

*Leave of Absence**Friday, December 02, 2011***HOUSE OF REPRESENTATIVES***Friday, December 02, 2011*

The House met at 1.30 p.m.

**PRAYERS**[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I have received communication from the following Members who are currently out of the country and have asked to be excused from sittings of the House: the hon. Winston Dookeran, Member of Parliament for Tunapuna, during the period November 28 to November 30, 2011; Mr. Patrick Manning, Member of Parliament for San Fernando East, during the period Tuesday, November 29, 2011 to Saturday, 03 December 2011; the hon. Errol McLeod, Member of Parliament for Point a Pierre, during the period Tuesday, November 29, 2011 to Wednesday, December 14, 2011; the hon. Dr. Surujrattan Rambachan, Member of Parliament for Tabaquite, during the period Friday, December 02, 2011; the hon. Kamla Persad-Bissessar, Member of Parliament for Siparia and Prime Minister, during the period Friday, December 02, 2011. The leave which the Members seek is granted.

**CONDOLENCES****(DR. CUTHBERT JOSEPH)**

**Mr. Speaker:** Hon. Members, as you are aware, a former Member of Parliament for the Port of Spain East constituency for some 15 years, former Minister of Education, Minister of Local Government, Dr. Cuthbert Joseph, passed away on Tuesday 29. At this moment I call on Members to pay tribute. The Leader of the House.

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Thank you very much, Mr. Speaker. The former Member of Parliament and former Minister of government, Dr. Cuthbert Joseph, served the Parliament, his constituency, his political party and the people of Trinidad and Tobago with distinction and indeed served during several of the very difficult periods in our post-Independence history.

Dr. Joseph was well remembered by all as an extremely affable, approachable, accessible and good spirited Member of the Parliament. Even in the years when he demitted office as a Minister of government in 1986, Dr. Joseph showed enormous capacity by going to law school, completing his LLB degree in law and later his Legal Education Certificate at the Hugh Wooding Law School.

*Condolences (Dr. Cuthbert Joseph)*  
[HON. DR. R. MOONILAL]

*Friday, December 02, 2011*

That commitment to his purpose, to his calling, that desire to serve the national community in several capacities led us all to hold Dr. Cuthbert Joseph in great esteem. In the latter part of his years, when some of us on this side would have interfaced with him, during the period when he served the former administration as an adviser, he was also involved in writing his own works so that the generations to come would benefit from his insights into politics and into development. Dr. Joseph served at a very difficult time in this country's history during the '70s and early '80s, and would be well remembered for his commitment to service.

Mr. Speaker, notwithstanding our well known adversarial model of government, our parliamentary Westminster system, I can attest to the fact that Members of the Opposition at that time as well, notwithstanding the adversarial nature of our system, held Dr. Joseph in high esteem.

We, the Government, would like to take this opportunity to extend our sympathies to his relatives and friends. May his soul rest in peace. I thank you.  
[*Desk thumping*]

**Dr. Keith Rowley** (*Diego Martin West*): Thank you very much, Mr. Speaker. They say in the midst of life there is death and it appears as though we are on a regular basis having to acknowledge—and I know my colleagues say too regular, but it is beyond our control. But I must admit that very frequently we have to acknowledge the passing of citizens who warrant our acknowledgement of their presence and their contribution.

Today, it is a sense of great sadness and loss that accompanies my comments here in recognizing the passing of Dr. Cuthbert Joseph.

Dr. Joseph served this country at a number of offices and in every area he served, he was acknowledged as a model citizen: as teacher, as researcher, as Minister, as politician in general, and educator overall. He served the community as a teacher; he served the nation as a researcher who assisted Dr. Williams in preparing some of his seminal works, as he prepared the country's history to commend it to the rest of us by way of Dr. Williams' writings.

When Dr. Joseph came into the political arena he distinguished himself as a politician who placed much value on the intellectual input into the political decisions that govern our public administration.

Dr. Joseph, I think, would most be remembered as the Minister of Education who served at the time when some serious decisions were being taken with

*Condolences (Dr. Cuthbert Joseph)*

*Friday, December 02, 2011*

respect to the opening up, advancement and modernization of the education system, especially at the secondary level in Trinidad and Tobago. And it is for those years of service which I think he would be most remembered.

He was always a very humble man and always accessible to all of us. Those of us who came into the politics after as juniors could always turn to Dr. Joseph and he always had words of wisdom; sometimes challenging you intellectually to appreciate what you are involved in. He also had his concerns about the national disregard for that intellectualism, which was replaced sometimes by just “ol’ talk” and unsupported diatribe. Dr. Joseph was a very tolerant person, very patient and very hopeful. He always spoke about Trinidad and Tobago’s ability to distinguish itself in the international arena, and to hold standards of larger countries while being a small country in very difficult circumstances.

Having left the political arena, he then got himself trained as a lawyer and focused a lot on the whole question of international relations and foreign relations in general. In that capacity, he had been a source of great valuable advice for the political party he served and the country as a whole.

Today, as he passed on at the advanced age of—I think it was 83—we say that his passing came as a shock to us, because we were not aware that he was ailing, and when we did hear that he had passed on, it did come as a shock to us and we are still trying to get over that loss.

Dr. Joseph’s shoes would be very difficult to fill, but we trust that his family would be comforted by the fact that the rest of Trinidad and Tobago acknowledges his valuable contributions and we empathize and sympathize with them and express our deepest condolences. We hope that they would bear his loss with that knowledge, that his presence made Trinidad and Tobago a better place. May he rest in peace.

**The Minister of Education (Hon. Tim Gopeesingh):** Mr. Speaker, I stand with a great deal of sadness myself having known Dr. Cuthbert Joseph for almost 30 years, since I knew his daughter who is married to a colleague of mine, Dr. Ron Henry, who has been a tremendous gem in the history of Trinidad and Tobago’s medical professionalism. Through Dr. Ron Henry I knew Dr. Joseph for this period of time. When Dr. Henry indicated to me that he was unwell, I made a personal visit to his home and spent about three to four hours speaking with him. He was happy to see me and I was extremely happy to see him, and we began to exchange some conversations about education, since he was a former Minister of Education. He wished me well and I thanked him for the work which he did in

*Condolences (Dr. Cuthbert Joseph)*  
[HON. DR. T. GOPEESINGH]

*Friday, December 02, 2011*

Education and he gave me some ideas on the way forward which I greatly appreciated. I was very grateful for the opportunity to have met with him at a time when he knew himself that he was very unwell and death was close at hand.

From the perspective of a medical doctor, and his son-in-law being a medical doctor himself, there was little I could have offered to him in terms of hope, because I knew what his situation was like, but he stood stoically and understood and appreciated his situation.

I happened to know him as well when he was a lecturer at the Institute of International Relations when I was there for a while. I found him to be a tremendous person of integrity and character; humility. It gives me a great sense of satisfaction that you have allowed me the opportunity to express my sentiments and my sincere condolences to the family of a person who has distinguished himself in the annals of political history and education in Trinidad and Tobago. And I say I wish the family well and God's blessings. Thank you very much, Mr. Speaker.

**Mr. Speaker:** Hon. Members, I take this opportunity to join with hon. Members of this House in paying tribute to Dr. Cuthbert Joseph, former Member of the House who passed away on Tuesday 29, November.

Born in Siparia in 1927, Dr. Joseph received his secondary education at a school established by his father in 1915 to provide commercial education for personnel of the newly emerging oil industry in south Trinidad.

Dr. Joseph entered the Civil Service in the Colonial Secretariat in 1949 and distinguished himself by receipt of his scholarship as an administrative cadet at UWI, Mona, Jamaica. This was followed by a research fellowship at the graduate Institute of International Studies in Geneva where he graduated with a doctorate in International Relations.

#### **1.45 p.m.**

He entered active politics after the black power demonstrations of 1970. In 1971 he was elected a Member of Parliament where he would serve the constituency of Port of Spain East for 15 years. Between 1971 to 1986, he held several portfolios in the Office of the Prime Minister, Ministries of External Affairs, West Indian Affairs, Education and Culture, Community Development, Local Government, Public Utilities and National Transportation. Dr. Joseph retired from active politics in 1986, returning to the Cave Hill Campus at the University of the West Indies as a student in the Faculty of Law.

*Condolences (Dr. Cuthbert Joseph)*

*Friday, December 02, 2011*

In 2002, he was appointed ambassador with special responsibility to advise the then Trinidad and Tobago Government and the Regional Caricom Secretariat on the legal aspects of Caribbean integration. He held this position until May 2010.

Although he was no longer involved in active politics, Dr. Joseph always sought ways to motivate people in the interest of national development through community organizations, self-help and self-reliance. It was only earlier this year that I was fortunate to receive an autographed copy of his publication entitled: *The Life I Recall: Other Pathways to Human Development*.

The recent passing of Dr. Cuthbert Joseph provides us with an opportunity to commemorate and reflect on his contributions to this House, to his community and to his country. I, therefore, direct the Clerk of the House to prepare an appropriate letter of condolence to the wife and family of the late Dr. Cuthbert Joseph.

As a mark of respect, and in tribute to the former Member of Parliament, could we all stand in a minute of silence.

*The House of Representatives stood.*

#### **50th ANNIVERSARY OF BICAMERALISM**

**Mr. Speaker:** Thank you, hon. Members. As you are aware, the activities to commemorate the 50<sup>th</sup> Anniversary of Bicameralism continue. All hon. Members would have received, by now, an invitation to attend the inter-faith service scheduled for Monday, December 05, 2011 at 10.00 a.m. at the Holy Trinity Cathedral, located on Hart Street in Port of Spain. As the sitting Members of Parliament, I trust that all hon. Members will accept the Presiding Officers' invitation to attend this service.

On Wednesday, December 07, the lecture series concludes at the Point Fortin Town Hall at 7.00 p.m. The topic that will be presented is entitled, "The Role of Parliament in Constitutional Reform". That topic will be presented by Dr. Olabisi Kuboni. I wish to invite all parliamentary colleagues and representatives, in particular, to that particular lecture and for them to encourage their constituents to be part of this important lecture.

I also take this opportunity to remind hon. Members that the celebrations in commemoration of the 50th Anniversary of Bicameralism will conclude on Monday, December 19, 2011 with a joint assembly of the Senate and the House of Representatives at the National Academy for the Performing Arts at 10.00 a.m.

*50<sup>th</sup> Anniversary of Bicameralism*  
[MR. SPEAKER]

*Friday, December 02, 2011*

His Excellency the President, has graciously accepted the Presiding Officers invitation to be the featured speaker at that very important event. His Excellency's feature address is entitled: "The Role of Head of State in the Bicameral System of Government from Legislative Council to present".

Again, it is my hope and our collective hope that all hon. Members will make every effort to be present on Monday, December 19, 2011 at 10.00 a.m., at NAPA

**REPLY TO STATEMENTS MADE BY MP FOR PORT OF SPAIN NORTH/ST. ANN'S WEST, ON TUNAPUNA HINDU PRIMARY SCHOOL INCIDENT**

**Mr. Speaker:** Hon. Members, I received a letter dated November 21, 2011 from Mr. Satnarine Maharaj in which he sought an opportunity to respond to statements made by the Member for Port of Spain North/St. Ann's West at a sitting of the House held on Friday, November 09, 2011. Hon. Members, after a careful consideration of his submission and given the established guidelines, in relation to requests, for the opportunity to respond, I have approved a statement, in response, to be read by the Clerk and thus form part of the parliamentary record. The Clerk will now read the statement in response.

**Clerk:** "A statement from the Secretary General of the Sanatan Dharma Maha Sabha Mr. Satnarayan Maharaj."

Honourable Speaker and Members of the House of Representatives, I thank you for the opportunity to reply to statements made by the MP for Port of Spain North/St. Ann's West, Mrs. Patricia McIntosh at a sitting of the House of Representatives held on Friday, November 09, 2011, with respect to the Tunapuna Hindu Primary School.

1. The Member quoted the following from a letter sent by Mrs. Sita Gadjadharsingh Nanga, Principal of the Tunapuna Hindu Primary School to the Teaching Service Commission:

'The Secretary General threatened to lock me out of the school for taking non-Indian children who were within the catchment area. He told me in no uncertain terms that I must not admit black children into the school and admission lists for both primary and pre-school are being scrutinized to ascertain whether I am following those instructions'.

I totally refute this claim.

2. The Member further quoted the following from the said letter:

'The secretary general was in an uproar because two out of eight OJT's sent to the school were non-Indian. He threatened that the school keys would be

taken from me because I was changing the culture of the school and I was ordered to immediately get rid of the OJT's'.

I also refute this claim.

The facts are as follows:

a) When the principal was told that the OJT must adhere to the dress code she proceeded to remove the dress code sign that was up at the school.

b) There was an issue of using the Maha Sabha's greeting which is "Sita Ram" and the non-compliance by the secretary to the principal. This was considered to be a disregard to the board and as such we asked that necessary steps be taken to ensure that the greeting was in fact used.

3) The Member further stated that:

'Mr. Satnarine Maharaj accompanied by Mr. Devant Maharaj, Minister of Transport visited the Tunapuna Police Station to press charges against the Principal and the two school supervisors and the police and fire officers who had accompanied them to the school on the day of October 24.'

I visited the Tunapuna Police Station on October 24, 2011, to report an incident which had occurred at the Tunapuna Hindu Primary School. I was accompanied by the Vice-Principal of the Tunapuna Hindu School Mr. Dave Ramoutar, and the Maha Sabha's Attorney, Mr. Rajiv Ricki. Mr. Devant Maharaj was not a part of this process"—[*Crosstalk*]

**Hon. Members:** Lies!

**Clerk:**—"but did visit the police station for a brief period while we were making the said report."

**Hon. Member:** True.

**Clerk:** "Mr. Satnarayan Maharaj Secretary General Sanatan Dharma Maha Sabha"—dated—"November 21, 2011". [*Crosstalk*]

**Hon. Members:** Lies!

**Mr. Speaker:** Please! Please! Please! Hon. Members, you know better than using that kind of language; it is unparliamentary, it is insulting and disrespectful to the House. I urge Members to observe parliamentary decorum. Please! It is not in order to use that language.

*Birthday Greeting*

*Friday, December 02, 2011*

**BIRTHDAY GREETING**

**Mr. Speaker:** Hon. Members, may I just inform you. I have learnt that today is the birthday of the Leader of Government Business and Minister of Housing and the Environment. On your behalf, I wish him a happy birthday. [*Crosstalk*]

**PAPERS LAID**

1. Civil Aviation (No. 1) General Application and Personnel Licensing] (Amdt.) Regulations, 2011. [*The Minister of Housing and the Environment and Acting Minister of Foreign Affairs and Communications (Hon. Dr. Roodal Moonilal)*]
2. Civil Aviation [(No. 2) Operations] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
3. Civil Aviation [(No. 3) Air Operator Certification and Administration] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
4. Civil Aviation [(No. 5) Airworthiness] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
5. Civil Aviation [(No. 6) Approved Maintenance Organization] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
6. Civil Aviation [(No. 7) Instruments and Equipment] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
7. Civil Aviation [(No. 8) Aviation Security] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
8. Civil Aviation [(No. 9) Aviation Training Organization] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
9. Civil Aviation [(No. 12) Aerodrome Licensing] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
10. Civil Aviation [(No. 14) Aircraft Accident and Incident Investigation] (Amdt.) Regulations, 2011. [*Hon. Dr. R. Moonilal*]
11. Annual Audited Financial Statements of Government Human Resource Services Company Limited (GHR) for the financial year ended September 30, 2010. [*The Minister of Finance (Hon. Winston Dookeran)*]

*To be referred to the Public Accounts (Enterprises) Committee.*

**2.00 p.m.**

**ORAL ANSWERS TO QUESTIONS**

**Government Charter Flight  
(List of Persons who Travelled)**

**21. Ms. Marlene McDonald** (*Port of Spain South*) asked the hon. Minister of Foreign Affairs and Communications:

Could the Minister list the names of all the persons who travelled, from Trinidad and Tobago to Brazil on April 25, 2011 on the CAL aircraft chartered by the Government of Trinidad and Tobago?

**The Minister of Housing and the Environment and Acting Minister of Foreign Affairs and Communications (Hon. Dr. Roodal Moonilal):** Mr. Speaker, in response to question No. 21 posed to the Hon. Minister of Foreign Affairs and Communications, as Acting Minister of Foreign Affairs and Communications, I offer the following answer to question No. 21 on the Order Paper.

Mr. Speaker, on April 25, 2011, the official delegation which travelled to Brazil included: the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, security officers, Mr. Geddes Foncette and Mr. Kerwin Ramnath, Minister Stephen Cadiz, Minister Dr. Surujrattan Rambachan and Mrs. Rambachan; Mr. Carl Francis; Ms. Vidwatie Newton; Ms. Christine Hosein, Mr. Shem Baldeosingh; Mr. Barry Padarath, Mr. Devindranath Tancoo, the hon. Kevin Ramnarine, at that time, Parliamentary Secretary in the Ministry of Energy and Energy Affairs and Mr. Gideon Hanoomansingh.

Mr. Speaker, on the invitation of the Ministry of Trade and Industry, a delegation of business persons also accompanied the Prime Minister and her delegation. These persons were sponsored by their business enterprise and, in some case, at no cost to the Government of Trinidad and Tobago. Mr. Nigel Pirali, at no cost to the Government; Mr. Brian Awong, at no cost to the Government; Mr. Baliram Maharaj, at no cost to the Government; Mr. Sharma Lalla, at no cost to the Government; Mr. Atiba Phillips, at no cost to the Government; Mr. Roopchand Chadeesingh, Mr. Clive Ramkhelawan, Mr. Satnarine Bachoo and Mrs. Dolly Bachoo, at no cost to the Government; Mr. Arnold De Four, at no cost to the Government; Mr. Terrance Rampersad, Miss Rampersad Sakar and Mr. Surujdaye Mungroo and Mrs. Mungroo, at no cost to the Government.

Mr. Speaker, a delegation of media workers also accompanied the Prime Minister's delegation. From the CNMG network, Mr. Juhel Browne and Mr. Rodney David, at no cost to the central government, but at the cost of CNMG; Mr. Ryan Hanoomansingh, at no cost to the Government; Mr. Ashvin Bally, at no cost to the Government; Ms. Suzette Cadiz at no cost to the Government; Mr. Kameel Hosein, at no cost to the Government; Ms. Pearl Ghany, at no cost to the Government; Mr. Ashmead Ghany, at no cost to the Government; Mr. Fazal Jahoor, at no cost to the Government and Ms. Maureen Dwarika-Jahoor, at no cost to the Government.

Mr. Speaker, as I have indicated, outside of those persons on the official delegation, and I think one or two persons from state enterprises, the majority of persons paid for themselves on this delegation.

Mr. Speaker, may I also indicate that a question was filed before, and it is already in the public domain, in terms of the total cost of the chartered flight on Caribbean Airlines Limited; the amount paid by the Government, the amount paid by the private sector and individuals accompanying the delegation.

Mr. Speaker, may I also say, by reference, this fades when one compares it to the enormous sums of money spent on former delegations led by the former Prime Minister and Member for San Fernando East, where millions of dollars had been spent to include private individuals. Mr. Speaker, at another time, we will give some information on other persons such as Ms. Jacqueline Pena who accompanied the then Prime Minister on delegations. Thank you. [*Crosstalk*]

**Mr. Speaker:** Any supplemental?

**Miss McDonald:** Thank you, Mr. Speaker. Question to the hon. Minister, can you state whether the Government of Trinidad and Tobago paid for Mrs. Rambachan's trip to Brazil? Thank you.

**Hon. Dr. R. Moonilal:** Mr. Speaker, Minister Rambachan was accompanied by Mrs. Rambachan on this trip. I can find out the information to clarify, but I am not in a position to say exactly at this moment. [*Crosstalk*]

**Miss Mc Donald:** Mr. Speaker, from the information given, the Minister called out certain names, all who were paid for. I did not hear Mrs. Rambachan's name, I heard Susan Cadiz—Chaguanas East. I am now asking—I know she accompanied her husband—a specific question, whether the Government paid for Mrs. Rambachan.

**Hon. Dr. R. Moonilal:** Mr. Speaker, I will answer that question, but I would need to confirm the answer before I give an answer in the Parliament that may not be correct.

**Governments of Venezuela & Trinidad and Tobago  
(Progress of Unitization Agreement)**

**29. Mrs. Paula Gopee-Scoon** (*Point Fortin*) asked the hon. Minister of Energy and Energy Industries:

Could the Minister state:

- (a) The progress that has been made since the signing of the unitization agreement between the Government of Venezuela and the Government of Trinidad and Tobago;
- (b) The progress that has been made since having announced further plans for the monetization of the gas fields between these two countries?

**The Minister of Housing and the Environment and Acting Minister of Foreign Affairs and Communications (Hon. Dr. Roodal Moonilal):** Mr. Speaker, in response to question No. 29 (a), since signing the Loran Manatee Field Unitization Treaty, the joint steering committee and the multi-disciplinary committee have commenced work towards the constitution of a unit directing committee, which will be composed of the governments and the companies with participating interest in the Loran Manatee Field.

With respect to (b), plans for monetization are dependent on the marketing of the natural gas, which would only be concretized upon submission of a development plan for the area. The plan would be submitted as soon as the unit directing committee is constituted.

Currently, the multi-disciplinary committee has been meeting with the companies with equity interest in the field to discuss the production and sale of the Loran Manatee natural gas. The same is happening in Venezuela. Discussions are continuing with Venezuela, and it is our expectation that the Vice-Minister of Energy in Venezuela should visit soon to hold discussions as he has written requesting a meeting in Trinidad and Tobago.

Mr. Speaker, on November 13, 2011, the Minister of Energy and Energy Affairs of Trinidad and Tobago held discussions with the Venezuelan Vice-Minister of Energy, Mr. Ivan Orellana, in Doha, Qatar. The main issue discussed at this meeting was the monetization of the Loran Manatee and other natural gas

fields shared by Trinidad and Tobago and Venezuela. Mr. Speaker, it is instructive that, at this moment, the Minister of Energy and Energy Affairs in Trinidad is in Venezuela together with the hon. Prime Minister and the hon. Minister of Foreign Affairs and Communications, holding bilateral discussions with the Venezuelan Government on the issue of monetization of the Loran Manatee and other cross-border fields. [*Desk thumping*]

**STATEMENT BY MINISTER**

**Mr. Speaker:** It is my understanding, hon. Members, that the Minister of Housing and the Environment intends to make a statement just before tea, and I seek your indulgence. So, at around 4.15 or thereabout, I will return to this particular item with the leave of the honourable House.

**ADMINISTRATION OF JUSTICE (ELECTRONIC MONITORING) BILL, 2011**

*Order for second reading read.*

**The Minister of Justice (Hon. Herbert Volney):** Mr. Speaker, I beg to move,

That a Bill to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago and for related matters, be now read a second time.

While I would like to get straight into the meat of this, the third of the trilogy of criminal justice Bills, I would like to be part of the moment to congratulate the hon. Member for St. Augustine on being Acting Prime Minister of Trinidad and Tobago. [*Desk thumping*]

Mr. Speaker, this Bill, as I said before, is one of three Bills piloted within the last few weeks and represents just some of the major initiatives being implemented with a view to transforming and modernizing the criminal justice landscape in Trinidad and Tobago. We have brought far-reaching pieces of legislation to this honourable House that would see the criminal justice system better equipped to strengthen the investigative capacity of our law-enforcement personnel and enable the speedy movement of criminal matters through our court system.

Today, I present another revolutionary piece of legislation, the Administration of Justice (Electronic Monitoring) Bill, 2011. This Bill is just one of the measures proposed by our Government to overhaul the penal system by introducing a new sentencing option which would have the effect of reducing prison overcrowding and introducing a more effective prisoner management system.

Members of this honourable House, the overall objective of these measures are the rehabilitation of offenders and the reduction of recidivism, all in a bid to ensure that offenders can become not only productive members of their communities, but also of our nation.

This Bill signifies the fulfilment of yet another promise made by our Government to the people of Trinidad and Tobago, that is, to ensure justice is delivered swiftly while safeguarding and preserving the integrity of the rule of law and the protection offered by due process in our twin-island republic.

We have also promised to rethink the prison system and make pro-active interventions to transition from a retributive approach to justice to a more restorative paradigm. As we lay the foundation for the sustainable development and economic prosperity of our country, our Government will ensure that our progress is not stymied by the reckless, unbridled criminal activity of a few. This Bill, together with the other interventions I mentioned, will create a nation for us where there is peace, security and prosperity for all.

Mr. Speaker, I have already alluded to the fact that there are some major impediments which currently plague the penal system, these include:

1. Overcrowding:

In this regard, the Port of Spain prison which was built with a capacity of 250 people has more than doubled that. It has 514 inmates; Carrera Convict Prison, capacity, 185; it has 293 inmates and the Remand Prison, with a capacity of 655 has 1,058 inmates. Mr. Speaker, such overcrowding increases security risk through social tension amongst prisoners and prison security staff.

2. High rates of reoffending:

In Trinidad and Tobago, the recidivism rate is close to 55 per cent. Rates of recidivism reflect the degree to which released inmates have been rehabilitated, and the role that correctional programmes play in reintegrating prisoners into society. Sentencing low-risk offenders to prison can lead to reoffending on release. Family structures and support mechanisms are disrupted when low-risk offenders are imprisoned, and the revolving-door justice provokes a negative public reaction.

**2.15 p.m.**

High rates of recidivism result in tremendous cost, both in terms of the public safety and in tax dollars spent to arrest, prosecute and incarcerate reoffenders. That, Mr. Speaker, is why we are placing a priority on penal reform.

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

3. Potential harmful effects of the incarceration of certain categories of offenders.

Traditionally, incarceration has been seen as the only possible response to crime, and the emphasis of the criminal justice system has been on punishment. It is often the case that an offender leaves prison in worse condition than before he arrived, as many offenders join prison gangs in order to survive their sentence. If nothing else, offenders, particularly first-time offenders, are exposed to more dangerous criminals while in prison, and the likelihood of such offenders changing their behaviour is slim.

Our Government understands the paramount importance of addressing these challenges. In order to deal with such critical issues, we have embarked upon wide-ranging reforms that include amending the prison rules, introducing a system of parole and introducing via this Bill, a system of electronic monitoring for certain categories of offenders.

Members of this august House, Trinidad and Tobago is not the only jurisdiction that has had to employ modern technologies in order to better manage its offenders. In the Western Hemisphere, countries such as Canada, the United States and right here in our region, the Bahamas, have responded with extraordinary initiatives and machinery to restructure and upgrade their respective systems in an effort to address their various issues, so too other jurisdictions in our region, such as the Grand Cayman and the British Virgin Islands are also considering the utilization of similar technological measures. [*Crosstalk*]

Mr. Speaker, it would seem that the Standing Orders may one day have to be amended to allow the Speaker of the House to impose electronic monitoring on Members who cannot remain silent out of respect for the Members who are speaking and on their feet.

Mr. Speaker, the utilization of electronic monitoring as a form of offender management also has the support of the United Nations. Adopted in 1986, the United Nations Standard Minimum Rules for Non-custodial Measures, also known as the Tokyo Rules, note that imprisonment should be considered as a last resort, and in turn, encourage the promotion of non-custodial measures such as electronic monitoring, having of course due regard for the rights of victims and the concerns of the greater society.

Hon. Members, jurisdictions the world over agree that some of the benefits of electronic monitoring include:

- (i) Cost: International averages indicate that incarceration costs a State twice as much as it does to implement and manage an electronic monitoring system. Offenders already serving time may be transferred to electronic surveillance which can reduce jail and prison overcrowding by diverting offenders that would have otherwise been incarcerated. Electronic monitoring typically requires less staff than traditional intensive supervision programmes. Therefore, certain offenders can be punished at a significant lower cost.
- (ii) Electronic monitoring allows for a pretrial release of suspected persons who would have otherwise been detained until a court determines culpability. Such persons are however, still being monitored in a secure and controlled manner.
- (iii) Electronic surveillance can also be used as a means to enhance rehabilitative programmes within the prison system.

Mr. Speaker, by way of explanation, electronic monitoring also called electronic tagging, is a form of non-secret surveillance consisting of an electronic device attached to a person allowing their whereabouts to be monitored. Devices operate on one of two main electronic or telecommunication systems, global positioning systems, otherwise referred to as GPS, or radio frequencies. Electronic monitoring allows persons involved in monitoring offenders to quickly and easily confirm that an offender is at a specified location. From a distance, offenders' geographic locations can be pinpointed in real time.

Mr. Speaker, and Members of this honourable House, this Bill is being proffered with the following specific objectives for Trinidad and Tobago to:

- (i) complement the introduction of a parole system;
- (ii) promote public safety by using technologies and supervision strategies to effectively monitor and supervise offenders;
- (iii) increase and enhance public safety and offender accountability while encouraging positive behavioural changes;
- (iv) reduce the financial burden on the State and the Prison Service by reducing population;

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

- (v) improve the cost effectiveness of correctional programmes, provide enhanced opportunities for offender rehabilitation; and extend the range of sentences available to the courts; and
- (vi) increase the overall efficiency of the criminal justice system via enhanced security and protection of citizens of Trinidad and Tobago.

Mr. Speaker, and fellow parliamentarians, as Trinidad and Tobago moves towards the introduction of a parole system in the not too distant future, the importance of an electronic monitoring programme will become even more apparent. Electronic monitoring programmes aid probation and parole officers in monitoring and managing offenders' behaviour in the community. It changes the nature of the supervisor/participant relationship and provides an objective, reliable basis upon which sanctions such as tightened home detention and rewards, such as less restrictive home detention can be based. Moreover, the enhanced level of supervisory control beyond that which is afforded by direct human contact alone, augments offender accountability and ultimately has the potential to reduce the likelihood of reoffending.

This Bill then seeks to make provision for the introduction of electronic monitoring in Trinidad and Tobago at different stages of the criminal justice process, as well as, to make it a condition of a protection order granted under section 5 of the Domestic Violence Act, Chap. 45:56. Our Government is taking a stand against domestic violence—[*Desk thumping*—]by strengthening the protection orders issued by our courts through the use of electronic monitoring systems. We have all heard of unfortunate incidents where victims of domestic violence, in particular our womenfolk, have received the protection of the State via a protection order, and yet suffer repeated violence and in some cases death at the hands of the very abuser against whom such an order was obtained.

In fact, prominent attorney, Lynette Seebaran-Suite, in a *Guardian* article of January 16, 2011, entitled “The problem with Protection Orders” noted, and I quote:

“The problem with the machinery of the protection order, is that society often leaves the battered woman on her own to attempt to enforce the order”.

Seebaran-Suite went on to lament.

“We all know that a piece of paper cannot really protect anybody, especially if you're dealing with somebody who has no respect for the law...”.

She further calls for us as a society to go beyond the protection order and

“...recommended the introduction of inter-agency protocols to define specific roles for all stakeholders in a situation of domestic violence, including the court and the police.”

Mr. Speaker, our Government has heard her. Our Government has heard the pleas of the victims and activists alike and we view electronic monitoring as a perfect complement to the current system of protection orders.

By making use of this technology, more responsibility is placed on the offender to comply—I repeat—to comply with a protection order. The police are also provided with a better means of enforcing protection orders as electronic monitoring would facilitate law enforcement’s ability to know when respondents have violated protection orders by entering exclusion zones, and would allow police to properly respond to the respondent’s violation, and provide the necessary evidence to the prosecution for the laying of criminal charges. It would also serve to allow for an early alert and warning to a woman who is living in fear that the person against whom a protection order has been made is on his way.

### **2.30 p.m.**

Women live in this fear, and we want to protect them, so that whenever the man against whom the order is made, or the woman against whom the order is made—because I know of men getting protection orders against their husbands—against their wives, I beg your pardon—it happens [*Laughter*—and perhaps men getting protection orders against their men—[*Laughter*] that is all part of the formula; it is the world we live in—they would have advanced notice to look out, to go in and close their door quickly.

I am told that it is unparliamentary, but I think I have moved out of the days of squiredom into the 21st Century. [*Laughter*] [*Desk thumping*] That is why I am seeking to bring our laws up into the 21st Century; a matter that those on the other side had their time to do and did not.

**Miss McDonald:** “Concentrate on what yuh doing, nuh. We past squiredom.” [*Laughter*]

**Hon. H. Volney:** This initiative will go a long way towards returning liberty to victims of domestic violence, as well as to their children.

This Bill was adapted from the Bahamas model of electronic monitoring, as outlined in their Penal Code (Amdt.) Act of 2008. Like the Bahamas, this Bill

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

allows for the establishment of an electronic monitoring unit, which will implement and maintain the electronic monitoring system and comply with the contents of any order issued by the court.

Mr. Speaker, I now turn to the provisions of the Bill. Clause 1 provides for the short title and also provides that the Act shall come into operation by proclamation by the President, save that certain provisions would come into effect on different dates.

Clause 2 provides for the constitutionality of the Bill, which is divided into five parts and comprises 23 clauses. This Bill would be inconsistent with sections 4 and 5 of the Constitution, and is therefore required to be passed by a special majority vote of at least three-fifths of the Members of each House. The Constitution is the supreme law of our land and any legislative provision which is inconsistent with it, is void to the extent of the inconsistency. This is clearly stated in section 2 of the Constitution.

It is well established that in every democratic society, the rights of the individual must be balanced against the interest of national security, the public and economic well-being of the country and the effective functioning of the criminal justice system. When these interests conflict, the public interest or common good must prevail where reasonably justifiable. It sometimes becomes necessary therefore that individual rights are abrogated where there is a threat to the public good. In other words, the rights of each individual must be balanced against the right of the State to protect all individuals collectively.

I will now address those provisions in the Bill which would be inconsistent with sections 4 and 5 of the Constitution. I start with clause 9 of the Bill, which provides for the court to impose electronic monitoring as a sentence, in lieu of a sentence of imprisonment, as part of a sentence comprising some imprisonment or as part of a non-custodial sentence, as a condition of bail and as a condition of a protection order, made under the Domestic Violence Act.

Further, clause 13 would require a person or a respondent to make full or partial payment for the use of the electronic monitoring device. These provisions would be inconsistent with the right of the individual to equality before the law and the protection of the law, which is guaranteed in section 4(b) of the Constitution respectively. This right is an intrinsic right which every democratic nation must guard jealously.

Mr. Speaker, it is important that we understand that the provision of electronic monitoring is not cheap. There is a heavy cost to it. But that cost has to be

balanced against the cost to keep somebody locked up, which is one of the few options left to a sentencing court today. It also has to be balanced against the ability to sub to a person to pay in whole or in part the cost of that device. What this opens up is opportunity for persons under electronic monitoring to be confined to their homes, to be allowed from their homes to go to work to continue to be productive members of society, to help pay for the electronic monitoring device. Many people are locked up, when they could be productive.

There are times, and I always say it, and this is something that everyone should understand, where you have persons who I would call criminals, people who are perpetual offenders. They cannot get out of trouble. They keep stealing. That is their way of life; they steal, they steal, they steal. They are called thieves. [Laughter] They are called thieves. Then you have other people who driven to stealing out of circumstances, in many instances, created by those on the other side who did not provide sustainable work for people. [Desk thumping] I had to throw that in.

**Miss McDonald:** Why?

**Hon. H. Volney:** Mr. Speaker, there are cases where you have a man who has lived a good life all his life. He has never gone foul of the law, respectable into his fifties, and one day somebody insults his wife. He hits them a slap, they slip and fall and hit their head and die. That person is not a criminal, but he has committed an act with criminal consequences for himself. Is he a criminal? Should he be taken and thrown in jail and locked up for 10, 15 years because of that single indiscretion? I think that this country would say no. While the courts have certain sentencing guidelines, it is only in the rarest and most exceptional circumstance that one would find that a person in that situation would not get a peremptory term of imprisonment.

You see, imprisonment is really something that is in the mind. If you take a person who is accustomed to flying out to all parts of the world, and you confine him to Trinidad and Tobago, he would feel imprisoned, claustrophobic. If you take your wife and lock her up in the toilet for the night, it could be a very comfortable toilet, but she is not accustomed to being locked up in the toilet all night. To that person, that is a term of imprisonment.

You see, Mr. Speaker, I have to explain it in a way that the national community would understand, that there are criminals who need to be locked up, because they are dangerous and are a threat. Then you have other persons who commit acts of indiscretion, in the moment.

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

What this Act seeks to do, it serves to give the court options. Instead of putting that man in prison and destroying him, you could put an electronic monitoring device on him and tell him, "You cannot leave your home." At least his wife and children would have the comfort of their husband and father with them in the home. He may not be able to go out, he is confined, he is imprisoned, but in his own mind his liberty has been taken from him. This is what this progressive bit of legislation is all about. That is just one aspect of it.

As I said, these provisions would be inconsistent with the right of the individual to equality before the law, and the protection of the law which is guaranteed in section 4(b) of the Constitution. This is an intrinsic right which every democratic nation must guard jealously.

It may be argued that this right is abrogated where the electronic monitoring programme requires participants, as I said before, to pay user fees. Some have identified this move as a form of discrimination against youths and the poor. It should be noted, however, that most electronically monitored house arrest programmes the world over, charge user fees, and the offender is also required to have a court approved residence and a telephone.

Offenders lacking these resources may find themselves faced with no other alternative, but lock up or prison. We have made provision in this Bill to address these potential inequities by introducing a sliding fee schedule which would take into account the means of the offender. At the same time, electronic monitoring would afford an individual with limited financial means, an opportunity to return home while awaiting trial, where he would have more than likely been forced to remain in custody until the end of his trial, due to his inability to secure bail.

Clause 14 of the Bill would interfere with the right of the individual to respect for his private and family life, as guaranteed under section 4(c) of the Constitution. Those critical of the initiatives contemplated by this Bill may also cite potential adverse social effects associated with the visibility of both the body worn and residential equipment. It is submitted that the interference of the privacy rights of a participant in the electronic monitoring programme would be an interference that is consented to by the participant. Consent is necessary. I repeat it: consent is necessary for participation, and such consent would be sought from both the offender and other adults residing in the offender's household. By obtaining this consent, our Government is confident that any associated hardships would be fully anticipated, appreciated and accepted by persons giving their consent.

Regarding the potential intrusiveness of electronic monitoring, it must be borne in mind by Members of this honourable House—those who are listening and those who are not, those who will sit and talk, talk, talk and not even stand and make a contribution. It must be borne in mind by our Members here, fellow parliamentarians who are elected by the people to make a contribution in the House on their behalf and not to remain silent, and not to go afterwards and make press conferences, but to speak on the floor of the House with respect to the matters that are before this honourable House.

Please, I repeat it, because when we bring all these progressive measures, and we stand here completely ready on this side, all Members ready to speak, and the 12 Members on the other side could only muster two people to speak, it means that the Opposition is in shambles and not representing the people who elected them. [*Desk thumping*] I expect today to hear many, many speakers on this measure; so those who are not prepared, start taking notes now.

**2.45 p.m.**

Regarding the potential intrusiveness of electronic monitoring, it must be borne in mind, hon. Members, that even though the physical attachment of a device to a person can be both physically and psychologically invasive, such attachment would not be performed without the consent of the participant. This is so critical. Consent will always be without coercion—there is no coercion—and the participant will be fully informed via explanation and demonstration of the device and its operation.

It is my considered opinion as the Minister of Justice, as the Member for St. Joseph, for whom I speak in this House, Mr. Speaker, that although fundamental rights and freedoms are being curtailed a court would be hard-pressed to declare that the proposed legislation is not reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

It is with the collective interest of all our citizens in mind that I appeal to all Members of this honourable House, not only to support the Bill but to speak in its support.

Part I of the Bill, Mr. Speaker, comprises clause 3 as well which would provide the interpretation provision. In this clause “competent authority” is defined to include a statutory board, a tribunal or any other authority or functionary appointed under any written law. The Ministry of Justice intends, in the very near future, to bring legislation to this honourable House introducing a system of parole which is a widely utilized form of early release from

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

imprisonment, to be granted in respect of certain offenders. The imposition of electronic monitoring on parolees, by a parole board, is a recognized practice and would be provided for under this clause.

Electronic monitoring of young persons or juveniles; I am sure this will be of interest to the Member for Diego Martin Central. Mr. Speaker, with regard to the possible imposition of electronic monitoring on certain juveniles, we would like to assure this honourable House that this practice obtains in other jurisdictions that we sometimes look to for guidance on policy issues as regards criminal justice reform.

Electronic monitoring programmes reduce the number of juvenile offenders that would otherwise be placed in secure, residential facilities thereby allowing them to remain under surveillance at home, and more importantly, while they attend school, work and places of worship, for example. This option provides youths with the ability to be supervised in the least restrictive manner in lieu of detention, with the aim of disrupting the offending behaviour of persistent youth offenders through strict monitoring and enforcement.

Of note, Mr. Speaker, is the 2004 report from the State of North Carolina, Department of Juvenile Justice, which demonstrates that 75 per cent of juveniles who were released from the electronic monitoring programmes were considered successful.

These programmes have the advantage of restricting an offender's activities while minimally disrupting productive, social behaviour. Another American study conducted as far back as 1989 by Michael Charles titled—or “titled” or as the hon. Member for Chaguanas West likes to hear it—titled.

**Hon. Member:** Not tickled.

**Hon. H. Volney:** “Titled”, it is from the world of squires—and published in the *Journal of Contemporary Criminal Justice* shows that the social and psychological impacts of electronic monitoring on juveniles are positive. Now we are not dealing with 19th Century barnacles, we are dealing with 21st Century electronic monitoring. [*Desk thumping*]

In the United Kingdom, the Criminal Justice and Police Act 2001 introduced new powers for the electronic monitoring of juvenile offenders on bail. The Home Office initially made electronic monitoring of juveniles aged 12 to 16 on bail or remand, available to courts. Powers to tag 17-year-olds were introduced in a street crime initiative in July 2002.

Mr. Speaker, I now come to Part II of the Bill which comprises clauses 4 to 7 and deals with the establishment of the electronic monitoring unit which will be a unit within the Ministry of Justice. Mr. Speaker, clause 5 of the Bill stipulates that the electronic monitoring unit shall be responsible for ensuring the security of the electronic monitoring system; for retrieving and analyzing information; and for reporting any non-compliance or breaches with the court decision or decision of a competent authority.

The unit will also report on breaches related to the use of electronic monitoring devices. This unit will do so, Mr. Speaker, by providing near real time tracking of the location of offenders, and reporting alarm notifications, signal loss, device malfunction or device tampering forthwith to the electronic monitoring manager.

Mr. Speaker, this system, when operationalized, is so effective that it could even place two persons being monitored on the same bed in the same house. So, Mr. Speaker, it is a very important and significant piece of electronic equipment.

This unit being proposed by the Government is not unlike other electronic monitoring units set up in other jurisdictions for the purpose of implementing electronic monitoring systems.

Under the Penal Code Electronic Monitoring Rules, 2010 made pursuant to the Penal Code Act, Chap. 84 of the Commonwealth of the Bahamas, a similar electronic monitoring unit was established. Mr. Speaker, I had the opportunity of observing this personally on one of my few official fact-finding trips; one of my few fact-finding trips, this one to the Bahamas. After establishing an electronic monitoring system—and I hope that does not evoke a question from the other side—

**Hon. Member:** Who went with you?

**Hon. H. Volney:**—as to who went with me. My wife went and I paid for her.  
[*Desk thumping*]

After establishing an electronic monitoring system spearheaded by this unit in 2010, the Bahamas has had nothing but a series of successes in this regard. The system is operating smoothly to date, and the courts are making good use of this newly introduced sentencing option.

If I may say so, Mr. Speaker, why did I choose the Bahamas? Because a son of the soil, Justice of Appeal Stanley John, who works as a court of appeal judge in the Bahamas, called me, and he said that “There is something really good

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

happening in the Bahamas—electronic monitoring. It helps the criminal justice system; get on the next flight and come up”. But of course, I could not get on the next flight because you know there is a process, I have to go with a Cabinet Note and all that sort of thing, and then I eventually went, and I saw it for myself. I was able to witness a prisoner under offender management, moving in a car to certain corner, come out of a vehicle, it would seem, and meet another person at a certain street corner. It was that effective, Mr. Speaker. That is what we need here in Trinidad; the whole country will tell us that. That is what we need here in Trinidad and Tobago, and we are bringing it. [*Desk thumping*]

Mr. Speaker, clause 7 of the Bill will prohibit any officer or employee of the electronic monitoring unit or any individual engaged by a service provider from disclosing any information received in the course of his employment other than in the proper exercise of his functions. Person contravening this clause commit an offence and could face a fine of up to \$100,000 and two years’ imprisonment upon summary conviction. In other words, if you are not confidential do not look for a job in there! If you cannot be responsible, do not look for that kind of work, because this system requires confidence and confidentiality. This is a crucial safeguard installed in this Bill in order to protect information gathered and the privacy of anyone that is being monitored.

Part III of the Bill, Mr. Speaker, comprises clauses 8 through 14, and addresses the general application of electronic monitoring orders in addition to key administrative functions. Hon. Members, this Bill would provide that electronic monitoring may not be imposed as a sentence, as part of a sentence or in lieu of a sentence of imprisonment for offences listed in the First Schedule to the Bill, which would include: treason, murder, kidnapping, rape, drug trafficking and various fire arm offences.

As can be seen from the nature of these offences, Mr. Speaker, our Government acknowledges that electronic supervision in the community would not be suitable to violent offenders committing violent crimes, as these types of offenders are deemed high-risk and are seen to pose a significant threat to public safety.

Electronic monitoring in the community would be in the most part geared towards offenders deemed not to pose a serious threat to the public, and whose crimes do not to necessarily warrant incarceration in order to effect rehabilitation of the offender, while at the same time protecting the public from undue risk.

Clause 9, Mr. Speaker, would provide that before making a decision in respect of the imposition of electronic monitoring, a court shall request a report from the

electronic monitoring manager, which will indicate the suitability of the offender as a candidate for electronic monitoring. This report would serve as a guide to the court as to the suitability of an offender for electronic monitoring.

Now, Mr. Speaker, you have to understand that this system is but a part of the broader system for offender management, the policy of which has already been approved by the Cabinet. The Offender Management Bill, 2012 is on its way, it is coming, and it is coming shortly, together with the Parole Bill of 2012. These are all interconnected. They will be working together, Mr. Speaker, in order to take us out of the 19th Century where we still are; we still have the Prison Rules of 1838. What a disgrace! When I came into the Ministry of Justice and I met those Prison Rules; I said “What has been happening all these years?” I mean, I have to give what has to be given to the other side: they started the process, they were at a very advanced stage of it, and we have had to change—change somewhat—in order to bring them in line with the parole policy approved by our Government, as well as the offender management policy that has been approved, and the paradigm shift from the retributive philosophy of punishment of that to restorative justice for offenders.

**3.00 p.m.**

You see, Mr. Speaker, while it is I do not want to take part out of what has been done by those who have preceded me in government—and I want to thank them for starting the process—our Government has had the wherewithal to take the baton and carry it over the winner’s line and, this is but part of that. [*Desk thumping*] This was a missing link in that process. So I thank the other side for the work that has been done in that regard.

**Hon. Member:** But they could not finish.

**Hon. H. Volney:** You know you do not start something unless you could finish.

**Dr. Moonilal:** “Ooh.” [*Desk thumping*]

**Hon. Member:** Like a term?

**Hon. H. Volney:** Like a term in government. [*Laughter*] When you get a five-year term you are supposed to finish the term before you go and ask anybody for a new one. [*Crosstalk*] [*Laughter*]

**Hon. Member:** Your time is coming, do not worry.

**Hon. H. Volney:** Yes, yes, we will see about that. [*Interruption*] Yes, we will see about that.

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

Mr. Speaker, clause 9 would provide that before making a decision in respect of the imposition of electronic monitoring, a court will have the report from the electronic manager. Perched in the Ministry of Justice is also the probation division of the Ministry of Justice. So, there we have the opportunity to have probation officers reporting on a person's suitability. They report and provide a report to the electronic monitoring manager who provides the court beforehand with all the information that is set out in the schedule to this. This report will inform the court about the general character, antecedents, physical and mental, of the offender so that the court may be well poised to determine the possible threat to public safety which may be caused by community supervision of the offender in question.

Clause 9 would provide further that the court explain to any person or respondent on whom electronic monitoring is to be imposed with their consent—I emphasize and I repeat, with their consent—the meaning and effect of the electronic monitoring decision as well as the effect of non-compliance with it. This is a particularly important step, as a clear explanation and demonstration of the device and its operation is paramount. The participant must clearly understand that the use of the device is chiefly an alternative to incarceration, and there would be serious consequences for violation. You breach the term of electronic monitoring, it means that you prefer lock-up. Plain and simple!

**Hon. Member:** Your choice!

**Hon. H. Volney:** The choice is yours! You consent to electronic monitoring and you are outside. You breach the terms of that, you are back inside in lock-up.

Mr. Speaker, as I had alluded to, this legislation makes provision for electronic monitoring to be imposed as a condition of a protection order issued under the Domestic Violence Act. Law enforcement agencies in many jurisdictions have implemented structured electronic monitoring programmes to effectively track defendants, offenders and victims involved in domestic violence situations. I am standing here today—I say, as Minister of Justice and as the Member for St. Joseph in this august Chamber—for all those women and men who have been abused by domestic violence. I am making a big, big plug for them with this legislation here to protect them, to protect the order that they have, so when they get an order in the court it is more than a piece of paper; it will provide them with protection against persons who will follow them, torment them, harass them and [*Interruption*] sometimes even kill them. So you see I am for the women of the country. [*Laughter*] I wish I could have been called a feminist. I really wish I could have been called that.

**Dr. Browne:** We now see what—I am sorry Trinidad and Tobago. I am sorry.

**Hon. H. Volney:** Clause 10 of the Bill would provide—*[Interruption]* Excuse me, let me finish my presentation.

**Hon. Member:** “Oooh.”

**Hon. H. Volney:**—that electronic monitoring—

**Mr. Imbert:** I thank the hon. Minister for giving way. I have looked at clause 9; I have actually got a copy from the Clerk just to make sure I have the correct version of the Bill; where in clause 9 does it indicate that electronic monitoring can only be imposed with the consent of the person?

**Hon. H. Volney:** It is early time still! It is early time still; I have a number of amendments that will be circulated in the fullness of time.

**Mr. Imbert:** “Oh please!” “Oooh.”

**Hon. H. Volney:** You would know that! The hon. Member for Diego Martin North/East was in government for eight years plus four years, 12 years you would know.

**Mr. Imbert:** Shame!

**Hon. H. Volney:** You would know, talking about shame. I do not have time! Next time I would not give away my speaking time to you! *[Laughter]*

Clause 10 of the Bill would provide for electronic monitoring, that it may now be imposed as a condition of a pardon granted by the President under section 87(2)(a) of the Constitution. Conditional pardons are not a foreign concept as it has been the practice of His Excellency to grant conditional pardons to persons in the past.

Clause 11 provides that a competent authority empowered to grant early release from imprisonment may impose electronic monitoring as a condition of such early release. In the case of parole, the eligibility and suitability of certain classes of incarcerated persons will be determined by the parole board which will be a creation of statute. This board will be empowered by legislation to impose electronic monitoring on parolees in appropriate cases.

Clause 12 provides for the type of electronic monitoring device to be fitted on a person or respondent. In making such a determination the court shall take into account the recommendation of the electronic monitoring manager as well as the list of approved devices stipulated by the Minister under clause 8.

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

Clause 13 would empower the court to request that a person or respondent who is to be fitted with an electronic monitoring device make full or partial payment for the use of that device. The court's power would be exercisable on the basis of the report of the electronic monitoring manager. This is the position in Canada, in the United States and in Australia and soon to be in Trinidad and Tobago. The People's Partnership Government, our Government, is an all-inclusive Government. It does not discriminate, especially on the basis of poverty and youth, and in this regard offenders who are unable to pay will not be disqualified from participation in the programme. Our Government will not indiscriminately send such impecunious offenders to prison. [*Interruption*]

Clause 14 would provide for the terms of electronic monitoring. Mr. Speaker, the interference with an individual's liberty is a grave step which is not to be taken lightly. This legislation has a number of built-in safeguards. For instance, the court has sole discretion to determine how onerous the conditions of electronic monitoring will be and the period for which the device will be worn. I repeat that; this is not a Government imposition. Our Government is introducing a legislative framework with which the Judiciary, the courts of this land, as well as the parole board, when it comes in shortly, once we are favoured with the support in this honourable House. So, it is the court—and not “courts,” do not mix them up—that has sole discretion to determine how onerous the conditions of electronic monitoring will be, and the period for which the device will be worn. The court will make a decision to impose electronic monitoring on a person or respondent which shall include a home detention, inclusion or exclusion requirement restraining such party from being present in a specified place for a period of time.

The primary purpose of electronic monitoring—which is not an electronic monitoring mechanism [*Interruption*] that provides the kind of echoes that I am hearing in the House—is to monitor compliance with the aforementioned requirements to ensure that the persons to whom it applies do not enter proscribed areas or contact prohibited individuals, and to safeguard the public and prevent re-offending. If a person is placed on electronic monitoring and they do not want you to go by the Queen's Park Savannah, from the time you reach within 100 yards of the Queen's Park Savannah a loud sound would go off on you, you would be so “shame” that you would go straight back where you were. If you do not, before you reach the savannah the police will be standing there waiting for you. Such is the effect of this facility!

Part IV of the Bill comprises clauses 15 through 20 and would set out the offences which might be committed by a person, respondent or other individual

under the proposed legislation. Under clause 15 a person or respondent who deliberately tampers with a device, or who aids or abets the tampering with a device commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years. So, if you have two years to go on a six-year sentence and you are released on electronic monitoring and you only look to tamper with that, or get somebody to help you to try and take it off, not only will you be found still trying to take it off and locked up, but you will have to do a further two years imprisonment for interfering with it. So, Mr. Speaker, this technology is quite expensive and public safety is also paramount. In this regard anyone who compromises its integrity must incur the full brunt of the law.

Clause 16 would set out the procedure to be complied with where a person or respondent fails to comply with a court decision or breaches any agreement or condition related to the use of the electronic monitoring device.

Clause 17 would empower the court—I repeat the court—in cases of non-compliance or breach to impose the original sentence which would have been imposed on the person, as well as to impose the penalty prescribed for breach of the protection order under the Domestic Violence Act. This clause would also provide a defence to tampering, if it can be proved that the tampering was done in circumstances which constituted an emergency. So, a defence is provided to you if the circumstances in which you seek to tamper is an emergency one.

### **3.15 p.m.**

Part V of the Bill comprises clauses 21 to 23 and provides for miscellaneous matters which relate to the procedures to be followed by the staff of the electronic monitoring unit.

Mr. Speaker, and Members present, I wish to reiterate that this Bill aims to improve the current system of pretrial and post-trial supervision and monitoring of offenders. The fundamental content of the legislation provides for the introduction of the use of various electronic monitoring devices as determined by the courts in their sentencing and supervision options. Electronic monitoring is not intended to replace traditional means of supervising offenders on release, but represents an additional monitoring tool, allowing parole and probation officers to analyze data received from tracking devices and to ascertain whether or not offenders are acting consistent with their parole or probation conditions.

Further, in an attempt to remain compliant with international obligations, namely, the twelfth United Nations Congress on Crime Prevention and Criminal

*Electronic Monitoring Bill, 2011*  
[HON. H. VOLNEY]

*Friday, December 02, 2011*

Justice Declaration on Comprehensive Strategies for Global Challenges, our Government has acknowledged the value of electronic monitoring as a crime-fighting initiative.

Mr. Speaker, electronic monitoring offers benefits to participants of the programme in that—and I count them among others:

(1) It provides the opportunity to maintain employment, attend treatment and to keep the family unit intact. This is so important, so very important. When a man gets locked up, by the time he comes out his wife is gone with some other man. [*Laughter*] His children are all over the street. It happens! It is no laughing matter. Women do not have the comfort of their husbands, but if she knows that her husband is coming out even with an electronic device on his leg, she will take him any day with the device on his leg than have him locked up in the prison, because rest assured many of them—and all the experts will tell you, after a little while the wife “gone”, and the children are on the street. By the time he comes out the wife has children for somebody else and that—[*Interruption*]

**Miss Mc Donald:** “How you know that?”

**Hon. H. Volney:** I know that. I have been in practice as a judge for 17 years and before that about 15 years as a lawyer. [*Desk thumping*] I speak from experience. I know what I am talking about. And the national community knows very well what I am talking about. So why are we going to deny it? Do not be in denial, Member for Port of Spain South, do not be in denial. It promotes family life.

It teaches the offender how to plan and how to schedule his or her activities using behaviour modification techniques. It affords the defendant on bail while awaiting trial, an opportunity to maintain employment, keep his family intact, assist in the preparation of his defence and avoid unnecessary pretrial incarceration.

It acts as a post sentence sanction by allowing the offender, Mr. Speaker, to obtain or maintain employment, engage in treatment and pay restitution to the victim of the crime and to the community.

Mr. Speaker, for those who may have concerns about the appointment and the status of the office of electronic manager, let me say that we have looked at the Bill even more closely since it was laid, and we propose that on the floor, at the appropriate time, that we create additionally the position of deputy electronic monitoring manager, that these offices shall be public offices to which section

121 of the Constitution shall apply and shall also be prescribed offices for the purpose of section 141. However, Mr. Speaker, we also seek to include a new subclause that:

Without prejudice to the power of the Public Service Commission to make an appointment to the Office of the Electronic Monitoring Manager, where prior to the making of the first appointment after the Act comes into operation the exigencies of service require an officer to perform functions relating to that office, the Ministry may engage an officer on contract in order to secure the interest of the unit.

Mr. Speaker, what else can I say? I think that I have said all that I can reasonably speak of in order to whet the appetite of the Members opposite to rise for a moment during the course of the—join us, we said we will rise; we have risen, and we now want to ask you to rise at the appropriate time and join with us and pass a progressive piece of legislation in this House.

Mr. Speaker, I beg to move. [*Desk thumping*]

*Question proposed.*

[*Crosstalk*]

**Hon. Member:** What could he possibly say?

**Hon. Member:** Listen good, you will hear what he has to say.

**Mr. Colm Imbert** (*Diego Martin North/East*): Well what I will say, Mr. Speaker, right off the bat, a point was made *sotto voce* during the debate by one of my colleagues, and what I will say, is that if the system of electronic monitoring was in place during the general election of 2010—[*Laughter*] [*Desk thumping*] then everybody would have known the whereabouts of a gentleman called Selwyn Alexis—[*Desk thumping*] also known as “Robocop”. That is what I will say.

**Hon. Member:** Yes, good one!

**Mr. C. Imbert:** And then we will know what the true facts—[*Interruption*]

**Hon. Member:** I did not expect anything else from the Member—

**Mr. C. Imbert:** You asked me what I will say, that is one of the things I will say.

**Hon. Member:** [*Inaudible*]

**Mr. C. Imbert:** It is no problem, but that would have been in your interest hon. Minister, because we would have known who was speaking the truth. That would have settled that matter. But, Mr. Speaker, let me deal now with the Minister's presentation.

Mr. Speaker, it has to be a breach of order. I am not casting any aspersions on you, Mr. Speaker. You can correct me if I am wrong, but I suspect that your attention might have been distracted momentarily. It has to be a breach of order in this House for a Minister to pilot a Bill with secret amendments which have not been circulated to the Opposition [*Desk thumping*] and to debate the merits and demerits of these secret amendments which are invisible and not known to hon. Members on this side, Mr. Speaker.

**Mr. Speaker:** Let me just make it very clear, I was given a copy of the amendments. I assumed—you cannot accuse the Chair or imply. No, no, no, I am not—so what I am saying is that I have been advised that there are amendments. The Minister ought to have indicated to this House that amendments have been circulated and if Members and so on are not in possession of them, then they should be in possession of those amendments. So all I am saying to the Member for Diego Martin North/East, as Speaker, I was given these amendments. I assumed that they were circulated to all Members. If they were not then I would call on the Leader of Government Business to have these immediately circulated to Members. Continue.

**Mr. C. Imbert:** Mr. Speaker, this was precisely my point. I do not mean to draw you into the debate. I was casting no aspersions on you, but it is incredible that the Minister would give the Speaker amendments and not circulate them to Members of the Opposition. [*Desk thumping*] And these amendments, we have not seen them, but from what we have heard, it is unprecedented. From what we have heard, they will change fundamentally the impact, import and substance of this legislation. [*Desk thumping*] [*Crosstalk*] This is completely out of order. I am not casting any aspersions on you. This is yet another example of why we on this side have difficulty with the manner in which this Government, and I regret to say, this Minister, conducts his business in this Parliament, Mr. Speaker.

I can say right off the bat, that the Opposition has fundamental problems with this legislation and I will explain why as I go through my contribution; but we have fundamental problems with this legislation. On a previous occasion we were

dealing with the Indictable Offences Bill, and matters came up at the committee stage and I was the most surprised person to learn that the hon. Minister of Justice went to the other place, and I will read now:

“The Minister responded to criticisms from PNM Sen. Penelope Beckles”—

I am reading from the *Trinidad Express* Wednesday of this week. The Minister:

“...responded to criticisms from PNM Senator Penelope Beckles to the \$150,000 fine and two months imprisonment term placed on the media for reporting on certain aspects of the sufficiency hearing.”

I am bringing this in to what has just happened and the fact that this Government has asked the Opposition to join with it in joint select committees, dealing with controversial, criminal justice legislation and also to address matters at committee stage.

“Beckles had said she had a serious problem with this provision and asked whether the media had been among the stakeholders consulted in the discussions which took place...

In response, Volney noted that the original penalty was \$250,000 and five years’ imprisonment. He said when the issue came up at committee stage in the House of Representatives, Prime Minister Kamla Persad-Bissessar had asked whether it should be \$100,000 instead of \$250,000...”

And this is a quote:

“immediately, the Member for Diego Martin North/East (Colm Imbert)—me—said “No, \$150,000’. And so it was settled at \$150,000...”

That is what the hon. Minister of Justice said in—[*Interruption*] Oh really? That is what happened. Well, Mr. Speaker, I happen to have the *Hansard* from the Administration of Justice (Indictable Proceedings) Bill in the other place on Tuesday November 18, 2011.

**Mr. Sharma:** You cannot debate one of the other Bill.

**Mr. C. Imbert:** I am not debating.

**Mr. Sharma:** Well then act intelligent then.

**Mr. C. Imbert:** Mr. Speaker, could you please speak to the Members opposite?

**Mr. Speaker:** Hon. Member—“yeah”, continue.

**Mr. C. Imbert:** Yes, Mr. Speaker, thank you very much. Clause 31.

Thank you, Mr. Chairman.”

This is the proceedings in this place:

“Thank you, Mr. Chairman. It is clause 31(2).”—This is me (Colm Imbert) speaking—“Could the Minister explain the policy behind this draconian penalty—two hundred and fifty thousand dollars and imprisonment for five years for publishing particulars with respect to a hearing?”

I repeat, this is the *Hansard* record of the debate on the Indictable Proceedings Bill in this House and they are speaking about me. That is Mr. Imbert. “Thank you, Mr. Chairman.”

“**Mr. Volney:** Well, it has been that that provision has been abused in the past, because you can pay a small fine and sell papers, but with this sort of penalty you are not likely to abuse the provision.

**Dr. Rowley:**...we believe that the Government is going too far in one direction with this...

**Mrs. Persad-Bissessar:** May I ask what is your proposal?

**Dr. Rowley:** I would think...it is miniscule now...but we would think that \$100,000 is more in line with proportionality.”

### **3.30 p.m.**

I repeat, Dr. Rowley, the PNM Leader of the Opposition—and it was Mrs. Persad-Bissessar, the PPG Prime Minister who said: “What is your proposal?” Here we go again. Mrs. Persad-Bissessar, the Prime Minister: “You would settle for \$150,000?”

So what are the facts, Mr. Speaker? The Opposition said, reduce the fine to \$100,000 and that was a conversation between the Leader of the Opposition and the Prime Minister, but the Minister goes into the other place and gives a completely false impression; paints a completely untrue picture that I was the one who said \$150,000 and the Government had said \$100,000. One cannot trust this Government and one cannot trust this Minister, and you need to apologize!

**Mr. Volney:** Hon. Member for Diego Martin North/East, I should have said it was the Member for Diego Martin West. I said it was you; I apologize to you. But it was the Member for Diego Martin West and not the Member for Diego Martin

North/East. So I am sorry that I mixed you up; it was your leader who had—not your leader; I do not know who is your leader. It was the Member for Diego Martin West.

**Mr. C. Imbert:** You know, Mr. Speaker, you have told me not to use unparliamentary language in here and do not accuse the people opposite of not being able to understand things, and I will not do that, but I will repeat, this is what the hon. Minister said in the other place:

“In response, Volney noted the original penalty was \$250,000...when the issue came up at committee stage...Prime Minister Kamla Persad-Bissessar had asked whether it should be \$100,000 instead of \$250,000 and immediately, the Member for Diego Martin North/East...said ‘No, \$150,000’.”

Now he is saying he got mixed up and he is saying it is the Member for Diego Martin West, Dr. Rowley, who said it should be \$150,000 instead of \$100,000. That is untrue. Let me read the *Hansard* again.

“**Mrs. Persad-Bissessar:** May I ask what is your proposal?”

**Dr. Rowley:** ...we would think that \$100,000 is more in line with proportionality.

**Mrs. Persad-Bissessar:** You would settle for 150,000?”

So it is the opposite; it is the Government who pushed for \$150,000; it is the Opposition that proposed a lower fine, and I am asking the Minister—I assume they will go in the Senate and apologize, because you uttered an untruth in the other place, and I am asking you to apologize now. But if you do not want to apologize, it is no problem. [*Crosstalk*]

**Dr. Moonilal:** He could be reading from a comic book.

**Mr. C. Imbert:** Yes, it is all right, you could say what—you know, you could research what you want—[*Crosstalk*]

**Mr. Speaker:** Order, please! Allow the Member to speak.

**Mr. C. Imbert:** It is because of utterances like this that a Minister will go in another place and mislead the other place, and when we sat down in the anti-gang committee with them and used our best efforts with the best will and intention to make the legislation work, cautioning them all the while—it is all in the verbatim record—as to the need to train the police and the need not to be precipitous in terms of introducing that legislation, and what happens? When the legislation

*Electronic Monitoring Bill, 2011*  
[MR. IMBERT]

*Friday, December 02, 2011*

does not work, they blame the Members on this side. And I am telling you, this legislation will not work, and because of our experiences with the Anti-Gang Bill, our experiences with the way the Minister has misrepresented the facts with respect to the draconian penalty on the media, I am afraid we are not going to sit in a JSC with you on this Bill. You can use your three-fifths majority and you can do whatever you wish, we are not going to assist you in terms of your incompetence. We are not doing it! You are on your own! So bring your Bills; pass your Bills; you are on your own. [*Crosstalk*]

Now, let us go to the legislation itself. This Bill is fraught with problems. There are all sorts of issues in the Bill that need attention, and I am afraid the committee stage is not the place to deal with fundamental issues. The Bill treats juveniles and adult offenders as if they are the same. No other country does that. No other country treats juveniles and adult offenders in the same way, but the provisions of this legislation are going to be imposed on juveniles—first problem.

The second problem: the Bill allows a court—and I am dealing with what was circulated to me; I cannot deal with some mysterious, secret amendments written in invisible ink that up to now we have not received. So I am dealing with what is in the legislation, and when one goes to the legislation and one looks at the provisions dealing with bail, the Bill allows electronic monitoring to be imposed as a condition of bail.

Now, I heard the Minister say he has borrowed this legislation from the Bahamas; that he had a friend in the Bahamas who sat with him in another place and his colleague called him and said, “Come to the Bahamas now; jump on the next plane.” But, you see—and I will go into this in some detail—one of the problems with electronic monitoring is the accuracy of the system, and you cannot take a country like Trinidad and Tobago, where there are areas of extreme population density around our two major cities, in particular around Port of Spain and around San Fernando, and now in the Chaguanas area, and so on; in Diego Martin—you cannot take a country like the Bahamas which is made up of 700 islands, with a population of just 300,000 inhabitants, and compare that to Trinidad and Tobago where, in the East-West Corridor you will have way in excess of 300,000 persons.

In the areas east of Port of Spain, in the constituency of Port of Spain South, the constituency of Laventille East/Morvant; the constituency of Laventille West, you are going to have persons living within a 200-or 300-yard radius. You are going to have hundreds of homes within a 200-and 300-yard radius.

If the Minister had bothered to do research with respect to the type of persons who would be eligible for this kind of electronic tagging—my friend calls it shackling. The Member for Port of Spain South, when we were discussing this legislation, is of the view that these are electronic shackles, but I will use the more politically correct term: electronic tagging or electronic bracelets. And if you have a situation in an area like Laventille where you may have 100 dwelling houses within a 200-yard radius or more than 100 houses, this technology is going to fail, and I will explain why.

You see, one of the things that the Minister fails to do when he comes into this Parliament is to tell us the experience of other countries. I hear the Member for Chaguanas East carrying on a conversation with the Minister of Justice, and you see—Mr. Speaker—

**Mr. Speaker:** Hon. Member for Chaguanas East, let us have one contribution and one contributor and let us not engage in conversations whilst the Member is on his legs. Continue, hon. Member.

**Mr. C. Imbert:** You see, one of the things that the Minister of Justice has failed to do—he failed to do it with the DNA Bill; he failed to do it with the indictable offences Bill and he has failed to do it with the electronic monitoring Bill—is to give us an overview as to what has happened in other countries that have implemented a system of electronic monitoring. Before I get into a real life example in a developed country, a very current and very pertinent real life example of what has happened to electronic tagging or shackling, as the Member for Port of Spain South likes to call it, the point must be made that electronic monitoring—I heard the Minister tell us that this is revolutionary, and I heard the Member for Chaguanas East jump in euphoria, “Revolutionary!” [*Crosstalk*] Mr. Speaker, the Member for Chaguanas East cannot help himself. Can you speak to him, please?

**Mr. Speaker:** Continue. I will monitor him on this side. Continue.

**Mr. C. Imbert:** Mr. Speaker, I think he needs a bracelet. [*Laughter*] But the fact of the matter is, I heard the Minister of Justice talk about this legislation being revolutionary. What is the history of electronic monitoring? When was it invented? How many years has this thing been around? It appears to have been invented in the Bahamas, if we were to listen to the hon. Minister of Justice. But let us deal with some real research in terms of what the reality is with respect to electronic monitoring.

*Electronic Monitoring Bill, 2011*  
[MR. IMBERT]

*Friday, December 02, 2011*

Electronic monitoring started off in 1964. It was developed by twin brothers who have a long Eastern European name which was eventually Americanized into “Gable”—two brothers called “Gable”; 1964. They invented the whole system of electronic monitoring. In fact, their names were Bob and Kirk Gable and they described their invention in a journal called *Behavioural Science 1964*. The system was developed initially to deal with young offenders, to prevent young offenders from being incarcerated. It was to come up with a system where you would relieve young offenders from all of the punishment that is associated with the prison environment and you would monitor their movements to see whether they were showing up for school and they were staying within certain areas and so on—1964.

So it has been in existence for almost 50 years. Electronic monitoring has been studied to death for almost 50 years. Therefore, I am sorry, I cannot agree that electronic monitoring is revolutionary and I cannot agree that it was invented in the Bahamas, as the hon. Member might have us believe.

But let me go to a real live example. I am reading from a story in Canada, on the CBC News in Canada. The date of this story is Tuesday, July 13, 2010, not 1910, not 1960, not 1980, not 2000—July 13, 2010. And what is the headline on this story in Canada on one of its main stations? “Electronic anklet trial a ‘disaster’.” And here is the summary:

“An internal review of a federal pilot project (in Canada) to outfit parolees with electronic anklets found that the devices were plagued by technical malfunctions and showed little effectiveness.”

And it goes on:

“A federal pilot project to outfit parolees with electronic anklets in hopes of keeping track of them and deterring further crimes has been a costly failure, according to a corrections experts.

‘The whole fact is that the program was an unmitigated disaster,’ said Paul Gendreau, a professor emeritus at the University of New Brunswick who is known internationally for his research in corrections and electronic monitoring.”

And it is just like our hon. Minister:

“Nearly two years ago, then public safety minister Stockwell Day announced the pilot project with great fanfare as part of the Conservative government’s tough-on-crime stance.”

Sounds familiar? This hon. Member tells us this is a promise; they are fulfilling a promise, and he has announced this electronic monitoring with great fanfare. Same thing. He could just change the name here and put “Herbert Volney”.

The full report is available:

“But an internal review of the program obtained by CBC News, found that it was plagued by technical malfunctions with the anklet’s global positioning system...

‘The bottom line is whether these kinds of programs reduce criminal behaviour, and this one didn’t,’ ...

The yearlong pilot, which began in September 2008 and cost \$856,000, tracked 46 Ontario parolees.

In an interview for CBC’s *Power and Politics*, Public Safety Minister Vic Toews underscored that the anklets were used in a pilot project only and that ‘the problem was one of technology’.

‘If the technology can be improved and the safety of Canadians can be improved through this program, we’ll consider...continuing that’.

They are about to shelve it.

“The Correctional Service of Canada review of its program found the technology was faulty and often failed to pinpoint a parolee’s whereabouts accurately.”

That is the point I was making.

### **3.45 p.m.**

I heard the Member for Chaguanas East buying into this soap opera, that you could pinpoint the person’s location within one metre; it is a soap opera. Let us deal with the facts, in Canada, a developed country.

“for example, there was only one valid electronic anklet alert out of 19, where a parolee had actually tampered with his anklet strap. Most of the false alarms were due to equipment sensitivity and hardware or software issues. About one-third... were caused by accidental jarring at work or during other activities.

...All seven alerts that parolees had tampered with the device turned out to be false”.

*Electronic Monitoring Bill, 2011*  
[MR. IMBERT]

*Friday, December 02, 2011*

And this is the part I want the Minister to listen to carefully because there are a lot of bright boys who will come visiting the new Ministers in this Government\_

**Hon. Member:** Brad Boyce.

**Mr. C. Imbert:** Bright boys, with all sorts of new fangled technology and all sorts of claims about how brilliant the technology is and how well it work. They are like snake oil salesmen in the old Wild West. You know snake oil salesmen, they have a little jar of oil, they pick it up from some patch or something, and they tell you this will cure everything from heart disease to cancer, this time is just a set of old oil in the thing, coconut oil or something.

So, I warn the Minister, a lot of bright people outside there who are going to come by you with lots of stories about wonderful technology and how it work so well and it could pinpoint—I heard the Minister say, I had to write this down—“This could pinpoint two people lying side by side in the bed.” Let me repeat that, that is what he said, “It could pinpoint two people side by side in a bed.” Two eh! Right!

“Another problem—and I want the Minister to listen to this—in Canada, in this 2010 report was so-called GPS ‘drift’, when the monitoring map inaccurately identified the parolee’s location by a difference of up to 200 metre,…”

Let me repeat that:

“Another problem was so-called GPS ‘drift’ when the monitoring map inaccurately identified the parolee’s location by a difference of up to 200 metres, requiring”—[*Crosstalk*—this is in Canada July 2010. A pilot project by the Federal Government in Canada—

**Hon. Member:** Old stuff!

**Mr. C. Imbert:** Old stuff, [*Laughter*] Hear this one—“a programme reset to”—back it up.

Parolees also complained of an overwhelming number of phone calls about technical issues such as telling them to charge their batteries to keep the device from emitting alerts and recalibrating the GPS to fix drifting...one parolee received more than thirty calls in one month.”—to recalibrate his anklet.

Gendreau says “the program was poorly orchestrated, contained too small a sample size, didn’t properly collect data, experienced, too many technological breakdowns.

This [electronic monitoring] project was so expensive they would have been to better off just keep people locked up in jail.”

I have worked out this pilot project cost Canadian \$20,000 per person, \$120,000, and they want people to pay for this. You want people to pay \$120,000 because the cost is not just the device you know, it is the infrastructure and the bureaucracy in the electronic monitoring unit and all the staff and everybody associated with that, and the company that you want to contract this to, that is the cost. And you want people to pay \$120,000 for the use of the bracelet. That is what it says, that is what the clause says.

The report says:

“the benefits associated with the electronic monitoring may be minimal for offenders with a history of substance abuse, criminal associates and violence offences,”

That is a fact. By the time our rudimentary GPS technology in Trinidad—Mr. Speaker, you ever tried to use a cellphone by the Oval? Try to use a cellphone by the Queen’s Park Oval, you will get a dropped call every 10 feet. It is what is called a “dark spot”, try to use a cellphone by the Foreshore, try to use a cellphone going around the Queen’s Park Savannah. As you pass the Emperor Valley Zoo, dropped call, and that is Trinidad and Tobago’s technology, with our rudimentary GPS technology. GPS in Trinidad and Tobago is in its infancy.

In Canada, which is a developed country, they could not pinpoint the persons within a distance of 200 metre, and that is why I spoke about Laventille, 200 metre is about 700 feet. In Laventille, within a circle with a radius of 700 feet you are going to have hundreds of houses. And you see the problem with this system is that it is a curfew system, where you are putting persons under house arrest for a period of time, say from 6.00 p.m. to 6.00 a.m. in the morning. They are under house arrest in a curfew system, and then you are monitoring their movement, they are allowed to go to certain places between 6.00 a.m. and 6.00 p.m. and every time you get a signal, police comes for you because that is what this Bill says, “police coming for you.”

But what is going to happen with respect to the issue of the person who is the subject of a protection order when with GPS drift—and I am going to read from an actual example, there is a court case—with GPS drift, the man killed the women, but the GPS positioner did not pick up the location of the person, the person is already dead.

I am cautioning the Government, you know, I hear the usual commentary from the Members opposite. “So, it eh no good, throw it away.” I heard the hon. Acting Prime Minister *sotto voce* saying, “the answer is, do not use it.” I am not saying that.

**Dr. Moonilal:** “What you saying?”

**Mr. C. Imbert:** I am saying that once again—if you want to know what I am saying, if you are really interested, just like the DNA legislation where the Minister sought to declare that the Forensic Science Laboratory was accredited without any testing whatsoever, and sought to declare that DNA testing by that lab would be perfect without any standards, without any regulations, without any guidelines, without any criteria, and of course, that will end up in court and a clever lawyer or not even—a not so clever lawyer will be able to get somebody off immediately on the ground of contamination of sampling and so on. In the same way I hope they have seen the error of their ways with respect to the DNA legislation and the loopholes that they have incorporated into that Bill, I hope they will understand the loopholes that they are incorporating into this system.

**Dr. Moonilal:** What to do?

**Mr. C. Imbert:** What to do? I will tell what to do. [*Crosstalk*] No, I have 75 minutes, in fact, I have until quarter past four, because I understand you are going to get up and take my time at quarter past four, hon. Minister.

**Dr. Moonilal:** I am getting up at four.

**Mr. C. Imbert:** Well, whatever; get up whenever you want. The fact of the matter, with the kind of technology we have in Trinidad and Tobago, Trinidad and Tobago is not equipped to properly implement an electronic monitoring system, and I am urging the Minister—thank goodness this legislation has a proclamation date in it, because you have to do some work on it, you have to do some work on this legislation, you have to do some work on it, because it is going to be a colossal failure just like the electronic ankle trial in Canada. [*Crosstalk*] Unless you do your work, unless you prescribe standards because that is another flaw in this Bill. [*Crosstalk*]

This Government has a habit of bringing legislation, establishing critical offices of national importance, such as the DNA custodian and so on and not taking the simple precaution, the rudimentary, almost juvenile precaution, of putting some framework in place to ensure that the persons who are going to be appointed to manage and operate these units will be suitably qualified. There is nothing in this legislation, nothing that prescribes the qualification of the manager of this unit. There is nothing in here that prescribes the skills that are required to properly implement this unit. There is a mismatch between the functions of the

unit and the requirements for reporting. If you go into the legislation all of the functions are technical, and I will read out what the functions are, the responsibilities of the electronic monitoring unit:

- ensuring the security of the system...”
- retrieving and analyzing information...”
- reporting any non-compliance...”
- providing real-time tracking,
- reporting alarm notifications,
- controlling information,
- maintaining a register of decisions,
- understanding the fitting maintenance of and removal of devices,
- ensuring a record of all electronic monitoring spatial data,
- improving information technology,
- providing technical assistance and
- training. That is it.

All of the functions are entirely technical. When you go now to the back when they want to put this bracelet or this shackle—as my colleague from Port of Spain South describes it—what does the unit have to do? It is no longer technical. Now they have to look at the person’s physical health, and mental health, they have to establish whether the person is a risk to society.

**Dr. Moonilal:** If you have no legs?

**Mr. C. Imbert:** Everything is a joke for you “eh?” [*Crosstalk*] Let me go to the requirements in the back of the legislation. Listen to what the electronic monitoring manager has to do for the court: an assessment of the person’s financial capability to pay for the use of the electronic monitoring device. How can they do that? That is not one of their functions.

**Mr. Volney:** The probation unit.

**Mr. C. Imbert:** That is not in here. The electronic monitoring manager is the one who has to do this, not the probation authority; that is the mismatch in this Bill. Why is the electronic monitoring manager getting involved in matters like these?

*Electronic Monitoring Bill, 2011*  
[MR. IMBERT]

*Friday, December 02, 2011*

“any history of spousal or family abuse while living with family; documentation evidencing pre-existing physical or mental condition of the person...”

**Miss McDonald:** That is a technical person.

**Mr. C. Imbert:** The problem with this legislation, just like the DNA legislation, the Minister has not done—[*Crosstalk*] Mr. Speaker, could you—

**Mr. Speaker:** Yes, you have my protection.

**Mr. C. Imbert:** I am not sure, you know, the Minister keeps talking. But when you look at the functions they are all technical: electronic monitoring management of signals, GPS, everything, from engineering an information technology perspective, those are responsibilities of the unit. When you go here now, this manager who is head of the unit and of necessity has to use the staff in the unit, has to look at spousal abuse, pre-existing physical and mental conditions, whether the person has access to power, all sorts of things. They have to do a survey of the home to determine whether there is a good supply of electricity in the house; they will have to establish access to the home. They have to establish whether it is a high crime area. All of these things are there in the report but not in the responsibilities.

And you see in other countries you do not have some electronic monitoring unit set up in a ministry. And I hate to say this, when I look at what the hon. Minister is doing, the most charitable person will have to come to the conclusion sooner or later, that the Minister is seeking to enlarge the scope of his responsibilities. The Prisoner Rehabilitation and Offender Management is currently a division that is the responsibility of the Minister of National Security.

**Dr. Moonilal:** That is wrong! That is wrong!

**Mr. C. Imbert:** Whatever. [*Member stands*] What is this? I am not giving way. I am not giving way, Mr. Speaker.

**Mr. Volney:** Member, you are misleading the House.

**Mr. Speaker:** He is not giving way.

**Mr. C. Imbert:** The whole question of releasing prisoners, the question of advising the court with respect to whether you should release a prisoner or not, is currently the responsibility—I am so sorry, Mr. Speaker, I understand his confusion.

**4.00 p.m.**

**Mr. Speaker:** Member for St. Joseph, please! Please! Continue.

**Mr. C. Imbert:** We have an apparatus in this country where until this Minister arrived, the penal system—all aspects of it were the responsibility of the Ministry of National Security. Now, we are seeing that this Minister wants to undertake construction of courthouses so he has a construction arm. Now, we see that the Minister of Justice wants to deal with prisoner rehabilitation.

**Dr. Moonilal:** Penal is a place.

**Mr. C. Imbert:** Penal, penal. Mr. Speaker, the inevitable conclusion is that the Minister is seeking to expand his portfolio. Now, if he wishes to do that, and if the Prime Minister wishes to allocate additional responsibilities to any Member of her Cabinet, that is their responsibility. That is not the point I am making. The point I am making is that when the hon. Minister of Justice sought to take over the responsibility for DNA testing, he made a colossal mess of it because he did not think things through—he was precipitate. And now that he wants to take over the question of parole and the whole question of offender management, when I look at this legislation, he is making a colossal mess of it again, because having done whatever for the last 18 months, he is now in an extreme haste to put all this legislation on the books.

Let us look at the electronic monitoring unit, Clause 4:

- “(1) The Electronic Monitoring Unit...hereby established for the purpose of implementing the system...in accordance with this Act.
- (2) The staff of the Unit shall include—
  - (a) the Electronic Monitoring Manager...who shall be the head of the Unit, and such other suitably qualified officers and employees.
- (3) The EM Manager and other members of staff...shall be engaged on contract in accordance with guidelines for contract employment established by the Chief Personnel Officer.”

One of the secret amendments I heard him talk about—which he alone has and I can tell you we still have not gotten it—was that he is now changing that to make these people public officers, but he is adding some proviso which he muttered to himself, which we do not know, which will apparently allow him to intervene and employ the EM manager; and we cannot know until we see what he is up to.

But, the fact of the matter is that in this clause, there are no qualifications for the electronic monitoring manager. This person is not just dealing with technology, Mr. Speaker, as I have indicated, this person is dealing with prisoner

*Electronic Monitoring Bill, 2011*  
[MR. IMBERT]

*Friday, December 02, 2011*

rehabilitation; dealing with the penal system; dealing with prison reform; dealing with probation; dealing with parole; dealing with very complex issues, but there are no qualifications prescribed in the legislation.

There are no requirements that the staff of this unit shall be trained in social work. There are no requirements that the persons in this unit be trained in rehabilitation of prisoners in the criminal justice system—nothing; it is a blank piece of paper. We have seen the controversy that erupted with respect to the Financial Intelligence Unit where the Prime Minister used her veto to ensure that a particular individual was appointed as head of that unit. The country could avoid those kinds of fiascos in the future. And that is why I am telling the Minister, if you want your system to work, you need to listen.

You need to prescribe qualifications for the EM manager and the deputy manager; you need to clearly outline the functions, roles and responsibilities of these people, and you need to have basic qualifications within your electronic monitoring unit because electronic monitoring has a heavy social engineering component. When you go into the literature, you will see that unless you have a very robust social engineering bureaucracy and infrastructure associated with electronic monitoring, electronic monitoring is going to be a colossal failure.

And I indicated to you, Mr. Speaker, that there is a famous case in the United States where the court was at pains to denounce the system of electronic monitoring. I am reading from a document published by the University of Strathclyde in Glasgow, Scotland, entitled “Electronic monitoring of offenders in Scotland from 1998 to 2006”, page 88—and this is a comment. It says:

“Press hostility to EM”—electronic monitoring—“may be increasing, possibly as a result of ‘tabloidisation’ in the press itself, possibly as a result of public anger about a number of cases in which offenders already known to the authorities (on bail, parole and probation) have committed very serious crimes. Callum Evans fell into this category and brought” electronic “tagging into very serious disrepute.

Evans was an 18 year-old Glasgow man, tagged to his flat on the first floor of a tower block who, in October 2005, savagely murdered another young man outside at the foot of the tower, whilst wearing his”—electronic—“tag and still being within the range of his receiving unit....At Evan’s trial, the High Court judge criticized his ability to leave his flat undetected, and triggered a frenzy of press comment on...2006.”

Some of the headlines were: “The Killer Who Was Tagged: scandal as axe murderer beats his curfew”; “Tagged But Free To Kill: teen butchers man during

12 hr curfew”; “Judge attacks tracker devices after youth tagged by Reliance is convicted of murder.”

That is what happened in Scotland in 2005, and you see, Mr. Speaker, we are not talking here about an error in the positioning system technology. This was not a case where the man was 200 metres away and there was a GPS drift and the satellite or the transponder or whatever other electronic device, did not pick up that the person had come out of the area.

**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. [*Miss M. McDonald*]

*Question put and agreed to.*

**Mr. C. Imbert:** As I was saying, that murder in Scotland where the person was within the same building—and in Trinidad and Tobago, if the Minister is going to use this technology to deal with young offenders, to deal with repeat offenders, et cetera, they are certainly going to be housed within multistorey public housing buildings—some of them—and what happened here could very well happen in Trinidad and Tobago, because the tag determined that the youth was still inside the building but while the electronic device was tagging him, he was killing somebody. As I said, this is not a case where the GPS system had drifted and perhaps the person was 500 feet away; it was a case where he was right there. And this is why I want to repeat my warning to the Minister; all sorts of smart men are going to come to sell you these devices. I see inside of here, a provision that everything can be outsourced to a company. I see a provision here that the Government could just outsource everything with respect to electronic monitoring to a company.

**Dr. Rowley:** They have the company already.

**Mr. C. Imbert:** I am not getting into that; I am not in that! I am just telling the Minister, all sorts of smart men are going to show up, and before you enter into a contract with anybody with respect to the use of their technology, the use of their systems, use of their personnel, you better do a forensic audit on their track record, and see whether any of them have had experiences such as has been reported by the Federal Government of Canada. What I was reading from was an Internal Government Report by the Federal Government of Canada which was— [*Crosstalk*] You read it?

**Mr. Volney:** I read it.

**Mr. C. Imbert:** Oh, you read this and you saw that in Canada—Mr. Speaker, I do not believe him. If in Canada, they said you cannot detect the person within 200 metres of their location, then why would the Minister come and say that you could find the person within one metre? Come on! So Canada, a developed country, this was just an aberration; this was a mistake? *[Laughter]* So, Mr. Speaker, I am urging the Minister to be very very careful about what he is doing with this electronic tagging because the literature is replete with examples of failures of this kind of technology.

The other problem that I am having, Mr. Speaker, and I am watching the clock because I remember that I am going to be interrupted at quarter past four. I am reading from the Criminal Justice and Immigration Act, 2008, and while I am a Caribbean man, I am all for borrowing from other Caribbean jurisdictions. I have no problem with the hon. Minister flying to the Bahamas and seeing the system. As I said, the Bahamas is 700 tiny islands with a tiny population of a couple of hundred thousand—there is no comparison to Trinidad and Tobago, but if he wants to go and look at the Bahamas, no problem.

But, Mr. Speaker, what I would ask the Minister to do when he is drafting legislation is two things. I will ask him to follow the advice of his advisories; that is one. Do not be so brash and feel that you know it all; and two, look at the UK legislation. I am reading from the Criminal Justice and Immigration Act of 2008, Schedule 11, which is entitled “Electronic monitoring of persons released on bail subject to conditions”. England has been experimenting and implementing electronic monitoring for the last 20 years. I wonder how long the Bahamas has been using electronic monitoring—two years? Three years? Five years? It is certainly not 20 years. So, I will advise you; no problem in going to Caribbean countries to see what is happening but go to developed countries that have a 20-year and 30-year history of electronic tagging, and have been amending their legislation over the years because of experiences.

Mr. Speaker, in the United Kingdom, Schedule 11, electronic monitoring, persons released on bail subject to conditions—this is a condition. Mr. Speaker, I would like to know why the Minister has not put this in our legislation? And I am asking the Minister to put this in our legislation. The first condition is that: the court is satisfied that without the electronic monitoring requirements, the person would not be granted bail. Let me repeat: the court is satisfied that without the electronic monitoring requirements, the person would not be granted bail. Now, they put that in there because they are telling the judge that before you release one of these people with this electronic bracelet or shackle—as my colleague, Member for Port of Spain South calls it—before you let them out, consider

carefully: whether this person was a high risk offender; whether this person was a flight risk; whether this person was a repeat offender. What is the probability that if this person is let out on bail, they will commit the same crime again or a worse crime? Consider that very carefully and make a decision as to whether you would have granted bail or not, and the court must first come to the conclusion that they will not grant the person bail. So the court must have first assessed the circumstances of the person—that is what happened in England—and make a determination that they are not going to grant this person bail under normal circumstances, because as I said the person is a flight risk, high risk, a violent criminal, a repeat offender, et cetera.

Having done that, then and only then, can the court move to the next stage of electronic monitoring. The person must first be a person that would not normally be granted bail. Why is that not in our legislation? Why did you go to the Bahamas and you did not go to England? “I wouldna vex.” Do not mind the fare to the Bahamas might be a little less than the fare to England. Why you did not go to the United Kingdom where they have been using electronic monitoring for the last 20 years? Why did the Minister not go to the United States?

**Mr. Volney:** I went.

**Mr. C. Imbert:** Why did you not go to Canada and visit and find out what happened when their electronic ankle trial failed, Mr. Speaker? Why? Mr. Speaker, [*Interruption*] Of course, you know, I thought he would say that.

**Mr. Speaker:** He is not giving way.

**Mr. C. Imbert:** The whole question of releasing prisoners, the whole question of advising the court with respect to whether you should release a prisoner or not, is currently the responsibility—I am so sorry, Mr. Speaker, I understand his confusion.

**4.15 p.m.**

#### ARRANGEMENT OF BUSINESS

**Mr. Speaker:** Hon. Members, in accordance with Standing Order 41(2), the Member for Diego Martin North/East has 22 more minutes of his speaking time, but we have agreed that at 4.15 p.m. the hon. Leader of the House and Minister of Housing and the Environment has a statement to make. So I will, with your indulgence, revert to the item “Statements by Ministers” and I call on the hon. Minister of Housing and the Environment to now address the House.

*Assent indicated.*

[*Desk thumping*]

*Statement by Minister*

*Friday, December 02, 2011*

**STATEMENT BY MINISTER  
2011 Corruption Perception Index  
(Trinidad and Tobago)**

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Thank you very much, Mr. Speaker. Today, I have the opportunity to share with Members of this honourable House and indeed the national community, the Government's statement in response to the release of the Trinidad and Tobago Transparency Institute's results for the 2011 Corruption Perception Index as it relates to Trinidad and Tobago.

Mr. Speaker, the Government of Trinidad and Tobago premised its election campaign on the key challenge of combating corruption. We were and still are resolute in ensuring that we promote a philosophy of good governance and transparency, which is the bedrock upon which we are anchored. As such, since our ascension to office, we have and will continue to work assiduously to ensure that this perception index is transformed in a tangible manner.

The Government of Trinidad and Tobago has taken notice of the Transparency International Institute's report and we are fully cognizant and appreciative of conversations which have been generated in the public domain as a result. We have also studied the Perception Index Report and, Mr. Speaker, we take note that this index has fallen. This perception index which stood at 5.3 in 2001, then fell dramatically to 3.6 by 2008, has fallen further to 3.2. In looking at this report we can establish a direct link between this Government's work in uncovering and revealing many issues revolving around serious allegations of corruption by previous administrations, and the related issue of the creation of a perception of corruption.

A few of the issues uncovered by this Government include maladministration and serious allegations of corruption at UDeCott, the Clico and HCU issues which the current Government of Trinidad and Tobago, led by the hon. Kamla Persad-Bissessar, has been instrumental in bringing to the fore with the conduct of a commission of enquiry into the Clico and the HCU matters.

We have also tabled revelations involving allegations of serious corruption at: eTek; T&TEC; Petrotrin; the sale of the BWIA slots at Heathrow Airport in London; the UTT; the Scholarship Fund issue; the OPVs and, Mr. Speaker, the list goes on and on. The fact is this Government continues to unearth and unravel many issues causing great concern to us and many times these issues will be fully ventilated in

the public domain. Once such issues are mainstreamed they become issues of public perception, regardless of which administration would have been the perpetrators.

We must also take careful note of the time period of the perception report which treats with information compiled from December 2009 indeed to September 2011; information gathered from December 2009 to September 2011.

Mr. Speaker, as I mentioned previously—*[Interruption]*—five months is a long time for this perception—*[Interruption]*—you did so much in five months. Mr. Speaker, as I mentioned previously, we have viewed this report as a matter of serious concern and in our reading of the report a few recommendations were offered. I take this opportunity on behalf of the Government of Trinidad and Tobago to advise the national community of the many initiatives undertaken by the Government, which directly addresses the recommendations raised by the Trinidad and Tobago Transparency Institute.

Mr. Speaker, may I remind the national community that since assuming office 18 months ago, the Government has received and responded to every single question posed by the Opposition in the Parliament of Trinidad and Tobago. *[Desk thumping]* This unprecedented 100 per cent record of responding to parliamentary questions was a mandate provided by the hon. Prime Minister, who has stated both publicly and to Members of her Cabinet the importance of ensuring that we respond to matters of national interest, and these responses are timely and accurate. It is also testimony to the fact of the respect with which we treat Members opposite to respond to their questions in an accurate and timely manner. *[Desk thumping]* It speaks as well to the Government's commitment to transparency and accountability not only to Members of this Chamber, but to the national community.

Mr. Speaker, in terms of recommendations of the Uff Commission, one of the recommendations cited in the Perception Report was the implementation of the recommendations of the Commission of Enquiry into the Construction Sector.

Mr. Speaker, I am pleased to report the following recommendations have already been instituted by several agencies of the Government. The Housing Development Corporation has taken very seriously the recommendations of the Uff Commission, and in several areas dealing with the staffing, the filling of vacancies in critical areas involving auditing and accounting, in the establishment of management oversight committees, et cetera, we have been able to satisfy the recommendations of the Uff Commission.

*Statement by Minister*  
[HON. DR. R. MOONILAL]

*Friday, December 02, 2011*

Mr. Speaker, for example, where the Uff Commission had recommended that the HDC must ensure that contract sums are accurate and transferred into contract documents, and that no additional sums paid other than strictly in accordance with terms of a contract be undertaken, the HDC has accepted this recommendation and a strategy of checking this transfer is being adhered to and managed, by a specially established contract management department.

Mr. Speaker, may I add that the hon. Attorney General has brought two matters to Cabinet, one dealing with the protection of local contractors when entering into legal relations with external large contractors, to ensure that local contractors are protected against corrupt acts by foreign contractors.

The other issue the Attorney General has brought to the fore is the insertion of a corruption clause, the insertion of a clause to prevent corruption in all contracts undertaken between agencies of the State and foreign multinational corporations.

Mr. Speaker, on the issue of transparency and oversight in response to previous cases of maladministration at UDeCott, there is another recommendation emanating out of the Perception Report. As such, I would like to place on record the following courses of action taken by UDeCott in response to the previous maladministration. In dealing with this issue UDeCott has become regrettably the focal point, because it is at UDeCott where it is widely believed that several issues of corruption arose. May I remind you that it was the Member for Diego Martin West in 2009 and thereabout who brought several issues of corruption to the national table, when standing, I believe, as a Backbencher in the former administration.

Mr. Speaker, in relation to transparency and accountability, in addition to the implementations of recommendations of the Uff Report, a steering committee was established to oversee the effective and immediate implementation of the recommendations. We have sought to enact the following:

- public open tendering is practised with respect to all large-scale projects;
- public open invitations are issued to prequalified persons and/or firms for the supply of goods and services to UDeCott.

The very Chamber in which we are standing and we are sitting now has been outfitted and redesigned through a process involving open public tendering for works. [*Desk thumping*]

Mr. Speaker, we have been working on the establishment of a procurement department headed by a manager procurement, who is supported by a procurement

*Statement by Minister*

*Friday, December 02, 2011*

officer, a qualified engineer; both are knowledgeable, qualified and experienced in the field of the procurement. A copy of the Transparency International Institute's guidelines and recommended practices has been obtained and circulated to the management of UDeCott with a view to ensuring that best practices are inculcated within the organization.

The Ministry of Finance's State Enterprises Performance Monitoring Manual, a manual which was interestingly absent over the last five years, has been found, dusted out and has been circulated to all management officials at UDeCott, and its procurement practices are now being closely adhered to in the execution of the procurement process. A report on the status of the implementation of the Uff Commission recommendations is submitted on a monthly basis for the attention of the board of UDeCott.

Mr. Speaker, enhancement of local resources: development of RFPs ensures that the preservation of local content in the supply of goods and services and oversight and delivery of projects is understood. The prequalification invitation document is also structured in such a way so as to ensure that it attracts local suppliers and contractors.

Mr. Speaker, vacancies at UDeCott are advertised in the local print media to attract local talent. In terms of monitoring and oversight, the board of UDeCott has established several committees to oversee UDeCott's various functions.

A tenders committee: this committee, together with the procurement department, ensures the application of and strict adherence to the tendering process, an issue previously raised by the Member for Diego Martin West.

In terms of finance and investment committee, this committee is responsible for ensuring that the finance, accounts and investments of UDeCott are procured and maintained in accordance with best practice and standards. Under the stewardship of this committee, the corporation shall be producing all outstanding audited financial statements by December 2012. Let me repeat that: under the stewardship of this committee, the Finance and Investment Committee, the UDeCott shall be producing all outstanding audited financial statements by December 2012. There is also an Audit Committee; this committee oversees all processes to ensure there is adherence to the audit charter and corporate governance standards.

In terms of human resources, that committee ensures that management and other functions are performed by persons with the requisite knowledge and

*Statement by Minister*  
[HON. DR. R. MOONILAL]

*Friday, December 02, 2011*

experience. To this end UDeCott has engaged a chief personnel officer, who holds a master's degree in this field. This person is charged with the responsibility of engaging only the cream of the crop at the corporation.

A recommendation is also being submitted to Cabinet to establish a Cabinet-appointed steering committee which will be charged with the responsibility of overseeing, monitoring and reporting to Cabinet on various large-scale projects. Mr. Speaker, I want to repeat that, that is a recommendation of the Uff Commission, that is also a recommendation—that was also a complaint by the Member for Diego Martin West during the period 2007—2010; that there was no Cabinet oversight over the activities of UDeCott. Cabinet will establish a steering committee with the responsibility of overseeing, monitoring and reporting to Cabinet on the portfolio arrangements with the Ministry of National Security in particular and the Ministry of Health, so that these large-scale projects will receive the oversight of a Cabinet-appointed committee.

**4.30 p.m.**

Mr. Speaker, gone are the days when the UDeCott or other corporations can conduct their business without reference to the Cabinet of Trinidad and Tobago.

Mr. Speaker, pursuant to the Uff Commission Report and recommendations, there is now a separation of duties between the chairman and the CEO; both positions have been filled. There is also a separation of responsibilities between the chairman and the procurement process at UDeCott. Unlike prior to May 2010, the chairman UDeCott, today, does not sit as chairman of the Tenders Committee.

UDeCott has opened up dialogue with various stakeholders such as the Trinidad and Tobago Contractors Association and the institute of architects through its umbrella organization, the Joint Consultative Council for the construction industry. Additionally, Mr. Speaker, the Attorney General was directed by Cabinet to take steps to secure the services of forensic auditors and attorneys to conduct forensic audits into the operation of UDeCott, with special attention being paid to the awards of contracts by UDeCott to Karamath Limited; contracts Pk2 in March 2006 for \$144.6 million and package 2, 3 and 5-8 in September 2006 for \$379 million for the construction of the Brian Lara Cricket Academy. The award by UDeCott of the contract for the construction of the Ministry of Legal Affairs Towers in the sum of \$368 million in April 2005 to Sunway Construction Caribbean Limited, (formerly CH Development and Construction Limited).

Pursuant to the directive of Cabinet, the Attorney General duly appointed Mr. Alan Newman Queen's Counsel, together with Mr. Bob Lindquist, Forensic

*Statement by Minister*

*Friday, December 02, 2011*

Accountant, and local attorney-at-law, Mr. Gerald Ramdeen to comprise the forensic team to carry out the audit.

The report and the recommendations of the forensic team have been submitted to the Attorney General. Having considered all of the evidence gathered relating to the operations of UDeCott in awarding the contracts in these matters, the report has recommended that actions be taken against the former chairman of the board of directors of UDeCott, Mr. Calder Hart, for losses incurred by the company as a result of the actions.

One action; a breach of duty by Mr. Calder Hart, former chairman of the board of directors of the Urban Development Company of Trinidad and Tobago—this duty being imposed by section 99(1)(a) of the Companies Act, Chap. 81:01 in concealing from the board of directors, senior management and the members of the tenders committee, the fact which he was aware of was that the chairman had family members directly associated with Sunway Construction who did bid and won the bid for the construction of the Ministry of Legal Affairs Towers at a price of \$368 million.

The second action, a breach of fiduciary duty by the former chairman of the board, Mr. Hart, contrary to section 99(1)(a), Companies Act, in awarding Karamath Limited contracts, as indicated before in the construction of the cricket academy, which awards were not made honestly or in good faith.

Having received the report on the recommendations of the forensic team, the Attorney General independently considered the evidence in this matter and the recommendations of the team and approved the recommendations of the forensic team that action be taken on behalf of UDeCott against the former chairman of the board of directors.

May I also add on another issue of procurement, raised again in the Uff Commission Recommendations, particularly the enactment of public sector procurement reform legislation. I am pleased to advise, Mr. Speaker, that this said package of legislation is currently before a Joint Select Committee of Parliament that met today, this morning, to continue its work. That committee has appointed Sen. the hon. Dr. Bhoendradatt “Bhoe” Tewarie, Minister of Planning and the Economy, as chairman.

Mr. Speaker, I have provided in detail the inference that this Government—*[Crosstalk]*—gleans from the report: the actions and the tough stance on issues involving transparency and accountability at all levels. This Government led by Mrs. Persad-Bissessar has taken strong action on all allegations of corruption over

*Statement by Minister*  
[HON. DR. R. MOONILAL]

*Friday, December 02, 2011*

the last 18 months. As evidenced by the Prime Minister's firm and decisive action very early where very high office-holders have paid the penalty for maladministration we have created the framework upon which we will continue to operate in a manner that is fair, transparent, and which holds us to public accountability.

Against this backdrop, Mr. Speaker, I also advise that we are and will continue to be concerned about the perception of corruption and allegations of corruption. And will be open to working with the Trinidad and Tobago Transparency Institute to ensure that this perception, those allegations and indeed those acts which run against the grain of good governance of probity and public accountability, those actions, are eradicated once and for all. Mr. Speaker, I thank you.

#### ADJOURNMENT

**The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal):** Mr. Speaker, I beg to move that this House do now adjourn to Friday, 09 December 2011 at 1.30 p.m. On that occasion it is the intention of the Government to continue the debate on The Administration of Justice Bill (Electronic Monitoring), 2011—continue this debate. We will also deal with amendments arising from the other place, on the DNA legislation and on the Administration of Justice (Indictable Proceedings) Bill—in addition to debating and concluding the matter before us today. Mr. Speaker, I beg to move.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.37 p.m.*