Mr. Speaker: Hon. Members, I have received communication from Sen. The Hon. Dr. Linda Baboolal, President of the Senate and I will read her communication dated February 13, 2007. It is addressed to the hon. Speaker.


Please be informed that at a Sitting of the Senate held on Tuesday February 13, 2007, the following resolutions moved by the Honourable Minister of Public Administration and Information were approved:

1. BE IT RESOLVED that the Bill entitled, ‘an Act to repeal and replace the Deoxyribonucleic Acid (DNA) Identification Act, 2000’, be referred to a Joint Select Committee for consideration and report; and

That this committee be empowered:

- to consider the general merits of the Bill along with its details and report by Wednesday, February 28, 2007.

BE IT RESOLVED that the following five (5) Senators be appointed to serve with the five Members appointed by the House of Representatives on the Joint Select Committee established to consider and report on a Bill entitled ‘An Act to repeal and replace the Deoxyribonucleic Acid (DNA) Identification Act, 2000’:

- Mr. John Jeremie, S.C.
- Mr. Martin Joseph
- Miss Christine Kangaloo
These decisions of the Senate are forwarded for the attention of the House of Representatives.”

Yours respectfully,

Sen. The Hon. Dr. Linda Baboolal
President of the Senate”

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the following Members requesting leave of absence from today’s sitting of the House: the hon. Leader of the Opposition and Member for Siparia (Mrs. Kamla Persad-Bissessar), the Member for Oropouche, (Dr. Roodal Moonilal) and the Member for Fyzabad (Mr. Chandresh Sharma).

The leave which these Members seek is granted.

PAPER LAID

The Annual Report and the annual audited financial statements of the National Insurance Board for the year ended June 30, 2006. [The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley)]

To be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I see that our colleague the Minister of Health is here. Question No. 51 is ready, but, regrettably, we ask for a deferral of two weeks for the other questions.

Ministry of Health
Communications Unit
(Staff of)

51. Dr. Hamza Rafeeq (Caroni Central) asked the hon. Minister of Health:

With respect to the Communications Unit of the Ministry of Health, could the Minister:
(a) state the job titles and salaries payable with respect to posts in the Unit; and

(b) provide the job descriptions of each employee in the Unit?

The Minister of Health (Hon. John Rahael): Mr. Speaker, with respect to question No. 51, the answer is as follows:

<table>
<thead>
<tr>
<th>JOB POSITION</th>
<th>SALARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manager/Adviser, Communications</td>
<td>$16,000</td>
</tr>
<tr>
<td>Communications Policy Implementation Officer</td>
<td>11,500</td>
</tr>
<tr>
<td>Communications Specialist</td>
<td>12,000</td>
</tr>
<tr>
<td>Communications Analyst</td>
<td>8,000</td>
</tr>
<tr>
<td>Video/Audio Technician</td>
<td>6,000</td>
</tr>
<tr>
<td>Video/Audio Technician Assistant</td>
<td>4,700</td>
</tr>
<tr>
<td>Secretary/Office Assistant</td>
<td>6,000</td>
</tr>
</tbody>
</table>

The job descriptions of each employee in the Communications Unit of the Ministry of Health are as follows:

Manager/Adviser, Communications Unit

**Duties and Responsibilities**

- Formulates policy, designs, organizes and implements creative and effective communications strategy for the Ministry; develops and executes related communication plans in the context of the wider national communications strategy and under the guidance of the Government Information Services;

- Develops and maintains programmes of public education and, utilizing various media, disseminates information on the role, functions and services of the Ministry of Health, including procedures for accessing such services;

- Participates in planning, coordinating and organizing public consultations, conferences, seminars, workshops and similar special events;

- Interacts and works with personnel of the Ministry to ensure that communications policy and strategies are adequately integrated into the Ministry's operations;
Liaises with the media and the Information Division, Ministry of Public Administration and Information, to arrange for media coverage of events;

Liaises with other ministries and government departments, where appropriate, on communication matters;

Accompanies the Minister on speaking engagements and assists in the preparation and delivery of speeches.

Minimum Requirements
B.Sc Degree in Mass Communication and over eight years experience in the field of journalism, protocol and public sector communication strategies, and over three years experience in the formulation of communication policies, or any equivalent combination of experience and training; computer competence; familiarity in the use of applications such as Microsoft Word, Excel, PowerPoint and Publisher.

Communications Policy Implementation Officer

Duties and Responsibilities

Assists the Manager/Adviser Communications Unit in achieving the Unit's objectives;

Participates in the preparation and execution of programmes geared towards educating and informing the public about the policies, functions, objectives and achievements of the Ministry of Health.

Minimum Requirements
A degree in Mass Communication or its equivalent, supplemented by over eight years experience in the fields of public relations and journalism, or any equivalent combination of experience and training; computer competence; familiarity in the use of applications such as Microsoft Word, Excel, PowerPoint and Publisher.

Communications Specialist

Job Summary

Provides the necessary research and support to the Minister of Health in informing and educating the public on the Ministry's
initiatives towards improving the delivery of health care and its Health Sector Reform Programme;

Duties and Responsibilities

• Accompanies the Minister of Health on official engagements to ensure all protocol arrangements are in place; distributes speeches to the media, and organizes impromptu interviews;

• Advises the Minister of Health on arrangements for public appearances;

• Organizes press briefings, conferences, seminars, exhibitions and other functions on behalf of the Ministry;

• Prepares, arranges and executes public relations programmes, including those for presentation to various committees;

• Writes speeches, press releases, feature articles, pamphlets.

Minimum Requirements

• A degree in Communications and/or Public Relations or any equivalent combination of experience and training;

• Skills in strategic planning and implementation skills, and multi-media communication;

• A good knowledge of the socio-cultural environment of the health sector and the wider Trinidad and Tobago society;

• The ability to express ideas in a clear, concise manner both orally and in writing;

• Computer competence; familiarity in the use of applications such as Microsoft Word, Excel, PowerPoint and Publisher

Communications Analyst

Duties and Responsibilities

• Assists the Manager/Adviser Communications Unit in achieving the Unit's objectives through extensive monitoring of media (electronic and print) programmes and information on health related issues and through extensive research and
preparation of material (electronic and print) for presentation to the public;

- Drafts or reviews speeches and feature addresses to be delivered by the Minister at public fora;
- Monitors all electronic programmes relating to health issues;
- Plans and executes appropriate responses to adverse publicity;
- Researches material for weekly newspaper columns;
- Researches and prepares material for special feature articles for newspapers.

Minimum Requirements

- A degree in Mass Communication or its equivalent and over eight years experience in media interaction and research;
- Computer competence; familiarity in the use of applications such as Microsoft Word, Excel, PowerPoint and Publisher.

Video/Audio Technician

Duties and Responsibilities

- Supports the operations of the Unit by filming programmes;
- Operates professional audio recording equipment/television/film camera;
- Provides technical assistance during the production of programmes, such as basic lighting on location; editing of television programmes;
- Effects minor repairs to television equipment, as necessary.

Minimum Requirements

- Technical Diploma/Certificate;
- Three CXC Subjects General or GCE O levels, Grade I and II, one of which must be English;
• Over six years experience in using audio/video media equipment and editing television programmes or any equivalent combination of experience and training.

Video/Audio Technician Assistant

Duties and Responsibilities

• Generally assists the Video Technician in carrying out his duties;
• Carries and sets up equipment;
• Operates still camera;
• Operates video camera;
• Records dubbing video;
• Saves video onto the editing system;
• Labels all tapes and DVDs;
• Types electronic titles.

This person should be physically able to lift and carry the equipment required for a video production—video camera, tripod and light kit.

Minimum Requirements

• Technical Diploma/Certificate;
• Three CXC Subjects General or GCE O levels, one of which must be English;

Minimum Requirements

• Six to 18 months experience in using audio/video media equipment and editing television programmes or any equivalent combination of experience and training.

Secretary/Office Assistant

Duties and Responsibilities
Oral Answers to Questions Wednesday, February 14, 2007

[HONE. J. RAHAEL]

- Provides secretarial support for the Unit;
- Maintains files of newspaper clipping and speeches.
- Five CXC General Level Grade I and II or GCE O level, one of which must be English;
- Computer competence and familiarity in the use of applications such as Microsoft Word, Excel and Power Point;
- Training in the use of personal computer as evidenced by the possession of a certificate in computer programmes such as Microsoft Word and Excel.

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, earlier I had recorded the absence of the hon. Member for Oropouche. I am glad to see he is with us.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

GOTT and Comprehensive Care International
(Contract Details)

52. Could the hon. Minister of Health state:

(a) the value of the contract between the Government of Trinidad and Tobago and Comprehensive Care International through the government to government arrangement; and

(b) the services which Comprehensive Care International was contracted to provide? [Dr. H. Rafeeq]

Turner Construction
(Services to Scarborough Regional Hospital)

53. Could the hon. Minister of Health state:

(a) the method by which Turner Construction was contracted to provide services at the Scarborough Regional Hospital;

(b) the value of the contract awarded to Turner Construction; and
56. Could the hon. Minister of Science, Technology and Tertiary Education state:

(a) whether the University of Trinidad and Tobago has submitted to him or his Ministry any audited accounts since its inception; and

(b) if the answer to (a) is yes, could he provide same to this honourable House? [Mrs. K. Persad-Bissessar]

SWMCOL/CEPEP Investment Club
(Money Market Account)

58. Could the hon. Minister of Public Utilities and the Environment state:

(a) the purpose of the fund established in the form of a money market account in the name of SWMCOL/CEPEP Investment Club;

(b) the signatories to that account;

(c) the current balance of that account;

(d) the average monthly balance of that account since its establishment; and

(e) the total amounts contributed annually by SWMCOL to the SWMCOL/CEPEP Investment Club? [Mrs. K. Persad-Bissessar]

Post of Solicitor General
(Appointment to Position)

59. Could the hon. Attorney General please state:

(a) where and on what dates applications were invited for the vacant position of Solicitor General since the retirement of the last substantive holder of that office;

(b) whether any person/persons is/are performing, either individually or collaboratively, the duties of the Solicitor General;

(c) if the answer to (b) is yes, could the Minister state:
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i. the names, substantive positions of any such person/persons and the dates on which he /they commenced such extra duties;

ii. whether such persons are in receipt of additional remuneration or benefits for performing these extra duties and the amount of such compensation;

iii. the number of legal matters, contracts for state organizations and other documents that these persons have (a) advised on, (b) vetted, and (c) approved since assuming these extra duties?

[Mrs. K. Persad-Bissessar]

**SWMCOL**  
(Contracts from 2006 to date)

60. Could the hon. Minister of Public Utilities and the Environment provide:

   (a) the names of any consultancy firms employed by SWMCOL during the period 2006 to date; and

   (b) the duration of the contracts and the contract amounts? [Mr. S. Panday]

Mechanisms for Stabilizing Food Prices

61. Could the hon. Minister of Agriculture, Land and Marine Resources state:

   (a) whether any mechanisms are in place to stabilize and maintain food prices; and

   (b) if the answer to (a) is in the affirmative, could the Minister state what are those mechanisms? [Mr. S. Panday]

Questions, by leave, deferred.

WRITTEN ANSWERS TO QUESTIONS

Mr. Singh: Mr. Speaker, some of the written answers to questions were due earlier this month and there has been no explanation.

Mr. Speaker: Hon. Leader of Government Business, the question is being asked about written answers to questions. As soon as they are available, please have them distributed.

Mr. Valley: Yes, Mr. Speaker.
DEFINITE URGENT MATTER
(LEAVE)

Fire at Forres Park Landfill

Dr. Adesh Nanan (Tabaquite): Mr. Speaker, in accordance with Standing Order No. 12 of the House of Representatives, I hereby seek your leave to move the adjournment of the House on Wednesday, February 14, 2007, to discuss the following as a definite matter of urgent public importance, namely, the uncontrollable, rapidly spreading fire at the Forres Park landfill that has engulfed more than two acres of land.

The matter is definite since the fire at the said landfill started on Saturday and residents have been complaining of nausea, vomiting, itching, burning eyes and headaches caused by the toxic fumes.

The matter is urgent because several students of the Spring Vale Hindu Primary School in Claxton Bay have fallen ill after the said toxic fumes from the landfill descended into the Spring Vale valley yesterday.

The matter is of public importance because the said toxic fumes can pose a serious threat to the health of thousands of residents of Forres Park, Spring Vale, Diamond, Macaulay, Tortuga and environs.

Mr. Speaker: Regrettably, this matter does not qualify under this Standing Order.

EVIDENCE (AMDT.) BILL

Order for second reading read.

The Minister of State in the Ministry of National Security and Minister in the Ministry of Trade and Industry (Hon. Fitzgerald Hinds): Mr. Speaker, I beg to move,

That a Bill to amend the Evidence Act, Chap. 7:02 be now read a second time.

Let me say from the onset that there are only two reasons, in my view, for anyone, particularly Members of this honourable House, to withdraw or not lend support for the Bill before us. If one has:

(1) a particular love for and supports criminal activity; and

(2) some genuine concern about constitutional infringement as the Bill, at first glance, to non-lawyers particularly, and non-parliamentarians may think is an infringement on the constitutional rights of the individual.
Barring those two, there is no other good reason this Bill should not win the support of every single member of this honourable House.

When this Bill was piloted in the other place by the honourable and distinguished Attorney General, as compelling and comprehensive as he presented it, some of our colleagues on the other side hosted a press conference and expressed very unguarded, unthinking and ill-considered objections to it. I have observed in this democracy that the media, expressing as it sometimes does, public sentiment, the public directly demonstrated a voracious appetite, if I may say so, for the substance of the Bill before us. Therefore, I make this presentation today confident that it has widespread public support and in the safe knowledge that it is law in other countries, in particular Jamaica and the United Kingdom.

I feel obliged to begin by suggesting—and it is self evident—that the law can and does change. The Constitution can and does change. Opinions can and do change. Rules can and do change, but principles, while they change, the process for change takes a longer time and much more thought. They are far more enduring.

I begin my presentation by quoting from the Hansard a statement of principle from the hon. Attorney General when he presented this Bill in the other place, as follows:

“I heard a word ‘precipice’ mentioned, but I prefer to think that we are at a point of great peril, but also great opportunity, because I am a fighter….my children are going to go to school here; they are going to live in this country and this is my home. So that I am about making Trinidad and Tobago a better place for, not simply me, but my children and their children after them. So in a real sense, I think of my mission as Attorney General as being part of building a civilization.”

Mr. Speaker, I was very impressed by that statement of principle because, indeed, that is our role as parliamentarians, and particularly as Attorney General.

Let me highlight three cases that came to my knowledge and which demonstrate the peril that we face, as described by the Attorney General, and the need for us as a people to respond and partake seriously in building this civilization, that is Trinidad and Tobago.

Mr. Speaker, about six years ago a young lady reported to me that she was attacked and brutally raped by three men in her neighbourhood. She was virtually
Evidence (Amend.) Bill

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taken from the hands of her boyfriend about 4.30 that afternoon, taken to an abandoned house in the district and savagely raped.

Mr. Speaker, the first thing I asked, as anyone with good sense would: Did you report the matter to the police? She said no. She refused to report the matter to the police. That happened before I spoke to her and up to that time she had not reported it and nothing I do could persuade her. She was afraid. She was afraid that if she had done that, they would have burnt her house down and tormented her family. She decided—as she put it—to take her losses and leave the district. That bore heavily on my mind ever since that day.

I know of another case where a man abused a 15-year-old and when he was finished—of course this was reported to me, but I have reason to believe it—he called a semi-vagrant character from the street and instructed him to join him in that nasty experience. Again I enquired—because I had heard about this—only to discover that the child's mother had gone away and, like the first case, she was afraid to take action against that criminal.

I sat in the Port of Spain Magistrates' Court on one occasion and saw a defendant in the box. He was charged for wounding with intent or grievous bodily harm. The matter was being done at preliminary enquiry on the way to the High Court. I was amazed at the behaviour of the defendant. The matter was taking place. He was very confident and strident. He was threatening the magistrate and the police officer who had charged him, telling him that one day he would catch up with him on the outside and deal with him. I sat in the court and witnessed that.

These three examples remind me of how serious a peril we are in; how some of the people in this society feel they could beat the system; they could threaten and kill witnesses, burn their homes, intimidate and put people in the grip of fear and have their own way.

The Attorney General said in his presentation in the other place that we are in a war and I agree with him wholeheartedly. The police must understand that. The courts of Trinidad and Tobago must understand that; and the society as a whole must understand, that we are in a war with those who are opposed to law and order.

Talking about the courts, just in passing I read sometime ago that in the Arima Magistrates’ Court, even though last year we increased the sentences substantially for firearm related offences—you can now get up to 20 years—a magistrate in
Arima—I read this in the newspaper, for what it might be worth—having found the defendant guilty, put him on a bond to keep the peace and good behaviour for two years! He was convicted for possession of a firearm and 11 or so rounds of ammunition.

Recently, I read of another man getting a mere two years—in prison years that might be about 18 months—for possession of a firearm and ammunition. We are at war. The Parliament, the police, law enforcement, the courts, the society as a whole have to understand that and treat with all the issues that surround us more seriously.

2.00 p.m.

Mr. Speaker, before I make reference to specific provisions before us, I want to make reference in passing to the Indictable Offences (Preliminary Enquiry) Act. Section 40 of that Act, as it is now written, allows for the admission of hearsay evidence—and I will deal more fully with that very shortly. It permits the application and the admission of hearsay evidence where, according to that section 40(a), the witness is proven at the trial by the oath of a credible witness, either to be dead or to be so ill, as not to be able to travel, or incapable in consequence of his condition of mind of giving evidence or absent from Trinidad and Tobago or kept out of the way by the prosecutor, State or the accused person. Those are the circumstances under the current law in which evidence of a statement made by a witness could be used at a trial.

As lawyers would understand, there is the strict old traditional hearsay rule and there are many exceptions to the hearsay rule; lawyers will know this very well; this is not new. What we are presenting today and this is just as a backdrop, is another, if you like, incursion, advancement on what already exists in relation to the hearsay rule. Let me make it abundantly clear, there are already in law, several exceptions to the hearsay rule.

In fact, there are many decided cases, which establish in case of the State and Barnes and many others. The law lords, the Caribbean Court of Appeal and Caribbean judges have already stated that it is quite clear that the strict, strict adherence to the hearsay rule works an injustice against the prosecution in many cases. What we have to do is to have a balance. All interests are important; the individual interest and the public interest as well; so that is not new.

What this Bill seeks to do is to extend the law so that a witness who has given a police statement, but has not yet given evidence at a preliminary enquiry, his evidence can be read out if it is proved that he falls within the provisions as I have
just explained. This is what we are doing here today. Put more simply, section 40 of the Indictable Offences (Preliminary Enquiry) Act, makes provisions for a deposition, that is a sworn statement that has been given or taken rather, in a preliminary enquiry before the matter gets to the High Court. It permits that statement to be read where those circumstances exist; where the person is either dead or too ill to be able to travel or incapable because of his condition of mind from giving evidence or absent from Trinidad and Tobago, or is kept out of way by the prosecutor, the State or an accused person so that those statements could go in.

But what happened, Mr. Speaker, ingenious as the criminal mind is, realizing that this statement, once it is given at preliminary enquiry, could still be read in the trial at the High Court, they began now trying to kill the witnesses before preliminary enquiry and they have succeeded in many cases. So they brought the thing further back and this measure today is bringing the law further back, stretching the arm of the law to be able to reach them as far as they have gone. I support any measure that will lengthen the strong arm of the law to find them wherever they would hide, whatever their menaces, whatever their tricks and this is a measure that falls squarely—

Mr. Ramnath: They are within your bosom, inside your pants.

Hon. F. Hinds: Yes. I will tell you this, Mr. Speaker, I do not have direct evidence of this, but I am a member of the legal profession and there was a view that there are some members of the legal profession in this world—let me put it like that—who are known to collaborate with criminals for the purposes of big fees.

Hon. Member: And that is not hearsay?

Hon. F. Hinds: I heard someone saying hearsay, but he is a non-lawyer, so I will tell him what hearsay means in a little while. Meanwhile, I will not be distracted by him. [Interrupt] I am straight; I will not be distracted.

Mrs. Job-Davis: Go ahead, go ahead, do not even speak to him.

Hon. F. Hinds: I am straight, so the Member for Oropouche must leave me alone; I am straight. [Interrupt] Yes, Mr. Speaker. [Crosswalk]

Mr. Speaker, let me get straight to my point and remain straight; let the Member for Oropouche stay right there. I would hear, and I say in the world, that there are lawyers who would in these circumstances, extract a fee of approximately $500,000 from the client; they would go and find him. First of all, lawyers are not
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[HON. F. HINDS]

supposed to do that, based on our ethical positions. They would go and find an accused; they would say $500,000 is my fee; $350,000 for me; $150,000 for the witness and a ticket to New York. Once it is, paid arrangements are made. I do not know because I have never been a part of that.

Everyone who practised around me in the courts will know that I have observed the standards of the profession at its highest. [Desk thumping] And I say so boastfully. When I was a police officer I did the same. When I was an insurance executive I did the same. Now integrity, good standing and principles have become a habit and since I joined the PNM it has been even reinforced. [Desk thumping]

I remember—and I have a copy of his address here—Chief Justice, as he then was, de la Bastide, at the Opening of the Law Term in 1998. He was almost tearing his hair out, in metaphor, on the steps of the Hall of Justice. This is not new; that was 1997; another Government was in power and he cried out—Members here could read it; it is in the library—about the cases where criminals were walking out of the Hall of Justice free, because witnesses were not testifying. All these meanderings taking place behind the scenes. The law is not an ass.

Mr. Ramnath: Some lawyers are.

Hon. F. Hinds: Even some non-lawyers. We have to address these matters and I feel proud to be part of this House today, as we do that. I am merely saying that that situation is not new.

In a Jamaican case in 1989, the case of Barnes and the State, the issue in that case was whether or not witness statements, depositions, could be used in evidence where the witness was dead by the date of the trial and that was a case that turned on identification evidence. The Privy Council in its final appellate judgment on the matter stated yes, you could, once you observe the safeguards. The main safeguard would be that the trial judge must warn the jury that this sworn statement that is now being read, there is no opportunity to cross-examine the maker of the statement; the jury must become aware of that. Once that warning is given, that is the safeguard presented and it was quite all right. That was decided in 1989 in the case of Barnes and the State; a case coming out of Jamaica.

Locally we had the case of Clint Huggins; we remember him. A case in which one Levi Morris turned State witness and Levi Morris gave evidence and now he is elsewhere. His evidence was used to convict a very notorious gang who were dealt with in accordance with the laws of Trinidad and Tobago. But Clint
Huggins, before his demise, had given his evidence at the Magistrates’ Court, so there was a deposition and it was in fact read out at the trial. The judge gave the required warning, as I have described and the accused were all convicted.

The Bill before us, as I said, goes one step further; not confined to the deposition or the evidence that is sworn at the Magistrates’ Court, but any statement even before the preliminary enquiry. The law and the Constitution ought never to become a suicide pact. We must respect its tenets; we must comply with its dictates. But law is not an exact science, it is social and therefore it has to adapt and to adjust to meet current and changing social circumstances; this is what this is all about. If we do not do that they will be continually in advantage and they will leave us flatfooted and in many cases, dead.

This Bill, Mr. Speaker, contrary to what some people may think, did not come from the mind of the Attorney General whimsically. It really was a response to a call from the Judiciary, as I indicated. Chief Justice, as he then was, Mr. de la Bastide, made the call many years ago. It comes from members of the public, who, I already indicated, have already demonstrated a voracious appetite for legislation of this nature. It did not come from the Government or the Attorney General's imagination. Most of all, I am advised that it came from the Director of Public Prosecutions (DPP). The DPP indicated to the Government, through the Attorney General, that this Bill was a measure that would go a very long way in dealing with an obvious problem. It is, in my view, a civilized and lawful response to wholly uncivilized and ruthless criminal behaviour. It is a wonderful response.

Mr. Speaker, just to demonstrate with a few international examples, that kind of dynamism that societies must engage in to protect themselves from external aggression and indeed, internal aggression. In the United States, there was uproar about the fact the United States has a number of Al Qaeda warriors and suspects at Guantanamo Bay in Cuba without trial. To hold people without trial is abhorrent to most jurisprudential arrangements. But in this case, the United States government had stoutly defended it, saying that it is necessary for the time being and they did not budge.

I was in the United Kingdom last year when Charles Matthew—I think is his name—was at that time, the Home Secretary. Britain also has 13 Al Qaeda suspects in British jails without trial, much like those in Guantanamo Bay. A human rights group took the British government and the Home Secretary to court. The Home Secretary, as you know, is akin to our Ministry of National Security. They got the House of Lords to roundly condemn the government of the United
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[Hon. F. HINDS]

Kingdom. I read the judgment myself, saying that to hold men without trial is abhorrent and it is worse than the behaviour of the terrorists themselves.

I was in London that half-cold morning. The Home Secretary, as he then was, with a copy of the judgment, told the country and the world that while the government respects the view of the court and will follow scrupulously the rulings of the court, at the end of the day, the security of the United Kingdom rests with the Executive of that country. It is an Executive function, not a judicial function. On that basis, he made it very clear that they are not releasing the men. And as far as I am aware, to this day they did not release them.

Before that and I studied in England during the heyday of the IRA from 19—the IRA was rampant before that, but I was there from 1987. The British had a policy of internment in Northern Ireland. A very beautiful term for arresting and holding IRA terrorists and suspects, again without trial for indefinite periods. There was a time when the political arm of the IRA, Sinn Fein was even prevented from appearing on the media; they had banned them.

In that jurisdiction, similar to what is happening here, out of intimidation, witness tampering and jury tampering, notwithstanding the best evidence the prosecutor would put against IRA suspects or accused in Irish courts, the jury would just say, not guilty. They came up with what came to be known as perverse verdicts. The strongest evidence, they would simply say, not guilty. Either because of collusion, or fear and intimidation. The British government, long-standing as that democracy is, responded with what came to be known as Diplock courts. They removed the jury in criminal trials, so that they went to trial with these suspects thereafter, with a judge alone.

Those are examples of civilization, societies, having to do unconventional, hitherto unthought-of of things, in order to respond to current perils and threats as demonstrated by the Attorney General in the other place.

Telephone tapping, invasion of people's privacy; it is law in the United States; it is law in the United Kingdom. We have difficulty with it here. [Interruption]
No, I should not give way at this time.

Mr. Singh: But you know that Bush has been recently reprimanded by the Supreme Court?

Hon. F. Hinds: And I hope, Mr. Speaker, because I do not know if we have really assessed the impact of that technology called the cellular phone just yet. I
do not think that anywhere in the world we have properly assessed its impact. It has changed everything. It is affecting education in schools. It is affecting activities within and outside the prison. Even the police; when they approach certain parts of this country, there are youngsters sitting on the front line with phones. The minute a strange vehicle or a known police vehicle goes by, they would call and the criminals can scurry away; take cover. These are some of the realities. This is not a joking matter. We ought not to be afraid; we have to do what we have to do.

Let me address some of the provisions of the Bill more directly. I spent a lot of time talking on these peripheral but important matters, because in real terms, in substance, the Bill is a very, very simple one. It has aroused a lot of fear, a lot of hot-headedness, a lot of loud talk around certain limited circles.

It began with the Opposition's press conference, but I see they have fizzled away. They have fizzled away in the way of public confidence in this legislation. The measures are very, very straightforward and they are as simple as they are straightforward. Let me address them briefly.

Clause 2 introduces section 15B, which says:

"In any criminal proceedings, evidence of criminal conduct which may be contained in a document may be admissible in evidence if the document—

(a) is the best or only evidence of that conduct which is alleged by the prosecution; and

(b) is obtained by or under the hand of the Attorney General in any matter related to mutual legal cooperation pursuant to the Mutual Assistance in Criminal Matters Act, 1997."

When the Opposition raised a lot of noise in their misguided press conference, worthless press conference, they made a song and dance in the Senate as well about the Attorney General wanting power. I have already demonstrated that this did not come from the bosom or the mind of the Attorney General, but this legislation is as a response to calls from the Director of Public Prosecutions Office; from the Chief Justice of Trinidad and Tobago, as he then was, Mr. de la Bastide and no doubt the current Chief Justice and the society as a whole.

The Attorney General is mentioned only once in this legislation and it is the clause from which I have just read. The only reason why the title or the Office of the Attorney General is mentioned here is because the Office of the Attorney
General is the central authority in accordance with the Mutual Assistance in Criminal Matters Treaty and the 1997 Act that we incorporated that treaty by into the laws of Trinidad and Tobago.

Section 15B is separate. This deals with, as I have just read, evidence in documentary form coming to him as a consequence of action under the Mutual Assistance in Criminal Matters Act.

With that out of the way and with the certainty that we will hear no more unnecessary mouthings about power to the Government and the Attorney General from our friends on the other side, I would like to move now to section 15C(1), which reads:

"Subject to subsection (2), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved to the satisfaction of the court that such person—

(a) is dead;
(b) is unfit, by reason of his bodily or mental condition, to attend as a witness;
(c) is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance;
(d) cannot be found after all reasonable steps have been taken to find him; or
(e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person."

Mr. Speaker, this in a sense reflects the provisions of the existing Indictable Offences (Preliminary Enquiry) Act, except it goes a little further to add (e), which says, as I read:

"is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person."

That raises the question of the witness protection programme, which is fodder for those who feel that they must make noise over important matters such as this. Let me take this opportunity yet again, to make it very clear that the witness protection programme is up and running and working very well.
Last week there was the death of a man by the name of Chaitlal Singh in the Central district, I think in Chaguanas, and a lot of commentators including some of our friends from the UNC had to talk about witness protection programme. Let me remind them that he was never part of any witness protection programme. Let me remind them further, that a witness protection programme is a voluntary programme. It is offered in certain circumstances by the State, by the police and it is voluntary. There are those who choose to be a part of it and there are those who choose not to be, but they are told of the implications of their decision.

Mr. Speaker, I say it is successful because in many cases where we have witnesses, and we do, in the witness protection programme they have come to court; they have given evidence, we have had convictions where that was possible, because you may have the witness, he gives evidence, but the evidence may not meet the high standard of the criminal trial and for another reason the matter is lost, but many of them appear in court, give evidence and the trial is heard. That is success; it is working.

I think it is obvious to all of us that the entire civil justice system and the entire criminal justice system depend on witnesses. Therefore it is impossible for Trinidad and Tobago or any state, for that matter, to house in a witness protection programme, all of the witnesses that all trials, whether civil or criminal, must utilize. So it is really nonsense to say that it is not working.

I know a couple from my own constituency who gave evidence and they gave it from the coverage of the witness protection programme. The accused are now convicted and occupying space on death row. For the other legal meanderings, they would have already been executed in accordance with the law, but the matters are before the Privy Council.

So I can say that the programme is working and I do not want to say anything more about it because it is one of the situations where the more you say, the more you reveal and it would be counter-productive. Suffice it to say, it is working very well.

Subsection (2) goes further to say:

“Leave may be given by the court under subsection (1)(e), only if the court considers that the statement ought to be admitted in the interest of justice having regard to—

(a) the statement’s contents;
any risk that its admission or its exclusion will result in unfairness to any party to the proceedings and in particular to how difficult it will be to challenge the statement if the relevant person does not give oral evidence;

(c) any other relevant circumstances.”

This relates to threats, of course. Leave will be granted by the court to allow a statement to come in, in respect of (1)(e) as I have described, only if the court considers that the statement ought to be admitted in the interest of justice. So that the court has a decision to make. The court in its wisdom; the court with its expertise; the court is deemed to know all of the law. The court will be apprised from both sides of the facts and the court has a decision to make whether in the interest of justice it will allow such a statement in, in respect of the other matters that I have raised. Subsection (3) says:

“Subject to subsection (3), the party intending to tender a statement in evidence under this section shall, at least twenty-one days before the hearing at which the statement is to be tendered, notify every other party to the proceedings as to the statement to be tendered, and as to the person who made the statement.”

This is built-in protection for the accused.

**Miss Lucky:** Mr. Speaker, I just want to say that I am really grateful to the Member for Laventille East/Morvant for giving way, because my questions are really not meant to be provocative, but to make sure we get the law right. I do take your point with respect to the judicial discretion that is given with respect to subsection (1)(e), but could you kindly point out to me, hon. Minister, where in this Bill with respect to the other conditions that have to be satisfied, if they are relevant, that is subsection A to D, where the Judiciary or any tribunal has that power. Because my reading of the Bill, as now circulated, leaves out a very important clause, which talks about an overriding power that the court has, which was 15E. 15E, if it is in, then I would concede readily, but if it is not in then there is a major problem. Jamaica has 15E. [Desk thumping]

**Hon. F. Hinds:** You know, Mr. Speaker, and this is said with the utmost of sincerity.

**Miss Lucky:** It is Valentine's Day.

**Hon. F. Hinds:** No, no, I am not too motivated by that.
Dr. Rowley: She can be your valentine.

Hon. F. Hinds: I know she can be, but I am not overly motivated by that. [Crosstalk] Yes, yes, in the spirit of Valentine, but if it were not Valentine's Day, I would have said what I am about to anyway, trust me. I have always respected your illuminating intellect.

Miss Lucky: But?

Hon. F. Hinds: No "but". [Desk thumping] And you have raised a very important point

Miss Lucky: Thank you, I shall get your Hansard of it.

Hon. F. Hinds: I want to give you the assurance that that provision will be reentered in the Bill [Desk thumping] So that satisfies you. There was an administrative discrepancy so that is clear. So you are satisfied?

Miss Lucky: Yes.

Hon. F. Hinds: But I want to say before I move on, that your decision to dissociate yourself from the Front Bench also demonstrated your illuminating intellect. [Laughter] That more than anything else.

Mr. Speaker, with your leave might I continue. As I was saying, this is built-in protection because while we understand that we are virtually extending the hand of the law to reach these criminals from below the stones, from the cracks and crevices and ravines that they hide in, we understand as well, that democracy ought to be all embracing and big enough to embrace even those who are a threat to the very democracy. As such, we put these protection provisions in. In these the judges, the judge, the hearer of the facts has the discretion to contemplate the issues, as the Member for Pointe-a-Pierre alluded to a while ago, to determine—and we will be putting it back in the legislation—whether doing so will be more prejudicial than probative, which is of course, very typical legal language.

2.30 p.m.

So, Mr. Speaker, I am happy that that matter is well covered and therefore I can proceed to no. 4 which says:

“Where the party intending to tender a statement in evidence under this section has called, as a witness in the proceedings, the person who made the statement, the statement shall be admissible only with the leave of the court.”
Evidence (Amdt.) Bill

Wednesday, February 14, 2007

[HON. F. HINDS]

Again, further protection. Let me move on now to 15D which says:

“(1) Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence pursuant to section 15C—

(a) any evidence which, if that person had been called would have been admissible as relevant to his credibility as a witness, shall be admissible in the proceedings for that purpose.”

Another tier, another layer of protection. Evidence as to his credibility because you have a situation where the statement would be put in and the accused or his representative lawyer/lawyers would not have an opportunity to cross-examine the maker of the statement and so if there is any evidence going against his credibility it ought to be made available for all. I am sure the Member for Caroni East would appreciate such a provision as a protection for the accused in those circumstances. It goes on:

“(b) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the party cross-examining him;”

Again, that is self-explanatory and further protection. More yet, Mr. Speaker.

“(c) evidence tending to prove that, whether before or after...(and this is important)...he made the statement...(that is to be tendered)...that person made, whether orally or in a document or otherwise, another statement inconsistent therewith, shall be admissible for the purpose of showing that the person has contradicted himself.”

In other words, simply put, Mr. Speaker, if before he made the statement that is to be tendered, he had made a statement that is inconsistent with it or after he made the statement he had made a statement that is inconsistent with it, those statements should be brought forward so that the other side could have access to him to deal with the question of his inconsistency in statements. Very, very important in the forensic or trial process. And I am so happy and proud to see that there could be no challenge as to the extent that this Bill has laid out in terms of protection for those who would be affected by this Bill.

Now that we have stated that 15E remains, let me read 15E:
"It is hereby declared that in any criminal proceedings or preliminary enquiry the court may exclude evidence if, in the opinion of the court, the prejudicial effect of that evidence outweighs its probative value.”

“Probative”, simply meaning to prove or to disprove something, some point or some issue. If the court feels that that statement would be more prejudicial to the accused than it will be of probative value the court has an outlined outside omnibus capacity here to not allow it to be read.

Let me say for the benefit of the Member for Pointe-a-Pierre and for the benefit of my friend from Caroni East, who was raising the same question, that this really is about codifying what already exists in the common law. I am sure my friend from Pointe-a-Pierre knows this. Yes, as it now stands—

Miss Lucky: They changed it. In fact, thank you again, Member for Laventille East/Morvant, it really is not codifying it; it is changing it in a very fundamental way, so much so that in England they tried to codify the common law in 1988, fundamentally changing it in 2003. That is what we are following right now, Criminal Justice Act, 2003. Only by statute could the common law have been overridden and even if you look at the learning in Jamaica where they passed the legislation and in the United Kingdom what they have said is because of the escalation in criminal activity, even though common law rules existed with respect to hearsay and so, statute had to come and give the level of protection.

In England what they had said, the hearsay rule was being whittled away slowly but surely, but it was being whittled away too slowly to deal with escalating criminal activity. It was a radical change and what we are doing here is a radical change; you cannot say we are merely codifying. And so far, I am following you quite nicely. I tell you it should be Valentine's Day every day. [Laughter] [Desk thumping]

Hon. Member: She wants to hear your response. [Laughter]

Hon. F. Hinds: She wants to hear my response.

Hon. Member: No response.

Hon. F. Hinds: Happy Valentine. [Laughter]

Miss Lucky: Same to you and your wife.

Hon. F. Hinds: Thank you very much.

Dr. Rowley: I think you are doing quite well, colleague, just do not overdo.
Hon. F. Hinds: Mr. Speaker, the point I made [Interruption] in respect of codification was only in relation to the matter at 15E. I understand what we are doing, as my friend put it, whittling away—and I like the way you put it. You see I am happy that you did, because really, when persons from the UNC were heard to say “hearsay” and “hearsay” they were not at that time—and that was led by the Member for Siparia who is supposed to be legally trained.

Dr. Rowley: She went to law school.

Hon. F. Hinds: They were making a song and dance about the hearsay rule and now our friend for Pointe-a-Pierre must whisper behind their ears, [Interruption] wet ears like the Member for Oropouche as Mr. Panday once told him; wet behind the ear. Whispering from behind his wet ear that—

Dr. Moonilal: But not moist nose.

Hon. F. Hinds: I told you I am leaving you alone. I am a straight man, you know. Whittle away substantially and now as the Member for Pointe-a-Pierre pointed out in some cases you bring legislation in order to do that.

Dr. Moonilal: And brown tongue.

Hon. F. Hinds: You see that kind of behaviour, I am not in that. [Interruption] You leave me alone. I am not in that.

Mrs. Job-Davis: Do not quarrel with him “nah” man.

Hon. F. Hinds: Mr. Speaker, 15F says:

“Sections 15B, 15C, 15D and 15E shall also apply to a preliminary enquiry held under the Indictable Offences (Preliminary Enquiry) Act.”

And that is self-explanatory.

Miss Lucky: Minister, would you be willing to give way again please, just on that point?

Hon. F. Hinds: Yes.

Miss Lucky: Thank you again, Member for Laventille East/Morvant, and I would just like your explanation on it, so I would be able, when I am contributing to give my view on it. That very section or clause you have just referred to concerns me; you said it was self-explanatory and I agree with you in terms of its words, but I would like now to look at the effect. Even when this legislation becomes law and there is a preliminary enquiry in progress in which the prosecution is still
leading evidence and therefore with the law now being passed and being active and alive, will this legislation when passed apply to preliminary enquires for example, or even High Court matters that are already in progress?

I know the general rules of statutory interpretation as I am sure you do too, criminal statutes are not retroactive and so, but that is not going to help us here. In other words, I am asking you to consider—if you do not have the answer right away—if we could get some clarity by way of a further clause as to which matters—in other words, if somebody is already charged and before the court this would not apply, so it would apply to any proceeding in which a person has not already been charged and brought before the court. I am just saying that you might want to consider it because we have another matter with that problem.

Thanks Member.

Hon. F. Hinds: At the appropriate stage we will consider the matter. I have gone through what is arguably a very simple piece of legislation. Before doing so, I demonstrated the sociological and contemporary circumstances in which they are set.

Mr. Speaker, I want to conclude by saying that for years it has become obvious to every citizen of Trinidad and Tobago with a rational mind that—and many people tell you this quite casually—it seems as though the criminal justice process favours the criminals, favours defendants and favours the accused and we make no apology, that is the way it is, because it really is about the State and the public interest balanced against the individual interest. In criminal prosecution it is the State as an entity represented against an individual who is supposed to have offended it; a lot of imbalance. The State has all the time in the world. The State cannot lose its liberty, an individual could and there is a lot of reason, good reason for that apparent favouring of the defendant and the accused. But while the constitutional provisions are designed to protect individuals, and we know that it is only the State that could infringe a person's constitutional rights, an individual, a private entity or a private individual cannot. It is only the State. It is really protection of the individual against State power and while that is so, you have other things favouring him like the presumption of innocence. A man is presumed innocent until he is found guilty.

I have reason by virtue of my duty to go to the prison institutions quite regularly and I was amazed. I think I would have come across only about three or four prisoners, who admitted to me that they committed their offences; for the most part they tell you they never did it. So when you look at the crime statistics
from national security that come from the police and you look at the numbers that are in the prison; you contemplate the number of crimes that went down and you consider that all these guys tell you that they are wholly innocent, you wonder who did it. But that is the reality and you have a lot of parents who would add “my son was an honest, decent and good boy”, as well. [Interruption]

But, Mr. Speaker, the presumption of innocence is one of those things that favour him and these prisoners—there is no moral obloquy with them, there is no moral content. They hold that as a rule, in other words, “I could kill, I could rape, I could murder, I could rob and I could do what I want; once they do not find me guilty, whether on the facts, on a legal technicality or witness dead, I am innocent until proven guilty”. And they tell you that. They hold to it. But that is one of the imbalances that subsist in their favour.

The right to silence is another one. An accused, as you know does not have to say anything in court, he could sit there quietly and it is for the prosecution to prove the case against him. If they do not then he walks away free without having said a word. The right to silence.

Even in the United Kingdom some of that has been whittled away with statute law as well, again another example of the need to keep the law—

Miss Lucky: Current.

Hon. F. Hinds: Not just current but—

Miss Lucky: To make sure it grows also.

Hon. F. Hinds: Yes, it must be organic; it must grow. It must grow as the need would be. [Interruption] Mr. Speaker, there are some very strict rules laid down in the Turnbull case in respect of identification evidence. As a practitioner in the court I made great use of those rules. Here you have an opportunity to extract from the complainant, the police officer or witnesses in the matter, some very minute issues as to whether there has been a proper identification in my view favouring the accused and defendant yet again. Pratt and Morgan which says that five years after conviction; if five years were to pass it would become improper and unconstitutional to execute the accused or the convicted person. And so it goes on, the list is long. The Constitution and the common law principles where they apply offer these protections to accused and defendants and it is about balance.
I want to conclude by saying that this measure, without embarrassment and without apology, is an attempt to win back some of that balance in circumstances where all would agree it is entirely necessary. I look forward to hearing the comments from our friends on the other side. The position of those on this side is already well known, we fully support this measure as a team. We understand that it is in consonance with what the DPP wants; with what the courts of Trinidad and Tobago want, with what the Chief Justice—speaking on behalf of the courts—would want. It is in consonance with what all the people; little, medium and large in this society would want. It is in consonance with what the world wants, and I am very curious to see whether—if I may be permitted a colloquialism—anybody, especially those on the Front Bench, come today with “outta-timing” talk.

With those few words, Mr. Speaker, I beg to move.

Question proposed.

Mr. Subhas Panday (Princes Town): Thank you very much, Mr. Speaker.

Dr. Moonilal: Let him hear a real lawyer.

Mr. S. Panday: One really cannot trust this PNM Government. [Interruption] About two Fridays ago, when we came to this House on the Deoxyribonucleic Acid (DNA) Identification Bill the Member for Diego Martin Central indicated that the next Bill which was going to be tabled and brought for debate was the Equal Opportunity Bill.

Mr. Valley: We have a crime problem so we are dealing with crime. [Crosstalk]

Mr. S. Panday: That is it; PNM is taking advantage of people. PNM is discriminating against people. That does not mean anything to you all. [Crosstalk]

Mr. Speaker: Order!

Mr. S. Panday: That is what we want to bring to your notice. [Interruption] As a matter of fact, [Interruption] and we ask them also, an important piece of legislation like this; why did you rush it like this? Why did you amend the Standing Orders to have it debated so quickly? [Interruption] Why did you not give us enough time? We need time to research the Bill. They circulated a Bill and when one hears the Member for Laventille East/Morvant speak, one will see that the Bill we got is a different document. Now they are saying that they are bringing back parts into the Bill.

Dr. Rowley: Pathetic, is the word.
Mr. S. Panday: Pathetic, that is okay. You cannot trust this Government.

Hon. Member: You know that already.

Mr. S. Panday: We want to say that you are pretending that you want to deal with crime when in truth and in fact you do not want to deal with crime. [Desk thumping]

Mr. Speaker, we must put it into the record. They could have brought the Bills; they could have brought it Friday; let Parliament sit two days a week; let us deal with it, but they do not want to deal with it. [ Interruption] That is why we must bring to the public notice that this is a Government merely passing legislation and you cannot trust whatever they do.

Hon. Member: Absolutely.

Mr. S. Panday: On January 26, 2007 they pretended they were so hurry to deal with crime and they sat down on the Deoxyribonucleic Acid (DNA) Identification Act, 2000 for six years without doing anything. I want to indicate that the Member for Diego Martin Central indicated [ Interruption] when he said in that debate:

“Thank you very much, Mr. Speaker. Having perfect knowledge is an ideal situation and because the Member has perfect knowledge, because she knows that this Government’s intentions is to send this Bill to a Joint Select Committee; as was discussed before…Because she knows that the next piece of legislation that the Government plans to debate in this House is the Equal Opportunity legislation which is on the Order Paper,…” [ Interruption]

You cannot trust them. She knows that and she merely wants to look good that is why she is raising the question. We ask you—and he boasts at the end of it that:

“The Government keeps its word…and…we are doing!”

Instead of that you come today before the House and just throw it on the back-burner, because it is not that you want to deal with crime—

Dr. Moonilal: They were lying.

Mr. S. Panday: It is not that you want to deal with crime but this is a Government— [ Interruption]

Mr. Speaker: Order!

Mr. S. Panday:—which has in its DNA, the capacity to lie. [Desk thumping]
Dr. Moonilal: Well said.

Mr. S. Panday: This Government, Mr. Speaker, wants to continue discrimination against people, for example, the CEPEP contracts and the NEDCO loans; taking advantage of people. They do not care about that. The crime which you all commit on the people you do not want to deal with it but you are pretending that you want to deal with crime.

I want to indicate to the hon. Member who introduced this Bill today—

Mr. Ramnath: Why are you all trying to fool people?

Mr. S. Panday: He spoke about examples of rape, he spoke about sentencing—and you know why I say that you cannot trust this Government, Mr. Speaker? [Interuption] You cannot trust them! [Interuption] He says that we are using this legislation to have unsworn evidence in order to obtain convictions. I suspect he speaks about conviction of serious crimes. We ask him here today—it is in the law that the sentence for murder is execution by hanging—how many persons have you hanged since you came into office? Have you carried out the law? We ask you that. As a matter of fact, to show that they do not care, do you know what they have done? Although execution is in our law for a conviction for murder, do you know what they did? They say, before we start hanging again, and that said Member for Laventille East/Morvant, he said let us reintroduce a discussion. Let us put it on the public domain now, the issue of hanging. How could you want to discuss whether we should hang people or execute persons who have been found guilty in a court of competent jurisdiction? How it is you want to decide whether we should carry out execution or not?

That is why we say when you bring these pieces of legislation here, you are really mamaguying the population. [Interuption] There is law on the statute books; persons have been convicted and you refuse to carry out the law. We ask the Member for Laventille East/Morvant, has he not, about two weeks ago, said we must bring the issue of hanging on the front-burner?

Hon. Member: They could frame people.

Mr. S. Panday: Mr. Speaker, that is why I say, when he said crime, crime, crime, which one is more important? We ask you, the law, law, law, is there, why do you not implement the law? Because you know why, most of those “fellas” who sit in death row are your friends. [Desk thumping] That is why.
He spoke about sentencing and appointing magistrates; he also here today tried to speak about integrity, integrity in this profession. I think he has thrown away his shield because I want to ask him today, integrity in the profession, how did you jump the queue and obtain a number of leases from the National Housing Authority when there are other people lined up and waiting? Who did you skip?

Mrs. Job-Davis: What are you talking about?

Mr. S. Panday: What is in the yardstick of integrity [Interruption] for that Member—

Mrs. Job-Davis: Where is the evidence?

Mr. S. Panday: Where is the evidence?

Mrs. Job-Davis: Do you have any evidence?

Mr. S. Panday: It was in an answer to a question, and that Member there got $48,000 in deeds from the NHA, so when you talk about integrity, we ask you what was the measuring stick of integrity used to get deeds from the Government of which you are a Member?

Dr. Moonilal: What! [Crosstalk]

Mr. Bereaux: I see you pointed in my direction, were you speaking to me? [Laughter]

Mr. S. Panday: Wherever it falls. If indeed you did in fact get $48,000 in fees from the NHA for the execution of deeds.

Mr. Bereaux: Mr. Speaker, it is incorrect. [Crosstalk]

Mr. S. Panday: Mr. Speaker, so when they come here in this House and they speak of integrity, they must know what they are speaking about. You cannot come here and pontificate and try to make other people look as though they have no integrity. [Inaudible] When? As who—

Dr. Moonilal: You could talk; who has integrity there?

Mr. S. Panday: And we want to find out how you—Mr. Integrity—could be a part of a Government—

Dr. Moonilal: Taking the integrity in court—[Crosstalk]

Mr. Speaker: Order!

Mr. S. Panday:—and taking briefs from the Government? We ask you that.

Mrs. Job-Davis: What can you do for crime in the country?
Mr. S. Panday: He is talking about integrity, I am just answering him. Do not “breaks” for him.

Dr. Moonilal: You will speak in the budget.

Mrs. Job-Davis: I will stay and listen to you.

Mr. S. Panday: So when they come here and talk about integrity you must make sure that you are clean. He spoke about how lawyers are unscrupulous. [Interuption] We ask whether that was an act of an unscrupulous nature, where, you as a Member of a government taking work from the same government and sitting in Parliament with the Minister who is the line Minister in that Ministry? These are questions you must ask. These are questions you must talk about when you are talking about crime also. [Interuption]

Mrs. Job-Davis: Madness!

Mr. Speaker: Order Member for Tobago East!

Mr. S. Panday: Because integrity is what we want to talk about. [Interuption] Mr. Speaker, I know that hurts [Interuption.] and when you ask them the question, do you know what they said. They so shamelessly said, “you don't bother how we get it; we declare it to the Integrity Commission, nobody could do us anything. Boldface; “brass face” behaviour; highhanded behaviour; that is what the PNM is about.

Hon. Member: Who are you talking to? [Crosstalk]

Mr. Ramnath: The Freedom of Information Act; they “thief” the money. [Crosstalk]

Mr. S. Panday: This is what we want to ask them; what do they mean, Mr. Speaker? So hurriedly, and I say, she said speak about crime; they are so hurry to bring this crime legislation that they brought the wrong Bill before the House. [Laughter] From Friday to today we are hearing now that they are going to introduce other parts and we have the wrong Bill and you want us to prepare. When we come here we want to prepare and make a good contribution to the proceedings.

He speaks about the Bill in section 15B and he says that:

“In any criminal proceedings, evidence of criminal conduct which may be contained in a document may be admissible in evidence if the document—”

Mr. Speaker, before we really get into this debate in detail, one must really look at the backdrop against which we are dealing with this legislation. I wish to draw
your attention to a statement in that famous case of Rafique Shah, LaSalle and others which was reported in Volume 20 of the Criminal West Indian Law Report and which statement was made public and brought to the front by the acting Chief Justice as he was then—

Hon. Member: And you all put him on a board.

Dr. Moonilal: Who is that?

Hon. Member: Rafique Shah.

Mr. S. Panday: Mr. Justice Phillip and he says—I cannot put my hand on it now—what is the purpose of cross-examination, and he says—and I will read it when I find it—that the purpose of cross-examination in any proceedings is to test the truth of the evidence which is before you. That is the purpose of the evidence.

Mr. Valley: That is a 1971 position.

Mr. S. Panday: Yes and that 1971 position was when the country was in a serious state, where you had an army mutiny and Danjuma who was the chairman of the tribunal even under military law, Danjuma prevented the attorneys for Rafique Shah—“ah ha” I have it here; I found it—and it says, [Interruption] The final question I propose to consider is raised on the ground of appeal and the matter is LaSalle, Rafique Shah and others at page 381 in the West Indian Law Report.

3.00 p.m.

In order to understand the debate we are in here today, one must look at the framework or the background against which we are arguing. It says:

“The importance of the function of cross-examination—”

Because today we are trying to introduce into our legislation, statements which will not be tested or cannot be tested and you are going to convict persons on that statement.

Mr. Ramnath: Police forces you to do that.

Mr. S. Panday: Mr. Speaker, he says:

“The importance of the functions of cross-examination in the judicial process is aptly described in Taylor and Evidence 10th Edition, page 1032 of paragraph 1428.”
The exercise of this right of cross-examination is one of the most efficacious tests for the discovery of the truth.”

So when you cross-examine, you are going to try to discover the truth. What is happening is, a person's liberty is at stake and you should not convict and sentence somebody on evidence which is untruthful. He says, by it the situation of witnesses with respect to the parties and the subject of litigation, his interest, his motives and when you cross-examine, what do you try to find out? You try to find out, what is your interest in cross-examination and what is your interest in giving this statement, your motives, your inclination, your prejudices and your character? His means of obtaining it correct and setting knowledge of the facts to which he bears testimony; the manner in which he has used those means, his powers of discernment, memory and description, all are fully investigated and assertive and submitted for the consideration of the jury who have an opportunity of observing to find out the truth; in observing your demeanor; and determining the just value of the testimony. But when you just write a statement and hand it, how could you carry out these observations?

It is not easy for a witness subject to this test to impose on a court or jury, however artful—here it is, Mr. Speaker—the fabrication of falsehood maybe, it cannot embrace all the circumstances to which cross-examination extended. In this connection, it is necessary to bear in mind that the party right to cross-examine an opposing witness embraces not merely cross-examination to facts relevant to the issue, but cross-examination as to credit. That is, as to the truthfulness, that is, as to all facts which reasonably tend to affect the credibility of a witness.

Mr. Speaker, that is the law and that is the reason for cross-examination. So that they get the truth out; when you are making allegations against people. They put you on test, they cross-examine you to determine whether you are speaking the truth and what better method is necessary or required before you sentence a person to find out the truth. That is a fundamental right; that is a Constitutional right that you have. As a matter of fact, the Constitution only says that there are safeguards in the law in certain matters—[Interruption]

Mr. Ramnath: The judge say Imbert did not speak the truth in the Emile Elias matter.

Dr. Moonilal: Emile Elias has no moral character.

Mr. S. Panday: So that if the truth is tested, you will see that that is a fundamental issue and a fundamental right which is protected by the Constitution. And it says in section 4 of the Constitution:
“The right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law.”

We want to indicate here to you today, we are not supporting criminals. Those who are guilty deal with them, but you must make sure that in the legislation which you bring before the Parliament innocent people must not go down. That is the problem we have. [Desk thumping]

Mr. Speaker, the other constitutional right is “the right of the individual to equality before the law and the protection of the law”. What is the protection of the law in these circumstances? The protection of the law in these circumstances is not to use hearsay evidence unless under special circumstances. You cannot use him say and them say in order to convict people. So therefore, hearsay is an exception to the rule; and therefore the law is saying you must be careful, you must give people protection of the law. What is protection of the law? Do not use wholesale hearsay against persons.

Mr. Speaker, section 5 of the Constitution says,

“Except as is otherwise expressly provided in this chapter and in section 54, no law may abrogate, a bridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognised...”

It continues in section 5,

“Deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.”

Without introducing hearsay or preventing hearsay from coming to trial, indeed you are giving the man a fair hearing. So what we are introducing here, we are introducing legislation to allow hearsay evidence to undermine a fair hearing.

It continues:

“Deprive a person charged with a criminal offence of the right—(ii) to a fair and public hearing by an independent and impartial tribunal.”

It says, Parliament must not pass laws to:

“Deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.”
So our Constitution, the framers of the Constitution ensured that people's rights must not be trampled and although we are in a state of panic and we are in a critical state, we must be careful that we must not have knee-jerk reactions to pass laws which take away people's rights in such a flippant manner. We ask the question and as we all know, whenever laws are passed, you hardly find them being repealed.

So it is in those circumstances, that a man who is facing a criminal charge we are taking away that man's right today to a fair hearing. We are allowing in these circumstances for hearsay evidence to be given against that man. All this hullabaloo of the PNM here today, crime, crime, crime taking place, they know as well as anybody else that this legislation will certainly reach in the courthouse much sooner than they think. That is not because people want to allow criminals to get away, what they want to make sure is that innocent persons are not taken advantage of. We are saying that using these hearsay pieces of evidence, you could lick up anybody, anytime as you want and the PNM has a history of doing that. [Desk thumping] They have a history of hanging people.

**Dr. Moonilal:** Hinds does that.

**Mr. S. Panday:** They have a history of hanging people; they have a history of taking advantage of people; they have a history of interfering with the judicial process; and they have a history of not speaking the truth. We asked this Government, you want to deal with crime, let us talk about an incident that happened, the Bajan fishermen, the police arrested them for committing an offence in our waters. The police arrested them and took them to the courts and lo and behold somebody, we do not know who it is, released the fishermen. This is the way it happened, right? You let go who you want and take who you want. The law, section 90 of the Constitution says that only the Director of Public Prosecutions can either initiate or terminate legal proceedings, and up to today, they talking about how to solve crime.

Let me ask this question here today, who committed the crime in releasing the Bajan fishermen? [Desk thumping] Let us find out that. That is a crime.

**Hon. Member:** [Inaudible]

**Mr. S. Panday:** Yes, you are still there because we must look at the history of the PNM and I will show you have today how this legislation could be used against political opponents. I will show you that today.

**Mr. Speaker:** Order!
Mr. S. Panday: Mr. Speaker, we asked them to tell us, the country wants to know about the crime of the releasing of the Bajan fishermen. They say a high Government official. What has the Director of Public Prosecutions said about it? He did not do it. Do you think you could trust this Government with any kind of legislation?

Hon. Member: No.

Mr. S. Panday: Do you think you could give them this kind of power?

Hon. Member: No.

Mr. S. Panday: And they are coming here today and they are saying DPP asked for it. Justice de la Bastide as he was the Chief Justice then, asked for it. But we ask the question, could we trust you? Could we trust you with this kind of legislation? The answer is a resounding “No”. People who are opposed to the PNM, they must be protected against the PNM, [Desk thumping] and that is indeed serious. So when you come here today and bring this legislation—[Interruption]

Hon. Member: The court has to deal with it.

Mr. Ramnath: But the court cannot be trusted.

Mr. S. Panday: Okay, the court can administer it. Okay. But Mr. Speaker, he said the court administered it. But look how they interfere; look how they have polluted the Judiciary!

Hon. Member: [Inaudible]

Mr. S. Panday: That is the point. You see he mentioned the court.

Dr. Moonilal: By Cepepization of the Judiciary.

Mr. S. Panday: I would not go into details, Mr. Speaker. The question is when you pollute the Judiciary by appointments and promotion, then you cannot come here today and give us the impression that we have an independent court that will adjudicate upon the decision.

Hon. Member: No way.

Mr. S. Panday: I would not go into the depths of the administration justice, but to say that this PNM Government has polluted the courts and has polluted the administration of justice, and therefore, when he says that the court has to deal with it; one has to take that with a pinch of salt. [Crosstalk]
Mr. Speaker: Order! The Member for Princes Town is on his feet and he has possession of the House. Let him continue. Please Member, continue with your contribution.

Mr. S. Panday: Mr. Speaker, they talked today and they are here today as though they want to deal with crime. They are eager to deal with crime, but we are saying that they are fooling the population. They know that will be struck down, but they will say at least we are trying, when in truth and in fact they have not put serious thought into this. It happened in England and those places. Mr. Speaker, we have a Constitution. In England, the Parliament is supreme subject to the European Community Court, but in Trinidad and Tobago, the Parliament is not supreme. The Constitution is supreme and section 54 of the Constitution which I have just read says that Parliament shall not pass laws to abrogate those rights.

So, they know that this legislation is going nowhere fast. What are they trying to do? They are trying to hide from the fact that they are with the criminals. They are trying to hide from the fact that they encourage the criminality. They are hiding from the fact that they would not implement the law; and the law which I have just mentioned, the law, the sentence of hanging.

Dr. Moonilal: The PNM said that.

Mr. S. Panday: Mr. Speaker, I say and I will say it in this Parliament over and over again that PNM is encouraging the crime. [Desk thumping]

Dr. Moonilal: Say it until it “hot” them.

Mr. S. Panday: PNM encouraging it and PNM does not genuinely want to deal with crime. Mr. Speaker, how is it then that two senior Members of this PNM Government could come to this Parliament and say that they are business people; that they have unscrupulous business people who will do whatever they can to make the extra buck, attacking the business people. They will say that is not from whom they take it; whether it is a pensioner, CDAP; or whether a smart card, there are people who will try to take as much as they can from you.

The other Member has indicated that some of the business people are crooks and they are taking advantage of you. What this PNM has done, is to really encourage their friends; encourage their followers to commit crimes; kidnappings.

Mr. Manning: Have a little logic.
Mr. S. Panday: What logic? You all come to this Parliament. They have encouraged their friends and supporters to commit offences. And I say today, that all the kidnappings, all the robberies, of the business people in society, the PNM has caused it. The PNM has encouraged it. [Desk thumping]

Dr. Moonilal: Ryan said so.

Mr. S. Panday: The last kidnapping in Central—[ Interruption]

Mr. Manning: PNM.

Mr. S. Panday: PNM is involved in that and the PNM encouraged it. Mr. Speaker, so when they come here in the Parliament today and say they want to deal with crime, in truth and in fact, they are with the criminals and they are pretending in this House. When the UNC was in power, the UNC dealt with criminals; the UNC dealt with those criminals; and the UNC carried out the death penalty. What did the do when they came into Government? The first thing they did, they used them to fight the elections and then when they came into Government they went and met them in the hotel, in Crowne Plaza. They elevated them to the ranks of community leaders. Instead of putting the fist in their face and dealing with the criminals, get the evidence from them; they embraced them in the hotel. And after you embraced them in the hotel, what did you do next? You took them home to Balisier House.

Mr. Speaker, we want to let the people in this country know that this PNM Government is pretending that they want to deal with crime, but in truth and in fact, they do not want. For example, if they had the DNA legislation which was passed since 2000. If they had to make any amendments, and by the way, the Newsday is now carrying a comparison of the Act of 2000 and this Act and you will see there is very little difference between them. I asked if the differences between these Acts were so small, why is it that you did not amend the DNA Act and put your fist in the face of the criminals. Why did you not try to deal with the criminals? Why did you allow crime to get out of control? Why did you do it? We ask you and we tell you, had you brought that legislation into effect in the first year while you were in Government, the situation would not have been what it is today. But you sat down for six years, you allowed them to dig out all the materials in Tapana Quarry, then you tell them okay, you want them to move out now.

Mr. Speaker, they spent a lot of money in URP. If you check who are getting killed, a foreman in the URP got killed. You are giving them more money so that what happens is, they could buy more sophisticated weapons. This is what the
PNM is doing. PNM is fueling the crime. They go ho, ho, how much they want, [Desk thumping] this is a fact. There is nothing you can do. Regardless of how much pretence you bring here, we will expose you to the people and let the people know you are part of that criminal group and the only way to deal with crime is to get rid of the PNM. [Desk thumping]

Dr. Moonilal: Music to my ear.

Mr. Speaker: Order!

Mr. S. Panday: Mr. Speaker, this is where we stand, and I will show you later on that we passed legislation in this House and how the PNM abuses it. Innocent people being abused, and particularly, the political opponents. This legislation is designed not to really deal with criminals, but also to deal with political opponents.

Mr. Ramnath: Look at what they have done to Eric Williams.

Mr. S. Panday: We look at section 15B of the legislation and one sees that they are trying to obtain documents from abroad, if they say that is the best evidence obtained under the hand of the Attorney General in the matter of Mutual Legal Co-operation. What they are saying here, is that in this Bill here that you have certain sections which tend to give some sort of protection. But we ask the question today, how do you know how you obtained that evidence? How do you know how you obtained that evidence from abroad?

You say in these proceedings that you can ask questions about the credibility of the witness, as though, if the witness had attended court you could have asked him. But when you take in hearsay evidence from abroad, who will know the antecedence of that person so that you could take up that protection which you say you have in the Act. Furthermore, we ask the question, suppose those people abroad have an axe to grind; suppose they make a deal with their own Government; suppose they make a deal with their police; and they put into that statement things that they think will sink somebody else and save them, to make them look as though they were secondary to the crime. By so doing, what happened is that their sentences or their punishment in their own country will be less and they will say all kinds of things about the person in this country and when that comes here, they say that goes into evidence. Hearsay evidence you cannot test it.

Mr. Speaker, it speaks about the mutual assistance in criminal matters. These are basically to deal with people who have been in public life and politicians. We have no problems in dealing with people who have committed wrongs, but when
one looks at the Mutual Assistance in Criminal Matters Act it speaks about the central authority, but in that Act also, it says,

“The central authority in relation to any commonwealth country means the person or authority designated by that country for the purpose of transmitting and receiving request for assistance under the scheme.”

However, when one looks at section 3 of the same Act, one will see that in our situation, they say now the central authority is the Attorney General.

So the Attorney General now is the person who could go the other Governments and get whatever information they have to pursue his political objectives. What is frightening; this is frightening where you have a politician contaminating the criminal justice process and this is what we must be careful of. The function of the Attorney General is not to get involved in criminal proceedings at all; that happened before the Constitution—I think it was the ’76 Constitution—the Attorney General could have been the prosecutor as happened in the case of Karl Hudson-Phillips and Abdul Malick, where the Attorney General prosecuted. But in our Constitution the wisdom of the framers of the Constitution said no; Attorney General does not get involved in criminal matters whatsoever. So therefore, section 90 of the Constitution says that there shall be the Office of the Director of Public Prosecutions who shall deal with all criminal proceedings.

Mr. Speaker, this Act really brings the Attorney General in the criminal process; brings a politician in the criminal process and that is frightening. That is indeed frightening, and we know that this Attorney General has the capacity so to do. I do not want to go into the administration of justice, but they have hounded people, the Chief Justice from out of office, using the power of the Attorney General. Imagine the Prime Minister will tell a Chief Justice, either resign or I am carrying you to court. Who is the Prime Minster to say that? You resign or I carry you to court and further, he compounds it when he says, “And I will put you before your own magistrate over whom you were the boss to humiliate you.” This is what this Government is capable of and that is why we must be careful.

When the Member for Laventille East/Morvant said, he just read 15B quickly, he dusted it over and he said, “Having gotten that out of the way, let us move on.” Let us move; no you cannot move on like that. We must expose you. The Attorney General who had piloted the Mutual Assistance Bill said, “We must remember what we are dealing here with is a Bill which will be administering the law and have legal considerations to be considered”. He was speaking on the Mutual Assistance Bill. When one looks at the scheme of other legislation, they say because he is the Minister—but hear who the Minister is; he is the Minister in
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respect of legal principles, laws and in respect of the guardian of the Constitution. That is the function of the Attorney General, not to interfere in collecting evidence to be used against people and in particular politicians when you yourself are a politician.

Mr. Speaker, the Attorney General in the debate at that time said, “In the Ministry of the Attorney General one has the Solicitor General’s Department and the Office of the Director of Public Prosecutions. These two departments will have to administer the Bill.” So what they are saying here is that the Attorney General, he is the protector of the law and legal principles. But in the Attorney General’s office, you have the office of the DPP and the Solicitor General. So I ask the question—and hear what, I go further. I will go back to the Act now and look at section 3(2), it says:

“The Attorney General may delegate to a public officer any of his functions under this Act”.

So what is happening is, having regard to what we see here in that debate and having regard to what we see here in the legislation, one would have seen what the intent of the legislation was: that the Attorney General would not interfere with the day to day proceeding of criminal process; he has the power to delegate that function to any public officer. But then in the debate you see, Mr. Speaker, you have the function and you have the DPP. I ask the question here today, why does this Bill introduce a politician in the criminal process? [Desk thumping] Why is it, Mr. Speaker? You are a politician. The Office of the DPP is supposed to be an independent office holder. Why do you not delegate that function to the Director of Public Prosecutions, so that he would be in control of the public prosecution? Why is it that you have to bring in—they say:

“Is obtained by or under the hand of the Attorney General in any matter related to mutual co-operation pursuant to the Mutual Assistance in Criminal Matters Act.”

Why the Attorney General? The Act says you can delegate, why do you not delegate? The answer is clear. I would have felt safer if I had seen the words “obtained by the Attorney General”.

3.30 p.m.

Do you know what argument they will bring here today? They will say that the Attorney General deals with governments and in some countries there are no Directors of Public Prosecutions (DPPs) and because every country has an Attorney General, let us use the Attorney General.
Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Princes Town has expired.

Before I put the question, you will appreciate that the hon. Member for Princes Town is under a bit of difficulty with his throat. He probably has a sore throat, and it is a bit difficult to hear him, so if you will keep quiet, I will hear him, the Hansard Reporter will hear him, and you will also hear him.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [Dr. H. Rafeeq]

Question put and agreed to.

Mr. S. Panday: Mr. Speaker, having realized it is only 30 minutes, I will go into the other part of the speech now, and indicate that this PNM Government is politicizing the criminal process and it has used other laws to do so. We must not forget that the PNM recently held a gentleman by the name of Inshan Ishmael who was trying to fight crime and bring it on the front burner. He called for a shutdown so that they could put crime on the front burner, and one can see how the PNM interferes and tries to deal with political opponents.

The Commissioner of Police a day or two before—he is the man who said, “I ain’t doing nothing to shake the boat with the PNM.” This PNM Government handed a letter of appointment to the Commissioner. What message are you sending? Coming back to the Act, the Commissioner of Police said that he was warning this country that anyone who breaks the law will feel the full brunt of it.

Do you know what he was doing? In his mind he was looking at section 3 of the Terrorism Act which says that if anyone threatens anyone in the pursuance—

Mr. Hinds: Member for Princes Town, will you give way?

Mr. Speaker: What is the point of order?

Mr. Hinds: Standing Order No. 36(5).

Mr. Speaker: No, no, take your seat. [Interruption]

Hon. Members, it is only Wednesday and we have a couple days again to go before Carnival, so please, let us hear him. You will have your time.

Continue, Member for Princes Town.

Mr. S. Panday: It says if a person threatens another person in pursuance of a political or ideological objective, you can be charged under the Terrorism Act or
get 25 years, and there was a rumour being spread that Inshan Ishmael was threatening people and that he would deal with them if they did not close their business on those days.

Mr. Achong: He is a terrorist.

Mr. S. Panday: So he is a terrorist, exactly. They were planning for him so they held him hoping to get the evidence later.

Mr. Speaker: Hon. Member, that matter is pending before the court.

Mr. S. Panday: No, Mr. Speaker.

Mr. Speaker: I want to hear your expertise on section 15C and time is running out.

Mr. S. Panday: Now, how can you use documentary hearsay evidence and gossip to lick up political opponents? They sent van loads of policemen armed to the teeth, abusing the legislation. They locked him up and brought him to Police Headquarters, stripped him and humiliated him. When his lawyers asked what he did, they did not get time to get documentary evidence, and instead they punished him and the next morning charged him under the Summary Courts Act for some little offence of publishing a document. In that section, the offences are like flying kite next to a pole, dancing—that is the section under which they dealt with him.

Mr. Speaker, you can imagine in a Bill like this, they can get any PNM person to say Inshan Ishmael threatened them and that person can say; “I fraid Inshan Ishmael; he will kill meh; I cyar go to court.” He will then be faced with documentary hearsay evidence and 25 years.

Dr. Rowley: Nonsense!

Mr. S. Panday: That is it. Nonsense? The PNM has the ability to do that. I am giving you a practical approach as to how the PNM can abuse the law, and the abuse against political opponents is so great that when they charge under that law, section 105 of the Summary Courts Act says if the offence is very minor the police in the station can give him bail.

Mr. Speaker: Leave that for the courts.

Mr. S. Panday: No, Mr. Speaker, I am showing you how this Government is vindictive.

Mr. Imbert: You are saying no to the Speaker?
Mr. S. Panday: I apologize to you, Mr. Speaker. That is why we are here today and we are saying that this legislation is using documentary hearsay which could be used against political opponents.

Mr. Speaker, I will leave that one for the court as you say, but look at the other one. The Prime Minister made a statement after a Cabinet meeting. When you go to a Cabinet meeting, everyone is listening in the afternoon to hear what they will say as to how they will govern the country. He spread a rumour on decent people saying that drug people are involved in the smelter thing. How could a Prime Minister, the leader of a country, make such reckless remarks without information and evidence? Remarks which impinge upon the criminal law, you are calling people drug people. He tried to give the country the impression that there is evidence that this “fella” was an anti-smelter man, he became a pro-smelter man, they raped his wife, broke into his house, killed his dog, and threatening him. Imagine the Prime Minister is saying that.

Mr. Speaker, how could we trust this Government that is giving documentary hearsay? People thought this was outrageous and the Member for St. Augustine responded by saying that he has a duty as the Prime Minister—and rightly so—to bring the evidence, and if he cannot bring the evidence, shut up.

Mr. Speaker, lying is in the DNA of the PNM. [Desk thumping] Imagine, the Member for that area, Larry Achong said—and I quote from the Sunday Express as follows:

Point Fortin Member Larry Achong, parliamentary representative for the Cap-de-Ville/Chatham area says Prime Minister Patrick Manning spoke the truth when he said drug elements are involved in the anti-smelter.

How easy or how difficult that would be to get one of your party supporters to put that evidence in a documentary—[Desk thumping] Hear what this PNM is saying.

It is accurate, I think it is quite correct Achong said during an interview at the Parliament. Achong said he previously raised the issue himself.

Did he talk to himself? Did he report to the police? The Member for Point Fortin knew this and he talked to himself. He says:

While the Government was not maligning all those opposed to the smelter, he supported Manning’s recollection of the account of one pro-smelter supporter who said that his wife was raped.
You are giving this Government the opportunity to bring hearsay evidence in a document from a man who does not have to attend court? His house was broken into and his dog was poisoned.

He was also quite correct in saying that the gentleman who was sent to Brazil, his wife was raped. A Member of Parliament, a responsible legislator, how could you spread those criminal rumours? It is easy in an election year or anytime to get somebody to give a false statement and decent people like Sebastian or Fitzroy Beach to be framed. We must not pass legislation in this House that will give the PNM the opportunity to go at the political opponents who are innocent and decent people.

Mr. Speaker, this is why I want to say you are giving them this power and my friend, the Member for Pointe-a-Pierre will go into the nitty-gritty of how the PNM operates.

The police said that Prime Minister Patrick Manning was right about the drug dealing. They say they have no evidence that the group opposed to the aluminium smelter was linked in any way with the drug elements. Imagine a Prime Minister spreading those rumours, and in that legislation which will come before the court is a document which could contain rumours and you do not have the opportunity to test the credibility of the witness in the stand to find out the truth. This is the effect of this legislation. I want to show you how it could be used against innocent people who are opposed to the PNM. At the post-Cabinet news conference on Thursday, Mr. Manning claimed there were no drug people.

Can you trust this Government with the security of honest people in this country? Detectives at Point Fortin have no report. Imagine this. The Prime Minister as Chairman of the National Security Council never reported it to the police. Detectives in Point Fortin have no report that a villager who supports the building of the smelter was threatened and his dog was poisoned. Lies! And those kinds of lies can find themselves in unsworn statements and used as evidence against people.

The La Brea police officers are unaware that pro-smelter supporters were threatened with physical violence and arson attack on their home. Police wants to investigate the claim; they are begging the victim to come forward. I ask the Government today, does it have any information whether any victim made a report because this was only Sunday. The police want to investigate the claims; they are begging the victims to make a report.
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It was reported that senior officers in the South Western Division were asked for anonymity because they are not authorized to speak to the media. They were not consulted or asked to submit reports of crime statistics or intelligence information involving the Chatham people.

You, as a Prime Minister, after a Cabinet meeting spread such rumours, this is what I am frightened for, that we are allowing this Government by what we are doing today, and what we have read, we are saying that a police officer could take a statement—and you know how statements are taken—and have this statement guided in such a way towards the commission of an offence by the person so charged.

People do not write statements. I have never seen it anywhere where police use witnesses who have written their own statements. Statements have always been written by the police and we are asking this House today to pass legislation to say that they could use that unsworn statement, with no opportunity to test its veracity.

If the person by reason “is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance;” so he could “buss” this lie and fly out the country, he tells nobody where he is and it could be said: He has gone, I do not know where he has gone, however I want to use that evidence. That is the kind of evidence they will use to convict their political opponents. That is what I am afraid of. This will not be used against criminals; this can be used against people like Inshan Ishmael.

Mr. Speaker, hear the other one: “cannot be found after all reasonable steps have been taken to find him.” What are reasonable steps? How long do you have to look for him? Can you take him out for a month, send him to Barbados for a month’s holiday and then he appears after the case? What are reasonable steps? I practise in the system, I know how things work when the police comes there they do not want to lose their case; nobody wants to lose a case. Hear this.

“(e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.”

So it is saying to use that statement in the court. You are kept away by threats of bodily harm. How do you compare that with the statements that were made by the Prime Minister, and the Member for Point Fortin when they said that the person was threatened? You see a connection of how they are trying to go for the political opponents and the legislation before the House today. You see what is going on. All this person has to say is that he/she was threatened and bam, John
Beach gone to jail. Not because he has committed an offence, not because Inshan Ishmael had a minor infraction with the law, not because of that at all, but because the PNM can use this legislation to go for the political opponents.

Mr. Speaker, I find it is indeed a frightening thing when you have the Prime Minister being a stranger to the truth and a very far distance away from the truth, and the Member for Point Fortin who is another stranger to the truth and miles away from it, this is what we have to be cautious about.

Mr. Speaker, the Member for Pointe-a-Pierre would bear me out when I say there is hearsay in section 40 of the Indictable Offences (Preliminary Enquiry) Act already, so this is nothing new and the Act is almost similar to the one before us today where it says incapable, condition of mind, absent from Trinidad and Tobago, et cetera.

What he failed to tell this honourable House—I will not go to the extent to say he misled the House in this evidence—he speaks about deposition and runs away with it. That means the witness came to the Magistrates’ Court and the witness gave evidence on oath and the defence or his attorney would have had the opportunity to cross-examine the witness downstairs. So it was tested, so if that person dies or is away, since that evidence has already been tested, they say it could be used in a trial but this is not this case here. In this case any Tom, Dick or Harry can make any statement without swearing, there is no compunction to speak the truth and it will be used in evidence.

Mr. Speaker, in the case with Clint Huggins the court said the deposition would be admitted and it was said that he was not cross-examined and the Chief Justice in that case said that is your business. Clint Huggins who was before the court, you had an opportunity to cross-examine him and to deal with his credibility, you cannot come now, having not used that opportunity downstairs in the lower court, you cannot come to the High Court and say you did not use it. That is the way the law develops, that is the way that statement was made, so do not come here and say we are stepping one step backward. This backward step is a very dangerous step.

He says there is also hearsay evidence in documentary form already. I say yes, but that kind of evidence is really records from the Forensic Science Centre, from births and deaths, and the hospital. Those persons are not victims, they have no interest in the case and more than that, those people would have written those records in the course of their duty. They are really dealing with persons who do not have any connection with the case and that is why you get that hearsay coming in.
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[MR. S. PANDAY]

This case before this House is where a victim who may have an axe to grind with somebody; there may be somebody who is a pro-PNM and who takes the cue from the rumour of the Prime Minister and says: “Yes, I see Beach pelt de man house, yes, I was there in Chatham and Beach killed him.” He gives a statement and he gone and the police put Beach in custody.

So when they come before the House today and want to speak about deposition and statement and this and that, I want to say that is indeed not so and although we want to deal with crime, you have been in office, you have the laws in place, you had the DNA, you had the Breathalyzer, everything in place and refused to deal with crime. [Desk thumping] You come here to fool the population to say that you are passing legislation, and that is the panacea to the real crime, but we will deal with them. It can be done in another way in order to speed up the judicial process, there are new civil court rules which say you do not have to come to court to give evidence-in-chief, you give it in a statement and just appear on the day for the case to be cross-examined and go.

Mr. Speaker, why in this legislation a clause was not put in which says: We can accept this statement with consent of the defence, so you give them the opportunity to exercise their constitutional right? Not at all! What they are doing is shooting it on us.

I see also bacchanal taking place because just as the prosecution can bring false witnesses, the defence can get cite and relate too you know. For example, someone is charged with an offence and I plead an alibi, that means I was not there, and the alibi should be incorporated, I just have to make a story and get somebody to sign a statement similar to the one I produced and tender that to the court. He gone away to pick apple and does not return till after six months, do you know what happens? The whole judicial system collapses because this can be abused, not only by the prosecution, but also by the defence.

We must take care of that when we are passing legislation. One must not pass legislation for the sake of passing it, nor because of public sentiments, deep thought must go into it. [Desk thumping] You must not bring legislation here from Friday to Wednesday, we have people on this side who like to prepare. I would have liked to read the Grant case from Jamaica and deal also with the Grant case that the Privy Council spoke about. The Grant case also speaks about the position where evidence has been sworn and tested.

So when we come here today and one sees all we are doing here is A, B, C and D, I humbly submit that since we are having an infraction on the fundamental
rights of the liberty of the citizens, these here A, B, C and D really do not offer plenty protection.

In our Constitution there is the right to silence. The question we are asking here is who will give the evidence because cross-examination is only one aspect of extracting evidence. Who will lead the evidence as to the character or credibility of the persons mentioned in A, B, C and D? Are you then saying if this Act is passed we are now taking away the person’s other right, the right to remain silent? These are the constitutional and legal complexities in this matter that you should have put in place, but you are so hurry to give the impression that something is happening, so hurry to go at your political opponents, you are blinded.

Mr. Valley: You have wasted 75 minutes.

Mr. S. Panday: Wasted 75 minutes because that is the attitude of the PNM, lying and taking advantage of people is in their DNA, discriminating against people is in their DNA and when we pass legislation we must pass it to make sure that does not happen.

Thank you, Mr. Speaker.

4.00 p.m.

Mr. Speaker: The hon. Member for Pointe-a-Pierre.

[The Member for San Fernando West stands]

Miss Lucky: Would you give way or—[Crosstalk]

Mr. Speaker: The hon. Member for San Fernando West did get up. I was under the impression that she was—[Crosstalk]—Order!

The Minister of State in the Ministry of Trade and Industry (Hon. Diane Seukeran): Mr. Speaker, can I—[Crosstalk]

Mr. Speaker: Order! Hon. Member for Caroni East, you have been in this Parliament long enough. That behaviour and that utterance just now is not becoming of an honourable Member. Please continue.

Mr. Valley: Apologize.

Mr. Singh: For what?

Mr. Valley: You are too much of a senior Member. [Crosstalk]

Mr. Speaker: Show an example. That is all I am asking you to do. Please continue.
Mr. Ramnath: Go and read your father’s book.

Hon. D. Seukeran: I did. Mr. Speaker, may I please use the opportunity to say to the Member for Pointe-a-Pierre whose views I always appreciate and are always well-stated, that in this instance it is unfortunate I cannot give way to you.

Mr. Speaker, you are sitting in this House and you are listening to exactly what we are to do here. I had the distinct feeling that, perhaps, the Member for Princes Town was not sure of what is the role that we are supposed to be functioning in. This is the 23rd sitting of the session of the Eighth Parliament of Trinidad and Tobago and they have been here all the time. Yet still it seems to me that Members opposite are not clear on what is the role of the Legislature. The Legislature means both that side and this side come together to enact law. It is not about politics. We play politics outside the House; we do not play politics inside this House. I think the Member for Pointe-a-Pierre made that point very clearly at the last session and I supported her 100 per cent. I wanted to bang the desk, in fact, in favour of what she said. So just to remind Members opposite that we are here to enact law and good law; that is the role and the function of Parliament Government, and the Opposition included.

I was looking forward to listening to the Member for St. Augustine particularly this evening because law is underpinned by policy or by philosophy and in the days before he became a politician, you heard the Member for St. Augustine speak and theorize as to the philosophy that one should adopt as you pass law. So I missed the contribution of the Member for St. Augustine; I would have liked to hear him. Because you ask yourself: What is law? If we are here to enact law, what is law? It is about a set of rules established to provide for the conduct of civil society so that we live in harmony; so that man does not fight against man; so that we have some system of order in which people can function within the society.

Mr. Singh: But it is nasty and brutish outside there.

Hon. D. Seukeran: Law is intended to create the balance within society. I was looking forward to hearing the Member for St. Augustine in deciding which to adopt of the many conflicting laws or theories there are as to the making of law, and I am sure the Member for Pointe-a-Pierre might join in the debate as to what really constitutes man. Is it natural for man to live in a state of chaos? Is it that man is civilized by birth? Does he become civilized by law? Is natural law more important than man-made law? How shall we hone it? We might even discuss the question of secular states; the question of whether morality has a place
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in politics. All these are thoughts that night have led this debate. At least coming from the Opposition side one hoped to hear it and it has not yet been heard. We still look forward to hearing it.

We are here to amend the Evidence Act. It is a very simple amendment. The Evidence Act has been in existence for many years. It comes out of common law; it comes out of antiquity virtually in terms of law, and what we are doing is providing a very, very small amendment that seeks to find a balance, to offer protection to the citizen. Last night I had the pleasure for once in a very rare occasion, of sitting to watch the news and I saw a clip—I was watching Channel 16—and on that clip was the former Leader of the Opposition uttering something that I tended to agree with him on. He said that the primary function of Government is to protect the life, limb and property of the citizen. One tended to understand what he was saying. I virtually agreed with him, except, of course, that he did it wrong. He was playing politics by saying it was the duty of Government; and it is, to some extent, except that it is not of this legislature; it is not of us as we sit as Members of Parliament. It is of the arm of Government which provides for that service.

No Member of Parliament in this House, no Minister of Government, enforces law. We create law. We do not go out there physically and arrest anybody, not even some of those who certainly need to be arrested. The role of the Government as the Executive is to determine the policy and the regulations that allow for a quality of life that the citizen can enjoy, that is to his benefit; that determines the protection of it, and this Legislature is where the Opposition has the opportunity to temper the view of the Executive, because it is the Executive with policy—it is the Legislature which tempers what the Executive brings and one hopes to hear good debate as we enact good law.

Mr. Speaker, what is important is that it is the system of justice that implements law and that is made up of two components: first the policing arm of law which is the enforcement that deters criminal activity via detection; then it is the role of the Judiciary in administering justice and therefore deterring crime by the application of swift, fair and impartial law Mr. Speaker, and law is enacted, enforced and administered in a context. It does not happen in the absence of a context. One functions in a context. So that when you hear, for instance, the Member for Princes Town, who was the only speaker so far, talking about the Government reacting—knee-jerk reaction; playing politics—that is not the context. The context is what is happening within the country today.
You have to examine that context. We are passing a piece of law that you are being accused of playing politics, with trying to abrogate power onto oneself. That is not what it is about. It is what is happening to the society as a whole. You have to ask: What is the state of the country? How are the systems of governance with respect to the administration of justice functioning? Is the criminal in today’s day and age afraid of anybody? The answers, Mr. Speaker is obviously, no.

Criminals walk the streets with absolute impunity. They know every trick—and their lawyers know every trick—that will get them to walk the streets. No matter how heinous the crime, they are going to get off. Mr. Speaker, there is a total contempt on the part of the criminal for any law and order of the Government, for the Legislature—all of us, both sides of the House, there is contempt and that is the context in which we are operating.

The context also is that the balance—we have spoken of balance. The Member for Laventille East/Morvant in his presentation spoke to the role of the law as the balancing, the fulcrum. We speak to that balance. Where is the balance today? Where is the public good as we advocate the human right of the individual? The right of the criminal takes precedence over the right of the public good. And you ask yourself the question: Where are we? You see that it is skewed totally in favour of the individual. Terror reigns, as extortion reigns, as rape, murder, sodomy, incest, every heinous crime under God’s earth is committed in the country day and night with total impunity. That is the context in which this law comes to this House and we have to set all law in context.

Widen the context and you see what is happening at the very foundation, within the home, to the children of our society. We see that the child today is a criminal; children walking with guns; children shooting people; children committing—

Mr. Partap: A legacy of the PNM. It is PNM legacy.

Hon. D. Seukenan: Mr. Speaker, I will not be detracted by the nonsense emanating from the Member for Nariva.

Mr. Bereaux: You are giving them a jurisprudential lesson.

Mr. Speaker: Member for Nariva, you have 75 minutes, you know. I will protect you too. Please continue.

Hon. D. Seukenan: Thank you Mr. Speaker. We were speaking of something as serious as what is happening within the country and what is happening to our children. On the one hand we have our children; 75 per cent of all heinous crime
is committed by people between the ages of 15 and 25 or 35—children. You have gun-running; drug-running; gangs roaming free. In the school system you have the bullying that goes on. I saw that in Gasparillo parents actually coming out to protest it; a bullying of the child against the child. We see the child as the victim. We have watched what has happened, the most public of them—and there are thousands of other cases—Amy Annamunthudo; you watched what happened to Sean Luke; you looked at what happened to young little Akiel Chambers and how many other thousands of children. Just look at what the Ministry of Education survey is showing in the school system, the amount of abuse the children are suffering.

So the child is two things: He is the victim of what is happening and he is also emulating the criminal who is the most successful element within the society. He is becoming a criminal himself. That is what is happening within our society, the context in which this law is being brought. I am really surprised that I am hearing heckling on the other side.

Mr. Bereaux: They are not listening.

Hon. D. Seukeran: They are not listening because they do not want to listen. They do not give a hoot—I was going to say “damn” but it might be unparliamentary. The fact is that babies today are being raped; that the crime of incest is endemic within our society; yet we sit here and talk politics and arrant nonsense instead of attending to the laws that will protect the babies of Trinidad and Tobago! That shocks me, particularly when it comes from the Member for Nariva, an elder of the Presbyterian church.

Apart from incest, it is domestic violence. Have we seen how many cases we have that actually result in death, in murder? And everybody, Mr. Speaker in all of this, turns around and blames the Government! So we have to sit there and take the licks while all of this is happening and the Opposition does nothing except play politics in this House!

Mr. Speaker, do you know how many cases are unreported? You have hundreds of cases, thousands of them of young girls being raped, too ashamed to come forward; too frightened, because, you know, after the “fellas” rape this girl, or this young man because it happens to both boy and girl; after they rape you and you threaten to go to the police; they come back and they do it again! This time they might sodomize; they might do whatever else they have to do; degrade you in every form that they can and after they have done it the second time they tell you now: “Go and tell it and we will come back again.” So none of these cases—

Mr. Partap: You should read your father’s book.
Hon. D. Seukeran: I read my father’s book and he would have no part of you today.

There is nobody, no child, no young woman, who wants to go into the court today. The courts take too long. There is too much humiliation; there is too much fear outside there. How many young people, simple, ordinary young people—not only young; all, but mainly young people—driving the first little car they have, get held up as they go to an ATM machine—to use the convenience of the ATM machine—they get held up, get carried on a joy ride; they rob them of the only car that their parents might have and then take them to homes, show them where they are and tell them: “Go tell anybody and we are coming for you, your mother, your father, your sister”, and nobody reports it because people are so afraid?

That is the context in which this law is being brought. There are no witnesses willing to come and give evidence today, therefore no convictions and crime reigns supreme because of that. That, again, is the context in which you bring this law. Witnesses are dead; witnesses have disappeared; witnesses have amnesia; people are too sick to come to court. We saw a very high profile case the other day where even the police were too sick to come; were travelling abroad, and people walked free. You do not know if they are guilty or not guilty but they walked free without a fair trial.

Mr. Narine: Even doctors giving certificates.

Hon. D. Seukeran: And doctors are giving certificates, agreed. You have criminality in all forms. There is no doubt that today it goes so far, the context in which we operate, that the police themselves are under siege. We saw Woman Police Sutherland killed; her entire family and her friend; lucky that the little five-year-old who could also be a witness was hiding and they did not see the child. They would have killed her if they had seen her.

So the police are under siege; prison officers’ cars getting damaged; they are living under threats. The criminal is not afraid of anybody. That is the context in which we operate. Two councillors, one killed, one under attack. Who next? The judges? The people who administer the law?

Dr. Moonilal: Ministers?

Hon. D. Seukeran: That, too. What makes you think for one moment in time that any Minister, any Member of Parliament, you or me, is immune from them? Neither you nor I have protection. We do not walk with security. Your family and my family are under threat equal to any citizen outside there! So we have to be concerned! We do not sit here and play politics with what concerns all of us. That
is the siege under which this country is operating. So you ask the question: Who else? That is the context sir in which this law is being brought.

The other context is the rate of successful detection or of conviction. Take a look at it. Because no witnesses are coming forward; because people are dying; disappearing, there are no convictions. What is happening? The pace of the court is so slow as lawyers use delay tactic after delay tactic to frustrate the process of justice. Justice that is delayed is justice denied; justice that is not swift empowers the criminal! That is the context, and the balance is tipped entirely—[Crosstalk]

I speak as a Member of this Government because this Government is fully aware and deeply concerned about what is going on in the society but the Government does not get up uselessly and add to the fear that the citizen has. As we stand here we acknowledge the context in which we operate. There is no anti-Government sentiment here; there is a pro-people sentiment! That is the sentiment that this Government Bench feels. [Desk thumping]

The context is that the citizen is under siege. The state of the judicial arm of Government, the system of Government, has broken down entirely. The criminal has absolute contempt for law and order. That is the context. You know, the only kind of conviction you see in Trinidad and Tobago in the courts of law is that of domestic violence, because you cannot help but see it was the husband who killed the wife, or the wife that burnt the husband; or petty crime. You see where they picked up somebody for two joints of marijuana. The real drug lord does not get caught. And if you raise the spectre of the drugs that haunt the society and the guns that empower the crime, you have a problem.

The Prime Minister says that the protest action—and many protest actions—are fuelled by the drug lords. As Chamber President, in another part of my life, I was very involved in trying to bring the Venezuelan economy together with the Trinidad economy because it makes such absolute sense. And, as you worked at it, every time Venezuela responded favourably, there was an incident in the Gulf; somebody get shoot; fishing boats get hit. Do you know why? Because it is easy to slip drugs by canoe from the Venezuelan mainland where it comes from, through Colombia, through Venezuela, down the San Juan River. It comes straight across by canoe. You do not even need to have a power boat in the calmness of the Gulf—and land in Cedros; land in Icacos; land in Otaheite! When you start to put a plant and develop the southwest economy, do you know what happens? Suddenly the biggest industry in the world, the drug industry, has a problem. [Desk thumping] And the guns might take a rest out, stay of the country.
You see what can happen. You must have a legitimate concern that some of these protests are also being fuelled by the persons who have the most to lose and that is the drug trade. So the Opposition can say what they want. The Prime Minister and the Government has a duty to sensitize the people to what is actually happening outside there. [Crosstalk]

Mr. Speaker: Order!

Hon. D. Seukeran: You know, it has become so ridiculous. For these things you do not have to go so far back. Just look at last year. We had the case in Morvant of the two fellows, I think it was Paul vs Bruce, where the police said that the eyewitnesses hid rather than give evidence and themselves be killed; themselves be under siege or their families. Because in today’s day and age the “fellas” from inside the prison put hits out on the mothers, even mothers are not sacrosanct, so you see criminals walking free.

There was a case in Embacadere in my own constituency, Miguel—what is his name; it is Venezuelan—Gerasinio—good footballing name—his father was killed and the young witness actually went in the courtroom and told the judge, having given his statement before, he said: “Sir, I did not see anything. I forget what I see. But more than that, Sir, I am too frightened to tell you what I saw.” Since you cannot force someone to give evidence, two persons who were seen by nearly the entire neighboured of Embacadere, hundreds of people, walked free. That was just the other day in December in my own constituency among people I am very familiar with.

Mr. Speaker, that is the context. That is the state of the judicial system, the arm of Government that implements law, both in the policing aspect and in the courts of Trinidad and Tobago. More than anything else you see that balance, you have to keep on hammering the point, the balance is totally skewed. It is in favour of the criminal; it is in favour of the individual.

It is not only in the criminal system. Let us look at what is happening in the civil system also, as this country is hit by judicial review, as the abuse of that equality clause is hit by judicial review. Nowhere can you now man the other arms of the delivery system of governance, because every time—you put up a test for public servants and because some did not pass and they were not promoted, they go for judicial review; whether it is in the Ministry of Works and Transport; in the Ministry of National Security; in the Ministry of Health, in the every single Ministry you have the same thing. So that the kinds of persons who are being put into the positions to actually deliver the quality of service that the citizen needs, is
wrong because we abuse every system. Everywhere you look, it seems to me that the wrong people are in position when it comes to implementation of delivery of government.

For instance, we are looking in absolute amazement at the antics of the Opposition today. There is no Member of this House who does not legitimately own a property, who did not work for his money, who did not pay a mortgage, and you have a government who is busy providing for those in the society who do not have. We have public housing in the country and I watched Opposition Members, from the Leader of the Opposition to the last Attorney General, going into the housing community and telling squatters who evicted pensioners from their homes; took over the pensioners’ quarters; refused to pay $50 or $100 rent, when there are thousands of citizens outside there who would willingly pay a rent and who support the Ministry of Housing’s attitude today; they need housing, but you watch the Opposition going in there and telling them: “Do not worry with the Government. The Government hates you.”

Mr. Imbert: They throw the old people in the road.

Hon. D. Seukeran: Throw the old people in the road, in the rain: “You doh have to pay no rent. It is illegal for you to pay rent! We will take the Government to court.” Mr. Speaker, can you imagine that the Government is to be taken to court for implementing law? That is the most ridiculous thing I have ever heard. Was it the Opposition Leader who went and said: “We will reduce your rents from $100” in the year 2007? Can you imagine that? That is to tell you the kind of politicking that takes place in this country; the kind of culture that is being taught to the people of Trinidad and Tobago by that side! [Desk thumping] In this House we are supposed to be leagued in enacting good law and you come here and all you hear is the politics, and you go outside there and all you hear is the politics! For heaven’s sake, man, when does the public good take primary focus anywhere on that bench?

Hon. Member: When the PNM leaves.

Hon. D. Seukeran: It is the focus of this side of the House so we bring bills like this. I would love to know how a past Attorney General, how a lawyer of the distinction of the Leader of the Opposition, could possibly say the things they said in terms of housing. And where, for instance, do they put the right of the taxpaying citizen; the right of the citizen who owns his property? What about the property right of the Government? You really have to wonder where is the balance of the Opposition, inside this house much less for what they do on the hustings.

Again, there is this issue of bargaining. Every time you want to pass a Bill that is in the interest of the country, you have to bargain with the Opposition.
Mr. Imbert: Horse trade.

Hon. D. Seukeran: Horse trade. “If you doh do what we say, we not going to support you.” And very often we need a special majority. Let us take for instance—before I get into that, since we are coming to the tea break shortly, let me not get into that yet. But let us for a moment just re-ask the question: Where is the right of the qualified citizen when we are appointing, by judicial review, the wrong people? Where is the right of the property owner when we are advocating the breaches of the law? Where is the right of the citizen to protection when we are advocating mayhem and madness in the country by action of the Opposition? Because, you see, people outside there believe every word they say when they tell an untruth, as often as it is repeated in this House by that Bench, 16 Members—I will remove the two Members, the Members for Pointe-a-Pierre and Barataria/San Juan from that; and I am sad to say that the Members for St. Augustine and St. Joseph have now fallen into the trap. But when you repeat an untruth as often as it is repeated over there, John Public outside there actually believes that the Bill that we are bringing here is so that we could take away the power from the DPP, put the power in the hands of the Attorney General and the Government seeks to become more powerful; that the Government of Trinidad and Tobago is intent on abusing its position in making the laws of Trinidad and Tobago.

Mr. Speaker when we come back I want to deal with this question of the bargaining that goes on, the horse trading that goes on in this House and I look forward to hearing my colleagues add to my list. I want to remind the country that while the Opposition bargains with the Government to pass good law, the climate, the context in which we operate is that of the criminal being in charge of Trinidad and Tobago; of the good people of Trinidad and Tobago being on the run, migrating, as the Member for Princes Town said, as the Member for Oropouche has said so often; afraid for their lives, while the Opposition attempts to bargain, horse trade, et cetera.

Mr. Speaker what are we doing here? We are very simply attempting to put an amendment to the laws of evidence. The whole issue that we have here is that the Opposition in the last Bill and this Bill, is saying that we must now bargain with them and they are adamant that we must bring a special majority to pass a little piece of legislation. They want to use the Equal Opportunities Act to hold the Government to ransom, and that is the horse trading that will happen.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea and we will resume at 5.00 p.m.

4.30 p.m.: Sitting suspended.

5.00 p.m.: Sitting resumed.
Hon. D. Seukeran: Thank you sir. Mr. Speaker, before the break I was attempting to place the enactment of this piece of legislation which we are doing as a legislature, in the context of what is happening in Trinidad and Tobago. For instance, I was referring to the bargaining, the horse-trading and the kinds of politicking that go on in both Houses and outside the House. I draw your attention to an article in the Newsday of Wednesday, February 14, 2007, “Malick tenants have rights too” and the fact that the Leader of the Opposition—I would like clarification on this because I cannot understand how the Leader of the Opposition who has been a Member of this House for such a long time and has acted in the capacity of Attorney General could go out and tell the people who are squatting, that they are entitled to a deed of comfort—whether or not they were there before the regularization process—and that a Deed of comfort entitles them to a deed for the piece of land that they are occupying.

I have sat in the Government for four years and as far as I know, and there are many squatters in my community, but at no point in time have I heard anybody on this side tell a squatter, that if he is not regularized he is still entitled to a deed of comfort or that a deed of comfort leads automatically to a deed of title under the law for that piece of land. That is to tell you how far the Opposition goes in the politicking that goes on in this House.

We go to the horse-trading and bargaining. Every time you say that you are going to bring a piece of legislation, you hear “bring the Equal Opportunity Bill. “ There is no problem in bringing the Bill if it is in the interest of the people ultimately, it will come. With all the judicial review; the nonsense and delays in the system of Government, the Opposition ought to be more than concerned about the Equal Opportunity Bill. The entire business community in Trinidad and Tobago is founded upon the family style run business. What does the Equal Opportunity Bill do to the family business? We are debating it. I am saying that we horse-trade with it and we ought to look very carefully at the kinds of laws with which we are horse-trading. It must not be used as a whip. That was painting the picture of the context in which we operate; a state of anarchy; absolute contempt by the criminal for the society as a whole for; this House; for the Judiciary; for the police; for every teacher and principal. It does not matter who you are, there is contempt because there is an impunity from law, from enforcement. These people find a way out while we remain victims.

In the application of justice, the supremacy of the rule of law is the very cornerstone of older civilizations and of democracy. We pride ourselves on our democratic tradition. We are great adherents to the law. Sometimes we are such
adherents to the law that we seem to be paralyzed by the very law that is designed to protect the citizen. That is true of whoever is in government. It is true of all citizens. We adhere to the rule law and when we do not know how to practise the rule of law in our favour, crime rules. Mr. Speaker this country is extremely well blessed. You have a government that obeys law. In spite of all the talk over there that by this piece of legislation as we are with every other piece of legislation, we are attempting to find a mechanism to give more power to the State, we obey law. We do not do what the Member for Siparia did. We have natural wealth in our ground; we have beautiful people, everything going for us. Yet ruling all of us is crime. No citizen can pride himself in the criminal state of activity in this country and the absolute breakdown of the entire system of justice. We are living in a state of siege, cursed at this point in time of our lives. This is war and the criminals are winning the war. That is a fact of life unless we do something about it. We have to take back this country; all of us not just this side, but all of us have to take back this country.

I am sorry that I did not bring the newspaper clipping that we were talking about on the migration pattern. Reference was made earlier in the day of 55,000 people leaving the country. The publicist said it is because of crime. It does not say that it is because money is circulating in the country. It says that 55,000 people are going for a holiday this Carnival season instead of enjoying the finest attraction in the country which is Carnival. We have to be concerned about it. No government will close its eyes and pretend that it is not happening. The question is: Are they leaving because of crime or is it a fact that more money is circulating? The pity is that Trinidad and Tobago’s dollars are being spent in somebody else’s country; keeping somebody else’s economy afloat and that is affecting our economy.

Not for one moment in time do I not take seriously the issue of the business community and the threat of migration. It is happening and it is not something that you want to pretend is not happening. I do not blame anybody who wants to migrate. I do not think anybody on this side blames anybody who wants to migrate. People are scared stiff; they are migrating and they want to run. Where are they running to? If you go to the United States or the United Kingdom you are a foreigner. Wherever you go, you are suspect. The people of Trinidad and Tobago are victims and that is a fact of life.

The senior Mr. Panday is right when he says on the public platform that the Government must do something to empower people to allow the systems designed to administer justice to function. We do not only have to pass law; we actually have to do something. When we try to do something the Member for Princes
Town said that the Government is in collusion with the criminal; the Government met with the community leaders. How do you know who is a criminal in Trinidad and Tobago? You do not know whether it is your neighbour; the policeman; the coast guard or the Leader of the Opposition. You have to try; talk; find out; take the guns off the road and save our children from becoming criminals and work with people so that we can develop harmony. You do not give up. You talk to people including community leaders. Until a man is proven guilty and condemned as a criminal, you do not call him a criminal. We are accused of calling the people in Chatham, criminals
[Interruption] drug lords. Not so!

The Minister of Works and Transport is pointing out a salient fact to me. He said that it was impossible to airlift 55,000 persons over Carnival because that is the equivalent of 450 plane loads of people.

Mr. Imbert: Where are the planes? [Crosstalk]

Miss. D. Seukeran: My colleague is pointing out that political activism is alive and well and not only on that side of the House but in the newspapers of Trinidad and Tobago. He is a member of a political party, chairman of a political party frightening the people.

Dr. Khan: Thank you for giving way. The Member indicated that until you are proven guilty, only then you become a criminal and you end up being convicted. How could these community leaders be convicted when witnesses are dying? That is what I want to know. I am asking you.

Mr. Imbert: That is the reason for the Bill.

Hon. D. Seukeran: That is precisely why this Bill is being brought. I want to thank the Member for Barataria/San Juan for asking the question. That is precisely why we bring this Bill, why we brought DNA and you wanted it to go to select committee. I have always had my admiration for the Members for Pointe-a-Pierre and Barataria/San Juan and I am not fighting with them. [Desk thumping]

Mr. Speaker, the entire country says that the police are corrupt and they are part of a criminal network. There is nobody in this country who does not say that. Whether or not it is true it is said. They say they are not protecting us and therefore, they have to be part of it. When the police do react and do start to function suddenly the Opposition charges, “PNM have death squad operating”. Mr. Speaker, where do you win? How do you win? “Damned if you do and damned if you don’t.” That is the fact of life. If the police function, they get cuffed and if they do not function, they get blamed although there are many good officers in the country. You cannot win. Yet on the other hand, never mind the politician, John Public tells you categorically,
"We want back Randolph Burroughs. We want 10 more Burroughs in Trinidad and Tobago; we do not want one, to take back our country and have somebody who would protect us.” Yet, you talk about death squad. Under Mr. Burroughs you had plenty death squad and we had “no damn crime.” I beg your pardon. Mr. Speaker, I withdraw the passionate—

Unfortunately, I am having a little difficulty staying calm. Every member of the public; John Public out there, not the Opposition who is calling it a death squad—there is not a single citizen who does not say, “Give me a gun.” I want a gun to protect myself because I do not feel protected.

[Desk thumping] I too would like to have one. None of us feel protected and that is the fact of life.

More than that Mr. Speaker. The Opposition is continuously raising the bogey but of executive abuse of power, not of PNM abuse of power. That is all you hear. The Government is PNM but the Government ceases to be a political party when it takes office. That is the fact if they don’t know that by now, God help them. The power resides in the hands of the Judiciary. The curtailment of any abuse lies in the Judiciary who determines. In this Bill the Judiciary determines whether or not any document can be tendered into evidence; no AG and no politician. It is the Judiciary; a magistrate in the preliminary enquiry and a judge in Chambers. All the talk that we hear; the rabble rousing and politicking are at the expense of the public good.

I even heard them say that we must not listen to public sentiment. What about the blatant fallacy that existed when we heard the words and they are continually repeated—

Mr. Speaker: Hon. Members, before I put the motion for the extra time, if you have to converse with each other, please do it in such a way that I would not hear it. It is difficult to listen to a Member speaking and listen to all of you speak at the same time. If you have to talk either speak in such a manner that I would not hear it or go outside.

The speaking time of the hon. Member for San Fernando West has expired.

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [Miss G. Lucky]

Question put and agreed to.

Hon. D. Seukeran: Mr. Speaker, I thank my friend and colleague, the Member for Pointe-a-Pierre, for moving the extension of time.

We heard them say—we must not listen to public sentiment. Do you remember the cases in which we had Members of the Opposition wanting to fight
elections when they were not qualified? When it was time to choose who was in government you heard that the voice of the people is the voice of God; a fallacy that is taught time after time. The voice of the people is not the voice of God. The voice of the people is the voice of the people and the voice of God is the voice of God. You listened to that and I heard them saying that we must not listen to the voice of the people. It is the duty of the Government to listen and this Government listens. We are accused of contempt; arrogance; not listening to; not feeling for; not being sympathetic and empathetic with the population. I assure you that nothing is further from the truth. We do not do what the Opposition does and that is, add fire to a blazing inferno and add more fear to the society of Trinidad and Tobago. The Government must act and this Government brings law to the Parliament where we as legislators must sit together to collaborate to work in the public interest as we must do in this particular Bill.

We ask the Members to stop wasting time. Let us get down to the people’s business. The Executive determines policy not abuse. Ministers have no power; they determine policy. The Opposition who has been in government understands that well. It is by law Mr. Speaker that we act in the interest of the people by what we are supposed to do here, coming together to pass law that is in the interest of the population. It does not happen by a marching.

How many thousands have marched? How many have protested? How many red flags and symbols or laid their bodies on the road, marching, demonstrating and protesting? To what good? What is the point? We talked about Inshan, a lovely young man, the man I knew. I do not know this man, the political animal. Certainly, he has a right to feel what he is feeling, not to say what he is saying, necessarily. What good does all that do while you are marching and demonstrating? The criminal is kidnapping you; murdering you; terrorizing witnesses; sodomizing your son and raping your daughter. Does it stop the criminal activity? Under no circumstance. It is what we are doing here that will. This is one part of a defence mechanism that the population has. That is precisely what we should be doing here. As we do it we would build the confidence of the people and not destroy it. We create laws that allow for enforcement; for detection and for the penalization of the criminal. That is how we balance the scales of justice and they have to be balanced because they are skewed totally in favour of the criminal who is reigning supreme.

Mr. Speaker what is the difference between the developing country and the country that is developed? It is the level of civilization; the outward appearance if man is by nature an animal; that vestige of civilization; the robe that he dons and the thin line that he walks. That is guaranteed, protected, empowered and held
together by the codification of law, the duty of any legislation. The adherence to the rule of law guarantees the best quality of life for the citizens. This particular Bill is perhaps one of the simplest pieces of legislation that I have seen come to the House. It adds five clauses to existing law. Nobody is attempting to change the laws of Trinidad and Tobago. It inserts new sections that allow, not the politician, but the court to accept or deny documentary evidence in limited circumstances. It is not wide ranging; it is limited to criminal activity. It is set in the context of a country gone mad.

Mr. Speaker, the Opposition has only one real concern and that is in respect to section 15B, the Mutual Assistance Treaty. The role of the Attorney General is absolute nonsense. No DPP can act for the AG. The AG is the official person, the authority under empowered by the laws of Trinidad and Tobago as in most Commonwealth countries. He is in fact and in truth the line Minister responsible for justice. I cannot tell my junior officers in the ministry what to do. I have to send it to Minister Valley via the Permanent Secretary. Nowhere in the world does a junior officer seek to direct a senior officer. It is the one little thing that the AG has to do. Everything else is done by the court; by the DPP; by the judge and by the magistrate. Only in the instance of international law where we are bound by treaty does the AG act. How does he act? He acts as a conduit.

The line minister in England, the Attorney General of England or of the United States or wherever, speaks to his counterpart, his equal and that is the Attorney General of Trinidad and Tobago. He cannot direct the DPP and the DPP cannot direct him; they are not equal. He speaks with his colleague the Attorney General who is not functional in any other capacity here; He is only the conduit. He is the receptor; he receives or transmits that information to his counterpart and hands it over to the relevant authority who would be the DPP; the Judiciary or the relevant person empowered to act. That is all the AG is here, a conduit. What is this nonsense about arrogating more power? In this case there is no real truth in the allegation of the Opposition that this is contrary to any rule of natural justice. It is a system of international governance. We are signatories to a treaty as are many other countries. We help each other, mutual assistance in criminal matters.

Mr. Speaker, even if we want to fly a plane equal ministers speak from country to country. Every Member on the Opposition Bench knows that. This untruth that is spread about and time after time being repeated by the Opposition Bench, so that John Public is listening and those persons who call themselves newspaper writers absorb and print and regurgitate untruth after untruth? It is time for that to stop. Here, the Attorney General is only a conduit. The Bill is not an attempt by the AG to arrogate any further power unto himself. In this instance it is not about the Attorney
General; It is not about the DPP, it is the court, the magistrate, or the judge who will determine or decide weight; whether or not a document; a piece of evidence; a statement made out of court; hearsay evidence should be admitted into court. Basic rights and defences. Mr. Speaker, The Judiciary is the bastion of the defence of the people against the abuse of any executive or state. We have to trust the Judiciary. We have no choice. They are the bastion of the people of Trinidad and Tobago.

The Opposition believes it has a justifiable concern that has to be expressed but not in partisan terms. They have the right and have the duty to raise the issue as to the admission of hearsay evidence. That is provided that this piece of paper did not have checks and balances. But there is every safeguard enshrined in this law apart from all those under the Constitution, under the rule of common law and in all the rules that have already been guaranteed to the defence. The question was asked: Who will cross-examine?

In this instance, not only does the judge or magistrate hold a mini inquiry into whether this can be considered good evidence and how far it damages the accused or whether the person is genuinely under threat, but also whether the person is dead; injured; physically too ill to come to court; whether he is abroad from the country and the reason he cannot come back to the country or whether in fact he is terrified, whether he has been intimidated. These are safeguards. More than that the defence can go further than if they had the “fella” in the box. If you had a witness in the box there are many rules that limit what you can do to the person in the box. In this instance the defence can attack, vilify, crucify or tear apart both the character of the witness and question the entire integrity of the witness, out of extraneous matter into the hearing to attack the evidence that is being laid.

Even though the person is not there to be cross-examined you can attack him further than you would in a normal court of law. You can show where before he made the statement or after he made the statement, he said something different and contradicted himself. There are several safeguards within this piece of legislation that the Judiciary is bound by and that the defence benefits from. I understand their questioning and the public’s question about whether or not a man’s right to face his accuser is being challenged here. It is not being taken away. It is limited to particular circumstances and it is not new.

Mr. Speaker for instance, in the United Kingdom they are moving if they have not moved already towards total removal of the preliminary enquiry to paper committal; evidence is already coming forward on paper and being judged. It was most interesting to hear Sen. Seetahal S.C. say, and we can accept it easily, that confessions are hearsay evidence accepted in a court of law. The judge has the power to determine whether the man is really dead or hiding. All these things are there. I cannot keep re-emphasizing enough the power of the Judiciary in all this. It is an existing inherent power and not a new power.
Mr. Speaker I want to look at Jamaica. Whenever the Government says that crime is an international phenomenon it is a global fact of life, people get vex and say that it does not care about them. Many countries face the same problem and so they are moving to bring exactly this piece of legislation. They did it in the United Kingdom, the United States and in Jamaica, where the result of it is a reduction in the numbers of crimes committed and of witnesses being bumped off being terrorized. This is because the criminals have found out: It is of no point because the evidence can still come to court. The evidence can still come. It works. It is not something new.

5.30 p.m.

We understand that it does not help anyone to recognize that crime is global because crime hurts the person. It is not being insensitive when you point that we are in a state of siege as are many countries. Why? It is because we can learn from each other. By the mutual assistance treaties under which the Attorney General acts, we can empower and bolster our forces to fight the very scourge of crime whether it is here or in the United States, UK, Grenada, Jamaica, or in Guyana. It is those treaties that help us develop the allies that we need to have.

Mr. Speaker, sometimes we talk about the fine, thin line that exists between man in his chaotic state, perhaps, his natural state and civilized man. One notices that too often countries like ourselves are constrained by the very treaties that we sign and the laws that we must obey. For instance, as civilized man, people in the developed world as they become more civilized. Look further into the rights of the individual so that the human right of the individual has gone—it is global, askew, askance. People cannot be executed for any crime no matter how heinous. You could rape 20 babies, aged six months, and not be hanged, stripped, drawn and quartered as you should be. You have rights under the law. You cannot be executed.

We talk about the death penalty. Can the death penalty really be implemented in Trinidad and Tobago? We signatories to the international laws? What is the rule of law that we apply? Is it not the British system of law? Is not the British system of law against the death penalty so that the courts, even when a fellow is jailed convicted, after five years of his defeating the system by appealing to every international body, Mercy Committee and so forth to delay his hearings, Pratt and Morgan says he has suffered cruel and inhuman treatment, he cannot be hanged. Can one really apply the death penalty, Mr. Speaker?

Mr. Speaker, the world and the human rights of the individual have gone so far that it is totally ridiculous, ludicrous and that is a fact of our lives and that is why we are seeking to bring the balance. People are too fed up to go to court
because the system is not working. It is working against them because good lawyers—and I have to call them good lawyers; defence lawyers know how to use the system in favour of the criminal. And so good people victims are not going to court. They are frightened. And, even when the fellow is in jail; even when you get them in jail the criminal is networking, he is using the IT, he is using technology as you and I cannot. He is ordering a hit on so and so is mother, father, brother, sister. He is paying the terrorist or he is bribing the witness while he is in jail.

We have a special fellow from Chaguanas, well renowned—

Mr. Speaker: Please, be very careful how you call names of people who are before the courts.

Hon. D. Seukeran: Mr. Speaker I certainly ask that it be withdrawn from the record. But we all know who they are the criminals who are directing their operations out of the jail so the crime level is not dropping. The drugs are increasing, the guns are coming to us, more children are going into gangs. That is what is happening while the citizens are frightened and living behind the bars of their own houses in jail. That is the situation in which we are bringing this law.

Mr. Speaker, where are the rights of the victim? Where is the right of the protection of the law for the citizen? It is time for the Opposition to stop playing politics, no more bargaining; there are more than adequate safeguards in this law. The defence is where it should be; power resides in the judiciary. It is not something that you do not keep emphasizing. This is a very simple piece of legislation but it is vital to the protection of the citizen, and it is critical to bolstering and reinforcing the judicial system which has broken down in its fullness. Policing, the law as it stands, the systems of governance have broken down.

If this piece of law were here, Mr. Chaitalal Singh would not have died because the criminal would have seen no reason to kill him. His evidence would have been heard in the court. The man died. He had made a statement.

Mr. Speaker, there is a need to equalize the balance. There is a need to take back our country and that is precisely what we are doing here. There is a right to equal opportunity of the citizen to enjoy his protection of. He has to have the equal opportunity. That is the kind of equal opportunity we want.

Mr. Speaker, it is about balance. I want to invite the Opposition and I disagree with the Member for Pointe-a-Pierre only in one of her interjections which was that the Bill was radical. I do not consider the question of the admission of hearsay as it is now to be radical; it is logical and it is necessary. It might be
Evidence (Amrd.) Bill  
[Hon. D. Seukeran]

radical in one sense of the word, but the overriding factor is the necessity for this law.

**Miss Lucky:** Do you agree with me?

**Hon. D. Seukeran:** Yes, in a sense. It is your use of the word, “radical”. I want to just remind this House that this instance of paper committal did not start now. Secondly, the criminal activity that we see today did not start now. The boldness of the criminal did not start now. Does anybody remember a wonderful gentleman and friend of mine, called Selwyn Richardson, an attorney general of this country? Does anybody in today’s new age—we have such short memory—remember a wonderful woman called Zalayhar Hassanali, wife of the past President of our Republic whose car was shot up? Crime did not start now. It started a long time ago. That boldness of the criminal started a long time because the system is not working. It is only enforcing the criminal. We have to ask who next, you or me; which child outside there; which mother, which Vindra?

Mr. Speaker, Vindra was a wonderful lady as is every single other victim outside there. For people who love you not to even know where you are buried, if you are dead, how did you died, to put to rest the issue of a kidnap, of a brutal killing, is a terrible tragedy. We have to start convicting people in this country and the only way to do that, given the odds we face, is by bringing this law.

Mr. Speaker, Trinidad and Tobago is under attack and risk. Mr. Panday senior, outside on the hustings said that Government was failing in its primary function of protecting the citizen. It is not the Government, it is the entire judicial system which is just but one part of the Government that has failed the people. Whether it is enforcement, detection or penalty, all arms of that system have failed and are continuing to fail.

Mr. Speaker, we need in this House unity of purpose. We do not need otherwise in this House or outside on the hustings. We understand fully that the Opposition seeks to be in Government, we understand the only straw that they have to clutch at is the level of crime; we understand that the people of Trinidad and Tobago do not vote for something, they vote against something and, therefore, they are going to vote against crime, and that therefore the Opposition is playing it six for nine. In this House where we are legislators can we not do what the Member for Pointe-a-Pierre so eloquently, so passionately put to the House, act in unison when it comes to the interest and the defence of the public? We need unity of that purpose. Let us not divide the society further. In a divided nation, can you imagine. Outside there are all these potential victims and they so do not trust each other because of the politics playing, that the neighbour does not
give the neighbour his phone number, neighbour does not talk to neighbour. So the
neighbour could see a man breaking into the house and does not have a telephone
number to call. Nobody trusts anybody. Why? Because there is a division in this nation
fueled by the politics of Trinidad and Tobago, baseless, senseless politics, that walks
beneath the line of civilization, the thin veneer that protects the citizen.

Mr. Speaker, we have no time to waste in the battle outside there. Instead of
semantics—[Inaudible] Mr. Speaker, may I end by asking the Members opposite to
support this Bill in the interest of the public good and to put public good before the
individual. Every man is entitled to his human rights and should be protected—but it
must weigh in favour of the general public.

I ask the hon. Members opposite, on this Valentine’s Day, can we not waste more
time and home early for a change, can we not start with love in the House for the
Public good, then go home to take one’s wives, one’s spouse to dinner? Mr. Speaker,
I thank you.

**Miss Gillian Lucky (Pointe-a-Pierre):** Mr. Speaker, I must say to the Member for
San Fernando West, the sterling plea that she made that we ought to go home early,
came very close to her 75 minutes benchmark. More than that, much time had been
spent by the Member reiterating what we have been saying on the Back Bench in the
Opposition and that is, the collaborative approach.

Mr. Speaker, in fairness to the Member for San Fernando West, her action is
speaking louder than words. I listened very closely to everything she said, because
sometimes we do not hear enough of her in the House so I am just waiting for the
Member for Tobago East to speak.

I was happy to listen to the Member for San Fernando West when she spoke about
any government getting into power remembering that you lose your constituency, at
that point meaning the specific area that you went up for. Your constituency becomes
the people of Trinidad and Tobago and very often, and I have said this over and over,
and I realize that after five years this Government eventually listens to me, and it proves
that I am right. I am not always right but they listen. I made the point and I will keep
making it that at state functions—when this Government wears the balisier tie, there is
nothing wrong with the balisier and I really think that it is good that people who belong
to a party have that level of loyalty and commitment if they believe in the principles.

When, therefore, the Attorney General of the country, forget who holds the
office, but the Attorney General of the county is the Attorney General of Trinidad and
Tobago; he is not the Attorney General of the PNM. The Prime Minister is not the
Prime Minister of the PNM; he is the Prime Minister of Trinidad and Tobago. Getting
back to the Member for San Fernando West, I noticed that the emblem
being worn—and correct me, if I am wrong—it is an emblem that is really all encompassing; to me it looks like something when people are fighting cancer and to me that is what I would like to see more parliamentarians doing, taking up these kinds of social and international causes, and I commend the Member for it. Today, instead of seeing balisier your emblem, you are saying I support the fight against cancer, very much like my colleague from Barataria/San Juan who is wearing the steel pan, and as he indicated, until he sees that steel pan on Caribbean Airlines, with the Humming Bird saying nothing sweeter than pan, he shall continue wearing it.

Mr. Speaker, perhaps, this is just me nitpicking because I so like to please the Member for San Fernando West; she actually said she disagreed with the Guardian Angels idea. I will tell you exactly what this Government has done, call it what you want, 555, Crime Stoppers it is exactly the suggestion that was made by the Member for San Juan/Barataria, when he said “Guardian Angels”. He was accused by your good self of suggesting the establishment of vigilante groups. The Member made the point on the Front Bench. He was not saying that, and what it has proven is the very groups that are now being supported, legitimate groups, are groups that are doing exactly what the Member for Barataria/San Juan said the Guardian Angels would have done.

The Member for San Fernando West agreed with me by disagreeing in agreement. When I said radical, I said it in a positive way. For example, there are many people who say the Member for Barataria/San Juan and the Member for Pointe-a-Pierre are radicals. They mean it as a compliment. They mean we are people—according to the Collins Concise Dictionary, “radical” means amongst other things favouring or tending to produce extreme or fundamental changes in political, economic or social conditions and institutions. “Radical” means, even though the common law position was, hearsay statements made by witness out of court and not under oath would not be accepted as evidence that is admissible, the law has had to change.

The Member for Laventille East/Morvant was right. I used the word current. What you said was organic and you are right. So dynamic and radical has been the change, and I make no apologies this afternoon if I appear more as a lecturer and less as a politician, I started lecturing the University of London LLB course in 1991 and I still lecture today in the year 2007. And as I constantly tell my students on a weekly basis, I have seen how the United Kingdom has radically changed its laws of evidence to the extent that my students are constantly reminded that past paper questions from 1999 and even 2001 to 2002, be cautious when one is looking at the model answers because the answers are no longer
relevant today. The law has changed so drastically. Mr. Speaker, in the United Kingdom, now—[Interruption] I am not going into personal attacks. You know me. That is why I am a radical and I do not want to be sent to those levels. I can make my point without going there.

Mr. Speaker, to the extent that in the United Kingdom, in a criminal trial when an accused does not give evidence, the judge can tell the jury once they are properly directed that that silence could be used to infer guilt. Something that is fundamentally different, I agree, to our system, because in Trinidad and Tobago an accused does not have to give evidence and no mention must be made of it in any adverse way. The United Kingdom recognized a long time ago that if you are fighting crime, and if you are trying to get your laws always current—balance is not something that you can just leave. You cannot just say you have scales of justice and expect them to balance themselves. And when you see law favouring an accused—

**Mr. Speaker:** I have said it more than once this afternoon, if you all want to speak to each other over the floor, go outside. Member for Laventille East/Morvant and Member for Oropouche, it is becoming intolerable now. I am saying it for the last time so somebody will get put out of this House this afternoon. Please continue.

**Miss Lucky:** Mr. Speaker, one of the things that—and I was saying laws have had to change fundamentally. One of the important things to recognize is when the scales for whatever reason are tipped much more favourably in this case, in favour of the accused, then there must be balance. That is why I have always maintained that this Government is failing to fight crime, because it is adopting the approach of one pebble at a time in the lake causing little ripples, nothing effective. What you need is an intense onslaught, everything at the same time, simultaneous action so you get that fight, that onslaught of Tsunami proportions. That is what is necessary and that is why I support this legislation that is being brought.

I do not want to get caught up in who “shoulda” and “coulda” and who “woulda”, because there has been enough time spent on it and there are other places where time could be spent. But what we have to spend time on now is, getting it right and my concern is to go into the technical aspect because there are those who will go into the political slant, and I am saying that is important, and the political slant, but you see because many of us in this House wear other hats. We also have to be mindful when we come to the House, we do not just toss the hat outside and for those of us who believe that professional integrity must reign supreme, we cannot let the politics come in the way of it. [Desk thumping]
Mr. Speaker, I will be the first to admit openly because I think we need more politicians who will speak openly and stop pretending that they speak from platforms of knowledge when they are not speaking from platforms of knowledge—pretending to be experts in fields they are not experts in.

If I need to speak or talk about a health issue and I feel that I am not an expert I go to the Member for Barataria/San Juan. If I feel that I need to get some guidance on some financial issues and the economy I will go to the Member for St. Joseph and the Member for St. Augustine. [Crosstalk] Member for Diego Martin Central, I will come to you too so that I will be able to rebut all the points you have raised.

Mr. Speaker, we have too many people who want to be able to say I know and what I am saying is true, repositories of all great knowledge. I will be the first to openly admit to everyone that when I first heard of this legislation—Mr. Speaker, we heard of this legislation last year and coming from a prosecutorial background where this kind of legislation just whets the appetite of a prosecutor, because you think finally, there are going to be laws that will make life easier if you leave it out without breaching any rules of natural justice to get convictions, the first thing I said, whoa!, it is going to be a special need for a special majority here. Because of the radical nature, because we were also aware that depositions, that is after evidence under oath has been taken in a Magistrates’ Court, that provided certain criteria were met. If a witness for some reason died or could not be found or is unfit, it could be read into the record in the High Court with the judge having that discretion, entered the case of Dole Chadee I have been a prosecutor for nine years so I know it well.

When I heard about this legislation, the first thing I said was oh my, we are going to need constitutional majority for this one. This is really radical, but it did not end there. And I will tell you my level of disappointment and, perhaps, my level of enthusiasm which is why I jumped up to speak so early and, of course, this is not an indictment against you. I am saying if this had been put on the table a little earlier it might have helped. There is a case that has decided this point, a case called Steven Grant v. the Queen, Privy Council No. 30 of 2005. I am amazed that a 2005 Privy Council judgment which deals specifically with this piece of legislation we are debating as it came from Jamaica has already been decided by our highest court in the land, the Privy Council, which many of us are saying is a court that we really show tremendous respect for and this is not an indictment against the Member for Laventille East/Morvant, because again, we are not expected to know all the law. But I respectfully say to you I feel much time could have been better spent because this legislation, in my view, I thought it needed a constitutional majority.
But having read the constitutional judgment I understand what the Privy Council was saying in what they delivered and I looked to make sure we had the clauses and it was for that reason I was able to say to the Member for Laventille East/Morvant who kindly gave way when he was piloting the Bill, look, make sure you put in this 15(E). To me that is God’s work. Many of us are afraid to talk about divine intervention unless it is on some political platform, we want to score points. What is wrong if in whoever’s error we got a Bill that included a clause that ought not to be there but really should have been there?

That was good. Believe it or not that clause gives the protection that the Member for San Fernando West spoke about, the safeguard, and it would have been easier if we left it out for an attorney to argue, that in the Grant case the Privy Council got a level of comfort with that safeguard and you do not have it in your legislation. It would have become a point going right up to the Privy Council. So much so that my good friend from Barataria/San Juan, who takes Valentine’s Day seriously because he has a wife and children whom he loves, said to me during the tea break, but Member for Pointe-a-Pierre if we have this case and you lawyers know we are bound by precedent why are we having this long debate? I pointed out to him, mind you, he was relying on hearsay evidence because he was relying on my hearsay evidence coming from this document because that is what the Privy Council said. Look how convinced he was and look at how much good parliamentary time we would have saved.

Mr. Speaker, I really think, not to only give Members of this House the level of comfort, but the nation the level of comfort, this is the plank upon which we should start. A Privy Council comprising Law Lords, a majority, unanimous decision looked at this very issue we are debating in the case of Steven Grant.

Mr. Speaker, what was also very interesting, and I hope I do not want to bore the House but I am going to make it as exciting as I can. This is a case in which the Privy Council said that the appeal—there were two aspects of the appeal, two grounds: one was that Steven Grant, the appellant, was saying that the Jamaican section 3 (D) which, in fact, is our section 15(C), the argument was it was unconstitutional. The second ground was assuming but not admitting that it was not unconstitutional that a particular statement that was admitted through the very provisions that we are debating today, ought not to have been admitted. What was interesting is that the appellant won on the second round because in the case of Grant and I just quickly state the facts.

When we are coming to debate we cannot expect every single Member to come with the level of expertise depending on where we are debating or what field we are in. As I said before, if we are coming to discuss legislation that
impacts on health, we expect all of those who are involved one way or the other to
be the flag bearers, to be the cheer leaders, to be flagships taking us forward, and
in this case of Steven Grant, a case from Jamaica, is that Steven Grant was
charged for murder. He was in a car park, he was urinating against a wall. His
case was the deceased came up to him, said words to the effect that he wanted the
money, that the deceased had a gun and he, the appellant, had a gun also, he
turned around and riddled the deceased with bullets. His case however was self-
defence. They never found any gun so one of the things that no doubt would have
troubled any jury would have been where was this gun. Because if a man came to
you with a gun and you are saying you had to defend yourself, and the appellant
was not just shot once or twice, his body was riddled with several bullets. And
many of the bullets that were impacted on the body were at the time when the
decased was running away. So it suggested not even self-defence, it really did
not support it.

There were two witnesses the prosecution sought to rely on and at back of the
information which is the charge—

Mr. Hinds: It is not that he was running away. The statement is that one
witness said that he was lying on the ground and he shot him while he was lying
on the ground. He was not running away. No evidence of that nature.

Miss G. Lucky: Mr. Speaker, ask the Member for Laventille East/Morvant
not to try to score any points. I never said that is what the statements revealed. I
said what the defence was. I was telling you what the accused defence was. That
was different to the statements. I have not reached the statements yet. But I know
you need to show your leader you read the case because you did not mention it.
You stood up, I gave way but you are misquoting me.

The prosecution—you gave way to me and I did not misquote you. If you
want me to give way and you do not misquote me, I have not reached the
statements yet.

The prosecution before the preliminary enquiry wanted to present the
statements of two witnesses. One was a gentleman by the name of Bryant and the
other was a gentleman by the name of Kinglock. Put very succinctly Bryant’s
statement was supporting the prosecution’s case, that is, no self-defence, no
provocation, no defence for murder, it was murder and a lawful killing. Kinglock
on the other hand, his statement was more supportive of the version given by the
accused. What happened in the preliminary enquiry was that those two witnesses
Bryant and Kinglock did not come to the courts. But the prosecution made it clear
that they were going to rely on the statements and in fact, they attached the two statements and there was a committal to stand trial.

At the trial however, the prosecutor decided only to put forward Bryant’s statement. That is the one that was helpful to the prosecution, and despite the fact, that there is law that says, it is a case called Russell Jones, that a prosecution can choose and rightly so, the witnesses who you want to put forward, no attempt was made to put forward Kinglock’s statement using the very legislation in Jamaica, similar to what we have. But the prosecutor had indicated that she was going to seek to put in the two statements. So the Privy Council also recognized that the defence—and this is an important point—as the Member for Princes Town says, this legislation applies both ways. The defence believing that the prosecution was going to put in the two statements did nothing to help themselves. And then eventually recognized that the prosecution closed its case, well look, here is a situation now, where the prosecution only put in that statement from the witness who supported their case, what about Kinglock?

6.00 p.m.

The case went all the way to the Privy Council—I am really on the second ground of appeal—and the Privy Council said that in exercising the judicial discretion as to whether to allow Bryant's statement—that is the one that was in favour of the prosecution’s case—the judge ought to have considered whether Kinglock's statement was going in. If the prosecution was not putting in Kinglock’s statement, then the judge should have erred on the side of not putting in Bryant’s. What was happening was that you were getting a version supporting a prosecution case, but another statement that could also have gone in, using the very legislation, the prosecution did not put in. He won on that second ground of appeal.

To me, the case of Grant shows, as you read it, that there must be: one, that level of prosecutorial fairness; and, secondly, in the exercise of the judicial discretion, that judicial officer always ensures fairness in the trial. It is for that reason that the Privy Council made the point that it is in the board's opinion plain that fairness required the admission of Kinglock's statement. If admitted, it might not have been understood to exonerate the appellant. The board felt bound to conclude that prosecuting council mistook the nature and extent of her prosecutorial discretion. The board also felt bound to conclude that in the difficult position in which she unexpectedly found herself, the trial judge failed to discharge her duty to ensure the overall fairness of the proceedings.
She could have invited prosecuting counsel to use Kinglock's statement in evidence. Had that invitation improbably been declined, the judge could, on grounds of fairness, have declined to admit Bryant's statement unless Kinglock’s statement was also admitted or could in the last resort have introduced the statement of Kinglock herself.

So here the Privy Council said that a prosecutor was saying that there were two statements—and they were in conflict—when on reading the version of what Bryant was saying and the version of what Kinglock was saying, clearly the prosecution at a trial cannot put forward two witnesses who are in conflict. You are entitled as a prosecutor, as I have had to do on many occasions when I was a prosecutor, to determine, as far as you are concerned, where the truth lies. You must disclose the statement to the other side and do all that is necessary to assist them—if they want—because there is no property in a witness—to have that witness supporting their case come forward. That was not done here.

If we leave the legislation in form today without that very important clause, which is now 15E, we would have been leaving out a fundamental safeguard that the Privy Council, in Grant, relied upon to say that the sections in the Jamaican law, similar to what we are seeking to pass, are not unconstitutional. Remember when we are passing laws, we do not want to open the gate—there is a popular calypso now called “Open the Gate; Open the Gate”—whereby we will attract judicial reviews or constitutional actions unnecessarily, if we can get it right here and now.

That is on the second limb trying to show that there will be this level of fairness. Remember this legislation is not just applying. It does not say “in criminal proceedings in which the prosecution is relying”. It says “a statement made by a person or document shall be admissible in criminal proceedings as evidence.” So that applies to both defence and prosecution. There is a need, quite candidly I say, for this type of legislation. It is radical, but necessary.

In the United Kingdom and in Jamaica, it has become necessary. I am of the firm belief that if we start sending the message to criminals to beware because we have powerful, potent, damaging legislation if we get evidence against them, it will act as a natural deterrent. When criminals know that their DNA can be found and matched—I know that we will have some teething problems, but let criminals understand that we are passing the laws fast and furious that will get them—that will make some of them backtrack and that is the way we need to move. We have been saying that for the longest time and finally the Government is listening. We are not reinventing the wheel with this legislation.
Again, I go back to the decision of Steven Grant, which I am sure the Member for Laventille East/Morvant wanted to rely upon. It is not a problem; sometimes it happens. You make a submission; the good news is that you can come back, but I take it that this submission is supporting your submission. Forget that it is coming from my mouth! Consider that I am assisting you. I do not even mind being instructing attorney in this case. The instructing attorney is helping counsel. [ Interruption ] I know you did. Member for Laventille East/Morvant, you do not have to convince me that you considered it because I want to be fair to the Attorney General of the country. I have an extract of his contribution from the Hansard. When he spoke in the other place, he did refer to it. I am saying he did it, but you did not, and as a result I have to come now and do it.

So, Mr. Speaker, the appeal raised the very important questions on the constitutionality of section 31D and the exercise of the judicial power to admit unsworn written statements of absent witnesses. That was the first ground of appeal. Again 31D in Jamaica, when we hear 31D in this decision, let us think 15C. I have already given the background as to what occurred—the fact that only one statement was put in and then the Board of the Judicial Committee of the Privy Council had to look at the constitutionality of section 31D. Section 31D is provision 15C. The Privy Council did recognize that in Jamaica, section 31L. which is the section that we are happy to know will be part of this Bill, the one dealing with fairness, the Privy Council stated in its decision, I quote:

“Section 31L Jamaica declares that in any proceedings the court may exclude evidence if, in the opinion of the court, the prejudicial effect of that evidence outweighs its probative value.”

So the Privy Council recognizes it to be a critical safeguard. Just to drive home the point even more—and I am not going to read it word for word but I just want to go through so that we could make our own checks here to make sure that we have what the Privy Council felt were safeguards in the Jamaica legislation. I am satisfied that we do, so I just going to read it quickly.

The Privy Council in paragraph 15 of its decision says:

“It is first of all clear that constitutionality of a parliamentary enactment is presumed unless it is shown to be unconstitutional, and the burden on a party seeking to prove invalidity is a heavy one…Thus the appellant has a difficult task.”

So the first thing is that there is a presumption of constitutionality. The second point is:
“...that a general common law rule against the admission of hearsay evidence has been recognized for some centuries, it is not a rule to which there were no exceptions, either in England or Jamaica before it became independent and adopted its Constitution in 1962.”

That was the point the Member for Laventille East/Morvant was making with respect to hearsay and how over the centuries it had been changed. There have always been exceptions to the hearsay rule.

Common law exceptions were recognized in both jurisdictions in the cases of, for example, dying declarations and even forms of res gestae, meaning statements that are made by witnesses who do not come to the court but in the middle for a robbery, for example, if you are giving evidence as a witness, you could say that you were in a jewellery store that was being robbed and you heard a woman say: Oh God, Oh, God, it is a thief; it is a thief; it looks like Peter. That is res gestae. Even though that witness will not come, you are just saying statements that were made very much connected with the event as it was occurring.

“Thirdly, the Board readily accepts the relevance of the Strasbourg jurisprudence and article 6(3) of the European Convention...”

This was something that the Judicial Committee of the Privy Council was concerned about. They wanted to make sure that they were not in violation of the very radical developments that have taken place with the protection of the European Union human rights. The Judicial Committee of the Privy Council said:

“That jurisprudence undoubtedly gives general support to the appellant’s argument on the need for prosecution witnesses to give evidence in court, and expose themselves to cross-examination by a defendant, at some stage of the proceedings.”

Hear this:

“But the jurisprudence does not support the full breadth of the appellant’s argument, for three main reasons:”

And the Privy Council went on to state that:

“The Strasbourg court has time and again insisted that the admissibility of evidence is governed by national law and that its sole concern is to assess the overall fairness of the criminal proceedings in question:”

That was the point being made by the Member for San Fernando West, always making sure that you get the balance in order.
The fourth point the Privy Council made is that the right to legal representation in the Jamaican constitution was not affected by this legislation.

“Fifthly, it is clear that English courts have not interpreted article 6(3)(d) of the European Convention as imposing an absolute prohibition on the admission of hearsay evidence against criminal defendants:”

Again, the Judicial Committee of the Privy Council was saying that even English courts are recognizing that hearsay statements are admissible once the criteria are met. To me, this is the most important point that the board made. It said this:

“Sixthly, the right to confrontation expressed in the sixth amendment to the US Constitution for all its interest the legal (personnel) is not matched by any corresponding requirement in English law…

“Lastly and very importantly, the law of Jamaica, properly applied, provides adequate safeguards for the rights of the defence when it is sought to admit a hearsay statement:”

What are these provisions?

“Section 31D prescribes with clarity the conditions to be met before application may be made.”

That is our section 15C.

“Relevant to this case is the requirement that all reasonable steps must have been taken to secure the attendance of the witness.”

The section refers to all reasonable steps and there are, in fact, cases, one is mentioned here, Regina v Michael Barrett, in which the court determined what are reasonable steps.

The second point; it is still the last point, but they are going through. The board goes on to say:

“Section 31J gives the defence an enhanced power to challenge the credibility of the author of a hearsay statement.”

This is something I want to explain because some Members may have read it and not understood the defence getting this level of protection. There is a general rule of law that unless the defence breaks the shield on things like previous convictions and so, you cannot refer to it in terms of an accused. The concern in this legislation is: what if there is a witness who has previous convictions, who will not be called, but who has given a statement?
Normally defence counsel in cross-examination would be able to ask that prosecution witness about those previous convictions, going of course toward bad character but, more importantly, seeking to destroy the credibility of the prosecution witness. If one looks at the proposed clause 15D, it states:

“Where in any criminal proceedings a statement made by a person who is not called as a witness in those proceedings is given in evidence pursuant to section 15C:

(a) any evidence which if that person had been called would have been admissible as relevant to his credibility as a witness, shall be admissible in the proceedings for that purpose;”

That is normal. If you normally would have called evidence, this is saying that you would be able to put forward that evidence even though the witness is not there live and direct to be cross-examined. However, it is paragraph (b) that actually extends for the defence a level of safeguard and protection. Paragraph (b) says:

“evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the party cross-examining him;”

In other words, Mr. Speaker, here the law has been extended and the Archbold 2007, which I have also brought to substantiate the points being raised, makes the point that that was an extension that was given. Even if the witness were to come live and the defence constrained in certain cross-examination as to credibility, for example a police officer, if you wanted to ask him in cross-examination: Are you the defendant in any matters? That would have been objectionable. Have you ever had disciplinary action taken against you? That is objectionable because he is not a convict. This paragraph is saying now that you would be allowed, when the witness is not being called live, to adduce that evidence which normally you would not be allowed to adduce. That is how the legislation is seeking to get that level of safeguard.

The recognition that you cannot cross-examine to test credibility—cross-examination is one of the most important tools in testing credibility—but we will make a provision whereby if you want to test credibility, we will allow you to bring evidence about this witness whose statement is in evidence—the witness is not there live—and you could challenge the credibility by using evidence that you
would not normally be allowed to use. That is an important safeguard and that is how you try to restore some level of balance. That is also very important.

Going back to the Steven Grant case, the Privy Council that section 31L—and again I am saying that section 31L in Jamaica is that section we are very happy is now forming part of our law, that is the whole issue of the prejudicial effect, if it outweighs the probative value, then the statement ought not to be put into evidence. It says in the decision:

“Section 31L acknowledges the discretion of the court to exclude evidence if it judges that the prejudicial effect of the evidence outweighs its probative value. In R v Sang [1980] AC 402, some members of the House of Lords…interpreted this discretion narrowly…the Board appears to have accepted that reading. It is not, however, clear that the majority in R v Sang favoured a similarly narrow interpretation…”

This is the critical part:

“In any event, it is, the opinion of the Board, clear that the judge presiding at a criminal trial has an overriding discretion to exclude evidence which is judged to be unfair to the defendant in the sense that it will put him at an unfair disadvantage or deprive him unfairly of the ability to defend himself.”

There you have it, Mr. Speaker, the Privy Council, recognizing the importance of 31L Jamaica, 15E Trinidad and Tobago. Without that 15E judicial discretion will be wiped out. That is why many of us were worried.

There is another place where the accused gets protection. It is not in the law, so to speak, but it is with respect to the trial judge. The board points out that when a trial judge is giving directions to the jury in the summing up regarding those statements that the prosecution has adduced or even the defence has adduced and the witnesses have not come to the court, the judge has to take his or her time and give specific directions. That is a norm with respect to certain types of evidence.

When you are relying on the evidence of an accomplice, the jury has to be given special directions. When in a rape case in which there is no corroboration, the judge has to tell the jury. As a prosecutor sometimes you are cringing when you hear a judge telling a jury things like it is dangerous to convict on the uncorroborated evidence of a witness, but it must be given because then you want to make sure that the scales are always properly balanced. No accused must walk
Evidence (Amdt.) Bill

Wednesday, February 14, 2007

[MISS LUCKY]

into a courtroom with any violation of due process or violation of the natural laws.

Mr. Speaker, the problem we are facing in this country—I might be in the minority when I say it, but I want still to put it on the Hansard. Much of the legislation coming to this Parliament is going to cause culture shock. The first one that comes to mind is the Motor Vehicles and Road Traffic (Amdt.) Bill. Let us face it, many of us—not necessarily indicting anybody, including me—go to fetes, it is Carnival time; you drink how much you want; you know you are going way past the limit and you say you are feeling tight or you are feeling sweet. You go behind the wheel and drive. There are some of us who have gone so far as to laugh at others who have been stopped for driving under the influence and so on. I do not indulge in that kind of laughter because I say what you have not met has not passed you and these things can happen to you too.

I am not saying that makes the action right. I am not saying turn a blind eye. Please understand. My point is not to say “all ah we” do it. I am not into that category. All I am saying is to make sure that when you are pelting stones, you are really not in a glass house that already has cracks.

The breathalyzer legislation will cause that culture shock and that is why I have told the Member for Diego Martin East to make sure that there is an intense and aggressive campaign to educate people. I do not think we have had enough. We need to start pushing things like you had two beers, you cannot drive. You drink two glasses of wine, you cannot drive. Just break it down; crack the back and tell people it in that raw way so they know and so that they can start training themselves.

The next one is the DNA legislation. Sometimes you have to jump into the deep end. You will not drown. People say a little at a time; we cannot do it now. We have reached too far in terms of what is happening to us on the crime scene. I, too, cringed when I read this. I said I am happy for the prosecution, but is this not a breach of fundamental rights? As the Member for Barataria/San Juan said so innocently: Look if we have the Privy Council judgment in Grant, why are we not reading Grant? I was hoping we would do this.

Let us disagree if we have to on the interpretation of the law, meaning Grant, but some of us are making our points without taking on board what the Privy Council has said. That is why I have often asked, not just of this Government, but of other governments, that when legislation is brought, we all know—in fairness to the Front Bench Opposition, those who thought maybe a constitutional majority was necessary, I really think it was a valid concern.
I have been reading the newspapers and there are some lawyers with one school of thought and others with a different view. Many people were saying that is what law is about and you challenge it in a courtroom. I do not think that the Opposition was being frivolous or vexatious when the concern was: Do we need a special majority? Clearly, to me, a special majority would have been needed if 15E was left out. I also think that a special majority would have been needed if this legislation was going to operate retroactively in any way. That is why I was very happy that the Member for Laventille East/Morvant did say that he would consider, not necessarily at this time, but certainly by the time we reach committee, whether we should get a clause to deal with how the legislation will impact those matters that are already before the court.

My view is that any matter already before the court—meaning that a person has been brought to court and a charge has been read—we ought not to have this legislation apply. This brings me to the other point, which I have just considered. The Attorney General, in the other place had this to say. I am quoting one paragraph from the Hansard. He was making the point, rightly so:

“There is no automatic right to have these statements admitted into evidence. There is no automatic right—I need to repeat that; so the statements do not walk in, even after all these conditions are met—to have these statements brought into evidence. There is right, though, in this legislation to ask the Tribunal to make a determination as to whether the document is of more value than of harm.”

Prejudicial effect outweighing probative value—

“So the Tribunal has a right to determine where the justice of the case requires.”

My concern is that it says that the sections also apply to a preliminary enquiry held under the Indictable Offences (Preliminary Enquiry) Act. It is being made clear that “criminal proceedings” will also include a preliminary enquiry. When we come to that particular section, the reason I thought it important that we get the application of the Act in order—I am aware of the sub judice rules and I know that this matter I am about to raise is presently before the court as the subject of a judicial review, but I want to put the concerns in a generic form.

It was in this House that we passed the Indictable Offences (Preliminary Enquiry) (Amtd.) Bill that dealt with paper committals and so on. This is what we as a parliament agreed to in section 16 of that Act. It states:
“This Act shall not apply to a preliminary enquiry that began before the commencement of the Indictable Offences (Preliminary Enquiry) (Ammdt.) Act, 2005.”

So it was saying that this Act would not have applied to any PI that began before the commencement of the Act. When does a preliminary enquiry begin? That is the big problem right now.

Dr. Rowley: Or end.

Miss G. Lucky: Well, or end. Member for Diego Martin West, I really do not want to go into any aside because it is very troubling. I will tell you what is troubling about it. When we were debating this—not just to take the kudos; it is not really a kudos point; it went through like this—I asked that point. I said we are passing laws, but when we go to the courtrooms we are getting problems and it is holding things back. The rules of statutory interpretation talk about the literal rule—Mr. Speaker, you may know this more than me because I tend to practise more in the criminal arena—there is the literal rule, the golden rule, the contextual rule and they no longer call it the mischief rule, but you have the purposive rule. You go to Hansard and the Parliament and ask: What was the intention of Parliament?

I had asked: Why do we just leave it like this? The response we got from the other side in committee stage, I remember it well, is that we would let the courts decide that. I said no. The court needs guidance from us. What do we want? Now, many PIs are being held back if the person charged got caught in that area before the commencement of this Act. Some lawyers think that a PI begins from the time you are charged. Others believe that it is from the time you were charged and brought before the court. In other words, the charge is read to you. Some believe it is from the time you are brought before the court, the charge is read and there are submissions. Others believe that it does not begin until you start taking evidence. Until that matter is determined in the High Court, all the matters that are affected by it—from a judicial standpoint it makes sense to put it on hold until we get the determination. Mr. Speaker, is my 45 minutes coming to an end?

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [Mr. G. Singh]

Question put and agreed to.
Miss G. Lucky: Thank you very much, Mr. Speaker. That is why I am making the suggestions. I think of a Member across there, whose name I would not call, but who always tells me my language is clumsy and that things can be put more artificulately, so I have just decided to make my point. [Interruptiion] Why are you calling the Member for Diego Martin East? I said I am not calling any names. We know the general rule. Member for Laventille East/Morvant, we know the rule. Criminal statutes cannot be retroactive. If they are going to be retroactive, you need the constitutional majority.

The suggestion should be also to give—you do not just want to pass the law and make everyone run around crazily in matters that are already before the court to say that they could bring this one and that one. You do not want to affect the integrity of these statements. The integrity of the statements are important and there may be some prosecutors—I do not want to make an indictment against a department that is close to my heart; and that is the Office of the DPP, so I will put it this way because it applies also to the defence counsel. You do not want anybody involved in a criminal proceeding, when that person sees that the case may not be going a particular way, to run around to get a witness, as the Member for Princes Town said, you do not want people to just get a sight-and-relate witness.

I submit that a clause be drafted that would make it clear that the Bill would not be applicable to any proceedings in which an accused person has already been charged and brought before the court, meaning that if a person is charged and brought before because the person would have already had the mindset and preparation of the defence and even the prosecution, you do not want to fundamentally change that. It is a suggestion. I hope it is taken on board because we need to have that clause put in.

I do not think we should approach the law as some people like to approach it. I am not making that comment to anybody in here, but there are some persons who like the law to be very grey because it gives an opportunity for challenge. I think we can do the best we can here and if there is some dispute, the courts will reconcile it one way or the other.

With respect to this legislation—and I keep reiterating the fact that we are getting in that clause with respect to 15E, the level of discomfort that people feel, understandably so, is that so many of our independent institutions have within recent times been subjected to or been the subject of allegations or accusations of impropriety. I think that is a major problem; something that we are not going to be able to deal with overnight.
The police would be the first persons who would be taking those statements and you want to make sure about police officers. I believe in my heart that we really have more committed and decent officers than we have a rogue element, but I cannot deny that we do have a rogue element.

6.30 p.m.

You want to make sure that police officers, those who are improper in their conduct would not just try to get persons to come and give statements, then tell them go and disappear, because it is easy to make the accusations against attorneys-at-law. I did not hear the accusation directly from the Member for Laventille East/Morvant, I know the Member for Barataria/San Juan, through hearsay, did tell me what was said and what I did indicate—

Dr. Khan: $500,000, $500,000.

Miss G. Lucky: The $500,000 point—is that I too have heard allegations being made, not just with attorneys but also with police officers. There are allegations out there. I am saying that what is necessary is to ensure that there is integrity running through the veins of all these institutions and I think that is the point that Steven Grant was driving home, the Privy Council: that the prosecution must make sure that it is not hiding any evidence. And in Steven Grant the prosecutor was not being accused of hiding evidence.

What the Privy Council recognized is that the prosecution did not fulfill its part in terms of, I suppose, ensuring that the witness came over as vigilant as it should have been. The judge they felt exercised the discretion in a wrong manner. Therefore, that to me is what the greatest challenge is, because the legislation, quite rightly so, I think once those safeguards are in, and they are in, there really would be no need for a special majority. To me, we have the Privy Council saying it is not unconstitutional.

There is something else that I want to use this opportunity to state. I had, I would say, the privilege, I was not here, but I heard the contribution made by the Member for Barataria/San Juan on the DNA legislation. As I told the Member for Barataria/San Juan, and I got the opportunity to read it, so many other points were discussed that if there was the implementation of the suggestions that he made, one could see that there would be an upgrade in the administration of criminal justice.

I believe the next step we have to make, even though there is a fundamental rule that you are supposed to face your accuser and anybody is allowed into a courtroom provided that there is space and they are not violating anything. I know
right now we have legislation that says for a child video recordings can be used and it can be done via some sort of conferencing.

I really want to urge this Government, in order to deal with some of the problems that we have, with respect to persons even coming to court—this is the point I want to drive home—we do not want now, persons who have witnessed crimes to feel, well, listen, your life is not as sacred as before, you know, come, once you give your statement to the police, we cool, because we could go ahead with the case. You do not want them to feel, in other words, that they are dispensable, once they give the evidence or once they give their statements to the police. Because what is going to happen now is that if the criminals want to get rid of them, instead of shooting or killing them between committal to trial, they are going to shoot them before they even walk to the police station or while they are walking.

So you do not want persons to feel, well look, I am constrained, I am going to pretend that I do not see. There are some people who say, me, I do not know what you are talking about, I did not see. What we want would be persons and witnesses recognizing that in the best case, we want them live and direct in the courtroom. But in the worse case, if something happens the justice of the matter could still proceed in their absence, whether they are unfit or unfortunately they have died and for all the other criteria that are listed.

That is why I want to urge this Government to be radical enough. There are some territories—and the United Kingdom has considered it; I have not seen the law, but they have considered—where some witnesses when they go to give evidence, they are actually masked and you do not see them at all. [Desk thumping]

I read the contribution of the Member for Barataria/San Juan—who I am sure probably on the side is studying law—talking about the need to amend the Jury Act and saying to bring in foreign jurors. Again, if we bring in foreign jurors we would not have some of the problems we have now. We already have the system of alternate jurors.

Let me just say in fairness to the UNC administration, because I believe right is right and when people are right you give them the kudos. In 1996, our laws dealing with the administration of justice were fundamentally changed in a good way, giving for example, the State in a criminal matter, the right of appeal in limited circumstances and we as prosecutors felt very good about that. The fact that you had alternate jurors, that was a very good step.
I am saying now the challenge for this Government is to roll the ball further. Pass legislation that will allow witnesses to give their testimony via video or video conferencing—I know it is done in civil trials—so that some witnesses, in the same way we passed the legislation that was dealing with identification parades and the one-way mirror, do not have to sit there. No disrespect Member, there are some people, who by the way they dress and look at you or look at witnesses, they are there to intimidate you. [Desk thumping] They sit in the courtroom and they are looking at you. Sometimes you could just see them putting their hands and sending messages; this still happens.

**Dr. Khan:** They could still do that. We have to stop that.

**Miss Lucky:** Yes, as it stands now. These are real issues and let us have legislation allowing that kind of video recording and the jury seeing the person. Let us go to the stage whereby juries will be allowed to have pencils, papers and taking notes. To me, this is where we need to be taking the legislation.

As I conclude, Mr. Speaker, I hope that I have at least been helpful in the technical aspect, because I did tell the Member for Princes Town that I would be dealing with the technical side of things. I just want to quote from the Archbold 2007. In the Archbold 2007, this is what was said about the legislation when it was brought in the United Kingdom. I am quoting from paragraph 1118A:

"It should be noted that in the case of a statement falling within subparagraph A to D..."

And that is our 15C:

"the Act itself gives the court no discretion, merely providing that a statement is admissible if the relevant conditions are satisfied. This is a significant difference as compared with the 1988 Act, which rendered all such statements subject to an interest of justice discretion with the presumption being against admission where it was apparent that the statement in question had been prepared for the purposes of criminal proceedings or a criminal investigation. The court’s discretion to exclude statements within subparagraphs A to D was derived from section 78 of the Police and Criminal Evidence Act, 1984, exclusion of unfair evidence."

In other words, in the United Kingdom, they moved radically. I only say it, not facetiously, Member for San Fernando West, but you know radically in 1988, it was presumption against admissibility. In 2003, where it is presumption of admissibility, the language in England is—they use the word "is", so a statement
"is". We do not say "is", we say "shall be". Even though we say "shall", 15E comes in now, read in conjunction that says the court still has that discretion, recognized by the judicial committee of the Privy Council.

I think the challenge that the Government has, is when bringing this type of legislation, which I am saying I support, we have to tweak it sometimes and get it right. I know Member for San Fernando West, you were talking sometimes about legislation being the subject of bargaining, but the only type of "bargaining" that I want to be involved in is that above-board bargaining, where we try to get it right, so we do not end up shifting the bottleneck to some other place.

At the end of day, Mr. Speaker, I think the challenge is for the Government, when this kind of radical legislation is being brought to really educate, not just us in here, but members of the public. Many of the concerns raised, in my view, could really have been explained if we got a crack of the back of the case of Grant, whereby we could have come here and debated instead, well look—I throw this out, Mr. Speaker—are the provisions in the Jamaica constitution now so fundamentally different from that in Trinidad and Tobago that whereas the Privy Council ruled in favour of the state, saying it was constitutional in Jamaica, in Trinidad and Tobago there may be a different result? To me that is the level of intellectual debate we should be having. So that we could make sure that if we needed to get the constitutional majority, there must be no underhand deals. I am not talking about those kinds of deals, but I am saying we get it right.

In the very short tenure that I had in the Ministry of Legal Affairs, when in the other place, I would sometimes be allowed to pilot legal Bills. And knowing that I was meeting a particular Independent Senator who never gave me an easy time—never, ever gave me an easy time on a daily basis—I know that I had to always be very prepared. [Interruption] I am not into name-calling.

Dr. Rowley: Call name and I will whistle.

Miss G. Lucky: We need to bring whistle-blowing legislation too. I remembered that one of the things that I often did and I want to ask the Government if they would consider doing it, maybe not for all bills. When the State would get advice from foreign counsel, for example, to at least enter into that collaborative approach of saying to the other side—I remember discussing with the PNM Senators, as they were at that time, saying to the lawyers who were sitting on the PNM Bench and I know that one Member might remember that, the
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[MISS LUCKY]

Member for Arima. I would say, look, this is something that we have, how do you feel about it. No, Member for Arima, you would not have been there, I am sorry, I apologize, you would have been in the other place.

I remember that was the approach we had whereby we could get those kinds of debates going. Even if we agree to disagree, at least we would know what others were thinking. If I did not read the case of Grant, I really would have been convinced that we needed to have a special majority.

Mr. Bereaux: I just wanted to make two points. One, that it is never good to give a young attorney, as you were at that time, an easy time. Secondly, it appears when you speak of whistle blowers that you did not read my comments made to the JPA in Nigeria where I spoke about whistle blowers.

Miss G. Lucky: I remember that well, Member for La Brea, and I do take your point. I realize when you are young you are supposed to be able to take all these, but I am getting old, I celebrate my 40th birthday this year.

Mr. Speaker, to me, that is something we could perhaps consider, because if the State is paying persons to get legal opinions, I think it would be good if we could just share the opinions from time to time, because we might be guided and we may be convinced. Then when we really come here we do not waste time, so that people who really want to celebrate Valentine's Day can go home, hug up and love their wives and their children.

With this, Mr. Speaker, I thank you

The Minister of Housing (Hon. Dr. Keith Rowley): Thank you very much, Mr. Speaker. This is a very rare occasion in this House where we are treated to continuous discourse by Members of esteemed legal profession. We have been treated to the presentation by my colleague from Laventille East/Morvant and I want to congratulate him for an excellent presentation. [Desk thumping] And his colleagues from Princes Town and Pointe-a-Pierre joined the debate, so we had three lawyers giving us the legal expertise that applies to this. I am not a lawyer but I have been associated with them for quite a while and I know the kind of animals that can be associated with the legal profession. But at the end of the day, the Member for San Fernando West and I are normal people and we have to approach this piece of legislation from that standpoint of the average citizen who is fed information from a variety of sources.

Unfortunately, at this time in our history, the population is fed information from Members of the Opposition who critique what the Government does. They comment on what is going on in the country, they are newsmakers and what they
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say on intentions, on legislation, on actions, that has some kind of effect on some people in the national community, therefore, it is important for us to explain, especially in the context of what the lawyers have said, especially in the context of what my colleague from Pointe-a-Pierre had said. She put it in legal terms and she has explained the law, and my colleague from Laventille East/Morvant. At the end of the day, what exactly are we doing? Mr. Speaker, if you permit me.

[MR. DEPUTY SPEAKER in the Chair]

It is all there in the explanatory note. Just to make sure that for those who are listening to what we are saying in the Parliament, permit me to read what the explanatory note says and you will see how it fits in with what has been said by the Members for Pointe-a-Pierre and Laventille East/Morvant, with respect to the intention of this legislation. It says:

"...the Bill is to amend...the Evidence Act, Chap. 7:02,...to allow the State to admit into evidence hearsay evidence in documentary form in any criminal proceedings, including a preliminary enquiry."

In certain circumstances. It went on to say:

"First, where the only or best evidence of the criminal conduct of a person is in documentary form and the document was obtained by the Central Authority under the Mutual Assistance in Criminal Matters Act, 1997...it may be admitted into evidence. Secondly, the written statement of a person may be admitted into evidence if his absence is due to certain circumstances. The admissibility of such documentary evidence would be subject to the overriding common law discretion of the court to exclude it in the interest of justice."

That paragraph sums up everything that has been said. Nothing that has been said here by the Member for San Fernando West, Laventille East/Morvant, Pointe-a-Pierre contradicts with the letter of the explanatory note; it is to the letter and the spirit of what we are trying to do, but in layman’s language.

I need to go back a bit. What are we trying to deal with here? Of course, my friends in the front bench of the Opposition who have taken a vow to support nothing in this country, nothing good for the people of Trinidad and Tobago, the Government is bad, everybody is bad. The problem in the country is the PNM, get rid of the PNM and everything is fixed. Forget the front bench Opposition, a waste of time; let us deal with the substance. What are we trying to deal with? People are killing people in Trinidad and Tobago; that is the problem. On top of that, our system of treating with these killers, in particular, rests on two pillars. It is the
pillar of evidence and you cannot have evidence in any substantial volume without witnesses. I want to take you back; in fact, let us start right here; there is a very loud voice that talks in this country every time anything happens, this very loud voice speaks as if everything in the country depends on what he has to say.

[Mr. Speaker in the Chair]

I want to take you back, Mr. Speaker. There was an event that took place in Tobago many, many years ago. A man was killed on the Claude Noel Highway when the construction just started. It was alleged that he was buried in the construction. A witness existed, a man was arrested for that murder and the case was taking place in Tobago. Somebody hired to defend somebody; went to Tobago and argued that for some strange reason, this accused person could not get a fair trial in Tobago and therefore the case had to be brought to Trinidad, and of course, you know our courts in this country are very cooperative with lawyers. So a citizen is charged with committing a murder in Tobago and none of us paying any attention; the next thing we know a case was made in the court; argued that this could not get a fair trial in Tobago and the case was brought to Trinidad. The witness was walking in San Juan—because in those days witnesses would walk, go and buy doubles, roti and thing you know—and out of blue that witness was killed in San Juan and thus ended the case and the murderer walked free and there was never any justice in that case.

That was the first time I can recall—I do not know about you—a witness being killed in this country and a murderer walked free with no trial; it started there. Then there was the Mervyn Hall loaf, where an off-duty policeman just happened to be there with his firearm and a robbery was taking place and this witness was killed in San Juan and thus ended the case and the murderer walked free and there was never any justice in that case.

You know, Mr. Speaker, we hear a lot about witness protection programme. That "fella" in the Claude Noel case situation was not a protected witness. He just happened to be walking in San Juan, as we used to do in those days and he gone.

The other one was a protected witness and the accusation was being made then in that incipient witness protection programme, that the witness protection operation was an inducement to a witness to lie. We were trying to protect the man so that he can give evidence; he was subsequently killed, but it was argued that that protection that he was receiving was wrong and was an inducement. Of course, today you hear everybody talking about the witness protection programme and how it should be this and it should be that. When we started that programme in this country, go back and ask what it was said to be by those who did not want it.
Mr. Speaker, without witnesses our system will collapse. Starting with that situation in Tobago and that Claude Noel Highway killing; it has reached the point now that every citizen is a potential witness, because you do not know where you are going to be; you could be in the church; in the supermarket; on the highway; in the Parliament and a crime could be committed; a killing could be committed and you find yourself being a witness to it. Every citizen today is a potential victim of the witness killers and that is why the witnesses who witness the many crimes that they come and read about here everyday, happily talk about and promote to the outside world till they are lying about the numbers now; how many thousands of persons leaving the country because crime in the country, because witnesses now feel, I do not want to get involved, because the killers will kill me. The Government has to act! \[Desk thumping\]

When my colleague from Princes Town comes here this afternoon in the face of this legislation, these protections, this requirement to act to prevent killers from killing the witnesses and make a spirited defence and talk about we are doing this wrong thing and trampling on people's rights, again, the nonsensical arguments. These are the same people in the front Bench who everyday demand that the Government do something; they want state of emergency. What would a state of emergency do? A state of emergency strips all citizens of their rights and allows the State to act as if those rights do not exist. In one breath they want a state of emergency, which automatically removes the blanket of rights, but in these measures, situation where the law focuses on specific circumstances in specific arrangements, to eliminate the specific problem of witness killing, they are not supporting that.

You know what they do? They start to mislead the country, because the average man does not understand the legal term "hearsay". Hearsay in the parlor, in the rum shop, in the average man's lexicon is John tells Ganga that Dookeran do something and that is the evidence. That is hearsay; "A tell B tell C". That is not so in the legal interpretation of hearsay. Hearsay in the context of this law means an unsworn statement given out of court, given in writing; a document exists. So somebody who witnessed something would allow that to go into text. \[Desk thumping\] So a document exists of what has been and it is attributed to an individual. Because the killers know the strength of the witnesses or the absence of witnesses in our judicial system and they target that, we have no choice but to respond in this way to make it unattractive or not worth their while to go that route, because once we have this unsworn statement being allowed in, and listen what the explanatory note says:

"Firstly, where the only or best evidence..."
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Another thing too, for those like my friend from Princes Town who make a big song and dance about somebody saying something and immediately they got locked up and they got hanged; what about collaboration. Who says that that statement will be the only piece of evidence; who says that? It might be an important part; it might be the part on which the case turns, but there more than likely would be collaboration; might be something else.

So, when you look at it, we have to act. We are not doing anything new. There was a statement made—I do not know the origin of that statement—it says, "desperate times need desperate measures". The killers have put us in desperate times in Trinidad and Tobago and we need strong measures. [Desk thumping]

There was a time when we pointed at the United Kingdom and said, look at the UK, their policemen on patrol you never see firearms. When I went to University in the United Kingdom in the 1970s, I cannot recall ever seeing an armed policeman. The circumstances have changed. Even in the days of the IRA, you did not see armed policemen on the streets. In today's world of terrorism you see them. You know why? Because the circumstances have changed and guns are required on the streets in the arms of law enforcement officers. [Desk thumping] There was no cast in stone arrangement where British police did not carry arms; they carry arms now.

And worse than that, there was time if you were picked up for questioning in the United Kingdom, you could only be kept for 48 hours, because your liberty was such a paramount thing to keep you more than 48 hours. Today in the face of terrorism and the London bombings, they went to the Parliament and sought to keep you for three months; eventually the Parliament approved 60 days. Sixty days they can hold you for now, because the circumstances demand that the Government act in a way to protect the majority of citizens, because a minority is trying to kill the majority.

One bomb on one bus; how many persons are you going to kill? So you have to balance the right of the person to move the detention time from 48 hours to 60 days to protect the instant majority. That is what we are doing in Trinidad and Tobago today. We are saying, if we have evidence that would be used or could be used to identify and to convict killers, then we must get that evidence into court because the objective is to ensure that killers do not kill and walk free. That is the objective.

Mr. Speaker, let us take Italy. There was a spate of kidnappings in Italy a few years ago. The red brigade was kidnapping people to get money to run their political campaign. Then, criminals saw how it was working and the non-political
criminals joined in and at one time they were training. They would kidnap one person; get the ransom; hand the person over to another person, who would then negotiate and so on and so on. Kidnapping is not new in Trinidad and Tobago; it is not new in the world. Criminals have used kidnapping and are using kidnapping all over the world. We are now experiencing instances of kidnapping.

When the Italians had the problem of kidnapping; people wanted their loved ones back; extortion of the worse kind; emotions involved; sometimes life and death involved. The Government had to act, and what did the government of Italy do? The government of Italy set up a tribunal. You know what the tribunal did? As soon as a person was kidnapped the tribunal froze the account of the family; their business and any friend who the tribunal suspected might get them to pay a ransom, because they realized that the criminals were kidnapping because they wanted to get money by way of ransom. And if the state could choke off that supply of money then the incentive to kidnap is removed.

I remember a few months ago, somebody mentioned that here in Trinidad and Tobago we should prevent payment of ransom and there was a big howl. My colleague from Pointe-a-Pierre said we may have to adjust ourselves culturally to react to what is threatening us. In the case of the Italians, as soon as this arrangement was put in place; it did not say you cannot spend your money, but your expenditure was managed by the tribunal. You can pay your bills, you could pay whatever, but you could not pay a ransom, and very soon what happened? Kidnapping disappeared from the landscape in Italy, because it was not worthwhile; crime did not pay by way of kidnapping. Governments have to do things like that.

In Colombia, the killers had got so bold—as ours are getting bolder and bolder in this little island—that they were not only killing themselves, their friends, their gang leaders, their competition, they started killing the politicians, the ministers, the Attorney General. At one point, the only job in Colombia that nobody wanted was the Attorney General, because as fast as they appointed the Attorney General, the killers would kill the Attorney General.

How did the Colombians treat with that? There was the peculiar situation where they had to appoint an Attorney General and put her to live in New York. The Attorney General of Colombia operated out of New York, because that is what the circumstances demanded. And going back from that situation, confronting the criminals with unusual methods, today, the story is that crime in Bogotá is a far cry from what it used to be 10 or 15 years ago, when that situation prevailed.
Mr. Speaker, it is nonsensical to come and tell us that in the face of what we are confronting; what we are called upon to confront, where the police would have done their work and the police do very hard and detailed work. [Desk thumping]

7.00 p.m.

To bring a criminal to court and say, this is John Brown who is alleged to have killed Tony James and everything is here except the witness to stand in the box and say, I saw or I know and then the killer walks out with a big broad smile and he makes the front page in the newspaper, [ Interruption] or gets some persons who are afraid, that they say I am not going near to the courthouse. [ Interruption]

Mr. Speaker, I was travelling outside of the courthouse at the corner of Cipriani Boulevard and Tragarete Road one day a few years ago and I saw a man jump at another man and chase him with a knife and telling the guy “I tell you don't come here” and the man had a knife and he was chasing this guy. The chaser, as I summed up the situation, was a person who was going to court to answer a charge and the other person who was being chased with the knife was a witness. Outside the courthouse this man was chasing away a witness with a knife and telling him I told you do not come here and the witness ran down Colville Street. What was more shocking, there were policemen standing on the pavement and did not do a thing—[ Interruption] You get all kinds of policemen; all kinds—they stood there and did not do a thing and I suspect when that case was called inside the courthouse they were told no appearance of the witness and the boldface man who might have committed the crime before, who might have been the one with the knife outside chased away the witness. We cannot allow that to happen.

In my own constituency a couple of years ago—and the PNM was not in office. This stupid talk about crime and the PNM and my friend from Princes Town today said the PNM was involved in the last kidnapping in Central. Mr. Speaker, it is acceptable to say the law is an ass. It is perfectly clear that some of the comments that come from my colleagues on the other side are nothing short of asinine. To say that the PNM was involved in the last kidnapping in Central, where did that come from? On what basis is the Member for Princes Town able to stand in the Parliament, where the country is traumatized by that particular kidnapping and all kidnappings, and all that he can contribute to the debate—We know you want office; we know you want the PNM out of office, but to come to the Parliament and say that the PNM was involved in the last kidnapping in Central is so stupid. It demeans the Parliament and it does not help the situation. All it tells us is that the UNC has absolutely nothing to offer the people of Trinidad and Tobago. [Desk thumping]
Hon. Member: Desperate.

Hon. Dr. K. Rowley: And insofar as there will be support for these measures, I am quite happy that some of our colleagues on the other side do not allow themselves to be led by that kind of behaviour; there is hope for the country yet. [Interruption]

Mr. Speaker, a few years ago in my constituency on a construction site, twice, on two separate construction sites, guys came up in full view of the public, and shot persons in front of people on the construction site.

Hon. Member: They were wearing masks?

Hon. Dr. K. Rowley: Masks! They do not care! They are afraid of no one because they believe that fear is working for them when they behave as brazenly as that, that is the message they are sending: I am big; I am bad, so be careful with me; I am not afraid of you.

Mrs. Job-Davis: Exactly. [Crosstalk]

Hon. Dr. K. Rowley: That is not something that started now under the PNM that is criminals and their evolvement. They look on to see what they can get away with and as they get away with it they get bolder and bolder and we are at the point now today where the boldface criminals, there is no limit in Trinidad and Tobago.

A few years ago, Mr. Speaker—I used to know people broke into your house when you were not home. That was the normal break in; you are not home they break into your house or if you are there they break in at the back when you are at the front—a man came into my house at 1 o'clock in the morning, breaking into my bedroom; he must have known I was there.

Mr. Hinds: It was Sharma.

Hon. Dr. K. Rowley: He did not go anywhere else in the house; [Interruption] he entered where he knew I was.

Mr. Imbert: He was coming for you.

Hon. Dr. K. Rowley: He had to be coming for me. [Interruption] He was not hiding; I am supposed to hide from him 1 o'clock in the morning, and then you know I have to read the kind of “do tishness” by some people who appoint themselves spokespersons for the crime in the country, that Members of Parliament do not know what it is to be exposed to crime. I had a man entering my bedroom with an 8-inch dagger 1 o'clock in the morning.
Mr. Hinds: So what happened when you threw him over? [Laughter]

Hon. Dr. K. Rowley: Thank God, Mr. Speaker—

Mr. Hinds: Tell us the whole story? [Laughter]

Hon. Dr. K. Rowley: If I tell you the whole story it will take up too much of my time. [Interruption] But it really annoys me when people try to politicize this crime issue and separate us in the Cabinet from the rest of the country and say we do not know about what is going on with crime in the country. [Desk thumping] We are all at risk and it is us versus them!

Mrs. Job-Davis: Of course.

Hon. Dr. K. Rowley: And to try to separate us in this House along political and party lines, Cabinet and non-Cabinet is to misrepresent. We have to be able to respond and, unfortunately, I am saying that the State is not responding; the State has some guilt in this matter. We can make the best laws, we can make a basket full of new laws; one of the main problems we are suffering from in Trinidad and Tobago is an absence of enforcement of the existing laws and a general lawlessness in the country. That lawlessness is not confined to any stratum or any location, it is all pervasive.

Mr. Speaker, I was shocked, absolutely shocked, right here inside this Parliament when I found myself before a privilege committee and a police officer came there to give testimony and the conduct of the police officer was so reprehensible that I had cause to write to the Police Complaints Authority about the conduct of a particular police officer who took part in a privilege committee matter in the Parliament. So here you had a Member of Parliament complaining to the Police Complaints Authority about the conduct of a police officer.

Dr. Moonilal: What did they do?

Hon. Dr. K. Rowley: Absolutely nothing! Sweet nothing and I am saying to myself if this could happen inside the Parliament to a Member of Parliament in a privilege committee session where the proceedings are recorded so you could see the man's misconduct, absolutely nothing was done about it!

Hon. Member: What happens to the average person?

Hon. Dr. K. Rowley: You could imagine what happens to John Public! The man comes inside the Parliament and lies in a parliamentary proceeding; you could imagine what happens in the courthouse? And nothing happened and those are the kinds of things that whittle away at what we call the system.
Mr. Hinds: It was witness tampering by the Member for Fyzabad.

Mr. Speaker: Order!

Hon. Dr. K. Rowley: Worse than that. I was talking to a former Commissioner of Police more than 10 years ago and at that time he told me that, to the best of his knowledge, at his last check there were $25 million of outstanding fines that were levied by the court against people who had been brought to trial, convicted and fined and they walked out the court and never paid the fine and nobody followed up on that. So the whole system of arresting people and charging them, it costs a lot of money to have a trial and then you fine somebody, that is the punitive outcome, and then you have millions of dollars owed and people just walk away [Interruption] because the society accepts that the laws ought not to be enforced and the laws are not being enforced. Those are the kinds of things that contribute to the creation of a lawless society. [Interruption]

Lawlessness pervades Trinidad and Tobago to the point where you appoint a Ministry of Housing that does two things; provide houses and we run real estate. Real estate, you have tenants to pay mortgage, you have them to pay rent. Surprisingly, even though you take an oath to uphold the law and these people have contracts to pay rent, they do not pay their rent and the officers at the Ministry of Housing are duty bound to collect that rent. They go through the procedures of the law to collect it, and how does society respond to that here? The Minister heartless; the Government heartless and worse than that the Opposition that encourages lawlessness in the country—the only thing they could do is to encourage lawlessness—goes up to Malick and similar places, goes down to Union Hall and tells people who are breaking the law that they have some right and they will protect them on these rights and “don’t” pay the rent—the arrears that they should be paying, do not pay it because they will protect them. The encourage lawlessness to the point where, this week, three days ago, Opposition UNC organizing in Malick and encouraging people to break the law; do you know what happened? We have 109 people in Malick in those buildings that we are dealing with in the 40-year-old decanting buildings they call them— decanting meaning temporary; 40-years-old—they were paying $5 a month. When the UNC came into office—

Hon. Member: Five dollars?

Hon. Dr. K. Rowley: Yes, they were paying $5 a month in rent because it was meant to be a temporary kind of arrangement. When the UNC came into office they raised the rent to $100; the same UNC that is organizing the incitement there now and promising to reduce the rent, it was they who raised the rent from $5 to $100.
Mr. Hinds: Dishonest.

Hon. Dr. K. Rowley: And even so, you have people with that rent owing $5,000 and $6,000 and taking the position [Interruption] that the State must house them for free. Then what happens? You go down and incite them and then the officers of the State go to do the Government work in Government vehicles—the last outing up there; 109 persons in there, 34 of them in arrears; they get their arrears letters and they are asked to come in and work out some arrangement to pay, quite normal and humane, it boils down to seven persons of whom we evicted four. All that bacchanal you are hearing on the TV and seeing in the newspaper and UNC, Wade Mark and Kamla inciting people in Malick; do you know what happened? Four persons have been evicted and the last time the Government officers went in Government vehicles, they damaged the vehicles. So they are now encouraging people to carry out criminal activity in Malick when they ought to be paying their rents. That is the official Opposition of Trinidad and Tobago; that is their contribution to national development.

Mr. Hinds: Hopeless!

Mr. Roberts: What a shame!

Hon. Dr. K. Rowley: Encouraging people to break the law. Encouraging people to make themselves unproductive citizens and then they want to tell you that, get the PNM out of office and we will run the country—in what way?

If you come into office tomorrow morning tell this country that you will let such persons not pay their $100 a month rent. Tell them that! Tell them you would leave them there for another 40 years in the same shacks. Tell them that. But they will do it you know, Mr. Speaker, because that is UNC style. You hear them talking about letters of comfort in Malick, it does not arise; these people are tenants who have to pay their rent.

Mr. Hinds: Not squatters.

Hon. Dr. K. Rowley: A letter of comfort applies to a squatter. We are not dealing with squatters in Malick, we are dealing with tenants who will not pay their little picayune rent, but you know, the UNC cannot hide. In Diego Martin this general lawlessness, as I am saying inside the Parliament, outside the Parliament. You had a Government of Trinidad and Tobago, a UNC Government, going down to Diego Martin, seeing squatters encroaching on the playing field, but in the same style as described by my friend from San Fernando West where they play politics with everything—everything is politics, everything, looking for political support—in breach of the law, the UNC Government gave letters of comfort to
people to live on the Diego Martin playing field; [Interuption] the Diego Martin savannah earmarked for the playing field. The law says very clearly—

**Hon. Member:** Reckless.

**Hon. Dr. K. Rowley:**—“No person may be regularized on a piece of land required for a public purpose.” The Diego Martin savannah is a public purpose area for the Diego Martin playing field. The **UNC** issued letters of comfort to people. It falls to us in the **PNM** now, to go and remove those 45 persons from the playing field in Diego Martin and the **PNM** is doing that now. [Crosstalk] We know what we have to do. We now have to go and remove people from the playing field that they gave a letter of comfort to live on the playing field and build concrete structures on the playing field. [Interuption]

In San Fernando we have built houses to assist persons to move from where they are as squatters into a decent environment with good housing and infrastructure; they are down there inciting them, “Do not move”. [Interuption] But the law says:

“No person may be regularized on an area required for a public purpose.”

The train line in the area that I am talking about is required for a road; a road for the general public to link San Fernando to Princes Town. The **UNC** is down there inciting people not to cooperate, not to move and fooling people and telling them that they will go to court to protect their rights. Rights to break the law? Nobody in this country has a right to break the law! The **UNC**, our official Opposition is making a habit of inciting lawlessness in this country.

**Hon. Member:** Yes, yes, yes. [Desk thumping]

**Hon. Dr. K. Rowley:** And why am I surprised at that? Why does that surprise me? [Interuption] Any party that could be led by a convicted person who is out on bail will do things like that.

**Hon. Member:** Yes, Sir. [Desk thumping]

**Mr. Hinds:** That is right, that is right.

**Hon. Dr. K. Rowley:** If the only person who could lead their party is a man who is playing sick to come out of jail but not too sick to be campaigning up and down and obstructing the country, then you could expect them to do that, to go and incite people to break the law, to behave in an hooliganistic manner, to stand up on the train line in San Fernando and claim rights that they do not have. To give people letters of comfort on the playing field—illegal action. That is their
history, so why am I not surprised that they are not prepared to support a Bill that is going to put criminals away and to protect us from killers?

Right now in this country the only people who are opposing this provision are UNC's spokespersons in the Parliament and a handful of others. [Desk thumping] Not even their supporters, because their supporters are exposed to the criminals, as we all are, and they know that we need to protect witnesses who are being killed by the killers. But those who they put in the Parliament to represent them, coming with all kinds of reasons not to support the Bill because they are in that mode to obstruct national development, because they believe that if we do this and it contributes to any modicum of reduction of the crime problem it will not redound to their political benefit.

Miss Seukeran: Perfectly right.

Hon. Dr. K. Rowley: So they go and tell people the Government is coming to trample on their rights. The Government is coming to save the lives of witnesses to make it less attractive for killers to kill witnesses! Because if the person has given a written sworn statement, what is the incentive to kill the person? If the statement is unsworn it will be accepted. What is the incentive to kill that person knowing that the testimony will go in, and worse, it will go in and not be cross-examined because the person is not there. You might be better off having the person alive to be cross-examined, to make sure that what the person is saying can stand scrutiny.

The criminals are not stupid; they know what works for them and what does not work for them and they know that this provision will work against them. But you have leaders; leaders of the country using every opportunity to try and score political points even to the point of being ridiculous. When we came here the other day with the Bill to keep kidnappers—

Mr. Hinds: No bail for kidnappers.

Hon. Dr. K. Rowley:—no bail for kidnappers—

Hon. Member: You cannot “ketch” them.

Hon. Dr. K. Rowley:—they looked for reasons not to support it. [Interruption] All kinds of reasons knowing full well that if their support, or lack of it, prevailed, we had 17 kidnappers who would have walked back out of the jail and gone and continued with what they have been accused of doing. How can we say that these
people are serious about protecting the public interest? [ Interruption ] They are all about their own interest.

Mr. Hinds: Is murder she wrote.

Hon. Dr. K. Rowley: And their interest lies in trying to get back into Government. [ Interruption ]

Mr. Speaker, we have been independent now for a while; our social structure, our economic structure and our foreign policy, all of these things need to be under constant review to be able to be relevant to today's world. I heard it said earlier on, about the preliminary enquiry; I for one, Mr. Speaker, would strongly recommend that the faster we get rid of this preliminary enquiry thing in this country, the better for all of us. Because for one thing, what does the preliminary enquiry contribute? It is meant to establish if the person has a case to answer. But I mean, that is exactly what the police did. The police would have investigated the situation, would have got a body of evidence, they would have charged somebody—and justice is only effective if it is swift.

What the preliminary enquiry does is guarantee that there is no swift justice because as it is operating in our country now the preliminary enquiry is in fact a trial by itself and one that allows defence lawyers to run riot in the courtroom, especially when the person is so guilty that they have no credible defence and that the only game they could play is to draw out the matter in the PI as long as possible, hoping that the State loses interest, loses staff or witnesses lose their memory or their life and at the end of all of that, all you get out of the preliminary enquiry, is yes, you have a case to answer now you can go to the assizes. That is not necessary! And not to mention the cost, it is an expensive process because you have to have the same battery of lawyers at the preliminary enquiry as at the trial, so do not expect the Law Association to agree with me because I am now talking about something that will seriously hit them in their pockets. Do not expect them to advise the State to eliminate preliminary enquiry and go straight to the trial. If the police do not have sufficient evidence, then do not bring the person to the court. If the person is brought there, let us hear what they have been brought here for; let us hear what the evidence is and let justice prevail on time.

We were offered this PI at one point in time and we think it is there and it must be there. I am saying especially now; especially now we are facing this situation of clogged courts; hundreds of thousands of cases, half of them are stuck in those courts, in the Magistrates' Court as well. What do we need a system for
that tries a person twice; a preliminary enquiry and then a trial after. That is antiquated! Expensive nonsense and the Government will be well advised if we are going along this road of doing the drastic things that need to be done to create an environment in which criminals do not prevail; we must get rid of the preliminary enquiry from the system. [Desk thumping]

Another thing too, Mr. Speaker, the officers of the State, police and otherwise and John Public; we all know that a lot of criminals are very adept at using technology. I was told about one kidnapper who was caught and he had six cellphones, so obviously he knows the value of the cellphone system. There is also, and it is being said by my colleagues on the other side—and I think they might want to say an open secret—that there is eavesdropping on the electronic airwaves. Given the fact that virtually every man, woman and toddler in this country has a cellphone, a telephone or access to a telephone and that telephones are an integral tool in the committing of crimes and that the communication system is what gives the criminals a network to keep the police either on their toes or behind them, the Government of Trinidad and Tobago will be well advised to come out in the open and take the position that under protected, proper legal safeguards that access to and monitoring of, and wiretapping and similar kinds of things be made legal so that you can properly monitor these things and therefore have a better handle on criminal conduct while at the same time protecting the rights of citizens in the process. [Interruption] We have to do that!

A modern state needs to do that otherwise you will be defeated by technology in the hands of the criminals. Here you have the policemen not being able to properly use technology to get at the criminals because the law does not permit it, but the criminals can use every possible nuance, every possible feature available to the gadget to commit crime. Therefore, the State has to intervene in that technology to bring it in such a way that it can be properly used in the fight against crime. We need to legislate; we need to legislate on this subject to ensure that the State's agents are able to properly and legally [Interruption] utilize what is available. Now you see, Mr. Speaker—

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Diego Martin West has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [Hon. K. Valley]

Question put and agreed to.

Hon. Dr. K. Rowley: Thank you, Mr. Speaker, and I want to thank my colleagues for the extension. As I talk about looking into extending our involvement
into the area of technology insofar as technology assists criminals to commit crime, there are some simple things that also give the impression that we do not operate as effectively as we should in protecting our legal system and sending the right message to criminals. I started my contribution by saying that the whole question of evidence and witnesses were the two pillars of the system with respect to getting a conviction and treating in a punitive way with criminals, but there is a cancer that would eat away at that and it occurs very regularly in this country and it appears as though there is no treatment for it.

The question of perjury: it is now fashionable—I read the papers it is fashionable—for persons to go to the court and at the height of a murder trial or some similar trial somebody tells the court, well, I changed my mind what I told the court, or what I told the police or what I said was really a lie and I am not saying the same thing now [Crosstalk] and the case collapses right then and there. Well of course, they could do that, they could say that but such an action must be met with such a heavy hammer of the State that such a person—[Desk thumping] If the person who was brought there way going to get 10 years, a witness who behaves like that must get at least five, but of course that does not happen in this country. [Interruption] We behave as though these little things do not matter, but they matter and I speak here from personal experience. I had allegations made against me in this Parliament by my friend from Caroni East resulting in a commission of enquiry which cost the State about $5 million.

Mrs. Job-Davis: Hmm!

Hon. Dr. K. Rowley: One citizen! One citizen in this country came forward and made an allegation against me in that commission of enquiry.

Dr. Moonilal: Who set up the enquiry?

Hon. Dr. K. Rowley: Do you know what the commission of enquiry has now said to the court? The commission of enquiry has said to the court that the testimony of that witness was patent lies! So here you had an individual [Interruption] going before a commission of enquiry, swearing under oath and lying, and absolutely nothing has been done about it. [Interruption]

So every day the other criminals look on and say I can go to the courthouse and I could do this kind of thing in the courthouse and eventually the whole system of giving evidence, the whole system of truth and the whole system of giving testimony under oath; all of this now becomes one big plaything for these criminals, because everybody knows that they can do these things and get away with it scot-free. There should be no situation; there should be no situation where perjury is treated in a light-
handed way in any court or any jurisprudence in Trinidad and Tobago, [Desk thumping] because perjury is something that destroys the evidence system.

7.30 p.m.

If you allow perjury to be a normal action in the court, then the evidence that comes to court will always be at risk and you would have cases being thrown out at the whim and fancy. Recently, I heard about a man who committed some crime of perjury; a case of thrown out and then some victim turns around and tells the court, "I do not want him prosecuted." It is not for the victim to say that. It is for the State to say that it is our call and we will prosecute you for that.

What kind of country is this, where somebody can go to the court, have a High Court matter going on costing millions of dollars, then jump up and say, "I no longer want to say what I was saying yesterday", and then his neighbour, cousin or his friend who was being charged say “Okay, I am happy I am released, but do not charge him”. We are playing games; we are playing fast and loose with our jurisprudence and as a result of that, the criminals are strengthened. What we should be doing, we should be doing things that weaken the criminals and not things that strengthen the criminals.

Mr. Speaker, I am recommending that in every instance where perjury is found in the courts, somebody must go to jail. Every instance. [Desk thumping] I am also recommending that—you see witness tampering—witness tampering must be so unattractive that nobody will want to think about it lightly. In the United States, they recognize the value of protecting witnesses and the value of having a system that treats roughly with persons who interfere with witnesses. If you tamper or attempt to tamper with a witness in the US system, the penalties are so great and the reaction from the bench is so forthcoming, that you are likely to go to jail faster for tampering with the witness than going to jail for what the evidence said against you. I am recommending that here in Trinidad and Tobago, given what has been happening with our witnesses, that very quickly we should amend our laws or introduce new laws to make witness tampering or coercion of witnesses something that will be so unattractive that persons, whoever they might be, will think twice, three times or 10 times before they even attempt it.

Mr. Speaker, there is no one action on the part of the Government, on the part of the State that will be a magic bullet to reduce the crime in this country. There was a time when I was a little boy it was said with some degree of justification that crime does not pay. Meaning: young boy, young man, young woman do not get involved in crime because at the end of the day it will not be to your benefit.
That was then. Today, in this society, in this country, in this world crime is big business and crime pays, and it is because the criminals know that where some of them have taken up positions in the criminal industry and they are prepared to challenge the State to preserve their criminal empire. We will be fooling ourselves if we do not accept that crime pays in Trinidad and Tobago and pays in a big way too.

Therefore, we have to respond around every corner. It is simplistic to think that there is some singular action that the Government should take, and if that action is taken, then crime will disappear from our landscape. It is not like Dracula and if you get a silver bullet and shoot it into the heart, that is the end of the blood sucker. No, it is not that at all. There are series of things which will be required to be sustained and they all in the end contribute to an environment in which crime does not pay. Today this Bill is but one of those things and I have no doubt that in this Parliament, we will see many more actions like this coming as the State responds to those who will create for us an environment which threatens our social fabric, our economy and our lives.

We will have to adjust; we have to have more stringent measures and also, we do not have to invent any wheel, we can learn from others. When the United States had a big crime problem a few years ago, there was a presidential election and coming out of Arkansas was a little known Governor who decided to run for the US presidency. One of main things he ran on, was that the State was not properly policed in terms of number of policemen on the streets, in the country, and a significant offering in his campaign was to put a hundred thousand more policemen on the streets in United States because it had been determined that the circumstances warranted more policemen out there among the population. And it may very well be, that notwithstanding that we do have a good ratio of 7,000 odd policemen to our population of 1.2 million, and notwithstanding the fact that we probably have to do better in terms of deploying these men, it might very well be that given what we are facing from the criminal empire, the criminal industry, that we need more policemen in this country so as to ensure that the saturation of our neighbourhoods is at the level that causes the acceptable level of deterrence in the country. It might very well be that.

Dr. Moonilal: Recommend that.

Hon. Dr. K. Rowley: Mr. Speaker, I am simply saying that we cannot take the position that what we have been accustomed to is what will work for us. We have to be flexible in response and that is what this Bill is. This Bill is a flexible response to a real situation, this is reality. Reality is when the witness disappears;
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go out of the country and hides; is too terrified even to stay home because the killers make sure that you do not come home far less come to court. The Bill says “if for good reason and that reason”, would be assessed by the court: Why is the will accept the unsworn testimony we will leave it for the court. But then do you know what we hear from our colleagues from the Front Bench? The PNM and the Cabinet will do this and the Government will do that. The Cabinet has no role in a courtroom to determine which unsworn statement is going to be accepted or not accepted. It is stupid to say that and it is convenient to make that argument if you do not want to support the Bill.

If you are saying, we are not supporting the Bill; we are not supporting anything the PNM brings to the House; say so, we understand that. But do not come and say if you support it, the PNM will do this and the Cabinet will do that and the Attorney General will do that, that is nonsense. That discretion will fall into the hands of a magistrate or a judge. These same people in the Front Bench—the Prime Minister made a call to a police station to ask if his driver was there. He never told anybody to let him go; to lock him up; he made a call and they identified that action as totally unacceptable and they made a big song and dance about it. But they want us to believe that the Cabinet will be in the courtroom determining which statement goes in and which statement goes out.

Absolute folly is an excuse not to support a measure, just say we are not supporting it. Thank God it requires a simple majority and those on this side will support it with our colleagues on the other side, who stand up for Trinidad and Tobago. Simple as that. You are not supporting it, all in keeping. We had a Parliament here; they brought two baskets full of names to prevent the Parliament from functioning. My friend from Caroni East rolled in a trolley here with two baskets full of names, the purpose being that no Speaker shall be appointed, so the country shall have no Speaker, because the position is, if we cannot run this country then we are going to mash it to hell up. That is the UNC policy. That is their policy.

Your official dictum is that “we shall make this country ungovernable”’; and that is why they are encouraging people in Malick not to pay their rent; encouraging them in San Fernando not to move. I mean, they are like a bad plaster look for a sore foot, anytime they see anything anywhere, they have to jump in and stir it up because they have nothing else to offer. They believe that it is by this kind of action that they will become acceptable and by default become Government. That and a green face jackass, they will never see. [Desk thumping] Never see that.
One would have thought that making yourself relevant to the people of Trinidad and Tobago; making yourself useful to the people of Trinidad and Tobago as an alternative Government would have been more attractive to an electorate. Instead of that, you want to get into Government by creating mayhem in the country, blocking here; tackling there; obstructing there; lying there; misleading there; inciting there, that is UNC politics.

Mrs. Job-Davis: That is why they are there.

Hon. Dr. K. Rowley: That is why they are there and will stay there. Notwithstanding our difficulties, the vast majority of the people of Trinidad and Tobago are not stupid, they know what difficulties we face; they know what is reasonable conduct; they know what is measured governmental action; they know what is balance; they know what is equity; they know that here we are trying to tip the scale a little more in the favour of the victim of the State, that standing up against the killer; they know right now it is stacked too much in the killers’ favour and the killers show us no mercy. They know that. So when we tell them that we will allow unsworn testimony under special circumstances to come in so that a case can be tried and we can get a conviction, and all things being equal, it will be a fair trial, the population knows that the Government is acting in its interest and that is what this Bill is all about. [Desk thumping]

This Bill is not about PNM versus UNC; not about PNM versus COP; it is the people of Trinidad and Tobago who are law abiding and fearful of the criminals against the criminals. Take your side, and you have taken the side of the criminals by trying to protect them [Desk thumping] and I am not surprised at all because this is the party that put up two criminals as candidates in an election. Two criminals, put them up for election to elect them to the Tobago House of Assembly and to the corporation. Which political party in this country, Workers and Farmers, ULF, PNM, DAC NAR, put up criminals as candidates? The UNC; and then they have the gall to be always talking about the criminals are in the bosom of the PNM. You could see the PNM in its wildest dreams, putting up a candidate who has a conviction as long as your arm or any conviction for that matter, as a candidate? You understand that? [Crosstalk]

Mr. Speaker: Order!

Hon. Dr. K. Rowley: Mr. Speaker, we stand apart from them and they could say what they like, the UNC stands apart from the interest of the people of Trinidad and Tobago. [Desk thumping] I mean, it is one thing in the cut and thrust of politics to try and score your political points. It is another thing to stand up and
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try to block something which is going to allow a killer to walk on the street because he killed the witness. Where is your conscience?

Mrs. Job-Davis: They do not have it.

Hon. Dr. K. Rowley: And then come here and bleat every day about crime in the country, crime this, crime that. When you have the opportunity to lift a pebble to build a wall as a bulwark against the criminals, you use your vote to block legislation so that kidnappers could walk free; so that murderers could kill their witness and continue their criminal conduct. You talk about the Government not doing this and the Government not doing that and then you come here today and have the gall to say, the last kidnapping in Central, the PNM was involved.

The PNM is this country's saviour, an institution of which you should all be proud because it belongs to Trinidad and Tobago. [Desk thumping] As long as you all take that position of not being able to differentiate between the people's interest and your personal position, you will always make the mistake of coming down on the wrong side of legislation in this House. Always! It requires a special majority; not supporting it. It will take away rights, not supporting it. It has flaws; not supporting.

Dr. Moonilal: Equal opportunity.

Hon. Dr. K. Rowley: We are not supporting it unless we get green mangoes and green fig. Not supporting unless we get this; that is the behaviour of the Opposition. And while they are doing that, the criminals are running riot in the country and smiling because they know that left to them alone, left to the Front Bench here alone—[Interruption]

Mr. Ramnath: We have their support.

Hon. Dr. K. Rowley:—they can do what they want. [Crosstalk] I am not blaming you; I am stating a fact, misrepresenting legislation to the public. Mr. Speaker, I have not once said the UNC is causing crime. I said UNC put up criminals as candidates, fact. I said UNC misrepresents legislation, fact. I said UNC wants to bargain while criminals running free, fact. I said UNC has not got the people’s interest at heart, fact. I am not blaming you for crime; you have not killed anybody as far as I know; you have not killed any witness and you have not kidnapped anybody. So while you blame us, two youngsters beat two people to death in our country, Cascade. Shocked all of us, abhorring to all of us, you come here and tell us that the blood of those people are on our hands. Absolute nonsense! And if whoever did that, wants to walk free as they always want to walk free—because when they commit
their crime, they want to walk free after—they did not only kill the two old persons, they go and kill anybody who has any information to give the State to convict them and you come here and say, I am not supporting that legislation to allow that to happen so that they can be convicted.

So it is my fault. I knew that they were going to kill those two old persons and I did not do anything about it. I heard them crying and bleating and I did not go because I am a PNM Minister. I knew whoever did that would have done that; it is the PNM’s fault. But what I know is that if we have evidence, unsworn evidence from a person who for whatever reason is unable to come to court, it will help in the prosecution of persons who otherwise would have walked free and that cannot be good for the country.

Mr. Speaker, it is never too late, it is not too late for our colleagues in the Front Bench to change their minds and support the people of Trinidad and Tobago.

I thank you. [Desk thumping]

PROCEDURAL MOTION

The Minister of Trade and Industry and the Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, in accordance with Standing Order 10(11), I beg to move that this House continue to sit until the third reading of the Bill and the Senate amendments to the Airport Authority Bill are debated.

Question put and agreed to.

EVIDENCE (AMDT.) BILL

Dr. Roodal Moonilal (Oropouche): Thank you very much, Mr. Speaker. I rise to address a very serious matter before us described by some as simple; described by others as radical, but certainly serious involving the justice system and the prosecution of the persons accused for criminal acts. We have had the benefit of hearing several speakers in this debate so far, both persons who are practising the criminal law, lawyers and persons with other expertise.

Mr. Speaker, part of me remains in shock after hearing persons, colleagues on the other side, particularly the Member of the San Fernando West and the Member for Diego Martin West and I am reminded of the saying, “that when the cat is away the mice will play”. Because I am saying that neither the Member for San Fernando West nor the Member for Diego Martin West will have the courage to stand in the presence of the Prime Minister and make that speech that they made earlier today. They would never do it. [Desk thumping] They stood in this
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House and I will quote what they said. I will get a copy of the Hansard and I will send it to the Office of the Prime Minister or I will send it to my Member of Parliament at the Guardian Mutual Building in San Fernando. But they will not say it in his absence [sic]. They have condemned the Government; that is what they have done. [Desk thumping] And the last speaker stood with the bravado, a lot of sound and fury signifying nothing—

Dr. Rowley: That is not true.

Dr. R. Moonilal: That contribution by the Member for Diego Martin West, he should have turned his back and addressed his colleagues. That is a matter to address the Cabinet on. Members on this side of the House—

Mr. Speaker: Hon. Members, we had the Member for Pointe-a-Pierre and the Member for Diego Martin West speak to this Parliament in accordance with what the Standing Orders provide, let us afford the Member for Oropouche the same courtesy.

Dr. R. Moonilal: Mr. Speaker, the Members rose and delivered addresses that really belong elsewhere, not in the Parliament. Members on this side whether it is Front Bench or Back Bench cannot take any decision to increase the number of people in the police force. We do not write the Commissioner of Police and demand resources and tell him how to operate, we do not do that. The Member for Laventille East/Morvant stood, that address should have been directed to the Members of his general council, not the Parliament, speaking about criminal actions and so on. The Member for San Fernando West—I want to quote their words, and part of me almost feels a bit of pity for the Member for San Fernando West. There is now a crisis of conscience that the Member for San Fernando West believes that enough is enough, I must speak; I cannot do anything else so let me talk my mind, I do not care. I had that sense today that your conscience “catch” up with you, not in an election year, but you have had enough.

Mr. Speaker, I will come back to the Member for Laventille East/Morvant later, but I was very, very interested in hearing our friend from San Fernando West almost as a farewell speech. She said that young women are afraid to go to the police.

Mrs. Job-Davis: Is that wrong?

Dr. R. Moonilal: She said a state of anarchy exist, absolutely contempt for authority and law. She said the system of criminal justice has absolutely broken down; criminals reign supreme. I am quoting because I was in a state of disbelief.
Mrs. Job-Davis: But is that wrong?

Dr. R. Moonilal: I understood Members on this side of the House—Mr. Speaker, let me finish the point, I will, hold the thought—have been speaking for years, I am talking about this and they stood on that side of the House and said “No, that is so, what you all are describing, anarchy and chaos and the society has collapsed; the justice system has collapsed.” The Members for Pointe-a-Pierre, for Caroni East and for Siparia and many others were saying this three, four years ago. They were in a state of denial. Today, with months before an election, they throw in the towel; they confess. I could not believe.

Mr. Speaker, for the first time since I have been in this House, I rushed back after the tea break to hear a speaker from the PNM. I could not believe that they were making these admissions. The Member for San Fernando West continued, “absolute breakdown of the criminal justice system”. She said, “Criminals are winning the war on crime”, she made a reference to people fleeing before Carnival, called on the Government to act. She said, “Mr. Panday senior—I presume that is the former Prime Minister—was right.” Government must act to do something to deal with crime.” Now if I say that, they will say I am looking for my seat; I am looking to save my seat. She said the former Prime Minister was right that the Government must act and do something to deal with this. He was right. The Member for San Fernando West went on and made a statement—

Mr. Valley: But we were here, we know what she said.

Dr. R. Moonilal: But I am still in disbelief, I have to tell myself. A Member of the Government—not a letter writer to the editor—has said that there is a criminal element in jail directing criminal activities from jail.

Miss Seukeran: What?

Dr. R. Moonilal: Now—“system of governance has broken down”. [Interruption] Well the Member for Tobago East will have her turn at the next budget debate, if we have a debate. [Laughter] So I will permit her because on a rare occasion she would grace us with her voice.

Mr. Speaker, the Member for San Fernando West said people want gun because they are in a state of siege.

Mrs. Job-Davis: She wants a gun too.

Dr. R. Moonilal: I do not want to get into that. Mr. Speaker, the Member for Diego Martin West, I want to jump quickly to his contribution. There are several matters I want to deal with and I was very happy that you gave him the leeway to
respond on that matter of housing because I want to deal with that as well. I want to raise some matters concerning that. The Member for Diego Martin West—

**Miss Seukeran:** Can you give way—to ask the Member for Oropouche, I noticed he quoted me at length. Did he have any problems with what I said? Did he have any question; was I not speaking fact? That is all. Does he have a problem with the fact as it is laid out; and does he really have a problem with the fact that it is us on this side, is that his problem, that we have the courage, that we can feel for people; that the Government of Trinidad and Tobago is a caring government; is a human government and feels? Is this what is his problem?

**Dr. R. Moonilal:** Mr. Speaker, I am actually in agreement with Member for San Fernando West, but that is my state of cognitive dissonance that I have to agree with her. [Laughter] I will explain that state. It is when you confront a reality that you cannot in your wildest imagination foresee because the Member for San Fernando West, really, you need a social psychologist to give an analysis of her contribution, not a lawyer. This is conscience speaking and I agree with you. What I am saying is that I am in shock, after four or five years you have arrived here where the Opposition has been talking about this. The Member for Diego Martin West—he ran away already, but I will address him. This is a Member who went on the campaign trail 2001—he was looking for Carlos John in Tunapuna—was talking about corruption all over the place. Corruption here and corruption there and so on.

He remains definitely silent on the matter of CEPEP and the failure of the Government to account for $1.6 billion. [Desk thumping] He is silent. You know there is a saying “That self-righteousness (and this is good for the Member for Laventille East/Morvant) is the first step towards hypocrisy.” When you declare self-righteousness, it is usually the first step towards hypocrisy. The Member for Diego Martin West, the anti-corruption crusader and so on, attacking UNC corruption, but he is an innocent man. I think he is innocent. I believe gravel and sand were walking in Tobago; I believe it had two characters, one named gravel and one named sand and they were walking in Tobago. He is an innocent man.

In a report, that same commission report, he likes quoting the part about the witness, but what he does not like quoting, is that the report said the Minister lacked discretion. He had no discretion.

Another report from Nipdec said that materials were improperly removed. All that sounds nice in English, that means “yuh tief” basically. Materials improperly removed, but “yuh tief”. So all the euphemism and so forth means nothing. He
stands today—and again, this paranoia with the UNC—but he had his axe to grind and the Prime Minister is not here so he had an opportunity to speak and let them have it.

8.00 p.m.

The Member for Diego Martin West identified witness killers and so forth. He said the State is not responding, the State has to take the blame for not implementing existing laws. The State is run by the Government, it is not the President’s house, it is not the brick, mortar and galvanize. The State is driven by a Government. The concept of a state involves government in collaboration—

Mr. Valley: The State is three branches.

Dr. R. Moonilal: I did not say it was not three branches, I am saying the State involves the Government, the Judiciary and the Legislature. Let me quote the Member for Diego Martin West: “The State is not responding.” Let me use their donkey logic. So the Judiciary is not responding, it has failed; the Legislature is not responding, it has failed, and what is the third? The Cabinet, the Executive is not responding and it has failed. The Member for Diego Martin West has placed that on record. That is what he is saying. He said because laws are not being implemented, there is lawlessness all over, the system has collapsed, and laws are not being enforced.

Who are the Ministers responsible for the justice system? We get carried away here. While the independence of the Judiciary is protected and there are men and women on the Benches who will implement the law we pass, the Judiciary depends upon a wider framework; the provision of resources and finance, it cannot exist apart from the Executive and the Parliament, but the Minister of Housing said this evening that the system has collapsed and laws are not being enforced. He said the police are unable to use technology. Six years they have been in office and the police are unable to use technology. That is the confession of the window cleaner, the Member for the Diego Martin West, in the Parliament today.

I say without doubt, and I challenge them to get up. When the Member for San Fernando East is here I make these same points. I challenge them to get up because they are cowards. They did not want to go to Vessigny, quarrelling in the General Council, they wanted to have a symposium on crime, but you know all of them had to run down Vessigny to hear three speeches on industrialization.

So they will say it in his absence that the State has collapsed, criminals are being strengthened, but the hypocrisy of the Member for Diego Martin West, and
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[DR. MOONILAL]

Member for San Fernando West—in fact there is only one line the Member for San Fernando West left out and if you connect her dots she would say that everything has collapsed and the Government has failed, but she will not say it in that way. She said everything collapsed but she did not reach to the point that the Government has failed because her conscience is bothering her—not Sen. Christine Kangaloo—and I felt it like no time before.

The Member for Diego Martin West understands what is happening. There is a photograph when the Prime Minister went unilaterally and promised lands to the Jamaat. I recall there is a photograph by selected Members of the Cabinet in their Polo tee shirts and so forth in a library without books at the Prime Minister’s house and they stood behind the Prime Minister like a steel ring and he sat in front a mike and said, “We are not giving land anymore”. The Member for Diego Martin West was in that photograph and they understood what had happened. I am just pointing out today that they have confessed and for five years when we were saying this, they laughed at us saying we were creating gloom and doom and things were working good and crime was not as serious as we made it out to be. Today every single Member of the Government confessed that this has collapsed on us. In fact, bringing this legislation here alone typifies and symbolizes that the Government has failed to deal with the criminal elements.

[Mr. Valley stands]

I am not giving way, if you have a point of order I will.

Mr. Valley: You are not giving way because you know you are talking nonsense.

Dr. R. Moonilal: Mr. Speaker, the very presence of the legislation tells us that systems have failed, that much they are in agreement. If things were working well you would not bring this piece of legislation? The Member for Laventille East/Morvant’s contribution is to hurl expletives and abuse across the floor and we depend on him to solve crime and catch kidnappers and murderers. He finds clues in fortune cookies.

In this country, Yesenia Adams, the psychic is now a crime fighter. If something happens you call her to see if she can pick up a vibration to find the victim, you do not call the police. That is where we have reached.

Mr. Hinds: Stop wasting people's time.

Dr. R. Moonilal: They drained a pond in Chaguanas and could not find a cascadoo, they sent Yesenia Adams, in fact you go to her, and she might have a vibe. So the Member for Diego Martin West admitted, but he went further, he
gave some policy suggestions to his Government and he used us as a sounding board but he must know that is really to inform his Cabinet colleagues that they will take that kind of action, it is not for us.

So standing here to tell the country we need more police and technology training. When did you discover that, last week? Why could you not in your Cabinet and party deal with this matter? I will actually support the PNM if it had any symposium or seminar to deal with crime. There were Members who were suggesting that when the Prime Minister wanted to go to La Brea the Saturday morning, they could have dealt with crime because they had plans from A—Z Anaconda to zero tolerance, they had blimp, whim, nothing else, and they will not solve crime.

**Mr. Hinds:** You are a comedian.

**Mr. Valley:** Exactly.

**Mr. Hinds:** Sit down!

**Dr. R. Moonilal:** Mr. Speaker, there is a further point about it. I want to say that I also in this debate—because the Members for Diego Martin West, Laventille East/Morvant and San Fernando West stated at the beginning of their contribution that we have heard a very good contribution from the Member for Pointe-a-Pierre who discussed in detail the technical and mechanical issues of evidence, rules and policy making that goes with those rules, and she put that in a very useful perspective and, of course, typically brought forward some suggestions and that to me was fine. There is nothing to tamper with there. [Desk thumping]

**Mrs. Job-Davis:** You cannot.

**Dr. R. Moonilal:** The Member for Laventille East/Morvant introduced the Bill and said nothing—[Interruption] would you allow me to speak or not, that is all I ask. We are in a debate where a speaker has to rebut. I cannot begin the debate by saying Mr. Speaker, according to clause 2, it says that, that, that. So what happen, I should ignore them? We are in a debate but they do not like when I talk because I put it like it is dealing with the PNM and they do not like that. I am the one who will deal with the rubbish they are talking.

Mr. Speaker, the Member for Diego Martin West said UNC encourages crime. He said that. Did you not hear your colleague say the UNC encourages crime? “So I alone hear dat?” He said that, and this is a man who sits in a Cabinet where a Government cannot account for $1.6 billion. They sit in a Cabinet where there are
cases before the courts that have been decided where the Prime Minister was caught red handed interfering with processes in the public service. I want to get to the Member for San Fernando West, she made an interesting point and I took notes as I always do; even when the Member for Diego Martin Central is misleading the House I still take notes.

Mr. Speaker: No, you cannot accuse a Member of misleading the House. That is not parliamentary, you cannot do it.

Dr. R. Moonilal: Well I withdraw it.

Mr. Speaker: Withdraw it, yes.

Dr. R. Moonilal: The Member for Diego Martin West will speak at times and I will have my problems and I will take notes. The Member for San Fernando West raised the issue of the judicial review legislation which I want to respond to and which I hope I am permitted.

Mr. Speaker, do you know the Member for Diego Martin West is now taking a matter to court using a law passed by the UNC; the judicial review legislation? They say we encouraged crime and they ask what we did. I am saying what we did; we passed the Judicial Review Act. We dealt with legislation to seize assets of persons convicted of criminal actions. We did that. You cannot say we did nothing, and today the very Member for Diego Martin West is depending on the UNC’s law in a fight with the Integrity Commission. In a nutshell he is saying that the Integrity Commission investigated him and told him nothing. That is what he said and he is adopting UNC’s legislation at his business. That is what he is doing today, Mr. Speaker.

Mr. Hinds: There was judicial review long before.

Mr. Speaker: Order!

Dr. R. Moonilal: The Member for San Fernando West said that persons are using judicial review and abusing where they may not be promoted and so forth, and they take the institutions to court. I hope you are not casting aspersions on Marlene Coudray in San Fernando who also used judicial review legislation to protect and enforce her rights.

The matter concerns equality. If persons are promoted on meritocracy, equality clearly spells out transparent systems and rules, why do you have to take anybody to court? You do not, let the court decide on this matter. If I am treated unfairly by a public institution, it is my right to challenge.
Mr. Valley: “What is your problem, how yuh reach dey?”

Dr. R. Moonilal: You know when this man was talking about four people in Malick who not paying $5.00; did you ask him what he was doing? But you are asking me what I am doing responding to a statement from the Member for San Fernando West. Have a little shame, if not kindness.

Mr. Speaker, the Member for Diego Martin West raised the matter of judicial review and I am responding to that. Simply put, to say that that is an important pillar in the defence of public officers to the abuse.

Miss Seukeran: Would you give way?

Dr. R. Moonilal: No, let me finish.

Miss Seukeran: I will like to clarify what—

Dr. R. Moonilal: A colleague of yours will clarify later. Do not underestimate the importance of this legislation, while you also talked about persons abusing and so forth. That was my point to raise concerning that.

Mr. Speaker, I want to respond to the Member for Laventille East/Morvant. The last few days I had the opportunity to be in London to attend a conference.

Mr. Valley: That is what it is; you did not have time to prepare.

Dr. R. Moonilal: At that conference what prepared me for this evening was that we heard from the Commissioner of Police of the City of London, one Mike Bowman.

He presented to us an excellent 26-page policy document on Policing in the City of London and for those of us who are concerned about crime and new policy initiatives, there are a few important points I gathered and brought back which I thought I would share. The issue is that it does not cost a lot of money, because the PNM has had the money, you cannot say you do not have money, you have the money. He demonstrated to us that in London where they face very severe threats of terrorism and so forth, that with smart policing using basic CCTV technology in a mass scale across London they created what he calls a circle of steel; cameras at all points. He told us that in one year they took images of 55 million cars; their number plate registration, and the image of the driver. Imagine in a year you have 55 million images from which they were able to make 1,000 arrests leading to conviction and so forth.

The kidnapper, murderer and the terrorist are also in a car, they will not be in a helicopter, and if you police that effectively, you can then catch them at the first base; that was one. He had other very novel ideas about policing and neighbourhood
police and so forth. What came across as well is that to effectively deal with crime, you need to build confidence in the police. This is new, this is not old. There was a time when we did not have crime at this level and the police, particularly in a colonial establishment had to just have the image that they are bad, they are rough, and they are serious. That was the imaging that was needed, so when they walk their beat at nights with their short pants, baton and flashlights, it would instill some fear in citizens that the police officer is passing and his shiny boots would intimidate you. There was no need for confidence in policing.

Today, you cannot police and manage crime unless you have confidence in the police service, and if you do a survey in this country today and I want to come to some PNM business which I enjoy discussing. They have a pollster who works with them, Sir Robert Woester, Bob, he is a professor as well, and he is always giving the PNM information on where they are tracking their progress across ministries.

The Member for Diego Martin Central has no respect for him of course, but he is giving every ministry where they are, and where they are going. He does constant polling and I daresay that if their pollster from MORI would do a poll asking citizens if they have confidence in the Police Service of Trinidad and Tobago, I believe what would come out will certainly be fewer than 25 per cent.

You cannot fight crime in a modern society without confidence in the police because people need to assist them and they should have confidence that the police are kind, responsible, respectful, and would treat people with dignity. I do not want to dwell too much on this Inshan Ishmael business, but he reported when the police approached him he asked them to see some identification. Do you know that simple point at the first post, the police did not show him any ID card or identification? If you have a police service that cannot show people their identification, what will they do? Do you think that would instill confidence in the police service? They do not have to be friendly, jolly and laughing, but they have to give a sense of respect, and treat citizens with dignity so they in turn would have confidence in you and if I go to the police station and make a complaint you will not laugh.

We as Members of Parliament meet people every week from our constituents and we know the stories, so telling us stories here is really meaningless. People go to the police station and a woman reports that her husband abused her, when she leaves the police station, her husband is having a Mackeson, drinking a stout with the police officer. Do you think she is going back to report that she is being abused? This is the service. That is the crisis we face and the Member for Diego Martin West acknowledged that in his own way.
There is another crisis; recently in this country—and I get this information because of other work and network. Recently, a team from the Holland-based international agency that deals with preventing chemical warfare came to this country to assist it in preparing for the Cricket World Cup in the event that there is somebody throwing chemicals and creating problems, or there is some threat by terrorists or criminal elements to chemical or biological warfare.

Mr. Speaker, the group that came here from Holland indicated that while the fire services and the people were extremely friendly, helpful and well-intentioned, they were shocked that in a country with so many resources, the fire services did not have the basic equipment and resources. They could not understand that the country has so much wealth, but its fire services lack basic equipment. It was so laughable, that when they were leaving—they came with some gown equipment and a lot of heavy equipment for protection against chemical agents—they said we will give you these two as a gift, we do not need to take them back, you keep them, and use them. That is the state of preparedness with the Trinidad and Tobago Fire Services.

All of us know of the police and its problems, so to come here today and cast aspersions on the UNC encouraging criminal action and encouraging this and that, to use a term that was permitted by the Member for Diego Martin West; it is just asinine. That is the state of their contribution today.

Mr. Speaker, the Member for Diego Martin West raised another issue for which I am happy because when he is speaking I notice the Members on the other side will appreciate that he is speaking with a multi-disciplinary background, not only law. Let me say, one perspective I bring to this debate is that I am trained not only in the social sciences, but also with a bit of law, so while I appreciate the contribution of the Member for Pointe-a-Pierre, and I really do, when I get to some of the clauses in the Bill I will bring that part of my training to bear.

I want to tell the Member for Laventille East/Morvant that one does not need four university degrees to respond to him; in fact, you do not even need Common Entrance to respond to his statement.

The Member for Diego Martin West raised the issue of the difference between developed and developing countries in terms of how they develop and he made an interesting point which I took note of; the codification of law is critical and the adherence to the rule of law. That is important in the context of developing countries reaching that element. To say that you are developed, you are correct, Member.
When you scan the developed countries there is the adherence to the rule of law, and there is the codification of law that is clear, transparent, well thought out, and implemented as the Member for Diego Martin West would say. Do you know another hallmark of development is the ability to run efficient systems, not just productivity in the sense of profit, but efficiency? Efficiency would add to your adherence to the rule of law and the point you are making with codification of law and there is a glaring point I want to make just to give an example, and I am on the point of efficiency and development.

This country recently closed for all intents and purposes British West Indian Airways (BWIA) and embarked upon another airline called Caribbean Airlines, a new entity where it parted company with employees and it hired and so forth. Do you know what is happening today with this matter of efficiency? When I returned from London to Port of Spain I boarded a flight called Caribbean Airlines that was formerly BWIA, the aircraft I went in is from the Czech Republic Airline, the flight crew and pilots are Czechs or Eastern European. So Caribbean Airlines is leasing the physical plane for Czech Airlines and its crew to come to Port of Spain.

I am really interested to know what is the arrangement, how much money are we paying to Czech Airlines to a Czech pilot, a flight crew from Eastern Europe when we—

Mr. Valley: How you reach there? You are dancing all over the place.

Dr. R. Moonilal: Why do you not leave me alone? Mr. Speaker, how much did Caribbean Airlines pay the Czech Airlines? When you come on the plane the movie is in French with English subtitles, the people cannot speak English, when we landed at Port of Spain I welcomed them because it was the first time they were coming to Trinidad, they could not welcome me and they are making money from that arrangement.

So we fire our pilots, we fire our flight crew, we do not have BWIA’s warm service, but we have the Czech Airline coming from Heathrow to Port of Spain, that cannot be considered to be in the best interest of Trinidad and Tobago. [Interruption] There was another crisis and I am happy the Member for Caroni Central raised it.

During the serving of a snack the only meat available was pork, so if there were Muslim passengers on board, then they would have had to settle for bread and butter. That is where we have reached in terms of the inefficiency to plan ahead. When we were moving from BWIA to Caribbean Airlines, did we foresee
and understand that we had to take a plane from Eastern Europe to use from Heathrow to Port of Spain? Surely you could not have been planning that, and I say that in the context of the point raised by the Member for San Fernando West to indicate to her that development means efficiency in the distribution of services. It also means the adherence to the rule of law. It is very clear.

There is another issue I want to raise that both the Member for Diego Martin West and the Member for San Fernando West were talking about and there is this belief that as Members of Parliament we pass good law and these are the laws we need, but the Member for Diego Martin West reminded us in case his colleagues forgot that it is not only about passing laws, it is about implementing them. There is this belief that if we pass law and put it in the hands of magistrates and judges all is well, they will deal with it, they will implement the good law, but the magistrates and the Judiciary are not that sacrosanct.

Today we are witnessing nothing less than the CEPEPization of the Judiciary, it is becoming like CEPEP where friend and family and others can reach. [Interruption] I repeat it if you want to hear, the CEPEPization of the Judiciary and that is because friends and family are now reaching in the Judiciary just as they would get CEPEP contracts and those magistrates and judges will have the task of implementing this Bill to determine whether a statement should be entered.

I want to tell you if I go to court and I go to a magistrate who attends PNM Conventions and celebrates the PNM’s anniversary I would have a concern as to whether or not she will treat me fairly. I would have a real concern and that is part of the principle of citizenship. The Member for Pointe-a-Pierre alluded to that; can I trust a magistrate who attends a PNM convention and waves a balisier flag? Can I go as a well-known and proud UNC member before her and feel that she will be impartial? That, to me, is a serious issue; it cannot be a joke, apart from the appointment of other persons who are brothers and sisters of standing Ministers of Government. That is their approach. So we must fear when these matters are brought before us, we must be concerned also with the persons who inhabit the Judiciary. That is a concern and they would have been concerned had it been another way. [Crosstalk] Mr. Speaker, you see, they do not like when I deal with the issues they raise. They get jittery and it is not a problem for me because I can keep my focus.

Mr. Speaker, the Member for Diego Martin West made a point; desperate times need desperate measures. Very good, but desperate times also need desperate steps in terms of responsibility. You know one thing this Government does not agree with is that it is responsible. I want to tell you something, I do not
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[DR. MOONILAL]

blame George Bush or Ban Ki-moon, the new Secretary General of the United Nations for the crime in Trinidad and Tobago. There is a Government in place responsible and its job is to protect the citizens of Trinidad and Tobago.

Mrs. Job-Davis: Why did you not do it when you were in office?

Dr. R. Moonilal: When we were in office, the murder rate was 92 in 1999 and it was too many for us. It has increased 400 per cent since they came into office and now they want to ask why we did not do it when we were there. When we were there, how many persons got kidnapped and asked for big ransom? You did not even know there was an anti-kidnapping squad when we were there.

Mr. Speaker, I took note—I will get them more mad—there is a new head of the Anti-Kidnapping Squad, Wayne Boyd. All I say is that in 1994, a corporal by the name of Wayne Boyd charged the Opposition Leader for rape.

8.30 p.m.

The matter was thrown out by Magistrate Mohip who said that it was an abuse of the court system to bring those charges against the former Opposition Leader and Prime Minister. The police who made the charge is now promoted to the head of the Anti-Kidnapping Squad and that fellow might become police commissioner.

[Crosstalk]

Mr. Speaker: Please, I have appealed to Members on three occasions before; it is getting late; the Member is just about finishing his first 45 minutes, let us hear him. [Crosstalk]

Dr. R. Moonilal: Mr. Speaker, I want to leave that matter because I have so much to say about their governance, but I want to get to the Bill and specific provisions. So I now switch the hat and I deal with some of the matters here.

The introductory point about this is that legislation works in a particular context. In a political, social, legal context legislation will work. Legislation cannot work in a context of disorder, chaos, anarchy, lawlessness in that sense. You have to look at the context within which you are putting this to decide whether it will work. That is the first point.

The Member for Pointe-a-Pierre, as I said before, dealt with several matters so I will skip some issues. Incidentally, I just want to repeat that the Mutual Assistance in Criminal Matters Act in 1997 was a UNC government initiative as well. I want to raise a couple questions. I want to raise one serious question first. Without the passage of this legislation if you go to the court, you present your evidence—a sworn statement—and you are caught lying—you are not telling the truth and it is
a sworn statement—the laws of perjury apply. You perjure yourself. You are then liable to another criminal offence. You know, what is amazing, the Member for Diego Martin West, in his contribution in the absence of the Prime Minister, noted that perjury and lying, witnesses who lie and change their story is a serious matter. Yet, because the Member for Diego Martin West did not reflect too much on the Bill; did not look at the Bill and ask himself, if someone gives an unsworn statement and is found to be lying, are they liable of a criminal offence? But the Member for Diego Martin West was concerned with perjury. Now when you go and give a statement that is sworn under oath and you are caught lying and you told the court: “Ah lie, ah lie”, you are guilty of criminal offences.

**Dr. Rowley:** What about the Privileges Committee.

**Dr. R. Moonilal:** You deal with your own business; I am not here to deal with your business.

When you take an oath and you give your statement, you are under perjury law. Under this law I am asking, if someone gives an unsworn written statement and later says, “Well, you know, I did not tell the truth”, what law obtains? It cannot be perjury because it was not a sworn statement. This matter is dealt with under the Jamaican legislation, where in Jamaica they create an offence under the Evidence (Amdt.) Act, 1995—

**Mr. Speaker:** Hon. Members, the speaking time of the hon. Member has expired.

*Motion made,* That the hon. Member’s speaking time be extended by 30 minutes. [*Dr. H. Rafeeq]*

*Question put and agreed to.*

**Dr. R. Moonilal:** Thank you, Mr. Speaker, and thank you to colleagues on both sides of the House—

**Mr. Imbert:** Nobody on this side vote for you.

**Dr. R. Moonilal:**—for the kind support on this important day. [*Crosstalk*] I told the House in your absence that you are an innocent man. I said that in your absence. The record will reflect.

**Dr. Rowley:** You call my name?

**Dr. R. Moonilal:** I said you are an innocent man.

**Dr. Rowley:** You call my name?
Dr. R. Moonilal: Y-e-s; y-e-s.

Mr. Speaker: Member, address me, please.

Dr. R. Moonilal: No, I like dealing with him, you know. [Crosstalk]

Mr. Speaker, the Jamaican legislation—[Crosstalk] You want me to deal with you one time? The Jamaican legislation, I quote 31K:

“If any person in a written statement tendered in evidence in criminal proceedings by virtue of section 31C wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be liable on conviction on indictment to a fine or to imprisonment to a term not exceeding seven years or to both such fine and imprisonment.”

An offence created to deal with this type of legislation. Now you cannot introduce this legislation and not have an offence if someone wilfully changes his story or says that he was not telling the truth, and so on. So I want to ask the Government to consider this. You may want to consider and discuss and see whether this is useful, otherwise persons can give a statement.

One good way of dealing with law is to walk through legislation. If a person gives a statement: I have seen person X kill someone. I send it in; it is unsworn; written; that person then threatens me, sends his agent to threaten my life or my family and I decided, “You see that, that is too much.” I send another statement and I said the first statement I sent was a lie; I was not telling the truth; I never saw that—if I do that, do you know what happens?—and counsel guided me earlier. Both statements are admitted, but the second statement outweighs the first. So the net effect is that there is no statement in the first place because there is no offence.

I want to deal with their hypocrisy. I find it so profoundly disturbing. By putting this law in place do you know what they are saying? They are saying that people will write a statement and because they write a statement, we can prosecute. Suppose somebody writes a statement and then goes and writes the second statement? The other point is this. If someone has written a statement or intends to write a statement and the very criminal gets wind that the person has been talking to the police; that it is likely that they would take a written statement from that person—they would kill the person before giving the written statement. So what you are saying is that you can kill before the written statement, but if you kill after, the statement will hold, but you are dead.
Now, clearly, you have to protect the person. It comes back to that issue—the Member for Pointe-a-Pierre made that point—of protecting the witness. You cannot run and you cannot hide from the central issue of protecting the witness. So whether they give a written statement in week one or week five, they can still die, and under this Government we have seen that.

In July 2006, I think it was, key witnesses in state custody went missing and five most-wanted men walked free. The key witness in state custody went missing. That is the extent of their efficiency with witness protection programmes, and so on. You know what is another walk-through example? Two persons are involved in a murder—both are involved in a murder. Person A decides that: “I will squeal; I will become state witness and go into police protection.” Person A says person B did it. “I participated, but B did it.” Person A gets an immunity from prosecution, goes into witness protection, then leaves—because the person can leave—person A, gone, disappear—that person was also a killer. Person B cannot be convicted because you depend on the evidence from person A.

So in the witness protection programme, surely we need to look at strengthening it and making some type of radical change to that programme as well. Today nobody feels safe. “Not me.” The Member for Diego Martin East said that. People are scared even to go to the police because there is no confidence in the police. That is the central problem. It is not written statement and unwritten statement; no confidence in the police.


“High Court judge blamed poor police investigation for a jury’s failure to arrive at a unanimous verdict in a wounding case.

The judge said, however, ‘he (police officer) took the report and did absolutely nothing…”

There is also an assertion here that police officers are not writing, are not making notes in their pocket diaries and station diaries. Now they are not writing; they are not making notes. So policing as we know it—the Member for San Fernando West confirmed—has almost collapsed on us. That is not a task for the Judiciary to deal with. The judges and magistrates cannot deal with that. That is a task, really, for Government, working in collaboration with Parliament, Opposition and whoever. But you see, they are not new; they are not in government as virgins—
perish the thought. They have been there six years and today to come and tell us that all fall apart and the criminals in charge and they win the war on crime, why do you not just send in your resignation and finish? Full stop. That is what they have to do; take responsibility!

Imagine in year six, Ministers of Government stood in the House and said that there is chaos; criminals reign; the police cannot function. The Member for Diego Martin West said the law is not being implemented and the State must take part of the blame. In year six, after barrels of blood have been spilled, that is what they come with to tell the population and then they believe that the UNC or anybody else, the Back Bench and so on, nobody can beat them in election; they cannot lose; they will be there forever.

I want to tell them something. When you lose touch with reality, reality bites you. You may have the Treasury but you do not have reality. The Treasury is not a substitute for reality and the majority of people in Trinidad and Tobago have no confidence in the PNM Government, that much we are sure. They have no confidence.

The issue of crime, their failure to deal with crime and protect citizens, has led to this nightmare. For many people in this country, the nightmare is the thought that the PNM could be returned to office. Our nightmare is their objective. There are people who tell us if the PNM is returned to office they are prepared to migrate because they have no confidence that the PNM will deal with crime. We have other problems, and so on, facing the country, admittedly, but crime is the issue. But they stand and say: “The UNC do it; the UNC encourage crime. Crime is everywhere.” Well, I really do not care if crime is everywhere; I am concerned that crime is here. That is the point.

In the legislation before us I wanted to raise another matter, apart from the offences matter. At clause 15C(1) I took note of a point here that may need clarification although I also had clarification on the matter, where it reads that:

“Subject to subsection (2), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved to the satisfaction of the court that such person—

(a) is deceased;

(b) is unfit, by reason of his bodily or mental condition, to attend as a witness;”
I just want to make a clarification there. Clearly, it should mean that the person developed a mental condition, because the person could not have had an unknown mental condition and then make the written statement. But it is not written here. Did the person have the mental condition before and then made the statement, or did that mental condition arise after, and bodily as well?

At subclause (e) it is very interesting. That person:

“(e) is kept away from the proceedings by threats of bodily harm and no reasonable steps can be taken to protect the person.”

This is astonishing that a government can admit in legislation that they can take no reasonable steps to protect someone to get them to a courthouse, because there is some bigger—you know, this is almost sounding like bombers who are threatening to blow up the Empire State Building, or something, that the Government of Trinidad and Tobago, in charge of the protective services, can take no reasonable steps to protect a person coming to testify. This is an astonishing issue; that you cannot protect. With all they talk about, it is still preferable for persons to go to court and give their evidence, for an accused to confront the person making the statement, for a cross-examination, and so on. That is still what is desirable. What we are dealing with is what may be necessary but not desirable, and for the Government to admit that they cannot protect a person—no reasonable steps—is a serious and astonishing confession.

Another point I want to raise is that you can have in a trial or an enquiry a situation like they do now on the email and on the Internet, where one fake writer is writing in response to another fake writer. You can have statements manufactured and tendered into evidence from one side, to be matched by an equally manufactured statement from the other side. And you have two statements manufactured that come before a court, given this type of legislation. So one fake statement would match another fake statement, if this is allowed.

I want to say hypothetically—I like using the concrete example to make a point so that maybe I can understand better by real life. Hypothetically, suppose a Minister of Government is charged for removing materials illegally—hypothetically; it refers to no one—and that Minister of Government is charged for criminal conduct, taking materials away from wherever it might be, and a political directorate with influence among the police service decides that this Minister—hypothetically; he does not exist—“we do not want him”, or “we want to get him in trouble; we need him out of the way,” and you have a statement coming from somebody and that written statement to be tendered; that they saw
it; and in fact you may not have one because this legislation does not talk about one, you know, it could be any amount; they will then go to the court to determine whether or not that statement could be upheld; whether the court would permit it or not. But what is interesting is that the accused, in this case a Minister of Government, hypothetically, would then have to challenge the credibility of the person making the first statement—the written statement—about his criminal conduct, and in bringing the evidence to challenge the credibility, you know they also bring written, unsworn statements. So you need to determine credibility of a written unsworn statement dealing with the criminal conduct.

So it leaves a lot of room for a society where people do not have faith in the police service. Do not forget the society we are talking about is not Tokyo or Mexico; we are talking about Trinidad and Tobago where people do not have faith in the police service. They are in charge of writing statements, submitting them to prosecute and possibly victimize and hound down a Minister of Government. That is the net result.

What I am saying is that you need to tackle the problems with the police service, because if the police service is not dealt with, do you know what will happen? You will just see statements written all about the place, east, west, north and south and the effect of this will undermine the intention of the legislation. That is the point I am making and they understand.

Mr. Bereaux: Hon. Member, I hear you, but it appears to me as though you are forgetting that all we are talking here about is evidence and that a whole trial has to go on and when you are talking about evidence, credibility and everything else has to be dealt with. So you are speaking in one direction but remember the process will still go through, of the trial itself.

Dr. R. Moonilal: Given the process, my earlier discussion on matters pertaining to the appointment of members of the Judiciary, is also relevant, because they are also in charge of the process. For example, our famous clause 15E places a responsibility on the judicial officer to exclude evidence if in the opinion of the court it is prejudicial. Now, clearly, you will determine rules and so on, but the discretion is still placed in that human being to include or exclude. That is what we are concerned about. So there is a link between what the Government is proposing: 15E and other processes taking place in the society with the appointment of members to the Judiciary. The Member for San Fernando West made the statement that the Judiciary is critical to implementing the rule of law, upholding law and providing
justice and so on, but if there is no confidence in that appointment, it undermines the legislation. If there is no confidence in the police service, the legislation is progressively undermined. That, to me, must be a very simple point. It is a point that the Government may not want to admit, but it is a point that I believe is very serious.

There are some other matters dealing with the Bill before us, including the potential to manufacture documentary evidence, credibility, and so on, but these matters have been dealt with before by other speakers on this side of the House and it would not be necessary to get into that detail, but just to make the point that this legislation is based on the premise of an efficient, principled police service with professional people with integrity, with respect for rule of law and human rights, treating citizens with respect and dignity. This is what this is based on.

In the United Kingdom, incidentally, an earlier speaker spoke to that matter, where they have introduced this anti-terror legislation which allows the police, under certain circumstances and in certain areas with the permission of the Home Secretary, to detain persons without reasonable cause. They are now training their police officers in how to speak to people; how to be sensitive to cultural differences; how to be sensitive to multi-ethnic religious groups, because you know, in the world today, it is easy to be stereotypical, to stereotype particular religions and particular groups as being terrorist, and police must be trained to deal with those sensitivities.

In this society to what extent do police officers have training in dealing with a multi-cultural, multi-racial environment? In Britain they have actually a unit in the police service called “The Race Training Unit”—very interesting—to train police officers to deal with ethnic diversity; cultural and religious diversity. In this country with such a plurality of people, we have never considered that type of training. That is why, when they were arresting the Member for Chaguanas and the Member for Caroni Central, there was a distinguished intellectual here, Dr. Kirk Meighoo; when they were grabbing him to throw him in the van, he kept asking: “What am I being charged for? Why are you holding me?” The police looked at him, unable to understand his language and the police said: “Look, doh spit in meh face, eh.” That was their response. They did not have the response of treating the citizen with respect, with dignity, with a certain amount of courtesy which is required in the context of a developed country.

I know my friends on the other side would be very disturbed by some of my statements, and so on, but you see, I read the reality and speak to these issues as I see it. I am seeing about matters, responding to the other side as I see it. I want to
admit, it is not a comfortable truth and anybody in Government would be in a state of discomfort to hear this, but they came to the House today and they confessed—not me—that the police service has collapsed. One blatant example I would bring to the table: Do you know in the country now—the Member for Diego Martin Central may know—the Internal Affairs Division of the Trinidad and Tobago Police Service conducted an investigation and recommended that a corporal and two constables in a particular station be charged for robbery? Do you know those police officers report for duty every day to the police station? Then we talk about written statements will help. Write down everything before somebody is killed so we could convict and they can testify. If you pass 10 pieces of legislation like this you will not deal with the crime in this country.

Prof. Selwyn Ryan on Sunday last—the Member for Diego Martin East/Morvant—

Mr. Imbert: Diego Martin East/Morvant?

Dr. R. Moonilal: Well, the Member for Diego Martin East is always causing confusion in the other place. The Member for Laventille East/Morvant—

Mr. Valley: This is so painful.

Dr. R. Moonilal: The pain will end at election time, I assure them. But I want to get back to the point that the police service has to implement law and if the police service is not equipped and prepared, 10 pieces of legislation like this simply will not work.

Another point raised by the colleagues on the other side—and this is a real point they raised; I did not fabricate this—the role of the Attorney General. That was a point raised by several speakers. There is a difference between the British arrangement vis-a-vis the Attorney General and the Trinidad and Tobago arrangement. In Trinidad and Tobago, clearly, the Trinidad and Tobago Attorney General is the politician appointed by the Prime Minister. That Attorney General is also the guardian of the public interest and the legal advisor to the Government. But he is a politician. So when Members talk about the Attorney General, the Attorney General is a politician, and unless you change the Constitution it will always be like that.

One of the greatest, most enlightened decisions that this Prime Minister has taken in his career is not to appoint the Member for Laventille East/Morvant to the Cabinet. It is a mark of brilliance. He wanted to be Attorney General as well, you know, but he will not reach there.
That matter of the AG bothers us, because the Attorney General is a politician in our system, whether we like it or not, so anything that touches where the Attorney General has to play a role in a prosecution, we are concerned with that.

Then we hear about the Director of Public Prosecutions. Surely, the DPP is under the Constitution an independent office. You must ask yourself a question, you know: How did the DPP get a note in 2002 about allegations of corruption at NEDCO and to this day, 2007, the DPP admits that nobody has brought any report to him, including the Auditor General? So when you hear DPP, you need to also take that with a pinch of salt.

The Member for San Fernando West raised the matter of important policy and philosophy must be the underpinning of law; that you must discuss the philosophy and the policy when you deal with law.

9.00 p.m.

This is a point that your colleague from Laventille East/Morvant cannot conceptualize. So clearly, he was speaking to us. It is true. As we pass legislation like this as they said, to extend the arm of the law you are also admitting that the criminal justice system and the system to prosecute must go the extra mile to catch up with the criminals because they have won.

Do you know what is interesting? In the United Kingdom the police commissioner says—do not misinterpret—there are gangs out there. The Minister of National Security told this country that there were 66 gangs and they know the leaders. I thought it was 69; that must be my paranoia with 69. Do you know what the Commissioner of London City Police said? He said, “I want to tell you that the most powerful gang here is the police.” We have the resources; the know-how; the technology; the manpower and the money and no gang is more powerful than the police. If you adopt that feeling or belief that the police must win you would liberate the police from political involvement; the bias of the Government and give them the resources. The Member for Diego Martin West had the brilliant idea. It took him six years to discover that we may need more police on the beat. Bolt of lightning. You put more police on the beat.

I want to tell them that their days are numbered. Right now, it makes no sense that you tamper with the number of the police. This year will usher in a new government in this country that is not soft on crime; did not meet with community leaders; did not christen criminals to become community leaders; did not take criminal elements and put them into government make-work programmes and so
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[DR. MOONILAL]

take state money and transfer to the criminal element. Prof. Selwyn Ryan whom the Member for Laventille East/Morvant likes to involve in letter writing says paradise is lost. It is a belief that is widely held that PNM is soft on crime and they have been in bed with the criminal element. The day is coming when the country will have a referendum on crime and the management of the PNM and salvation would come with the removal of the People’s National Movement from government.

Mr. Speaker, I thank you and all my colleagues for listening attentively.

The Minister of State in the Office of the Prime Minister (Hon. Stanford Callender): Mr. Speaker, I rise to make a brief contribution to the Evidence (Amnd.) Bill. I want to state from the outset like my colleagues for Diego Martin West and San Fernando West, that I am not a lawyer but there are some social implications that this Bill is seeking to address as it relates to crime and criminal activity in this country.

Of the lawyers who spoke before me I congratulate the Member for Laventille East/Morvant for a brilliant presentation in tabling this Bill and the Member for Pointe-a-Pierre, as she usually does, for making serious recommendations and technical examination of the legislation. I am afraid that I cannot say the same of the political hypocrisy that comes from the Front Benches.

Hon. Members: Wow! [Desk thumping]

Hon. S. Callender: Mr. Speaker, the challenge we have in this Parliament as legislators—I think that the point was made by the Member for Pointe-a-Pierre—is to find the balance in the legislation between safeguarding the public civil liberties and rights, while at the same time attempting to block the loopholes that exist in the legislation to ensure that the criminals pay for their actions. As the Member for Diego Martin West said and I have always said that crime flourishes where the criminals feel that there are loopholes where they can escape, if you bad you must pay for your action.

In that context I want to make a brief contribution as it relates to the situation in Tobago. I think that crime in Tobago is understated given that Tobago's economy is based on tourism. Any semblance of crime and criminal activity interferes with the livelihood of the majority of people in Tobago. Against that background I support this piece of legislation.

Before I go there I want to make some brief comments on some of the issues raised by the Member for Oropouche. Let me begin with this one. He made mention
of the Legal Assistance Programme in foreign countries. My understanding is that it was set up by a UNC attorney general and placed under the attorney general in the UNC government.

Dr. Rowley: They brought it.

Hon. S. Callender: I listened to the Member for Oropouche who attempted to, as they usually do, talk about Members of the PNM, their friends and family being brought into the Judiciary. One has to wonder where was the Member for Oropouche and his leader who attempted to question that when Amrika Tiwary—

Mr. Speaker: Do not go there.

Hon. S. Callender: Thank you, Mr. Speaker. I am sorry. I withdraw.

It is the comments that lend themselves to hypocrisy of the highest order. The Member for Princes Town made a point and it leaves me to wonder. He said that innocent people could be found guilty if this legislation is passed. I ask the question: What about those guilty persons who can be found innocent? That is the balance we need to strike. I agree with the Member for Pointe-a-Pierre that we have to be more aggressive in dealing with crime and criminal activity in Trinidad and Tobago. In Tobago as I indicated earlier, those who attack our visitors and us understand the movement of the visitors. Most times within the last 48 hours of the visitors’ stay on the island, they would attack knowing fully well and may be supported by those who defend them that by the time the matter is called, the visitors would have left. Depending on the nature of the crime most of them would be reluctant to return. Over the past few months it has cost the Assembly tens of thousands of dollars to bring them back. Some people do not want to return to relive the trauma. We see this piece of legislation as important in the interest of Tobago’s economy because we depend on tourism. That is why I support this Bill.

Mention was made by the Member for Princes Town about this Bill taking away the rights of the people. I am not a lawyer but I cannot find where the rights are taken away. The legislation seeks to give rights to the victim. There are some contradictions in that respect. That is why one of my favourite television shows is Law and Justice where the arms of enforcement agencies as the police and the judiciary work in tandem. This piece of legislation is one aspect of several measures that the administration is putting in place to confront the problems facing this country. Criminals are committing crimes to the extent where they feel that there is no risk. I maintain that they must pay the price for that.

One of the measures that have been adopted in Tobago while we support the legislation is to do a series of community outreach programmes where we talk to the citizens about the importance of anti-crime. Our economy in Tobago is
sensitive. Within recent times the port of Trinidad and Tobago introduced some measures and added personnel, security and introduced scanners to scan passengers. It is hoped that within a short time they would introduce scanners to scan vehicles. Within recent times the police in Tobago have been doing a fantastic job under the present Assistant Commissioner of Police through roadblocks and searches. While as citizens some of us may be inconvenienced by some of the actions of the police, it is necessary. A roadblock is a classical example. You might be an innocent citizen going down the street and you could be subject to a roadblock. My advice is that you comply. These are some of the changes we need to introduce in this country. Tobago is not immune. The impact of crime and criminal activity is very much understated.

I also feel that the time is right as we seek to pass this legislation—I am not a lawyer—to set up a criminal duty attorneys programme which will replace the role of the Justices of the Peace who now take statements. It would work in concert with the Legal Aid Department to ensure that the evidence or statements given by witnesses are authentic. Most JPs are not trained so they cannot give legal advice.

Someone mentioned the need to go high tech and do conference evidencing. The time has come for the police stations to be equipped with cameras and tape recorders to ensure that we get it right. Based on our culture when I looked at section 15(C) (1) (b) which speaks of a person being unfit by reason of his bodily or mental condition to attend court as a witness, I smiled because we have a culture of some people finding an obeah man to silence the witness by locking the jaw of the witness. [Laughter] It is important. We have had those experiences culturally or otherwise. [Crosstalk] I give my support to this Bill. It is an important move by this administration. I must compliment the Attorney General for bringing this piece of legislation.

**Miss Lucky:** I thank the Member for Tobago West. I know that I have had my time but I commend the suggestion you have made with respect to having persons who are competent taking the statements that would be used. If something goes wrong there you would have problems and challenge. Would you consider a suggestion to roll the ball further bearing in mind that some police officers who are pursuing the law programme that instead of having these officers in limbo as they are pursuing studies, some system be put in place by your Government whereby these officers who are beginning to get legal training—they go through three years and then two years—remain attached to the police service
but they be given these roles so when they go on to qualify as attorneys at law, we
do not lose them to private practice or the state department, but they become part
of the cadre of lawyers within the police service who can give that level of
assistance? The point you made is an excellent point.

**Hon. S. Callendar:** I said that I am not a lawyer but I think that it is an
excellent idea. Any measure we can adopt to ensure that we get this right, we
should. I am certain that your idea would be given serious consideration.

**Miss Lucky:** We can start in Tobago.

**Hon. S. Callender:** Tobago is almost an ideal place to try any experiment.
Recently there was the establishment of the Third Court. While it was not labelled
a tourist court it has so far had its impact in delivering swift justice. They meet on
weekends to bring people to justice. We have had some magistrates who have
been delivering some harsh penalties to criminals and setting examples. These
are some of the things that we need to do. I always say that given the size of
Tobago it is the ideal place for any experiment one wishes to try whether in law;
administration of justice or delivery of service, because we are compact.
Historically, we are about the same type or kind of people.

**Miss Lucky:** Maybe we should go and try the smelter.  [Laughter]

**Hon. S. Callender:** The philosophy of Tobago is to maintain it clean, green,
safe and serene, to maintain the capital of paradise. I have no problem with this
legislation. I hope that Members opposite, mostly the Front Bench will see the
wisdom of supporting this piece of legislation and not play politics with crime.
Let us give the criminals the treatment that they deserve. One murder; one rape;
one kidnapping and one case of incest is one too much. Whatever we can do as
legislators to lay the framework for better governance of this country is our major
objective. Coming from Tobago and sitting at times in Parliament could be very
painful when you listen to the Member for Oropouche. I know it is the silly
season and therefore, I expect to hear silly things.

I commend this piece of legislation—my colleague from Tobago East and I
support this measure wholeheartedly because we know that it would have an
impact on what is taking place with criminal activity in Tobago.

Thank you.

**Mr. Speaker:** Hon. Members, the sitting of the House is suspended for dinner
and we would resume promptly at 9.50 p.m.

9.20 p.m.: Sitting suspended.

9.50 p.m.: Sitting resumed.
Mr. Ganga Singh (Caroni East): Mr. Speaker, I rise to make my contribution on the Evidence (Amdt.) Bill. I do so in the context and confluence of certain events. The spirit of Carnival is in the air and no doubt is reflected in the attendance of Members in this honourable House. It is Valentine’s Day, so it is a time of romance and that is also reflected tonight in the attendance of Members of the House and it is the eve of Shivratri in which members of the Hindu community are imbued with a religious spirituality as they celebrate Lord Shiva.

We do so in the context and knowledge that the dogmas of the past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise to the occasion. As our case is new so we must think anew and act anew. On the last three occasions in order to deal with the pall of gloom and rampage in crime in our country, the Congress of the People has responded to the public interest by supporting the amendment to the Bail Bill with the necessary 90 day preconditions which the Government agreed to in the support of certain legislation. We supported the DNA legislation and we have indicated that we want all current and new recruits in the security forces to be tested for DNA. Tonight we are supporting the Evidence (Amdt.) Bill. It is because of our romance with preserving the democracy of our country that we support these pieces of legislation. I congratulate my colleague, the hon. Member for Pointe-a-Pierre, for her contribution this evening and the enlightened response by the hon. Member for Laventille East/Morvant in taking and embracing the amendments which she proposed. It augurs well.

The Explanatory Note of the Bill states:

“The purpose of the Bill is … to allow the State to admit into evidence hearsay evidence in documentary form in any criminal proceedings, including a preliminary enquiry…(in) certain circumstances.”

Our jurisprudence—I have no doubt that all Members of this honourable House will agree with me that based on English jurisprudence and it provides that the rule against hearsay evidence rests on the assumption that many possible sources of inaccuracy and untrustworthiness which may be underneath the bare untested assertion of a witness can best be brought to light and exposed, if they exist by the test of cross-examination. However, two countervailing considerations may trump the desirability of cross-examination in particular circumstances.

Firstly, there is necessity. Hearsay may be received if it provides the only available information on a particular point and its admission even as hearsay would be preferable to foregoing the information altogether.
Secondly, its reliability. That is where a statement has been made under such circumstances that even a skeptical caution will look upon it as trustworthy. It is clear that the rationale animating the Evidence (Amdt.) Bill, 2006, is necessity. If the eyewitness cannot or will not testify in court, then the legal process has a straight choice between admitting the witness’ hearsay statement or doing without the evidence altogether. It would often create injustice if probative evidence were lost to criminal proceedings whenever the declarant, unfortunately, happens to die; or become incapacitated; leave Trinidad and Tobago or disappear before the trial.

The argument of necessity is reinforced by considerations of justice where the accused is responsible for the witness’ absence through homicide, physical assault or intimidation. We know from our reality in Trinidad and Tobago that is prevalent and demonstrates the necessity for this piece of legislation. It is clear that considerations of necessity do not reduce or eliminate the dangers traditionally associated with hearsay evidence. Therefore, an appropriate balance must be struck among necessity; the probative reliability; fairness to the parties and the moral integrity of the proceedings. When we look at this fulsome foursome criteria, we can look at the provisions of the Bill.

When we look at clause 2 which Members have read already, I pose some questions to the hon. Minister. It says:

“15B. In any criminal proceedings, evidence of criminal conduct which may be contained in a document may be admissible in evidence if the document—

(a) is the best or only evidence of that conduct which is alleged by the prosecution; and

(b) is obtained by or under the hand of the Attorney General in any matter related to mutual legal cooperation pursuant to the Mutual Assistance in Criminal Matters, Act, 1997.”

I want to find out from the hon. Minister in his reply: Is there an indication of the source of the document, the process by which this document procured? Will there be an obligation on the prosecution to establish the authenticity of the document, for example, computer records? Will the information contained in the document come from a primary or secondary source? Will there be an obligation on those seeking to use the document to first ascertain the creator of the document, and what if the creator of the document is not easily ascertainable?
For example, business records generated in a foreign bank, in a foreign territory. One may not be able to pinpoint who created this document, what rules will apply, the common law rules. This is a statutory exception and the Act says nothing. It, of course, gives a residual discretion in the hands of the judge at the end of the day.

Mr. Speaker, that is with respect to subsection (a). Subsection (b) where the document is obtained under the hand of the Attorney General, and I know that you will be familiar with the phrase, and I am certain my honourable colleague from La Brea will be familiar with the phrase, Omnia praesumptar rite et solemnitar esse acta (All things are presumed to have been done correctly and solemnly).

In the context where the document is obtained under the hand of the Attorney General, in the absence of any evidence to the contrary, that presumption holds good. Therefore, under the Mutual Assistance Treaty, the Attorney General and Central Authority is the designated Authority and it operates out of the office of the Attorney General. In fact, it constrains the document to some extent. It circumscribes the document. It can only be obtained under the hand of the Attorney General. Mr. Speaker, that presumption that it is being obtained “solemnly and correctly” is applicable in that sense. I have no doubt in the absence of evidence to the contrary that is the way matters will proceed.

Mr. Speaker, recently a former holder of the office of Attorney General made a very interesting statement. He said, and I quote from the Newsday of Tuesday, January 30, 2007. It is at page 17, by Azad Ali:

Ramesh vows to take crime down in 30 days.

He possesses the intelligence, gathering capabilities as well as the technological knowhow, to apprehend kidnappers.

Maharaj said there was a particular matter involving an individual who had to be extradited to the United States. The person evaded the police. I was given the technology which the US Government provided to me and the rest is history.

Maharaj, said if he was in Government he would have continued to source certain pieces of high-tech equipment from the US that are used for intelligence gathering.

Maharaj said that he is the only politician in the country who possesses the knowledge and experience about the various means of gathering such information.
Mr. Speaker, this is what the former Attorney General is saying in the context of being a former Attorney General, and indicating to this country that he had a monopoly on certain intelligence gathering equipment with respect to extradition of a certain individual.

The question arising is: Was this Attorney General doubling as a police officer when he was Attorney General?

My recollection is, and I will try to put the record straight, that the only person who was wanted for extradition and who eluded capture was Mr. Zimmern Beharry. He was wanted for drug trafficking in the United States; the US DEA assisted our police service in his capture. The Organized Crime and Narcotic Unit and the Counter Drug Crime Task Force, both police agencies, were responsible for Beharry’s capture together with the DEA.

When you use a presumption like that and there is that level of deceit and deception being practiced, you understand how the faith in the office of the Attorney General is undermined by the previous holder of that office. I say no more for the time being, but I would like the current Attorney General to tell this country the truth about the capture of Zimmern Beharry, the role of the Organized Crime and Narcotic Unit, the role of the DEA and the role of the Counter Drug Task Force. I call upon the American Embassy to explain whether or not they provided this intelligence gathering information to Mr. Ramesh Lawrence Maharaj and in what capacity.

Mr. Speaker, as you know, there exists no legal basis for wiretapping in this country. There exists no legal basis for the invasion of citizens and individuals’ privacy by virtue of wiretapping by either landlines or cellular phone calls. [Interruption] There should be I agree, but any action taken must have a basis in law and as far as I know there is no such law providing that basis for either the police or for an Attorney General or a former Attorney General to act on that basis.

Mr. Speaker, here is a former Attorney General indicating to this country he acted outside the ambit of the law, and it causes concern. I do not want the hon. Member for Laventille East/Morvant to say UNC, because I know for a fact that invasion of privacy has continued under this Government under the special Anti-Crime Unit by virtue of the Israeli equipment. Let us deal with the principle that there is the constitutional right to privacy and, therefore, you need the law to act.

In a similar case in the United States, notwithstanding all their anti-terrorism laws, the Supreme Court of the United States ruled that the President had no such
power and, therefore, when he wiretapped persons and their corporations, the homes of persons and so forth, he was acting unconstitutional and he had to get a court order to engage in that activity. No such court order happened. There is no law providing for that basis and, therefore, this Government is really acting outside the ambit of the law when it does so.

**Mr. Hinds:** With the greatest respect, you stated a moment ago that a former Attorney General made what is in your view a clear admission and, therefore, you can point a finger and hold him accountable and responsible for that. I am putting to you that no Member of the Government, Attorney General or anyone ever admitted that. So you are proceeding on the basis of an assumption, and you cannot therefore speak with that degree of certainty. In fact, it is wholly wrong to proceed on the basis.

**Mr. G. Singh:** I am glad. The Minister probably thinks we are all foolish in this country. The Strategic Services Agency under former Colonel Williams is in charge of this wiretapping equipment at a location I would not indicate. Therefore you cannot tell this country, and tell me in particular, that is not happening. The SSA—Leonard Williams, former Colonel. The Strategic Services Agency is doing it. You might want to fool the general public, but I have knowledge of that.

Mr. Speaker, those are matters of concern and when the Government acts outside the ambit of the law, whether it was in the previous regime with the former Attorney General and currently, then it causes concern and it gives rise to concerns in the wider society.

Under clause 15C(1) of the Bill before us, only the evidence that the declarant himself could have given, if he had been able to testify in the trial can be adduced. The section is designed to compensate for the unavailable absence of a witness. It does not cure any non-hearsay defect in the evidence. Further, it does not provide a basis for admitting evidence that the witness would not have been competent to give if called to testify in person at a trial.

Mr. Speaker, this section demonstrates that our law, like the English law, remains committed to the primacy of oral witness testimony, and to some extent, cross-examination as the best means of testing a witness veracity and variety.

I indicated earlier that we have established four criteria. We looked at the question of necessity; we looked at the question of the probative value, the question of fairness to the parties, and the moral integrity of the proceedings.
I bring to the attention of the hon. Member for Laventille East/Morvant who piloted the Bill, that under the UK Criminal Justice Act, 2003 from which this is partially patterned section 116B states the person who made the statements, the relevant person, is identified to the court’s satisfaction. Notwithstanding the fact it is a more clinical way of establishing the court’s jurisdiction and the question of identification. I do not know if at some stage the Minister might want to consider that.

It creates a greater obligation on the prosecution to satisfy the court, that is, the judge. Clause 15C3 provides a time line of 21 days and provides for notice and identification.

**Mr. Hinds:** You are saying that in the English situation the person making the statement will appear before the court so that the court will be satisfied as to the identity of the maker of the statement. Is that what you are saying?

**Mr. G. Singh:** That is what the law states in section 116B of the English Act, 2003.

The identity of the person who made the statement is identified to the court’s satisfaction. Whatever form it takes. So that section 15C (2) provides a time line of 21 days and provides for notice upon identification. I quote:

“(2) Subject to subsection (3), the party intending to tender a statement in evidence under this section shall, at least twenty-one days before the hearing at which the statement is to be tendered, notify every other party to the proceedings as to the statement to be tendered, and as to the person who made the statement.

(3) Where the party intending to tender a statement in evidence under this section has called, as a witness in the proceedings, the person who made the statement, the statement shall be admissible only with the leave of the court.”

Mr. Speaker, is there an obligation under this section to serve this statement? It says to notify as to the statement to be tendered. In the context of the criminal law, and the Minister may shed some light on it, based on his advice, will the parties who are given notice also be provided with a copy at that point in time within the 21-day time line?

**Mr. Hinds:** Yes.

**Mr. G. Singh:** I am happy, and the identity of the person. Therefore, there will be disclosure in accordance. That is the intention?
Mr. Hinds: Yes.

Mr. G. Singh: Well, I am in support of you. Therefore there is disclosure, service, and there would be an answer for a full reply and answer in this situation.

Mr. Speaker, the hon. Member for Princes Town dealt with the culture of sight and related witnesses, that is, I am calling you as a witness and I want you to state so and so.

This point was made by the hon. Member for San Fernando West and also echoed to some extent by the hon. Member for Diego Martin West that there is a history in our society of policemen—the majority of policemen are good policemen working in, perhaps, an anachronistic system but you have the exploitation of that anachronistic system by a group of rogue policemen. I think that captures what both the Member for Diego Martin West and the hon. Member for San Fernando West indicated.

When you look at the reports in a quick historical analysis of the police service, whether it is the Scott Drug Report, the Bernadette James Enquiry, the La Tinta Enquiry and the escape of Deochand Ramdanie, it becomes very clear that small group of rouge policemen is very powerful within the police service. And it behoves us to recognize that reality that faces us and the possibility and the reality of fabrication of statements and I will go on to relate how it happened in those situations. We must return the police to the basic values that they are supposed to carry out and how they ought to carry out their duties.

Mr. Speaker, I want to quote briefly from the text *Freedom, the Individual and the Law* by Geoffrey Robertson.

“Personal Liberty and Police Powers

It is obviously desirable to keep the police politically independent, in the sense that their operations and the exercise of their discretions should not be dictated by or made in the interests of a particular political party... As Lord Denning put it, in flourishing phraseology:

I hold it to be the duty of the Commissioner of Police, as it is of every Chief Constable, to enforce the law of the land. He must post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring a prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not,
Mr. Speaker, that is a cardinal principle. That is the fundamental basis for policing. What is our reality in our society today? Let us take one example, the Bajan Fishermen issue.

Corporal Morrison was the prosecuting policeman in that matter. It is fact that he received a phone call from a high Government official. It is fact that he did not proceed with the prosecution, and the case as a result fell through. Immediately you see the current reality of the circumstances where the police, and, perhaps, not all, but in certain instances policemen are receiving instructions from high Government officials. It is not yet determined who that official was, but I am not going to enter into speculation, but that is fact what has happened with Corporal Morrison in Tobago.

When there is that undermining of the culture, where the police respond to the law and the law is his master, you are beginning to have an undermining of the policing of the country and the enforcement function. You cannot have selective enforcement of the law. The law is applicable, equally to everyone. And that is not what is happening.

Mr. Speaker, the Scott Drug Report which is entitled “The Report of the Commission of Enquiry into the extent of the problem of drug abuse in Trinidad and Tobago, February 1986”, when you read this report you see in every area—I would not read the names because this is a classic example of hearsay. Eastern Division, you have the names of policemen other than those already outlined at paragraph 4.8 named in evidence have been engaged in these illegal drug activities are as follows: There are people in the Eastern Division, the South Western Division, in CID, in Tobago, in the Port of Spain Division, in the Southern Division, in the Marine branch, in the Northern Division, and even those where the divisions were not known.

Mr. Speaker, there is a whole chapter in this on general police involvement. This is required reading. That is why I viewed with some measure of concern what the hon. Member for San Fernando West told this House this evening. I want to be very clear.

The hon. Member indicated that among other things, we want back Randolph Burroughs. I want to warn the hon. Member that—
Miss Seukeran: Mr. Speaker, I said the public is asking for Randolph Burroughs.

Mr. G. Singh: I want you, in your utterance and validation of that call by the public, to be very careful. Because, I suggest that you read the Scott Drug Report and when you read the role of the Flying Squad in this report and the connection between the drug cartel and this particular group of policemen that comprised that squad, you must be very careful in calling for the emergence of that. It was based on the hearsay to a large extent—that is the point. Here it is you had a Commission of Enquiry in which serious allegations were made about the police service—I am not dealing with the question of credibility, but there were witnesses going forward with sworn testimonies indicating certain things.

The other point made by the hon. Member for San Fernando West is the fact that—I got the impression that under the cloak of democratic traditions, the hon. Member was adopting a kind of neo-fascist approach. What do I mean by that, Mr. Speaker? In indicating to this country that there is no such thing as a death squad or hit squad, obviously the Member had not read what Amnesty International had to say.

Mrs. Job-Davis: Who are they?

Mr. G. Singh: Hon. Member for Tobago East, you are not familiar with Amnesty International? Mr. Speaker, Amnesty International is a highly reputable international organization that is the “watch dog” for human rights all over world. [Crosstalk] Unless, you can establish that I am guided by the fact. Mr. Speaker, this is what Amnesty International had to say:

Police killings go unpunished. Between 2003 and 2005, 35 people were reported to have died in police custody or shot by the police in Trinidad and Tobago. While police reports of the shootings often indicated confrontation and acts of self-defense these claims were frequently disputed by eye witnesses. Full, effective and independent investigation into such array and those that do take place are often hampered by lengthy delays and claims of harassment.

To Amnesty International knowledge, in recent years, only two police officers have been charged for unlawfully killing a civilian while on duty. The clear pattern of impunity for violations by police officers can only further undermine confidence in the police force, making their job even more difficult. Community support will come through a reform of the police and an end to impunity for police abuses.
Mrs. Job-Davis: I want to ask the Member whether that report addressed how many police were killed during that period.

Mr. G. Singh: Mr. Speaker, I have a copy of this. I cannot answer the Member’s questions so I would suggest that she look it up on the Internet. I am not attacking the police. I am just dealing with the facts as presented. You all recognized that there is a rogue element prevalent and they have significant influence in the police service.

Mr. Speaker, the Commission of Enquiry. The Report of the La Tinta Commission of Enquiry. Commissioner Frank Solomon, Dr. Peter Lewis, ex-Lieutenant Commander Lawrence Goldstraw and Miss Annette Wood. And I am sure the hon. Member for Laventille East/Morvant has read this La Tinta enquiry. It is indeed a frightening situation. When you see the manner in which senior policemen treated this Commission of Enquiry, the levels of deceit and deception they engaged in,—in this, they even called for polygraph testing of police officers and when one recognize that and one sees—because this La Tinta Enquiry took place between 1986—1989; Bernadette James Enquiry—

10.30 p.m.

Mr. Speaker, you have read what transpired in the La Tinta enquiry and subsequently the Bernadette James enquiry, in which Bernadette James was shot when participating in a police mock exercise in which they were supposed to use blank bullets. The manner in which she was killed and all the allegations that took place as a result is real cause for concern.

Also, there is the most recent enquiry, the Deochan Ramdhanie enquiry. The key person in the Deochan Ramdhanie enquiry was a chap called Rajendra Singh and on Thursday, February 08, 2007, under the Express headline, “Three cops suspected in killing”, an article by Richard Charan, struck my attention.

“The preliminary enquiry is being heard before Couva Magistrate Marcia Ayres Caesar.

Only four accused are being prosecuted. Kenny Baptiste was murdered some time ago. A warrant is out for the arrest of Rajendra Singh...”

Rajendra Singh is a key figure in the Deochan Ramdhanie enquiry. When you read one of his statements in the enquiry, it sends chills up your spine. I will read it:
Rajendra Singh states:

My name is Rajendra Singh. I was charged with a number of offences in various courts in Trinidad, namely Chaguanas, Siparia, San Fernando, Princes Town, Port of Spain and Couva.

The plan to organize the escape was some time before the date of the escape of the 17th of September, 1998. Six Prison Officers were involved and nine Policemen.

Two of the Policemen who were involved in the arrest of Deochan Ramdhanie were involved in the plot for his escape. They spearheaded the escape.

They said that they knew Deochan had money hidden and wanted to help him for that.

The total cost to release him was Three Million Dollars, One Million Dollars for the Prison Officers and Two Million dollars for the Police Officers.

I was held on warrant at the San Fernando Police Station sometime in April, 1997. The Magistrate remanded me in custody.

Police Officers from Port of Spain took me from the docks at San Fernando Magistrates Court and took me to C.I.D., Port of Spain. They kept me there for seventeen days when they made a deal to set me free to go to Deochan Ramdhanie’s family to negotiate a price for Deochan’s freedom. The price for the freedom was Two Million Dollars. They took me home and released me. The escape was planned to take place at the Princes Town Magistrates Court. I was supposed to cite him as a witness in my matters at Princes Town Magistrates Court.

The first plan was that they would come to Princes Town Police Station, take him up on the grounds that they needed him on inquiries. On the way they would release him and say that he escaped. He would then go for the money for them. Callender was not there at the time. That plan did not work because a warrant was issued for me by the Magistrate. Therefore he could not be cited as a witness for me.

Warrant issued on 21/1/98.
I spent about one month on the outside. Arrangements were made with the said police in Port of Spain for the warrant to be executed on me so that I could be taken back to re-negotiate with the Prisons to have Deochan released. He was cited to come Chaguanas Court to have the escape done there but the police in Chaguanas who were supposed to organize the escape took money i.e. about Forty Thousand Dollars and did not deliver. Every time different officers were paid. When it did not work, the warrant in Chaguanas was held back. The warrant executed at Chaguanas Court was for me to appear at Princes Town. I was given a name by the Port-of-Spain Police to negotiate with the Princes Town Court.

When I went to Princess Town Court, I then was advised to cite Deochan Ramdhanie and to request a court note to be sent for him. I negotiated with said Police Officer and I got the court note.

Arrangement was made to keep back any remand warrant in his possession so that I could go to Chaguanas Court on discharge so that I could be freed at Chaguanas arousing no suspicion.

Two officers from Port of Spain came together with two other Police at Chaguanas took me out of Court cell in handcuffs walking me out of courtyard into a black Elantra motor vehicle down to Point Fortin with me unhandcuffed and instructed me what I should do and left me off at Point Fortin. I supposed to keep contact each day by telephone with these officers. Patrick Toolsie told the Prisons that Deochan wanted to escape and he told...Prison Officers and they kept it a secret because a price was offered to the Prison officers on the shift he was on.”

Mr. Speaker: Hon. Members, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [Mr. M. Ramsaran]

Question put and agreed to.

Mr. G. Singh: I thank hon. Members for extending my time.

“They did not inform the Police of the plot although they knew.

The other Police who was supposed to help took sick leave that day.
Prison officer gave me blank official lists to alter the list of name of Deochan Ramdhanie. The Prison usually sends 2 lists, one in red ink—returnees and one blue—discharges.

Rajendra Singh”

Mr. Speaker, I read that statement in the context of the pivotal role Rajendra Singh played in the escape of Deochan Ramdhanie. In addition to this statement, he gave a 12-page or 14-page statement in his handwriting, in which he implicated several police officers. The officers implicated were at such a level that the government of the day decided to bring a polygraph examiner to determine the veracity of the allegations made by Rajendra Singh.

I do not want to call the policemen’s names, but they currently work within the service. When I read of a situation where Chaitlal Singh was killed and there is a warrant for Rajendra Singh’s arrest, do you understand how deep the malady in this society is? That is why we in Congress have responded in the public interest. [Desk thumping]

When you are dealing with that element in the police service, you must have an independent Judiciary as your bulwark to protect the rights of the people and to protect the citizenry from the arbitrary use of state power by the Executive and to resolve impartially the conflict between individual and individual and individual and the State.

I was taken aback by the contention of the hon. Member for San Fernando West when she complained of the use of judicial review. There is a role for judicial review in our society. It must check the capricious use of power. Executive power, state power must be checked. We must pride ourselves in having that level of judicial independence and we must do everything to protect our Judiciary.

One of the requirements in the protection of our Judiciary is the fact that—and I quote an article in which it is clear that you must preserve the independence, the impartiality and the autonomy of the Judiciary. Judiciary is not only the privilege of judges, it is a right of the people and of a person and the duty of the judge and the Judiciary to preserve independence, autonomy and impartiality.

So when the hon. Member for San Fernando West speaks of life being nasty, brutish and short, and effectively indicating that there is a breakdown in the social contract because of the anarchy and the reign of terror promoted by criminals, we must ensure that the Judiciary is also free from political association.
Mr. Hinds: We must not bring it into disrepute.

Mr. G. Singh: I agree. Everything I do is based on documentary evidence and I have evidence to indicate that we must free the Judiciary from political association. We must also ensure that the Executive does not provide for Judiciary derived from the Executive. Independence must not only be collective independence, there must be individual independence. It is good to have security of tenure, independent remuneration and so on, but we must also ensure that there are structural issues by their manner of appointment.

There is the whole question of direct influence. We must indicate that no one, once he or she is a sitting judge, must have any kind of political connection. It must be one of the things that we cherish.

Mr. Hinds: So my wife can never be a judge?

Mr. G. Singh: You are missing the point, hon. Member. Your wife, once she meets the requirement and becomes a judge, will not attend your campaign meetings.

Mr. Hinds: What about before?

Mr. Speaker: Order, please!

Mr. G. Singh: I want to answer him and address the issue, Mr. Speaker. Prior to her becoming a sitting judge—[Interruption] No, no, no. She is entitled to participate in any political meeting because it is her constitutional right, but as a sitting judge the convention requires that she does not participate overtly in any political meeting. How can you fault that principle?

Mr. Valley: Therefore, you are not in agreement with the UNC’s position on the recent magistrate who was supposed to be appointed—

Mr. Speaker: No, no. You will ignore that. You cannot ask that.

Mr. G. Singh: I am saying that in whatever capacity you sit, whether as a magistrate, you are a member of the lower Judiciary. The Magistrates’ Court is the marketplace of justice, so when you sit you sit as a magistrate, you sit as a member of the Judiciary and that constraint applies. Let us not fudge the issue. I know of instances where people were engaged in the political arena but when they entered the judicial arena, they removed themselves from the political arena totally.

I want to deal with another area—the area of witness protection. Acting Chief Justice Roger Hamel-Smith said on January 20, 2007 at page 3 of the Newsday:
Acting Chief Justice Roger Hamel-Smith said yesterday that he would find it very hard to be a witness given the present condition of the Witness Protection Programme in the country. Witnesses were fearful of coming to court.

This is the Chief Justice talking on January 20, 2007. He is saying that he would find it very hard to be a witness in any matter in the courts of this country. That is pervasive. Here is someone who is in charge of the Judiciary indicating the tangible fear that he feels in the situation.

I want to deal with the area of inconsistency in the law. It clearly provides that if you are inconsistent, then the whole question of credibility is dealt with. How do you deal with inconsistency? I take up the point made by the Member for Diego Martin Central. One thing about the Member is that he is not inconsistent, but by virtue of the actions of UTT, they have demonstrated that his actions are inconsistent. He indicated to this House in a matter I raised on the adjournment of the House on the question of UTT—and I quote from Hansard:

“What does the law say? The law says clearly that as long as the Government controls, the Government is the funder of the university. The board of governors, or what have you, must fall under the integrity legislation. They must.”

By virtue of High Court Action No. CV 2007 0080, in the matter of the Integrity in Public Life Act 2000 as amended and in the matter of construction of paragraph 9 of the schedule to Integrity in Public Life Act 2000, between the University of Trinidad and Tobago and the Integrity Commission, claimant and first defendant respectively, there is this claim by the UTT that they do not fall within the ambit of the integrity in public life legislation, in the face of the Government’s clear policy that once you are funded by government funds, then the integrity in public life legislation ought to embrace you.

Mr. Valley: [Inaudible]

Mr. G. Singh: The matter is before the court, so I will not go into it. I am dealing with the whole question of the undermining of the law. As we create the law in this country, there is the undermining of the law, given that consent by the Executive. We are already funding UTT to the tune of $700 million or $800 million, but the directors say that the integrity in public life legislation and the Integrity Commission do not apply.

Mr. Valley: Mr. Speaker, would you say that it is the board's right to ask for an opinion? Sometimes I wish I could ask for an opinion as to whether I have to
complete the integrity form because of the stupid questions that I seem to be getting from that organization lately.

Mr. G. Singh: If that is the position of the senior Cabinet Minister and Leader of Government Business, then you ought to change public policy.

Mr. Valley: No! The courts are free and anybody is allowed to go to the courts.

Mr. G. Singh: Once you adhere to public policy that integrity in public life is necessary for the public interest, then you adhere to the legislation. This question of the undermining of public confidence in state institutions goes further. Let me complete this point. The UTT goes even further. They are seeking now to bring themselves outside the ambit of the Freedom of Information Act, an Act designed to ensure that there is transparency in governmental affairs; that the public purse is protected.

This is an institution funded by the Government and, therefore, the people of Trinidad and Tobago, yet you have this undermining of public policy by UTT. Do you know what is insulting? All their legal action—in one instance it is without merit—the lawyers are being paid with taxpayers’ money. Taxpayers’ money is funding and attacking government’s established policy.

Mr. Imbert: Mr. Speaker, I thank the Member for giving way. In the same way that the Law Commission and several other bodies have gone to court asking for the court to make an interpretation of the meaning of the provisions of the Integrity in Public Life Act as it refers to them, is that not the same thing that the UTT is doing? Is that not an interpretation?

Mr. G. Singh: That is exactly the point being made by the Integrity Commission. They had an action and with respect to the construction, the UTT is now out of time and they lack any merit whatsoever in bringing this matter. I do not want to argue the merits and demerits, but an institution funded by the taxpayer is using taxpayers’ money to undermine government policy and public policy. That cannot be in the public interest. So, there is that level of inconsistency with the approach.

Mr. Speaker, what I find really troubling in this society is that the Trinidad and Tobago Chamber of Industry and Commerce launched a code of conduct for all its members, therefore it is supposed to bring transparency and accountability in the
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private sector in this country. In addition to that, several multinational corporations are guided by the Sabeans and Oxleys, which brings about transparency and accountability for multinational corporations.

What I find alarming in this country is that there are Members who serve on the board of UTT, who head several of these multinational corporations and large local corporations, guided by Sabean and Oxley. They have a higher duty of care to their shareholders than to the taxpayers of this country. When they serve in their particular corporations, they have a higher duty of care to their shareholders, but when they serve on the board of UTT, their duty of care threshold falls. I find that alarming.

So you see, in this light, Mr. Speaker, for this piece of legislation to have that level of moral integrity, that is one of the criteria I use, it is clear that whilst we make the laws to deal with that level of criminal activity on the one hand, on the other hand, the very laws that we seek to make are being undermined by state institutions and what they are doing in UTT is unacceptable conduct. They have indicated to the hon. Member for Diego Martin Central that what they have said is inconsistent with their actions.

Mr. Speaker, with these few words, I thank you. We support the Bill with the amendments so generated by the hon. Member for Pointe-a-Pierre.

Mr. Winston Dookeran (St. Augustine): Thank you, Mr. Speaker. I realize it is quite late, but I thought that it was incumbent upon me to make a small contribution to this debate, especially in light of the direction it has taken in the latter half of the evening.

The Member for Laventille East/Morvant was very careful in his presentation of the proposition to establish the balance that was necessary between the intent of this Bill to expedite the process for conviction and so improve the criminal justice system in one aspect and perhaps also act as a deterrent and, on the other hand, to raise the question of the natural justice provisions that must be maintained if the integrity of the State is to upheld. I commend him for a very good presentation of the proposition.

We had a very scholarly presentation from the Member for Pointe-a-Pierre, in which, in elaborating on the two issues raised by the Member for Laventille West/Morvant, she went on to identify what were some of the safeguards necessary to protect our system of natural justice while we enhance the capability
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of the criminal justice system to deal with the criminals. She suggested that certain provisions must be put in place to safeguard those particular rights.

Mr. Speaker, I believe that it was a presentation that would be remembered for a long time in this House, for it brought to the fore what real debate about public policy should be. I believe that the Government did respond by agreeing to the two amendments proposed: one dealing with the issue of the court having the final say with respect to the admissibility or not of the evidence being proposed; and the second dealing with the amendment regarding the retroactivity of the Bill, which we did not support.

It has, therefore, placed the Bill in a context now where it has attempted to deal with the issue of providing expeditious processing of the cases by having evidence brought to the court and, at the same time, protecting and safeguarding the liberties we so want. That is why the Member for Caroni East had no contradiction whatsoever in saying that we in this part of the Parliament have always supported the public interest on issues of crime [Desk thumping] and we only negotiate the issues of crime against the interest of the integrity of the State.

In so doing, Mr. Speaker, I find that the debate was a healthy one, and then entered some other submissions.

11.00 p.m.

The Member for Princes Town and the Member for Oropouche raised some very legitimate fears of the society with respect to a number of issues; one, concerning the impartiality of the police service and the other dealing with whether or not the safeguards are sufficient. That, too, was an addition, because in this Parliament we must indeed deal with the concerns of the people. We cannot legislate in a vacuum, because if the reality out there tells us a certain thing then we must also respond to that.

What got me really concerned was listening to the Member for San Fernando West and subsequently the Member for Diego Martin West, for there was a turn in the debate at that point. I remember the Member for Diego Martin West said that we are in dangerous times and we require strong measures, to which I agree. Then he went on to identify lawlessness as part of those dangerous times. In so doing blamed the previous regime for encouraging lawlessness, but at no point did he accept that the current regime is really the one responsible for restoring law and order in Trinidad and Tobago. [Desk thumping]

He went on to say that this was a deterrent and perhaps it could be a deterrent for we know the reality which was so well explained, as to the risks that are
associated with criminal activity in this country and we need to increase the risk to which the criminals feel that there is no risk. Little did the Member for Diego Martin West to really deal with the issue of what the deterrents were. He said that this was a flexible response to a real situation, almost saying that this was a new silver bullet to deal with crime.

I know that the Member for Diego Martin West is well aware of the argument that the real source of the problem for crime, and if you want to provide a deterrent to it, is to deal with the issue that has been raised in this Parliament before, which is the mingling of politics and criminality in Trinidad and Tobago. [Desk thumping] The Member for Caroni East listed in his contribution numerous historical incidents in which that particular claim has been made credible.

Also, Mr. Speaker, the point that was so well articulated not too long ago in the newspaper by one political columnist, of which we all know, in which he said in no uncertain terms that there is widespread belief that the real cause of the sense of decay in this country has come from the fact that Government funding, directly or indirectly, of criminality is a source of major concern. [Desk thumping]

So when the Member for Diego Martin West pointed out to this particular provision, as if it was a new silver bullet to deal with crime and ignored what was really the source of crime, he was setting the stage to make a number of recommendations and this is where I got concerned.

It was echoed by the Member for San Fernando West, when she spoke about the excessive use of judicial reviews. At one time they said that the police were not acting and now that they are acting, it is said there is a death squad—loose language—implying to this country that now that you have a dangerous situation, you have the freedom to deny civil rights at the same time [Desk thumping] and that is the difference. That is why I got very worried about the turn of the debate by both the Member for San Fernando West and the Member for Diego Martin West.

All of a sudden the debate became one that because we have a dangerous crime situation in this country, we must take drastic action and I agree with that. Of course, it should have been taken a long time ago, but let us not get there. Not because we have this situation we must now use that as a pretext to deny our people of our civic rights in this country. [Desk thumping] And anyone who recognizes that notwithstanding the temptation to use this opportunity to do so is something that we must definitely oppose.
When we look at the pattern within recent times on this issue, we see a pattern emerging for some time now with respect to this whole issue of protecting our civil rights. And a pattern is to be expressed by the Prime Minister himself. You will recollect that some time ago he talked, in his convention, about the long arm of the law will one day snatch Members of the Congress of the People without a shred of evidence. A Prime Minister setting that tone. Was he informed by the police? Was he not informed by the police? Where did he get his information from? But it was setting a pattern.

Mr. Bereaux: Would the hon. Member give way, please?

Mr. W. Dookeran: Yes, yes, I will give way.

Mr. Bereaux: Hon. Member, is it correct or do you know of any member of the Congress of the People, a senior member of your party who is now faced before the courts?

Mr. W. Dookeran: As usual, the Member is trying to trivialize the argument.

Mr. Bereaux: No, I am not trivializing at all, I am asking a question.

Mr. W. Dookeran: He is now trying to trivialize the argument. The Prime Minister made statements at that time, that clearly compromise the independence of the police service and the Director of Public Prosecutions. At the last occasion he did that he was met with a public rebut from both the Attorney General and the Director of Public Prosecutions. [Desk thumping]

Mr. Singh: Unprecedented.

Mr. W. Dookeran: Unprecedented in any democracy. What the Member for Diego Martin West said today is part of a pattern that is now emerging as mainstream thinking in the Government of Trinidad and Tobago. [Desk thumping]

There were many other instances. The one that has been so well publicized with respect to Mr. Inshan Ishmael, which we spoke about. When it was felt that political opposition or the expression of outrage by the people will have to face the wrath of the police action, and such action it was generally felt was inspired by the political directorate itself. [Desk thumping]

Then more recently, the Prime Minister talked about the link between those who were protesting legitimately as citizens of a democratic society, with respect to the industrial development in their area, that in fact there were links between the drug link and the protestors. A pattern has been going on within recent times, where each time there was a legitimate expression of outburst and political opposition to the State, they link it to some subversive activity. [Desk thumping]
Evidence (Amtd.) Bill Wednesday, February 14, 2007

[MR. DOOKERAN]

I am raising this here once again, because this is only the beginning. Mr. Speaker, I do not think that the Government understands that they are riding a system that forced them into that position for their own survival and they are not even realizing that. When the system gets to this stage that it has to be defended, you will find that the defence will come by this kind of curtailment of fundamental democratic rights.

It is in that context that I was very concerned with the Member for San Fernando West, when in her contribution she said that there was in fact a very effective witness protection programme. In the face of evidence of all those who have been involved in the face of the comments of the Chief Justice, himself, who says that he will be afraid to be a witness in Trinidad and Tobago, a Minister of the Government getting up in this House and saying that, not only does it lack credibility, but it is an act of irresponsibility. [Desk thumping]

I want to ask the Government in the interest of the public of this country, in order to allay the concerns and fears of many people, including people of like rank of the acting Chief Justice, that they shall enunciate in great detail what that witness protection system is. [Desk thumping] And what the laws that must be put into place are? We are all aware that the proclamation of those laws has remained unproclaimed for the last six years.

That was followed up by the Member for Diego Martin West, when he said that in his view, we should now abolish the preliminary enquiry process in the court system. I found that is a statement that we should not take lightly. For a senior Member of the Government will get up in this Parliament and say that he now wants to abolish the preliminary enquiry system in the court process. Saying that what should happen is that we should go immediately from the police arrests or police charges into the assizes and to eliminate an important part of the system, must be a matter of real concern to the people of this country [Desk thumping] given the pattern of behaviour which we have seen within recent times. He is a senior Member of the Government and he is in fact, reflecting the mainstream thinking of the Members of the Cabinet. For him to say that with such impunity is also similar to the statement of the Member for Diego Martin West that perhaps the judicial review process is too flexible or too permissive or something to that effect.

Miss Seukeran: Member for St. Augustine, just to clarify something. One, at no point in time in this contribution or anywhere else have I ever said that the witness protection programme in Trinidad and Tobago works or that it is valid.

Secondly, is to point out to you that if we are proposing the expedition of the processing of the system so as to give effect to the deterrent quality of law, then
as many other countries, the Member for Diego Martin was simply espousing a
general theory and a practice that has become normal in the developed world of
removing the delay process, that occurs within the preliminary enquiry.

Thirdly, Member for St. Augustine, what we speak to, what I meant and what I
have said in term of the process of judicial review. Judicial review is a very good
law. It is the abuse of any law that we speak to. Thank you.

Mr. W. Dookeran: Well the elaboration I accept, but the fundamental issue is
that these are the trigger points now of the new pattern. That is why I thought I
should rise on this occasion. The issue of trying to change the legal processes and
suggest it should be abolished, is a very dangerous statement to make. And may I
say here, today that we in the Congress of the People will always stand to ensure
that the legal processes in this country protect the citizens rights at all times.
[Desk thumping] Notwithstanding the fact that there is a dangerous situation out
there, which we all want to deal with, we must not fall prey to allow that situation
to, in any way, affect the fundamental integrity of the State of Trinidad and
Tobago. [Desk thumping] That is the point I want to make.

Mr. Speaker, there are provisions to improve the preliminary enquiry system.
There is the paper committal system the Member for Pointe-a-Pierre advised me
of, which will improve the efficiency of the system. There is a proposal that we
can put, a proper video recording system. What we should deal with is to handle
improving the efficiency of that system not to abolish a fundamental right—[Desk
thumping]—that anyone who is accused must have. Under no circumstances in
this country must we trade off people's fundamental rights in order to try to claim
that we are fighting another problem. That is the beginning of what my friend
calls neo-fascist thinking in a society.

Mr. Bereaux: Hon. Member, as you are on that legal point, let me ask you
this, please. Are you aware that the preliminary enquiry system could cause you
even after they have found no reason to commit you for trial, they could come
back with more evidence at a subsequent date and bring you back? In fact you are
opening yourself to more than one attempt at a bite of the cherry. What I mean is,
if they have found no—

Mr. W. Dookeran: Dear friend, the issue here is that we must make it
efficient, but we must not abolish the citizens’ right to have it as a filtering
process. [Desk thumping] That is all I am saying. That suggestion by a senior
Member, the Member for Diego Martin West, got me very, very concerned that
the debate has taken a sudden turn, and all of a sudden this pattern of behaviour
began to take place. That is why I had gone to the President to raise these concerns since I felt that we need to raise them at some quarters. I will come to that in a minute.

Mr. Speaker, what we are therefore facing in the name of dealing with the issue of the criminality, we perhaps will be moving into a direction that could lead into further and further erosion of the rights of our citizens and we must protect that in this Parliament. [Desk thumping] That is all I am saying.

Perhaps the Members for San Fernando West and Diego Martin West would have done better to explain to this honourable House instead of giving us false hopes with respect to the witness protection system, why it is that so many of our investigations remain open-ended after so long: the bombings in St. James and Port of Spain; the blowing up of the police station in Cunupia and a number of others within recent times.

We have not been able to close those investigations and I use this Parliament to call on the Government to ensure that these investigations come to an end and the true facts be exposed to the country. [Desk thumping] Because other than that, innuendos and all sort of rumours fly. If this Government wants to restore confidence in the police service, as they must do, they must not allow this to take place and that is what they should be talking about. We have the evidence of that over a whole period of time.

So we are missing the point here and I am only here to raise that concern at this time in this debate, because I believe that what you are seeing shortly emerging in this country is a conflict or confrontation between the exercise of state power against the people of Trinidad and Tobago. [Desk thumping] It is at the early stages, that is why I am raising it, so that I will make the Government conscious of this trend and we shall follow it closely. You cannot therefore exercise state power against the interest of the people, and that is what is perhaps happening, rather than dealing with the issues.

I went to the President to express my concern and I thought it was necessary to put it on the record, in which I indicated to him—

Mr. Valley: What you discuss with the President is a private conversation.

Mr. W. Dookeran: Which I have put in the record and he has invited me to put it in writing. This is a public duty that I discharged. [Desk thumping] A public duty to put on record my concerns of the direction in which we are moving.
I said that the two pressing issues that we discussed were the unacceptable levels of crime in the country and the emergence of an agenda of political repression that is slowly but surely taking route.

I talked about the use of state agencies, including the protective services to target political opponents and indeed ordinary citizens, who are either opposed to the action of the Government or simply demanding a better quality of life for the community. I put this in the record of Hansard.

I called on the President to use his office to ensure that the State or its agents uphold the Constitution and the law.

**Mr. Speaker:** I am not sure about this but perhaps I can be guided.

**Hon. Member:** 36(10)

**Mr. Speaker:** No, it is not Standing Order 36(10), it is Standing Orders 36(8). It says this:

"Her Majesty's name or the Governor General's name or the Governors name shall not be used to influence the House."

Now I am really not sure where you are going with this but it could be interpreted that you may be in breach of Standing Order 36(8). Yes, you have said that you attended the President and he has asked you to express your concerns in writing to him. I think you should leave it there.

**Mr. W. Dookeran:** Mr. Speaker, in order to remove ambiguity, I will not refer to the further correspondence on this matter. The point I was making is that it was necessary for us in Parliament to put on the record of Hansard our concerns on these matters.

There was a recent report, done by Amnesty International, of April 26, 2006. Some of the results or findings of this report are matters that we should take seriously. It talks about end police immunity for unlawful killings and deaths in custody. It went on in a substantial document, that is a public document, to outline a number of incidents in which they believe that this is not being adhered to in Trinidad and Tobago. I will just quote one or two paragraphs:

"Recent years have witnessed a marked increase in levels of crime, particularly violent crime linked to the growth in the drugs trade and the proliferation of illegal weapons."

I think someone asked earlier what were the numbers, but I would not go through the details here. It actually lists the names of a number of fatal shootings for
which explanations were being demanded and not given by the authorities; the
names of individuals; quite a number of them. I do not think it is prudent for me
to list the names. But they are all here and I suggest to the Government, because
someone asked the question, when the Member for Caroni East was speaking, as
to how many and what. It is all recorded here, in terms of the evidence of names
of people who were in fact, fatally dealt with for which there has been no
explanation.

It goes on later on to talk about fundamental human rights. It says something
that I thought should be brought to the attention of this Parliament:

"Regrettably, Trinidad and Tobago has yet to become party to the United
Nations Convention against Torture or the Inter-American Convention to
Prevent and Punish Torture. In addition, the government has withdrawn from
two key international human rights instruments. In May 1999, the
government withdrew from the American Convention on Human Rights and
in 2000 from the Optional Protocol of the ICCPR, thereby denying citizens of
Trinidad and Tobago access to lodge petitions with international bodies."

Mr. Valley: Please, give way. Mr. Speaker, I wonder whether the hon. Member
for St. Augustine will remind us who was the Government in 1999.

Mr. W. Dookeran: Mr. Speaker, my concern is not that concern. My concern
is that these things have denied the citizens of this country and any government
that honors the trust of the people must ensure that those rights are not denied to
people. [Desk thumping] Whether it was done in 1999 to 2000, I give you the
reports as they are, but it could have been corrected.

Mr. Valley: So you will support the reinstatement of those conventions? You are
saying that those conventions, which were taken away by the UNC government when
they were in government in 1999, and more specifically Ramesh Lawrence Maharaj,
supported by people like Mr. Ganga Singh, the Member for Chaguanas, the Member
for Tabaquite and others. But you, having known that, having become a Member of
the UNC, would ensure that the Congress of the People would support the
reinstatement of those conventions, were they to be brought by the PNM?

Mr. W. Dookeran: Mr. Speaker, I will support the measures that will not
deny citizens of Trinidad and Tobago access to lodge petitions with international
bodies. [Desk thumping] And if reinstatement of these measures will do it, I will
certainly support that.

Hon. Members: Okay, fine, very good, excellent.
Mr. W. Dookeran: You see we have got to reinstate the integrity of the State in this country; that is the issue. To try to make small capital out of the big issue will not win him any additional votes; I can assure him of that.

Mr. Valley: We do not need additional votes.

Mr. W. Dookeran: It is in this context that I want to make a specific suggestion because underlying this entire Bill before us is the presumption that the citizens will have confidence in the police authority and police service. While we all agree that most of the members of our police service are in fact, dedicated loyal citizens of our country and do work hard at great odds in order to try to bring criminals to justice, it was in fact, indicated here both by the Members for Laventille East/Morvant and San Fernando West and I believe the Member for Diego Martin West with imputation, that there are elements in the police service who are in fact creating the problems. And this has led us to take the position that we could start the process by ensuring that DNA testing becomes mandatory to members of the protective services. [Desk thumping]

11.30 p.m.

But there is a continuing erosion of confidence in the impartiality of the public service of the police service in Trinidad and Tobago, there is no doubt about that. The pattern I have spoken about, which is being promoted by the Prime Minister himself has lent credence to that view. Whether it is so or not, it is not for us to determine but it is for us to ensure that there must be confidence in the public and police services, and it is in that context that I believe that it is appropriate in order to ensure that the fears that have been expressed on the possible erosion of rights in this Bill could be enhanced if we try and settle that score early in this country and we must take immediate steps. For you will fined that the lawlessness will continue because the feeling that there is no independence and impartiality of the police service as one factor; there are other factors. It is in this context, therefore that I make the call that the Government establish a Commission of Enquiry into five matters relating to the police service that will restore confidence in its operations and also help restore the integrity of the State of Trinidad and Tobago.

That commission shall look at the independence and impartiality of the police service:

The extent to which decisions related to the duties and obligations of the police service under the Police Service Act and were taken at the instance of Government, its Cabinet or its Members;
The extent to which members of the police service have acted in a political context and at the behest of members of the Government and/or the Cabinet the servants and/or the agents; [Interruption]

The extent to which members of the public service are involved in serious and/or organized crime, including contract killing and kidnapping; the legality of the anti-corruption squad as part of the establishment at the Ministry of the Attorney General. [Desk thumping] These are critical matters that must be addressed by the Government to restore the confidence of the people in the police service as a precondition to the acceptance of the laws that we pass in this House that pertain to their functioning and at the same time to ensure that we begin the process of the re-establishment of the integrity of the State in a political atmosphere in which we are feeling that the State power is working against the people of the country.

That is why I felt in this debate that we should go much further and try and restore that confidence of the people in the police service and in so doing continue our efforts. I look forward to an increase in the number of legislative measures to deal with the crime matter in the country. And there are many more that we are waiting to see but we will always try to ensure that the two fundamental conditions, that we imposed at the time of those discussions two years ago:

1. that the Government must cease funding criminal activity in Trinidad and Tobago; and [Desk thumping]
2. there must be a protection of fundamental rights and freedoms of the citizens of the country.

Subject to those two conditions and stipulations we are prepared and willing to act always in the public interest, in the interest of the safety of our citizens of this country and I urge the current Government to get on, the 90 days is coming to an end and we are still waiting on a number of other measures that must be put on the agenda of this Parliament.

Thank you very much. [Desk thumping]

The Minister in the Ministry of National Security (Hon. Fitzgerald Hinds): Mr. Speaker, thank you very much. At this time of this week and this time of the night the nation is at play.

Miss Seukeran: As Valentine’s Day comes to an end. [Crosstalk]

Hon. F. Hinds: Yes this is Carnival time. A calypsonian some years ago sang that we “kicksing in Parliament”; my good friend, my brother Explainer who I enjoy so much, and I love that song, not entirely correct, but I love the song.
Mr. Speaker, here we are tonight, 11.30 p.m. [Interruption] working on Valentine’s Day, working for the people of Trinidad and Tobago. [Interruption] [Desk thumping] I want to congratulate as a consequence of this every single member of staff of the Parliament [Desk thumping] those in the Chamber, those in the library, those in the tea room, those in the quiet corridors.

Mr. Speaker, let me take this opportunity to say for the 12 years I have been in this House I have never made a single request of any member of staff of this Parliament and not had it fulfilled. [Desk thumping] Absolutely professional bunch and I want to congratulate Madam Jacqui Sampson and the entire staff. [Interruption] I want to congratulate the police officers who took a serious beating during the course of this debate; sometimes I wonder how they feel when they leave this Chamber.

Mrs. Job-Davis: You understand.

Hon. F. Hinds: Everybody sees the police as a low fence, gets on their backs and criticize, criticize. [Interruption] These are the people on whom we depend to stand between the criminals that we spoke so much about and ourselves as citizens and I want sincerely to congratulate every single man and woman of the Trinidad and Tobago Police Service.

Mrs. Job-Davis: That is right.

Hon. F. Hinds: These young men who I had the honour of standing alongside in my own day; who put their lives at risk and who have died in the course of doing that in our defence, and regardless of what anyone else says, I will hold the highest respect for the Trinidad and Tobago Police Service notwithstanding the fact that over time we have seen that there are some elements in the police service that the service does not appreciate and could easily do without. So I want to congratulate every one of them very sincerely. [Desk thumping]

Hon. Member: Would the Member give way?

Hon. F. Hinds: Mr. Speaker, I want to congratulate the two members of the media we see here.

Hon. Member: Hold on, hold on.

Hon. F. Hinds: Usually, at 4 30 p.m. on any day every member of the media [Interruption] would have left. They too, criticize us for our inefficiency and if we sleep, as we are humans we doze off, they will take our picture. I have seen members of the media sitting up there sleeping, they never take each other’s picture—
Mrs. Job-Davis: You understand.

Hon. F. Hinds:—they will take ours, but, Mr. Speaker, tonight we have two members of the media here; I cannot tell you which media house but I want to congratulate them. [Desk thumping] [ Interruption]

Mr. Speaker: It is not parliamentary to refer to members of the media in a debate, so—

Hon. F. Hinds: I am gratified and I take your admonition. Indeed, I want to congratulate you. [Laughter] [Crosstalk] Mr. Speaker, you have sat here and, at times, stood stoically performing your duties as honourable and distinguished Speaker of this House [ Interruption] and certainly when the occasion warranted it you threatened us. [Laughter] [Desk thumping] You very tartly indicated that we could take the door, at least those who deserved it; not yours truly, Mr. Speaker.

Let me get into the essence of what I want to say—

Miss Lucky: Member for Laventille East/Morvant, would you in your kind way give me just one minute? I think you will be grateful that I make this interruption because I am sure you also want to thank the young gentleman who represents the State, who has been the technocrat giving the advice and remains here—

Mr. Speaker: Again, that is not parliamentary.

Miss Lucky: Sorry, Mr. Speaker, but I just want to say they are thanking everybody but at this hour I hope I am forgiven.

Mr. Speaker: I hear you and I appreciate your sentiments but again that is allowed.

Miss Lucky: Thank you so much, Mr. Speaker. [Crosstalk]

Hon. F. Hinds: Mr. Speaker, when I did my undergraduate studies I did one of my courses—criminology—and I remember reading of the ecology of crime and different theorists had different views on the thing, but one of the things that stood out in my mind, nothing is new under the sun; human beings have always been what we are. A view was shared which I have held as correct that when the pendulum, if you like, swung sufficiently to one side and there is nowhere else to go it swings back.

Mrs. Job-Davis: Oh yes.

Hon. F. Hinds: If in nature for example some disease breaks out in the forest eventually it heals itself. The criminals in Trinidad and Tobago have pressed upon us the response that we came to Parliament with today, the society has suffered
pain, it has suffered trauma; we have quarrelled with each other, we have wrongly blamed each other in some cases, but at the end of the day the society, through us to some extent is the pendulum swinging again and today we debated a measure that was designed to bring back some healing. It happens, it is natural; our lives are very short but if we had the opportunity to live for a million years nothing is new under the sun; it has all been here since time begun.

Hon. Member: Sun gone from here.

Hon. F. Hinds: And I see it in that context. Mr. Speaker, permit me, I came with the book of life because the measures we debated here today we must never forget are about people. We are taking measures here to ensure that we deal with persons who act in a certain way that is bringing pain and trauma to the society. But we must never forget that if these individuals were conscious, spiritually attuned, listened to the words of the Bhagwat Gita, the Holy Quran, the Torah if you were Jewish, and certainly as Christians as some of us are, the Holy Bible, maybe we will have no need for the legislation.

I was in my meditation this morning, Mr. Speaker, and had a look at Proverbs, Chap. 1 [Interruption] and let me just say from verse seven and hear what it says, and this is not for Members here, alone, this is for the few young people in this nation who may be looking on at this time and for those who are not hearing maybe they could share it with them.

Mrs. Job-Davis: Quote boy.

Hon. F. Hinds: It says:

“The fear of the Lord is the beginning of knowledge: but fools despise wisdom and instruction.

My son, hear the instruction of thy father, and forsake not the law of thy mother:

For they shall be an ornament of grace unto thy head, and chains about thy neck.

My son, if sinners entice thee, consent thou not.

If they say, Come with us, let us lay wait for blood, let us lurk privily for the innocent without cause:

Let us swallow them up alive as the grave; and whole, as those that go down into the pit:
We shall find all precious substance, and we shall fill our houses with spoil:

Cast in thy lot among us; let us all have one purse:

My son, walk not thou in the way with them; refrain thy foot from their path:

For their feet run to evil, and make haste to shed blood.

Surely in vain the net is spread in the sight of any bird.

And they lay wait for their own blood; they lurk privily for their own lives.

So are the ways of every one that is greedy of gain, which taketh away the life of the owners thereof.”

Mr. Speaker, if the young men and the few women who get involved in the issues, who would sit and plan a kidnapping, plan a robbery, plan to get a gun and plan to murder; if they would take heed maybe we would not have some of the problems, the mopping up problems that we came to do today.

I want to proceed, Mr. Speaker. The Member for Princes Town—and I think the Member for Diego Martin West made the point rather poignantly—lawyer as he is, I remember him saying in the course of his contribution, that hearsay; we are bringing “he say”, “she say” and “dem say”, and the Member for Diego Martin West who is not a lawyer but who I must admit has often demonstrated the prowess and the capacity [Interruption] of being an excellent lawyer—very analytical—he made the point that that is not hearsay; that is for the man in the street and for the man who gets drunk in a bar in St. Helena, but that is not for lawyers and for the court. [Interruption]

Hearsay is an out-of-court statement and that out of court statement must not be denigrated, it may be perfectly accurate, it may be perfectly helpful. For example a dying declaration, a man gets shot; it happened recently in Trinidad [Interruption] right there in Mr. Roberts' Constituency in La Canoa a man got shot but he was able to tell the police who attacked him before he died. [Interruption] That is an out-of-court statement, it is hearsay but very admissible in the court; it may be perfectly accurate. So not because it is “he say” or “she say” or “dem say”, what makes it hearsay is when it is said out of court and that is the big issue and it took the Member for Diego Martin West to make that point. Now we understand the thing better so we need not worry about some of the
noises we have heard. Do you see the Member for Pointe-a-Pierre? She made a wonderful contribution today.

**Dr. Rowley:** Your valentine.

**Hon. F. Hinds:** Yes, my valentine.

**Mr. Imbert:** Oh my God.

**Hon. F. Hinds:** It was a little tedious for me I must admit because I read and re-read the Grant case. I did not consider it necessary to elucidate upon it but for those who did not hear it before it might have been very refreshing, an interesting case.

**Mrs. Job-Davis:** And it was.

**Hon. F. Hinds:** However, it was illuminating, it was enlightening to all of us and I appreciated the contribution of the Member but I want the Member to know that the Attorney General and those who are responsible on this side for bringing the thing studied it very closely and we did not share the view that she held in respect of the special majority point but in any event 15E is now in the legislation, the Member is happy, we are equally happy and we could get past that quite easily. No problem.

**Hon. Member:** When was it removed? [Crosstalk]

**Mr. Imbert:** Dr. Gopeesingh asked for it to come out.

**Hon. F. Hinds:** Mr. Speaker, as for the Member for Oropouche—

**Hon. Member:** Where is he?

**Dr. Rowley:** The less said the better.

**Hon. F. Hinds:** The less said the better! I think that is right but I must say I cannot resist in saying he appeared a little disoriented today; he really was out of it. I looked in his eyes; [Interruption] something has gone wrong.

**Dr. Rowley:** Is the advertisement.

**Hon. F. Hinds:** I do not know, maybe it is the advertisement. What are they advertising? [Inaudible]

**Hon. Member:** What is that?

**Hon. F. Hinds:** I do not want to repeat what I saw and somebody said he put the advertisement out. But, Mr. Speaker, clearly, he wasted our time this afternoon and he spoke about deceitfulness and I want the Member for St. Augustine to hear this.
Hon. Member for St. Augustine, I never had the opportunity to learn a word of Hindi—honest to God—I would have liked to but I never had the opportunity. The only word in Hindi I know, tonight, as I speak to you are the words or the construction if you like “darumi”.

Miss Lucky: What about neemakharaam?

Hon. F. Hinds: Neemakharaam too, I learnt neemakharaam—yes that is true—from the former member for Couva North when he called you and others that and then recently, about a few months ago I learnt the word “darumi” when you all were struggling for the leadership of the defunct UNC, the Member for Oropouche came across here in the presence of the Member for Point Fortin and myself and told me—that time he was vacillating—

Mrs. Job-Davis: On defence. [Crosstalk]

Hon. F. Hinds: He was vacillating, saying that he was following you and two minutes later he was following the Member for Couva North, as he then was.

Hon. Member: He was wet behind the ears.

Hon. F. Hinds: And the Member for Couva North told him he was wet behind the ears, when he heard that he came behind you and then he jumped—he was vacillating. He came over here, and I have a witness [Interruption] who told me that I should in a presentation call the Member for Siparia “darumi” I asked him what did it mean and when he told me that it meant—[Pause]

Mrs. Job-Davis: Do not repeat it.

Hon. F. Hinds: When he told me what it meant I was shocked!

Mr. Imbert: What does it mean?

Hon. F. Hinds: I cannot tell you. [Laughter]

Mr. Imbert: I do not know what it means.

Hon. F. Hinds: It is unparliamentary.

Mr. Imbert: I want to know the meaning. [Laughter]

Hon. F. Hinds: I would not say that—

Mr. Speaker: Wait one minute. If you are saying the word is unparliamentary, then you cannot use it, you know.

Hon. F. Hinds: I said the meaning is unparliamentary.

Mr. Speaker: No, no, no; but you are using the word “darumi”—[Interruption] I do not know the meaning but the hon. Member just said it is unparliamentary, [Crosstalk] so move on.
Hon. F. Hinds: Mr. Speaker, do you want me to say it and clarify the issue?

Hon. Member: No, Mr. Speaker. [Crosstalk]

Hon. F. Hinds: But no, Mr. Speaker, I consider it unparliamentary.

Hon. Member: Say it and withdraw it.

Hon. F. Hinds: That was the conduct of the Member for Oropouche. [Interruption] In passing he made mention of the fact that the Government cannot account for $1.6 million in CEPEP. I wanted to ask the Member but he would not give way. If he—$1.6 million—

Hon. Member: Billion.

Hon. F. Hinds:—billion dollars cannot account for, I mean what reckless dotishness.

Mr. Ramsaran: That is unparliamentary.

Mr. Imbert: No.

Hon. F. Hinds: What reckless madness for a Member of Parliament, a man who is supposed to be possessed of the highest academic attribute or achievement in this world that we know of. I supposed to have a PhD.

Hon. Member: He buy that.

Hon. F. Hinds: He read the Auditor General’s Report; where did he see the Auditor General say that they cannot account for $1.6 billion? Is it missing? Where is it? [Interruption] He just comes here and he said that. His eyes looking very strange and bleary; something is wrong. [Crosstalk]

Mr. Speaker, he also made reference to the fact that the Judicial Review Act is UNC law. It is precisely the language we do not want.

Mrs. Job-Davis: Exactly.

Hon. F. Hinds: We are 36 Members of Parliament. We support the legislation. The Clerk has to certify to the President that it was passed properly in this House, whether by simple or special majority. When a law passes through here it is not PNM law; it is not NAR law—

Mrs. Job-Davis: It is not UNC law at all.

Hon. F. Hinds:—it is not UNC law; it is the law of Trinidad and Tobago. [Desk thumping]
Hon. Member: Well put, well put.

Hon. F. Hinds: And it is very amateur, [Interrupt] boyish and typically UNC to come here and talk about UNC law and that the Member for Diego Martin West in the court now filing an action on the basis of UNC law, as if judicial review did not exist before that law came into existence.

Mr. Imbert: Of course.

Hon. F. Hinds: I was very disappointed; he was at his worst today.

Mrs. Job-Davis: That is why he cannot sit on the Back Bench.

Hon. F. Hinds: And as soon as he was finished he put his proverbial tail—metaphoric tail—between his legs and he left the Chamber. Talking about leaving, this is an important piece of legislation [Interrupt] which the UNC raised a song and dance about trying to obstruct and make mayhem and confusion in the national community. We are here at five minutes to 12; look at the UNC Front Bench, Mr. Speaker, [Interrupt] one single man, in fact half. [Laughter] [Crosstalk]

Dr. Nanan: Point of order, Mr. Speaker.

Hon. Member: Let us hear his point of order. [Crosstalk]

Mr. Speaker: No, no, no, having rendered the hon. Member assistance not too long ago you are being uncharitable. [Crosstalk]

Hon. F. Hinds: I withdraw that without more. [Crosstalk] I withdraw that. But, Mr. Speaker, the big point is, look at the UNC Front Bench; do they care about the people of this country?

Hon. Member: No.

Hon. F. Hinds: Where is the Member for Siparia? [Interrupt] Where is she? She has not shown up here for the whole day [Interrupt] and we are discussing a matter that, according to her, affected constitutionally enshrined provisions.

Mrs. Job-Davis: She “gone” shopping in Miami.

Hon. F. Hinds: She probably must be dancing and liming. [Crosstalk]

Hon. Member: Take it easy.

Miss Lucky: You cannot do that Member. [Crosstalk]

Hon. F. Hinds: No, no, anyway, Mr. Speaker. [Crosstalk] The Member for Oropouche [Interrupt] apparently, the Member for Siparia now start to play duck and run; but that is all right.
I want to raise a point raised by the Member for Caroni East and the Member for St. Augustine, because the Member for Oropouche first introduced into this debate the name Inshan Ishmael.

Mrs. Job-Davis: Yes.

Hon. F. Hinds: A citizen of Trinidad and Tobago, a businessman subject to the benefits and the privileges that this country offers so many of us, the opportunity to be an entrepreneur but also subject to the laws, the Constitution of Trinidad and Tobago and the democratic trend.

Mr. Speaker, none of us are above the law. None! And it is not a Minister of Government; they have made it clear a million times. It is the police who have to decide whether in their opinion a law is being contravened and the police acted. I do not know why Members on the other side want to attribute the police action to the Government.

Dr. Rowley: Mischief.

Hon. F. Hinds: Mischief, yes. [Interruption] But more than that and the real point I want to make, and this is a serious point, Members for Caroni East and St. Augustine, is this, and this ties in to a point I am thinking about the police. We come in this Parliament and everybody—let me use a loose colloquialism—passing their mouth on the police.

Mr. Imbert: Washing.

Hon. F. Hinds: Washing their mouth on the police; the police this, the police that, the police the other. Whenever we do that we have to do a little introspection, because I am sure that the police must be saying to themselves, like the police is the only organization or entity in this country. What about maxi taxi drivers who would take a fare in Curepe to take you to Port of Spain and decide they are not going past San Juan; you pay your $5 or your $7 already.

Mrs. Job-Davis: From Arima.

Hon. F. Hinds: What about teachers who would rather than teach go and lime and drink or interfere with the nation's—

Mrs. Job-Davis: Children.

Hon. F. Hinds:—young, beautiful flowers. [Interruption] What about pundits and imams, reverends and priests who may act similarly? What about government; not only this country but in the world? A couple of days ago I saw a former government official from Korea before the court; I think he was jailed. Every single human being has the capacity to rise to the highest levels—
Mrs. Job-Davis: Or to sink.

Hon. F. Hinds:—the highest levels of humankind or to sink to its lowest depths. [ Interruption ] That is the point, so when you hear them speaking, and I listen, you know. I want us to bear that in mind.

As for Mr. Inshan Ishamel tonight I was told in the tea room by a Member of this House that he attended the funeral service for the son of the Member for Naparima and as he was leaving the funeral service—and he is from this side—long with his wife the very Inshan Ishmael who they are saying was treated in an undignified manner because when he was arrested by the police like everyone else—the police regulations says, when you arrest someone they should be searched, that is common sense too, forget regulations, because he could have a gun, he could have a knife. When someone is taken to the police station they have to be searched. If someone has to be placed in a cell they have to be searched because if you leave them without searching and they have a weapon and they injure somebody else in the cell you have a problem. [ Interruption ] They will say that is negligence and blame the Minister of National Security or the Prime Minister. So the police operated in accordance with their procedure and so on and they are calling it undignified treatment because he was searched.

But the very Inshan Ishmael, I am told by a Member on this side, leaving the funeral service for a member on that side, he was subjected to obscene abuse, both he and his wife by the very Ishan Ishmael. It is in that context I make the point. While we deceitfully come here and point fingers at the police and other people, we need to do a little introspection and remember what my grandmother told me “when you point one finger [ Interruption ] four coming back at you”. It is real. If we want this country to be cleaner and better we all have to clean up our act and it is quite hypocritical, just like members of the public, impose the most exacting and highest standards on politicians: [ Interruption ] “We doh see all you; you doh do nothing; you kicksing in Parliament and you are this and that”, and criticizing MPs and Ministers, but you know, they are working PTSC, they working WASA and they are working T&T and they are unproductive as ever.

Hon. Member: Break all the traffic lights going up the highway and then blame the Government.

Hon. F. Hinds: And these are some of the issues that this nation has to address. We have to get real.

12.00 p.m.

Mr. Speaker, so much for the Member for Oropouche, disoriented as he was, but he raised in the course of his discussion a fairly useful point.
Hon. F. Hinds: He did; he managed to do it. He stumbled over it, where he raised the question of perjury and the fact that since these statements that we are allowing in, may be unsworn, if the person makes a false declaration, for example, if it was sworn, then, there is a sanction. And he pointed out that in the Jamaican legislation there is a provision for a sanction, that is to say, if the statement that you put in turned out to be false, then you can be dealt with in accordance with Jamaican law.

Mr. Speaker, I thought that was a matter that was worthy of some attention and I want to respond to it. The Jamaican legislation at section 31(K) says—well, that was read already; I do not want to detain us. But that was read and it is on the record. But it essentially says, that the person will be sentenced to a term not exceeding seven years or they could be made to pay a fine on conviction if the person wilfully made an inaccurate or a false statement.

Mr. Speaker, we engaged in that discussion before we came here and the decision was taken—and this is to comfort the Member for Oropouche if he can be comforted—

Mrs. Job-Davis: He is not here.

Hon. F. Hinds:—or other Members—that in circumstances where these statements are to be taken, they will be done in the form of the statutory declaration and will be subject to the Statutory Declarations Act and they will be authenticated by a Justice of the Peace. Of course, a false statement is punishable in accordance with that Act. Once however, the statement goes in as we would like to see it done in the purport of this Bill, once the statement goes in the criminal proceedings, the person becomes a witness. The maker of the statement becomes a witness and now it is the subject of the Perjury Act in the normal run of things. So, that is the position.

Now, I raise that off the record with the Member for Pointe-a-Pierre who feels that not only this should be stated clearly for the purposes of interpretation and the use of Hansard, because Hansard can now be read to see what was the intention of Parliament since 1992—the case, I have forgotten it now, but, that is the state of affairs. There is a view by some that we should expressly say so in the legislation. I do not think that that is necessary at this point, but it is a matter that we can broach at the stage of the committee again, if a Member wishes to raise it.

[Interruptions] [Crosstalk]

Mr. Speaker, the penalty in respect of the perjury position is very clear and known to all of us, so I need not detain us in that matter again. But more than
that, I think the Member for Oropouche misread the thing too because that 31K was dealing only with 31C, it was not a general applicability, so he misread that. You understand that Member for Pointe-a-Pierre, so I think we can move on that. Essentially, what we are dealing with here in our amendment to the Evidence Act, is a situation where a statement is put in because the witness is absent, whereas the 31C deals with where the witness is there giving evidence—

**Hon. Member:** In a paper committal.

**Hon. F. Hinds:**—in a paper committal scenario. So the Member for Oropouche misread the thing but that did not surprise me, not only because he is not a lawyer, because I said today, he was very disoriented, out of place.

**Mrs. Job-Davis:** He did not read it.

**Hon. F. Hinds:** Or he probably just did not read the thing.

**Mr. Imbert:** He has purchased his degree. [Laughter]

**Mr. Valley:** [Inaudible]

**Mr. Imbert:** He paid $100 for it.

**Hon. F. Hinds:** So, Mr. Speaker, there we go. In relation to the contribution of the Member for Caroni East, I mean, I must say in the spirit of appreciation and Valentine—although I am going straight, let me make that very clear—I was very impressed with the contribution from the Member for Caroni East, not for the substance, but for his style, [Desk thumping] I must say.

**Mr. Imbert:** No substance.

**Hon. F. Hinds:** Yes, yes, yes. And the Member for Caroni East raised the question of the mutual assistance and I should simply say to him, he needs to have a re-read of this. This was passed as we now know when he was in Government; he supported it over some of our objections in some cases, but I think he needs—all the procedure, and all the questions he asked me. I do not think he could be properly accused of intellectual laziness, so he could take a little time and read it and every single question he asked me is outlined there.

Suffice to say, the document requested by the Attorney General in respect of that, under section 7 of the Mutual Assistance in Criminal Matters Act would include evidence taken from a person, judicial record, official records or other records or document. And under section 35, the evidence or the document must be authenticated by a judge or magistrate on oath of a witness or sealed with an
official or public seal of a Minster or of a department or public office of the Government from the requested country. We made the request, it is authenticated and dealt with there and this came as a result of a Harare Agreement; it is a treaty between Commonwealth countries. So the position is fairly well settled. And from the body language of the Member for Caroni East, it seems as though he now remembers what he had voted for in 1997. So I suspect that I can now move on.

Mr. Speaker—[Interruption]

Mr. Imbert: [Inaudible]

Hon. F. Hinds: Yes I know.—the Member for Caroni East seemed to have some kind of fixation with the police. I mean I have touched this before, but he seems to get gi-gi-ree every time he sees police. I do not know why. He spends a lot of time telling this country every little thing he thinks he knows about the intelligence agencies in this country and I want to tell him it irritates me.

Mr. Singh: Why?

Hon. F. Hinds: Because it is irresponsible as a former Minister of Government and one who is aspiring to ministerial office again, to so wantonly and recklessly speak on things of which you know not. And no matter how I try to tell him it is rubbish—Is that unparliamentary?

Dr. Rowley: No.

Hon. F. Hinds:—he persists. But I have a feeling like he “fraid” police.

Mr. Singh: I like police. [Laughter]

Mrs. Job-Davis: You could like them and “fraid” them, you know.

Hon. F. Hinds: Mr. Speaker, I feel he “fraid” police.

Mr. Imbert: He does not want anybody jumping on him.

Hon. F. Hinds:—and certainly he does not want anybody listening to his telephone conversation, like he has cocoa in sun.

Mrs. Job-Davis: I wonder why.

Hon. F. Hinds: Take it nice and easy. I think he needs a polygraph test.

Mr. Singh: You are trivializing the [Inaudible] privacy.

Hon. F. Hinds: No, no.

Mr. Singh: [Inaudible]
Hon. F. Hinds: No, no. no. [Crosstalk] No, no, no.

Mr. Singh: You are trivializing that?

Hon. F. Hinds: Anyway, I am not trying to put any salt in your rice. In any case I will try to desalinate your rice, [Laughter] not put salt in your rice. So Mr. Speaker, I want to move on. I want to assure the Member for Caroni East, however, that we understood full well that the Trinidad and Tobago Police Service is the major platform for the prevention and detection of crime in this country and we spent a lot of time; a lot of intellectual force; a lot of thought; and certainly a large chunk of public money trying to make the police service better.

I want to assure, because I do not want it to be said again, that nothing has been done. That organization fell terribly behind in the course of our underdevelopment and you might rather say our development. Like every other institution in Trinidad and Tobago, during the structural adjustment years and even when we had a little more money, we did not focus on many organizations including the police service, as we would have liked to. It lagged behind and we did not face the challenge of crime then, as we face now and it is for this reason that we have put the police service, national security generally, as a very high priority—[Interruption]

Mr. Ramsaran: You could have fooled me.

Hon. F. Hinds:—making it accessible to the second highest chunk in the national budget for last three years. The Police Complaints Authority has been strengthened from approximately 36 members to a hundred and something. They have been given their own office; they have been given computers, desks, vehicles, because we understand that they are—and specially selected officers now—to investigate other police officers until this country sees the wisdom in doing otherwise.

Mr. Speaker, we do not have to worry about the independence of that too much and let me tell you why I say so. I have been a police officer myself as you know, and many police officers have been arrested and charged for serious criminal offences, all the criminal offences, from kidnapping right back. Whenever members of the police service find their colleagues doing that—in fact, police officers will tell you they investigate allegations against police officers rougher and harder than sometimes against criminals. You may not believe that, but that is true.

So, the records will show police officers are dealt with. Police misconduct that falls short of out and out criminal cases, there is where the problem is. They close ranks; they cover for each other; rudeness to a member of the public; failing
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to take a report; these departmental kinds of things they have in my view too high a tolerance level for those kinds of misconduct. But when it comes to dealing with drugs, guns, kidnapping and running crime and rape, the records will show that the police are getting locked up and it is not just police, they deal with it.

Mr. Speaker, I have a list of the things that we have achieved in respect of the police package, I will make it available to Members if they want it; a number of things from the rearrangement of the Service Commission. I will not bother us with this tonight, but trust me, a lot of work has been done on the improvement of the management of the Trinidad and Tobago Police Service and I venture to say it is getting better. We have established just briefly five what we call model stations; five stations where we put in over a hundred men. That is the objective. We have staffed these stations, Morvant is one. We have put in new systems of recording crime, no longer using the diaries, everything is put into computers now; we have modernized it; we are building police stations again.

Mr. Speaker, good things are happening, the officers are saying that they are feeling the difference. A lot of training is being drilled down into the police service, crime scene investigation and supervisory techniques. It is happening and the thing is getting better by the day. These are some of the reasons why I feel—and this is no political small talk, I am a citizen and I want to see that organization stronger, swifter, more efficient, more proficient, and more professional. I am confident that it is going there and we have to continue giving them support and I am confident about that. There are many police officers with degrees in all kinds of disciplines; the thing is happening and the job of Commissioner does not come easy anymore. A vacancy arises, anyone can apply; meet the qualifications, interview; seniority is no longer automatic; the thing is improving.

So, Mr. Speaker, those are just some of the comments I wanted to make and I said in a previous debate when we dealt with those same Police Bills that the police is a part of the Executive in terms of the separation of powers. Nobody could argue that. It is not part of the Judiciary; it is not part of the Legislature; it is part of the Executive and you cannot separate the thing from itself. What makes the police service independent and what is known to us all, it is trite that the Commissioner of Police has responsibility for operational matters and he must act independently of everything and everyone. He must act independently of the courts; independently of the Parliament; independently of the Government; independently of any criminal organization or foreign Government. He must act in his own name and there is where the independence comes, but for the separation for powers, the police come under the Executive.
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[HON. F. HINDS]

I am telling you this, Mr. Speaker, the leadership of the police service and the leadership of the national security, all the divisions will tell you we take great pains—let me release a bedroom secret—in ensuring that they could never be heard to say—and I say so without fear of contradiction, particularly, Sen. The Hon. Martin Joseph, without fear of contradiction so that no one could be heard to say that we tried to interfere with their operational decisions. We do not. We are about policy; we are about resources; we asked for them to account in various things; we offer suggestions but at the end of the day, the Commissioner understands that he makes his own deliberate judgment. Every police officer is empowered to act under the Police Service Act, and out there, he too has that power in law. He is not bound by even his own Corporal to act or not to act, or his Inspector, he is empowered by the law as a sworn officer to do it and they do.

I am going through quickly. This question of the Scott Drug Report, I am tired of hearing of it. I do not know what is the value of talking about it again. It is historical. There are new players in the drug industry now, some of the police officers have retired and have gone home, most of them. There are new drugs coming into the country and floating around the world. There are new threats facing us, you think I have time to study the Scott Drug Report which was discredited in the court? That is a matter of history, we need to be looking forward now. So when the Member for Caroni East comes to talk about Scott Drug Report and this one, that is just, what you call—[ Interruption]

Mrs. Job-Davis: Make up time.

Hon. Member: [ Inaudible]

Hon. F. Hinds: No I do not think I want to attribute bacchanal to him although he has a tinge of it, more than a tinge, but it is what you call—[ Interruption]

Mr. Singh: Historical trend.

Mrs. Job-Davis: Padding representation.

Hon. F. Hinds: Rubbish. We have new challenges to face, serious challenges, so we need to move on. He mentioned Amnesty International as some international authority. Amnesty International is just an NGO coming around some countries. They do not get access to jails in the United States and as the Member for Tobago East intervened to say; nothing in their report has anything to do with the number of assaults police officers and prison officers face.

Mrs. Job-Davis: Bias.

Hon. F. Hinds: Nothing in the report has to do with the cuss, the abuse and threats and throwing things at the Government vehicles as we heard earlier today
from the Member for Diego Martin West; like it is a one-way street. They do not have any concern about that; they are funded wherever they get it. I mean they work, I am not trivializing or denigrating their work but there is no balance and we understand how the thing goes and they played a fast one on me sometime ago. We allowed them to come into the prisons here to see the conditions hoping that they would make some recommendations, all kinds of things floated around after that. But we understand.

So, Mr. Speaker, finally, this question of the UTT board, I feel obliged to say to the Member for Caroni East, we have the Integrity in Public Life Act, that is the law of Trinidad and Tobago. The board members of the UTT are citizens of Trinidad and Tobago, public servants if you like in the capacity. They are free to challenge any law in Trinidad and Tobago including the Integrity in Public Life Act, nothing is wrong procedurally, morally or otherwise about that. Under the Constitution we pass laws and under the Constitution we have courts, the purpose of the courts is to resolve these differences and disputes. So why would you attack them for accessing the Constitution and the law as you may wish to do and as we all are entitled to do as citizens? Take your time. As the Member for Port of Spain North/St. Ann’s West will always say, “Drink your porridge cool and if it is hot, sip it; take your time.” They will have their day in court and the court will make its pronouncements and they will be guided and the country will be guided. So take it nice and easy.

Hon. Member: You are missing the point.

Hon. F. Hinds: I am not missing any point, just be patient. So Mr. Speaker, having said those things—

Mr. Speaker: Are you about winding up?

Hon. F. Hinds: Yes, Mr. Speaker.

Mr. Speaker: In half a minute?

Hon. F. Hinds: I am winding up. With those few things said, again I would like to say that I particularly enjoyed the contribution of the Members of this House, wonderful for the most part, illuminating in a particular case, Member for Pointe-a-Pierre. Mr. Speaker, we hope that these measures will gain the full support of those present here this evening and we commend these measures for your support in full.

I beg to move. [Desk thumping]

Question put and agreed to.

Mr. Valley: Division.
Mr. Speaker: No, not yet.

Bill accordingly read a second time.

Mr. Valley: We could take the division now.

Mr. Speaker: You want a division now? Division! No, I think it is at the third reading you take the division. All right, we will take it after.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, I just want to make sure that the Bill you have before you is the one that is dated February 14, 2007.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. Hinds: Mr. Speaker, we have circulated a list of amendments for the consideration of Members in committee, including of course an amendment to clause 2.

Miss Lucky: I am looking at clause 2 and I agree with the amendments circulated. I am asking if we could look hon. Minister at what will be clause 15C(3), beginning “Subject to subsection (3)”. Are you with me?

Mr. Hinds: Yes, I am seeing it.

Mr. Chairman: Page 5.

Mr. Hinds: What about it?

Miss Lucky: First of all, “Subject to subsection (3)” within subsection (3), there is an error because it would not be “Subject to subsection (3)” when we are already in subsection (3) and I think—[Interruption]

Hon. Member: [Inaudible]

Miss Lucky: Well, I am going by the Bill.

Mr. Chairman: I have subsection (3).

Miss Lucky: I have subsection (3) and in any event I want to suggest hon. Minister that that entire opening phrase, “Subject to subsection” anything, ought not to be there. I think that is there in error.
Miss Lucky: In Jamaica it was made subject to a subsection in which the court had been given the power to waive the 21-day notice, but we do not have such a section.

Mr. Hinds: I am advised that it is a typographical error and it can easily come off.

Miss Lucky: So it really begins “the party intending”, will that be correct?

Mr. Hinds: Thank you very much. It starts at “the party”.

Miss Lucky: Okay. Hon. Minister would consider, I think this was a point actually raised by the Member for Caroni East in that very subsection, Sir, four lines down which “the statement is be tendered, notify”. Could we include the words, “notify and serve”?

Mr. Hinds: Well, what about the rules for discovery that have general applicability as you know?

Miss Lucky: This sets a time line and interestingly enough in Jamaica, the only time a time line has been set was when we were dealing with civil proceedings. This will be a little different to Jamaica, we are putting this 21 days. Jamaica has it but for civil proceedings not criminal.

Mr. Hinds: I think it is a good idea.

Miss Lucky: No, I think it is good. I endorse it. I am just suggesting if instead of merely saying “notify”, we could just go and say “notify and serve”.

Mr. Hinds: While I take your point, I do not think it is necessary because the discovery rules apply in any event.

Miss Lucky: But not necessarily with respect to the 21 days. We have rules of disclosure.

Mr. Hinds: It is going to be at least at that same time. The rules of disclosure will apply; I do not see the need for—[Interruption]

Miss Lucky: Hon. Minister, I know the rules of disclosure and the rules of disclosure as they apply, especially in a preliminary enquiry, for example, we are constantly reminded that disclosure is something that is ongoing and disclosure could be satisfied even if you serve somebody, let us say, in the morning.

Mr. Hinds: In other words, if the statement is to be tendered and you are going to meet the 21-day deadline, I think it implies as well. I know you do not like implications, but I think it suggests that you will be—[Interruption]
Miss Lucky: It is not I do not like implications, hon. Minister, if you so satisfied, but I am just saying if you feel “notify” covers it, so be it.

Mr. Hinds: I do not think it is a problem. In other words, what you want, I am satisfied that it will be achieved.

Miss Lucky: By the word “notify”, as you say.

Mr. Hinds: All right, wonderful. You agree with that?

Miss Lucky: It does not imply it, hon. Minister.

Mr. Hinds: I am advised accordingly as well. Mr. Chairman, at page 6, we insert the—

Mr. Chairman: Where about on page 6 are you talking about?

Mr. Hinds: At the bottom of page 6, we are inserting a new 15E and then renumbering what was E as 15F. And consequently after 15D in very first line there of what is now 15F, sections 15B, 15C and we need to add 15D and 15E as a consequential amendment.

Mr. Chairman, we want insert a new 15G in accordance with a recommendation that had come in the course of the debate from the Member for Pointe-a-Pierre. We accepted her recommendation; we drafted a 15G; we have shared it with her, she considers it satisfactory and hopes that the other Members would so find. So we will insert a new 15G which reads, “This Act after its commencement shall not apply to cases where a person is charged for an offence and is already brought before any court.” And that is to deal with the transition cases in light of the point that was so appositely made.

Mr. Chairman: Anything else?

Mr. Hinds: That seems to be the extent of it, Mr. Chairman.

Mr. Chairman: Hon. Members, the question is that clause 2 be amended as circulated and further amended at clause 15C(3) by the deletion of the words “Subject to subsection (3)” and renumbered 15F by the deletion of the word “and” after the word “15C” and the insertion of the words “after 15D and 15E”.

12.30 a.m.

Miss Lucky: Mr. Chairman, can I ask one question? Hon. Minister, it says: “This Act, after its commencement,”

Does the word “after” make a difference, or should it be “upon”? Could I be guided by yourself and your adviser?
Mr. Hinds: Upon.
Miss Lucky: Could we then change it to “upon”?
Mr. Hinds: Yes.
Miss Lucky: Thank you.
Mr. Hinds: Another suggestion is coming; it could be “on or after”.
Miss Lucky: So “This Act, on or after its commencement…”
Mr. Hinds: I think the word “upon” can work as well.
Miss Lucky: I would go with whatever the correct thing is.

Mr. Hinds: In standard drafting, we have been told that it is “on or after”, and I am not a draftsman.
Miss Lucky: Neither am I.

Mr. Valley: I am reading it and to me, if you say “…on or after its commencement, shall not apply to cases where a person is charged for an offence and is already brought before any court.” by putting the word “after”, it suggests that even after the commencement of the Bill if someone is charged in some cases it would not apply. That is why I think it ought to be “upon its commencement…”

Miss Lucky: Mr. Chairman, if the word “upon” makes us more comfortable let us go with “upon”.

Mr. Chairman: So clause 2, 15G is further amended to delete the word “after” and substitute the word “upon” as follows:

“15G. This Act, upon its commencement, shall not apply to cases where a person is charged for an offence and is already brought before any court.”

Question put and agreed to.
Clause 2, as amended, ordered to stand part of the Bill.
House resumed.
Bill reported with amendment.

Question put, That the Bill be now read the third time.

The House divided: Ayes 19
Evidence (Amendment) Bill

AYES
Valley, Hon. K.
Rowley, Hon. Dr. K.
Imbert, Hon. C.
Narine, Hon. J.
Beckles, Hon. P.
Rahael, Hon. J.
Bereaux, H.
James, Hon. E.
Hart, Hon. E.
Callender, Hon. S.
Seukeran, Hon. D.
Job-Davis, Hon. E.
Hinds, Hon. F.
Achong, L.
Roberts, Hon. A.
Singh, G.
Dookeran, W.
Ramsaran, M.
Lucky, Miss G.

Dr. A. Nanan abstained.
Question agreed to.
Bill accordingly read the third time and passed.

AIRPORTS AUTHORITY (AMDT.) BILL

Senate Amendment

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move,

That the Senate amendment to the Airports Authority (Amendment) Bill listed in the appendix to the Supplemental Order Paper be now considered.
Question proposed.
Question put and agreed to.
Clause 3.

Senate amendment read as follows:

A. In the proposed subsection (1A)(b), insert the word “civil” before the word “aviation”.

B. In the proposed subsection (1B)(c), insert the word “written” before the word “directions”.

Mr. Imbert: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Question proposed.
Question put and agreed to.

ADJOURNMENT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House be now adjourned to Friday, March 02 at 1.30p.m. and to inform Members on the other side that that day would be Private Members’ Day and, therefore, the acting Chief Whip may want to state the business of that day.

Dr. A. Nanan: Mr. Speaker, on that day motion No. 4 on the Order Paper dealing with CEPEP would be debated.

I also want to take the opportunity to wish all Members and the national community a safe carnival.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 12.40 a.m.