and I read this:

“20. The society has painfully to adjust itself to stories of shoot-outs and killings and woundings, of early morning searches and of widespread public fear of victimization by one side or the other.

21. There is a danger that we may become insensitized by exposure to the human tragedy in the situation and accept this state of affairs as part of our political culture. Violence breeds violence. Violence or the fear of it invariably tends to make the citizen more receptive to strong police and military procedures.”

Those are words in 1974. Do they sound any different from what passes in 2019, as we head to 2020?

Crime mutates; it does not seem to go away. Solutions have to mutate, thinking outside the box and reclaiming our society is where we need to be. There is a lot of joke outside there about the so-called “1 per cent”. You know what the 1 per cent that we really should be focused upon is? The criminality in this country.

It is less than 1 per cent. A few hundred, maybe thousand, wicked souls cause us to live in the situation that we are in. We really do need to just simply focus upon the product. Regrettably, there does not seem to be accord at all points along the way. Our Constitution is a rather unique structure, our entrenchment of rights and our exceptions to entrenchment of rights sometimes lead us to a standoff. One can only try.

This Parliament is a place for the passage of laws, for the peace, order and good governance of our society, so says section 53 of the Constitution. I am very pleased to have developed this law. I am very pleased to have worked with the stakeholders in this exercise. I am very pleased to have sat in this Senate today to listen to the accord which all Benches seemed to have on this particular Bill, and I thank you, Madam President. I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam President. May I respectfully ask, Madam President, if we could take a short break? I have just received the amendments that the CPC's department has at my request, put together as a result of the comments coming from hon. Senators. I did not have the benefit of proposed amendments, themselves, coming from hon. Senators which I accept, but I would like to just go through this if you do not mind and then allow for the circulation? Is it possible that we can take at least a 10-minute break?

Madam Chairman: Sure, let me just ask. Is there any other amendment to be

circulated? So it is just the Attorney General? All right, hon. Senators, we will suspend the Committee and return at 8.00 p.m.

7.47 p.m.: *Committee suspended.*

8.00 p.m.: *Committee resumed.*

Madam Chairman: May I ask if all Senators—

Mr. Al-Rawi: Sorry—“the assistant”—“the person”, Sean’s point, “the assistant” so we will add that in across the template for prisons for this, for that, et cetera. Let me—I think it is sensible for us to actually circulate it. Once we get through the first one, everything else is effectively a cut and paste until we get down to the last amendment, where we are adding in the SRP Act itself to capture the SRP section.

Madam Chairman: Hon. Senators, the amendments are being prepared now for circulation, so I am going to suspend the Committee for five minutes, and we—10 minutes. All right, let us go—I am going to suspend for 10 minutes and that will allow us to really start.

8.03 p.m.: *Committee suspended.*

8.12 p.m.: *Committee resumed.*

Madam Chairman: Hon. Senators, the amendments are almost with us, so just to do some housekeeping before we begin, there are seven clauses in the Bill, but that is a little misleading because it is a voluminous Bill. So clause 3, for example, goes from page 2 to 15. So when we are dealing with clause 2, we may go through page by page, just to make sure the questions and comments are received. Okay?

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

Clause 3.

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

Mr. Al-Rawi: Madam Chair, clause 3 is amended as follows:

- A. In subclause (d), in the proposed section 8B—
1. In the proposed subsection (1)(a), after the word “sound-recording” insert the words “or a video-recording”.
 2. In the proposed subsection (3):
 - (i) In paragraph (f)(v), delete the word “and”;
 - (ii) In paragraph (g), delete the full-stop and insert the words “; and”; and
 - (iii) Insert after paragraph (g) the following paragraph:

“(h) video-recording” means a video-recording with or without sound”.
- B. In subclause (f)—
1. After the proposed section 11(2), insert the following new subsection:

“(2A) A person shall not intentionally take any retaliatory action against—

 - (a) any person aiding or assisting a prison officer in the execution of his duty;
 - (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),

on account of the person aiding or assisting a prison officer in the execution of his duty.”
 2. In the proposed section 11(3)—
 - (a) In the chapeau, delete the words “subsection (2), ‘relative’ means, in relation to a prison officer” and substitute the word “subsections (2) or 2(A), ‘relative’ means, in relation to a prison officer or a person aiding or

assisting that prison officer in the execution of his duty, as the case may be”; and

- (b) In the proposed paragraph (f), after the words “prison officer” insert the words “or the person who aided or assisted in the prison officer in the execution of his duty”.

Madam Chairman: Yes. I am sorry. Sen. Chote.

Sen. Chote SC: Yes. Thank you, Madam Chairman. Through you, hon. Attorney General, under “prohibited article” we have drink—sorry, letters, papers and books as being:

“...any article likely to be prejudicial to the safety, security, good order and discipline of prisons.”

I am a little concerned about that because one of the things you find in the prisons is that very often prisoners do not have paper upon which they could write their instructions. Now, I think perhaps the mischief you might be looking at is literature which may:

“...be prejudicial to the safety, security, good order and discipline of prisons.”

Is that the case and, if so, is there a possibility that we could change it to that?

Mr. Al-Rawi: Thank you, hon. Senator. The caveat that we had applied is in the ejusdem generis tail here, which is:

“...likely to be prejudicial to the safety, security, good order and discipline of prisons.”

So it was intended to be a qualifying aspect to those things, because it would not be, of course, every piece of paper or a blank sheet of paper, et cetera, that is caught by it.

What we did is we borrowed from what the existing recommendations

coming from the prisons look like. So I do understand the caution, but I do not think that as drafted it catches the gist in general principle. It must be something that is prejudicial to the safety, security and good order. We are looking at radicalization literature. You are right, it is literature, et cetera. So I think that is what we have here. Is there some surgery that you think that we can do in this that you could perhaps recommend?

Sen. Chote SC: I was respectfully going to ask whether we could consider it, because, you see, a prison officer may not think that a prisoner writing his complaints on a piece of paper is not prejudicial to the safety, security, good order and discipline of the prisons, if you catch my drift.

Mr. Al-Rawi: We do.

Sen. Chote SC: You see, and very often, the ability for prisoners to make complaints is on paper, and when you take that away from them, in a sense, you take away an avenue that they can legitimately use to make a complaint.

Mr. Al-Rawi: Sure. Insofar as we have letters, books, tools or any article, I would have no difficulty in deleting paper. There is no harm in that approach.

Madam Chairman: Sen. Teemal.

Sen. Teemal: Yes, on page 3.

Madam Chairman: On page 3? Okay. Before that, let us just deal with page 2. Sen. Richards.

Sen. Richards: Thank you, Madam Chair. Just out of an abundance of caution, I know the list cannot be exhaustive, but would you be minded AG, to include chemicals, organisms or dangerous bio matter?

Mr. Al-Rawi: I would be minded, but I had left it really with that tail end speaking—any other article likely to be prejudicial to the safety. So the dangerous drugs, explosives, I thought, captured some of that. Weapons, includes noxious

substances, toxins, et cetera. So I thought that we had captured it from that perspective there.

Sen. Chote SC: Is a liquid captured there?

Mr. Al-Rawi: Not per se.

Sen. Chote SC: Bleach, for example, could be something that could be easily accessible and could be toxic.

Sen. Richards: That is why I said chemicals.

Mr. Al-Rawi: Yes. The gentle whisper coming from Senior Counsel to my left is that I must remind that the definition is “includes”, so it is not intended to be all-encompassing, just because we have not used the word “means”.

Madam Chairman: Sen. Hosein and then Sen. Obika.

Sen. S. Hosein: Just in response to Sen. Richard’s point, I know we have the (Biological) and Toxin Weapons Act, and I do not know if that may, in fact, also cover the situation here, because you could just read from the definition, I do not know. I think “weapon” is defined in that Act, biological weapon. So I do not know if you just want to include that. I think it may cover it.

Mr. Al-Rawi: I do believe that we could rely upon the comfort of “includes”. I think Sen. Hosein is right that weapons can obviously be interpreted to mean anything including homemade weapons, nails, bleach, fertilizers, et cetera, so that I think we can rely on that.

Sen. Richards: I am good with that.

Sen. Obika: Thanks, Madam Chair. The question I have has to do with books. I am assuming there will be some overriding policy that allows the commissioner to approve books. I am just wondering if this would not affect the enlightenment of persons incarcerated, because books tend to help with enlightenment and restorative justice.

Mr. Al-Rawi: The overall caveat—I accept your point—is that the commissioner must really say what is permitted and not, which is what generally the commissioner does. In fact, we have a very aggressive programme right now, thanks to the Corrections Canada. The head of Corrections Canada will be here on the 7th of January, 2020, to just perfect some of the work that we are doing there, and one of the aspects there is the literacy and training and other aspects; a very deep side of the equation. I am sorry to call his name today, but in respect I do. Vision on a Mission, Wayne Chance, was a large part of some of the work that we had done in our prison reform et cetera, and I pay homage to him, if I can take this opportunity now.

Madam Chairman: Okay. Attorney General, if you could just tell me what the amendment will be.

Mr. Al-Rawi: Madam Chair, sure, I am grateful. For clause 3?

Madam Chairman: Well no, for what Sen. Chote had suggested.

Mr. Al-Rawi: Yes, Ma'am. So the amendment would be in clause 3, paragraph (a), in the definition of “prohibited article”, we will be deleting the word “paper”.

Madam Chairman: Okay. Can we move on to page 3? Sen. Teemal.

Sen. Teemal: Thank you, Madam Chair. Item 3(i) rehabilitation centres. AG, I was just wondering if in terms of the definition being general, if we could be specific and name the rehabilitation centre. The reason being is that I think here we are referring more to the non-voluntary rehabilitation, those who are in rehabilitation due to committing an offence and being found guilty, and then if at time the Government itself, we get into voluntary rehabilitation centre—

Mr. Al-Rawi: If I could assist, the term is a defined term. Rehabilitation Centre, RC, it is in reference to the legislation which creates rehabilitation centres. So the rehabilitation centres in law are what we converted children's imprisonment to be.

So we used to have the Youth Offenders, YTC, we changed YTC legislation, the Young Offenders—YODA we used to call it, legislation—Young Offenders Detention Act, which changed to the Child Rehabilitation Centre Act, and in the Child Rehabilitation Centre Act we defined “rehabilitation centres” to mean those centres which are prisons for children, effectively, and that is what this means.

Sen. Teemal: Okay. Thank you.

Madam Chairman: Page 4? Page 5?

Mr. Al-Rawi: Madam Chair, the Government has amendments beginning at page 5 and, as circulated, if I may address those, you will see, Madam Chair, that we propose at subclause (d)—

Madam Chairman: No, that is actually page 6.

Mr. Al-Rawi: Page 6. I apologize.

Madam Chairman: Sure. Sen. Chote.

Sen. Chote SC: Yes. Thank you very much. If the hon. Attorney General has nothing else with page 5?

Mr. Al-Rawi: No, I do not.

Sen. Chote SC: This section, basically, tries to ensure that a prison officer does not do anything for favours or benefits and this kind of thing. One of the things that happens in the prison is, well, you would find that a prison officer might be facilitated with sexual favours from young women brought to visit the prisoners so that there could be a viewing and then arrangements are made, but I do not see that that is necessarily covered by any of the subsections here. I was looking at possibly (b) and I know we have not gone on to page 6 yet, Madam Chairman, but I was wondering if either in (b) or (e) we could include the word “favour” to cover that kind of situation?

Mr. Al-Rawi: I think (e) captures it. But, first of all, I think that is an excellent

recommendation. It actually ties in with Sen. Deyalsingh's roving eye as it relates to section 12 of the Act, which says:

“Any unauthorized person holding intercourse or interfering with a prisoner while in any prison or public places is liable...”

But I think that what you have suggested is broader than that, favours, viewing, et cetera. So I think that is an excellent suggestion. Perhaps, we could look at it in subclause (e) on page 6?

Sen. Chote SC: Indeed. I think if we just include the word “favour” that might cover any number of circumstances.

Mr. Al-Rawi: So we are proposing in subclause (e), after the word “any” to include the words “favour or benefit”.

Sen. Chote SC: Thank you.

Madam Chairman: So we are now on page 6, hon. Senators, and page 6 at (e), it is proposed to add the words “favour or” after the word “any” in the fifth line. Okay? Attorney General, further on is your proposed amendment, page 6.

Mr. Al-Rawi: Yes please. At page 6, Madam Chair, our amendments begin at what is proposed there to be 8B and we are proposing in accordance with the recommendations coming from Sen. Hosein, that we include “or a video recording”. So in the proposed subsection (1)(a) after the word “sound recording” we will add in the words “or a video recording”. It is as circulated in the amendments before us. That would be number one of the proposed amendment.

Then we propose in the proposed subsection (3) which is to be found at page—

Madam Chairman: Page 10?

Mr. Al-Rawi: Yes. You are ahead of me, Madam Chair. Yes. That we will at 5(v) do the usual. We remove the word “and” and we then put it into “(g)” as

circulated—“; and” and then we will insert a new paragraph “(g)” at the end of it, where we would put in this “(h)” as shown at number two of the amendments:

“‘Video-recording’ means a video-recording with or without sound”.

Sen. Vieira: Chair, I am speaking with respect to the proposed amendment, the definition of video-recording. With respect, that is begging the question. It is circular logic. “Video-recording” means video-recording. So may I suggest, video-recording means “a recording of images with or without sound.”

Mr. Al-Rawi: The question is whether we get back to the debate. We thought that images caught in the first point. A movie is moving images, right, moving pictures, hence the word “movies”. Right? So we went with what is contemporarily understood to mean a video, because the ability to have still-frame technology is no longer an image. So I am not quite sure if we captured it that way.

Sen. Vieira: Well, in the Copyright Act, there is audiovisual work which is a very complicated definition, but I would think “video-recording” means a recording of images would be sufficiently clear in English to capture a video-recording with or without sound.

Mr. Al-Rawi: I think that video is now a standard term of art in the world, that a video is—you see the technology has moved beyond images. It is actually pixelated, it is you know “BitTorrented” as Sen. Richards put it in there. So I wanted to capture that concept of “BitTorrenting” and reassembly of technology too.

Sen. Vieira: So visual and audible components? I am just uncomfortable with “video recording” means video recording.

Hon. Senator: Yeah.

Mr. Al-Rawi: So what I can say is that we also have this in the Evidence Bill,

where we are treating with video now as a proper term of art and we say video. I mean a couple years ago, if we said “BitTorrent” nobody would understand what on earth that means but now most people do. Streaming, we say, what streaming is in relation to technology.

Sen. Richards: If I could, Madam Chair. A video is a standard term. It is understandable in the world of media as a particular format.

Mr. Al-Rawi: Well, from a pure linguistic point of view, video from the Latin root vide, I mean, it means to see. So the thing which you can see in that sense. So I could kind of understand it that way. Forgive the etymology, circuitous as it is. [*Laughter*] I am looking at Sen. Chote’s expression.

Madam Chairman: Okay. So I think that the Attorney General is sort of holding to the amendment as circulated. Yes? Sen. Hosein.

Sen. S. Hosein: AG, Sen. Mark raised an issue with me with respect to this particular clause, and he had raised some concerns that this contemplates any person who would be sharing these videos and he spoke of the dangers with respect to if a media personnel, in particular, would have shared a video of something that occurred inside of a prison, would they be captured under this particular section or any other person who may just share it on social mediator via WhatsApp. I know the intention is to capture.

Mr. Al-Rawi: Yeah. So, I think that our safety goes right back to 8B(1)(a) which is where we are looking at video. Right? So:

- “(1) Subject to subsection (2), a person who without the written authorisation of the Commissioner of Prisons—
- (a) takes a photograph, or makes a sound-recording”—we are adding video now—“inside a prison, or transmits or causes to be transmitted, any image or any sound from inside a prison by

electronic communications”—does that or—

“(b) brings, conveys...restricted document...or

(c) transmits or causes to be transmitted, a restricted document from inside...”

So we kept it from the inside of the hall of the prisons as opposed to media who may have received it second hand and was under the privileges of the freedom of press dealing with it in the fashion that it was.

Sen. S. Hosein: When I read “from inside the prison”, I was of the impression that the video would have been recording inside of the prison, but the section does not—I do not know if it is sufficiently clear to say whether or not if I am a regular citizen share this on Facebook, for example, would I be captured as committing an offence?

Mr. Al-Rawi: So the elements here is that you must take it, make it inside a prison and it says here a person who takes it, makes it and transmits it from. It does not speak to the recipient of it who does something afterwards.

Sen. S. Hosein: I think if AG, at (1)(a) after the word “prison” if we put the word “and”, so it:

“takes a photograph or makes a sound video recording inside a prison and transmits or cause to be transmitted any sound or image from inside the prisons.”

So that we could now have a conjunction there. So for the offence to be created, you must take it in the prison and transmit it from inside of the prison.

Mr. Al-Rawi: You see, the reason for “or” is that there are two categories that you want to capture, because the person may say: “Well, I did not make it. I was inside and I transmitted it. I handed it to the guy next door.” And he says: “Well, the fellow next door made it and did not bother to transmit it. I am the second

person, I have cleaved the offence.” So then I will be inviting the court to read “and” as “or”. So we specifically wanted “or”. And just to remind the word “inside” really jumps out at us. You must take the photograph or video recording, et cetera, inside a prison or you must transmit or cause to be transmitted any image or a sound from inside a prison.

Sen. Ameen: AG, I just want to clarify.

Mr. Al-Rawi: Sure.

Sen. Ameen: Is it that the transmission must be from the prison or that the video must be from the prison?

Mr. Al-Rawi: The transmission must be from the prison.

Sen. Ameen: Because I was actually agreeing with the latter in terms of if a video is from a prison and a person who is outside of prison shares this video—

Mr. Al-Rawi: It does not capture that. We specifically exclude those people out because then we will be intruding upon, for instance, media that has something or somebody with fair comment on the outside. So we intend only to capture the inside of the prison wall.

Sen. Ameen: The transmission, not the video.

Mr. Al-Rawi: Yes.

Sen. Ameen: Okay.

Sen. Obika: Just one quick point of clarification, Madam Chair. I agree and accept the difficulty of conjunctions. The issue with “specifically causes to be transmitted any image”, let us say a journalist claims that they have tip and they do not want to disclose who their informant is and, therefore, they happened to cause to be transmitted the image from inside the prison to them, then would they be captured now under this?

Mr. Al-Rawi: If the journalist was inside the prison.

Sen. Obika: Orr, they have to be inside.

Mr. Al-Rawi: Yeah. They would be caught by this provision, and we specifically want to make sure that they have the permission of the prisons to treat with that. So if the journalist was there and permitted to be there, otherwise an incarcerated—actually a journalist in prison, they would be caught by this position.

Sen. Obika: Just one last question. Well then that does not affect persons who are doing investigative type journalism where they unveil something, they did not have permission to do so, because they have been doing it against the wishes of the Commissioner of Prisons, but they are doing an investigative piece.

Mr. Al-Rawi: It would, if in the hypothetical scenario we had a journalist who was given permission, brought in cameras and conducted positions, then if that journalist breached the consent then that would apply. But it would be an exceptional circumstance where a journalist was permitted to enter with cameras, et cetera, and that the Commissioner of Prisons, you know, would allow that other than for replay. So, I could not see them entering a prison knowingly with a camera and with permission and the commissioner not being aware that this ought to be transmitted outside.

Sen. Obika: I would defer to persons who know better on media to me, but I would assume that given technology now, a camera does not have to be visibly recognizable.

Mr. Al-Rawi: So we want to catch that person who is not authorized—be it journalists, be it persons, national security, and prison is a prison, and we do not want to give any exceptions, because then we run into the very battle we have in other places. Who is a journalist? What is the media? Then we are getting into all sorts of subsets as to how we distinguish this.

Sen. Chote SC: I am very sorry. I actually think it is a protection for the prisoner

as well, because it means that nobody there can come in and seek to entrap the prisoner. So I think it is important for us to ensure that, you know, it is not like we see on American TV where you have these cameras going in and they seem to have free for all inside the prison. That is not how our prisons operate.

Mr. Al-Rawi: Thank you.

Madam Chairman: So, hon. Senators, having exhausted discussion on this proposed amendment, we will move on to the latter part of the amendment on page 13, the proposed amendment. Attorney General.

Mr. Al-Rawi: Yes, please.

Madam Chairman: It is to include the 2(a).

Mr. Al-Rawi: I was looking at the Bill, forgive me. Thank you, Madam Chair. Madam Chair, I would like to guide members through this, because this would be repeated in the other sections that we amend. So if you will permit me that latitude. We are proposing at page 13, that we catch the recommendation coming from Sen. Sobers.

8.40p.m.

At page 13, hon. Members would see that in section 11, this is in paragraph (f), we had treated with in subparagraph (1):

“A person who—

(b) aids or incites”—another—“person to assault, threaten, obstruct...

a prison officer in the execution of his duty” —and then these words—“or any person aiding or assisting the prison officer in the execution”—et cetera.

Subclause (2), Sen. Sobers correctly pointed out, confines the benefit of the offence of retaliatory action only to the person of the prisons officer. And there was the excellent point made that, well, what about that person who bothered to

assist, and was in the category of subclause (1).

In those circumstances, we have proposed to add in, instead of an amendment to subsection (2), to put it neatly we have categorized the person who aids in the assistance of the officer into a subclause (2A). So (2) would apply for the retaliatory action against the prison officer and his relatives, et cetera, and now (2A) would treat with:

“A person shall not...take retaliatory action...against—

(a) Any person aiding or assisting a police officer.”

And then we go into the definition of “relative” as we had for (2). That follows therefore into the amendments which are on the other page, at page 2 of the circulated amendments. Hon. Members would see proposals for amendment to section 11(3). Section 11(3) appears on page 14, Madam Chairman, at paragraph (f). We would see that at the end of the words “prisons officer”—so we see here paragraph (f) on page 14, it is at the top of page 14, says:

“Any other person whose care and support is the responsibility of the prison officer.”

It is at this point that we must add in the reference to the other personalities involved, the person who is assisting. So if you follow me at what is numbered as No. 2 on page 2 of the circulated amendments, in the proposed section 11(3)(a) in the chapeau.

So that would be on the page backwards on page 13 in the chapeau. For the purpose of subsection (2) we are going to add in (2A), so that is why we are deleting the words “relative means” as we have it. We are adding in now subsections (2) and (2A). That is effectively what the wording in this paragraph does.

And then we go:

“(a) ...“relative” means, in relation to a prison officer or a person aiding or assisting that prison officer in the execution of his duty as it may be—”

So that is in the chapeau at page 13 of the Bill at the bottom of the page. If in paragraph (b) as circulated now, this is on page 2 of the circulated amendments, here is where we are making the amendments to paragraph (f) which is on page 14, at the end of the word “prison officer” we are effectively adding in:

“...or the persons who aiding or assisted the prison officer in the execution of his duty.”

So we seek to capture everybody, a new (2A), amend subclause (3), add in the person who is aiding in the chapeau and adding the categorization in the subclause (f). I hope that that is clear enough for hon. Members. It took me a while to get it on the first read.

Sen. Chote SC: Yes, Madam Chairman. Sorry, I do not mean to be pushing ahead all the time, but I just have a question. It has to do with a recurring factor in the legislation, and that has to do with what appears to be the reversal of the burden of proof. Is that the intention?

Madam Chairman: Okay, Sen. Chote.

Sen. Chote SC: It is page 12. It is 8D. It is page 12 subsections (2), (3), (4).

Sen. Thompson-Ahye: Is it the part in contemplation of proof?

Mr. Al-Rawi: So this is the tipping-off provision. So it is intended to be that way because we borrowed strictly from section 51 of the Proceeds of Crime Act, and we wanted to keep it in harmony with that.

Sen. Chote SC: I was just a little concerned because if that is so, would certain things not follow in terms of what kind of majority is required?

Mr. Al-Rawi: No. So we are not affecting section 5(2(f)(iii)). We are not affecting section 5 rights because it specifically says that nothing in relation to this

Bill shall affect the fact that you are putting a burden to prove a point of fact. So we are not outside of the Constitution there, because the Constitution has that caveat on the reversal of burden in section 5 of the Constitution. Had we done it otherwise, then we would need to look at the section 5 exception in section 13.

Madam Chairman: Sen. Chote, you are finished?

Sen. Chote SC: Yes.

Sen. Thompson-Ahye: Yes, I had tried to raise it before. If he proves that in (4) on the same 12, if you change that he did not know instead of if he proves. Is that what you do not want?

Mr. Al-Rawi: You would still have to go through a process of treating with that. So the Constitution specifically provides that we do not have a difficulty. It is in, exactly as I quoted, section 5, we go to (f):

“deprive a person charged”—I am reading from the Constitution—“with a criminal offence of the right—

(i) to be presumed innocent until proved guilty”—in accordance with the law—“but this shall not invalidate a law by reason only”—of the fact that—“the law imposes on any such person the burden of proving particular facts;”

So that is the comfort that section 13—formalistic approach is not required. To Sen. Thompson-Ahye, the position is that we would still have to go through the process of his having to prove, but the fortune there is that that is on a balance of probabilities, and then the burden returns to the prosecution, and then we go through the paces for proof beyond reasonable doubt after that.

More particularly, we needed to keep it on all fours with POCA, Proceeds of Crime Act, section 51, and this is exact wording from the Proceeds of Crime Act, except we do not use “money laundering”, we use “offence”.

Sen. Thompson-Ahye: It just sounds very awkward.

Madam Chairman: Hon. Senators, the question is that clause 3 be amended as circulated by the Attorney General, on behalf of the Attorney General, and further amended at page 2 by deleting the word “paper”, and at page 6, (e) by inserting the words “favour or” after the word “any”.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Madam Chairman: So we have clause 4, page 15, page 16, page 17, page 18, page 19, page 20.

Mr. Al-Rawi: Madam Chair, thank you. At page 20 on page 2 of the circulated amendments, we are applying the same formula and rationale that we did as it relates to clause 3. Again, driving from the recommendations coming from Sen. Sobers, we are proposing at page 20 of the Bill that just after subclause (2)—so you see 59(2) we are going to insert the new subclause (2A) as circulated. This will treat with the person who is assisting and the relatives of that person being exposed to retaliatory action.

Then, accordingly, at section 59(3), which will be at page 21, we are making two amendments, again in similar form to that which we did for clause 3. We are adding in, in the chapeau, instead of subclause (2) subsection (2) only. We are putting in subsections (2) and (2A) so that we capture both categories.

Then at paragraph (f) which is shown at page 22, just at the top there, somewhere midway around the page, we are adding in the same position of:

“...the person who aided or assisted the police officer...”

So this brings us into harmony with the amendments that we just did to clause 3.

Those are the proposed amendments, Madam Chair.

Sen. Ameen: Madam Chairman, it was also raised, it is presumed that where you have “police officer”, it is a police officer in active duty. Sen. Haynes also raised the fact of retired police officers.

Mr. Al-Rawi: She did. Sorry, I sought to address that in the course of my debate by saying it was an excellent point, but the traversing of the point to prisons, to customs, to immigration, to the others, was something we needed a little bit more exploration on. How to actually capture that person who is still—if I could use the term—“tethered to the job”, retired but still tethered. I think it is a very good point, but I am not in a position to make that policy shift just yet. I would need to go back to the drawing board on that one and to come back again. So I certainly give the undertaking to look at it. There is another round of amendments to come. As we treat with other aspects of SRPs, maybe we can convert that into a miscellaneous provisions.

Sen. Ameen: If I may, just a suggestion. Where in 59(1)(b) you indicate towards the last part of that paragraph:

“...intimidate or retaliate against a police officer while engaged in the execution of his duty...”

I am just asking if that is an area there where you could accommodate—

Mr. Al-Rawi: It probably is, but the thing is that a retired police officer is not a police officer. So that is the difficulty that we would be having, how we capture—that is why I use the term “tethered”, because you are in a pseudo activity, you are still participating in it. It certainly is a good point but I am not yet in the process of making law able to make that policy decision just yet.

Sen. Ameen: Okay, fair enough.

Sen. Chote SC: Hon. Attorney General, page 22. I was looking at 61A, and it is

the same point I made earlier. Is there any possibility that we could include the word “favour” to cover intangibles?

Mr. Al-Rawi: Sure, yes, yes. Madam Chair, if we could after “perquisite” include “favour”.

Madam Chairman: “Or reward”?

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: Hon. Senators, the question is that clause 4 be amended as circulated, and further amended at page 22, 61A by including a comma after the word “perquisite” and the word “favour”.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Madam Chairman: Page 23, page 24, page 25, page 26, page 27.

Mr. Al-Rawi: Thank you, Madam Chair. Again, in keeping with the format of amendments spring boarding from Sen. Sobers’ contribution, we propose to include the retaliatory action by persons assisting. So in similar form, at page 27 of the Bill, we propose the insertion of a new (2A) which will capture the same category of person assisting. In keeping with that, we then go to the amendment in 41B(3) which would, in the chapeau— it is just after where we insert that new clause at page 27, in the chapeau after the word “officer”, we would be including the words as circulated. Sorry, instead of subsection (2) we would have subsections (2) or (2A), and then as circulated again, at page 3 of the amendments, in the proposed paragraph (f), we would insert again the person who aided or assisted in that regard. That ought to be—

Madam Chairman: Attorney General, you are through with the amendment?

Mr. Al-Rawi: Yes Ma'am. I was looking to see what Sen. Chote had mentioned in the other clauses prevailed here, but I am just seeing it yet. Yes Ma'am, so I am finished.

Madam Chairman: Hon. Senators, the question is that clause 5 be amended as circulated.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

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

Madam Chairman: So page 28, page 29, page 30, page 31, page 32, page 33.

Mr. Al-Rawi: Yes, Madam Chair. So we are starting at page 33. Again, in keeping with the need to be consistent with the previous amendments, we are proposing the insertion on page 33 of the Bill of a new section, subsection (2A), with the 51(2A) as circulated, to capture the person who is aiding or assisting the immigration officer. And accordingly, a little bit lower down in 41B(3), again to amend the chapeau, to make reference to subsections (2) or (2A), as we have now added the (2A). And at the end of the subparagraph (f) on page 33, also adding in that person who assists as circulated.

Sen. Chote SC: Yes, thank you, Madam Chairman. Hon. Attorney General, (h), where we are dealing with 54A we could also include—

Mr. Al-Rawi: “Yep”, I just got the note to my side too as well. They are anticipating us. So, Madam Chair, at page 34, consistent with Sen. Chote's recommendations, in (h) in reference to 54A, after the word “perquisite” as it appears in the third line, if we could insert “, favour”.

Madam Chairman: Hon. Senators, the question is that clause 6 be amended as circulated, and further amended at page 34, at 54A, line 3 by inserting a comma

after the word “perquisite” and the word “favour”.

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Madam Chairman: Page 35, page 36.

Mr. Al-Rawi: Madam Chair, as circulated, again for consistency in accordance with the amendments we have made for adding in the person who assists. We are proposing the insertion of a new (2A) as circulated, and again for the amendment in section 5A(3), for the now established formula of the chapeau and the words at the end of paragraph (f) as circulated, Madam Chairman. So that would be over on page 37. So between pages 36 and 37 as circulated.

Madam Chairman: Hon. Senators, the question is that clause 7 be amended as circulated.

Mr. Al-Rawi: There is one more observation that Sen. Sobers raised with me and I would invite you to page 40.

Madam Chairman: Is it in your amendment?

Mr. Al-Rawi: No, Madam Chair, it was just raised with me, and I think there is merit in it. It is in paragraph (f) in relation to section 216. Section 216 of the Customs Act is where we treat with an officer taking unauthorized fees, et cetera. Madam Chair, 216 says:

“An Officer who, otherwise than with the approval of the President or the Comptroller, accepts any fee, perquisite or reward, whether pecuniary or otherwise, directly or indirectly, from any person on account of anything done or to be done by him, or omitted to be done by him, in or in any way relating to his office or employment, is liable to be dismissed from his

office;”

And then there is a semicolon. Then it goes on to say:

“and any person who gives”—and now they are treating with the person who gives, not the officer—“offers or promises to give any such fee, perquisite or reward”—is liable.

And this is where we propose the summary and indictable treatment.

What we would like to do is to pin the liability. We will borrow Sen. Chote’s recommendation of a favour, add it into this and we will also treat the officer, not only with the liability for dismissal, but being subjected to tripping the offence as well. In other words then, summary conviction or indictable rule.

We are just writing it out for you now. So we are proposing an amendment to section 216. It would be an amendment to subparagraph (f) of clause 7, and it is in section 216. We are going to just propose those words for you now, Madam Chair.

So I am asking you to look at the Bill now, Madam Chair. So in subparagraph (f) we have the words “in section 216,” and we should say—I will do it this way, let us put a (i). So “in section 216:” and put (i) which says:

By inserting the words—forgive me, Madam Chair. So (i): By deleting the word “perquisite”—that is in inverted commas wherever it appears. And by inserting the words “perquisite, favour or”. So that is (i).

And then (ii) would be as we have here written. By deleting all the words after “or reward”, so it is as you have in (f). So what you have after 216, the words that appear there, if you just insert (ii).

Madam Chairman: So by deleting all the words—

Mr. Al-Rawi: So it will continue to read as was. By deleting all the words after the words “or reward” in the second place where it occurs, and substituting the

following words. Where you have the inverted commas, “is liable” we are going to insert the following words, “or any officer who accepts any fee”.

Madam Chairman: Attorney General, I am so sorry to stop you, but we are not following this one. Because we are saying at (ii), by deleting all the words after the words “or reward” in the second place where it occurs?

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: And substituting the following words?

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: And then what are the words?

Mr. Al-Rawi: And then I would like to insert on what is written there in inverted commas. You see where it is indented “is liable” then dash?

Madam Chairman: Yes.

Mr. Al-Rawi: So before the word “is” I am inserting the following words, “or any officer who accepts any fee, perquisite”—sorry, “any such”, forgive me—“any such fee, prerequisite, favour or reward” and then it continues as written there, “is liable”.

9.10 p.m.

Madam Chairman: Let me just see if we have gotten it correctly. So it is at page 40 at (f):

“in section 216...”

Mr. Al-Rawi: Yes.

Madam Chairman: “:”, (i)—

Mr. Al-Rawi: Yes.

Madam Chairman:—by deleting the word “perquisite”, wherever it appears, and inserting the words, again, “perquisite, favour or”.

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: (ii), by deleting all the words after the words “or reward”

in the second place where it occurs and substituting the following words, “or any officer who accepts any such fee, perquisite, favour or reward”—and continue—“is liable.”

Mr. Al-Rawi: Yes Ma’am.

Madam Chairman: Any questions or comments? I thank you for that, so I shall now put the question.

Mr. Al-Rawi: Madam Chair—

Madam Chairman: “Uh-hmm.”

Mr. Al-Rawi:—we have on page 41, (g) in section 217, it is 217 that we deal with collusive seizure or bribery, et cetera, and to capture Sen. Chote’s recommendation for “perquisite”—sorry, for “favour”. So we have bribe, gratuity, recompense or reward or neglect to non-performance—

“...promises to give or procure to be given, any bribe, recompense or reward...”

So what we can do is, we can delete the word “recompense” wherever it appears and replace it with “bribe, recompense, favour”. Okay?

So, Madam Chair, in (g), as listed at page 41, if we could do a similar (i), (ii), so after the word 217, after the number 217. So:

In section 217:

(i) by deleting the word “recompense”— R-E-C-O-M-P-E-N-S-E— wherever it appears, and by inserting the words—and by substituting, forgive me—and by substituting the words “recompense, favour or”.

And then you would have (ii) which would read—

Madam Chairman: You are closing the—

Mr. Al-Rawi: Forgive me, “; and”, and then what is written there would become

(ii):

...by deleting the words “two hundred thousand”—et cetera.

Madam Chairman: So, Attorney General, let me see if I have this one correctly. It is at page 41 at (g) in section 217 “: (i)”—

Mr. Al-Rawi: Yes.

Madam Chairman:—by deleting the word “recompense”, wherever it appears, and by substituting the words, “recompense, favour, or”; and — continuing—by deleting the words “two hundred thousand dollars” wherever they occur and substituting in each place the word “seven hundred and fifty thousand dollars”.

Mr. Al-Rawi: Yes. And that would be (ii).

Sen. S. Hosein: The words “recompense, favour”.

Mr. Al-Rawi: Yes. It is “recompense, favour”.

Sen. S. Hosein: Okay. You have “or” as part of the amendment?

Madam Chairman: Yes. We have “or” after the—

Mr. Al-Rawi: I see, because it has “reward”. Right? So, Sen. Hosein is pointing out the fact that we may have a redundancy of the word “or”, so that we just delete the word “or” in what was dictated in (i). Thank you.

Madam Chairman: Should I read it again?

Mr. Al-Rawi: Yes, Madam Chair, and whilst you are making that note, because I know you will do the whole of the clause—

Madam Chairman: Yes.

Mr. Al-Rawi:—the same redundancy of “or” would appear in the amendment we did to 216, so we just strike that word “or”.

Madam Chairman: Yeah. Okay. Let me just go over that last part, and then I will systematically go through these amendments. But at page 41, (g):

In section 217: (i) by deleting the word “recompense” wherever it appears and by substituting the words “recompense, favour”; and by deleting the words “two hundred thousand dollars” wherever they occur and substituting in each place the words “seven hundred and fifty thousand dollars”.

Mr. Al-Rawi: Yes, Ma’am.

Madam Chairman: Yeah?

Mr. Al-Rawi: Yes, that is (ii).

Madam Chairman: Okay? And would you like me to just read—no. Well, I will go it over as we—

Mr. Al-Rawi: Yes, please.

Madam Chairman: Hon. Senators, the question is that clause 7 be amended as circulated and further amended as follows at page 40, (f), as follows:

In section 216: (i) by deleting the word “perquisite” wherever it appears, and substituting the words, “perquisite, favour” (ii)—

Mr. Al-Rawi: And “;” and “(ii)”.

Madam Chairman: “;” and (ii) by deleting all the words after the words “or reward” in the second place where it occurs and substituting the following words “or any officer who accepts any such fee, perquisite, favour or reward”.

Mr. Al-Rawi: And continuing as written.

Madam Chairman: Yes.

Mr. Al-Rawi: Yes, Ma’am, that is exactly it.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Mr. Al-Rawi: There is one thing before you go to new clause, Madam Chair, and if I can trouble you it is, again, with the issue of the word “favour”. So before you

go to the new clause, could I invite you to return to clause 3? You can guide me as to where we do that, it would be at page 11.

Clause 3 recommitted.

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

Madam Chairman: Attorney General.

Mr. Al-Rawi: Yes, please. Thank you, Madam Chair. So, Madam Chair, it will be in clause (g), it is not circulated, I am just pointing it out now, right? So it will be in clause (g) at page 11—page 10, clause (g) starts at page 10, but the amendment is really on page 11.

Madam Chairman: Yes.

Mr. Al-Rawi: And it is in 8C. It will be to delete the word “perquisite” and substitute the words “perquisite, favour”. I have never seen “insert the words ‘, and favour””, I usually see them delete word than the “,”. Yeah.

Madam Chairman: Would it not have just been easier to insert the word “favour”?

Mr. Al-Rawi: Yeah. But the only thing is, how do you put in the “,”. So when they put in a “,” they usually delete the word and put the “,” with it. [*Laughter*] Insert the word “, favour”. I have not seen the word “,” appear like that. Okay. I am told there is a dictation Act, Madam Chair. [*Interruption*] Oh, in the Interpretation Act; I wanted to know if there was something I did not know. So we can just insert the word “favour”, “, favour”. So, Madam Chair, in 8C we are going to go with insert the words—after the word “perquisite” we will insert the words “, favour”, but not C-O-M-M-A.

Madam Chairman: So at 8C:

After the word “perquisite” insert the words “, favour”.

Mr. Al-Rawi: Yes Ma’am. So I am being pointed to the Interpretation Act,

section 15.

Madam Chairman: Is that it?

Mr. Al-Rawi: Yes Ma'am.

Madam Chairman: Hon. Senators, the question is that clause 3 be amended as circulated and further amended at page 2 by deleting the word "paper". And at page 6 by inserting the word at "(e)" the words "favour or". And then at page 11 by inserting at 8C the words ", favour".

Mr. Al-Rawi: Yes Ma'am.

Question put and agreed to.

Clause 3, as amended, again ordered to stand part of the Bill.

New clause 8.

"Chap. 15:03 '8. The Special Reserve Police Act is amended -

- (a) In section 14 (2) by deleting the words 'three hundred dollars or to imprisonment for three months' and substituting the words 'one hundred and fifty thousand dollars and to imprisonment for five years';
- (b) In section 15 (2) by deleting the words 'one hundred and fifty dollars or to imprisonment for two months' and substituting the words 'fifty thousand dollars and to imprisonment for three years';
- (c) By inserting after section 18, the following new section:
'18A. (1) A person who -
 - (a) assaults, threatens, obstructs or resists; or
 - (b) aids or incites any other person to assault, threaten, obstruct or resist,
 a member of the Special Reserve Police in the execution of his

duty, or any person aiding or assisting such a member in the execution of his duty, with intent to impede, intimidate or retaliate against such a member while engaged in the execution of his duty, commits an offence.

- (2) A person shall not intentionally take any retaliatory action against -
- (a) a member of the Special Reserve Police;
 - (b) the relatives, friends, associates or property of a member of the Special Reserve Police,
- on account of that member's execution of his duties.
- (3) A person shall not intentionally take any retaliatory action against -
- (a) any person aiding or assisting a member of the Special Reserve Police in the execution of his duty;
 - (b) the relatives, friends, associates or property of the person mentioned in paragraph (a),
- on account of the person aiding or assisting a member of the Special Reserve Police in the execution of his duty.
- (4) For the purpose of subsections (2) and (3), 'relative' means, in relation to a member of the Special Reserve Police a person aiding or assisting that member in the execution of his duty, as the case may be -
- (a) his parent or step-parent;
 - (b) his spouse, cohabitant or fiancé;
 - (c) his child, step-child or other dependent;

- (d) his brother, sister, step-brother or step-sister;
 - (e) his grandparent;
 - (f) any other person whose care and support is the responsibility of the member of the Special Reserve Police or the person who aided or assisted the member in the execution of his duty.
- (5) A person who commits an offence under this section is liable -
- (a) on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for ten years; or
 - (b) on conviction on indictment to a fine of five hundred thousand dollars and to imprisonment for fifteen years’;
- (d) In section 20 (1) by deleting the words ‘seven hundred and fifty dollars or to imprisonment for three months’ and substituting the words ‘one hundred and fifty thousand dollars and to imprisonment for five years’; and
- (e) In section 20 (2) by deleting the words ‘seven hundred and fifty dollars or to imprisonment for three months’ and substituting the words ‘one hundred and fifty thousand dollars and to imprisonment for five years’.”

New clause 8 read the first time.

Question proposed: That the new clause 8 be read a second time.

Madam Chairman: [*Interruption*] Just one second, Sen. Thompson-Ahye. Attorney General.

Mr. Al-Rawi: Yes, Ma'am. This is to take care of the recommendation which we had deferred to a different time, but which we in the course of this debate accepted we ought to include now, which is to apply the amendments which we are applying across the relative Acts, also to the Special Reserve Police, Chap. 15:03. And that is to really just bring us in harmony with the protections and privileges that we are offering to special reserve police. It is really driven by the fact that section 18 of the SRP legislation allows for police, SRPs to enjoy full police privileges when they are in the course of their duties.

So we have taken that amendment on board. Sen. Hosein, had flagged it, Sen. Vieira had flagged it as well, and we are pleased to offer the amendment as circulated.

Madam Chairman: Sen. Thompson-Ahye.

Sen. Thompson-Ahye: (4), subclause (4)(c), “dependent” is the adjective with the “e” and we need the noun which is an “a”, “dependant”. I do not think the Interpretation Act there is anything different.

Madam Chairman: Sen. Vieira.

Sen. Vieira: AG, I am looking at municipal police.

Mr. Al-Rawi: Yes.

Sen. Vieira: I do not think they—I am not sure if they fall under special reserve, I think they are under their own.

Mr. Al-Rawi: Yes. They are under the municipal corporations legislation.

Sen. Vieira: Part III of the Municipal Corporations Act.

Mr. Al-Rawi: Correct. Yes. And we have supplemental police, and in their category of estate police and reserve police as well still to look at.

Sen. Vieira: Okay.

Mr. Al-Rawi: But remember we have the local government legislation committee

which is sitting on that aspect which can treat with that end. So we are in a JSC on that which sat up to this morning, so we would be proposing amendments to it.

Sen. S. Hosein: AG, I do not know, the section that we had with respect to bribes, I do not see it as part of this amendment.

Mr. Al-Rawi: No. What we did is, we amended the law as it stood. The SRP legislation is very short, so we only had the sections that you see here. Sections 20(1), 20(2), sections 14(2), 15(2) where we treated with that. We still have to do some further surgery on supplemental police. We also have regulations to bring for municipal police and SRPs as well consistent with the Privy Council rulings that were recently made.

Sen. S. Hosein: So we will come back at a later time to deal with the issues of the bribes and the gratuities.

Mr. Al-Rawi: Yeah. We are doing some work on that at the AG's office to try and harmonize those things. There is one more, Madam Chair.

Madam Chairman: One more?

Mr. Al-Rawi: Clause.

Madam Chairman: No. No. Just one second.

Question put and agreed to.

Question proposed: That the new clause be added to the Bill.

Question put and agreed to.

New clause 8 added to the Bill.

Mr. Al-Rawi: We have to amend the long title, apologies. Okay. Just the long title amended. Okay. May I for the record?

Madam Chairman: Yes.

Mr. Al-Rawi: Much obliged, Ma'am. Consequent with new clause 8, we would have to do the necessary amendment to the long title which is to include Chap.

51:01 the Special Reserve Police Act. Sorry, 15:03, forgive me.

Madam Chairman: Okay. So that is noted.

Mr. Al-Rawi: Yes, please. Thank you, Ma'am.

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

Senate resumed.

Bill reported, with amendment.

Madam President: Attorney General.

Hon. Al-Rawi: Yes, Ma'am. I am looking for where I am. Thank you. Madam President, I wish to report that a Bill to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Special Reserve Police Act, Chap. 15:03, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01, was considered in committee of the whole and approved with amendments. I now beg to move that the Senate agree with the committee's report.

Madam President: Hon. Senators, the question is that this Senate agree with the committee's report on a Bill entitled, an Act to amend the Criminal Law Act, Chap.10:04 the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01. [*Interruption*]

Hon. Al-Rawi: I said it, but the President did not. I said it. I put in 15:03, it would just be for you. [*Crosstalk*]

Madam President: Hon. Senators, the question is that this Senate agree with the committee's report on a Bill entitled an Act to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50, the Customs Act,

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Chap. 78:01 and the Special Reserve Police Act, Chap. 15:03. Attorney General.

Hon. Al-Rawi: Madam President, I beg to move that a Bill entitled an Act to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Special Reserve Police Act, Chap. 15:03, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01 be read a third time and passed. [*Interruption*] Madam President, I will read that again. [*Crosstalk*] Madam President, the Clerk is not listening. I put it in the right place three times, but here I go.

Madam President, I beg to move that a Bill entitled an Act to amend the Criminal Law Act, Chap. 10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Special Reserve Police Act, Chap. 15:03, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01, be read a third time and passed.

Madam President: Hon. Senators, the question is that a Bill entitled an Act to amend the Criminal Law Act, Chap.10:04, the Prisons Act, Chap. 13:01, the Police Service Act, Chap. 15:01, the Special Reserve Police Act, Chap. 15:03, the Immigration Act, Chap. 18:01, the Fire Service Act, Chap. 35:50 and the Customs Act, Chap. 78:01, be now read a third time and passed.

Question agreed to.

Bill accordingly read the third time and passed.

Madam President: Acting Leader of Government Business.

ADJOURNMENT

Motion made and question proposed: That the Senate do now adjourn to a date to be fixed. [*Hon. C. Rambharat*]

Question put and agreed to.

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Senate adjourned accordingly.

Adjourned at 9.33 p.m.