

Leave of Absence

Friday, December 09, 2011

HOUSE OF REPRESENTATIVES

Friday, December 09, 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 Member for Tunapuna, Hon. Winston Dookeran, who is currently out of the country and has asked to be excused from sitting of the House of Representatives during the period December 03, 2011 to December 18, 2011.

LEGAL AID AND ADVICE (AMDT.) BILL, 2011

Bill to amend the Legal Aid and Advice Act, Chap. 7:07, brought from the Senate [*The Minister of Justice*]; read the first time.

PAPERS LAID

1. The Water Improvement Rate (Point Lisas Industrial Estate) (Variation) Order, 2011. [*The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal)*]
2. Report of the Auditor General on the Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 2010. [*Hon. Dr. R. Moonilal*]
To be referred to the Public Accounts Committee.
3. Annual Report of the Public Service Commission for the period January 1, 2010 to December 31, 2010. [*The Deputy Speaker (Mr. Jairam Seemungal)*]
4. Sessional Review of the First Session (2010/2011) of the Tenth Parliament of the Republic of Trinidad and Tobago. [*Mr. J. Seemungal*]

STATEMENT BY MINISTER

State of Emergency

(Success of)

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. Speaker, for affording me the opportunity to make a brief statement to this honourable House in the interest of national security.

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Mr. Speaker, 16 weeks ago, on August 21, 2011, a public state of emergency was declared in Trinidad and Tobago by His Excellency The President of the Republic of Trinidad and Tobago, after being advised by the hon. Prime Minister, Mrs. Kamla Persad-Bissessar, who herself had discussed this matter with the National Security Council and later with her Cabinet from where she secured concurrence. On the same day, August 21, following a number of homicides in the wake of a drug bust, intelligence agencies advised on planned mass killings in which several innocent citizens would have been killed, and has happened days earlier, and was referred to as the beginning of planned random killings.

As a result of that intelligence report and accompanying information, the state of emergency was recommended. The police, based on information at their disposal, arrested several persons—a small percentage of whom were held and charged under the anti-gang legislation. Because that legislation was proclaimed mere days before the declaration of the state of emergency, and because the said legislation could not be enforced retroactively, evidence in the possession of the police, prior to the proclamation of the state of emergency, could not have been used to charge those arrested.

It should be noted, however, that while there were 8,144 arrests during the state of emergency, a minor percentage of those were, in fact, state of emergency related apprehensions. The recognition is that 107 days of comparative peace in our nation reflects a resounding success of the state of emergency. [*Desk thumping*] Mr. Speaker, that success also manifested itself among other areas in the realization by most of our citizens, especially in crime infested areas, that for the first time in a decade, they could reside in their homes peacefully without worrying about the possibility of falling victim to a stray bullet.

Mr. Speaker, through you, I therefore urge all citizens, even those involved in criminal activity, to make genuine efforts to keep it that way. Let us stop killing each other for material things; let us stop killing each other and leaving grieving mothers and wives; let us stop killing each other and depleting our beloved country of our young, strong male resource; let us stop killing each other so that together, we can grow harmoniously as families, as communities, and ultimately a nation; and as espoused by the Mighty Sparrow in his Independence classic, “together we aspire, together we achieve and we bound to be a success.”

Another success, Mr. Speaker, during the last three and a half months was the removal of narcotics of almost \$2 million from the system, and a disruption of the drug trade in Trinidad and Tobago. Removal of 188 firearms and 1,300-plus rounds of assorted ammunition from the streets is demonstrative of further

success gained during the period. Mr. Speaker, I have said on more than one occasion that if our state of emergency saved the life of one innocent citizen, it was successful. [*Desk thumping*]

Mr. Speaker, last Monday evening, I met a mother from the Morvant area who was happy to share that she knew the state of emergency saved 100 lives and it was a good thing. This made me think about the mothers who have lost their sons and whose sons will not be around to take care of those mothers in the twilight of their matriarchal years. I therefore urge mothers to nurture their sons with love so that they in turn might share love and not hate. I urge fathers to be mentors to their sons and guide them in the areas of discipline and positive, personal development. Mr. Speaker, if we do not, the killing cycle will simply perpetuate itself and mothers will continue to lose their sons. Is this what we want for Trinidad and Tobago? Is this what we want for our families? Is this what we want for our communities?

Mr. Speaker, during the period of the state of emergency, there were 49 murders. We have had instances in the past where more than 49 murders were committed in one month. The state of emergency also saved the lives of some of our would-be killers and they must understand that. Our intervention saved their lives and they are still with us today. [*Desk thumping*]

Mr. Speaker, as Minister of National Security, I once more, through you, wish to address the young men in our society. If nobody has ever told you that you are needed, be assured that we, the people of Trinidad and Tobago, need you. We desperately need you to live and not die; to help build and develop our beloved country; to cultivate a safe environment for your children and your parents to live and to prosper. Our women are burdened and finding it extremely difficult to nurture our children on their own. You are needed to take your rightful place as sons, as fathers, as daddies, and citizens of our great nation of Trinidad and Tobago. All of us as citizens of Trinidad and Tobago must decide whether we want to return to the peaceful, fun-loving national community we enjoyed a mere decade ago.

We, in the Ministry of National Security, continue to confront the challenges associated with crime and criminal activity in our country. In this regard, and in an effort to maintain an environment of peace and diminish criminal activity, the suppression element of our multipronged thrust will be retained at high levels by our law enforcement operatives, including joint operations with members of the

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armed forces. It should be recalled that the police recently launched its Christmas operations programme. This posture, I am advised, will be retained during our hectic Carnival season.

The other thrust that we maintain with alacrity, is our preventive approach inclusive of our National Mentorship Programme which is very well on stream; our panyard initiative where music is being used to nurture discipline among our young men in particular; our National Adopt-a-School Programme which is targeting as well, after school hours; and Our Making Life Important Programme which includes the development of communities in several areas including the physical environment; and of course, our community patriotism initiative which encourages our communities to compete in sport and culture. In this regard, our concepts of hope commenced on December 11, 2011; we are also encouraging and supporting the disciplined development of our youth through several youth programmes including our cadet force and our police youth clubs.

Mr. Speaker, I wish now to refer, albeit briefly, to the reported plot to destabilize our country. As I have reported before on November 18, 2011, the Commissioner of Police, Dr. Dwayne Gibbs, presented an official classified report which indicated that intelligence sources had unearthed a plot to assassinate named Members of Government inclusive of the hon. Prime Minister.

As a consequence, certain persons named in the report and other associates were arrested and detained by the police. One week later, detention orders were served in respect of several detainees culminating with 16 men being so detained. Unfortunately, the intelligence gathered by law enforcement authorities could not be converted to admissible evidence, and as such in the interest of justice, the detainees were released.

I wish to state as I did before, that having myself seen the initial report from the police and other subsequent reports, the threat was real. And even those who claim scepticism, I am sure in their quiet moments know and admit to themselves that the threat was real. Citizens must recall what is being revealed now, during the 1990 coup attempt—commission of enquiry—and most of us will conclude that had the political directorate listened to the law enforcement personnel then and acted on the shared intelligence, the attempted coup could have been averted. [*Desk thumping*]

Mr. Speaker, have we forgotten 1990? In 1990, there was no evidence, only intelligence, similar to what transpired three weeks ago.

1.45 p.m.

Had we not listened to our law enforcement officials, who continue to have my support, and allowed them to do their jobs and these threats were carried, this Government would have been accused of not learning from history and deemed irresponsible. Those who now speak of our overenthusiasm and the degrading of Trinidad and Tobago would have berated the Government for not taking action and then we would have been dishonoured in the eyes of the world. The hon. Prime Minister and Government of Trinidad and Tobago reacted responsibly in the interest of Trinidad and Tobago.

Mr. Speaker, I would like, on behalf of the Government and people of our beloved twin-island State, to thank most sincerely, our protective services, in particular our police officers and also operatives of our defence force and prison services who, over the past three and one-half months, exhibited true patriotism, professionalism and dedication to duty and continue to do so.

Most of our law enforcement officers performed beyond the call of duty and I wish to commend them all. This is inclusive of all our private security officers who shared information to the private security network communication system.

Additionally, I say a special thanks to those citizens who called in with information, especially in those instances which led to arrests and seizures of firearms and narcotics.

I also wish to thank the Trinidad and Tobago Coast Guard, and the Customs and Excise Division, in collaboration with personnel of the Ministry of Energy and Energy Affairs who, working together, were able to detect and fracture a petrol bunkering racket that has drained this country of billions of dollars over the past decade. [*Interruption*]

Mr. Speaker, it is the intention of the People's Partnership Government to regain and sustain peace, safety and tranquillity in our beloved twin-island State. This is certainly my goal—[*Continuous interruption and crosstalk*]

Mr. Speaker: Hon. Members, could you allow the Minister of National Security to speak, and with your full attention, please.

Sen. The Hon. Brig. J. Sandy: Thank you, Mr. Speaker. It is the intention of the People's Partnership Government to regain and sustain peace, safety and tranquillity in our beloved twin-island State. This it is certainly my goal as Minister of National Security. I have said before that I am not interested in who claims credit for the reduction in crime. The last administration argues that they

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had put things in place and I have absolutely no problem with that, although it is strange that during the past eight years in office crime kept escalating. My concern is to get results, not praise. I give all the praise, and glory, and thanks to Almighty God. All I ask is that we, as law-abiding citizens, contribute in any and every way possible to the realization of that state of peace, safety and tranquillity, so that we may leave for our children and our children's children, a safe, secure and beautiful Trinidad and Tobago.

In this respect, Mr. Speaker, Members of this honourable House, I leave with you excerpts from a hymn shared in the Senate recently by Independent Sen. Subhas Ramkhelawan. I quote:

“Stand together for what you believe.
Work for what must be done,
Love each other in all that you do,
Till all our people are one.”

Mr. Speaker, Members of this honourable House, please permit me to extend to you and through you, the national community, a safe and enjoyable Christmas season and may we all in Trinidad and Tobago be showered with God's richest blessings for a secure, healthy and prosperous New Year 2012. I thank you.

**CARIFORUM (CARIBBEAN COMMUNITY AND DOMINICAN REPUBLIC)
EUROPEAN COMMUNITY ECONOMIC PARTNERSHIP AGREEMENT BILL, 2011**

Bill to give effect to the Economic Partnership Agreement between CARIFORUM States (Caribbean Community and the Dominican Republic) and the European Community; to effect consequential amendments to the Customs Act, Chap. 78:01 and for related matters [*The Minister of Trade and Industry*]; read the first time.

ADMINISTRATION OF JUSTICE (ELECTRONIC MONITORING) BILL, 2011

[Second Day]

Order read for resuming adjourned debate on question [December 02, 2011]:

That the Bill be now read a second time.

Question again proposed.

Mr. Speaker: Those who spoke thus far are: the Hon. Member for St. Joseph and Minister of Justice, and the hon. Member for Diego Martin North/East was on his legs when we last met. The hon. Member has 22 minutes of extended speaking time to complete his contribution. I call on the hon. Member for Diego Martin North/East.

Mr. C. Imbert: Thank you, Mr. Speaker. Like GPS technology, a government begins to drift when it begins to believe its own propaganda. Just for the benefit of hon. Members, the quotation just referred to by the hon. Minister of National Security is in fact the words from a popular song of the 1960s. There is nothing original about that.

Let me go into the meat of the matter. [*Interruption*]

Mr. Warner: For the first time.

Mr. C. Imbert: The hon. Minister of Justice does himself no favours by the manner in which he chooses to introduce and debate legislation in this honourable Chamber. Mr. Speaker, I have a little bit of time. I would ask you to speak to the Member for Fyzabad, please.

Mr. Speaker: Member for Fyzabad, allow the Member for Diego Martin North/ East to speak in silence.

Mr. C. Imbert: I have in my possession the *Hansard* of the hon. Minister of Justice of December 02, 2011. I am reading from a section where the Minister was speaking about clause 9 of the Bill. Now, you will recall, when the Minister indicated that the electronic monitoring legislation would not offend the Constitution, specifically those sections that deal with legislation that are not fit for our society, he said, and I would read into the record what he said, that electronic monitoring will only be imposed with the consent of the offender. And I read the Minister's *Hansard*:

“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 read again:

“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.”

Now, Mr. Speaker, the Minister sought to use this allegation that clause 9 would provide for the consent of the offender with respect to one of these electronic bracelets or shackles, as my colleague has referred to them. He sought to use this allegation about consent of the offender to justify this legislation in our society.

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When I queried the matter—because on reading clause 9, there is nothing in clause 9 that speaks to the consent of the offender and clause 9 is on page five of the Bill and it speaks to the powers of the court to impose a sentence of electronic monitoring for an offence committed, an order bailed, a protection order, et cetera, et cetera. It requires a report from the EM Manager and it requires the court to explain to the person the meaning and effect of the decision. But, there is nothing in this clause that says that electronic monitoring can only be imposed with the consent of the offender.

When I got up to query that, the Minister made a further allegation that the matter would be addressed in amendments, at which time I pointed out to you that we had received no amendments. I received the amendments at 16 minutes past four o'clock on that Friday, December 02, 2011. I took note of it; 16 minutes past four o'clock. That means we were debating amendments that were only in the mind of the Minister and were invisible to us on this side.

I have gone now to the proposed amendment to clause 9, which is the one that the Minister alleged would be amended to include the consent of—[*Continuous interruption and crosstalk*] Mr. Speaker, I am sorry, it is my own Members, but they are disturbing me. Could you speak to them please?

Mr. Speaker: Hon. Members. Point Fortin—

Mrs. Gopee-Scoon: What?

Mr. Speaker: And the Member next to you and those behind you—[*Interruption*] No, I am not dealing with the opposite people. I am dealing with those down the road there. I would like you all to, at least, pay attention to Standing Order 40(b) and (c) respectively, whilst the Member is on his legs.

Mr. C. Imbert: Thank you, Mr. Speaker. It pained me but I had to do it. This is a very important point, because the Minister has misled this Parliament. When you look at the amendment to clause 9, what is it?

In subclause (5), delete the word “custody” and substitute the words “custody, but in the case of the respondent the court may make an interim order under section 8(1) of the Domestic Violence Act.”

There is nothing in this amendment that provides as part of the law, that the offender must consent to electronic monitoring before the sentence of electronic monitoring is imposed. The Minister has misled this Parliament, not once but twice, and this is a very important point. I would put the Government on notice that this is completely out of order.

Let us move on to some other issues. The Minister said that he had gone to the Bahamas to look at their electronic monitoring system and he was told it was working well and as a consequence, this was one of the reasons he made the decision to introduce this legislation.

I have in my possession information from the International Centre for Prison Studies and as of 2010, the prison population in the Bahamas was 1,322 and the prison population rate, in other words, the number of prisoners per 1,000 head of national population, was 382. So, 382 persons in the Bahamas out of every 100,000 population are in prison.

Let us look at Trinidad and Tobago. According to the information from this International Centre for Prison Studies, the prison population in Trinidad and Tobago is 3,591 as of 2010, with a prison population rate, therefore, of 276. What this means is that there are far more prisoners per head of population per capita in the Bahamas than in Trinidad and Tobago.

I have done research on this matter. The country with the highest number of prisoners per head of population is the United States, with over 700 persons per 100,000 head of population in prison, but Trinidad and Tobago is below the average for the Caribbean. The average for the Caribbean is about 325 persons per 1,000 head of population in prison. We have 276. We are low. So, our situation with respect to our prison is a bit different from the Bahamas.

2.00 p.m.

In addition, Mr. Speaker, the other difference is the Bahamas is a nation consisting of 29 islands, 661 keys and 2,387 islets. It is flat, it is not mountainous like Trinidad and Tobago, and it is divided into 15 administrative districts, because not all of these islands/islets are inhabited.

The point is, Mr. Speaker, that if an offender is sentenced to electronic monitoring in the Bahamas and he is in one of these many islands, and he is confined to that island, it is very easy using the technology even with all of the deficiencies in the technology to—or let us not say it is very easy, it is easier to track the location of such a person, and to determine whether they are compliant with the conditions of their curfew or the sentence of electronic monitoring. It is far easier in the Bahamas where the islands are flat, so you do not have interference with the electronic signals in terms of buildings, in terms of mountains and terrain. It is a completely different scenario to what we have in Trinidad and Tobago.

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Look at the offenders in our prisons, Mr. Speaker, where do they come from? One or two might come from well-to-do areas, but the vast majority of our prison population are from depressed areas, who live on hillsides in by and large surrounding our urban centres, in densely populated areas. It is precisely those conditions where GPS fails, Mr. Speaker. Let me, for the benefit of hon. Members opposite, because I would advise you not to proceed with this technology until you do a pilot without implementing the legislation; do it with volunteers as was done in other countries.

And I am reading from a paper “The Risk Principle in Action Rightsizing Supervision Monitoring for High and Low Risk Offenders from the Urban Institute of Justice”; this is a document published in 2011. Let me go directly to the meat of the matter:

“...there are challenges associated with the use of GPS supervision. Although GPS supervision is designed to enhance the capabilities of supervision officers to monitor the actions and locations of high-risk offenders, it is not an effective supervision system in itself and should be utilized as a tool to enhance other supervision techniques.

At times, ankle bracelet receivers collect location data but fail to transmit this data to officer monitoring centers, resulting in reporting gaps...false ‘strap tamper’ alerts have been a problem for”—this technology.

“In addition”—and this is the most important one—“large bodies of water can cause location signals from nearby receivers to ‘drift’ and report inaccurate locations to monitoring centers. Deputy Director Albright reported that New York City has not implemented GPS supervision because the city is surrounded by water and this drifting location problem would render the technology ineffective.”

That is New York City, I spoke about Canada. So the City of New York at the time of this report had not implemented electronic monitoring, because of the drift associated with large bodies of water around New York City, Mr. Speaker.

I would also, for the hon. Member, refer his attention to a paper published in the *Journal of Computers, Vol. 6, No. 1*, January 2011, “The Solution to Drifting Problem of GPS Positioning”, and I read from this paper:

“The weak receiving capability of GPS receiver may render it difficult or impossible to acquire and track the satellite signals, and hence losing the positioning function”—on the other hand—“strong receiving capability may

also degrade the function. The satellite transmits electromagnetic wave signals which may reflect off surrounding terrain, buildings, canyon, walls, hard ground, etc. in the city. These delayed signals may finally interfere with the true signal and cause the inaccuracy of the positioning, the so called drafting problem.”

This is in China. So in China they have recognized there are problems with GPS drift, and inaccuracy with the electronic monitoring. In New York City they do not use it because of problems of large bodies of water interfering with the signal. In Canada, the experiment was termed to be a disaster and I have the actual report, not just the newspaper report. I have the actual report. “Evaluation Branch Policy Sector December 2009, from Security Canada,” which gives you all of the problems which they encountered with their pilot in the Federal Government of Canada. Key findings, and I am reading from this document, Mr. Speaker, from Security Canada:

“FINDING 1: The Electronic Monitoring...may benefit some offenders...but the benefits could not be demonstrated in the current evaluation.

FINDING 3:...offenders themselves did not perceive that such monitoring system enhanced their accountability.

FINDING 4: There were challenges associated with the reliability of the technology used in—electronic monitoring—with respect to the sustainability of a charged battery...the device (size, comfort and visibility), drift, and frequent false tamper alerts.

FINDING 6: Behaviour of offenders while on conditional release demonstrated that electronic monitoring might not be the most appropriate form of intervention in the community.”

There is copious literature, Mr. Speaker, endless research on this matter going back 20 years, where it has been shown that the use of electronic monitoring has not reduced recidivism or regression or reconviction rates in any significant way for offenders.

I heard the Minister say he is a friend to women; I will take him at his word. He said that this technology would be so helpful to women who are going to be protected by protection orders. Mr. Speaker, I would urge the Minister to think this thing through. When you are using this technology to deal with somebody who is part of a domestic violence protection order, you have to have a receiver in the victim’s home, and you have to have a receiver on the offender. That would

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only deal with the situation where the offender does not encounter the victim in their home. As soon as the victim walks out of their home, then the person who is being electronically monitored can attack the victim. So there are serious limitations with this technology. What they have found in terms of using electronic monitoring to deal with persons who are subject to domestic violence protection orders, is that it imposes a significant burden on the victims themselves, because they too have to have a device on them to warn of the approach of the person, Mr. Speaker.

I indicated it only works within the area that is subject to the monitoring and, therefore, it has limited application. While it may give some persons peace of mind that there is somebody perhaps monitoring the movements of this person who is subject to electronic monitoring, it will certainly not prevent that person from breaking into the person's home and attacking the person, because by the time the police pick up the signal, the person has already committed the crime.

So I urge the Minister to be very careful about introducing the use of electronic monitoring with respect to protection orders, because you are going to create all sorts of technological difficulties. That is why I say, I am calling on this Government before they find themselves subject to a plethora of lawsuits, with persons bringing experts to prove that the GPS technology will not work in the Laventille area; it will not work in the Morvant area; it will not work because of the high population density and the inaccuracy of the GPS technology, Mr. Speaker. It simply will not work. [*Crosstalk*] It is suitable only—

Mr. Speaker: Hon. Members, I would like to hear the Member for Diego Martin North/East, and the Hansard reporter would also like to have a clear appreciation of his contributions, but the crosstalk would not facilitate that. So could you give your attention to the hon. Member for Diego Martin North/East? You may continue, hon. Member.

Mr. C. Imbert: Thank you, Mr. Speaker. As I said this technology would only work where the terrain is flat, where the telephone communications are positive, accurate, continuous and efficient. It would only work in areas of low population density. If you take one of these convicted persons and you release them with the electronic bracelet, and they are confined to one of the high-rise buildings in Port of Spain, then they could easily be committing crimes within the range of the bracelet and no one would have a clue as to what is going on. It is no substitute for physical supervision.

You see, Mr. Speaker, what I find with this Government, they have a tendency to latch on to things which are fashionable without looking at the wider implications of what they are doing. We saw it with the anti-gang law, we had the Minister of National Security actually coming into this Parliament today, and telling us that they proclaimed the anti-gang law a few days before they declared the state of emergency, and as a consequence, because the evidence of gang activities before the state of emergency, the proclamation of the legislation, could not be used and as a result of the police not being trained, and as a result of a misunderstanding and a lack of understanding of the evidence gathering requirements with respect to that anti-gang legislation, the whole thing failed, that is what the Minister of National Security told us.

Mr. Speaker, because of the problems with GPS drift—in our terrain we have mountainous areas, densely populated areas, buildings on top of each other, in front, behind, next to each other and so on; we have large bodies of water, you have the Gulf of Paria right next to the East Port of Spain/Morvant/Laventille areas, all of that would interfere with GPS tracking. Because of all of that I would ask the Government not to make the errors which the government of Canada made when they tried to do this and it was a colossal failure, and as I said that is a developed country.

Mr. Speaker: Hon. Member, you have one more minute.

Mr. C. Imbert: No problem, Mr. Speaker. [*Desk thumping*] [*Crosstalk*] Mr. Speaker, I know they do not like to hear what I have to say, because they cannot deal with it. There are no scientists on that side—[*Laughter*—]—who can deal with the technology of GPS positioning. There is nobody on that side who was trained in GPS positioning. Nobody on that side has done a single course in land surveying, electronic surveying or geodetic surveying. Not one! [*Crosstalk*] Nobody on that side has any understanding of electromagnetic radiation. Nobody on that side has any understanding of cellular technology, of electron magnetic waves—[*Crosstalk*]—and that is why, Mr. Speaker—

Mr. Speaker: All right, Member just take your seat please. I am trying to protect you as you wind down. Hon. Members of the Government Bench, would you allow the hon. Member—I am giving the hon. Member an extra 40 seconds, because you have disturbed him. Allow the hon. Member to complete his contribution.

Mr. C. Imbert: Yes, Mr. Speaker. The Members on that side rush in where angels fear to tread—[*Crosstalk*] I would not say what goes before that quotation,

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but they rush in where angels fear to tread, Mr. Speaker. This technology and legislation would be a colossal disaster as it has been in Canada unless the Government pauses, takes a step back, and does a pilot programme without implementing this legislation.

I thank you, Mr. Speaker.

The Minister of Works and Infrastructure (Hon. Jack Warner): Thank you, Mr. Speaker. I want to go one step further than the last speaker, [*Crosstalk*] [*Laughter*] and I want to tell him, that on this side we also have no comedians. [*Laughter*] [*Desk thumping*] Neither tall nor short, we have no comedians here, because in the last 75 minutes, we have been regaled with so much trivia that I am nonplussed.

2.15 p.m.

Mr. Speaker, I want—[*Interruption*] That is your habit. That is your style. I can easily pay glowing commendation to my colleague, the Member for St. Joseph, but I cannot say the same for the last speaker, who, of course, has left the Chamber, as is the norm whenever one tries to respond to his trivia.

The Member for Diego Martin North/East comes to this Chamber sitting after sitting trying to credit himself with being a great researcher, with being someone who knows everything and anything; with being an authority on everything and, in the end, he is an authority on nothing. [*Desk thumping*] In today's instance he has proven himself once again; either he is limited in his reading or in his research. He conveniently omits examples which will not stand up to what he is saying. He has a narrow, dim view of things and I will tell you why as I continue.

He has a perpetually pessimistic approach to things. Listen to him over the last 18 months. I sit here and I say that he is a desperate Member, grasping at straws. I really cannot believe it. For the volume of material he says he has read and which he has quoted, he has come here today and given us an uneducated and uninformed view. I cannot believe it, but it is the kind of deception for which he is famous. What I will do—and I will not take 75 minutes; I hope I will take less than 30; I do not need 75 minutes to talk trivia—I will produce information for this House which the last speaker failed to bring from his readings.

Let me begin by saying that other countries which use the EM, they also experience teething issues both in terms of the legal and moral domains and the practical implementation of electronic monitoring. I will call it EM for short.

Mr. Speaker, they did not throw their hands up in the air and say, “Lord, help us!” They did not say it was the end of the world. Mr. Speaker, what they were able to do is to deal with the teething issues and resolve them, as I will show you from my submission. For example, in the UK, when EM—I said that as I continue, I will refer to electronic monitoring as EM—was introduced, it was first brought in 1989. [Interruption] When you speak, say it. When it came in the UK, in 1989, it had to be abandoned five and a half months after because they found that the circumstances under which this had been applied were too wide and had become unmanageable.

In 1995, the UK reintroduced EM and between 1995 and 1997, 82 per cent of the offenders completed the programme successfully. Other jurisdictions have used this method of technology successfully and they have found that the programme was successful when it was implemented. What we are doing today is benefiting from the wisdom of those countries’ experience. EM has been tried and tested in large countries and places as the US. I will come back to that. We talk about New York City, the UK and Europe. It has been tried also in smaller areas like the Bahamas, for example, and Trinidad and Tobago is between these two extremes.

The fact that the Bahamas has been able, successfully, to implement the EM gives us on this side hope and allays the concerns which we have about a small Caribbean country like Trinidad and Tobago. The Bahamas could do it, but the last speaker is saying that Trinidad and Tobago cannot do it. In fact, he comes here time and again and accuses this side of cut-and-paste legislation. I will say to him very early that we really cannot help if the body of wisdom that exists outside here, that informs jurisdictions like ours, produces a model which we find similar and suitable to our needs. Nothing is wrong with that. You do not have to reinvent the wheel. I am saying also that I disagree totally that this is cut-and-paste legislation.

Mr. Speaker, most of the traditional issues such as rights of offenders and privacy and so on, which have been discussed by the last speaker, have already been ventilated in various jurisdictions. The main topic here, Mr. Speaker, is really the effectiveness of the EM as a monetary tool. I heard the last speaker say that EM will not work on high-rise buildings. EM is designed to monitor where the individual is, so that you will be able to contain crime. It cannot prevent crime. That was never the intention. It is to monitor and to tell you where the miscreant is. That is what it is for. In fact, Mr. Speaker, it also has an impact on the cost of corrections. I will come to that shortly.

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On March 01, 2011, our distinguished Minister of National Security—

Hon. Member: Which one?

Hon. J. Warner:—the one who spoke a little while ago—advised, that on December 31, 2010, there were 3,493 prisoners in the nation’s jails. He said it cost the State almost \$400 million annually to keep prisoners behind bars. What we have found, based on international research, is that it is more cost effective to use EM where possible. It means, therefore, that EM can reduce the cost to taxpayers for keeping offenders in jail. This money can now be redirected to building schools, health care centres, to do public works, infrastructure, but not to buy the MV *Su*. That is the reality. The money can be used in other areas.

Let me say early that the Minister of Justice never said or in any way intimated that he created any revolution in law. He never said so.

Mr. Imbert: What? He said he could revolutionize it.

Hon. J. Warner: That is correct, but he never said he could create a revolution in law. You see, Mr. Speaker, the problem this country has been plagued with, until May 2010, was the lack of political will of previous governments to do. They did not have the political will to do.

When I came here first, I used to look at them as “do little”, now I look at them as “do nothing”. [*Desk thumping*] What you have to do to please the opposite side is to do nothing and then you are all right, but we on this side have taken the bull by the horns and that is why we are here today as the Government delivering a new era, so to speak.

What is a novelty in our country is often stale news outside and EM is no exception. We, as citizens of this country, lament that everywhere else in the world technology is in use, from DNA to forensics; from radars and radio frequency detectors for speeding, and the list goes on. The lack of these things has resulted in a lawless country where we, in many ways, have to bring back discipline. People outside there are frustrated that the intelligentsia of successive governments cannot accomplish simple things that we take for granted in other countries. That is why, as a government, we on this side must rise to their expectations.

The Member for Diego Martin North/East has spoken about technology issues, such as GPS drift and cellphone dead spots. Let me say, first of all, that the complications from GPS drifts have occurred, yes, but this is not a common occurrence or a widely prevailing problem. Issues have occurred and they will be

dealt with because no technology is infallible. Furthermore, technology is continually advancing and daily solutions are found to problems which the technology faces.

There is a developing technology called epidermis electronics, which is a kind of stick-on tattoo that is now being experimented with and which can be used for electronic monitoring functions. It is being looked at from medical EM, so to speak. And who knows? Someday, maybe someday soon, I hope, it can be used for tracking offenders.

We have been told by the last speaker of cellphone dead spots, but because there are cellphone dead spots does it mean that we must not use our mobile phones? Have those cellphone dead spots prevented the last speaker from using his mobile phone? So, you go over the Lady Young Road and there is a cellphone dead spot, what do you do? Do you say the phone is bad and you throw it away? Even when he is in his car—I hope he does not use his cellphone and he should not. The point I am making, therefore, is if the Member behaves as he is accustomed to, his doom and gloom philosophy, as he is doing here today, we would not have the cellphone today. We would still be waiting on a flawless technology.

Dr. Moonilal: On a pigeon.

Hon. J. Warner: He wants flawless technology. Thank you, Leader of Government Business. He wants a pigeon, no cellphone; we have to take a pigeon because a pigeon is flawless. That is where we are. One does not discard technology because it is imperfect. You correct the areas of imperfection and move on. That is what it is about. What one does, however, is to discard politicians who are failures and that is why you are there. [*Desk thumping*] We have to put systems in place to mitigate the effects of the incidents of failure. We have to have backup systems. As flaws are discovered, we must fix them, but we cannot say that technology must be flawless.

The Member for Diego Martin North/East also spoke of incidents where persons on EM committed crime, including a case of murder in Scotland, 2005. He came here and “galleried”, threw his papers on the table and said, “you must not use it; it is not good”, and so on.

Mr. Sharma: “Thank God he short. Nobody ain’t see him.”

Hon. J. Warner: Thank you very much! Before I go there, I want to give two or three cases of EM use to debunk what was said by the last speaker. There is a man, Catrell Holloway, from Charlotte, North Carolina, January 26, 2011, not 2005. WBTB said, I quote:

“Man wearing electronic monitoring bracelet leads police to robbery suspects”

You did not read that?

“Police say a man who was out of jail and wearing an electronic monitoring device led them to himself and two other suspects (who) were involved in a robbery...”

They were able to catch them due to EM.

2.30 p.m.

In South Carolina, a fellow called Kashief Spain in Myrtle Beach [Interruption] I am coming to you, wait nah, “December 06, 2011, WPDE Channel 15, Kashief Spain, Myrtle Beach, South Carolina,

“Breakouts from Electronic Monitoring are rare”

Mr. Speaker, Kashief Spain was on EM after being arrested on gun and drug charges. On December 5, he cut the ankle strap on his EM device and he is still on the run from the law enforcement in the US. Yet, Mr. Speaker, this rare but unwelcome incident has not caused Myrtle Beach to abandon and rebuke the EM programme. [Interruption] It happens because it is flat, like Maraval. [Crosstalk]

Mr. Speaker, before moving on to Callum Evans, his seminal case of last week—[Interruption]

Dr. Moonilal: Colm Imbert?

Hon. J. Warner: Not Colm Imbert, Callum Evans. [Laughter] Before I go Callum Evans, his 2005 case in Scotland which he raised last week, I want to look at another case in Scotland, Mr. Speaker, when an offender on EM also committed murder in 2010, in Scotland. His name is David Barker. September 22, 2010—the *Sunday Mail*—Scotland:

“The thug who stabbed teenager to death had cut off electronic tag...”

Mr. Speaker, David Barker was put on EM for breach of the peace. He cut off his tag and threw it away. And he robbed a shop. He was on a suspicion of robbery but there was not enough evidence to charge him for that offence and he was

released. They could not hold him for cutting off the tag because they did not have the report in hand as yet. They said that that, of course, took about two weeks to get the report and so on.

Mr. Speaker, in a drug-fuelled frenzy this same guy, David Barker, two days after he cut off the tag, he robbed a shop and stabbed a 17-year-old young man—David Barker. Hours before the murder, police went to Barker's apartment to rearrest him for the robbery which he had committed because by then they had the evidence. Mr. Speaker, he was not at home. They could not track him because he had cut off his electronic tag.

Mr. Speaker, five years after Callum Evans committed the offence under EM, the Scottish government has not abandoned the EM; the Scottish government did not abandon EM because of that. Even five years after Callum Evans committed his offence, they have not abandoned it either. So it is something that they know—why they abandoned it—which, of course, the last speaker knows. The only trouble, of course, he did not tell us. [*Crosstalk*]

Mr. Speaker, Callum Evans, in 2005—this is the killer who was tagged, this is the man that was glorified last week by the last speaker. [*Crosstalk*]

Mr. Imbert: Glorified?

Hon. J. Warner: This man, Callum Evans, was tagged for armed robbery. He left his apartment and brutally stabbed another guy, John Hatfield, to death. The murder occurred within several yards outside the apartment building and the EM system failed to alarm after Evans broke his curfew and left his apartment. That was the case he made last week.

Mr. Speaker, yes, there was public anger on this matter. The judge, himself, who tried Evans expressed outrage over the incidence. How could Evans breach his curfew? How could he leave his apartment? How could he commit murder while wearing, of course, a tag? All of this is true.

Mr. Speaker, the very article that the last speaker took the matter from is here; the very article. What is so wrong, on the very same page where he quoted all of this from, page 88—?

Dr. Moonilal: What?

Mr. Sharma: Shame!

Hon. J. Warner:—he deliberately left out the relevant paragraph. I will tell you what the paragraph is. It is not the first time. [*Crosstalk*]

Mr. Sharma: Shameless!

Hon. J. Warner: You always do this.

Mr. Speaker: Let me just indicate to hon. Members. A Member can read from any document and he can quote any sections. He can leave out whichever parts he chooses to. It is up to other Members and so on to fill the gaps in. So I do not think we could attribute dishonesty, deception or misleading. That is the right of a Member and of any Member in this House. Continue hon. Member.
[*Desk thumping*]

Hon. J. Warner: Okay. Thank you, Mr. Speaker.

Dr. Moonilal: Unintentionally left out.

Hon. J. Warner: I only hope that the Members on this side when they are using documents and when they are quoting they do not intentionally leave out sections which might not support their case. I hope so.

I am saying that the section on page 88, which was left out, I shall read it now, Mr. Speaker.

Mr. Sharma: “Read it slow”.

Hon. J. Warner: The report said that EM tagging is a highly politicized issue between the Conservative Party and the Labour Party in Scotland. It is because the tagging is an initiative of the Conservative administration.

Just to report, Mr. Speaker, page 88 also mentions an editorial in the *Herald* of April 28 2006, which concludes: “the jury is still out on tagging” in spite of this high number of violations.

Mr. Speaker, I continue. It says: in the Scottish national press (according to a report from a report from Lucy Adams) “to judge community supervision in general, and tagging particular, by possibly high standards...” “...creating an unrealistic expectation of continuous and immediate control.” This, of course, is saying: “way in excess of any expectation the Executive has given.”

That is what they said here. [*Crosstalk*] Mr. Speaker, furthermore, the authorities, in this same case, in Scotland—[*Interruption*—same page 88 that you quoted from. This same page—[*Interruption*]

Mr. Speaker: Member for Diego Martin North/East, I sought to give you the fullest protection that you required. I would ask you to do the same with my support to the hon. Member so that the Member for Chaguanas West can speak in peace and silence. I seek your cooperation. Hon. Member for Diego—for Chaguanas West, you may continue.

Hon. J. Warner: Thank you, Mr. Speaker. I almost cringed when I heard you say “Diego”. I go to a second article, because I am saying that this article here on this page has in many ways debunked the point raised by the last speaker. But Mr. Speaker, let us go to another article.

On April 28, 2006 on the Journal Online, the title is:

“Human Error Blamed for Tagging Blunder

Speaking in the Scottish Parliament, First Minister Jack McConnell said a review of the case had found that an official employed by the security firm Reliance—which firm was in charge of the electronic monitoring at the time—had set the tagging device to medium range...”

As the murder was committed, Mr. Speaker, close to Evans’ home, this meant that Reliance was not alerted when he left the house. It was on medium range. And, therefore, he was making the point that it would not have failed if it had been set at long range. It is, therefore, poor research, on my part, for the Member for Diego Martin North/East to stop reading from a page, when the page would reveal the “koochoor” in his argument. This is an article by Mike Nellis, Mr. Speaker.

We are told that China has banned it; Canada has banned it, and so on. I want to say that more jurisdictions today are moving towards EM than ever before. All this is in the public domain.

Mr. Speaker, take Brown County, Indiana. In that county electronic monitoring is on the rise. Sullivan County, Tennessee—they are exploring monitoring with more inmates. Cook County, Illinois—they are saying the number of county criminal suspects on EM surges, and they give you history and so on. Canyon County, Idaho: “County Jail, looks at EM”.

Jeddah, Saudi Arabia. I used to be there sometimes. June 13, 2011. Here is what they said:

“EM of convicts at home to be introduced soon.”

The list goes on, but you class China, you class Canada; even Northern Territory, Australia. ABC News, November 21, 2011: “NT to trial EM bracelets.” NT means

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Northern Territory, by the way. The list goes on and on. But you come here to give the impression that we, of course, are the only country, that we are one of rare breed that is doing EM. This is not true. Look at the list. All this I got on Google you know, the same Google you went on. So the same Google you went on, these facts are there. [*Crosstalk*]

Mr. Speaker, even when you leave there and you come to the Caribbean—Jamaica. Hear Jamaica, June 08, 2011:

“EM device will reduce prison population in Jamaica.” And they launched a programme with the EM device. Mr. Speaker, other Caribbean countries, Turks and Caicos Islands—do you know where that is, Anguilla, BVI, USVI, Cayman Islands, all of them are using EM, but we here in Trinidad and Tobago, we “cyah” use it. Laventille “cyah” use it because you have hills. [*Crosstalk*]

Hon. Member: “None of them have PNM”.

Hon. J. Warner: Thank God! Mr. Speaker, you go to Bahamas, in Bahamas we are told that Bahamas has 700 islands. In Bahamas this, of course, could be tried here because they have 700 islands and “blah blah blah”. What the last speaker did not say is that this tagging was done in the island of New Providence. Not 700 islands. New Providence, and hear what it says, February 02, 2011:

“Electronic monitoring, now operational in New Providence”.

The Minister of Justice was being criticized for looking at the programme in the Bahamas. The Minister of Justice said that the Bahamas model—in fact he said it was the model that we looked at and he took from them certain patterns to put in ours. He was criticized, Mr. Speaker, by the last speaker. He said that, again: “Bahamas has hundreds of caves and islands”.

Mr. Speaker, if the Member had done proper research, if he had prepared for his debate properly and did not come here to “gallery”, he would have known that the EM programme was launched in the Bahamas in February 2011 and it was limited to New Providence only. The main island is New Providence, where 60 per cent of the population of the Bahamas resides. In New Providence, 60 per cent of the population resides there and not on the 700 other islands. That is the point I am making. Some day soon the Bahamas Government will extend the programme to all the islands. But tell this House it is one island they went on, New Providence. Do not give the impression that it is 700 islands. It is not correct. When you come here we must learn. You learn from us, as you are doing you, and we, if we are lucky, learn from you. [*Crosstalk*]

Mr. Speaker, I promised not to go beyond 30 minutes. I will take two minutes again.

Mr. Speaker, a guy called Wayne Chance, “Vision on Mission”. Wayne Chance is also supportive of the electronic tagging. He has said that EM was a necessary companion to a parole system which had been recommended by the Prison Task Force—Wayne Chance. [*Crosstalk*]

Mr. Imbert: That is your source?

Hon. Member: “What all yuh have against him?”

Hon. J. Warner: Yes, he is my source. Mr. Speaker, Chance said that such a programme should focus on tracking and he charged, of course, that this would help to reduce the number of persons who are even in prison at this time. If that were not the case, I go to number four, *Bloomberg Businessweek*

I am saying 2011, not 2005 you know, 2011. This is relevant today. “Michigan Lets Prisoners Go—and Saves a Bundle”

Mr. Imbert: What about New York?

Hon. J. Warner: I would leave New York for you.

2.45 p.m.

Mr. Speaker, I am saying, that Michigan has a system, a programme which they have had for the last six years, and it is called the Michigan Prisoner Re-entry Initiative (MPRI). What is the result in Michigan? Mr. Speaker, in Michigan, I quote:

“...and with more people being released and fewer coming back, Michigan has been able to do something that’s often politically unfeasible elsewhere: close prisons.”

In Michigan, because of this, they have closed prisons. Why did you not leave New York and go to Michigan and see for yourself and do the research? [*Crosstalk*]

Two, you and me. Mr. Speaker, since 2005 Michigan has shut down 21 prisons and saved \$315 million. Michigan has shown that supervising a parole prisoner, a prisoner on EM, cost them \$2,130 per year as against a prisoner that cost them US \$34,000, and Michigan has shown, therefore, that they have made real savings and, Mr. Speaker, nine other States are exploring this initiative to see what can be done.

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Mr. Speaker, finally, a report by BBC in 2001, called “Life of Crime”, that programme, “Life of Crime”—I would not go into all the details—also gives a whole scenario where they said the EM is worth a try. They said that this system can be used successfully and it is worth a try.

So, therefore, what is the conclusion? For now, this is a Bill in the right direction. Mr. Speaker, if you are lucky, it is my hope that the collective wisdom of this Chamber would be brought to bear on this Bill so that we can strengthen the Minister of Justice in what he has presented. Mr. Speaker, I still look forward to hearing positive contributions from the other side.

I want to end by saying that we cannot let our country stay in the dark ages. If you listen to the last Speaker, Christopher Columbus will still be here. We cannot let our people continue to live in fear and misery. Mr. Speaker, we cannot allow our country to go down the drain. We cannot let our young people continue to fall into destructive ways. We must act and we must do so as responsible, patriotic representatives of our people. All of us must act, and act to save this country; act in a collective way to make this country better. Let us forget this petty one-upmanship, let us forget that, and begin to fix this country for the first time.

Mr. Speaker, I ask the Members on the other side, particularly, the last speaker, let us engage in meaningful work so that when we are finished our country is left a better place than when we met it. Mr. Speaker, evil prevails when good men do nothing, and we on this side will not subscribe to the view or the practice of doing nothing. We shall do, and we shall do in the interest of this country. [*Desk thumping*]

Mr. Speaker, to my colleagues opposite, I ask the question: now, will you do? Will you do and, if not now, when? If one does nothing then one is part of the problem. I am saying, Mr. Speaker, the other side must work with us to be part of the solution.

Mr. Speaker, I thank you. [*Desk thumping*]

Miss Marlene McDonald (*Port of Spain South*): Mr. Speaker, I thank you for the opportunity to join in this debate on the Administration of Justice (Electronic Monitoring) Bill, 2011. Mr. Speaker, let me say from the outset that I am quite happy and privileged to be part of the trilogy of Bills brought from the Ministry of Justice [*Desk thumping*] first being the DNA, then the preliminary enquiry, that is, Administration of Justice (Indictable Proceedings) Bill and now the Administration of Justice (Electronic Monitoring) Bill.

Mr. Speaker, the general purport of this Bill, as I read it, is to make provision for the introduction of electronic monitoring in Trinidad and Tobago at different stages of the criminal justice system, and also as a condition under a protection order, that is, under section 6 of the Domestic Violence Act.

Mr. Speaker, as usual, I believe that this is a new crime-fighting initiative, as the Minister said, being introduced in Trinidad and Tobago, so I believe that it behoves me, as a Member of the Opposition, to bring to the attention of the national community, at least, a background and an understanding of exactly what is electronic monitoring. And so, as usual, I begin with a definition as to what is electronic monitoring. I think the Minister stated it quite clearly, that electronic monitoring or electronic tagging is a form of non-surreptitious surveillance consisting of an electronic device, which is attached to a person in order to determine the whereabouts of that person at all points in time.

Mr. Speaker, the first electronic monitoring device was developed in the mid-1960s—I did the research—by a psychologist by the name of Dr. Ralph Schwitzgebel of the Science Committee on Psychological Experimentation at Harvard University in 1968. He developed a device which when attached to a person can transmit signals of up to 400 metres away, which determines the wearer's location.

Mr. Speaker, in 1977 an American judge, Justice Jack Love of Albuquerque, New Mexico, was inspired by an episode in the Spiderman Comic Book series, to explore the possible use of electronic monitoring for offenders. The Spiderman, as you would know, that comic book hero, he was tagged with a device, and so the villain could attract his every move.

Mr. Speaker, in 1983, Justice Love sentenced the first offender to house arrest with electronic monitoring in the United States of America, and that person had breached his parole. Mr. Speaker, this use of electronic monitoring device, then commonly became known as “electronic tagging”. What is the context within which these developments took place? These developments took place at a time when community-based sanctions were becoming very prevalent, and of greater significance in reducing prison population, and also because it actually was putting pressure on the criminal justice system and it would have also saved the taxpayers a lot of money so, therefore, the cost-effectiveness of utilizing programmes of electronic monitoring then became important.

The Minister in his budget contribution in October stated that with the introduction of the new prison rules, the concept of an early limited release from prison to enable persons to work outside would be considered. I guess it was

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within this particular context that the Government is introducing today, the use of electronic monitoring systems as an additional tool, as they said, in order to manage offenders and to more intensively supervise offenders who are serving their sentences in the community.

Mr. Speaker, there are, indeed, advantages to the use of electronic monitoring, and there are basically four which I would just briefly highlight. The first one is early flight detection. It has been found that electronic monitoring can be used for early detection of flight when granting early release to offenders once they are tagged. At some point in time, I am going to show how this tagging would become shackling, and I would demonstrate that in a short while. It was, indeed, alarming to me.

Mr. Speaker, the second advantage is the reduction in prison population. It is also argued that this type of monitoring, instead of imprisonment, can reduce the prison population or custody population.

It is cost-effective, and that is a third advantage. It is less expensive to house someone in his own community rather than have that person incarcerated.

The fourth, Mr. Speaker, it is argued that it can verify that the offender will obey conditions of release from custody. Mr. Speaker, there are basically three rationales behind the use of electronic monitoring. I would just briefly mention them. Detention is one, that is, ensuring that the individual remains in a designated place.

The second rationale is that of restriction, and this is ensuring that an individual does not enter prescribed areas or approach particular people such as the complainants, potential victims or even co-offenders.

The third rationale is surveillance, and this is where electronic monitoring can be used by the authorities to continuously track a person without actually restricting the person's movement. So, those are the three rationales.

To go further, how do you apply and what are the instances in which you can apply electronic monitoring? Mr. Speaker, there are three stages at which electronic monitoring may be used in the criminal justice system. It is used at the pretrial stage, it is used at the sentencing stage and it is also used at the post-prison stage.

Mr. Speaker, just by way of global perspective, I looked at the United States of America, and the electronic monitoring of offenders was introduced in the US during the 1980s with its use increasing significantly by the 1990s, due to the

potential for cost-effective prison population. It is currently used in most US States for home detention, probation, parole, juvenile detention and bail.

Mr. Speaker, on my recent visit to New York, as you are aware, I met with certain commissioners, and I am reading from a report submitted by the US Department of Justice called a Quantitative and Qualitative Assessment of Electronic Monitoring. Mr. Speaker, by the end of 2008 there were 1.6 million offenders incarcerated in state and federal prisons in the United States of America. Additionally, over 5.1 million offenders were under some form of community supervision at the end of 2008, an increase from 4.6 million in 2000 and an average annual growth rate of 1.4 per cent. The report says:

“In recent years, electronic monitoring (EM) has gained prominence in corrections as a pre-trial supervision alternative to local jail for medium-and high-risk felony offenders placed on community supervision in lieu of incarceration, and as a mandated community supervision requirement for serious offenders released from prison.”

It also speaks to the early release from prison.

Mr. Speaker, but what is important here is that in the United States of America, there is also in place an effective parole system. There is an effective probation system as well as support systems in the communities to enhance the electronic monitoring programmes.

3.00 p.m.

Mr. Speaker, within Europe, the United Kingdom was the first country to introduce electronic tagging. Initially it was done on a trial basis in 1989 as a condition of bail, with electronic monitoring coming in later as a specific curfew introduced under the 1991 Criminal Justice Act.

Mr. Speaker, I now turn my attention to those clauses in the Bill which I believe are offensive, and as I said to the Minister on the last occasion, that ego has no place in this honourable House. And I said on the last occasion that when we were doing the DNA, there were clauses there which the Minister refused to look at. We know what happened in the other place, and I am saying when we look at this, you have your three-fifths majority and I am going to repeat it, you are on your own again with this one but I can only hope, I can only hope, we are not supporting this, but we could only hope that you will take on board whatever is said on this side; see what you can get out of it, Sir.

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So, we go to clause 4. Clause 4 is where we are setting up the electronic monitoring unit, and there are three subclauses there—1, 2 and 3. Mr. Speaker, clause 4 establishes an electronic monitoring unit, and it says there will be an electronic monitoring manager, and in the amendments which were circulated, there is also a position for a deputy electronic monitoring manager and staff. I am celebrating at this point; I am asking questions; what are the qualifications of the electronic monitoring manager and the deputy electronic monitoring manager? I want to know the qualifications. I want to see them spelt out here. We want to avoid a Resmi Ramnarine bacchanal. [*Desk thumping*]

So, one person says something and somebody else says—we want it spelt out. What are the qualifications of the support staff? What are the duties and responsibilities of the electronic monitoring manager, as well as the deputy electronic monitoring manager? Mr. Speaker, I know why I am asking this because as I continue with my contribution I will demonstrate the importance of stating exactly what are the responsibilities of the electronic monitoring manager. Who has oversight of this electronic monitoring unit? It is not stated here, it is silent. Is there an electronic monitoring board in place?

Mr. Imbert: None!

Miss M. McDonald: All these questions, Mr. Minister, I need a response.

I turn my attention to clause 5. Clause 5 speaks to the responsibilities of the unit. Mr. Speaker, and they go through 5(1) and 5(2), all of them are listed there; (a), (b) and (c) of 5 will give you just a general rubric, and at clause 5(2) they were more specific from (a) to (i). They are all technical functions.

Mr. Speaker, I look at clause 6, and clause 6 “Contract for services” provides, and let me read it, Mr. Speaker:

“The Government may, for the purpose of obtaining electronic monitoring services, enter into an agreement with a company (a service provider) to perform any one or more of the functions of the unit listed under section 5...”

Mr. Speaker, I am asking the question, again, Mr. Minister, I am celebrating; who has oversight over this service provider?

Hon. Member: Volney.

Miss M. McDonald: Exactly what functions are to be performed by this service provider, because you have given the responsibilities to the electronic monitoring unit? You have placed an electronic monitoring manager in charge of

this unit, but you have a service provider also carrying out functions of this unit. This to me is room for mayhem and confusion.

Dr. Rowley: And corruption.

Miss M. McDonald: As well as corruption. There is room for mayhem and confusion. You need to remove this from this legislation, Sir. You need to be clear; you need to clarify.

Mr. Speaker, even the Prison Association has stated that they were not even contacted on this; I saw it in the news.

Mr. Imbert: “They terrible, boy!”

Miss M. McDonald: They were not even contacted on this. Mr. Speaker, I turn my attention to clause 9, and I am looking in particular at clause 9(2)(a) which is a point that my colleague from Diego Martin North/East spoke about, and which I need to belabour a little more. It says here—and this clause 9 speaks to electronic monitoring being imposed by the court. Under this new Bill, Mr. Speaker, electronic monitoring can be imposed, not only by the court but also by a competent authority. I am dealing with a situation where electronic monitoring is being imposed by the court, and I am looking at 9(2)(b)—clause 9(2)(b). And this says:

“The court may also impose electronic monitoring as a condition of—
(b)...”

Sorry, Sir:

“(a) an order for bail made under section 12 of the Bail Act;”

Mr. Speaker, I have a problem here because I note that the Minister had said—as my colleague from Diego Martin North/East said—that there is an element of consent. Sir, I read this over and over. I also read the amendment over and over looking for the consent. And I am just to give you the little banter. I saw where Mr. Imbert asked—I am reading from *Hansard*, this is December 02, last week and he said:

“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?”

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Here is the Minister, Hon. Volney:

“It is early time still! It is early time still; I have number of amendments that will be circulated in fullness of time.”

Now here it is, in a situation where a Bill has been given to the Opposition; based on what was given to us, we researched and we are debating, and these amendments are only known to the Government Bench, we only got the amendments at 4.20 p.m. last week Friday. And even so, I want to state that nowhere in the amendments have I seen anything about consent, that it is with the person’s consent that this EM will be imposed. It is not there, but the Minister said that we must look to developed countries. He said he went to the Bahamas. He said that the Bahamas—well when I looked at the Bahamas, the penal code there, they implemented that in October 2010. When I looked at the United Kingdom they were over 20 years. When I looked at the United States, they were over 20 years.

Mr. Speaker, I want to put on *Hansard*, the Criminal Justice and Immigration Act, 2008 of the United Kingdom, Schedule 11, section 3AB under the heading “Conditions for the imposition of electronic monitoring requirements”, and it says:

“The first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail.”

Mr. Speaker, the United Kingdom and the United States have been using electronic monitoring for over 20 years; as I have said, the Bahamas only 2010. Mr. Speaker, in United Kingdom what would the court consider when considering the imposition of an electronic monitoring order? What will they do? They will examine to see whether that person is a flight risk.

Mr. Imbert: A violent offender.

Miss M. McDonald: They will look to see whether the person is a violent offender. They will look to see whether the person is a repeat offender, and taking all these into consideration, and the court is convinced that the offender should not be granted bail, it is only at that point will the court move to the next stage of electronic monitoring, the imposition of same. The person though must first be a person that would normally not be granted bail. Now why is that not in our legislation, Sir? I do not understand. I said that I am celebrating this afternoon, so at the end you convince me.

Hon. Member: Celebrate all you like.

Miss M. McDonald: Pardon me?

Hon. Member: I say you cerebrate all you like.

Miss M. McDonald: I thank you.

Mr. Manning: She did not say “celebrate”, you know. [*Laughter*]

Hon. Member: Cerebrate—

Miss M. McDonald: Mr. Speaker, I turn my attention to clause 10. Clause 10 says, Mr. Speaker:

“Electronic monitoring may be imposed as a lawful condition of a pardon granted under section 87(2)(a) of the Constitution.”

I walked with my Constitution, and I said I need to read to the Minister exactly—or read into *Hansard* what is the meaning of a pardon, and I have about four of them, and I hope the Minister is listening.

A pardon is: “A release, by a sovereign, or an officer having jurisdiction, from the penalties of an offense.”

A pardon is: “An official warrant of remission of penalty.”

The act of pardoning (is the) “forgiveness, as an offender, the forgiveness of an offense, a release from penalty and the remission of punishment; (total) absolution.”

Pardoning means: “to absolve from the consequences of a fault or the punishment of crime; to free (someone) from a penalty...”

Mr. Speaker, I do not think that I could get it even clearer. Once the President has granted a pardon, he has in fact wiped the convicted person’s slate clean. A pardon is a pardon.

Mr. Speaker, I want to go further in the Constitution to look at section 87(3) under which—he is looking at 87(2)(a). I am looking at 87(3) it says:

“The power of the President under subsection (2) may be exercised by him in accordance with the advice of a Minister designated by him, acting in accordance with the advice of the Prime Minister.”

So, whoever is the Minister attached—probably the Minister might be you now or the Minister of National Security, that I am not—you? Oh, so you are in the criminal justice—all right, okay.

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“88. There shall be an Advisory Committee on the Power of Pardon which shall consist of—

- (a) the Minister...;
- (b) the Attorney General;
- (c) the Director Public Prosecutions; and
- (d) not more than four other members appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.”

Mr. Speaker, when the President grants a pardon it is only his name, but all these people coming together, this Advisory Committee coming together, surely they would have dotted every “i” and crossed every “t”, and made sure that this person is worthy of a pardon. But not even so, Mr. Speaker, let me take it a step further. I went back and I said that something is wrong. I looked at the clause again.

Mr. Speaker, let us assume that the President grants his pardon, now you are going to shackle me under clause 10 of this Bill. You know what, it is not stating for what period; no time frame has been placed in this legislation to say all right, “I am pardoned, but shackle me for two years or three years after the pardon has been granted.” Absolutely nothing like this has been placed here!

3.15 p.m.

What is this Government telling me? What is this Minister telling me? That even though I have been granted the pardon you are going to shackle me for a period unknown? Is this period best known to the Minister and the Government? What is it? Where is the time frame inside of there? Where is it? So it is up to the President? Where is it stated here? Is it up to the President to say, okay, I am going to remove this electronic monitoring device from you? Where is it stated, Mr. Minister? It gives me no comfort to stand here for you to tell me it is the President! We are the legislators inside of here and we must be clear and, not only that, our legislation must be user-friendly, so anybody could pick it up, read it and say, “Listen, I understand that after two years the President is going to consider the removal of this electronic monitoring device”. This is what I expect! So I say, Mr. Speaker, this should be removed completely—

Mr. Imbert: Totally!

Miss M. McDonald:—completely from this legislation! [*Desk thumping*]

Mr. Speaker, I turn my attention to clause 11. Clause 11, as I said before, deals with the electronic monitoring being imposed by a competent authority. As I said, the legislation provides for two entities to impose electronic monitoring: the court and the competent authority. Clause 11(1) says:

“A competent authority empowered to grant early release from imprisonment under any written law, may impose electronic monitoring as a condition of such release.”

Not a problem. That is, we see it worldwide. Let us go to (3):

“In making a decision under this section, the competent authority shall take into account the report of the EM Manager...and shall have regard to the character, antecedents, physical and mental health of the person...”

Stick a pin, Mr. Speaker, I am coming back there. I want to tie it back with clause 9. In clause 9 this is where the other entity, which is the court, can impose electronic monitoring, and in so doing, the court also must receive a report. Go to 9(6), Mr. Speaker. Clause 9(6) says:

“In making a decision under this section, the Court shall take into account the report of the EM Manager...and shall have regard to the...physical and mental health of the person...”

All right, Mr. Speaker, we are using these two, because we are saying that the electronic monitoring manager must submit your report and that report must have something about the person’s mental health and physical health.

Let us go to the Second Schedule of this Bill, “Matters to be included in the report of the EM Manager” and at (j) you would see “documentation evidencing the pre-existing physical or mental” health of the person.

Mr. Speaker, I take you back now to clause 5 of the Bill. Clause 5 of the Bill has the responsibilities of the unit. Every responsibility listed here is of a technical nature:

- “(a) ensuring the security of the system...
- (b) retrieving and analyzing information...
- (c) reporting any non-compliance with a decision of the Court...”

Let us go to subsection (2):

- “(a) provide near real time tracking of the location of persons...
- (b) report alarm notifications...

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- (c) exercise central control...
- (d) maintain a register of decisions...
- (e) undertake the fitting, maintenance...of a device;
- (f) ensure that a historic record of all electronic monitoring”—would be kept;
- “(g) improve information technology...
- (h) provide technical assistance when necessary; and
- (i) provide training...”

Mr. Speaker, where in here does this electronic monitoring unit have responsibilities for the person’s mental and physical health?

Mr. Imbert: And their character.

Miss M. McDonald: Where is there—and their character? Mr. Speaker, I find this downright preposterous! How can you slip this in? The only diagnosis that this unit can make is [Interruption] technical ones to tell us how the device is working. So, they cannot diagnose and even provide any prognosis on anybody’s health—

Mr. Imbert: And character.

Miss M. McDonald:—and character of a person! [Interruption] They cannot do that! [Interruption] Listen, when you were speaking—you probably “come” with something new this week. All right, you probably came with something new this week. [Laughter] You understand me! But what I am saying, Mr. Speaker, the Bill before me I know what I am quoting from! [Interruption] I know! When you stand to speak you rebut it! [Interruption] You rebut it! [Crosstalk]

Mr. Speaker, might I tell the Minister at this point that the concept of an early release from prison operates best in a system where there is an effective parole system along with a parole board? [Interruption] Mr. Speaker, please, they are disturbing me; I ask your protection, because what they want to do is to debate this Bill by inference! Not at all! I am not going to put up with that! [Desk thumping] [Crosstalk] You can say what you want, Mr. Minister. You all do not like to be criticized. [Interruption] You all hate to be criticized. You all do not like it.

Mr. Volney: You did not read the Bill properly.

Mr. Speaker: Member for St. Joseph, would you allow the Member for Port of Spain South to speak in silence and kindly take notes so in your response you would be able to reply. Could you continue, hon. Member. [*Desk thumping*]

Miss M. McDonald: Thank you, Mr. Speaker. I turn my attention to clause 13, and clause 13 makes provision for the payment for use of device, and it says:

“Where the Court, having considered the report of the EM Manager, is of the view that the person or respondent has the financial capability to pay either the total cost of the use of the device or any part thereof, the Court may require total payment or partial payment or may not require any payment, as the case may be.”

Mr. Speaker, I am saying that this raises an issue of equality before the law. The discrimination of the youths and the poor may arise when the electronic monitoring programme charges user fees. What is happening here is that—and I am stepping ahead, I am looking down the road—most of these persons may well come from depressed areas, depressed areas as those in my constituency: George Street, Nelson Street, Duncan Street, John John, Canada, Beverly Hills.

Mr. Speaker, I want to read from *Hansard* what the Minister said, bearing in mind that you need to have a court-approved residence, also a telephone, and when you look at the literature, the literature will tell you that most of these electronically monitored programmes they charge a user fee, and the user fee ranges between \$100 to \$200 monthly. So, if you do not have a court-approved residence, if you do not have a telephone, if you do not have this monthly fee to pay to the court for your electronic device placed on you, then what is going to happen then is jail for you, and the Minister said it! The Minister said:

“It should be noted...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.”

Now, Mr. Speaker, I am going to ask a very provocative question, very, very provocative indeed: is this electronic monitoring programme, a legal discriminatory mechanism, going to be used against the poor and the vulnerable amongst us? Mr. Speaker, is the electronic monitoring programme for the rich and those who could afford to pay for the device, and prison for the poor, Mr. Speaker? Is that what we are seeing here? [*Interruption*] Is that what we are seeing here? The Minister also said in the *Hansard* that some of these

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programmes, they are going to be dealing with through a sliding-fee schedule. That is what he said! And he said amendments would be made. I looked at the amendments circulated and there is nothing in the amendments which speak to a sliding fee schedule to be charged for the electronic monitoring device. There is nothing like that in the amendments!

Mr. Speaker, I find this—the Minister again, I am asking him to withdraw this. Withdraw it! What is good for the goose is good for the gander! “Yuh cyar put me in jail because I have no money to pay”, and then, because somebody else has money to pay for it they go home. This cannot be! We are asking you to withdraw it. You have to be very clear and specific in your legislation, Sir. As I said, legislation must be user-friendly.

Mr. Speaker, I turn my attention to clause 16 and it says:

“(1) A person or respondent, who fails to comply with a decision of the Court or breaches any agreement or condition related to the use of the device, shall be brought before the Court in accordance with this section.”

Mr. Speaker, I personally have no problem with this, but I have a problem because, when I look at the confusion between clauses 5 and 6 as to the functions and who would be monitoring both the unit and who would be monitoring the service provider—remember what the service providers are supposed to be doing, they are supposed to be tagging the individuals, they are supposed to be supplying and maintaining the equipment, they are supposed to be monitoring compliance with the curfew conditions and are supposed to be reporting on breaches. We do not know who would be doing what at this stage. We do not know who has oversight over the unit and over the service provider. This could lead to confusion and mayhem.

I just want to draw the House’s attention to what happened in the United Kingdom, because due to the lack of an independent monitoring of service providers in 2008, the Home Office had to make two ex gratia payments totalling £8,100 to two offenders who were returned to prison after allegedly breaking their home detention curfew. They returned to prison because the straps holding the monitoring equipment to their ankles had been damaged and they claimed that the tags had been damaged accidentally, and therefore they were returned to prison incorrectly, and the Home Office paid one £5,400 and the other one £2,700. I am saying all this to say, Sir, that clause 16 can give rise to many constitutional motions against the State. That is why I am making this point.

Mr. Speaker, I turn my attention to section 3(2) of the Bill, and if there is one point or one issue in this Bill that really touched me was the fact that this Bill did not make provisions for our young offenders. Our young offenders were left to be shackled, as I put it, and to be treated in the same way that the adult offenders would be treated. It says in clause 3(2) that:

“Subject to the Young Offenders Detention Act and the Children Act any other written law granting rights...this Act applies”—also—“to a young person.”

3.30 p.m.

Mr. Speaker, I want to draw this House’s attention to the International Convention on the Rights of the Child. And this convention was passed by the 44th Session of the General Assembly Resolution on November 20, 1989, and came into force on September 2, 1990.

Mr. Speaker, Trinidad and Tobago was amongst the first set of signatories. Trinidad and Tobago signed on September 30, 1990 and it was ratified on December 5, 1991. This agreement came in 1989, because the world leaders decided that children needed a special convention, because people under the age of 18 years often needed special care and protection that adults do not. And there are certainly core principles emanating from this special international convention: the right to life, the right to survival and the right to development.

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

Motion made: That the hon. Member’s speaking time be extended by 30 minutes. [*Mr. N. Hypolite*]

Question put and agreed to.

Miss M. McDonald: Thank you, Mr. Speaker, and Member for Laventille West. Mr. Speaker, as I said, the signatories to this convention—that is the International Convention on the Rights of the Child, under this agreement they are obliged and they are committed to the development of the child and to undertake all actions and policies in the light of the best interest of the child. They have also agreed to hold themselves accountable for this commitment before the international community.

Mr. Speaker, once again, Trinidad and Tobago, we are signatories to this international convention. Having said that, nowhere in this Bill have I seen where

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the young persons, where the young offenders would be treated separate and apart from the adult offenders.

In order to understand how a proper system of electronic monitoring works in relation to young offenders, I grasped the opportunity whilst I was in New York with you, Mr. Speaker, and I visited two juvenile centres. I visited the Crossroads Juvenile Center in Brooklyn and I visited the Beach Avenue Juvenile Center in the Bronx and I also held discussions with some commissioners in the Manhattan area, and they deal with youth offenders, Sir.

I want to introduce to this honourable House a pilot programme being initiated right now in the Manhattan area and which will feed to the boroughs in New York—a pilot programme where young persons in detention, those who have been charged with criminal offences, what is going to happen to them and certainly, the United States is also part of the International Convention on the Rights of the Child. So that is what they are observing here, Mr. Speaker.

In my discussion with the various commissioners they asked some salient questions and may I share those questions with this honourable House. The first question I was asked when I said that we are introducing the electronic monitoring for young offenders in Trinidad and Tobago, they asked the question: What is the underlying philosophy behind electronic monitoring for young offenders? I could not answer. What is the philosophical underpinning of using this type of approach? I could not answer. And I certainly could not answer the third one. What are the Government's policies with respect to the rights of a child? I could not answer.

Mr. Speaker, they shared their policy with me and they said, in New York their policy is not to pursue prosecution of young offenders as far as possible. They said they are going to provide a more hopeful process, whereby the accused, the accused's parents, the victim, the victim's parents and the community will come together to heal. That is what they are doing. They are not pursuing prosecution. They are bringing all parties together, the accused, the victim and the community as one unit to heal.

In other words, Mr. Speaker, the use of electronic monitoring should not be seen as punitive but rather as restorative. Now, I heard the Minister use the words "restorative" and "punitive". But I want to state that he was just mouthing that, he did not quite understand the meaning of being punitive as opposed to being restorative in nature. When you use that restorative approach to justice, it reduces the number of young offenders in detention. They are then monitored in their own

communities. And in so doing when you are going to monitor them in their communities you have to set up support systems in the communities; you have to set up a system of social workers; you have to set up an effective parole system and you have to set up an effective probation system. Do we have these systems in place in Trinidad and Tobago?

Hon. Members: No!

Miss M. McDonald: Do we have these systems in place?

Hon. Members: No!

Miss M. McDonald: So are we just going to shackle our young people? These young people are the future of Trinidad and Tobago. And according to the International Convention on the Rights of the Child, they are supposed to be treated differently as young offenders as opposed to being treated as an adult offender, once you are under 18 years. I am calling on this Government to have a heart; have a heart for the young offenders in this country. [*Desk thumping*]

Mr. Speaker, it was with humility that I sat—and I had told you where I was going because you were the head of the delegation. And it was with humility that I sat and listened to the commissioners in Manhattan when they introduced a programme called the PATH; it means Positive Alternative Towards Home. PATH is an electronic monitoring programme designed to help youths stay in the community as they await adjudication. PATH is intended to be a step down programme where youths can significantly influence their outcome based on their own good behaviour. The electronic monitoring device will be used only to measure compliance with curfew and restrictions on movement and of course attendance at school as ordered by the judge, but it certainly is not seen as punitive in nature.

PATH is not intended to be used as a form of house arrest nor is it designed to be punitive. PATH is a performance-based programme, where youths can step down, that is, reduce the amount of monitoring that could be afforded to them because of their good behaviour, or they can step up if they continue to violate their curfew and so their time with electronic monitoring will be extended.

Mr. Speaker, they have outlined the period. They said the youths may spend a minimum of 30 days and a maximum of 180 days on the PATH programme. But the youths will receive programme support and supervision from a community-based organization. What they are doing in these various areas, they are setting up CBOs in the areas, therefore when these youths are released they go into a

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community where there is support, where they will have programmes; they will have counselling, they will have training in the communities. What are we intending to do with ours? We hold ours, we shackle them and we send them out to run like billy goats without even caring about them. These are people between 14 to 18 years old. These are the future. They are the future, Madam Prime Minister of Trinidad and Tobago. We need to go—[*Interruption*]

Dr. Moonilal: [*Inaudible*]

Miss. M. McDonald: Yes, answer me glibly. You saw them in a video? [*Crosstalk*] Answer me! So therefore, you committed one wrong, one wrong. One wrong! And what will happen to you? You are doomed! [*Interruption*] Oropouche East, please! That is right, you are stereotyping, you are stereotyping a whole community, that is what you are doing.

Mr. Speaker, how do you qualify to get on this programme? There are two types of juveniles you look at: a pending juvenile offender who presents limited risk to the community can get on the programme; a juvenile offender who demonstrates a potential to lead a law-abiding and protective life if given the appropriate support would be able to get on that programme. And, Mr. Speaker, the programme allows the youth to stay in his home and in his community and that is what is important. You are not going to have them shackled and put among the hardened criminals. The youths will be required to follow restrictions as imposed by a judge and these include: electronic monitoring under the PATH programme; they could be subject to curfew; they must go to school; they must participate in an assigned CBO—that is community-based organization—they must attend counselling and they must have support programmes around them; and barring violations, the youths will be on electronic monitoring only for a minimum of 30 days. And, Mr. Speaker, even so, built into this PATH programme after a maximum of 90 days the court will thoroughly—the court not the PATH administrator—the court will assess the youth's compliance with the programme and the conditions of the release in order to determine whether further monitoring—or at halfway through, because your minimum is 30 days, your maximum is 180 days and halfway through at 90 days the court will determine, based on the person's behaviour, whether we should release or whether we should keep you.

There are lots of other parts of the programme here which I can easily make available, but save to say that this programme was taken into account because of a policy statement by the commissioners out in Manhattan and this would feed to juvenile centres in the various boroughs. It is a very comprehensive programme,

which I have here, very comprehensive, and I thought that I should just highlight the salient features of it to this honourable House. Mr. Speaker, so that is what is happening in New York with our children.

What is happening in the United Kingdom? Because when I read the *Hansard*, the Minister just skirted over how you are going to deal with youth offenders. In the United Kingdom, do you know what they have done there? They have enacted legislation to allow for the electronic monitoring of children and young people to enforce night time curfews. And what the courts have done in the United Kingdom is that they have about five orders; they call them legislative orders. They have implemented legislative orders. Those orders are: the Curfew Orders; Supervision Orders; Community Rehabilitation Orders; Detention and Training Order; and As a condition of bail.

Mr. Speaker, permit me to say something briefly on each of these orders. Under the Curfew Orders as obtains now in the United Kingdom, the Criminal Justice Act, 1991, allows for persons over the age of 16 years to be subject to a curfew. And the Anti-social Behaviour Act, 2003 provides for Curfew Orders for persons under the age of 16.

3.45 p.m.

So there are two pieces of legislation: one, dealing with over 16 and two, dealing with under 16.

The Crime Sentencing Act of 1997 provides for tagging of persons under the age of 16 years old. So the court can issue a Curfew Order, and the Curfew Order can also be instituted with an electronic monitoring order, the court will determine. But they also stated up to what time—the person is only supposed to be tagged for a period of six months. In our legislation, there is nothing there for the children. If there is a curfew, the curfew should not be beyond nine hours on any given day.

There is the Supervision Order and the powers of the Criminal Courts (Sentencing) Act 2000, provides for community punishment for under-18-year-olds, and this could last for up to a period of three years. There is also the Anti-Social Behaviour Act, which allows for a Curfew Order to be made alongside a Supervision Order.

In essence, young people in the United Kingdom can be placed on a Supervision Order and could also be placed on a separate Curfew Order. There is

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a team in place called the “Youth Offending Team”. They are the ones who would want to enforce a night-time curfew but at all points in time, the young people would be monitored by this Youth Offending Team. What is happening to our children in Trinidad and Tobago? What is happening to our youth offenders?

We come to the third one, Mr. Speaker, the Community Rehabilitation Order; the powers of the Criminal Courts (Sentencing) Act 2000, provide for Community Rehabilitation Orders as community punishment. So in other words, you are sending the youth back out into the community, but you are sending them out there with supervision and programmes in place, just as you see in the United States.

The Criminal Justice Act of 2003 allows for a curfew for up to six months. So it specifies: we are going to put you on a curfew, how long you are going to be placed there. And the Criminal Justice and Court Services Act, also allows for electronic monitoring to be used as part of the order as opposed to sentence.

They can also issue a Detention and Training Order; and the Crime and Disorder Act 1988. Now, I am wondering whether the Minister did not take time out to do the research and read all these various pieces of legislation to see how the youth offenders are dealt with. Under this Detention Order; it provides for Detention and Training Orders, and this is the standard custodial sentence for persons under 17 years. So what is happening here, the sentence which would have been imposed by a court, let us say for 24 months, they would serve 12 months in prison and 12 months back in their community under supervision, and of course, they would be electrically monitored.

We look also now at As a condition of bail. The Police Act of 2001 has amended the Bail Act of 1976, and it allows the court to order electronic monitoring to enforce any condition of a bail for a child or young person, between the ages of 12 to 17 where they are charged with a serious offence or there is a repeat pattern.

Mr. Speaker, I do not understand why the Minister is certainly not using this information, as he said, “he google”, I google too. I would have thought you would have looked at young offenders, you should have looked at our International Convention on the Rights of a Child and see that a child has to be treated differently from an adult, and I cannot, Minister, but just belabour the point.

The Minister came here last week and he spoke, let me tell you what he said. He said that electronic monitoring advances family life. He said: “It provides the

opportunity to maintain employment, attend treatment and to keep the family unit intact.”

He went on:

“When a man gets locked up, by the time he comes out his wife is gone with some other man. His children are all over the (place). It happens!”, he said, “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 the wife ‘gone’, the children on the street. By the time he comes out the wife has children for somebody else and”...another man.

Mr. Speaker, this is our Minister speaking, I have to say “our” because he is in the Government. Now, Minister, I want to tell you when you are looking at the impact on the life of the family, [*Crosstalk*] you too as somebody—Mr. Speaker, I will have to call on you to protect me from my team; protect me, Mr. Speaker. [*Laughter*]

Mr. Imbert: I apologize.

Miss M. McDonald: Okay. I am looking at, and I am sure the Minister would have looked at it too, “Electronic Monitoring—John Howard Society of Alberta 2000”, and there is a section here “Impact on the Family” life. They all accused—you all accused the Member for Diego Martin North/East of reading part, well, I want the Minister to tell me when he did all that “ramajaying” last week on the impact on the family life, that he did not read the other part of this article. He did not, because hear what it says, the second paragraph deals with his claims. The first paragraph deals with my claim.

Electronic monitoring is sometimes criticized for having a detrimental impact on offenders’ families.

Mr. Imbert: Tell them again.

Miss M. McDonald: Electronic monitoring is sometimes criticized for having a detrimental impact on offenders’ families. They said electronic monitoring is associated with a slightly higher chance of violence within the home. [*Crosstalk*] Families often experience stress as a result of the financial burden of participation in the programme. The unpredictable phone calls that may come in the middle of the night, damage to the offenders’ self-esteem and reputation in the community,

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a significant amount of stress within the family can set the stage for violence, particularly when the offender is forced to spend more time than he usually would at home.

This is the woman accepting the man with the device, as proposed by the Member for St. Joseph. This is the other side of it, you spoke about the second paragraph you did not talk about the first paragraph.

Mr. Speaker: Six more minutes, Member.

Miss. M. McDonald: Mr. Speaker, enough to wrap up. This Minister has developed a very bad habit of bringing defective legislation to this House, only for it to be torn apart in the other place. Do not use—I am telling the Minister, I said there is no room for ego in this honourable House. [*Desk thumping*] Do not use your majority to make this mistake again, Mr. Minister, it is embarrassing to the national community. Take this Bill—[*Crosstalk*]—when you are speaking I do not speak you know, Sir. Take this Bill and fix it. This is what I am saying.

Dr. Moonilal: Thank you.

Miss. M. McDonald: I am not saying thank you, I am not finished. [*Laughter and desk thumping*]

Dr. Rowley: She is not finished with you. [*Desk thumping*]

Miss. M. McDonald: Mr. Speaker, the accessibility by the poor and the needy remains an issue. Shackling of a person after he has been granted a pardon by the President is wrong; applying the same rules to young offenders is harsh; and the Bill did not adopt a rehabilitative approach. It is too punitive in nature.

Finally, there is no evidence to suggest that electronic monitoring is any more effective than any other correctional measure when combined with appropriate treatment and programming. Mr. Speaker, I thank you.

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Thank you so much again for the opportunity in this great and noble House to speak on a Bill that I think is long overdue in coming.

Mr. Speaker, man has landed on the moon, for my friend from Diego Martin North/East.

Mr. Imbert: “What you talking about.”

Hon. P. Ramadhar: When President Kennedy said to his nation, that we chose to go to the moon not because it is easy but because it is hard, that was a

signal to his nation that they needed to raise their level of thinking to a point to always improve, to always elevate his nation. Left up to my learned friend and their policies, and their principles, and what they have articulated, if it is not perfect do not bother. We believe, however—

Dr. Browne: Anti-gang!

Hon. P. Ramadhar:—in an imperfect world we need to take steps and sometimes—Gentlemen, please, with all due respect. Yes.

Mr. Speaker: Hon. Member for Diego Martin/Central and Diego Martin North/East, would you allow the Member to speak in silence. Continue, hon. Member.

Hon. P. Ramadhar: Thank you very much, Sir. We were making the point of imperfect world and imperfect persons, who believe that action that will bring progress to this nation, will be seen in political light, and therefore, should be condemned.

I want you to think about that for a moment, because when I heard the arguments from all of the speakers on the other side, I am left to worry greatly. What we are dealing with here is a very simple issue, of whether we are going to modernize our criminal justice system to the benefit of our people, or whether we remain in the dark ages where shackles were used in the worst possible way, to not only curtail human freedom, in terms of movement, but certainly to curtail their thinking, and that is what I have seen evident in some of the contributions that I have heard from the other side.

Do you know one of the greatest benefits that this Bill will bring, this new opportunity will bring, is to the very persons that my friends articulate that they represent, that we all represent, in different constituencies throughout this nation, whether in the East-West Corridor, in central or in south? The poor and the oppressed, very often they are the persons more likely than not to end up before a criminal court on charges.

4.00 p.m.

We have spoken all around the issue but let me just refocus what I consider to be the greatest benefit of this legislation. If I may, with your leave, Sir, refer to clause 9 and it reads:

“(1) The court may impose a sentence of electronic monitoring—

(a) for an offence committed; or

(b) in lieu of a sentence of imprisonment or part of any sentence imposed, after the coming into force of this Act.

(2) The Court may also impose electronic monitoring as a condition of—

(a) an order for bail made under section 12 of the Bail Act;”

Mr. Speaker, what is the reality in our courts? On a daily basis, persons are brought before the court charged sometimes for a first offence, and sometimes after they have been charged for other offences even convicted of other offences, a court then has to make a decision whether bail should be granted or not. The overriding consideration for any judicial mind is: when a person is charged that they are to be presumed innocent until proven guilty. What does a court do in determining whether to grant bail or not, having regard to that overriding presumption of innocence?

The court is guided by legislation in a large part; legislation which my learned friend who celebrated brilliantly today, and certainly shows leadership for the future of her party, but certainly did not celebrate enough because I have made the point repeatedly, when you are looking at legislation, you do not only deal with that which is before you but you also look at the legislation to which it refers.

If I may refer to the Bail Act and read, and I think it is important for us to read the full section 6 and also section 12, so that it will put things in perspective. At section 6, it says circumstances in which bail may be denied and this is an amendment of 2005—an amendment, of course, which came under the administration of the friends on the other side. It says:

“6(2) Where the offence or one of the offences to which the defendant is accused in the proceedings is punishable with imprisonment, it shall be within the discretion of the Court to deny bail to the defendant in the following circumstances:”

This is to deny bail against the presumption of innocence on the charge for which they are brought before court:

“6(2)(a) where the court is satisfied that there are substantial grounds for believing...”

—substantial grounds, not evidence.

“that the defendant, if released on bail would—

(i) fail to surrender to custody.”

And let me just pause for a moment there. The whole purpose of bail, having regard to the presumption of innocence is to ensure that the accused attends to his trial so justice at the end of the day could be dealt with or meted out. And therefore, this legislation gives to the court and to an accused person, a tremendous benefit preserving the presumption of innocence to ensure your return to court, that if the monitoring bracelet is used, with almost to a certainty, that person will return to court, and if he does not, it will be easy to locate. [*Crosstalk*] It is as simple as that and I hear all of the heat and fire of condemnation on a great benefit to the poor and oppressed in our society.

His—I almost said his Lordship, but my learned friend from St. Joseph sitting as a judicial officer will know, but I will know also—forgive me, Member for Diego Martin North/East—of the reality of those who are brought before the courts. Sometimes a young person without any offence charged before is brought before the court but it is a serious offence. What does the court do? Say, because it is serious, I am not going to grant you bail? No it does not. It says, “I look at all of the other things which the Bail Act tells me I should look at, whether I should or should not grant bail” one of which I have already dealt with, “fail to surrender to custody.”

“6(1)(a)(ii) commit an offence while on bail; or

(iii) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person;”

Now, let us assume that having regard to all of that, the court decides, “Well, okay, you are entitled to bail” and bail is set. Do you know what the process is? Bail is set—I will give an example, say \$100,000 bail with surety to be approved by the Clerk of the Peace. What that means is that your family—your mother or father or any relative or friend or whoever cares enough about you—must produce to the court a deed for the value of at least \$100,000, and put that up as a surety for bail. So that if you do not attend, a show cause is issued, meaning that the person who comes as your bailor will have to attend court and say why his \$100,000 property is not forfeited to the State, because you had guaranteed by your taking bail that the accused would attend court.

I could only tell you that so that you could immediately appreciate the difficulty that any person found in that circumstance will have for actually getting the bail. How many of us here—not to mention the poor throughout the country—have what you call “a clean deed”, that is a deed to property that does not, first of all, have a mortgage on it, or secondly, that they have an original of the deed and not just a photocopy?

Very often, Mr. Speaker, months on end, that person will stay in custody until that bail could be taken by someone. I have mentioned in terms of whether you have a deed available. Now, this is not only to the lowest level of income of our society. I was involved in a case many years ago where a very wealthy family in this country, bail had to be taken and all of the properties they had, none were unencumbered; all were encumbered by mortgage, and therefore, no bail could have been taken.

But let me move back to the many others who do not have the financial reserve or recourse. They remain in custody with the presumption of innocence for extended periods. What does this Government do? This, to me, is where a court has the opportunity to say, "Listen, we have set bail, you have not been able to take it, you have come to court several times and nobody could actually raise the bail for you, what about electronic monitoring?" And I hear my friends go to extensive periods talking about the cost of it, but do you know the court also has the power, I think it is, to say, "You will not be charged". You will not be charged for the use of the equipment. The court has the discretion to say, "Well, you will not be charged".

Dr. Gopeesingh: You may not require any payment.

Hon. P. Ramadhar: You may not require any payment, so it is that kind of person who will benefit from this.

However, there are other persons who the court may find, because of their financial circumstances, could very well pay and they should pay. And I will tell you this, one of the things that the court will consider in the grant of bail is exactly this. Let me read on.

At the same Bail Act, section 6(2) and it says:

- “(b) where the court is satisfied that the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- (c) where he is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act;
- (d) where the Court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this section for want of time since the institution of the proceedings against him;

- (e) where, having been released on bail in or in connection with the proceedings for the offence, he is arrested in pursuance of section 13;
- (f) where he is charged with an offence alleged to have been committed while he was released on bail; or
- (g) where his case is adjourned for inquiries or report...”

I want to ask you to focus a little bit on that.

- “(g) where his case is adjourned for inquiries or a report and it appears to the Court that it would be impracticable to complete the inquiries or make the report without keeping him in custody.
- (3) In the exercise of his discretion under subsection (2)(a), the Court may consider the following:
 - (a) the nature and seriousness of the offence or the default and probable method of dealing with the defendant for it;
 - (b) the character, antecedents, associations and social ties of the defendant;
 - (c) the defendant’s record with respect to the fulfilment of his obligations under previous grants of bail in criminal proceedings;
 - (d) except in the case of a defendant whose case is adjourned for inquiries or a report; the strength of the evidence of his having committed the offence or having failed to surrender to custody; and
 - (e) any other factor which appears to be relevant.”

The whole point here is that the court looks at the totality of the circumstances of the accused before it, to determine whether to grant bail or not. And sometimes, the most overriding of them is whether that person may commit offences while on bail.

Now, let me deal with the practical effect of putting the monitor. We hear the term “shackle” and that is a terrible term to use, because we have been shackled with the worst form of crime and criminality for a long, long period of time. *[Interruption]* Yes, of course.

Mr. Imbert: Mr. Speaker, I thank the Member for giving way. The Member for St. Augustine has made the point that this will give the court the capability to release somebody on bail with an electronic monitor, where in other

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circumstances, the person would not be able to fulfil the requirement for bail or the court might have a difficulty looking at the person's history in terms of granting them bail.

The way that has been dealt within other countries—and the Member for Port of Spain South mentioned some of them and I mentioned the UK provision. [Interruption]

Hon. Member: “You talk already.”

Mr. Imbert: I am nearly finished with the question—is that it has been put into the legislation explicitly that the bracelet is only ordered when the court has come to the conclusion that a person would not otherwise be granted bail; you are making the same argument. Why do you not also agree that as in the United Kingdom and the other countries, we put that condition in, that the person would not normally be granted bail and then give the court the discretion to impose electronic monitoring as a condition of giving them bail?

Hon. P. Ramadhar: Well, actually, you have taken me now straight to section 12 which is what really deals with exactly your argument. Let me just say I will make it explicit because it is already explicit in our law under the bail legislation. Section 12 says:

- “(1) A person granted bail in criminal proceedings shall surrender to custody.
- (2) A Court may require any person applying for bail to provide, as a condition for bail before his release, a surety to secure his surrender to custody.
- (3) A Court may further require any person applying for bail to—
 - (a) surrender his passport to the Court;
 - (b) inform the Court if he intends to leave the State;
 - (c) report at specified times to any police station,

and comply with any requirements as appear to the Court to be necessary to ensure that—

- (i) he surrenders to custody;
- (ii) he does not commit an offence while on bail;
- (ii) he does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person; and

(iv) he makes himself available for the purpose of enabling inquiries or a report...”

And hear this one, my friend from Port of Spain South.

“(iv) he makes himself available for the purpose of enabling inquires or a report or any medical examination, to be made to assist the Court in dealing with him for the offence.”

Mr. Speaker, when we look at this—I could not believe my friend—and continue to have great respect for you and admiration, I want to say—when we look at clause 9 and we heard it said that the electronic manager—who are they? What is their authority? What is their credential for providing what is required under the Second Schedule?

4.15 p.m.

Then my friend directs it back to clause 9(4), (5) and (6). Just so that we are reminded clause 9(4) states:

“(4) Before making a decision under subsections (1) and (2), the Court shall request a report from the EM Manager concerning the person or respondent, which the EM Manager shall provide as soon as it is practicable.

(5) While awaiting the report of the EM Manager, the Court shall commit the person to custody.”

Subclause (6) is where sometimes—I put it down to a genuine error of interpretation—lawyers; that is why we always have at least two sides in a case. We all do not agree on the same things at the same time and, therefore, we will have differences of opinion and I put it down just to that. Because if one reads it the way my friend did:

“(6) In making a decision under this section, the Court shall take into account the report of the EM Manager which shall be prepared in accordance with the Second Schedule and shall have regard to the character, antecedents, physical and mental health of the person or respondent, to any extenuating circumstances in which the offence was committed and to the possible threat to public safety caused by his release.”

This reminds me of a story my father told me many years ago. He said a letter was sent by a son to his parents. The letter, when read by the father said: “I need money. All my money is done. Send it now.” The father read it. When the mother read it she said: “I need money. All my money is done. I need it now.” It is all

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where you are and the level of your consciousness that determines your interpretation. Let me read this now. I am sorry Member for Diego Martin North/East. [*Interruption*]

Hon. Member: You serious?

Hon. P. Ramadhar: I am very serious, because hear this:

“(6) In making a decision under this section...”

This is the overriding control.

“the Court shall take into account the report of the EM Manager which shall be prepared in accordance with the Second Schedule and shall have regard”—the court shall have regard—“to the character, antecedents, physical and mental health of the person or respondent, to any extenuating circumstances in which the offence was committed and to the possible threat to public safety caused by his release.”

Therefore, the interpretation that it is for the electronic manager to provide those things is misplaced, unfortunately, because clause 12—those are the considerations which a court will already have to take into consideration whether it should grant bail or not.

With all due respect, I heard my friend also refer to children and young people and how we are going to deal with it. Have a heart! What have we done? The youths. Let me just say this. Many on this side, in fact I think all of us, have come into politics, not just for today but for the future and, therefore, for our young people and our children. Whatever we do in this House it is with a view to improving this nation for our children.

Let me tell you what this Government has already done and continues to do. We have done tremendous work. I am reminded by my friend from Caroni Central, that this Government has created a Ministry of the Children. This Government—[*Interruption*]

Mr. Imbert: Ministry of the Children?

Hon. P. Ramadhar: Gender Affairs, you know, dealing with young people, to put it in the simplest term, so that all of our citizens—as my friend from Port of Spain South always reminds us to speak to the constituency and the constituents out there. We have a Ministry for children and young people. This Government has done the work for the Children Bill and it will be brought before this House very soon.

Dr. Browne: Nonsense!

Hon. P. Ramadhar: This Government has done the work for the Children's Authority. This Government continues, not to act in a vacuum, to deal with a holistic approach. As you heard, this is the trilogy, in terms of the criminal law, and we are here today for that. But, there are many other bits of legislation which are being prepared to be brought before this House, so when it comes into play, the society itself, the face of it, will change in the way how we approach criminal justice and how we face and interface with our constituents throughout this great nation of Trinidad and Tobago.

Let me just spend a few moments to deal with some of the unforeseen benefits of the use of electronic monitoring. We all know that one of the reasons this country went into such decay, in terms of criminality, was the lack of the presence of law enforcement or anything that symbolizes law and order in this county under the last administration and probably a generation before that. The imposition—and I use the word “imposition”—of electronic monitoring of any person whether you say it is by consent or otherwise, puts into the home and into the community one arm of law enforcement.

It may sound comical, but I remember I think it was in the movie *Hotel Rwanda*, where a lot of killing had been prevented when the superstition of technology was used; that the Americans were using satellite over certain persons and were looking upon and that they would be prosecuted as war criminals after. Whether the Americans used satellite or not, the belief that the technology was there and they were being looked at, had a positive effect. You tell me, honestly, any person involved in criminality who has been braceleted, not shackled, braceleted and they go into their community, do you think that their cohorts in crime will flock to them?

Mr. Imbert: You have to do the right research.

Hon. P. Ramadhar: I am talking about Trinidad and Tobago. My friend, I am speaking to a person of conscience, the person from Port of Spain South. [*Desk thumping*] In Trinidad and Tobago, he will be shunned. They will avoid him and, therefore, keep him away from the criminal gangs and criminal activity that he may otherwise be involved in.

Another point that sounded resounding when delivered by my friend is the issue of clause 10:

“Electronic monitoring may be imposed as a lawful condition of a pardon granted under section 87(2)(a) of the Constitution.”

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I am grateful that my friend told this nation that the President does not act on his own advice, he acts on the advice of the Advisory Committee. This Government does not take the view that all legislation is static and that nothing is beyond improvement. There are many persons who may be very well entitled to a pardon, but because of certain fears—as we have had the experience of one person being pardoned for murder and went out and committed another murder. We have had that in this country. Therefore, the use of pardon is far more limited than it should be. This—and I compliment you, Member for St. Joseph, for the foresight that you now give to the Advisory Committee a new tool that will allow those who may very well be qualified, who have earned the right to a pardon to be given it, because now you have reduced some of the fear factor, because there is still some control.

The pardons you described, my friend from Port of Spain South were absolute pardons, of course, and they are historical. They go back hundreds of years. But we must have something called a conditional pardon, otherwise if you have unconditional pardons, as you say, the old law is that you wipe the slate clean, and in fact anybody speaking to your crime that you have been pardoned for, may very well be successfully sued for even libel. That was one of the arguments put; that the pardon is so absolute it is as if your crime did not exist.

We move forward from that. We take the realistic view that jail term has been imposed, but that you have lived so well within the prison and has been such a positive member in uplifting your fellow inmates, that you are a person who really do not deserve to continue being in the prison and that you can return to the society, to your family and to your community and make a positive contribution before your life ends. So that you may—and these are the things—[*Interruption*] You could say shackled how much you want, we call it monitoring. [*Interruption*]

Hon. Member: “Doh” even answer him.

Hon. P. Ramadhar: Clearly, when your mind is shackled, Sir, that is all you will see. Any sense of improvement will be seen as a negative and a retrograde step. [*Interruption*] I am speaking to all. I am speaking to this nation. You were voted in and, therefore, you have a responsibility to be responsible.

Mr. Speaker, I really did not want to contribute much to this but I had to, because of the very simple mistakes made by my friend, and I put them down as genuine errors, and I think when one reads the law, when one reads the new legislation and you approach it with an open mind, unfettered and unshackled by negativity, you would appreciate that this is a very positive forward moving step.

My friend from Diego Martin North/East knows—he is an engineer, I understand—[*Crosstalk*] that technology moves and it moves incredibly fast. Maybe on another occasion he might tell us about Moore’s Law; that the capacity of computers increases and doubles every 18 months.

Let us go back to the time when Kennedy spoke about going to the moon. The computing power, the entire rocket and the entire Apollo Mission—the computing power is now less than what you can get into a handheld calculator. That is the improvement Mr. Warner, the Member for Chaguanas West, had spoken about; the grand improvements almost on a daily basis, of the technology.

When GPS first came to rental cars I remember Jay and I had gone off to Florida and we rented a car with the NeverLost, but at that time—[*Interruption*]

Mr. De Coteau: Who is Jay?

Hon. P. Ramadhar: Jay, my wife. It was named NeverLost, but by the end of that trip we took off the “N”; it was “ever lost”, because at that time the GPS was so inaccurate that it was almost useless. Now, I have my own GPS and it has liberated me. It has unshackled me wherever I travel. I could use that and map it and go anywhere, go to places I have never been before. Let us go there. Unshackle your mind. This is an opportunity in Trinidad and Tobago.

We may make a lot of jokes and laugh about it but this is very, very serious. I hear, all the time, the criticisms of this Government about taking away the rights of the poor and this and the other and putting all sorts of terrible intonations on the activities of this Government. Let us look at this one, and this is where we give back rights to the accused person, whether it is a presumption of innocence. We give you back, those who may have gone afoul of the law, an opportunity to really—if you. There are some people who are unrelenting in their criminality. There are those who will never change; who will never improve themselves. But as a criminal practitioner for many years there are those who, for whatever reason or circumstance at a point in time, may have committed an offence and at the moment after the offence is committed they tell you as a lawyer: “I wish I could turn back the hand of time”. They must serve a penalty, yes. But if that person is no longer a danger to the community, we have to restore him.

We talk about the demolition of family life. The most amount of murder trials I ever did were for young fellas who had no fathers. They did not even know their father or their father had deserted them. There are many cases where the fathers are in jail.

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My friend from St. Joseph is absolutely correct. One of the first things—let us hope that none of my friends should ever have the misfortune of being convicted for any offence and have to go to jail. For a man—let me tell you what happens—psychologically, they have the support in the initial part of the whole family, but as they go into custody, within a few days they become paranoid because their whole world changes, especially for first-time offenders. They become so paranoid that they start imagining things, that the wife who comes almost every day to visit, if she could, and buys things for them, they start questioning “Whey yuh get de money? Who bring yuh?” These are serious things and you see almost an insanity coming over men, good men, who are put into prison. And very often those are innocent persons who sometimes could not get bail.

Mr. Speaker: Hon. Members, this is a good time for us to take the tea break. We shall suspend the sitting and resume at 5.00 p.m. sharp.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Speaker: The Member for Port of Spain North—oh sorry, sorry, sorry hon. Member. The hon. Member for St. Augustine, sorry, sorry. [*Desk thumping*] [*Laughter*]

Hon. P. Ramadhar: Thank you very much, Mr. Speaker. I was on the point when we took the break about the paranoia of men who are taken into custody for the first time, where after a few days in this alien environment called prison, which is from what we understand over the years of neglect of our prison services is a hell hole, where more than 12 persons are made to sleep in a cell of no more than about 10 by 10; where there is—

Dr. Browne: “Panday say prison is not nice!”

Hon. P. Ramadhar: It is not nice, I want everyone to know that; where the only indoor facility is a pail and a bucket. This man taken away from his home and from his family starts believing, because of the paranoia that must naturally set into any average person, that on the outside nobody cares about him, they have forgotten him. Notwithstanding the very valiant efforts of his family to take bail, trying, going from pillar to post, begging friend, family and then to the predators of the professional bailors sometimes, where the going rate for a \$100,000 bail could be more than 10 per cent. Some family members sell whatever they may have to get that 10 per cent so that bail could be taken. Very often those professional bailors use false deeds—anyhow, that is a matter for another debate, Mr. Speaker.

The point I am making is that the paranoia which sets in, it consumes—and I have seen this happen repeatedly, where the man starts believing that his family has deserted him, and the wife may have become unfaithful to him, and over an extended period of time with that belief, they destroy their families. They give instructions to say, “I do not want to see you near the prison, because you are using that opportunity—who brings you to the prison?” And a host of other awful and nasty things. That is the reality of our poor and the oppressed in the society who are presumed innocent and awaiting trial. And that is why the trilogy and the many other bits of legislation that we bring are to speed up the judicial system, so that the guilty may be found guilty early, and the innocent may go as soon as it is possible. So I compliment this effort of this Government and of the Member for St. Joseph.

Before I take my seat, you know almost on a daily basis in this Chamber, we hear the complaints about the qualifications of persons who are to be employed, or persons who are to occupy office. I wonder if my learned friends appreciate that there is a public service and a Ministry of Public Administration with an arm called the PMCD, which really deals with all these matters of qualification, as to what qualifications are required for what posts and, therefore, what is required. If it is not stated in the legislation, there are systems in the institutions of State which deal with that.

I heard my friend also scream about it being a recipe for disaster— clause 6:

The Government may, for the purpose of obtaining electronic monitoring services, enter into an agreement with a company...to perform any one or more of the functions...”

Of course, that is how we do business, every contract which is given out by the State to a contractor is exactly that, and there are provisions under the Central Tenders Board. But let me say this, the good news is that the corrupt systems which we have inherited, this Government has taken—we have taken on board measures to deal with that and with procurement legislation. [*Crosstalk*]

Mr. Speaker: Member for Arouca, please your language, your language, please! You can speak in undertones, not overtones, and I am hearing everything that you are saying there, that is why I rise to my feet. Continue, hon. Member.

Hon. P. Ramadhar: Well, I do not know if anybody in this country believes that the systems which now operate at the highest levels in the public service are not susceptible to corruption, and that is the point. This Government is taking it on board and, therefore, the work of the joint select committee on public

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procurement is well advanced. And indeed just last week, I understand, the new chairman had been elected for that new joint select committee, the hon. Dr. Tewarie. That work under the guidance of our most learned friend and very capable, I want to say a person I admire in terms of his technical knowledge and capacity, my friend, the Member for Caroni East. The work which was done under our committee—I am a Member of that committee—last year, and handed over—it is well advanced and will come into the public domain very shortly. These are the things that we are doing.

So it takes the old saying that “Little drops of water, Little grains of sand, Make the mightiest ocean. And the greatest land”. We are, in fact, building the foundation for a sustainable society. Sustainable not only in terms of the resources which are required for our day-to-day sustenance, but also the spiritual and moral values which must return to this nation. We have used words only to describe them but have never lived them. This Government’s mission is to give breath and life to those noble words in our Constitution about spiritual and moral values, otherwise we would have failed.

This legislation gives sustenance to a caring nation and I do not mean politically only, I do not mean People’s Partnership Government caring. This legislation is about our brothers and sisters who find themselves on the wrong side of the law, with a clear understanding that no one is perfect and that we may fall from time to time, but when we fall no one should stand on us and prevent us from rising again.

So that a young man who for whatever reason—and there are circumstances out there which are horrific. Children have grown up without love, without compassion, without having had a pet; they never planted a plant to see what life is all about, that you could nurture something, a seed which grows into a fruit or into a vegetable and that, therefore, you can add to the quality and add to the environment, and add to your country, to make them feel that they belong; that is the environment which we have to deal with; and we are taking control of it. But at the same time we have to deal with those persons; when they do wrong there must be consequence to it. The consequence must not be retributive only, because retribution is important, because without consequence to an action, you will have action without consequence and, therefore, you have total anarchy and lawlessness in a society. You must always temper justice with mercy.

If any legislation which has been brought before this House speaks to that, it is this one: that you have been convicted of a crime, a sentence has been imposed upon you. This Government is saying that that does not mean that at the moment

when you were sentenced that you will be destined to the totality of that if you have improved and shown yourself as a worthy person who deserves to be given freedom to become a positive building member of our society. And that is why when we go to the new legislation that is coming, in terms of—Member for St. Joseph, what is the name of the legislation?

Dr. Browne: The DNA Bill. [*Laughter*] [*Crosstalk*]

Hon. P. Ramadhar: No, no, no.

Mr. Volney: Parole Bill.

Hon. P. Ramadhar: Parole, Parole. These are new things which are coming to this country, so your life is not condemned. This is the time of the year when we celebrate the birth of our Lord Jesus Christ, a renewal, about giving those who have fallen a chance to redeem themselves. This shackle which you have described is nothing but an embrace of freedom, it allows [*Desk thumping*] easier grant of bail for those who are deserving of it, and it also gives redemption once you have proved yourself to have opened your heart, to have said that I am sorry for what I have done. And that once the means are proved that you really are rehabilitated, you can get early release, but at the same time being monitored.

Mr. Speaker, I congratulate all those who will support this Bill, and I ask all of those who do not, to rethink, to reset their minds to what we are all about; because I am sensing in the society that there is almost a blood thirst to condemn and criticize. But as I say every time I speak, let us find what the truth is in this Bill, let us find what the real benefit is, and support that and not just your party.

Thank you very much. [*Desk thumping*]

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, when I became a Member of Parliament in 1971, the parliamentary leaders of the day, and they were all PNM; we had won 36 seats in that general election—[*Crosstalk*] [*Interruption*]

Mr. Sharma: There was no other election.

Mr. P. Manning:—they said to us and to me—that in making your contributions in Parliament you ought to be very careful to stick to the matter which is before you, [*Desk thumping*] that you ought to keep your contributions as tight as possible lest you make a loose statement which can have unintended consequences. We were cautioned then, Mr. Speaker, and they called it rule No. 1, that great care has to be exercised in the contributions which one makes in the this honourable House.

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Mr. Speaker, it is clear to me, that perhaps such advice was not given to hon. Members opposite, or if the advice was given—

Hon. Member: Clearly not!

Mr. P. Manning:—then it was not scrupulously adhered to by all in all circumstances. Mr. Speaker, had the hon. Member for Chaguanas West heard that advice and scrupulously adhered to it, he would not have made the following statement. And it goes as follows, and I quote from the *Hansard*:

“You see, Mr. Speaker, the problem this country has been plagued with, until May 2010, was the lack of political will of previous governments to do. They did not have the political will to do. When I came here first, I used to look at them as ‘do little’, now I look at them as ‘do nothing’.” [*Desk thumping*]

Mr. Speaker, the implication is clear. The very distinguish Member for Chaguanas West is accusing the past administration, which I had the pleasure to lead from 2001 to 2010 of doing nothing, and in fact, the way he put it was initially he thought that we had done little, now he is confirmed in the view that we have done nothing. [*Crosstalk*]

Hon. Member: Look who is talking!

Mr. P. Manning: Mr. Speaker, it is not first the time that hon. Members opposite have taken that position. That position has become fairly widespread by hon. Members opposite and in the past we have chosen to allow it to pass. It is clear that on that basis, the hon. Member for Chaguanas West in making the statement this evening thought that it would have been allowed to pass in the same way we have allowed it to pass for the last 18 months. But you know, Mr. Speaker, a time comes when the record has to be set straight—[*Desk thumping*]—and with your kind leave I propose to do just that this afternoon. The time has come to set the record straight. [*Desk thumping*]

5.15 p.m.

Mr. Speaker, I crave your indulgence to be protected from hon. Members opposite. I can deal with them myself, you know, I can deal with every last one, but I do not want to do that this afternoon, so I will rely on you.

Mr. Speaker: Hon. Members, I would ask you to observe Standing Order 40—open your Standing Orders—(a), (b) and (c).

Hon. Member for San Fernando East, you have my full protection. You may continue.

Mr. P. Manning: Thank you very much, Mr. Speaker. It is always my pleasure to be protected by you. [*Laughter*]

Mr. Speaker, the Parliament is meeting in a building that was one of two constructed under the last administration and which was intended for the establishment of an international financial centre. [*Desk thumping*] Tower A and Tower B, both buildings, have been the subject of tremendous condemnation by hon. Members opposite when they were in Opposition and in the election campaign that preceded their advent to Government. Today, there are seven ministries that occupy one of these towers and the very Parliament is included in the other. That could never have been so had the assertion of the hon. Member for Chaguanas West been correct.

Dr. Moonilal: Mr. Speaker, a point of order, 36(1), if my colleague could be reminded of the Standing Orders as well. [*Desk thumping*] It has been a long time.

Mr. Speaker: Allow the Member to speak in silence, please.

Mr. P. Manning: Mr. Speaker, both towers are now used by hon. Members opposite in a way that would surprise the national community because of the extent of the condemnation that preceded their advent to government. Not only that, but associated with the two buildings is a five-star hotel called the Hyatt Hotel, a hotel owned by the Government of Trinidad and Tobago and a hotel from which hon. Members seem to be unable to stay out. Whatever they do, they tend to want to do at the Hyatt, with the exception of the Member for Tabaquite.

Mr. Volney: Standing Order 86(1), there is nothing in the Bill that I have presented that has anything to do with the Hyatt.

Mr. Speaker: May I remind Members when they rise on a point of order just to refer the Speaker to the relevant Standing Order and I will rise and rule. I need no direction.

Hon. Member for San Fernando East, very experienced, I would like you to connect the dots, particularly to the Bill before us. I am inclined to sustain his point of order, but I am giving you the opportunity to connect your points.

Mr. P. Manning: Mr. Speaker, perhaps we need to clarify this matter before we proceed. I am responding to a statement that was made by the hon. Member for Chaguanas West. I did not initiate it. As a Member of Parliament, I have a responsibility to set the record straight especially in circumstances where, not only was the Member off course, but seriously off course, and it is a habit of hon. Members to take that approach.

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Therefore, forgive me if I spend some considerable time this afternoon to point out, not only to this honourable House, but also to the national community that the statement was incorrect in the extreme, and that is to put the best face on it. In fact, Mr. Speaker, the attitude of hon. Members opposite towards what has gone before them is an attitude that has come from an election campaign in which they were successful and they are bringing some attitudes into the Parliament of which the Parliament may not, in the long run, be proud. So, Mr. Speaker, it is my intention, therefore, to spend some considerable time in setting the record straight. I have no choice.

The five-star hotel that is next door is one from which hon. Members seem unable to stay out. I do not know that all the activities to which that hotel has been put are activities that are a credit to the Government and People of Trinidad and Tobago, with one exception, the very distinguished Member for Tabaquite. He chooses not to use the Hyatt Hotel. He chooses to use the Carlton Savannah Hotel. He goes elsewhere. I propose to pay him a visit next Tuesday at the Carlton Savannah. His room is 1015, the room he normally stays in, so that we can discuss this Bill and some other matters relevant to the conduct of our parliamentary business.

The very Hilton Hotel is owned by the Government and People of Trinidad and Tobago. That hotel was upgraded in the year 2009 at considerable cost to the State and the hotel today is an upgraded facility, a five-star facility, and one of the premier facilities available to the people of Trinidad and Tobago and to the international community, as we had sought to modernize our country and bring it in line with the circumstances of countries of the First World.

It is clear that the Member for Chaguanas is oblivious to all this. Had he not been, he would not have made the statement to which reference has been made; that the problem which this country has been plagued with until May 2010 was the lack of political will of previous governments to do. They did not have the political will to do. That is what he was saying. The records will show that that government and other PNM Governments before it not only have done, but have done so much that the country could not have been at the stage of development that we have reached today if the assertion of the hon. Member for Chaguanas West was a correct assertion.

There is an education building built on St. Vincent Street, next to the Ministry of Finance, Trinidad House and the Inland Revenue Department. It was a building constructed for the Ministry of Education and the Ministry of Science, Technology and Tertiary Education. It is a new facility. It is not yet occupied by

the Government after 18 months; but it is there. It is a building constructed by the government that preceded them to office and constructed because of the government's determination at the time to provide accommodation for the employees of the State; accommodation of which not only the employees would be proud, but accommodation that is consistent with the accommodation provided in the First World countries of the world. [*Desk thumping*]

As you improve the accommodation of your employees, Mr. Speaker, you improve productivity in the public service and you reduce the significant amount of money spent on rent at this time, using that money instead to purchase facilities that eventually will belong to the people of Trinidad and Tobago. That is why we built Tower D. We also built the government plaza next door.

Mr. Volney: Mr. Speaker, Standing Order 36(1), a point of order.

Mr. Speaker: Hon. Member for San Fernando East, I understand the point you made earlier about the Member for Chaguanas West. He made that point en passant. I would like you not to confine your contribution only to that point. I would like you to make reference to the principles and merits of the Bill. Let us focus on the Bill before this honourable House.

Mr. P. Manning: I do not wish, Mr. Speaker, to get into any conflict with the Speaker today. The statement made by the hon. Member for Chaguanas West was not made en passant. It was a fundamental statement and he went on in the second paragraph to clarify it. He went on to say:

“When I came here first, I used to look at them as ‘do little’, now I look at them as ‘do nothing’.”

A clear and unambiguous statement; not accidentally made, but an integral part of the extensive contribution that was made by the Member for Chaguanas West today and a statement that prudence dictates we do not allow to go unattended. There are 12 of us on this side and different persons are allocated different aspects of the Bill on which to speak. My responsibility today was to deal with all the loose balls that they wish to throw; balls that had nothing at all to do with the Bill, [*Desk thumping*] but which, nonetheless, created an atmosphere and an environment in the minds of those looking on and listening in the national community; an atmosphere and an expression that is completely erroneous.

Dr. Rambachan: Mr. Speaker, a point of order, 36(5). I want to say—

Mr. Speaker: No, no, no. What is your point of order? If you rise, hon. Member, could you rise on the particular point of order?

Dr. Rambachan: Mr. Speaker, I have never—

Hon. Members: No, no, no—

Dr. Rambachan: I have never, Mr. Speaker—

Hon. Members: No, no, no!

Dr. Rambachan:—entered the hotel.

Mr. Speaker: Member, you will have a chance to speak in this debate.

Member for San Fernando East, connect your points. Please, you are going along a particular course in which you are beginning to reflect on the Chair, so I would like you to stay clear. I have made a ruling that I am prepared to allow you to connect your points, so if you can make reference to the Bill and connect your points, I would appreciate it very much. Continue, Member for San Fernando East.

Mr. P. Manning: To use these facilities, you do not require bracelets. [Laughter] You are employees of the State and, therefore, you are free to use the facilities built by the previous administration and now being used extensively by this Government without any bracelets. [Desk thumping] [Laughter] Am I in order now, Mr. Speaker? Thank you very much.

Mr. Speaker, we built the National Academy for the Performing Arts in north Trinidad. [Interruption] And you do not need bracelets to build it. [Interruption]

Mr. Speaker: Please, please, Members, both sides! Allow the Member for San Fernando East to speak in accordance with Standing Order 40(a), (b) and (c).

Mr. P. Manning: Mr. Speaker, it was the very distinguished Member for Mayaro, the Minister of Arts and Multiculturalism, who said that \$80 million worth of repairs were needed by the National Academy for the Performing Arts before it was used.

Mr. Peters: When did I say that?

Hon. Members: [Laughter] What is your point of order?

Mr. Peters: I did not say that. [Crosstalk]

5.30 p.m.

Mr. Speaker: Hon. Members, you can only rise when another Member is speaking either on a point of order at which time the Member will take his seat and you will refer to the point of order, to the Chair, or if you are seeking

elucidation on a point raised by the Member on his legs and the Member is willing to give way—but you cannot rise without making reference to 35(a), point of order, or 35 (b), elucidation, the Member must be willing to give way for you to rise. So I wanted to make that very—is the Member for San Fernando East willing to give way to the Member for Mayaro?

Mr. P. Manning: Mr. Speaker, it is not every day that I speak in this honourable House. [*Desk thumping*] I sit here in silence, I listen to all the contribution of other Members. “I interfere with nobody”. What is the difficulty that hon. Members opposite—[*Interruption*]

Mr. Peters: Because you are not talking the truth.

Mr. P. Manning:—Well then you will have your chance to speak. [*Crosstalk*] The Member for Mayaro, Mr. Speaker, should be the last person to talk about speaking the truth.

Dr. Gopeesingh: 36(5) a point of order.

Mr. Speaker: Please, please, please! Member for San Fernando East, you are a very experienced Member of Parliament.

Hon Member: Show it!

Mr. Speaker: You are imputing improper motives and I would like you to focus on the issue and do not focus on Members or personalities. That is going to get us in trouble. I am not permitting that in this Chamber. Focus on the issues and not personalities or Members’ conduct or character. Please.

Mr. P. Manning: Mr. Speaker, I understand the Standing Orders very well indeed. As I speak here the hon. Member for Mayaro believes that his responsibility is to try to interfere with me. I could tell you, I could deal with him. I have said that but, of course, I prefer not to have to do that, but if I am called upon to do I will. So I just want him to know that.

Hon Member: Gun talk boy. ‘Wild, wild west’.

Hon. Member: Wild, wild East!

Mr. P. Manning: Now we can proceed. Mr. Speaker, there is also a National Academy for the Performing Arts in San Fernando. It is about to be concluded. It is a facility that is outstanding in the southern city. An outstanding facility. There is none other like it. [*Desk thumping*] Mr. Speaker, both of those together and together with other interventions constitute a major set of interventions in art and culture. That is why I referred to the Member for Mayaro. Major intervention in

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the field of art and culture that is unprecedented in the history of the Republic of Trinidad and Tobago. [*Desk thumping*] Yet in the face of all of that, on a Bill that had to do with the national security of the country, and in which the Member for Chaguanas West was totally and absolutely irrelevant, he comes and makes the assertion before this honourable House that the government that preceded them in office did nothing. So he said. That is what he said.

Mr. Speaker, the Churchill Roosevelt—and he is the Minister of Works. The Churchill Roosevelt Highway was expanded to three lanes in that time. Mr. Speaker, the overpass going south along the CR Highway to San Fernando was constructed in that period. He knows it. [*Desk thumping*]

Mr. Speaker, the overpass at Aranguez was also constructed in that period of time, yet the Minister of Works who knows all about this comes to the Parliament and seeks to give the impression that the government that preceded him in office did nothing. Nothing could be further from the truth! [*Desk thumping*] Totally and absolutely irrelevant to the matter before the Parliament today!

Had the Member for Chaguanas West followed the fundamental rules and principles of debate in this honourable House I would not have had to intervene in this debate this afternoon. [*Desk thumping*] I would not have had to intervene.

The Point Lisas Industrial Estate does not employ people at this time who have bracelets on their feet. Would you employ them? There is no need for that because it is the premier industrial estate in the Western hemisphere—[*Desk thumping*—built by a PNM government of the Republic of Trinidad and Tobago. There are 11 ammonia plants.

Dr. Douglas: We are still living in fear.

Mr. P. Manning: There are about eight methanol plants now. There is urea, there is a huge power station; all built by the PNM and government of which I have been a part. I came to the Parliament before there was any Point Lisas. Therefore, I was a part of all those decisions—[*Interruption*]

Mr. Volney: Mr. Speaker, I rise on 36(1).

Mr. Speaker: Member for San Fernando East, that point is sustained. I call on you to get to Bill please. [*Crosstalk*]

Hon Members: But he is connecting.

Mr. P. Manning: Mr. Speaker, I have been seeking to connect what I had been saying to the matter before the Parliament. This is the Bill—

Mr. Speaker: Members, Members, please!

Mr. P. Manning:—an Act to make provision for the implementation of a system for electronic monitoring in Trinidad and Tobago—[*Desk thumping*]*—*and for related matters.

Mr. Speaker, the material that they are going to use to make bracelets is iron and steel. [*Laughter*] [*Desk thumping*] Sustained or overruled? The iron and steel complex at Point Lisas is just one of a huge number of plants and, in fact, if they do things right they would not have to import any materials for the bracelets they are going to make. [*Laughter*]

Union Industrial Estate, Mr. Speaker, a power plant with a capacity of 765 megawatts of electricity right now, unutilized. Some of the power could be utilized to make the bracelets that you intend to use. It could be utilized for that purpose.

Mr. Speaker, the University of Trinidad and Tobago—where I am sure there is going to be a faculty of—[*Interruption*]

Hon. Member: Iron and steel.

Mr. P. Manning: Not iron and steel. A faculty that deals with national security and matters of that nature, in which research will be done in matters that are designed to improve the security of the citizens of our country, including the security of prisoners, not excluding bracelets and the like. At the University of Trinidad and Tobago, a lot of faculties have been opened—it is a new institution—and it has created, with its technological orientation, a lot of opportunities for a lot of citizens of Trinidad and Tobago who, under normal circumstances, would not have had access to tertiary education; the University of Trinidad and Tobago.

Mr. Speaker, yet we are being told that the government did nothing. Totally incorrect! We should also say that with the University of Trinidad and Tobago and the free tertiary education that went with it, we targeted 60 per cent of the graduates of the secondary school system having access and utilizing tertiary education by 2015. By the time we left office on the date given, by the Member for Chaguanas West, which was May 24, 2010, by that date, we had achieved 45 per cent plus of our secondary school graduates exposing themselves to tertiary education. Yet for all of that, the Member for Chaguanas West in a contribution that was garrulous and loud, accused us of doing nothing. At the end of the day, that contribution turned to be one full of sound and fury and signified absolutely nothing.

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Mr. Speaker, I could go on and on and on. The lighting system—\$626 million on street lights.

Mr. Peters: Brian Lara Stadium.

Mr. P. Manning: The street lighting programme was designed to give our citizens a higher measure of security by illuminating the environment in the entire country and ensuring that there is a minimum of crime in the country, to the extent that that particular mechanism can reduce crime, in the instant case before us, negating the use—by so many other citizens—of bracelets to ensuring what they are doing and where they are going and so on. We could go on.

The water taxi—not to mention our intervention in crime that involved the radar system—

Miss Hospedales: The OPV.

Mr. P. Manning: You see? The radar system, the legislation, the 14 interceptors, the six fast patrol craft, the two C-26 aircraft, the four armed helicopters, the three OPVs that they have cancelled; all of which—

Mr. Volney: Thank you. I will continue to rise.

Mr. Speaker: Member for San Fernando East, I appeal to you, just connect your point. Make reference to the Bill or some clause. You are going all over the place. If you can come back and focus on the Bill, I will appreciate that. Continue, hon. Member.

Mr. P. Manning: Mr. Speaker, what I am saying is this; that because of that intervention that we made, the intention was to expose our people to such levels of security in the country that will negate the need for other mechanisms in respect of crime, in particular, the mechanism that is before the House today where prisoners would have to be exposed to the use of bracelets to track them and to provide high levels of security for the people of Trinidad and Tobago.

I could go on and on and on—dredging of watercourses. Four hundred buses we bought. [*Crosstalk*] I have not talked about the economic management of Trinidad and Tobago. [*Desk thumping*] I am waiting—and I would put them on notice—for the next one of them who comes with a loose ball before this Parliament and then we will deal with the economic management of Trinidad and Tobago. We would be able to say then—and I am making this point en passant—that in the last quarter of 1991 when I became Prime Minister of Trinidad and Tobago, the unemployment rate in the country was 20.3 per cent, and when I left

office in 1995 it was 16.4 per cent. As a result of the actions that we took, the effects were continued, when we got back into office it was 12 per cent, and before we left office we had reduced it to 3.8 per cent complete—[*Desk thumping*] And it has gone back up so high, that to this day, none of the hon. Members opposite—and I dare them to do it in this Bill—will tell us what the true unemployment figure—[*Inaudible*] [*Desk thumping*] None will do it. [*Crosstalk*]

Mr. Speaker, while the hon. Member for Chaguanas West talked about what we did not do, and while I have been spending some time this afternoon on what we did, I think I have to agree with the very distinguished Member for Chaguanas West, that indeed there are things we did not do. He is absolutely right when he said that there are things that we did not do.

One of the things that we did not do is mortgage the sovereignty of Trinidad and Tobago on the altar of the foreign policy of a state outside of our borders. We did no such thing! [*Desk thumping*] We did no such thing! [*Desk thumping*]

5.45p.m.

The very Hilton Hotel to which reference was made earlier on, is a facility owned by the Government of Trinidad and Tobago. In fact, when it was being upgraded, at one stage, we contemplated putting prisoners to build it, because we were short on time, and we thought that was one option that we had to consider. We considered it, and we did not use it, Mr. Speaker. I suppose there were some security reasons involved in it. Had the prisoners had bracelets, I suppose we might have been able to use them.

Mr. Speaker, it is important that I clarify this position because, you see, the Government of Trinidad and Tobago—I was the Prime Minister at the Caricom Cuba Summit in Santiago de Cuba in 2008, who volunteered Trinidad and Tobago as the site for the next meeting. [*Desk thumping*] I did that. [*Desk thumping*] I did not do it so that we could invite a foreign head of state to Trinidad and Tobago to insult him. [*Desk thumping*] I did not do it for that purpose. [*Desk thumping*] I did not do it. I did not do it for that purpose. Mr. Speaker, we are a sovereign independent state.

Dr. Moonilal: Mr. Speaker, on a point of order, please. We are now begging, Standing Order 36(1). I mean, come on, please.

Mr. Speaker: What is the point of order, Member?

Dr. Moonilal: Always Standing Order 36(1).

Mr. Speaker: Hon Member for San Fernando East, again, I would like to sustain that point of order, and I urge you again to just focus on the Bill and refer to the clauses or the merits or principles of the Bill, please.

Mr. P. Manning: Mr. Speaker, as I make reference to sovereignty, it is important in the context of this Bill, because it is the sovereignty of Trinidad and Tobago that allows us to take what measures we consider appropriate in any and all aspects of national development including, Mr. Speaker, the security of our citizens, and including the way that we will treat with prisoners and persons who have run afoul of the law.

Mrs. Gopee-Scoon: That is right, on track.

Mr. P. Manning: So, Mr. Speaker, it is important that we put this into the record, because the hotel is owned by the Government of Trinidad and Tobago. It is operated by a foreign operator, and if the Government gives an instruction—

Mr. Speaker: Member, I have ruled. I have sustained the point. You cannot reopen a point that I have sustained, you move on. Please connect the dots, and refer to the Bill, please.

Mr. P. Manning: Mr. Speaker, in bringing that aspect of the discussion to a close, I just want to make this point.

Mr. Speaker: Member, no closure. I have ruled, move on.

Mr. P. Manning: Mr. Speaker, the security of Trinidad and Tobago is a matter that has been of concern to all of us, including hon. Members on this side. When the Government comes to the Parliament with a Bill, it does not mean to say that because we are concerned about national security that we are prepared to lend support to whatever they bring. That could never be so. The Opposition has a different role. The role of the Opposition is to hold the Government to account and to show the other side and, therefore, as irrelevant as hon. Members opposite would like to consider it, our responsibility is to expose the other side of the story to the national community, so that the national community, on hearing both sides of the story, would be in a much better position to decide what they will support and will not support. [*Desk thumping*]

Mr. Speaker, I would like to urge hon. Members opposite that when they come before this Parliament in future—[*Crosstalk*]

Mr. Speaker: Please, Member.

Mr. P. Manning:—and when they are contributing to debates, that they ought to keep their contributions tight and stick to the point. [*Laughter*]

Mr. Speaker: Member, if you wish to meet with me in my Chamber to discuss matters, I have no problem. I think you are bordering again on reflection. The Chair will make a determination on relevance or irrelevance. So, I am asking you to move on, please. Do not refer to Members' contributions or relevance of their contributions. Only the Chair does that please, not you.

Hon. Member: Move on!

Mr. P. Manning: Mr. Speaker, all I am doing is expressing an opinion. Now, I am not in any way contradicting the Chair, it was an opinion. [*Crosstalk*] Yes, fine! So all I am saying, therefore, is that there is a way to conduct our business in this honourable House and there is a way it ought not to be conducted.

Mr. Speaker, I would like to congratulate the very distinguished Opposition Chief Whip for her contribution in this debate. [*Desk thumping*]

Dr. Moonilal: Oh yes, not Imbert. [*Laughter*]

Mr. P. Manning: We started off as an Opposition—

Mr. Speaker: Please, Members, allow the Member to speak, please.

Mr. P. Manning:—inexperienced, but with the effluxion of time, not only are we becoming more and more experienced in parliamentary debating, but we are doing it to the detriment of the political careers of hon. Members opposite. [*Desk thumping*]

Mr. Speaker, I need hardly make reference to my colleague, the Member for Diego Martin North/East. He is now an experienced parliamentarian and doing extremely well in his contributions in this honourable House and, therefore, I would like to congratulate him too before I take my seat.

Mr. Peters: I congratulate you, you call elections.

Mr. P. Manning: Mr. Speaker, the points that have been made by hon. Members on our side, are points that I, too, would like to commend for the consideration of hon. Members opposite before this Bill is finally determined. Thank you very much. [*Desk thumping*]

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, it is a pleasure for me to join this debate, at this point in time. Mr. Speaker, we have, of course, listened to colleagues opposite on this

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matter. I want to begin by joining all my colleagues in congratulating the Member of Parliament for St. Joseph, and very distinguished Minister of Justice [*Desk thumping*] on what is yet another path-breaking legislative landmark.

You would recall, Mr. Speaker, in the first session of this Parliament, we brought legislation to deal with the interception of communications. We brought legislation, and we were soundly advised by Members opposite and we were aided and abetted to pass legislation on anti-gang issues. We brought legislation to deal with human trafficking, and in this second session we are extremely gratified that the Member for St. Joseph came with rapid fire and brought with him the DNA Bill, the Administration of Justice (Indictable Proceedings) Bill, now the Administration of Justice (Electronic Monitoring) Bill and, in the other place, the Legal Aid (Amdt.) Bill. Mr. Speaker, it was rapid fire from this Minister, and we are extremely proud of him that we promised to bring path-breaking legislation and we did. In all fairness, Members opposite have, indeed, supported us on several measures, and they have not supported on several measures, which is their right.

On the particular measure before us, Members opposite, including the Member for Diego Martin North/East, the Member for Port of Spain South—the Member for San Fernando East had another perspective; I imagine that was another course—did raise some pertinent issues for us to consider. While not all the issues raised by Members opposite, the Government can entertain them at this time, there are two issues I would deal with very briefly, which we believe we can look at. I want to indicate that it was our intention earlier to suspend the debate on this matter to consider carefully some of the suggestions of Members but, Mr. Speaker, we dare not suspend this debate when the Member for San Fernando East took the floor, because we had a sense that had we done that, it would have triggered about 25 press conferences at the GTM Building in San Fernando. [*Laughter*] So, we thought it was really best for my representative who has not been as vocal on my behalf here [*Laughter and desk thumping*] as I would prefer—he has not been as vocal in representing me over the last 18 months or so—but, Mr. Speaker, like you, I waited with bated breath to hear my representative.

Hon. Member: He walked out.

Hon. Dr. R. Moonilal: I was terribly disappointed that no issues were raised pertinent to the Bill, but neither issues pertinent to my fellow constituents in San Fernando East. So, Mr. Speaker, there were two issues really; one had to do with the role and function of the unit, vis-a-vis the specific responsibilities of the

manager. I gather from Members opposite that they had a problem there, that it may appear disjunctive somewhat, the responsibilities of the unit vis-a-vis that of the electronic manager. That is a matter that we are prepared to look at.

The other issue had to do with the recruitment of persons who may require technical knowledge and scientific knowledge in certain fields, both in human resource management, but also related to issues of technology and technical training. It may well be that we will want to consider whether or not such qualifications may also form part of the Bill, or may also be prescribed by regulations, but it is another matter that we thought the Member for Port of Spain South and, indeed, the Member for Diego Martin North/East raised. As I said, the Member for San Fernando East did not trouble us too much with the Bill, but he was reflecting really on, I think, an earlier contribution from the Member for Chaguanas West. Mr. Speaker, we understand that in the context of his own journey to return to a place that he left. So, one prefers not to deal with that here. I think that is a matter for Balisier House and GTM Building.

Mr. Speaker, the electronic monitoring legislation before us, in case my friend, the Member for Point Fortin may have missed this, electronic monitoring is an innovative and creative piece of legislation, and it is something that the Government supports and commends to the House. We also took note of the pattern of Members, not Members, but specifically the Member for Diego Martin North/East, who carried an argument to suggest that this matter could have a lot of problems in terms of the technology; the dispersion of the technology and the adaptation to geography. We believe that given the technological advancement in this area and in every area, geography is not destiny, so that there are technical solutions to some of the problems that the Member may have raised.

While all over the world you have the introduction of this mechanism and others, there will always be technical challenges, but we are confident that, like elsewhere, we will find the relevant solutions. [*Crosstalk*] Mr. Speaker, I mean, I am not sure about which mountain we are talking about in Trinidad and what house, and who is living on top of whom that they are talking about, but there are challenges that could be met. Mr. Speaker, this measure is a critical measure for the Government in fighting crime.

Today, the Minister of National Security addressed the House and the country, and gave a critical statement coming on the end of the state of emergency, and he pointed to the fact that we have seized \$2 billion worth in drugs, 183 weapons and

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13,000 rounds of ammunition. Thirteen thousand rounds! Mr. Speaker, one bullet could kill one man or a woman. That is 13,000 lives which may have been saved, including which is most unconscionable, the lives of the constituents of Members opposite.

6.00 p.m.

Where is the care, where is the compassion, where is the concern that a measure implemented by the Member of Siparia and her Government, led to lives being saved? I looked forward, Mr. Speaker, to my colleagues opposite for the compassion, the care, and there was none. Mr. Speaker, I want to say that it is a fascinating development that came out the state of emergency. Before, we knew that the society over the last 10 years, had reached a point where there was a small, a low value on life, so that the loss of life—when you get up every day and you look at the newspapers; five killed last evening, six people died, 11 in one day. Society had reached a cynical point where you did not have that care for the loss of life. But you know what had happened? At the end, our friends opposite demonstrated a lack of care for saving lives, not losing lives and that, Mr. Speaker, was most revealing, most revealing, that when you saved a life there was no care either, and when you lost a life there was no care either.

Mr. Speaker, the Minister of National Security spoke to the nation today but this piece of legislation, and the others, is part of our arsenal, part of our approach to dealing with the society to returning to relatively low crime rates in the aftermath of the state of emergency. We began a legislative assault on crime, and this is a fundamental part of that assault, to ensure that this measure will lead to the protection of our citizens.

The Member of Diego Martin North/East made the point; he said, well, somebody could be wearing this bracelet on their ankle and they might be in a building and committing the crime, and you are right. But the purpose of this is not only that issue of committing the crime on the spot but the location, the whereabouts, protecting persons who may already have been victims of an individual.

So that there is purpose to this and, Mr. Speaker, this is not the only piece of legislation. When you marry this with the Administration of Justice Bill, the new DNA Bill; Mr. Speaker, when you look at the Interception of Communications Act now, when you put all of that together, we believe that the security forces and the police will be fully armed, as best as they can, and as best as we can get them armed, to deal with the criminal elements.

Mr. Speaker, if this would have led to saving one life, as the Minister said—one life—we can save one victim then all of us would have had a purpose in the

Parliament. But, Mr. Speaker, what do we get from the other side? Some muttering, some rumbling, you know, and the care is what we are not finding. So, Mr. Speaker, the Member wanted to just raise a point, I will just allow him for a brief moment.

Hon. Member: He again?

Hon. Member: A short one, very brief.

Mr. Imbert: Thank you, hon. Minister, for giving way. If the Government is in fact going to consider some of the recommendations made by Members on this side, there are two recommendations that you, hon. Member, has not referred to, namely, the question as to whether we should spell out in our legislation, conditions for bail on attachment of the anklet as is the case in the United Kingdom, that is one; and two, whether there should be a pilot programme to determine the general application of this technology. Just those two, I thought I would bring them up.

Hon. Dr. R. Moonilal: The Prime Minister also—

Mrs. Persad-Bissessar: Thank you very much, hon. Members. We have listened to the debate and we have heard some of your concerns. This is a very important piece of legislation, as the Minister has pointed out, for crime fighting, and therefore, it is our intention to suspend the debate and look at the recommendations that you have made, and we will come back on another occasion. [*Desk thumping*]

Dr. Rowley: Mr. Speaker, while I appreciate the intervention of the hon. Prime Minister who will indicate that we will suspend, I hope it does not mean that we will suspend now; now that the Member for Oropouche East has opened the debate on the state of the emergency which I propose to join.

Hon. Dr. R. Moonilal: Anyone else? Mr. Speaker, to reiterate the point, we are considering the issues. The suspension of a debate on this matter does not end the debate. All Members will have an opportunity to speak. As I have said before it was our intention to end earlier—to suspend the debate earlier, but the Member for San Fernando East, many of us in all honesty and in fairness, when he stood we really expected him to speak some—

Hon. Member: Relevance.

Hon. Dr. R. Moonilal:—we expected that there would be some profound contribution on the Bill. So we were led—so were misled, and then at every material time we wanted to suspend we anticipated there would be some point.

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And Mr. Speaker, it was regrettable and very sad that someone who would have spent, I think, 40 years or so in the House would have reduced himself, you know, to something that, I not sure we are all proud of. [*Interruption*]

Mr. Speaker: Please, please!

Hon. Dr. R. Moonilal: So, Mr. Speaker, it is with a great deal of respect for the Member for San Fernando East, you know, but I imagine that in future debates he may well have some profound contributions to make.

Hon. Member: Move to adjourn.

Hon. R. Moonilal: Mr. Speaker, on that note I would like at this moment without concluding my contribution, I would like to move pursuant to Standing Order 37(3) that debate on this Bill before us be adjourned at this time, and continued on another date, and, Mr. Speaker, there are a couple matters before the House, we would like to proceed with that. Mr. Speaker, I thank you.

Mr. Speaker: Mr. Speaker, in accordance with Standing Order 37(3) a Motion is before the floor to have this debate on this Bill adjourned to a future date.

Question put and agreed to.

**ADMINISTRATION OF JUSTICE
(INDICTABLE PROCEEDINGS) BILL, 2011**

Senate Amendments

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

That the Senate amendments to the Administration of Justice (Indictable Proceedings) Bill, 2011 listed in the Appendix, be considered.

Question proposed.

Question put and agreed.

Mr. Speaker: Before I call on the hon. Minister to begin, may I, with your concurrence, propose that we take these clauses in groups of five because there are some 20 clauses thereabout, and rather than go clause by clause we do them in blocks, in groups. Do I have the concurrence of the floor?

Assent indicated.

Mr. Speaker: Agreed.

Senate amendments read as follows:

Clause 3.

In subclause (1):

- (i) In the definition of the word “Master”, delete the words “appointed to conduct proceedings under this Act”.
- (ii) In the definition of the word “prosecutor”, insert the words “or, in the case of the private prosecution of an offence, the person prosecuting that offence” after the word “instructions” at the end.

Clause 5. In subclause (2), delete the words “a Sunday” occurring after the words “executed on” and substitute the words “any day”.

Clause 6. A. In subclause (1):

- (i) In line 3, delete the words “a person (hereinafter referred to as “the accused””, and substitute the words “an accused”.
 - (ii) In the last line, delete the words “that person” occurring after the words “before him of” and substitute the words “the accused”.
- B. In subclause (3) line 4, delete the words “that person” occurring after the words “before him of” and substitute the words “the accused”.

Clause 7. Renumber subclause (6) as subclause (8) and insert after subclause (5), the following subclauses:

“(6) A Master may, if he thinks fit, with the consent of the parties, proceed with a matter notwithstanding that the period referred to in subsection (5) has not elapsed.

(7) A Master may, if he thinks fit, issue a summons directing an accused to appear forthwith in cases where the accused is likely to leave Trinidad and Tobago.”

Clause 8. A. In subclause (2) line 2, delete the words “including a Sunday” and substitute the words “and on any day”.

B. In subclause (5) line 2, insert after the words “a Master may,” the words “if he thinks fit,”.

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

Mr. Speaker: Yes, you need to give a little explanation on those matters.

Mr. Volney: Well, Mr. Speaker—

Mr. Speaker: Brief.

Mr. Volney:—there is no better way of explaining than in words that are very clear, and in the amendments those words are very clear to the intention and purport of the amendments.

Hon. Member: Well said.

Mr. Volney: I, accordingly, Mr. Speaker, I beg to move.

Mr. Roberts: “You is a boss!”

Question proposed.

Mr. Imbert: Notwithstanding the fact that the Minister has explained nothing, I would like the Minister to explain the intent of the amendment to clause 7 which is as follows:

“(6) A Master may, if he thinks fit, with the consent of the parties, proceed with a matter notwithstanding that the period referred to in subsection (5) has not elapsed.”

Now if you go to subsection (5) of the clause, Mr. Speaker, it says:

“A summons shall be served on the accused not less than 48 hours before the time mentioned in the summons for the appearance of the accused.”

Why is the Government removing that 48-hour period of notice from an accused person, and why is a Master being given the power to proceed with a matter if the time has not elapsed?

Mr. Speaker: Any further contributions, Hon. Minister of Justice?

Mr. Volney: Well, Mr. Speaker, the matter was debated at length in the Upper House and with the contributions of the eminent Senior Counsel, who is well versed in the law, the hon. Attorney General and the collective wisdom of the Upper House, it was decided that the 48 hours should go, and in its place should be the clause as is amended. I beg to move accordingly.

Question put and agreed to.

Senate amendments read as follows:

Clause 9. A. In subclause (1), delete the word “arrest” and substitute the word “apprehension”.

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- B. In subclause (2)(b), delete the word “found” and substitute the word “bound”.
- C. In subclause (3), delete the word “arrested” and substitute the word “apprehended”.

Clause 11 (A) In subclause (2):

- (i) delete the word “At” and insert the words “Subject to the Rules, at” before the words “an initial hearing”.
 - (ii) In subparagraph (a):
 - (a) Line 1, delete the word “accused’s” occurring after the words “verify the”;
 - (b) Add the words “of the accused” after the word “information” in the last line.
 - (iii) In subparagraph (b)(iii):
 - (a) In line 3, delete the word “accused’s” occurring after the words “record the”.
 - (b) Delete the words “of legal representation” after the word “refusal”.
 - (iv) In subparagraph (c)(i), after the word “charge” insert the words “and providing a copy of the charge to the accused”.
- (B) In subclause (5), delete the words “either party” and substitute the words “the applicant”.

6.15 p.m.

Clause 13.

In subclause (1) delete the words “forty-eight hours” and substitute the words “five days”.

Clause 14.

In subclause (1) line 2, insert the word “an” before the word “alibi”.

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Clause 19.

- A. In subclause (4)(a), delete the words “apply for legal aid” and substitute the words “make an order for legal aid to be granted within three weeks”.
- B. In subclause (4)(b):
 - (i) In line 2, delete the word “accused’s” occurring after the words “made of the” and delete the words “of legal representation” after the word “refusal”.
- C. In subclause (5):
 - (i) In line 2, delete the words “accused proves to the Master” and substitute the words “Master is satisfied”.
 - (ii) In subclause (5)(b) line 1, insert the words “as to” before the word “any”.
- D. Renumber subclause (6) as subclause (8).
- E. Insert after subclause (5), the following new subclauses:
 - “(6) A Master may—
 - (a) if he considers it expedient to do so; or
 - (b) at the request of the accused and in the interest of justice, adjourn an initial hearing to a certain date, time and place.
 - (7) Unless the accused and the prosecutor consent, an adjournment shall not be longer than twenty-eight clear days, but where no court is to be held within the twenty-eight days, then the adjournment may be fixed for the next day on which the Master holds court at the place where the order is made.”

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

These changes are largely cosmetic and to make better use of English, and accordingly, the Senators felt that the Bill, as amended, would make for easier reading, including for the Member for Diego Martin North/East.

Question proposed.

Mr. Imbert: Mr. Speaker, I am shocked. [*Crosstalk*] It is obvious that the Minister is not prepared. [*Interruption*] He has no notes, he has not read the amendments, he cannot explain any of them, [*Interruption*] but notwithstanding that fact, and it is a fact, I would ask the Minister to explain the amendment to clause 13, because, Mr. Speaker, we, in this House, and I, in particular, had objected to clause 13, which is the clause dealing with the very short time period given to persons to call alibi witnesses, of 48 hours.

The Minister told me that you need to do it quickly because it would be fresh in the person's memory and that is why the 48 hours was required. The Minister also told me that in the olden days you could spend a year, two years and so on, but now, in modern times you cannot give the accused person all of this time and, Mr. Speaker, I had suggested seven days. The Minister flatly rejected my suggestion. [*Interruption*] Now I see without any explanation whatsoever and with an allegation that this is a cosmetic change, that the time is now changed from 48 hours to five days. Could the Minister please explain what has happened [*Desk thumping*] within the last couple weeks, so that now with accused persons, the memory ability, the powers of recollection of accused persons have now improved so that we can now go from two days to five days? I was listening to the arguments of the Minister on the last occasion. He told us that 48 hours is more than enough time. If you give them enough time they would start to invent witnesses and make up stories. Could the Minister explain why he has gone from two days to five days in clause 13? [*Interruption*]

Mr. Volney: Mr. Speaker, first, this particular amendment engaged a lot of celebration by Senators. We looked at the argument for the 48 hours and what was pivotal—[*Interruption*—if the echo from the Member for Diego Martin North/East does stop please.

Mr. Speaker, what was felt in the other place, was that sometimes a person is picked up by law enforcement, not within recent time of the commission of the offence, but some considerable time thereafter, and in order to give him, on balance, sufficient time to be able to recollect, but insufficient time to be able to create a false alibi of any credibility, the figure, in terms of time, should be from the 48-hour mark to the five-day mark. That was the consensus of not only those on this side of the Senate, but the Independents, and as far as I recall every single Member of the Opposition party in the Upper House. So, I do not understand why it is that the Member—perhaps that side does not keep a caucus so that he would know what the position of the Opposition is —

Dr. Rowley: Speak for yourself!

Mr. Volney:—in the Senate, because they adopted a certain position which is in the amendments for which they voted.

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

Mr. Speaker: Hon. Members, may I have your attention and silence.

Question put and agreed to.

Senate amendments read as follows:

Clause 21.

In subclause (8) line 2, insert the words “a Coroner,” after the word “before”.

Clause 24.

A. Delete subclauses (6) and (7) and substitute the following subclauses:

“(6) An application under subsection (4) shall be made *ex parte* and within three months of the receipt of the documents under that subsection.

(7) Where an application is made under subsection (4), the Judge shall

(a) fix a date for the *inter partes* hearing of the application; and

(b) order that a copy of the application be served on the accused, and the Judge may issue a summons or warrant to compel the appearance of the accused at the hearing.”

(8) An accused who is apprehended pursuant to a warrant under subsection (7) shall be committed to prison until he is discharged in due course of law or granted bail.

(9) At a hearing referred to in subsection (7), where the Judge is of the opinion that the evidence as given before the Master was sufficient to put the accused on trial, the Judge shall order that the accused be put on trial and the accused shall be further prosecuted in the like manner as if he had been put on trial by the Master by whom he was discharged.”.

B. Renumber subclauses (8) and (9) as sub-clauses (10) and (11).

Clause 31.

- A. Renumber subclause (2) as subclause (3).
- B. Insert after subclause (1), the following subclause:
 “(2) Nothing in this section shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the Master.”

Clause 34.

Delete and substitute the following clause:

“Discharge on the grounds of delay 34. (1) Where proceedings are instituted on or after the coming into force of this Act and the Master is not, within twelve months after the proceedings are instituted, in a position to order that the accused be put on trial, the Master shall discharge the accused and a verdict of not guilty shall be recorded.

Schedule 6

- (2) Except—
 - (a) in the case of matters listed in Schedule 6; or
 - (b) where the accused has evaded the process of the Court,
 after the expiration of ten years from the date on which an offence is alleged to have been committed—
 - (c) no proceedings shall be instituted for that offence; or
 - (d) no trial shall commence in respect of that offence.
- (3) Except—

- (a) in the case of matters listed in Schedule 6; or
- (b) where the accused has evaded the process of the Court,

where—

- (c) proceedings have been instituted;
- (d) an accused is committed to stand trial; or
- (e) an order is made to put an accused on trial,

whether before or after the commencement of this Act, a Judge shall, on an application by the accused, discharge the accused and record a verdict of not guilty if the offence is alleged to have been committed on a date that is ten years or more before the date of the application.”.

Schedule 6.

Delete item 7 and renumber item 8 as item 7.

Schedule 7.

Delete the words “, take” after the word “Taken”.

Mr. Volney: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendments.

Mr. Speaker, these matters were discussed at great length in the Upper House. I wish to point out in relation to clause 34, that Schedule 6, the offences that are protected would be treason, offences against the person, namely, murder; conspiring or soliciting to commit murder; manslaughter; shooting or wounding with intent to do grievous bodily harm; unlawful wounding; assault occasioning bodily harm; offences involving kidnapping, including kidnapping for ransom; offences of a sexual nature: that is, rape, grievous sexual assault, sexual intercourse with a female under 14, sexual intercourse with a female between 14 and 16, sexual intercourse with a male under 16, incest, sexual intercourse with adopted minors, sexual intercourse with minor employee, buggery, drug trafficking, namely: trafficking in a dangerous drug, possession of a dangerous

drug for the purpose of trafficking, unlawful possession of a firearm or ammunition. The amendment here was that we remove the offences under the Anti-Gang Act and renumber 8 to be 7, which is “Attempts to commit offences identified in items 1 to 4.”

6.30 p.m.

That part of the proposed amendments as it relates to the time frame—that is clause 24—really is intended to deal with situations where a “Master” having heard or considered the evidence, the statements and the documentary evidence, and having taken the decision to discharge someone, if the Director of Public Prosecutions who is central to this Act and who plays a most pivotal part in it, if he decides that he disagrees with the decision of the master to discharge, he does not, as had been earlier passed in this House, institute an *inter partes* application. Because what it means is if you serve the person who is being discharged, he may go into automatic flight; the risk of flight. And so it was important at the request of the DPP and those involved in the process of the prosecution, it was decided that the application to trigger it would be *ex parte*, to get the person by warrant or summons, bring him in and then start the *inter partes* application. So the person would be in custody while the lawyers proceed to argue on the merits or demerits before a judge of the High court—no longer a master; before a judge of a high court, to determine whether the person should in fact have been in the first place put to trial by judge and a jury.

So these are the changes that have been made in the Senate after much debate that took us well into the night. And, accordingly, Mr. Speaker, I beg to move.

Mr. Speaker: Let me just indicate that this House is an independent House and no matter how long debates may take place in the other House, when we come here we must give an explanation to this House point by point. So even though the Senate may have taken a long period, this House needs explanations. Okay?

Hon. Member: Thank you, Sir.

Question proposed.

Mr. Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. Mr. Speaker, you have made the point I was about to make, but it is worth repeating. It is entirely inappropriate and out of order—[*Crosstalk*] Mr. Speaker, could you quieten down front and back.

Mr. Speaker: Member for Fyzabad, yes. Continue, Member, you have my protection.

Mr. Imbert: Mr. Speaker, he is still carrying on, you know.

Mr. Speaker: Member, please allow the Member for Diego Martin North/East to speak in silence. Go ahead, Member.

Mr. Imbert: Thank you, Mr. Speaker. The point is, it is entirely out of order, inappropriate and it cannot be—would you be quiet? And it cannot be put down to newness for a Minister to come here to pilot amendments and tell us by way of explanation that it was debated at length in the other place. That is arrogance of the highest and it is discourtesy to the House of Representatives—disrespect. [*Desk thumping*] It is disrespect, and you are being very kind to the hon. Member, Mr. Speaker.

The point is the Minister has not explained the rationale, the philosophy behind the amendments in general and this one in particular. I would like the Minister to tell us why in the original Bill it was felt appropriate that if somebody has been discharged; they have gone through the whole trauma of a sufficiency hearing; they have been brought before the court; they have been accused of a heinous crime and a sufficiency hearing has been held and the evidence presented to the master was found to be insufficient to form the basis for a *prima facie* case—in the previous Bill if somebody had been released because the prosecution could not make a case, there was a requirement that if the DPP was of the view that that person should be brought back to face the court again, there would be *inter partes* hearing.

Now, that is an important natural justice provision. Because if I have been accused of a crime and I have gone before a judicial officer of the court, and all sorts of evidence has been put in against me, accusing me of committing a heinous crime, but the prosecution has failed to make a case, why should I not have the benefit of an *inter partes* hearing where I can face my accuser in a joint hearing rather than in the dead of the night, at six clock on a Friday night, somebody will go before the court in an *ex parte* environment without my presence and be able to have a warrant issued for my arrest and I am remanded to custody until the hearing is held again? It needs to be explained.

In the previous legislation the *inter partes* provision was a good natural justice provision, because you are actually trying the person twice. The person has been brought before the court and found not guilty or the master has found that insufficient evidence has been brought to make a case, and you let me go and then you bring me back again, and you bring me back again, not where I can face my accuser and respond, but behind my back. I would like the Minister to explain why. Now, the DPP may have very good reasons, but the Minister has not told us

what these reasons are. So we on this side would like you to explain why that fundamental shift from *inter partes* to *ex parte*. That is one.

The second thing is, when we look at clause 31 you are now introducing a form of protection for the media with respect to the publication and reproduction of matters that may be raised in a sufficiency hearing. This amendment indicates that:

“Nothing in this section shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings...”

Now, again, Mr. Speaker, the Minister did not touch on this at all. If in the past when we were in this House before, the Government was of the view that the publication of the proceedings of a sufficiency hearing was such a grave offence that it was punishable by \$250,000 fine and five years imprisonment, if in the past that was your view, and even when the Opposition asked for the fine to be reduced to \$100,000, you insisted that it be \$150,000, now you are saying that the press can publish the pleadings; the transcript; the evidence and the other documents in use in a sufficiency hearing? I would like the Minister to explain why, because it is precisely that that previous clause was drafted to address the whole question of publishing evidence which may not be truthful evidence and publishing pleadings which may be very damaging to persons. That was precisely what the previous clause was intended to address.

I would like the Minister to research the decisions of the Caribbean Court of Justice and research in particular decisions made by Justice Nelson, also in our jurisdiction, because as far as I am aware there is a general prohibition on the publication of pleadings; before a matter has proceeded, there is a general prohibition. And in fact the Judiciary has instituted rules very recently, where the pleadings are only available to the parties and not to a third party. So I would like the Minister to look at that very carefully because I am not certain that the Government has thought this through. I am of the view that they are not clear on what they want to do. I do not see why the media should be allowed to publish pleadings in a matter of this nature before the matter goes to trial. I would like the Government to reconsider that, because these are very serious matters—because these pleadings could have all sorts of adverse allegations in them.

The final point—again the Minister has not addressed this at all—it is clause 34. In the previous legislation that was before us on the previous occasion, the question of the time limit and this was a matter of some debate between myself and the Prime Minister where we had dealt—this is clause 34—where we had dealt with the whole issue of, “should someone be asked to wait 10 years between the time that a sufficiency hearing is instituted and the question of a trial being commenced”. Myself and the Prime Minister had agreed on seven years and then the hon. Member for St. Augustine intervened and said “Look, leave it at 10”, and just in the spirit of compromise we went back to the 10.

Now, let us look at what is being done here. That seven-year period or ten-year period was the effluxion of time between the sufficiency hearing and the trial. Look at what is going on in this amendment; it is now “after the expiration of ten years from the date on which an offence is alleged to have been committed—”

It is completely different! Fundamentally changing the impact—I see the Member of St. Augustine nodding. So that means if somebody committed a crime 11 years ago, he has escaped. What are you talking about?

Hon. Member: He is asleep?

Hon. Member: Nodding.

Mr. Imbert: No, he is nodding at me, he is wide awake. Mr. Speaker, if somebody committed a crime 11 years ago they are out of the loop with this legislation now? I am not certain the Government has thought this through because this is the effect of this clause.

Mrs. Persad-Bissessar: [*Inaudible*] Six Opposition Senators

Mr. C. Imbert: Now, you see the Prime Minister has brought this up; the fact of the matter is this is our House. I am a Member of this House, Mr. Speaker, and consistent with your admonition to the Minister recently, it is incumbent on the Government and the Minister in this House to explain to us the rationale behind these amendments. [*Desk thumping*] We are being asked; the purport of this Motion is that we are being asked to agree with the Senate amendments. Now, we cannot agree if no reasons have been given and on the face of it the amendment is inappropriate. This amendment appears to be entirely inappropriate. This will automatically disqualify all crimes committed more than 10 years ago—automatically throw them out of the whole purview of indictable proceedings. That makes no sense to me. And the whole question of allowing the press to publish pleadings in matters where serious allegations may be made against innocent people, again, that is inappropriate as far I am concerned.

So I would ask the Government—you can use your majority if you want and railroad this through, you know, but these are very, very serious matters: the question of publishing pleadings and the question of a time limit that deals with when the crime was committed rather than where proceedings were instituted. I am asking the Government on something as serious as this, hold your hand and take a look at it and see whether you really want to make these amendments.

I thank you, Mr. Speaker.

Mr. H. Volney: Mr. Speaker, much as I am tempted to accept the advice of the hon. Leader of the Opposition and say, I beg to move, I am loathe to do so at this time. In clause 31 if it is read carefully:

“Nothing in this section shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the Master.”

Anyone who has any modicum of understanding of the interpretation of statutes will understand that this is not for mass media publication; it is directed for parties involved in the proceedings. And it is a simple case of reading on the literal interpretation.

6.45 p.m.

As regards the other point that seemed to have been of difficulty to the hon. Member, the law as now stands, and I will repeat it, is that there is no *inter partes* hearing when a person is discharged, there is just a straightforward application *ex parte* to a judge in chambers, who reviews the process of the decision of the magistrate—would you be quiet please?

Mr. Speaker: Please, please, I have heard you, Member for Diego Martin North/East, would you be quiet please! [*Laughter*]

Mr. Volney: As it now stands, the judge in the High Court reviews the depositions, once they come before him, on an application for a warrant to arrest the person who has been discharged and bring him back into the system, with leave to the DPP to file an indictment against him. There is no *inter partes* hearing. What we have done, we have sought to ameliorate the harshness of that rule by allowing an *inter partes* hearing.

However, before you can have an *inter partes* hearing you have to protect the integrity of the system, in that you have to ensure that the accused is brought back in and is prevented from going into flight. If it is that you allow the person to go into flight by giving him a summons to come in he will be in Venezuela, or wherever it is, before there is any hearing.

So what the provision serves to do is that you pick up the person on an *ex parte* hearing, you keep him in custody and then you allow him the *inter partes* hearing before the judge. [*Desk thumping*] [*Crosstalk*] That is so much fairer.

On the other point, there is one thing that those of us who work in the Justice—

Mr. Speaker: Please. Member for Diego Martin North/East, please!

Mr. Volney: There is one matter of widespread knowledge.

Mr. Roberts: He wants to ask you something, you want to give way?

Mr. Volney: No, I am sorry. I am not giving way.

Mr. Roberts: Give way, give way, give way, man. “You mashing him up, you are a nice fella.”

Mr. Volney: Mr. Speaker, when it comes to the issue of delay, quite regularly much of the judicial time of a judge is spent in hearing pleas at Bar, where it is—among other things—lawyers on the behalf of their clients make an application for matters to be permanently stayed, which operates as a virtual discharge of a matter not to be proceeded with because of delay, and the issue of inherent prejudice to either side, especially, the side of the accused person. Time and time is spent on these applications. Time in our courts is extremely precious. We have hundreds of murder cases lined up to be tried. If the High Courts, as now constituted in number and otherwise, were to spend every single day from nine until 4.00 p.m. sitting in murder trials, we would not clear the list of the murder cases in the system for 10 years. It is that bad.

What is more, is that there are other serious crimes. If you look in the schedule of the Bill, that is Schedule 6, you will observe what the Ministry of Justice has advanced as basically the blood crimes, that is those crimes where human beings have been affected: rape, murder, wounding, shooting, as well as treason. You also have kidnapping, a number of very serious crimes.

Mr. Roberts: Being a PNM!

Mr. Volney: Those matters are protected; no matter how old they are, they have to be tried. So you add that on to the 10 years of matters waiting to be tried—and that is the exact point the hon. Member for Diego Martin North/East was making. To go to seven—really, for this to have the effect that the Ministry of Justice would like it to have, it should really have been seven, but the consensus—and we are willing on this side to listen and to amend to produce a better Bill—it was felt that we would accommodate the views here, we would test the views against the views in the Upper House and we would come up with the proper consensus and the proper Bill, the proper legislative measure. That is why it was felt that barring blood crimes, those serious offences for which the passage of time should mean nothing, because persons await their time to see the face of justice, no matter how long, those crimes should be tried. No matter how long—there is no 10-year-limit.

Also, anybody who evades the process of the court, no matter what the crime, if you run away you could hide, but if you come back having evaded the process of the court, the case could be 30 years old, the warrant would be waiting for you, and you would go to trial. So you cannot evade the process of the court. But the system is so heavily overburdened that we have to cut off certain cases, other cases that we cannot continue to carry. And that is exactly why it is a paradigm shift that we take that position. And that is why this measure deals with it. It literally means holding the bull by the horns and dealing with the problem. The hon. Member wanted me to give way.

Mr. Roberts: Well done! Well done!

Mr. Imbert: Thank you very much, hon. Minister. I was listening to your arguments with respect to the amendment to clause 31 and you read the part about: “the communication thereof to persons concerned in the proceedings” which is perfectly understandable, but could you please explain the words that precede that?

“(2) Nothing in this section shall apply to the printing or reproduction by any other method of any pleading, transcript of evidence or other documents for use in connection with any judicial proceedings...”

Because the question of communication to persons involved comes afterwards, it says “or the communication thereof”. You follow what I am saying? Could you please explain how that escapes the net that you have drawn?

Mr. Volney: Because what falls into that clause there cannot compromise the fair trial. The evil behind that particular measure is the evidence that it does not

go public. This is not evidence, these are the directions of the master as to the further—

Mr. Imbert: The first part, not the last part.

Mr. Volney: The first part is to persons concerned in the proceedings. I do not think, Mr. Speaker, that I can assist the honourable House and the hon. Member any further. Accordingly, I beg to move, Mr. Speaker.

Dr. Moonilal: Mr. Speaker, may I please be permitted as a precautionary measure to move the following Motion?

I beg to move that this House record its approval to all the amendments sent from the Senate to the Administration of Justice (Indictable Proceedings) Bill, 2011.

Question put.

The House voted: Ayes 37

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Warner, Hon. J.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Rambachan, Hon. Dr. S.

Seepersad-Bachan, Hon. C.

Seemungal, Hon. J

Volney, Hon. H.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Ramadharsingh, Hon. Dr. G.

Indictable Proceedings Bill, 2011

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Ramadhar, Hon. P.
Khan, Hon. Dr. F.
De Coteau, Hon. C.
Indarsingh, Hon. R.
Baker, Hon. Dr. D.
Samuel, Hon. R.
Douglas, Hon. Dr. L.
Roopnarine, Miss S.
Ramdial, Miss R.
Partap, C. Mr.
Khan, Miss N.
Mc Donald, Miss. M.
Rowley, Dr. K.
Cox, Miss. D.
Hypolite, N.
McIntosh, Mrs. P.
Imbert, C.
Jeffrey, F.
Browne, Dr. A.
Thomas, Mrs J.
Hospedales, Miss A.
Gopee-Scoon, Mrs. P.
Question agreed to.

REAL ESTATE AGENTS (INC'N) BILL

Question put and agreed to, That a Bill to provide for the incorporation of the Real Estate Agents and for matters incidental thereto, be now read a second time.

Bill accordingly read the second time.

7.00 p.m.

Bill referred to a special select committee of the House appointed by the Speaker as follows: Mr. Jairam Seemungal (Chairman), Mr. Stephen Cadiz, Mr. Nileung Hypolite, Mrs. Patricia McIntosh and Mr. Rudranath Indarsingh.

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 a date to be fixed.

Mr. Speaker: Hon. Members, before putting this Motion to the House, leave has been granted to the Member for Port of Spain North/ St. Ann's West to raise a matter on the adjournment.

**Award of Scholarship For Differently-abled
(Akini Gill)**

Mrs. Patricia McIntosh (*Port of Spain North/St. Ann's West*): Mr. Speaker, as a representative of the people but more so as an educator, it behoves me once again to draw the attention of this honourable House to the unfair treatment meted out to a citizen of this country, an injustice resulting from the deprivation of this citizen's legitimate expectation of an opportunity for self-improvement and self-advancement. Mr. Speaker, I am referring here to the case of a young man, 25 years of age, named Akini Gill.

As a child, Mr. Speaker, Akini experienced grave difficulty in reading, writing and oral language skills. When Akini was ten years old, he was referred to Mrs. Allyson Hamel-Smith, an educational psychologist, for assessment, and was diagnosed with a number of learning difficulties including dyslexia. I should like to refer, Mr. Speaker, to excerpts from Mrs. Hamel-Smith's report. Full psychoeducational evaluation was requested of this student who has a history of significant difficulties with reading, writing and oral language skills but who has made excellent progress despite these difficulties.

Akini has significant difficulties with what sounds like dyspraxia—his motor coordination is poor and his articulation is unclear. Mrs. Hamel-Smith also referred to a report by one, Mrs. Lystra Black, Akini's teacher at Eshe's Learning Centre. Mrs. Black described a polite, respectful, young man who has the desire to progress, and is often disappointed with his own ability to do as well in school as he would like. She notes that Akini is very interested in learning new

information and in bettering himself in life. She notes significant difficulties with expressive language skills, reporting that he had difficulty in articulating and enunciating words. He also had difficulty expressing ideas clearly and completely in full sentences.

While he interacts comfortably with his peers and enjoys a good argument, he sometimes stammers and has difficulty expressing himself clearly. She notes significant difficulties with fine motor coordination, very poor pencil grasp and poor writing skills.

Mr. Speaker, despite his many learning disabilities and severe challenges, and despite being told at the Mount Hope Child Guidance Clinic, that his progress would always be retarded, Akini's commitment to self-improvement, his resilience and perseverance never wavered. Akini's positive attitude and indomitable spirit speaks to a strong character of a differently-abled young man determined to achieve his optimal potential. A differently-abled young man in whose heart, Mr. Speaker, burns external the fire of faith and hope.

Mr. Speaker, with the financial assistance and undying support of the Dyslexia Association, Akini was able at age 10 to attend Eshe's Learning Centre from where he progressed to Belmont Secondary School. In 2006, Akini entered the University of the West Indies and successfully read for a certificate in music—majoring in pan.

In 2009, Akini attained a Bachelor of Arts in musical arts with second class honours from the UWI. And in March 2010, Akini was accepted by the Steinhardt School of Culture, Education and Human Development, New York University, New York, to pursue a Masters of Arts in Music Education in the fall semester 2011, commencing October 2011.

In April 2011, Akini had applied to the Ministry of Public Administration for a scholarship since he was fully aware that his mother—a single parent of very humble means—would be unable to afford the prohibitive cost of sending him to university abroad. You see, Mr. Speaker, Akini Gill has a dream. It is his fervent desire to pursue his love for music, to become as highly qualified as possible and to become a lecturer of music at one of our country's universities. But Akini could only fulfil this dream at a foreign university since none of the universities in Trinidad and Tobago offer music education at masters' level due primarily to a dearth of highly specialized personnel in this specific field.

Mr. Speaker, this is a young man who has the potential to be a tremendous asset to Trinidad and Tobago, and to make a truly meaningful contribution to the

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country's development. Only this year, Akini was one of the final nominees in the category "Youth in Education" in the Ministry of Gender, Youth and Child Development's National Youth Awards 2011. In the Ministry's brochure-cum-programme, which I have here, entitled "Born to Shine", mention was made of Akini's achievement and I quote:

Born to humble beginnings, Akini was diagnosed as dyslexic at age 11. His mother was advised that he should seek employment since he had no positive future in academics or school. While still dyslexic, Akini developed a passion for music, so much so, that he pursued this dream and went on to graduate from UWI with a BA in musical arts. He is currently awaiting feedback on his application for a scholarship to study music at New York University.

In August 2011, Akini was informed that the Scholarship Selection Committee had selected him for the award of a scholarship and that his name was on a list to be sent to Cabinet for approval. On September 13, 2011, Akini received a letter via email from the Ministry of Public Administration, Scholarship Enquiries Division, congratulating him on his successful application for a scholarship under the Differently-abled Scholarship Programme and I would like to quote:

Dear Applicant,

Congratulations! You have been awarded a scholarship under the Differently-abled Scholarship Programme. Please note that a scholarship acceptance form has been published to your new SATD account to enable you to respond to this offer of scholarship.

Mr. Speaker, on September 14, 2011, Akini received another email from the Ministry advising that his SATD—which is his Scholarship and Advanced Training Division—Online Requirement Report had been successfully submitted and issuing him a tracking number and I quote:

Thank you for your submission. Your Scholarship and Advanced Training Division (SATD), of the Republic of Trinidad and Tobago, Online Requirement Report has been submitted successfully and the tracking number is 23918.

Also, Mr. Speaker, on September 14, 2011, Akini received yet another email in which, one, Patrina Braithwaite, identified herself as his scholarship support officer and congratulated him on receiving a Government scholarship and I quote:

Hi Akini,

Congratulations on receiving a Government scholarship. I know your process is a bit late but nevertheless, we can work together to speed things up. Can

you please log into your Scholarship and Advance Training Information System, SATIS, account and upload your acceptance letter as soon as possible? On September 15, 2011, Akini received another email from Mrs. Braithwaite requesting that he seek an acceptance letter from New York University to commence his programme in January 2012 instead of October 2011 since the process was a bit tardy, and I quote:

Hi Akini,

Is it possible you can obtain a letter from your university that you are going to pursue your programme, stating that you would be accepted to start the programme in January 2012? As it stands, you have an acceptance for fall 2011 but you will need an acceptance for January 2012. Thanks, Patrina.

Mr. Speaker, Akini Gill expedited the Ministry's instructions and on September 20, 2011, received a letter from New York University granting him approval to defer his music programme to January 2012 and I quote:

Dear Akini,

On behalf of the Admissions Committee, I am writing to inform you that you have been granted permission to begin your studies in the MA in music education in the spring 2012 semester which begins Monday, January 23, 2012.

So, Mr. Speaker, Akini Gill and his mother were extremely elated because, one, he had been awarded a Government scholarship to pursue his masters in music at a university abroad, and two, he had received permission from that said university to commence his programme in January 2012. But, Mr. Speaker, their elation was short-lived, for on the October 13, 2011, Akini received a letter from the Permanent Secretary of the Ministry of Public Administration advising that the scholarship will be rescinded since its award was based on an administrative error. Mr. Speaker, I have the letter here and I would like to quote:

Dear Mr. Gill,

Reference is made to our correspondence regarding the Disability Scholarship Programme. As previously advised, the notification to the effect that you were awarded the scholarship was issued through an administrative error, and we sincerely regret this and any inconvenience caused.

Mr. Speaker: What is the date on that letter, Member?

Mrs. P. McIntosh: The date of this letter—as I said, Mr. Speaker—October 13; I said that before. I will get some time for this, Mr. Speaker—yes, October 13,

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2011—a mistake, an error; yet another mistake on the part of this insensitive and incompetent Government. [*Desk thumping*]

Mr. Speaker, the Dyslexia Organization sent a letter of protest to the Director of Scholarships and Advance Training Division and copied to the hon. Minister of Public Administration, her Permanent Secretary and the Chairman of the Scholarship Selection Committee and I quote:

We are writing to formally protest the withdrawal of the scholarship which has been granted to Mr. Akini Anthony Gill to pursue an MA in Music Education at the Steinhardt School of Culture, Education and Human Development in New York under the Differently-abled Scholarship Programme.

Once this scholarship was awarded and Mr. Gill so informed, we consider it wrong to withdraw the scholarship on ethical and legal grounds. We have been legally advised that once Mr. Gill had been informed of the scholarship, he had a legitimate expectation that the scholarship awarded would be honoured. Accordingly, an error on the part of your division is not sufficient reason for his said legitimate expectation to be denied.

We fully expect that your unit's decision will be revoked and that Mr. Gill's scholarship will be reinstated in time for him to complete the necessary visa application in order to take up the offer of study in January 2012.

Signed by Cathryn Kelshall, Chairman of the Dyslexia Association.

Mr. Speaker, in addition—[*Interruption*—]—to no avail.

In addition, Psychologist Angela Hamel-Smith also wrote to these very officers registering her support for the scholarship to be granted to Akini and expressing her disappointment and concern over its withdrawal, and I would like to quote:

I am writing to formally express my support—this is Angela Hamel-Smith—for this young man in the matter of his being granted a scholarship under the category of Scholarships for persons with disabilities. I have known Mr. Gill for more than 10 years. I was deeply concerned and distressed to discover that the scholarship had been withdrawn.

I have worked in Trinidad and Tobago for the last 30 years and have worked with hundreds of children and young persons who have learning difficulties, developmental delays and other behavioural and emotional difficulties.

Mr. Speaker: You have one more minute.

Mrs. P. McIntosh: Akini Gill stands out as an exceptional young man who has battled massive disadvantages both innate and environmental.

7.15 p.m.

Akini is actually an excellent home-grown example of overcoming adversity by demonstrating self-control, patience and persistence in the face of severe adversity. His story should be documented and showcased.

Mr. Speaker, I am, therefore, calling on this Government, and in particular the Ministry of Public Administration, to reverse its decision and honour the scholarship granted to Akini Gill under the Differently-abled Scholarship Programme—[*Desk thumping*] [*Crosstalk*—for him to pursue his Master of Arts degree at the Steinhardt School of Culture, Education and Human Development at New York University in the spring 2012 semester commencing January 2012. You all got away. I had more to say.—[*Desk thumping*] [*Crosstalk*]

Mr. Speaker: Hon. Members, allow the hon. Minister to speak.

Hon. Member: “Wajang behaviour!”

The Minister of Public Administration (Hon. Carolyn Seepersad-Bachan): Thank you, Mr. Speaker. After hearing that contribution, I wonder if we should fire all the public servants in the Ministry of Public Administration, because that is what I am hearing. Let me repeat what the Motion is. The Motion is the failure of the Ministry of Public Administration to honour the scholarship granted under the Differently-abled Scholarship Programme to Akini Gill to pursue a master’s degree in music.

The Ministry of Public Administration, through its Scholarship and Advanced Training Division, is responsible for administering scholarships and long-term technical assistance awards offered by or through the Government of Trinidad and Tobago.

Mr. Speaker, let me state for the record, scholarships are offered on a competitive basis and are offered through open calls for applications via public notices. In 2011, nationals of Trinidad and Tobago were invited to apply for several scholarships, so many I do not want to call all of them, but including for first-class honours, sports and youth, the Republic of Cuba, whether we are speaking about the Government of Australia, China, Mexico, India, the OAS; scholarships in the area of library science, development needs, allied health, social services and differently-abled awards.

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The administration of the award of scholarships for the Members opposite, let me tell you, is through the Ministry of Public Administration but it was based on an open, transparent and competitive process designed to ensure that suitable candidates are selected for awards on the basis of merit.

For Members' information let me just outline the four major steps in this process. Step one, we place a public advertisement outlining the type of scholarship, the application process to be followed and the deadline for that scholarship. In addition, the ad presents details on two types of criteria; the first set of criteria being what we call eligibility criteria. If applicants fail to meet the eligibility criteria, the applicant cannot be considered for selection. Once the applicant becomes eligible, the selection criteria will be used by a selection committee and these selection committees are designed in accordance with the policy basis, for the award of the scholarship. For example, your academic merit, quality of your proposal, the likely impact of the work pursued and the likely impact on the development of Trinidad and Tobago.

Step two, there is a selection committee. The selection of prospective candidates eligible for consideration by the selection committee, a Cabinet-appointed committee comprising representatives from the public service, private sector organizations and the University of the West Indies.

In cases where there is specialized knowledge of an area of study, the selection committee will co-opt the services of experts in the field.

The committee uses a selection process involving a points-based evaluation framework and, therefore, it should be noted that, from time to time, the committee may wish to vary the policy for selection for which the ministerial team and therefore, by extension the Cabinet, may decide to accept or reject.

Step three, the adoption of the recommendations proffered by the selection committee for onward submission to Cabinet. And finally, Mr. Speaker, approval by the Cabinet. Therefore, I want to make it very clear, from what I have just outlined, candidates are selected by a scholarships selection committee based on established policy guidelines and criteria outlined in the relevant advertisements.

The Ministry of Public Administration advertised scholarships for nationals who were differently-abled on its website during the period February 17 to April 07, 2011, and in the daily newspapers, the *Daily Express* newspapers—too lengthy to tell you all—the *Guardian* newspapers, and all the dates are here. These advertisements invited suitably qualified nationals interested in studies at

only locally-accredited academic institutions. Let me repeat, at locally-accredited academic institutions. In addition, notices inviting applications for eligible public servants were also sent out to Permanent Secretaries and heads of departments.

On July 14, 2011, the Scholarships Selection Committee met and in accordance with established practice all applications were considered in accordance with the following specified criteria. Of course, the applicant's desired area of study as regards its relevance and importance to Trinidad and Tobago; the academic qualifications of the candidate; the candidate's interest in the chosen field of study; the potential of the candidate to contribute to national development; other relevant personal attributes/considerations such as age and current enrolment.

Mr. Akini Gill applied for postgraduate scholarship for studies at the New York University, as you heard from the Member. He would have been considered completely ineligible in the first instance since the scholarships were only being granted for local study. Inadvertently, not realizing that local study was specified in the public ad, the scholarships committee did consider his application, because in error the application went before the scholarships committee.

Mr. Gill's performance, Member, is not in question here. Based on budgetary constraints it is important for me to reiterate that differently-abled scholarships are only tenable in Trinidad and Tobago, according to the established policy, based on the view that more disabled students can be accommodated with the same budget.

Mr. Speaker, this particular award could not have been properly before the Cabinet. The process for the consideration of scholarships requires that applications be evaluated by the Scholarships Selection Committee based on selection criteria, as I mentioned before. The committee's recommendations are then submitted to Cabinet for approval, as I have said. In the absence of Cabinet approval, the Ministry could not legitimately proceed to inform the applicant of the award of the scholarship, especially in this case where such an award or such a recommendation would have gone against existing policy to pursue studies locally. Therefore, making changes to existing policy also has implications for other scholarship programmes, which also specify only study at locally accredited institutions.

Therefore, Mr. Gill's case is not the first case, from what I understand from the Ministry of Public Administration. It is not the first case where, due to this type of administrative error, an applicant not eligible for consideration is placed before the selection committee for consideration. The Ministry would correct the

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error and communicate with the applicant and indicate that there was an error because you are ineligible. You should not have applied in the first place, because it clearly states so. Most importantly, it would not be fair to others, as well as potential applicants to have advertised a programme for local study but then approve an individual for study abroad, for many other disabled students who were accepted to study at international institutions would not have applied. Therefore, in this instance, the process was not yet completed. However, regrettably, Mr. Gill was inadvertently informed by email that he was successful. As soon as this error was discovered, the Ministry took immediate steps to so notify Mr. Gill that he was not granted the scholarship as you have heard from the Member opposite.

Mr. Speaker, I want to emphasize that in the interest of transparency and fairness in the process, and indeed in holding to this principle in the delivery of scholarships to deserving applicants, it would have been highly improper to attempt to change or deviate from established prerequisites for the award of the scholarship when the process had already begun.

Further, to have done so would have been to have put other applicants at a serious disadvantage and could have caused the entire process and application and award to be deemed whimsical and arbitrary. Other applicants for scholarships who observed the local study criteria would have made applications in good faith. And, again, to deviate from the policy on account of one applicant would have been an unfair move that would have contravened the tenets of transparency and openness in the process.

In addition, to have attempted to deviate from our change, the policy governing the award of scholarships would also have had implications for other programmes and could potentially have impacted the outcome of other selection award processes. Because, if we are to move forward to give this particular scholarship in addition to all the other issues I have highlighted, then every other scholarship over this last year, where this administrative error was made, it means, therefore, that the Government must honour those awards for foreign institutions, and that is not fair and that cannot happen. The budget cannot afford that. We work with budgetary constraints.

Having said that, Mr. Speaker, I do want to say we are undertaking a review of the policies and procedures for the differently-abled. We recognize the challenges. We appreciate—[*Interruption*] Member, if you would allow me—that there is the possibility that we should look at foreign institutions, especially for

programmes that are not offered locally. The inter-ministerial team will be looking at this issue and making the appropriate recommendations to Cabinet for the next set of awards for differently-abled students.

Pending further research and investigations, this Government not only agreed to continue the Differently-abled Scholarship Programme but increase the number of scholarships from three to five. Furthermore, two of these scholarships were awarded to differently-abled nationals who wish to pursue studies at the postgraduate level. For the information of this House, I want to indicate that for this particular programme, five scholarships were awarded. I will call the names: Miss Stacey Mc Donald, a BSc Degree in Education at the University of the West Indies, St. Augustine; Valdano Tobias, a BSc in the Teacher Education Programme, UWI, St. Augustine; Candice John, a BSc in Education, UTT; Audra Simon, MSc in Management Accounting, UWI, St. Augustine; Sarah Ali, Masters in Human Resource Management, UWI, Arthur Lok Jack School of Business.

I would also like to inform Members of the key initiatives being taken, with respect to scholarships at the Ministry of Public Administration that will review all the existing policies, which govern the scholarship, in order to avoid these administrative errors.

In summary, therefore:

1. The error in informing Mr. Gill is very deeply regretted on behalf of the Ministry of Public Administration.
2. Administrative action has been taken to ensure that such errors are not made in the future.
3. The scholarships as advertised were clearly stated to be based on local awards only.
4. To have changed or deviated from this instance would have been to contravene the Government's own determination to act transparently, openly and fairly in all its undertakings.
5. Any further and any deviation would have impacted the integrity and delivery of other programmes administered by the Ministry of Public Administration.

Mr. Speaker, I thank you for the opportunity to respond to the Motion raised by the Member for Port of Spain North/St. Ann's West and I trust that this comprehensively addresses and clarifies the issue. [*Crosstalk*]

Hon. Member: What about Gill's scholarship?

7.30 p.m.

Mr. Speaker: Members we are about to—yes.

Miss McDonald: “Look how far this man reach, a dyslexic man!” [*Crosstalk*]

Mr. Speaker: Member for Port of Spain South, please. Hon. Members, before putting the Motion for the adjournment of this House to a date to be fixed, we all know that 16 days from now will be Christmas day and it will be celebrated throughout the world; it is the birth of Jesus Christ. That occasion warrants the intervention of hon. Members as we prepare to celebrate the birth of Christ, and the ushering of fellowship, brotherhood and a greater sense of love, mercy and justice throughout the world. So I now call on the hon. Prime Minister to bring greetings on behalf of the Government. [*Desk thumping*]

Christmas Season Greetings

The Prime Minister (Hon. Kamla Persad-Bissessar): Thank you very much, hon. Speaker, and Members of the House for this opportunity. I do believe the true meaning of Christmas is about love and giving, John 3:16 says:

“For God so loved the world, that gave his one and only Son, that whoever believes in him shall not perish, but have eternal life. For God did not send his Son into the world to condemn the world but to save the world through him.”

That is the true meaning of Christmas, hon. Speaker, in my respectful view, a celebration of this incredible act of love and of giving. So during this blessed season, we say let us share God’s love, the gift of love from God, by giving of yourselves and by sharing generously with those in need, and on that note in this blessed season of love and giving the Government will give to young Akini Gill, his scholarship. [*Desk thumping*] Whilst I say that, I also want to indicate that hon. Member for Diego Martin West, hon. Leader of the Opposition, has asked that we re-examine that scholarship committee, look at the criteria and see the manner in which they operate. It may well be that we may have to reconfigure that committee. [*Desk thumping*]

And so I am saying this is a season of giving and of love let us also remember the humility of the Christ. Let us remember that for the most humble birthplace in a manger he dedicated his life in service to people. He dedicated his life in giving love, in healing: with the sick, with the maimed, with those who were challenged and those who were in poverty; that was his life story. And for us to emulate, first of all, the gift which we received from God his Son, for us to emulate the life

story of the Christ, in this Christmas season I ask, let us become true peacemakers, let us bring the gift of peace to our homes. Even though we all may be different, each person is different, let us reach out to those who are different from us and yet belong to the same human family, by living the profound and universal lesson taught to us by the Lord Jesus. Love, peace, joy and hope, all these are the wonderful words woven into the Christmas season, into Christmas songs, the Christmas prayers and traditions.

So as we celebrate this Christmas in the year 2011, let us look forward to a holy and blessed season with our loved ones and those who are more in need than we are. Let us also look forward to a 2012 which is brighter, more peaceful and happier for all our citizens.

On my own behalf and that of the Members of the Government, we wish you, hon. Speaker, and Members opposite; and indeed all those in this workplace, this Parliament; the Clerk of the House and her team here; the protective services; all the Hansard reporters, all those who work with us; have been working with us throughout the year, we want to wish all of you a very holy, blessed, Merry Christmas and a very bright and Happy New Year.

I thank you very much, Mr. Speaker. [*Desk thumping*]

Dr. Keith Rowley (*Diego Martin West*): Thank you very much, Mr. Speaker. I rise to associate myself and those of us on this side in the sentiments expressed by the hon. Prime Minister at this time of the season of Christmas.

Mr. Speaker, Christmas is a lot of things to a lot of people and while it has its roots in Christian faith, in multi-religious Trinidad and Tobago, I think it would be safe to say that Christmas is a national thing in Trinidad and Tobago. And, therefore, I speak for those of us who practise Christianity and I think I also speak for all the rest of the citizens in Trinidad and Tobago, for whom this season of caring, sharing and thanksgiving is anticipated and warmly welcomed.

Mr. Speaker, it would do us well to focus on the principles which sometimes get left back when we engage in the festivities of Christmas. It is commonly said, for those who are very religious, that we put Christ back in Christmas; meaning let us stay with the fundamental principles of the hope brought by the Christ child to the human race.

As we do that, Mr. Speaker, let us spare a thought for the many persons among us for whom Christmas might not be as exciting as it would be for the rest

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of us, because there are people in our national community who would like to have a more exciting Christmas and we should do all in our power to help that spirit of love, and we extend it to them whether they are children, adults, or today we saw persons who depend on others for that hand of assistance.

Mr. Speaker, there can never be too much love and we can never share enough. And as we commit ourselves to thanksgiving we, the people of Trinidad and Tobago, have much to be thankful for. And those of us in this House, we are thankful for our camaraderie, we are thankful for the service which you provided to us, Mr. Speaker, from the Chair. We are thankful for the staff and the tremendous hours which they put in, going above the call of duty to ensure that we can serve the people of Trinidad and Tobago in the same way that we expect to be served by others who are at different stations.

So as we go forward, Mr. Speaker, to enjoy the Christmas season, I simply want to say to the national community, that we should be very careful in our festivities and not overdo and get into trouble, as we do from time to time, especially on the roads of Trinidad and Tobago which are becoming increasingly more dangerous.

Mr. Speaker, we look forward to 2012. And notwithstanding the many challenges and hurdles to be overcome, we have our faith in our future and in Almighty God that 2012 would be better than 2011, and this House would do its part as we work towards achieving that.

So, Mr. Speaker, on behalf of all of us, and all my colleagues, we wish all our colleagues and their families and the communities a very happy, Merry Christmas, safe and secure, and a bright and prosperous New Year. [*Desk thumping*]

Mr. Speaker: Hon. Members, I would like to join with the hon. Prime Minister and the hon. Leader of the Opposition in extending greetings to all Members of this honourable House as we move nearer and nearer to celebrating Christmas 2011. I would like to just remind hon. Members before I extend greetings formally to you, to remind Members of our Joint Assembly of Members to take place on Monday 19 at the National Academy for the Performing Arts. His Excellency will be addressing this Joint Assembly of Parliament as we bring down the curtains in celebration of the 50th Anniversary of Bicameralism. I know that an invitation has been extended to all Members of this honourable House, and we look forward to all Members being in attendance at this very important event. It is Monday 19 at 10.00 a.m. at NAPA. So I just wanted to give all Members a gentle reminder to this very important activity.

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Hon. Members, as I said, I would also like to join the Prime Minister and the Leader of the Opposition, in extending greetings, and also to recognize the need for all Members of this honourable House to renew their responsibility to uplift our people and our country through our efforts as Parliamentarians, as well as representatives of constituencies. I would like to thank all Members for their contributions, notwithstanding many challenges, and their cooperation in assisting the Chair in maintaining the dignity and decorum of this honourable House. I anticipate that you will provide your fullest support when the House resumes its sittings in the New Year.

I would like on your behalf as well to thank the Clerk and the staff of the Parliament, including the parliamentary security personnel, for their hard work, sometimes under difficult conditions. So I extend Christmas greetings and a very Happy New Year to the hon. Prime Minister and her family; to the hon. Leader of the Opposition and his family; to the hon. Leader of the House and his family; to the Chief Whip and her family; and to all other hon. Members of this House and their respective families; also Christmas greetings to the Clerk of the House, as well as members of staff.

Hon. Members, in closing I just want to remind you that the birth of Jesus Christ reminds us that service to others is central to our lives, and that sacrifice and unconditional love must guide us and inspire us to lead lives of compassion, mercy and justice.

I would like on behalf of my family to extend to yours a blessed and holy Christmas, and may you have a wonderful and prosperous 2012.

Hon. Members, you are kindly invited to join myself and other Members of this honourable secretariat of the Parliament in some cocktails which we have provided for all Members in the Member's lounge, so you can imbibe and consume some hors d'oeuvres. I must let you know a parang band came at 5.30 p.m. hoping that we would have been able to join them at around 6.15 p.m., but they had to perform otherwise, but they did give an undertaking that they would join us at 8.00 p.m. So a parang band will be returning at 8.00 p.m.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.43 p.m.