

**HOUSE OF REPRESENTATIVES**

*Friday, May 05, 2017*

The House met at 1.30 p.m.

**PRAYERS**

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Madam Speaker:** Hon. Members, Mr. Rushton Paray MP, Member for Mayaro, has asked to be excused from today's sitting of the House. The leave which the Member seeks is granted.

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Public Accounts of the Republic of Trinidad and Tobago for the financial year ended September 30, 2016. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Public Accounts of the Republic of Trinidad and Tobago for the financial year 2016. [*Hon. C. Imbert*]

*Papers 1 and 2 to be referred to the Public Accounts Committee.*

**JOINT SELECT COMMITTEE REPORTS****(Presentation)****Public Administration and Appropriations**

**Dr. Lackram Bodoë** (*Fyzabad*): Madam Speaker, I wish to present the following reports:

**Office of the President**

Second Report of the Public Administration and Appropriations Committee, Second Session, Eleventh Parliament, on an Examination of the Current Expenditure and Internal Controls of the Office of the President.

### **System of Inventory Control in the Public Service**

Third Report of the Public Administration and Appropriations Committee, Second Session, Eleventh Parliament, on an Examination of the System of Inventory Control within the Public Service.

### **Insurance Bill, 2016**

**The Minister of Finance (Hon. Colm Imbert):** Madam Speaker, I wish to present the following report:

Second Interim Report of the Joint Select Committee appointed to consider and report on the Insurance Bill, 2016.

### **URGENT QUESTIONS**

#### **SEA Examination**

#### **(Proposals to Avoid Repetition of Errors)**

**Dr. Tim Gopeesingh (Caroni East):** Thank you, Madam Speaker. To the Minister of Education: What are the Minister's proposals to avoid the repetition of errors in yesterday's SEA examination that have traumatized children?

**The Minister of Education (Hon. Anthony Garcia):** Thank you very much, Madam Speaker. First of all, I am not aware that students were traumatized yesterday. However, I need to make the point—[*Interruption*]

**Madam Speaker:** Order.

**Hon. A. Garcia:**—that there were three errors that were identified and brought to the attention of the Ministry of Education. However, it is important for us to note, and for me to reiterate, that the Ministry of Education does not set the examination scripts. Those scripts are set by the Caribbean Examinations Council (CXC).

Our involvement is with the administration of the exam, and I am pleased to note that the administration of the exam went without a hitch. There were no problems. It was done very smoothly. However, the Ministry of the Education has decided

that we will meet with CXC to review the whole process of this exam and perhaps to indicate to them that we need to have a look at the final examination paper, all in an effort at preventing a recurrence of what happened yesterday. Thank you very much. [*Desk thumping*]

**Dr. Gopeesingh:** Hon. Minister, through you, Madam Speaker, are you appreciative of the fact that the Chief Education Officer and the Division of Educational Research and Evaluation have a major input into the construct of the examination paper, and that the Chief Education Officer goes up almost every two to three months on this issue? So the buck stops with the Ministry of Education.

**Madam Speaker:** Member, is that a question?

**Dr. Gopeesingh:** Yes, is he aware? Is he aware?

**Hon. A. Garcia:** Madam Speaker, I am not aware that the Chief Education Officer has any involvement in the construct of the examination papers. That is the remit of the CXC, and the Member for Caroni East should well know that. Thank you very much. [*Desk thumping*]

**Dr. Gopeesingh:** Is the Minister aware that the Chief Education Officer and the Department of Education Research and Evaluation make trips to CXC to ensure that these papers are absolutely correct?

**Hon. A. Garcia:** Madam Speaker, as I said before, I am not aware. What I am aware of is that the Chief Education Officer attends meetings of the CXC to look at all examinations that fall under the ambit of the CXC. Thank you.

**Madam Speaker:** Member, sorry, these are urgent questions. So I cannot allow any more.

### **Purchase of Massy Communications Limited by TSTT**

#### **(Cabinet Approval)**

**Mr. David Lee** (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of

Public Utilities: Based on the recent announcement that TSTT will be purchasing Massy Communications Limited, could the Minister state if there was Cabinet approval for this acquisition?

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you, Madam Speaker. The answer to the question is no.

**Mr. Charles:** Will the Minister tell us whether it is normal practice for a state agency to engage in such massive expenditures without recourse to corporation sole or the Cabinet?

**Hon. F. Hinds:** I cannot say for certain what the Member for Naparima means by normal. What I can say is that the answer to the question is no.

**Mr. Singh:** Thank you, Madam Speaker. So, Minister, under the ministerial direction, you have no knowledge of the consultants/advisors, or the valuation of this transaction?

**Hon. F. Hinds:** Madam Speaker, I see you permitted the question, but the answer to the question is no.

### **National Agricultural Marketing and Development Corporation**

#### **(Job Losses)**

**Mr. David Lee (Pointe-a-Pierre):** Thank you, Madam Speaker. To the Minister of Agriculture, Land and Fisheries: Based on the recent protest held by workers of the National Agricultural Marketing and Development Corporation concerning job losses as a result of the execution of a human resource audit, could the Minister state whether there would be any possible job losses at the state company?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam Speaker, I thank the Member for the question. NAMDEVCO is a creation of statute and the legislation that creates NAMDEVCO sets out some specific responsibility for the entity. The purpose of the current

review, and the review is in two areas: the organizational design and the data collection capabilities of NAMDEVCO. The purpose is to make sure the organization is designed in a manner to carry out the statutory responsibilities, and the human resource side of it is to make sure that the right job positions and the right people are in position. At this stage it is far too early to say whether it would result in any job losses, but the idea is that at the end of the exercise we should have a NAMDEVCO that can fully carry out its responsibilities under the law. Thank you.

**Mr. Padarath:** Thank you, Madam Speaker. To the hon. Minister: Hon. Minister can you give us an idea of the time frame with respect to exercising and completing this human resource audit seeing that there are several employees at NAMDEVCO who have been on month to month for the past eight months?

**Madam Speaker:** Member, remember it is a question.

**Sen. The Hon. C. Rambharat:** The exercise is expected to take 60 days, commencing May 01, 2017.

### **Pointe-a-Pierre Refinery Gas Flaring**

#### **(Details of)**

**Mr. David Lee** (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of Energy and Energy Industries: Based on the recently reported incident of an upset condition, gas flaring, at the Pointe-a-Pierre refinery which led to intense heat and emissions of gas into surrounding communities, could the Minister state the cause of this occurrence along with the measures which are being implemented to prevent future occurrences?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you very much, Madam Speaker. Madam Speaker, on Tuesday, the 2<sup>nd</sup> of May, at approximately 8.09 a.m., there was an upset condition at the No. 8

Crew Distillation Unit which resulted in high pressure being experienced in the No. 8 crew distillation column. This resulted in a relief device leaving material of a mixture of hydrocarbon and gas into the HP flare system. This resulted in an extremely large flare condition occurring. It was brought under control within 30 minutes. The root cause of that event is currently being investigated.

I just want to make the point that probably outside of a nuclear power plant, an oil refinery is one of the most complex processing facility, and when incidents like these happen careful analysis has to take place, and a proper investigation has to be conducted before you can come to conclusions.

### **Petrotrin Refinery Oil Spill**

#### **(Clean-up Efforts within Venezuelan Waters)**

**Mr. David Lee** (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of Energy and Energy Industries: Based on the recent reports that oil from the recent oil spill which emanated from the Petrotrin refinery has reached the shores of Venezuela, could the Minister state if Petrotrin will have to pay for the clean-up efforts within the Venezuelan waters?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan)**: Thank you again, Madam Speaker. Madam Speaker, as it is well known by now, on April 23, 2017, tank 70 at the Pointe-a-Pierre refinery sprung a leak and approximately 300 barrels of fuel oil was leaked into the marine environment. Trajectory models indicated that the spill would have reached Venezuelan waters which it did in fact reach on or around the 30<sup>th</sup> of April. The Ministry of Energy and Energy Industries immediately initiated the activation of the Trinidad and Tobago/Venezuela Bilateral Oil Spill Plan via diplomatic channels through the Ministry of Foreign and Caricom Affairs, and at the operation level between officials of PDVSA and the Ministry of Energy and Energy Industries.

Madam Speaker, the Trinidad and Tobago/Venezuela Bilateral Oil Spill Plan sets out clear protocols as to how these matters are dealt with. Once the spill reaches Venezuelan waters, the Venezuelan authority has full responsibility for the clean-up. After the clean-up, the protocols indicate how we deal with the sharing of cost and who will accept liability in this regard. We have not reached that stage as yet.

**Mr. Lee:** Thank you, Madam Speaker. Through you, to the Minister. Could the Minister give us an example what those protocols could be like?

**Sen. The Hon. F. Khan:** The protocols obviously, it has to deal with the source of the spill, and it is public knowledge that the source of the spill is in fact Pointe-e-Pierre. But when the clean-up exercise is completed, the Venezuelans will activate the system and then we will deal with liabilities and who is liable for what and terms of where cost will be allocated. Please do not jump the gun. These are very, very sensitive matters.

**Mr. Padarath:** Hon. Minister, you indicated that you have used diplomatic channels with respect to the Ministry of Foreign and Caricom Affairs to engage Venezuelan authorities, could you indicate whether or not there has been any direct contact by any Minister of Government to the Venezuelan Government to deal with this particular issue?

**Sen. The Hon. F. Khan:** The answer is no because the Trinidad and Tobago/Venezuela Bilateral Oil Spill Plan kicks in and there are protocols as to how this operates. A Minister does not just get involved ad hocly in matters like these. Thank you.

### **Pointe-a-Pierre Refinery Oil Spill (Disaster Plan)**

**Mr. David Lee** (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of

Energy and Energy Industries: Based on the recent upset conditions at the Pointe-a-Pierre refinery which followed the oil spill that has posed severe health hazards to residents of surrounding communities, could the Minister state whether Petrotrin has a disaster plan in place for the residents and communities of the Pointe-a-Pierre region?

**The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan):** Thank you, Madam Speaker. Madam Speaker, just a couple minutes ago Petrotrin has confirmed to me that it does have an emergency disaster management plan which includes the fence line communities, in particular, the fence line community of Pointe-a-Pierre.

I want to give the Member of Parliament the assurance—because he is the Member of Parliament for the fence line community—that I can engage Petrotrin to meet with him to share the details of that plan.

### **Impact Analysis of Venezuelan Crisis**

#### **(Details of)**

**Mr. Rodney Charles (Naparima):** Thank you, Madam Speaker. To the Minister of Foreign and Caricom Affairs: Has the Government carried out a present and future impact analysis on Trinidad and Tobago of the Venezuelan crisis; and if so, what are the highlights of this assessment especially in the areas of crime, illegal immigration, human trafficking and depletion of our scarce foreign exchange?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Thank you very much, Madam Speaker. Madam Speaker, the situation in the Bolivarian Republic of Venezuela continues to be very fluid and dynamic. The Government of Trinidad and Tobago continues to monitor the situation without getting involved in the internal affairs of Venezuela. The impact analysis is ongoing with respect to various scenarios and possible courses of action, in particular, areas with respect to

immigration outflow out of Venezuela, narco-trafficking, illegal movements of guns and ammunition and human trafficking. We continue to liaise directly with our military attaché in Venezuela and, in fact, have periodic meetings with the Bolivarian Republic Embassy here in Trinidad and Tobago.

Madam Speaker, based on the fluidity of the situation, we continue to monitor and come up with different courses of action to treat with the situation in Venezuela without, as I mentioned, getting involved in the direct affairs and internal affairs of the Bolivarian Republic of Venezuela.

**Mr. Charles:** Thank you very much, Madam Speaker. Based on the comments of the Member for Point Fortin, would he give us an idea of the sense of immigration of Venezuelans to Trinidad and Tobago, what is the size, what do they do, and what steps are taken to ensure that it operates consistent with the requirements of our country and its need to reduce crime, et cetera?

**Hon. Maj. Gen. E. Dillon:** Madam Speaker, we have had a historical relationship with the Bolivarian Republic of Venezuela through the movement of people. At this present time, Venezuelan nationals can come to Trinidad and Tobago for a 90-day period without a visa. We continue to monitor the situation through our immigration posting at the various ports of entry in Trinidad and Tobago. And so, based on our relationship, we monitor it not only from the immigration standpoint, but also from a security standpoint. As we well know, at the closest point, we have a seven miles at the closest point, in fact, from Icacos to Venezuela.

We continue to monitor the movement by using the agencies of national security, through the presence of the Trinidad and Tobago Coast Guard, through our coastal radar system and, of course, by sharing intelligence with our counterparts in Venezuela.

[MR. DEPUTY SPEAKER *in the Chair*]

**Mr. Deputy Speaker:** Members, the time has expired with regard to urgent questions.

### **ANSWERS TO QUESTIONS**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, we are asking for an extension of two weeks for question No. 107 and question No. 114. All other questions will be answered, including the written question.

### **ORAL ANSWERS TO QUESTIONS**

*The following questions stood on the Order Paper:*

#### **PricewaterhouseCoopers Audit Reviews**

##### **(Details of)**

**107.** With respect to audit reviews by PricewaterhouseCoopers Limited on Ministries, Departments, Statutory Corporations, State Enterprises and Special Purpose Companies which reportedly commenced since September 2015, could the hon. Prime Minister indicate:

- (a) the list of audit reviews completed to date;
- (b) the list of audit reviews in the process of being completed; and
- (c) the cost of per audit in (a) and (b) above;
- (d) the outstanding quantum of monies yet to be paid to the audit firm? [*Dr. R. Moonilal*]

#### **Distribution of Laptops to Schools**

##### **(Details of)**

**114.** Given the Minister of Education's statement that laptops will be given to schools, could the hon. Minister tell the House:

- (a) the total number of computers distributed to date; and
- (b) the number of computers received by each school?

[*Mr. R. Charles*]

*Questions, by leave deferred.*

**Mr. Deputy Speaker:** Member for Oropouche East.

**Hon. C. Robinson-Regis:** Mr. Deputy Speaker, I indicated that question No. 107, we are asking for an extension of two weeks. We understand that this has been on the Order Paper for a little while, but the information that we received was not quite accurate and so we are asking for a further extension.

Thank you very much, Member for Oropouche East. I know you are always so accommodating to us on this side.

### **Arima Hospital**

#### **(Reduction of Construction Cost)**

**111. Dr. Fuad Khan** (*Barataria/San Juan*) asked the hon. Minister of Health:

With respect to the Minister's recent statement on the reduction of construction cost by more than \$250 million on the Arima Hospital, could the Minister state the:

- a) actual amount saved by reduced wastage;
- b) specific items affected by reduced wastage;
- c) actual amount saved by reduced corruption; and
- d) corrupt activities that were discovered?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker. The answer to part (a) is \$42,638,113.79, VAT inclusive. The answer part (b): health care consultant, reimbursable and engineering services under the following headings:

Description:

Health care consultant: Cabinet approved 2012 budget, \$25,340,256.72.

Revised proposed budget 2017, \$12,670,128.36, giving you a savings of

\$12,670,120.36;

Under engineering services: Cabinet approved 2012 budget, \$2,119,425.79. Revised proposed budget 2017, \$876,432.30, a savings of \$1,242,993.45, and we did this by using in-house services provided by UDeCOTT.

The answer to part (c) is \$148,372,659.03, VAT inclusive.

Description:

Contingencies: Cabinet approved 2012 budget, \$126,701,283.60. The revised proposed budget for 2017, \$31,675,320.90, giving the taxpayer a savings of \$95,025,962.70;

Miscellaneous expenses: the Cabinet approved 2012 budget, \$63,346,696.33. The proposed revised budget 2017, \$10 million, giving the taxpayer a savings of \$53,346,696.33 and this was due to over inflated figures for miscellaneous.

The answer to part (d) is contingency and miscellaneous fees which were overestimated and grossly exaggerated. [*Desk thumping*]

**Dr. Khan:** Thank you, Minister, for that answer. Would you then say then that the miscellaneous fees that you have indicated was dependent on the foreign loan value that was going to be given by the Government of China?

**Hon. T. Deyalsingh:** What I will say is that these savings outlined so far, we have saved the taxpayer on these alone—there are other savings—TT \$190 million. [*Desk thumping*]. What I will further say is that people who are expert in this, especially under part (d) which deals with corruption, that I should pass it on to the appropriate authorities and they will take the appropriate action. [*Desk thumping*]

**Dr. Khan:** I am just asking that whether contingency fees, is it not a percentage of the value of the loan that would be taken by the Government to Government arrangement?

**Hon. T. Deyalsingh:** The contingency fees were reduced significantly and we have not adjusted one square foot of space at the Arima Hospital. Not one square foot, not one bed, nothing. So nothing has been affected. What we have done is taken these over inflated fees, which were going to find themselves into the pockets of some people, and save the taxpayer on these alone, TT \$190 million.

**Dr. Khan:** Minister, could you indicate whether the quantum of the loan to be borrowed from China—China Development Bank—as a Government to Government arrangement, has it been decreased?

**Hon. T. Deyalsingh:** Mr. Deputy Speaker, that is a completely different question, but what I could tell the Member is that the mess inherited on that project was swiftly solved by both the Minister of Finance and the Attorney General, and this country owes these two gentlemen a debt of gratitude. [*Desk thumping*]

### **North West Regional Health Authority Vehicle Purchases**

#### **(Details of)**

**112. Dr. Fuad Khan** (*Barataria/San Juan*) asked the hon. Minister of Health:

With respect to vehicle purchases by the North West Regional Health Authority, could the Minister indicate:

- (a) the make, series and total cost of the vehicle that was purchased for the current Chief Executive Officer;
- (b) the make, series and total cost of the vehicle that was purchased for the former Chief Executive Officer;
- (c) whether he was aware of the vehicle purchase at part (a)?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you, Mr. Deputy Speaker.

Part (a): the Audi A4 2.0T Sedan purchased in 2016 at an actual cost to the North-West Regional Authority of \$370,413, VAT and motor vehicle tax

- exclusive. The approved limit set by the Chief Personnel Officer for the purchase by the NWRHA of a vehicle for use by the Chief Executive Officer in 2016 was \$400,000, VAT inclusive. This limit was set in 2014;
- (b) Mercedes-Benz C180 purchased in 2013 at an actual cost to the NWRHA of \$249,999.05, VAT and motor vehicle tax exclusive. The approved limit set by the Chief Personnel Officer for the purchase by the RHA of a vehicle for use by the Chief Executive Officer in 2013 was \$250,000 exclusive of motor vehicle tax and VAT. This limit was set in 2006;
- (c) I was advised by the authorities subsequent to the purchase of the vehicle.

**Dr. Khan:** Minister, could I ask you, based on the figures that you have just given to me, the Chief Executive Officer presently has a vehicle that cost \$370,413, and the previous CEO's cost was \$249,999. Would you then say that your CEO of today has become more opulent and expensive as compared to the CEO of the past? [*Desk thumping*]

**Hon. T. Deyalsingh:** The vehicle bought was within the limit set by the CPO. The CPO does not determine the make of the vehicle. So therefore, the question does not arise. You are asking me for an opinion.

**2.00 p.m.**

**Dr. Khan:** In view of the light of the Minister of Finance's utterances that there was not any money to provide for services, do you not think that the Chief Executive Officer of the North-West Regional Health Authority should have been a little less opulent in his behaviour in the purchase of that vehicle?

**Hon. T. Deyalsingh:** That is an excellent question and maybe the Chief Personnel Officer, if you wish, can maybe direct bodies what type of vehicle to buy or not to buy. But the Chief Personnel Officer sets limit but does not tell any agency what type of vehicle to buy.

**Mr. Deputy Speaker:** Next question. Member for Barataria/San Juan.

**Couva Children and Adult Hospital**

**(Usage of CT Scanner and MRI Scanner)**

**113. Dr. Fuad Khan** (*Barataria/San Juan*) asked the hon. Minister of Health:

Could the Minister indicate the reasons the CAT scanner and high-tech MRI scanner at the Couva Children and Adult Hospital are not being used?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you once again, Mr. Deputy Speaker. The facility known as the Couva Medical and Multi-Training Facility was outfitted with a computerised tomography—not CAT—CT scanner and Magnetic Resonance Imaging (MRI) machine. This facility was never vested in any regional health authority. The Government of the Republic of Trinidad and Tobago, through the Ministry of Planning and Development, is completing the process of evaluating expressions of interest towards the award of a public/private partnership to operate the facility. Further, until this facility is properly vested or operationalised in any RHA for the use by health care professionals and treatment of patients, it will give rise to liability issues. So we want to avoid that.

**Dr. Rambachan:** “You know it have people dying in there?”

**Mr. Charles:** Thank you, Mr. Deputy Speaker. Is the Minister satisfied in good conscience that there is equipment paid for by Trinidad and Tobago taxpayers lying unused while my constituents have to wait three and four months for a CT scan and an MRI scan? [*Desk thumping*] That is immoral.

**Hon. T. Deyalsingh:** I am satisfied that in San Fernando, Mount Hope and Port of Spain, your constituents can get the necessary CT scans. We are in the process of forming a partnership. We do not want to jeopardize, in the short term, the use of that facility that may give rise to liability issues because this Government will operationalize that facility properly because this Minister of Health, unlike

previous Ministers of Health, I own no 250,000 shares in any private institution and I, as Minister of Health, will not issue a licence to a private hospital in which I own shares and that is what you should be asking. [*Desk thumping and interruption*] Did a previous Minister of Health who owns 250,000 shares in a private hospital issue a licence to himself?

**Mr. Deputy Speaker:** Members, Members. Minister of Health. I recognize the Member for Barataria/San Juan. [*Desk thumping*]

**Dr. Khan:** Minister, could you indicate, based on that utterance, that attack—I mean it is Standing Order 48, it is imputing improper motives. But no, I have no problem with it because there is nothing—above board. Could the Minister indicate whether the Minister of Health, prior to you, gave any increased access of CT scans to St. Augustine Private Hospital and how much?

**Hon. T. Deyalsingh:** I am aware that no Minister of Health who owns shares in a private facility can sign a certificate under the public hospitals Act to issue a licence to a facility in which they are a shareholder. That is what I am aware of. And what the hon. Member should ask is who authorized, under 2011 to 2015, every single licence to a public hospital, dialysis centre? Under whose hand? Because the public hospitals Act specifically states it is the Minister to issue the licence. And how could a Minister holding 250,000 shares, in a private facility, in the first place, be conducting operations in that facility, and two, issuing a licence to the same facility that he has shares in? That is the question. And further, under the Integrity in Public Life Act, there should be an investigation. [*Desk thumping*]

**Mr. Charles:** In response to the Minister's response to me, I want to indicate— [*Interruption and crosstalk*]

**Hon. Member:** Ask a question.

**Mr. Deputy Speaker:** Members. Proceed. Member for Naparima has the floor.

**Mr. Charles:** I want to inform the Minister of Health that—[*Interruption*]

**Hon. Members:** Noooooo!

**Mr. Charles:** I want to ask him, I want to ask him—[*Continuous interruption*]

**Mr. Deputy Speaker:** Member, one second. Again, Member, you have a couple of seconds to make a point and then come to the question. Kindly proceed.

**Mr. Charles:** Is the Minister aware that it takes four months to get an MRI and CT scan and this has resulted in some deaths of people from the Naparima constituency? [*Desk thumping*] I will give you the names.

**Hon. T. Deyalsingh:** If you have evidence, bring it to me.

**Dr. Rambachan:** And what would you do with it? “Dey dead already.”

**Mr. Singh:** He will perform the post-mortem.

### STATEMENT BY MINISTER

#### Cybercrime Bill, 2017

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I have been authorized by the Cabinet to make the following statement. I am pleased to inform this honourable House that the Cybercrime Bill, 2017 has been duly approved to be laid in Parliament. The Bill seeks to provide for the creation of offences related to cybercrime and to effectively repeal and replace the existing Computer Misuse Act, Chap. 11:17, which Act has fallen into a state of near irrelevance since its proclamation in November 2000.

The Bill is being brought to Parliament in the context of the Government’s appreciation of the fact that cybercrime ranks as the second most reported economic crime in the world according to PwC’s *Global Economic Crime Survey 2016*. Studies estimate that the Internet economy generates between \$2 trillion to \$3 trillion per annum, a share of the global economy that is expected to grow rapidly. However, cybercrime extracts between 15 per cent and 20 per cent of the

value created by the Internet. Trinidad and Tobago, as an island state, is not immune to the losses caused by cybercrime.

Locally, cybercrime involves data breaches and cyberattacks. Individuals are exposed to the ravages of identity theft, fishing emails, spam and computer viruses. But most importantly, cybercrime involves the controversial use of personal information as well as online extortion. Cyber-bullying and uncontrolled and venomous hate messaging are all too well known in Trinidad and Tobago. Fake news disseminated through social media networks, as well as hacking of critical infrastructure and other essential sectors, feature prominently as burning issues.

Mr. Deputy Speaker, Trinidad and Tobago has sought to deal with cybercrime on two occasions in the Tenth Republican Parliament. The Cybercrime Bill laid on March 21, 2014, lapsed on the prorogation of Parliament on July 30, 2014, amidst concerns raised by media stakeholders in relation to restriction of the press freedom, as well as the Children's Authority in relation to the remit of provisions of the Bill and its correlation to the Children Act, Chap. 46:01.

The Cybercrime Bill, 2015 was introduced on May 01, 2015. This Bill sought to remove the offence of child pornography as well as the provisions relating to child offenders whilst retaining the offence of luring. The Bill also prescribed very heavy penalties for all crimes with fines ranging from \$1 million to \$5 million and terms of imprisonment up to five years. That Bill was however met with strong misgivings by media stakeholders, particularly in relation to perceived infringement of the constitutional freedom of the press in the conduct of investigative journalism, as well as extensive criminalisation, excessive criminalisation. Amid public furore, the Bill lapsed in June 2015.

Cognizant of the importance of the need to improve the law in relation to cybercrimes, this Government commenced stakeholder consultations at the end of

2015, with the Ministry of the Attorney General and Legal Affairs, and the Ministry of National Security hosting several meetings with media stakeholders in order to address their concerns raised in relation to the Cybercrime Bill. Arising out of this exercise, several amendments were made in order to treat with the constitutional issue of preservation of freedom of the press whilst balancing the public interest need to guard against electronic crimes. Importantly, the Bill focuses on the causing of harm by communications using a computer system whilst seeking to maintain a careful balance between the related freedom of the press and freedom of expression on the one end, and the need to protect our citizens from the ravages of an unfettered and under-regulated cyber environment on the other end.

In the Cybercrime Bill, there is contained comprehensive measures for the effective investigation and prosecution of cybercrime which is to be primarily led by the Cybercrime Unit of the Trinidad and Tobago Police Service. Such measures involve the search and seizure of apparatus and computer data, the removal or disablement of data, the ability of the court to issue production orders relating to computer data and is required for a criminal investigation or criminal proceedings. It includes the expedited preservation of computer data, the utilization of remote forensic tools for the collection of data as well as the issuance of a warrant for the seizure and restraint order to prohibit the disposal of any property that is to be forfeited under the Act. It is to be noted that the provisions of the Cybercrime Bill transcends and adds a heightened dimension to the provisions of the Evidence Act which was amended in 1996 to allow for the admissibility of computer records as courts of law are granted considerable powers of enforcement in relation to commission of cybercrime offences.

Mr. Deputy Speaker, the clauses of the Cybercrime Bill recognize the transnational elements of cybercrime and, in so doing, provide for the action

through the granting of jurisdiction to the courts of the Republic of Trinidad and Tobago with respect to crimes that are carried out, wholly or partly in Trinidad and Tobago, by a citizen of Trinidad and Tobago, whether within the national space or elsewhere, or even by a person on board a vessel or aircraft that is registered in Trinidad and Tobago.

I would like to draw to the attention of Members of this House that the Republic of Trinidad and Tobago maintains its sovereignty in the investigation and prosecution of cybercrimes within its territorial jurisdiction, even if the perpetrator is located elsewhere in the world. As long as the cybercrime committed affects computer systems or data within the Republic of Trinidad and Tobago, then the matters fall within the purview of law enforcement agencies and courts of law of this nation.

Mr. Deputy Speaker, I would like to strongly underscore that this Bill also acknowledges that criminals need not be present at the same location as the target or the site of the crime. Given that many cyber offences are transnational in nature, it is worth noting that cybercriminals often seek to avoid countries with strong cybercrime legislation, thus preventing the establishment of safe havens is one of the key objectives, albeit a challenge, in the fight against cybercrime. This, therefore, requires the promulgation of legislation that is harmonized with international best practice as this Bill puts forward, in order to ensure the mutual legal recognition of cybercrimes, as well as bilateral and multilateral cyber security cooperation to facilitate transborder investigation that can result in the effective prosecution of cybercrime.

Mr. Deputy Speaker, in closing, I would like to underscore that within this globalized world, as Trinidad and Tobago makes considerable advances in the modern era of technology, the online threat environment continues to evolve and

cybercriminals' tactics adapt and change with the evolving technology. As per Newton's law, for every action there is an equal and opposite reaction and it is within this context that it is only right that as we advance in the epoch of technology, we contemporaneously continue to strengthen the systems in place for addressing and countering current, as well as emerging issues within cyberspace.

Mr. Deputy Speaker, we believe that this proposed Bill can benefit from a more detailed parliamentary consideration than regular debate and it is in this regard that this Government proposes that pursuant to Standing Order 64(1)(c) that this proposed Bill will be referred to a Joint Select Committee of the Parliament. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

### **CYBERCRIME BILL, 2017**

Bill to provide for the creation of offences related to cybercrime and for related matters [*The Attorney General*]; read the first time.

**The Attorney General (Hon. Faris Al Rawi):** Mr. Deputy Speaker, in accordance with Standing Order 64(1)(c), I beg to move that the Cybercrime Bill, 2017, be referred to a joint select committee to be established for its consideration and report.

*Question put and agreed to.*

### **JOINT SELECT COMMITTEE**

#### **Insurance Bill, 2016**

#### **(Extension of time)**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Mr. Deputy Speaker. Having regard to the Second Interim Report of the Joint Select Committee appointed to consider and report on the Insurance Bill, 2016, I beg to move that the Committee be allowed an extension of four weeks in order to complete its work and submit a final report by June 02, 2017.

*Question put and agreed to.*

[MADAM SPEAKER *in the Chair*]

**JOINT SELECT COMMITTEE**

**(APPOINTMENT OF)**

**Cybercrime Bill, 2017**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very kindly, Madam Speaker. I beg to move the following Motion:

That for the purposes of section 64(1)(c) that this House appoint six Members to sit with an equal number from the Senate on a joint select committee to consider and report on the Cybercrime Bill, 2017; that this committee be mandated to report within eight weeks, that is to say, by June 30<sup>th</sup>, 2017; and that, provided it receives the concurrence of the Senate, the following six Members be appointed to serve on the committee and these six Members, Madam Speaker, are as follows:

Mr. Faris Al-Rawi

Maj. Gen. (Ret.) Edmund Dillon

Mr. Fitzgerald Hinds

Miss Shamfa Cudjoe

Dr. Roodal Moonilal

Mr. Barry Padarath

Thank you very much, Madam Speaker.

*Question put and agreed to.*

**STANDING FINANCE COMMITTEE**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very kindly, Madam Speaker, in accordance with Standing Order 82(6), I beg to move that this House now resolve into Standing Finance Committee to continue the consideration for the proposals for the variation of the appropriation

for fiscal year 2017.

*Question put and agreed to.*

**2.30 p.m.:** *House suspended.*

**6.00 p.m.:** *House resumed.*

**Madam Chairman:** Member for Siparia. [*Desk thumping*]

**DEFINITE URGENT MATTER**

**(LEAVE)**

**Proper Water Supply**

**(Government's Failure to Provide)**

**Mrs. Kamla Persad-Bissessar SC:** Thank you, Madam Speaker, and may I take this opportunity to thank Madam Speaker for granting leave so I am able to raise this Motion on a matter that I think is of grave importance, not just in my own constituency but in many parts of Trinidad and Tobago. Madam Speaker, I had the opportunity over the weekend to really traverse the majority of my own constituency, and the cry in almost every part of the constituency was there was no water. There had not been water for quite some time in some areas, in some cases several weeks, in some cases several days, but the general cry, and it reminded me when I first became a Member of Parliament many, many moons ago, that would have been in 1995, I believe, that as the MP that was the main point that people would come into the constituency office to see us.

I remembered that we marched together. I walked from Siparia up to the WASA office in San Fernando with constituents, and so on, and then that changed. But before I get there, this cry that I experienced personally over the weekend—and, of course, we were getting the calls, and visitors to the office before from the constituency—is echoed throughout Trinidad and Tobago in many, many, many areas. So that if we look at the headlines over the past several weeks, we see,

Todd's Road suffering for water; we see, January 18<sup>th</sup>, Chatham residents, fiery protest for pipe-borne water in Lopinot—the Minister, in the meantime, saying, there is no water shortage—thirst for water, another headline; water protest causes back-to-back school mayhem; fiery protest along the Penal Rock Road, and so on; water once per week; road falling apart; in Moruga, heat for MP as pipes run dry; residents block roads in Todd's Road protest; Todd's Road, again, community seeks help; April 25, 2017, after protest more water coming, WASA responds; April 26<sup>th</sup>, Minister Hinds, water relief on the way; April 27<sup>th</sup>, Moruga; April 27<sup>th</sup>, dry season taking a toll; supply schedule soon says WASA.

Madam Speaker, these are the headlines, and the Minister, again, repeating, April 27<sup>th</sup>, no water shortage; pressure for Belmont, St. Barbs; Mayor wants water for suffering residents; May 3<sup>rd</sup>, fiery protest for water, restrooms to close in Maracas/Las Cuevas; this is May 5<sup>th</sup>—today is May 5<sup>th</sup>, is it not?—Maracas, Las Cuevas beaches, water problems. So, hon. Madam Speaker, it seems to be a widespread problem as reported, and, as I said, I had first-hand experience in my own constituency just over this weekend, and I think many of the other MPs have had similar experiences with this issue with water.

So what has happened? What has changed, Madam Speaker? What has changed that there are so many areas now without water? It is we are in the dry season and you would in the dry season experience some lesser rainfall, and, therefore, perhaps less water to go around. But I recall last 2015, when the now Government in Opposition on the campaign trail in their manifesto, which has now become government policy, at page 29 of their manifesto, under the heading, The Water Sector, and I quote from that manifesto of the present Government:

“Management of the water resources of the country to provide not only a reliable water supply to meet present demands of all but to ensure

sustainability of supply and the available water resources of the country to meet the needs of future generations.”

This was the promise back in 2015 from the then Opposition now in Government.

About 20 months later they have failed, and failed miserably [*Desk thumping*] with respect to this, in their management, not only for this, with water, but in other sectors, but we are on the water today. So, again, in their manifesto, and I quote:

“In Trinidad and Tobago, there is a lack of reliable data and information to support proper decision making to improve the water sector...”

And the manifesto goes on to talk about aquifer management, determining water balances in watersheds, drainage design, and all other kinds of grand plans, and, so, today, which of these promises have been kept? And it would appear that none, not one has been kept. Whilst the Minister appears to be in denial, because on several occasions he said there is no water shortage, then tell us why. Why is it that throughout the country people are experiencing water shortages? My colleague who was the then Minister of the Environment and Water Resources might be able to tell us a little more about what happened then, but I do not want to go backward.

Madam Speaker, there is much to be done by living your life looking in the rear-view mirror, but I think we need to go forward. [*Desk thumping*] We need to be told what it is the Minister intends to do, what it is the Government intends to do, really to bring back water, and when I asked for your leave, your gracious leave, Madam, I quoted, you know, from the United Nations Human Rights Committee on Economic, Social and Cultural Rights, which says that:

“The human right to water is indispensable for leading a life in human dignity.”

—recognized worldwide as a great right, as a gracious right, and, of course, as a

survivor right; without water we shall surely perish.

So I asked before, what has changed from then to now? Yes, there may not have been 100 per cent water supply in 100 per cent taps, but there was taken from—what was it?—a 17 per cent from when we came into office, of water distribution to—what was it?

**Hon. Member:** Seventy.

**Mrs. K. Persad-Bissessar SC:** Seventy, about 70 per cent. [*Desk thumping*]

And when we asked the question then what has changed, it seems as though it is the management. If the Minister says there is no shortage of the water then it is the management of the resources in the distribution system, and as a whole, of the WASA resources, and the water resources, you know. That is why the present Government, then in Opposition, up to now they laughed at us and said, why you created a Ministry of the Environment and Water Resources.

We created a Ministry of the Environment and Water Resources, and it was for a reason. It was to ensure that this vital commodity, this essential commodity for life that we took the water. I remember reading the plan, and the then Minister shared it with me, you know, what happened in Singapore, that you take the water from the rainfall down through the earth, through the aquifers, through the drain-off, you pick up the drained-off water, [*Desk thumping*] the water goes—you keep using back the water. It is a whole model, and that is where the vision came from of having a Ministry of the Environment and Water Resources so that every drop of water could be preserved, conserved, and be utilized to sustain life.

The new Government had a different view, they are entitled to have a different view, but surely they have a duty to provide water to the citizens of Trinidad and Tobago. [*Desk thumping*] The Minister, I heard, and as carried in the newspaper in another place, reports carried in the newspaper, no water shortage,

and a schedule is coming, and a schedule is coming, and that was a little while back. I think that those comments were made on the 25<sup>th</sup> of April, we are now on the 5<sup>th</sup> of May, and with each passing day without water it is more and more unbearable; definitely, it is a trauma and a pain for everyone. So from then the Minister talked about the schedules, but I do not know whether these schedules have been put in place or not, but schedule or no people are still not getting water. [Desk thumping] [Interruption]

**Miss Ramdial:** The schedules are misleading.

**Mrs. K. Persad-Bissessar SC:** The schedules are misleading, my colleague says.

So, Minister, through you, be, I think, along with those of us in the Chamber and outside, and the national population will be very anxious to hear your good self in terms of what are your plans to deal with this situation, which might be really at a crunch time, as we go through the last few months of the dry season. Do you know, Madam Speaker, that people are paying up to \$1,000 for a truckload of water; \$1,000, there is a black market festering, fraudulently, illegally in the sale of water because people just have to get that water. Imagine you get up in the morning, you have your children to see about, you have to make their meals, you have to get them ready to go to school and you have no water. One day, okay, two days “man”? Some of these people, it is not like two days, it is a week; it is two weeks; it is three weeks; it is unbearable. And if we read some of the articles, if I have a few moments here, I can do, you can see the suffering that is being gone through.

Then we come now, we talk about the tourism sector, and the great need for diversification, or for getting revenue from other sectors, but then how can you sustain tourists? How can you bring them into our hotels in Tobago and they do not have water? [Desk thumping] How can that be? And then we talk about having

more tourists, Jazz Festival, which my colleague has been speaking about, apart from other issues that the hon. Member has raised, from Couva North, this issue of water also in Tobago. What about in the schools?

You know, I heard the hon. Minister talking a little while ago in the Standing Finance Committee about the laptops and how many they will give, and so on; 50 laptops, I think, they are saying now for a school, think of a school with 1,200 children, which we do have. Think of a school with 300 or 500 children, and you have no water for the entire day. I am glad the Minister has decided not to cut down the lunch hour from the one hour, [*Desk thumping*] because can you imagine 1,200 children and one hour lunchtime to use the washrooms, to get water, refresh themselves, and so on. In the schools, in the health institutions, and, indeed, in your homes, this issue of no water supply is one that is hurting everyone.

So, let us hear, “‘Pressure’ for Belmont, St. Barb’s: Mayor wants water for suffering residents”, this is April 30<sup>th</sup>, today is the 5<sup>th</sup>, published in the *Express*:

“Port of Spain Mayor Joel Martinez and Belmont East councillor Darryl Rajpaul are appealing to... (WASA) to provide about 300 residents from Boissierre Lane, Layan Hill and St Barb’s with water. Rajpaul raised the matter on Thursday during the Port of Spain City Corporation statutory meeting, at City Hall...Port of Spain.

He said parts of Boissierre Lane have not been getting an adequate water supply since December 23, 2016.

Also present was deputy mayor Hilan Morean.”

So this is in north Trinidad, so it is not just happening in certain areas. Then we get the comments coming from hon. Ministers, some of them, that the protest down in Penal is motivated by something else, or the protest up in Todd’s Road was for something else, when all that it is motivated by is people’s demand for what is

right. [*Desk thumping*]

So when it is you have the Mayor of Port of Spain calling for water for residents, what is different from that being politically motivated from when it is held in Penal, or in St. Barbs, or in other parts of the country? What is different? There is nothing that is different, every person in this country [*Desk thumping*] deserves and should have a proper water supply on a regular basis, and if you cannot do it for every day at least have it regular. Look, even for myself, and I am not asking for myself, I live in a different part from the rest of my constituents, but it is the same thing, we are being told that water will come on a certain day and it does not come. So you wait all week and you say, okay, at least one day we wait and let us fill up some buckets and some tanks, and when that day come you wait whole night, there is no water, there is none.

Now, Madam, I want you to imagine, there are people now who have lost their jobs. We have seen over 30,000 persons, by now, loss of jobs. We have seen the hardship now. We see the supermarkets telling us about their prices are going to go up. We see the hardship in every sphere of life, then comes to water and you have to pay \$1,000. You would not even have that \$1,000, Madam Speaker, that you can pay.

So what has changed? What has changed that we were able to run this water? I know it for a fact that the water was in the taps, was running in the taps. The only thing that has changed, in my respectful view, is that they are now in Government, [*Desk thumping*] that is what the major change has been. Therefore, Minister, I am squarely, over to you, please, please, on behalf of my constituents, I can list every road, every road that where we are having this problem. In this dry season what is also happening, what is happening? Bush fires. What about water for the fire appliances, the fire brigades who will also be in need of water, now we

are into the dry season and more bush fire is taking place.

So, Minister, I am just looking for one last sheet of paper that was sent to me just a short while ago from my constituents, and this is it, areas without water in Siparia: Syne Village, De Gannes Village, Sunrees Road, Patiram Trace, Katwaroo Trace, Penal Rock Road, La Costena Gardens, Dil Mohammed Trace, Old Quinam Road, Bobby Avenue, Fazal Avenue, Dabiedial Road, Ramdeen Trace, Bernard Trace, Haliday Trace, Lachoos Road—oh, I am getting breathless with this, this is like every road, because I was there. I was there myself over the weekend—Crawford Trace, Best Trace, Jhulai Trace, Teeluck, Nagassar, Seemungal, Goodman, Mulchan, Bunsee, Hope, Satnarine—going all down, 48 roads, Madam, in the constituency, which is really all of it. This is mine, because I went in there myself over the weekend and I got the listing from the residence. Others I have read to you from the newspapers; these have come where the cry is, not just in the constituency of Siparia, but I am seeing throughout.

So, today, I want to thank you for allowing me to raise it as a matter of urgent public importance, and I do not think we can simply rely on the assurance of the Minister which was given last week, which is that there will be a scheduling. Apparently, that is not working, and, therefore, hon. Minister, I hand over for you to tell us what we can do. Thank you, Madam. [*Desk thumping*]

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Madam Speaker. Madam Speaker, the hon. Leader of the Opposition presented a Motion today that was almost identical to the one I responded to in the Senate last week when I examined it, and she said many of the very things that Sen. Ramdeen said in the Senate when I responded some time ago; it is as if they drank from the same cup. But, Madam Speaker, in summary, the Member for Siparia's Motion rests on two main points: firstly, that there is a critical water shortage in Trinidad

and Tobago, and, secondly, that the Government is failing in its responsibility to provide water adequately to the citizenry. In support of these claims the Member went to quote from headlines, and quoted a number of them, disregarding the fact that sensationalization is a very characteristic feature of media worldwide, and she quoted it—[*Interruption*]

**Hon. Member:** So the media lying?

**Hon. F. Hinds:** Well, you know, the Member spoke about Maracas, and, you know, it is well known. TDC, to whom the Member made reference, has been issuing these bulletins on an annual basis for at least the last five years, and I just want to run—[*Interruption*]

**Madam Speaker:** I would like Members to desist from shouting across the floor, please. Please, continue Member.

**Hon. F. Hinds:** I just want to run a couple of quotations, headlines too, for what little I think they are worth, because, you know, sometimes they do not always reveal the true picture, but I would run a couple of them: one, January 14, 2013, shortage of water tanks as people prepare for water shortage; June 8, 2015, water crisis cripples Tobago tourism industry; November 22, 2011, water shortage to end soon, so the Minister said; June 15, 2015, rainfall relief for WASA, as residents protest water shortage, and so the list goes. So nothing new, nothing strange.

It is important to note, Madam Speaker, that those kinds of utterances, the utterances of the Member for Siparia are simply not true, exaggerative just like the clippings she quoted from a while ago, and designed to create panic and to stir confusion in the national community. It is important to note that during the annual dry season, Madam Speaker, water supply and distribution of water to the national communities is always, always extremely challenging, given the increase in demand, at the same time there being a reduction in the water available for

production and distribution. Madam Speaker, this is so because 56 per cent of the country's water supply comes from surface water sources, largely from rainfall into the rivers, into our reservoirs, which we hold and we keep for the dry season, in particular, and here is where we are again in Trinidad and Tobago. Nothing new, nothing strange.

In spite of these challenges, Madam Speaker, I am advised by WASA that the water levels in these reservoirs are above average. These are the facts, and facts are stubborn things. The water levels at Arena, at Navet, at Hollis, and Hillsborough in Tobago continue to provide the buffer against the effects of the dry season, as I have just explained them. The Ministry of Public Utilities, with oversight over that institution called WASA, which is responsible for the nation's water supply and distribution, I have taken responsibility for it when I came to this office, and I continue to do what my predecessor and others have done, that is to ensure that WASA is using the resources available to it in these challenging economic times to fulfil its mandate. And, secondly, I found myself having to clean up the complete and total mess of WASA's financial circumstances that we met when we came into the Government. [*Desk thumping*] That is a fact, and it will not go away; that is a fact.

Permit me an opportunity to put on record that during the last administration, and I heard the Member for Siparia, and I do not want to be looking back, but the Member boasted again that they met 17 per cent of the population receiving water 24 hours a day, seven days a week, and they improved it to 73 per cent. Madam Speaker, and I will have to develop this in greater detail going forward, that too is a complete untruth; it is not true. They spent, Madam Speaker, \$7.4 million in an advertisement campaign to bring this false message to the people when they were in Government. That \$7.4 million could have done a whole lot to improve the

distribution system so that people can get a more adequate supply of water in this country; instead, they mismanaged WASA's finances, gave contracts to their friends, squandered money, as they did everywhere else, and for which they will be held accountable, and they tried to fool the population. I can assure you, and I am getting this from WASA, Madam Speaker, that is not correct, it is not correct.

*[Interruption]*

**Mr. Singh:** Tell us what is correct. *[Crosstalk]*

**Hon. F. Hinds:** I will tell you. Madam Speaker, let me give you a quick comparison—*[Interruption]*

**Madam Chairman:** Order. Order.

**Hon. F. Hinds:**—level of service, 24/7; class one, 24/7 service; January 2017, 43 per cent; February 2017, 48 per cent; March 2017, 48 per cent; April 2017, 38 per cent, and so the story goes, I have the figures here. So, actually, Madam Speaker, we have improved the distribution of water since we have been in office. *[Crosstalk and interruption]* Give them that. The figures speak for themselves.

*[Interruption]*

**Madam Chairman:** Order.

**Hon. F. Hinds:** So, Madam Speaker, the Member for Siparia is relying on all the protests, and so on. A couple of days ago it became very clear to WASA, and a councillor call Diptee in the community of, I think it is Solomon, Lochan Road, or something like that, where about 18 households came out and the people protested, when the facts were put to him that water was sent on the new schedule, because we told this country that we would publish the new schedule for the distribution of the challenged water resource that we had. We are in the dry season, the reservoirs were what they are, better than the average ever before, and that we will distribute this water sensibly to the national community on the basis of a new schedule. We

published that schedule last week Thursday and WASA is living to that schedule. It is my responsibility to ensure they do.

In keeping with that schedule, they sent water to that area Sunday and Monday of last weekend. The residents came out and protested on Monday, I think it was. When the media confronted them with those facts, he said they still protested because it looks as though somebody got a tip that they were about to protest and sent water. WASA also instructed us that they sent truck-borne water into the area. In fact, the water supply in Penal, Fyzabad, Debe and Siparia have improved over the last week. That is the reality.

So, Madam Speaker, WASA is afflicted in its distribution system. There are, Madam Speaker, issues of mismanagement, there are issues of corruption, even in the truck-borne delivery of water. I heard the Member for Siparia tell us today, imagine that a black market has developed for water, people are paying \$1,000. Anybody who do not understand Trinidad will think that that developed since September 08, 2015. [*Interruption*]

**Mrs. Persad-Bissessar SC:** You are in charge.

**Hon. F. Hinds:** Not at all. Water has been sold in this country for years, and the people of Trinidad and Tobago know that, so her comment is incredulous to them, means nothing. The point is, Madam Speaker, people have been paying. In WASA, we are not unaware, because of the mismanagement that they encouraged by their example, WASA water is being sold to customers, and we continue to tell them the water from WASA truck-borne service is free, and we are on the lookout for those miscreants who breach that and we will treat with them.

So the plan, it is to improve WASA's distribution system in short. There is a tremendous—I am told when I went to WASA, when I went to the Ministry, that some 40 to 50 per cent of potable water, that is water produced for distribution to

our taps—potable, potable water—it is, Madam Speaker, lost in leaks along the way and underground. One of the priorities for this Government, therefore, is to put in more or less porous pipelines along the way, change them out, as we have to, and that is a major investment, and to fix all the leaking lines so that we will preserve this 40 to 50 per cent that is being lost. And if we do that we would have improved the delivery to people's homes in a significant way.

I call, as well, on the citizenry to use the water that we have sensibly, do like Israel, do like Singapore, treat it as a precious commodity and waste not one drop, because not only on WASA's distribution lines, inside of people's homes there is a tremendous amount of wastage, malfunctioning sewer systems, and bathrooms, and taps, and what have you. So this is where we are. So I am focusing, Madam Speaker, on making WASA's operations unit more efficient, providing them with the resources that they need. Nobody is stealing their money anymore, every cent will be spent on improving the operations capacity in vehicles, in manpower, in technology, in the quality of materials they use so that they could block these leaks that is costing us 40, if I may put it that way, or 50 per cent of our water.

And the experts tell me if we would do that, we would save the amount of money that it will take to build a mini desalination plant, as Israel and others are doing. Talking about that, thinking big, looking forward, about 25 per cent, Madam Speaker, of the population is situate along the corridor, for an example. WASA produces 243 million gallons per day, about 160 million of that goes south and central for the benefit of those persons. The other day when we had the problem in La Brea, and those areas, Point Fortin, and so on, it is because a major booster pump in south Oropouche went down, we repaired it. Even to keep parts, to order and to keep spare parts for prompt replacement, all of these are contributing to some of the problems.

**6.30 p.m.**

Of the 243 million gallons, about 160 million goes to south and central, but the bulk of the population along the Corridor, 25 per cent as I told you, on the Corridor, are enjoying far less water coming from the Caroni treatment plant. What we are planning to do, in fact, I am contemplating, there is a major watercourse, the Madamas River, where a tremendous amount of water resources just flow, I am considering and I want Cabinet's approval for it, to capture that water and send that water into the Corridor. If you do that, it means therefore that less water will be necessary coming from central and more could go to south and central Trinidad, and as well, as Israel has done, a country that has perfected the management and distribution and conservation of water, we could build a mini desalination plant in the Chaguaramas area, to bring water in coming from the west from the sea. That is the kind of big thinking that is required.

Of course, we are living in very, very challenging economic times, made more so by the mismanagement of the last Government of Trinidad and Tobago. Therefore, to find the money to do those things is not easy, and the task is to make WASA more efficient as it now stands, to cut out the waste, to get value for money from every single worker in WASA.

They embarked upon a VSEP programme, cut WASA's operating costs by releasing some of their employees, and right after spending all of those millions on that, they went and they buffered WASA with "friends and family" and all kinds of people. Today, WASA has about 5,800 employees, far more than a studied programme for its human resource base tells us, that should really be about 3,000. They left it with about 5,600 people. Madam Speaker, WASA spends about \$1.2 billion a year on salaries and emoluments, and WASA is costing this country almost as much as the gas subsidy.

Madam Speaker, just to continue, what we will do and what we have done. We have improved the water production by 11.3 million gallons daily. As I said, we have revised the distribution schedule and we published it, so every citizen in Trinidad and Tobago ought to know when to expect water and where they will get it and at what times of the day. As part of the distribution plan, where the water cannot, by virtue of low pressure, get to the extremities, we have improved the truck-borne delivery system. Those are some of the concrete measures that we have put in place, and we are living by, to deal with the perennial issue of the dry season, as we are faced with today. No amount of shouting and talking and scandal and protest will fix that. It calls for serious management, and that is what we are about.

As part of the water distribution plan, particular emphasis is placed on water to schools and health institutions, so as to avoid unfortunate situations in those institutions. I will tell you this, part of the Motion brought by the Member for Siparia here today, is that health institutions are suffering from a lack of water. She has not been able to tell us of one. As a matter of fact, I had to tell my friends in the Senate, last week when I spoke, a rumour went around the country that Mount Hope was without water and was about to shut down. When I contacted the Chief Executive of the North Central Regional Health, he confirmed that the women's hospital in Mount Hope has a storage farm of some 99,000 gallons. It was up to capacity and there was no problem at Mount Hope, and in respect of the general hospital, almost one million gallons, 900,000 gallons; up to capacity, no problem with water there.

So while the Motion speaks of health institutions, the Member for Siparia is unable to show one health institution in this country that is being afflicted as she speaks. I will tell you, part of the distribution plan that we now have is to pay

particular attention to our health institutions and our schools.

As for Jazz weekend in Tobago, the Member for Siparia told us—I just received a call from an authoritative truthful voice in Tobago, telling me, and I live by that—I would rather take that than the Member for Siparia's—that there was no issue with water in Tobago over the Jazz festival. [*Desk thumping*]

So Madam Speaker, I reject the utterances of the Member. Of course, not every citizen—unfortunately WASA is still not able—notwithstanding their expensive propaganda \$7.4 million profligate campaign—to meet the high aspiration of providing water for every citizen 24 hours a day in this country. We are going to continue to pursue it. I would not come out there and do like they did, and say we have achieved 73 per cent. That is not the fact. I have just quoted some figures here for you, and the balance is before this Parliament for its own enquiry when it is ready. We will continue to act responsibly.

Another suggestion that they make is that the Government is discriminating against some communities. I want the citizenry of Trinidad and Tobago to know this Government is a government of all and for all. [*Desk thumping*] We are not in that. We are now faced with a dry season, in the circumstances as I have described them, and we will manage the water through WASA, in the way that we ought to as a responsible Government.

I thank you very kindly.

**Mr. Ganga Singh** (*Chaguanas West*): Thank you, Madam Speaker. I rise in support of this Motion, the failure of the Government to provide a proper water supply to citizens, a matter of urgent public importance raised by the hon. Member for Siparia.

I listened attentively to the contribution of the hon. Member for Laventille West, the current Minister of Public Utilities. It is clear that the Minister does not have a

grasp of the utility sector. Every time the PNM is in charge of the utility sector, we become a Third World country. In 1994, they brought in Severn Trent out of England to solve the water problem in this country, just before the election, a few days before. In 2010, just prior to the election of May, they were going to bring in the Israeli company, the consortium of Mekorot Merhav to take over the water supply. Now, we seem to be embarking on that same course, blaming mismanagement. Whereas in 2010 to 2015 we brought up the water supply from 18 per cent 24/7 to 73 per cent 24/7 in Trinidad. [*Desk thumping*] And as of December 31, 2015, it was 77 per cent in Tobago. So you understand.

How did we do this? The Minister made reference to the requirement. We did over 1,385 projects, and we expended \$1.3 billion on those projects, replacing the leaking lines and the distribution and transmission. We extended major transmission mains throughout the country. When we left office we had over 45 projects in progress. But, Madam Speaker, this is what they had to continue. But instead, under the administration of the Member for D'Abadie/O'Meara, he was like Mr. Government boots. Went in there as an army sergeant, not unlike Sergeant Shultz, he saw nothing, he did nothing and ensured that the inheritance given to his colleague, the Member for Laventille West, was nothing.

And the Member for Laventille West, talking about corruption—you must not look beyond your nose and see with the Neal & Massy. The Massy Communications acquisition by TSTT; you knew nothing. [*Desk thumping*] So Sergeant Shultz replaced by another Sergeant Shultz, “I hear nothing, I know nothing, and I see nothing.” [*Desk thumping*]

The fundamental problem is a problem of management—management. How do you now take this resource, and every year you have a dry season. You have to plan in the rainy season for the dry season. The Member is right. The reservoirs are

above average, but that is the impounded reservoir. You have to take the harvesting of the water, put into production, make it potable water and then transmit it. If you only watch the reservoir, you cannot increase production and distribution, and you are making a fundamental error in that area.

Madam Speaker, what is happening? Like the Chairman of TSTT who interfering with the operations of TSTT, you have the Chairman of WASA, Romney Thomas, interfering and micro managing, against the State manual of the operations of the Water and Sewerage Authority. He is interfering, relocating personnel. He is determining who gets paid and “doh” get pay. He put in a cadre of people who are sitting on their desks and they are not out on the fields—not out on the fields. [*Interruption*]

Madam Speaker, I need some injury time for that. It is clear that they do not have the solution to the problem, and I fear with this current approach that you are taking, that the people of this country want water, but the PNM will not be able to supply potable water to the people with that kind of attitude. It is a very simple exercise. It requires energy, it requires establishing an aspiration and goal and it requires marshalling the resources to execute and get that goal achieved. [*Desk thumping*]

**Hon. Member:** They do not have the political will.

**Mr. Singh:** So that is why when you say you have no plan, you can execute nothing. Madam Speaker, this is really for me, déjà vu. The Member for Siparia spoke about it. It is really déjà vu.

**Madam Speaker:** Member for Chaguanas West, your speaking time is up.

**Miss Nicole Olivierre (*La Brea*):** Thank you, Madam Speaker, for allowing me the opportunity to contribute to this very important debate on the failure of the Government to provide a proper water supply to citizens. I really want to respond

to the claims by the Member for Siparia.

The Member claimed that she walked about in her constituency over the weekend, and the Member identified areas where they have difficulties for water. But yesterday I was in a walkabout in my constituency, and I share a border with Siparia, and that is the area that I walked in yesterday along Quarry Road. I did not just stick to my side of the road, I also engaged some of the residents I saw in the Member for Siparia's side, and they were surprised to see a Member of Parliament in their area, because they have never seen that. [*Crosstalk*] I note in the list of roads that she called, the areas in her constituency that she claims did not have water, Quarry Road was not mentioned. No areas in that part of her constituency were mentioned. So clearly she is not aware of the situation in that area. But I can tell you.

Now the Member for Siparia kept asking what has changed, what has changed. Well, if instead of leading protest action to WASA's office in Penal, you would contact WASA, their senior operations persons responsible for the southwest area, if you would engage WASA and try to understand what the water distribution situation in your constituency is, then you would understand exactly what has changed.

Parts of my constituency where I live—I live in my constituency, so I understand the challenges that my constituents face, so I can speak first hand. The area where I live in my constituency has had challenges for water for over 50 years—I am not quite 50—since before I was born we have had challenges. In advance of the onset of the dry season, recognizing the difficulties that we may have, I sought to engage WASA so I could understand the distribution systems throughout my constituency, so I could understand what challenges they may face so we could work on a solution in being able to manage the situation today. So I can tell the Member for

Siparia—and I hope the Member for Fyzabad is also listening, because I also share a border with him, so this affects him as well.

The areas from Erin to Quarry Village are served by the Chatham Water Treatment Plant. The production capacity of that plant is 1.5 million gallons per day, but the demand in this area is 1.7 million gallons per day, so already you see we have a challenge. Their production capacity does not meet the demand. So these areas are served by a rotating supply. Some areas get water one day, and then another area would get on the other day. So if you want to know what has changed in the last couple of weeks that would have led to the reduction in supply, is because two of the wells at that facility are down—well No. 13 and well No. 8—and that represents 20 per cent of their capacity. This is what has compounded the problems that we are seeing in the dry season.

One of those wells, well No. 13, is due to be back up by the end of this month, but well No. 8 has to be re-drilled, so that is not going to be back up till the end of the year. Ordinarily when there is a shortfall in the production capacity from the Chatham Water Treatment Plant, we would get water back filled from the Point Fortin desalination plant, but again, if you engage WASA and try to ascertain the nature of the problem, you would understand that that plant is also operating on reduced capacity, because of the increased salinity of the Gulf of Paria due to the reduced run-off from the rivers. To compound that situation, there is an algal bloom in the area as well.

**Hon. Member:** What?

**Miss N. Olivierre:** Algal bloom—this is when there is an abundance of algae in the water. So because the desalination process uses membranes as shut—I am sure the Member for Chaguanas West can probably educate you all during the caucus that you all have afterwards. [*Interruption*] The higher salinity of the water leads to

a reduction in the production capacity of the plant. So with this loss of additional back fill capacity, this is why areas—the areas in my part of the constituency where I live are really struggling at present, but because I have established that relationship with WASA, I am able now to help advise. So we are managing it with them. So we understand which areas do not have adequate supply, and this is what you do, you try to find a solution. Engage the authority—*[Interruption]*

**Madam Speaker:** Member for La Brea, your speaking time is up.

**Mrs. Christine Newallo-Hosein** (*Cumuto/Manzanilla*): To summarize exactly what the Member for La Brea said, “It ain’t have no water; no water.” And you could speak how much you want and explain inside of here, you go and tell that to your constituents and see what they will do.

**Madam Speaker:** We have a particular way in which we address Members here, please.

**Mrs. C. Newallo-Hosein:** Thank you, Madam Speaker. It is important to understand that we had done a lot. When the Member for Laventille West was speaking about Chaguaramas, what is interesting to note, the Member for Diego Martin West wanted to destroy the aquifers in Chaguaramas to build high-rises. I do not know if people remember that. So apparently water is not an issue at all for this Government. They do not want water for anybody or for all.

Further to that, I know that the Member for La Horquetta/Talparo would not be able to represent his constituents, in telling the nation or telling his Government that they are crying out for water. Just to tell you what the PP Government did, Todd’s Road in 2013, we ran new water mains throughout the village of Todd’s Road, increasing the households with access to water mains supply from 30 per cent to 100 per cent. *[Desk thumping]* There are instances where now two to three weeks now pass without water in the lines. Mundo Nuevo, poor water supply;

Brazil Village, poor water supply; Savary Road and Las Lomas No. 1, poor water supply; Caparo and San Rafael/Arena, poor water supply. And, most importantly, between 2010 and 2015 the PPG, that is our government, commissioned a major water booster station in Talparo, and that is within La Horquetta/Talparo, and upgraded the Las Lomas water treatment plant, again within La Horquetta/Talparo, as well as the Arena/Todd's Road booster station. This serves Todd's Road, Caparo and Mamoral, all within the Member for La Horquetta/Talparo's constituency.

But you know, the Member's constituency borders mine, and the Minister for Public Utilities is saying that this is exaggerated. I have on my Facebook people calling me. My constituents are calling me and telling they do not have water. In Manzanilla, the Manzanilla/Nariva school had to call me. The very first day they came back out from Easter vacation, they had to close, no water. And yes I had to engage WASA, but they could not bring water in time, because you know what? They only had two trucks and they were trying to service the whole of Cumuto/Manzanilla, and Toco/Sangre Grande. That is insufficient. That could not have done the job.

I have people calling me from Bramble Alexander, Cumuto, and even in Caparo, calling me, because they figure I could help them. I say, but your Member of Parliament is in Government, and "ent" they say they could do it, "ent" they say let us do it together. Well you call them and let them do it together.

**Hon. Member:** That is what you tell them?

**Mrs. C. Newallo-Hosein:** So I am imploring the Minister—thank God it was this side that installed the desalination plant. If it had not been for that, this country would have been in a worse situation. Thank God during our time we had retention ponds, and that is how we were able to put things in place for dry season. This

Government just does not have the vision and the plan.

You are looking at what we are going through in the dry season, and assume that because it is dry season we would accept this. This never happened in our time. People are saying over and over, they are asking why we have no truck-borne water; why is it that St. Marie Emmanuel has no water; why is it up to now Tamana Hill cannot get their booster pump as yet. All these questions are being asked.

People are saying, okay, we are paying our quarterly rate for pipe borne water coming to our homes, and we are not getting it, will we get a rebate? I say, write the Government and ask them that. The same thing they are asking, will we have to pay property tax for no road, and no water, and no lights? This is the same thing that they are asking, and so it is important for us to understand that we are asking on behalf of our constituents for a regular supply of water. If you cannot do it, at least provide enough truck borne water to all the homes that are affected.

Do not come and say that it is being exaggerated. It could not be exaggerated. The Member for La Brea is saying that she does not have water. She stood to say she does not have water. We are saying we do not have water. Moruga/Tableland are protesting because they do not have any water, and that was not happening under us at all. We were able to supply, and thank God.

**The Minister of Public Administration and Communications (Hon. Maxie Cuffie):** Thank you, Madam Speaker. I was enjoying the Member for Cumuto/Manzanilla. She regaled the Parliament, this House, with the problems in Todd's Road and the fact that a booster station was opened in Todd's Road. What the Member failed to say was that booster station and those lines were run under a PNM administration, and all they did was open the tap when they came into government. [*Crosstalk*] Let me finish.

*[Madam Speaker rises]*

**Hon. M. Cuffie:** The Member for Chaguanas West, the man who boasts about “bussing pipe” all over the country—*[Laughter]*

**Hon. Member:** “And who take de pipe?”

**Hon. M. Cuffie:** “He buss pipe all over Siparia.” *[Laughter]*

**Mrs. Persad-Bissessar SC:** We had plenty water.

**Mr. Imbert:** “No, I hear he lay pipe.” *[Laughter]*

**Hon. M. Cuffie:** Madam Speaker, I have a home in Port of Spain where I did not get water for five years, while the Member for Chaguanas West was responsible for water. When he was talking about water for all, for some reason he left me out.

**Hon. Member:** I wonder why? *[Crosstalk and laughter]*

**Madam Speaker:** Member for Diego Martin North/East, please.

**Hon. M. Cuffie:** Madam Speaker, the Member Diego Martin East is right. I think the fact that nobody was able to get water certainly helped me to win that seat. *[Desk thumping]* In fact, when I walk in Cumuto/Manzanilla, because I walk in La Horquetta/Talparo, but the people from Cumuto/Manzanilla were so upset about the water situation they came across, they asked me—I have a picture on my Facebook page of me lifting a water tank of a resident in Cumuto/Manzanilla, walking for the election. At some point in time the entire constituency was without water. And now, if only half the people complaining about water, it is a vast improvement to the situation two years ago. *[Desk thumping]*

I want to talk about the protests in Todd’s Road, because the Member for Siparia mentioned several times the situation in Todd’s Road. All I will tell you is that the spokesman for the protesters said that—because I had ensured that they got water—he said that they were protesting against the failure to build a pavilion in the savannah. But the MP for the savannah is the Member for Caroni East, and the

person responsible for recreation grounds is the councillor who was complaining about the absence of a recreation ground in Caroni East. [*Interruption*] He cannot deny that.

I called the protest a political one, because everyone knew that there was water in the taps. I do not want for a second to deny that the situation is serious, and that it is serious in San Rafael, it is serious in Brazil, it is serious in Caparo, it is serious in Tamana. But before that it was also serious in La Horquetta, it was serious in Greenvale, it was serious in Wallerfield. So we have managed to arrest the situation in half the constituency. I commend the Minister of Public Utilities for the work that he has done. And before I sit, I also want to thank the officials of WASA who respond to my every call, who ensure that my constituents get water, despite the situation.

Thank you very much.

**Dr. Roodal Moonilal** (*Oropouche East*): Madam Speaker, I really hope that the majority of the population had the opportunity to listen to this very short debate. While we are gracious for the opportunity to speak on this, I really believe that the Government and its members who spoke here today, believed that this Motion is somehow a joke, and it is an opportunity for each Member to get up and raise issues of some “jokiness”.

Madam Speaker, it was in that period when we were in Opposition, 2006/2007 somewhere there, that I came to this Parliament and held in my hand—and I have the picture in my album—a bottle of brown water. It was a plastic bottle of brown water. I was displaying this brown water as an example of water from a well in the Oropouche constituency that my constituents were lifting from a well, drinking and using to cook, and that was a great opportunity then to display. I am almost certain that if this trend continues, I will come back here with a barrel of

that water in due course.

While Members opposite would laugh, would fun and joke and so on about this, I am not sure anyone opposite, including the Minister, understands the seriousness of this national problem that we face. On a regular basis, I do not know if the Minister, the Member for Laventille West, understands and appreciates water. The importance that it plays in the life of a family and a community. This weekend, for example, I have to call WASA, and when we call WASA, officials of WASA are now almost embarrassed to speak to us to help. They will not say it, but they are embarrassed. And we beg on behalf of our constituents, because they have a prayer meeting, they have a thanksgiving, they have a function, and they are begging for water, and then we call WASA and we beg as well as Members of Parliament.

And when we come here, to hear the Minister stand up and talk this way, I think the Minister should tender his resignation on this issue alone; far less for the Massy deal that he knew nothing about, and admitted it. This Madam Speaker, is back to the future. This is going back to the bad old PNM ways. The Minister stood in this Parliament, and I quote:

“The people have high aspirations of getting water...”—as if so basic a commodity as water, is a high aspiration to get.

They stood here. The Member for La Brea said “she walked on every border”. The only border she has with water is the sea in Vessigny. That is the only border “it have” with water in La Brea. The Member for La Horquetta/Talparo is saying it is serious because several areas do not have water. He does not have water either. All of us face this problem, but Minister of Public Utilities has his head buried somewhere, and looking somewhere and this evening he cannot tell this population what he is going to do, what is the plan. What can people expect?

**Madam Speaker:** Member for Oropouche East. Leader of the House.

**7.00 p.m.**

### PROCEDURAL MOTION

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very much, Madam Speaker. [*Desk thumping*] Thank you very kindly.

In accordance with Standing Order 15(2), I beg to move that the business of this House continue until we have completed all the business before us today.

*Question put and agreed to.*

**Madam Speaker:** The Leader of the House.

### ARRANGEMENT OF BUSINESS

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker. The proposals for the variation of appropriation for the fiscal year 2017 were considered in Standing Finance Committee and approved. I wish to advise that the date for the adoption of the Committee's report will take place on Wednesday, May 10<sup>th</sup>, 2017 at 1.30 p.m.

Madam Speaker, may I advise that at this point we will resume the committee stage of the Criminal Procedure (Plea Discussion and Plea Agreement) Bill, 2017.

### CRIMINAL PROCEDURE (PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2017

[Fourth Day]

**Madam Speaker:** Hon. Members, the committee stage of the following Bill which was in progress when the House was adjourned on Wednesday, April 12, 2017, will be resumed.

“That a Bill to establish a system of plea discussions and plea agreements and for matters incidental thereto”

The House shall now go into committee of the whole.

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clause 2.*

*Question proposed:* That clause 2 stand part of the Bill—[*Interruption*]

**Mr. Al-Rawi:** Madam Chairman, may I, just for housekeeping, inform and ask my counterpart, the Member for Siparia, with whom we have been having some discussions for a couple of days—before us, and I hope just to ensure that we have the same papers, Member for Siparia. I have provided, one, a matrix, a tabular form where I have given consideration to proposals made by the Government and the Opposition, and then I have provided responses, as a working draft, to indicate for pre-reading where we are.

We had stopped on the last day on a very good suggestion made by the Member for Siparia, which pointed to the work that Jamaica was doing in their Parliament. I got the Jamaican Bill and I produced a comparative table between Trinidad and Tobago, matching up the sections that Trinidad and Tobago has with those that Jamaica has, and offering some commentary in relation to that, and I have also, only today, given my learned colleagues opposite that.

I have provided as well a marked-up coloured copy version of what the Bill would look like with the Government's proposed amendments pursuant to the table. So, just to make sure that we have some of those working documents available, I would now propose—we have two sets of amendments, one is the amendments proposed by the Opposition, circulated on the 20 April 2017, and secondly, there is an updated circulated amendment list by the Government which takes into account matters which we agree with from the Opposition's circulated

amendments as well as amendments which we have proposed, and further amendments which we have proposed arising out of a consideration of the Jamaican position.

That document is the circulated document which last went out today, but it is almost 99 per cent the document which went earlier, with that run-up to the wicket, and unless the Member for Siparia wanted to make any opening observations on some of the paperwork that we have, we could then proceed to clause 2.

**Mrs. Persad-Bissessar SC:** Thank you, Madam. We have been here from 11.00 this morning, and whilst we were very busily engaged, I was very much involved in the committee stage—the finance committee, and thereafter in the Motion, these documents kept appearing on my desk. So, I will be very honest with you, we have not had much time, I do not know if anyone else has had the chance to read them. Should you wish to pursue this matter we will go along with you, but I do so under duress because I have not been able to read your very pretty red, white and black documents. I thank you for providing the track changes on this one, but we have not even had the chance to study them. I think at different points in the day the Whip was passing the documents to us. So, that is my state of play. I do it, as I say, under duress, but if you want to go ahead, it is your House.  
*[Interruption]*

**Madam Chairman:** Members of the committee, please. It is late and I am really having difficulty hearing the contributions by the various Members to the committee. Attorney General.

**Mr. Al-Rawi:** Madam Chair, bearing in mind that there are effectively nine weeks of parliamentary time, including the debate, including Private Members' Day, we have very scarce room for parliamentary opportunity, and we are already sitting

almost twice a week. In those circumstances, I would ask my learned colleagues opposite to make as best a stab, and we have all been involved in the matters that preceded this event now, so perhaps we should start and see if we can make our way through.

**Madam Chairman:** Yes. Member for Princes Town.

**Mr. Padarath:** Yes, thank you, Madam Chair. Hon. Attorney General, with respect to the track changes that you spoke about when you looked at the Jamaican legislation as opposed to the Trinidad and Tobago legislation, and you had prepared this document tabled with that track change, Members on this side do not have that document before us, and therefore we would not have had the opportunity at all to have perused it.

**Mr. Al-Rawi:** Okay. Madam Chair, if I could indicate. I passed to the Chief Whip opposite—usually this sort of courtesy is not exercised—not that I do not mind breaking the manner in which things are traditionally done. But, what we did was to take a look—as requested by the Member for Siparia—at the Jamaican law, and there are only two things that really stand out, and I am prepared to work it through. They are not really complicated issues, because the Jamaican law is very similar to the Trinidadian law, as proposed, but it is technically not before us.

Perhaps, if we just start the process, maybe it would flow a “little bit” quickly and we can get into the meat of it. Madam Chair, you had asked about clause 2?

**Madam Chairman:** Yes.

**Mr. Al-Rawi:** We had had a proposal by the Opposition, and we also have a proposal by the Government. If I could be permitted to look at the two side by side—the Opposition in their circulated amendments asked for the definition of

“accused person” to be modified by the deletion of the words:

“means a person suspected of committing a criminal offence...”.

We have proposed that we stick with the word as it is. We are specifically including the definition of suspect of criminal offence, because the policy behind the Bill is that we treat with both persons who are charged and persons prior to charge but who will eventually be charged. What we proposed was that we would modify the definition by removing the definition of “suspect”, but making provision for it later in the Bill, as we do, in a new clause 10.

So, we have taken on board the observations by the Opposition that it would be neater to treat with the two species of persons involved, that is suspects and persons who are charged in a more organized fashion. Therefore, what we proposed in the amendments which we have circulated is that we define an “accused person” to mean:

“a person against whom a complaint is made, or information laid;”

That takes care of the two categories of how persons who are charged are brought before either an indictable arena or a summary arena, and that we treat with the definition of suspect later by having it carved out specifically into clause 10.

In those circumstances then, Madam Chair, we respectfully disagree with the full tone of the proposal suggested by the Opposition. We take on board some of it, and we propose to treat with it in the later sections of the Bill coming up, and we propose as circulated that an accused person be defined as per circulated.

**Mrs. Persad-Bissessar SC:** Madam—

*[Dr. Gopeesingh raises hand]*

**Madam Chairman:** Just one minute, I am recognizing the Member for Siparia and then I will recognize you, Member for Caroni East. Member for Siparia.

**Mrs. Persad-Bissessar SC:** Madam, we had a very lengthy discussion on this matter on the last time we were in committee stage and our concern was that the way we were defining an accused person that there was no judicial oversight of anything to happen later down in the law. From what the Attorney General is now suggesting, we are separating fish from fowl. In other words, we are putting the accused, rightly in law, as somebody who is a defendant, somebody against whom a complaint is made, or information laid on indictment. So, it is clear accused means a person who is charged. And the AG is now suggesting that we have a new definition of suspect.

**Mr. Al-Rawi:** Yes, we would include the definition of “suspect” in clause 2, and treat with it in 10.

**Mrs. Persad-Bissessar SC:** Sure. Now, in principle that seems fine, because you would have a different pathway for each to follow, in terms I had identified that these eight or 10 clauses of the Bill where the suspect would not have any pathway to reach into a courthouse and so on. Now, my concern is AG, as I have said, in principle that seems fine, but I do not know what you have done with the suspect now throughout the clauses of the Bill, so we will have to walk it through.

**Mr. Al-Rawi:** Sure.

**Mrs. Persad-Bissessar SC:** So, in principle it appears to be something we can live with, but it will now depend on what you do with that suspect later down in the Bill.

**Mr. Al-Rawi:** Sure. If I can indicate, taking avail of the comments made—

**Mrs. Persad-Bissessar SC:** But, can we do it as we go through?

**Mr. Al-Rawi:** Yeah. It is in the track, not that I ask you to dive into that immediately, but I can point out that what we have done, cleaved “suspect” from

definition of “accused”, inserted “suspect” as a separate stand-alone definition, then added the cleaved species, “accused” and “suspect”, so that when we talk about plea agreement in clause 4, that we treat with them separately, so we divide it and refer to them separately. When we talk about plea discussions with represented persons—accused—we cleave it again in clause 9.

When we come into clause 10, we again treat them separately, and that is where we are dealing with the procedure for plea discussions. In clause 11, we deal with them separately for the prosecutor’s duty to disclose evidence to them. We also, in the victim impact statement at clause 13, again treat them separately. And, in clause 19, where we talk about the form and filing of plea agreements with represented persons, we again treat with them separately.

**Mrs. Persad-Bissessar SC:** If I may—

**Mr. Al-Rawi:** Yes.

**Mrs. Persad-Bissessar SC:** It may save some time, what was the end result with the people charged? We know we go to court with the agreement. With the suspect who is not charged, what it is you are going to do with him down the road?

**Mr. Al-Rawi:** The discussion happens with the suspect, the approach by the police happens to the DPP. The DPP considers whether this person is going to be charged at all or not, and also whether a plea discussion can happen. The person who is in that discussion with the police, as a person of interest if we call them that, and the DPP giving advice, they agree in principle to what they intend to do, including what the charge is going to be, they enter into discussions, they approach the court with a charge being offered then, not expressly stated. But that is the manner in which Senior Counsel, Mrs. Elder, advised that it is done, so you literally take them to court and charge them.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Mrs. Persad-Bissessar SC:** So, the person will be charged?

**Mr. Al-Rawi:** The person will be charged.

**Mrs. Persad-Bissessar SC:** But that was the long argument we had here last day.

**Mr. Al-Rawi:** The same procedure actually stands as on the last day, and then we had the reference to the form, et cetera. So what we did, specifically the reason for cleaving them was so we can actually get whether you have a representative or not. That is where it was a little untidy, and you had observed that, so we tidied that up in clause 10, so they will be charged.

What I can say as well in so far as clause 2 is an omnibus clause, a definition clause. We agreed with the proposals of the Opposition for the modification of the definition of “court”, we agreed with the Opposition for the modification of the definition of where the tagging comes in for the Director of Public Prosecutions, and we have removed the Constitution reference. We agreed with the definition for modification with respect to the magistrate, we agreed to insert the definition for Minister, we did not agree with treating with offence in the definition section, and it came out of case law which suggested that you had to have it in a stand-alone section, and I saw you had *Thornton’s Legislative Drafting*. It is actually there—

**Mrs. Persad-Bissessar SC:** That was my week’s reading when I was out of the country.

**Mr. Al-Rawi:**—it was described as one of the Ten Commandments. So, it was on the advice offered in Thornton’s that we took that approach. And we did not agree with, like inserting a definition for particular course of action, again, on the back of Thornton’s advice.

**Mrs. Persad-Bissessar SC:** Those are minor matters.

**Mr. Al-Rawi:** Sure. So, they have shown in the table—

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Mrs. Persad-Bissessar SC:** It is really stylistic form whether you put it there, and I have no problems with that. But I do have a problem with the contents, so if you want to take it clause by clause we can do it.

**Mr. Al-Rawi:** Sure. Okay, so, we are on—do you want to take the sub-clauses?

**Mrs. Persad-Bissessar SC:** We are still on clause 2.

**Mr. Al-Rawi:** We are still at clause 2?

**Mrs. Persad-Bissessar SC:** We are on clause 2. Now, my question is this—I asked it already—there were many references, clauses 18, 19, 20, 21, 22, 23, 24, 25, 27 and so on, which talked about plea agreements concluded, and therefore the stream that would be followed, or the pathway that would be followed with an accused, that did not fit with a suspect who had not yet been charged. How are you getting before the court? Are you going to charge him and take him to court?

**Mr. Al-Rawi:** Yes.

**Mrs. Persad-Bissessar SC:** Because you had mentioned earlier that there was something about a proposed charge.

**Mr. Al-Rawi:** Yes, so suspect, DPP has to agree, person is then charged, once they have agreed, suspect, DPP and the police, charge happens in court, then the discussion is brought to the attention of the court, either the summary court or the indictable court in the fillings with Registrar or Clerk of the Peace, and the system flows.

**Mrs. Persad-Bissessar SC:** Well, that is a major concession, well in a sense, of better law that the person has to be charged in order to go before a court.

**Mr. Al-Rawi:** Well, it still is the way it was. We have taken avail of the good suggestion that we pluck “suspect” and clean it up a little bit. So, we have certainly come up with a better product.

**Mrs. Persad-Bissessar SC:** Sure. Okay, so we are in clause 2, we can move on. Is there anything else there that you changed in clause 2? Sorry, Ma'am.

**Madam Chairman:** That is okay, I thought you were moving on from clause 2, so I will let you Member for Siparia finish with your comments and questions, and then I will go on to the other Members who have comments and questions on clause 2.

*[Dr. Gopeesingh raises hand]*

**Madam Chairman:** Just now, Member.

**Mrs. Persad-Bissessar SC:** MP can go ahead.

**Madam Chairman:** Member for Caroni East.

**Dr. Gopeesingh:** Yes, from a layman's perspective, I am not clear about this issue of an accused person being a suspect. The Attorney General is now saying that a suspect basically means the person will be charged. But, from a practical perspective the police goes to person A and says, "You are suspected of committing a criminal offence", and therefore the fine for that is 15 years in jail. You now have an opportunity for a plea bargaining process which can probably give you a less sentence of five years. Now, how is the person who is now being told, you have a charge coming up, how would that person know that that is an authentic charge or whether the person is trying to coerce that person to say something when you might not be charging the person? You are telling the person he or she is a suspect. So, could you explain that to a layman like myself?

**Mr. Al-Rawi:** Sure. Good question, if I could rephrase the position, I think you are concerned about what is the safeguard for someone in the position of being a suspect, and the safeguards are, are you facing a trumped-up charge? Is somebody coercing you into this course of action? Would you be unwittingly caught? I am

rephrasing it into what is the mischief that can be caused.

**Dr. Gopeesingh:** You are reading me correctly.

**Mr. Al-Rawi:** Right. And those are all spot on balancing of rights issues. The first way in which this is treated is that we do not include a suspect in the definition of “accused”. We have cut that out. We have a separate definition for “suspect” now, and what we propose specifically is that a “suspect” will now be described as:

“a person who a police officer, with reasonable cause, suspects has committed an offence, but who is not charged;”

So, we have defined it separately.

Coming to the potential for mischief now, the first safeguard to be found, is the fact that nothing can happen without the involvement of the Director of Public Prosecutions. So, a policeman can charge, that stays the same, the DPP still has the same constitutional right under section 90, to come in and say, “Well, look, you have been wrongly charged, get rid of that”, as the DPP has done on umpteen occasions in our history. Your concern now, that somebody could be unwittingly put into the slipstream and find themselves agreeing to something.

**Dr. Gopeesingh:** “Hmm, hmm.”

**Mr. Al-Rawi:** The first safeguard that comes up is that the DPP must agree to a plea negotiation plea agreement.

**Dr. Gopeesingh:** And how does the suspect see that or become aware of that, that the DPP—

**Mr. Al-Rawi:** So, these are the second lines that are coming in now, because there are actually several safeguards, I have just given you one. So, the person must be informed of the right to legal representation. If the person refuses legal representation, the person must indicate that in writing in the form that is

scheduled out in the Bill. That is done in the presence of a third party. The Judges' Rules kick in, it is video recorded, which is a step of certainty to make sure you did not beat the person, et cetera, et cetera. You then progress to the plea discussion being formalized, and then you must go in front of a judge. Then the judge says, "Let me look at the facts, let me look at the positions, let me see if there is a bona fide and sustainable charge. Was this person coerced, was it of their own free volition, did they have independent legal advice, were they advised of their rights, was it signed off in law?" And then the judge has the discretion to agree or disagree with the plea agreement.

**10.15 p.m.**

Then there is a further safeguard that the accused can then step in and say, "Well hold on, there was a misrepresentation, they told me something, it did not turn out even though I signed that, I want to exit out of the plea agreement." That is provided for in the Bill. Then there is a further safeguard where the person can appeal to the Court of Appeal and say, hold on I was duped, I was beaten, they did not give me the true facts, I now have advice and then the Court of Appeal considers that. Then there is a further safeguard that the DPP can actually intervene as well and say well look, we were duped, et cetera, et cetera.

So there are multiple safeguards right through the system. Of course, I do not need to remind you that the Privy Council is the final Court of Appeal in this jurisdiction. So there is a—

**Mrs. Persad-Bissessar SC:** Until you abolish them.

**Mr. Al-Rawi:** Well, I think we will more likely be thrown out of the PC rather than have it abolished because to move to the CCJ requires a constitutional majority.

**Mrs. Persad-Bissessar SC:** Suratt.

**Mr. Al-Rawi:** “Nah” that is anchored into the Constitution. So there are multiple safeguards, the Member for Caroni East, and they are all sequentially and logically set out. In fact, when you compare this with the latest version of the Jamaican legislation, which is now at their House of Representatives on its way to the Senate, it follows in almost exact fashion to what we are proposing now.

**Dr. Gopeesingh:** So if I can get you correctly, forgive my lack of information on that criminal aspect of the law. As the person is suspected they are entitled to legal representation immediately. The police comes to say you are a suspect, we want to charge you. So the person then says, well I have to have legal representation—  
[*Interruption*]

**Mr. Al-Rawi:** Or refuse.

**Dr. Gopeesingh:** And then the legal representation has to see what the DPP has mapped off against that person, will be privileged to see something to that effect.

**Mr. Al-Rawi:** Yes, there are provisions for how disclosure is made. There is a limitation on disclosure, insofar as you are in discussions, because you do not necessarily need to give away your entire case. You cannot be on a fishing expedition, but the law in relation to disclosure is very certain, the minute you are charged and taken before a court, you must have the privilege of disclosure provided to you.

**Dr. Gopeesingh:** I understand that and I know that from just common, listening to the lawyers on these matters. So to clear up my doubt is that a suspect can only be dealt with when the DPP signs off on the matter that that person could be charged.

**Mr. Al-Rawi:** Yes.

**Dr. Gopeesingh:** So the DPP must be on the matter.

**Mr. Al-Rawi:** Yes, Sir.

**Dr. Gopeesingh:** Thanks, Sir, I appreciate it.

**Dr. Moonilal:** Thank you very much. Just a couple quick questions, really small ones too. With this definition of “suspect” you are enlarging the net for those persons who can bargain in your plea bargaining arrangement. Could you just enlighten me, the elementary differences or the elements of reasonable cause that are being used here as opposed to the reasonable suspicion? And secondly, related, of course, under what circumstances would a suspect not be charged?

**Mr. Al-Rawi:** If I could perhaps deal with the latter first. A suspect will not be charged, primarily, the principle safeguard and stopgap is if the DPP says, not only that you should not be charged, but that even if you are charged that the charge should be lifted as happened in the several anti-gang cases for example. So the filtration exercise at the DPP’s discretion under section 90(3) is the ultimate safeguard there.

**Dr. Moonilal:** So a suspect who is not charged is not a party to a bargain.

**Mr. Al-Rawi:** A suspect who is not charged can become a party to a bargain once the process begins and the DPP then approves it and then that bargain makes its way into the process of becoming an agreement which is judicially approved.

**Dr. Moonilal:** So a suspect can be a party to a bargain.

**Mr. Al-Rawi:** Yes.

**Dr. Moonilal:** Okay.

**Mrs. Persad-Bissessar SC:** A suspect gives—can be a party to the discussion, but once we go into agreement that is how I understand it.

**Mr. Al-Rawi:** Then you become charged and then you go—[*Interruption*]

**Mrs. Persad-Bissessar SC:** Once you have an agreement you have to be charged.

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**Mr. Al-Rawi:** Correct.

**Dr. Moonilal:** So if someone is not charged, they cannot be part of a plea bargaining agreement.

**Mr. Al-Rawi:** That is correct.

**Mrs. Persad-Bissessar SC:** They could be, they could be part of another clandestine arrangement.

**Dr. Moonilal:** Another business, but not part of a plea bargaining agreement.

**Mr. Al-Rawi:** That is correct.

**Dr. Moonilal:** And there are circumstances in which a suspect may not be charged.

**Mr. Al-Rawi:** Perhaps so. Sometimes someone may turn to be that state witness. They may go into the judicial protection system. So there are circumstances certainly in our country with that.

**Dr. Moonilal:** But you could also find circumstances where the information they are giving is proven to be false, inaccurate, malicious and unworthy.

**Mr. Al-Rawi:** Yes.

**Dr. Moonilal:** Could you then indicate this fundamental difference between reasonable cause and reasonable suspicion.

**Mr. Al-Rawi:** Sure. We have kept with the language as is described in other legislation and what we have done there is to lift for the issue of reasonable cause. Reasonable cause is on two platforms of support here. One is the common law, the case law which is well defined in respect of what reasonable cause is. In other words then, you cannot be capricious in bringing a charge for someone. Certainly that finds itself into the elements, into malicious prosecution and ultimately, “associatedly” false imprisonment. But really the term “reasonable cause” as used here indicated to be a reflection of common law and then, of course, there are

statutory examples of the use of that language. And so the drafters have elected to use it.

**Dr. Moonilal:** So the police officer takes the reasonable cause to who?

**Mr. Al-Rawi:** The police officer, the suspect is the person who a police officer with reasonable cause suspects has committed an offense. That person who is brought into the station, if ever you bring somebody in there unreasonably you can find yourself answering malicious prosecution and false imprisonment. So that is why reasonable cause is there, it is to bring in that element to allow for malicious prosecution. That suspect continues in a state of suspicion until he is at the proximity of a charge and if he is going to have a plea discussion where they tell him listen, we are considering charging you, you have the ability to have a plea discussion with us, do you have a lawyer? Your lawyer is present. If you do not have a lawyer, there is a certain process that then goes to the DPP, the DPP considers everything as he always does in most instances and says right, proceed to charge and okay, proceed to have a plea discussion, move to the court with your agreement.

**Mr. Charles:** As a layman, a suspect, you are saying that a suspect cannot enter into a plea discussion?

**Mr. Al-Rawi:** No, a suspect can enter into a discussion, but a suspect cannot enter into a plea agreement because then the suspect becomes somebody who is charged.

**Mr. Charles:** Are there any examples in the Commonwealth jurisdictions where a suspect could enter into a plea bargain without being charged?

**Mr. Al-Rawi:** The United States, Australia, New Zealand the whole Commonwealth, England—

**Mr. Charles:** In Australia, in England.

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**Mr. Al-Rawi:** Everywhere.

**Mrs. Persad-Bissessar SC:** But that is not statutory?

**Mr. Al-Rawi:** No, they do not have it statutorily, but suspects do have this off the record sort of event which finds its way into court.

**Mrs. Persad-Bissessar SC:** I guess that happens all the time, but where in the Commonwealth do we have statutory sanction with what you are proposing here.

**Mr. Al-Rawi:** Certainly off the record, Canada does have, Jamaica in its Bill—

**Mrs. Persad-Bissessar SC:** I think Canada does not have a statutory framework.

**Mr. Al-Rawi:** I recall that Canada and the US would be the only two—yeah. The USA for sure and Canada.

**Mrs. Persad-Bissessar SC:** Commonwealth jurisdictions?

**Mr. Al-Rawi:** The US is commonwealth.

**Mrs. Persad-Bissessar SC:** Really? Since when? [*Crosstalk*]

**Mr. Al-Rawi:** Their system of law—no, I am not talking about strict acts, I am talking about common law. Sorry, if you have said Commonwealth I mean the common law.

**Mrs. Persad-Bissessar SC:** Commonwealth jurisprudence.

**Dr. Moonilal:** Mr. Attorney General, a suspect has to agree to be charged to be part of a plea agreement.

**Mrs. Persad-Bissessar SC:** Yes.

**Mr. Al-Rawi:** A suspect is being given for the first time the privilege of finding himself with the opportunity for a plea agreement, but a suspect can and always has the prejudice of being charged. So what you are doing is you are allowing the suspect at the very earliest opportunity to negotiate his way out. In the common law jurisdictions they have something which is even further and I can tell you that I

am looking at it now which is a no contest system. A no contest system is one which is a neat associated one to plea bargaining because it allows you the privilege of agreeing that you will be sanctioned but that you offer no contest and you may have a lesser sentence, community service or other things, et cetera. So that is something that we are actually considering actively right now.

**Dr. Tewarie:** Yeah, one question. I just want you to clarify. I think you made the point, but I just want to understand clearly, that the plea discussion process can only be triggered on they say-so of the Director of Public Prosecutions.

**Mr. Al-Rawi:** Yes. It is in clause 6:

“A prosecutor shall not enter into a plea discussion or conclude a plea agreement unless the prosecutor first obtains the written permission of the Director of Public Prosecutions.”

**Madam Chairman:** Anything else on clause 2? Member for Siparia.

**Mrs. Persad-Bissessar SC:** Thank you, Madam. I am not very comfortable with suspect. I will leave it up to the Senators thereafter because, again, I have not had the chance to go through the entire thing to see how you deal with the suspect and that is why I ask you in the Commonwealth jurisdiction, because I searched and I have not been able to find.

**Mr. Al-Rawi:** My team is just referring me to the 2014 policy, the reform of the criminal procedure plea discussion paper which was an exercise produced under your leadership, Member for Siparia. Specifically at page 19 there, at paragraph 3(16), in the USA and the United Kingdom plea negotiations can begin as early as before charged. It is footnoted, Principles of Federal Prosecution, US 927 attorney general guidelines on cases of serious or complex fraud.

**Mrs. Persad-Bissessar SC:** Okay. Again, that very document, yes, it was prepared

under our time, but the document was not converted into the passage of law and you well know many documents can be prepared. They come up for debate, we look at them, we accept, we may or may not accept. I know that Senior Counsel Elder in that document recommended we include suspects and your first draft really had the suspects, really, totally could not be dealt with here.

**Mr. Al-Rawi:** Well they could have, but I took on board your advice of let us make it more apparent, but it certainly was there.

**Mrs. Persad-Bissessar SC:** In that very document Senior Counsel Elder also spoke about what obtains in Canada, what obtains in the United Kingdom and you just clarified it. In the UK the only statutory aspects are with serious fraud cases. It is not like ordinary minor offences, summary court offence, it was just for summary, serious fraud. I think in Canada as well, in the very document it is very restricted in a statutory—I am sorry this is happening, it is my throat. So Sir, I am saying, in principle it seems okay, our team upstairs when we have more time to look at it in its usual aspects. So can we move on. I am not happy with it, I am saying—*[Interruption]*

**Mr. Al-Rawi:** Just add in one—

**Mrs. Persad-Bissessar SC:** Because I feel it can be open to so much abuse. Sir, and why I am also not very happy because I had suggested some amendments to deal with possible abuses and creating penalties. I see you have rejected that as well and we will come to that down the road. But that is another reason why, you know, I am not comfortable that we bring in suspects.

Look, let us be real in our society. You bring in a man, you terrorize him enough, policeman, whatever, he is willing to sing on his friend—*[Crosstalk]*—yeah, he will sing like a bird knowing that he could get off scot-free and that is why we had

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put the balance in for the abuse. But we will get there. So, Sir, you want to go with it, I am not comfortable with it, but you do not need my vote on this one. It seems like a possible way. So the next one in this clause 2 would be with the definition of “prosecutor”. Prosecutor, you have kept the original, means:

“The Director of Public Prosecutions or an attorney...authorized, in writing, by the Director of Public Prosecutions.”

You would have seen other kinds of definition for “prosecutor”. Senior Counsel Elder in her document, I cannot remember the page number now, I do not even have it in front of me at the moment. She had said, she was not very strong, learned Senior Counsel was not very strong and she suggested we take out police officer which is in the existing law.

**Hon. Member:** What clause?

**Mrs. Persad-Bissessar SC:** This is still on clause 2, on the definition of “prosecutor”. Pamela Elder suggested that we do something different with the existing definition of “prosecutor”. Remember the Senior Counsel was looking at the existing law and making changes—[*Interruption*]

**Mr. Al-Rawi:** The existing law included a police officer specifically and the idea was to remove police officer because there was a mischief exactly along the lines that you had referred to a little while ago. So what we did, the definition was modified by removing police officer.

**Mrs. Persad-Bissessar SC:** Certainly. Now what Senior Counsel Elder said on pages 37 to 38 on prosecutor and she said:

A police officer is included in the definition. It is potentially dangerous for police officers to enter into plea discussions with accused persons especially those who are unrepresented. Allegations can easily be made that improper

pressure exerted and so on.

She continues in paragraph 32(3), on the 25<sup>th</sup> April the workshop, Mr. Gaspard, Senior Counsel and DPP recommended that if the term police officer is to be retained in the definition of “prosecutor” then, the meaning should be restricted to the level of a first division officer. So there was no hard and fast rule that you should not have them, but if you do have police officers acting as prosecutors, which is what is happening now in our courts, the majority of the prosecutors are police officers and I will come to say why I think this may be retained or should be retained. It is because what you are now proposing, the DPP and we already know how short-staffed that office is and I know with DPP, you do not mean the man, the DPP, but the office, and then you say and the attorney-at-law authorize in writing by the DPP. Now that is perfect, but how these lawyers are going to be selected? What is the criteria that would be used that I am selecting this person and not this lawyer? I am selecting the attorney Faris but not the attorney Mr. Hinds. What is the criteria?

Thirdly, the shortage of persons even in the DPP Office. I know you want to staff it, you told us how you are moving. It will still be too few. So if this is to work and it is centralized back into that office of the DPP, as a prosecutor to hold this plea discussions throughout the country I think you may be spinning top in mud and may get far less of these things taking place when it is so totally centralized.

Again, I do not feel strongly about it if you want to keep it as a lawyer authorized by the DPP, I just have concerns how these lawyers will be chosen. Already in your own experience you say the former administration hired all their friends and family and maybe when you move out, the office will say that you hired the firms of friends and family. You know, all the questions about the selection process, how

is it to work? That is my concern. Why I am asking, given the fact that the majority of our prosecutors in the summary courts are police officers that we put up the ante and we put a rank which was suggested by Mrs. Elder and DPP Gaspard, above the rank of first division.

**Mr. Al-Rawi:** Sure. If I could reply. Thank you. I understand the point. It is a balance between common sense, practicality and who we are as Trinidad and Tobago, in addition to the potentials for abuses. The fact is that, let me address the points that I have held on to in my mind. First of all, the person to select attorneys-at-law is always the DPP and he does so by fiat which has been his privilege again from constitutional spring board. That has been the practice time immemorial without prescription as to who qualifies for fiat or not.

Secondly, you are right. The cadre of persons available to provide the body for prosecutor may be limited currently. I can tell you that we are literally building out the attorneys-at-law complement at the police service. I am literally building up case management centres in the police service now from an architectural point to allow them to move from eight attorneys-at-law, whereas there are 53 prosecutors including eight. So their base, they have the positions to hire but they have not. That is being pushed right now. The position of including a police officer is that, in fact, many members of the Criminal Bar in discussions on this Bill, Mrs. Elder herself included, strongly advised against the inclusion of any form of police intervention.

**Mrs. Persad-Bissessar SC:** But I just read paragraphs 32(3)—[*Interruption*]

**Mr. Al-Rawi:** But that was 2014.

**Mrs. Persad-Bissessar SC:** So she has now changed her mind?

**Mr. Al-Rawi:** I can confirm that it is her recommendation standing on the pack of

others, indicating that the police officer should be removed and again it was specifically to avoid any potential for coercion or the allegation that somebody may have been browbeaten into this scenario. In any event, the flavour of it really works its way to a judge and so we have sought to balance it out. If you look at Form 1 which springs from section 10 where the accused indicates for instance that he does not want to have representation and you look at the safeguards that come about there, the need to have an attorney-at-law who is approved by the DPP is a very significant one. The resources are not incapable of being had, they just need to be had and that is why the build out has been moving as quickly as it has at the DPP's office. So we expect that situation. Again, the JLSC is on its second round of appointments right now. There are 64 more bodies to be appointed and I expect that to be done.

**Mrs. Persad-Bissessar SC:** Sure. Well, I had suggested two options and you have gone with one of them, which is that we excise the police officer and we define it in the way in which the Jamaicans have done it, which is what I see that you have kept in your definition. So we can move on with that as well.

**Mr. Hinds:** Thank you, thank you. Just to follow on what the Attorney General just said. I understand the concerns by Senior Counsel Pamela Elder in respect of police. The Member for Siparia is right. The large majority of prosecutors in the Magistrates' Court are actually police officers. I suspect what Mrs. Elder was suggesting is that you do not have these very prosecutors who are police officers, given that police officers are the ones charging, arresting and charging to be the ones entering into the plea discussions. Not that they should not prosecute, but that they should not be the ones entering into the plea discussions and if they are entering into the plea discussions, it should be from the rank of Assistant

Superintendent or someone outside of the fray, so to speak, a level of distance. And insofar as the fiat is concerned, there are occasions, of course, where in a private criminal prosecution an attorney can apply to the DPP for a fiat. So the DPP is not choosing him. Once the DPP concurs—

**Mrs. Persad-Bissessar SC:** I think these matters are more, they are not for private prosecutors.

**Mr. Hinds:** It is criminal matters with criminal sanction.

**Mr. Al-Rawi:** What Minister Hinds is referring to is that you can bring a criminal complaint under a private indictable.

**Mrs. Persad-Bissessar SC:** We know that. But I do not think this—

**Mr. Hinds:** No, but it is criminal matters. It is criminal matters generally.

**Mrs. Persad-Bissessar SC:** But, it is where you have a—where is a private complaint against each other, you two could always fix up your business.

**Mr. Hinds:** And therefore I—*[Interruption]*

**Mrs. Persad-Bissessar SC:** So the bulk of—this is designed—*[Interruption]*

**Mr. Hinds:** Definition—*[Interruption]*

**Mrs. Persad-Bissessar SC:** With due respect, not for those unless I am very wrong.

**Mr. Hinds:** No, you are right.

**Mrs. Persad-Bissessar SC:** This is for matters—*[Crosstalk]*

**Mr. Hinds:** And the definition—*[Interruption]*

**Mr. Al-Rawi:** You are perfectly right and it fits in because of the operation of the DPP giving written consent because in a private indictable it is up to the DPP to actually discontinue or not. So, yes.

**Mrs. Persad-Bissessar SC:** AG, you know what is my concern here, that we may

create a little elitist group of lawyers who trot around the place and they are the only ones, you know, it is like a little elitist group, one, two, three, four, five, nobody else. This is it, you cannot even get in. Look, I want you to remember, maybe you are a lot younger than I am, maybe the hon. Speaker, without bringing her into the debate, but I do not know if you know what this profession is like or was like and still is. You know how hard it is, you come out of law school, to break in with it because it is closed. It is an elitist profession.

**Mr. Al-Rawi:** Of course I do.

**Mrs. Persad-Bissessar SC:** And it is kept elitist and I have a concern that we get a cadre, the DPP selects five or 10, I do not know how many if he could find 10 and they are the men of business now. They are the only ones—*[Interruption]*

**Mr. Al-Rawi:** Member for Siparia, can I tell you this—*[Interruption]*

So much in agreement I am with you and so do I recall the experience that I have gone to the United Kingdom, I have met with the Public Defenders Department and the DPP of the United Kingdom and we are actively building out, this year, a public defenders systems. So we are looking to cause the amendments to the Legal Aid and Advisory Authority specifically—Member for Siparia, let me underscore your point—*[Interruption]*

**Mrs. Persad-Bissessar SC:** You have a good heart and a good soul.

**Mr. Al-Rawi:** There are 20 lawyers only that control the Criminal Bar.

**Mrs. Persad-Bissessar SC:** Noble intentions. Sir, today you were here in Finance Committee, you have no money, please remember. But they will not happen.

**Mr. Al-Rawi:** There are some things that you have to do.

**Mrs. Persad-Bissessar SC:** I wish you good luck, if you want to have a cadre of attorneys do it, we will give it a shot. We have all these very qualified persons. I

mean, why we do not go as Pamela Elder suggested above the rank of a certain—and we have done it in other pieces of legislation, you know. I remember in this Parliament over the 25-plus years, many pieces of legislation, we say okay, you need a police officer but given the sensitivity we take a rank. You have been, were you ever a police prosecutor, through you Madam to Mr. Hinds? I know you were a policeman.

**Mr. Hinds:** Not a prosecutor.

**Mrs. Persad-Bissessar SC:** Okay sorry. So we can move on, I mean, so you do not create an elitist group. People work it wrong.

**Mr. Hinds:** Quite frankly, in all humility, that fear of an elitist group does not obviate the power of the law for plea discussions. I mean whether five wind up doing it or 25 wind up being regularly involved, in any event the Criminal Bar as it now is, is a shrinking commodity and there are a limited number of criminal practitioners. The Attorney General has made that very clear. So while you have that fear, I do not see how it immediately bears in on the validity of the law as it now is offered.

**Mrs. Persad-Bissessar SC:** With due respect, the very thing that you fear in having the police officers there, that very thing may happen with this little crew of plea discussion lawyers. You see, you fear, you are saying, let us not put the police officers because of the possibility of abuse. Yeah? But in the same way you put a little crew of lawyers, a little elitist group and that very fear transfers there. With the police officers, there is a wider cadre of people. It is not the same little closed group. Secondly, you put them above a certain rank—[*Interruption*]

**Mr. Al-Rawi:** You see, Member for Siparia, some of this is driven by the fact that as at 2015, 2014 there were 12 plea bargainings. And that was born because of the

complaints coming out, again the Criminal Bar saying that most people were unwilling to enter into plea discussions with policemen. So causing a division away from them was one of the appropriate things. And it is Mrs. Elder herself that gave the convincing argument that we should not use the police of any rank.

**Mrs. Persad-Bissessar SC:** Well, I know the police take all the blame for everything these days. It is not you, it is the police. Blame them. So I am not in agreement with excluding them completely and again you have the majority.

**Mr. Al-Rawi:** But we still have some time to look at this between the House and the Senate.

**Mrs. Persad-Bissessar SC:** And the Senate.

**Mr. Al-Rawi:** And certainly as I hope I have demonstrated—*[Interruption]*

**Mrs. Persad-Bissessar SC:** There are good policemen, you know, there are very good policemen. Mr. Hinds would know that.

**Mr. Al-Rawi:** And the mindset is open.

**Mr. Hinds:** Madam Chair, finally, permit me, you know, I just want to be very clear. *[Crosstalk]* When the police arrest someone and propose to or eventually charges that person for a criminal offence, that person gets himself defence counsel, *[Crosstalk]* that person gets himself a lawyer to protect his legal interest in this process. So it is that lawyer which the Attorney General just explained, once he is on record, no plea discussion cannot be entertained with him, the accused or suspect, without his lawyer. It is that suspect or accused, he has his own lawyer. For plea discussions to ensue, that lawyer operates on the accused's or the suspect's behalf. And then for the State you have either the DPP or one of his officers or typically the police. Pamela Elder is saying the prosecutors who are police officers ought not to be the ones entering into that plea bargaining debate or

discussion with the accused and his lawyer. It should be someone of the rank of ASP and above or a lawyer chosen by the DPP.

So I thought we were confusing it a little while ago when I was hearing about abuse, because it is two sides. The State has someone negotiating on its behalf and of course the accused has his lawyer. So the little clique now that you are worried about, where would this little clique be? I do not understand.

**Mrs. Persad-Bissessar SC:** One day we may be back here, God willing, and we may review this. We will see the statute.

**Mr. Hinds:** No, I am just asking in all sincerity, in all sincerity.

**Mrs. Persad-Bissessar SC:** I am very sincere in my comments—*[Interruption]*

**Mr. Hinds:** Yes, I know.

**Mrs. Persad-Bissessar SC:**—and I saw you. So we would not know until it goes out there and we see—*[Interruption]*

**Mr. Hinds:** So you fear that there will be a little clique that will come on behalf of the State—*[Interruption]*

**Mrs. Persad-Bissessar SC:** There will be, that is what happens. It is the reality of our society.

**Mr. Hinds:** Okay.

**Madam Chairman:** Okay. Might I call upon the Member for Oropouche—

**Mrs. Persad-Bissessar SC:** It is, but if that damages or not then it is left to be seen, you know. Your point. Sorry, Madam.

**Madam Chairman:** Okay, Member for Siparia, I want to call upon the Member for Oropouche East.

**Dr. Moonilal:** To the Attorney General. Is the Attorney General suggesting that even if you go with the police of the senior rank, there will still be some perception

of collusion with junior police officers in this matter?

**Mr. Al-Rawi:** Mrs. Elder gave us very graphic examples of how police intimidation can operate in this scenario and cautioned against the inclusion against police. And she, having the most experience in the criminal law, certainly, I having none, she having all, I took what she had to say seriously.

We had the positive recommendations as well from other persons at the Criminal Bar who gave in comments and reflections, Rajiv Persad, Ravi Rajkumar, several of the practitioners and the move was away from police prosecutors.

**10.45 p.m.**

**Dr. Moonilal:** Do you have any other examples in the Commonwealth by the use of senior police officers? And what would have been the result of that over a period of time?

**Mr. Al-Rawi:** No, regrettably, I do not. I catch your point, but Trinidad and Tobago finds itself in a situation much unlike some of the Commonwealth or common law jurisdictions right now, and the difficulty that we had is that when the Criminal Bar raised its head up—most of them—and said to us from their Bar's representative, who Mrs. Elder was and who certainly has been in constant engagement in this Bill up until just yesterday, the advice given was stick with the attorneys-at-law.

**Dr. Moonilal:** But, I mean, clearly you would understand that the Association is, in a sense, advancing the interest of their members.

**Mr. Al-Rawi:** But you must remember the attorneys-at-law that we are talking about are state attorneys. Minister Hinds had given a very good example of how the counsel of choice on the suspect side could limit the operation, that the pool would be small there. You have about 20 senior well-established criminal attorneys

in this country and they have all of the matters. But the DPP's department is much larger than that, and what has been missing is, in fact, the operationalization of the permanent staff inside of there. They have contract staff. What they want is permanent staff. So the recruitment exercise is moving. The overseeing from the Public Defenders Department and the UK DPP is also filtering in so that they can give their experience by way of case trials and we intend to bring that forward.

**Dr. Moonilal:** Do you not see a situation where a pool of state lawyers on contract—or not—at the DPP's Office, become involved in this process of bargaining? They become the professional experts, almost, as bargainers and specialists. It is a specialist area that will emerge. And then, of course, when they decide for one reason or another to go into private practice they become the attorney, the counsel of choice as expert bargainers.

**Mr. Al-Rawi:** That is exactly the way it happens. Right now, most of the scholarship winners, et cetera, come into the State, get their legal training and then they do go out into private practice. It is the natural progression. So you are right.

**Dr. Moonilal:** I would have liked to hear more, if you had any comparative study or any research material on why it is that you are so adamant that the police of the senior level that we suggest, why it will not work. I think if you could find some research it would be good, if not, well—

**Mr. Al-Rawi:** We did certainly look at multiple jurisdictions. Some are rather informal in perspective, some have better function and different divisions of separation for police officers. I cannot give you a hard and fast example but it is not that I am personally wedded to this view. This is the advice given to me by the leading members of the Criminal Bar.

What I was saying to the Member of Siparia a moment ago, just sotto voce or

across the floor, was we still have a passage of time between here and the Senate and my mind is open to the issue, so I will certainly be looking at it broadly.

**Madam Chairman:** Might I call upon the Member for Princes Town?

**Mr. Padarath:** Thank you, Madam Chair. Hon. Attorney General, you spoke about the limitations of the Commonwealth jurisdictions and we had spoken a lot about this when we had the debate, and then you spoke about the informal perspectives that had been advanced in some of these Commonwealth jurisdictions. With respect to the whole definition of suspect—and I am just going back to that a little—you spoke about Canada with respect to what they have in their law there. I recall with respect to the definitions of suspect in the Canadian legislation that there was a disparity when it came to provinces in Canada. Have you taken a look at that? Because there is a disparity that exists there. And, again, you spoke about the informal perspectives and so on. But from my research, I believe that in some instances when you refer to Canada and the United States being your benchmark, when you really look at Canada being the main Commonwealth jurisdiction in terms of the jurisprudence, you will see that there is a huge disparity in terms of the provinces with respect to many of these definitions.

**Mr. Al-Rawi:** You are right. There is a disparity. Your research is correct. The thing is that there is no one cast-in-stone view to hold on to say, here is a good, perfect legislative example. What we do know is that the previous version did not work from 1999, 2000, come forward 17 years later, 12 cases. And part of the odium expressed was that policemen were involved and also, too, that there was a criminalization for undue influence which caused most people to be wary of the entry into plea discussions or plea bargaining. So we took avail of those.

**Mr. Padarath:** Thank you, AG. In light of that, I think we have to be very careful

in terms of identifying when you said that there was statutory support for some of these definitions in other Commonwealth jurisdictions, that we may be advancing perspectives that, in reality, we are not taking into consideration the disparity. And according to the Leader of the Opposition, maybe in the other place it may be ventilated more, but I would like that you would take a look at that.

**Mr. Al-Rawi:** I certainly will. Right now the issue is down to can we broaden the pool of persons available by considering policemen of a certain rank? And I have certainly noted that carefully.

**Mrs. Persad-Bissessar SC:** I do not want to be labour it. I just want to make one other point. You know, if you are involved in a profession and you are a policeman, it also gives that policeman something to aspire to, that, you know, “I want to be of a certain rank; I want to do certain things”. We talk about in human management about rewards and so on, you know—

**Mr. Al-Rawi:** Incentives.

**Mrs. Persad-Bissessar SC:**—incentives.

**Mr. Al-Rawi:** Member for Siparia, I hear you loud and clear.

**Mrs. Persad-Bissessar SC:** And already the morale of our police service is so low.

**Mr. Al-Rawi:** Not being the expert in criminal law, I defer to the advice of the senior practitioners there. But I am certainly looking at the issue.

**Mrs. Persad-Bissessar SC:** Thank you, Sir. Shall we move on?

**Madam Chairman:** May I just call the Member for Cumuto/Manzanilla?

**Mrs. Newallo-Hosein:** Thank you, Madam Chair. Hon. Attorney General, I know that you had made reference as the Member for Princes Town was indicating with Canada but, I mean, in all fairness, I would like to say that in comparing what it is

you would like to do with Canada, we have to understand that we are not at that level in terms of the efficiency of our judicial system and so forth. And with regard to the police, just recently you had a police officer being charged and being convicted for bringing false charges against a colleague of his, and therefore you must understand that we want to go forward. We want to grow as a nation in terms of redesigning our whole judicial system, and so forth, but there are concerns that the citizens have, and until we are able to put their fears to rest in terms of the level of confidence that they are placing in our law enforcement, I think that going forward is going to be very difficult, and many persons are not going to feel the confidence of what it is you are trying to do in bringing about a just system—

**Mr. Al-Rawi:** And reform.

**Mrs. Newallo-Hosein:**—and reform. And those concerns are very, very real and it cannot be ignored.

**Mr. Al-Rawi:** I accept the point as it is made. Member for Siparia, did you want to move on next to “relative”?

**Madam Chairman:** Just one minute, please. Caroni East, is your point on clause 2?

**Dr. Gopeesingh:** Yes.

**Madam Chairman:** It is on something we have done already?

**Dr. Gopeesingh:** Just a short one. If I am to get some clarification, the attorney-at-law who is going to be a court prosecutor, is that attorney from the private bar? Or can it be from the DPP’s Office, or both?

**Mr. Al-Rawi:** What we are discussing right now is the ability for a “prosecutor” as defined to mean the DPP or an attorney-at-law authorized in writing by the DPP to engage in a plea discussion and conclude a plea agreement. So it may include the

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prosecutorial persons, but it may not. It may be someone just assigned for that purpose. So it is a broad category.

**Dr. Gopeesingh:** And the attorneys can come from the DPP's Office as well?

**Mr. Al-Rawi:** And they can come from the outside by way of fiat from the DPP.

**Dr. Gopeesingh:** Okay. I appreciate it. Thanks for the clarification.

**Madam Chairman:** Member for Siparia.

**Mrs. Persad-Bissessar SC:** Yes, Madam. I note that the Attorney General has proposed an amendment to the definition of "relative" so perhaps he may want to—

**Mr. Al-Rawi:** Yes, Ma'am. Member for Siparia, we took a look at Jamaica and they had a broader definition of "relative". They included the more Caribbean-type definition of relative: the child, stepchild, other dependent; brother, sister, step-brother, step-sister. So what we did is, we went with the broader definition of "relative" for the definition and we lifted off of the Jamaican Bill. That Jamaican Bill, if you look at it—

**Mrs. Persad-Bissessar SC:** It is okay. I had a look at theirs.

**Mr. Al-Rawi:** Okay. So we lifted from the Jamaica Bill and went with their broader definition which they had under the definition of "member of the victim's immediate family" and the suggestion that there be a broader approach. I think it takes care of our non-formalized relationships in a better, more realistic sense.

**Mrs. Persad-Bissessar SC:** This is only to be utilized in the later clauses—

**Mr. Al-Rawi:** For the victim impact.

**Mrs. Persad-Bissessar SC:**—with respect to victim impact.

**Mr. Al-Rawi:** Yes. So that you get a wider cross-section of views from the victim's perspective.

**Mrs. Persad-Bissessar SC:** I have no objection to this.

**Madam Chairman:** Member for Oropouche East.

**Dr. Moonilal:** This is for the victim impact statement. Is there a another definition for when you make an agreement—part of the plea agreement—

**Mrs. Persad-Bissessar SC:** That is in clause 4 and I have suggested an amendment, so we will—

**Dr. Moonilal:** Okay, great. So we will deal with that later.

**Mrs. Persad-Bissessar SC:** At clause 4, yes.

**Dr. Moonilal:** Fine.

**Mrs. Persad-Bissessar SC:** That is why I am clarifying this is only with respect to victim impact.

**Mr. Al-Rawi:** Yes, you are correct.

**Mrs. Persad-Bissessar SC:** Do you have any other definitions—

**Mr. Al-Rawi:** No, that is all we are proposing for clause 2.

**Mrs. Persad-Bissessar SC:** No, you have now a definition of “suspect”.

**Mr. Al-Rawi:** “Suspect”, sorry. I thought we had treated with that when we were discussing the cleave away from accused.

**Mrs. Persad-Bissessar SC:** I suspect we have not yet—

**Mr. Al-Rawi:** I am in your hands, Member for Siparia. I am in your hands.

**Mrs. Persad-Bissessar SC:** “‘Suspect’ means a person who a police officer...”

I think the grammar there may be wrong. I think we would want to say, “whom” and not “who”; “a person whom”. I think it is “whom”. Run a spell/grammar check. You are probably using the American word version rather than the British. Anyway:

“‘suspect’ means a person who a police officer,”—I would think it is

“whom” but I will be guided by your drafts people—“a police officer, with reasonable cause, suspects has committed an offence, but who is not charged;”

I think, Dr. Moonilal, you had some concern about the definition of “suspect”.

**Madam Chairman:** Member for Oropouche East.

**Dr. Moonilal:** Yes. The definition of “suspect” means:

“a person who a police officer, with reasonable cause,” Is it?

**Mrs. Persad-Bissessar SC:** Yeah.

**Dr. Moonilal:** But I had asked the couple questions before to you so I do not really need to repeat it because we had asked it earlier. It was really that issue of a reasonable cause as opposed to reasonable suspicion and you had said you were using a language that you got from somewhere and that was well established. Was it?

**Mr. Al-Rawi:** Yes. We lifted from the Criminal Law Act, section 3, which used that language. So I had suggested earlier two things. One, it is the term which is used in the case law and, two, that there is legislative springing for it. And, specifically, the drafters are reminding me, it is the Criminal Law Act, section 3.

**Dr. Moonilal:** Okay, sure. I mean, since this plea bargaining arrangement business started in the '90s, and so on, given where we are today and all the facts and the culture and everything which we do not need to repeat everything, would you consider just removing the suspect and creating a situation where you enter into plea discussions and plea agreements with someone who is charged—full-stop—as opposed to someone that a police officer merely says to you as you take them to the station, “I have reasonable cause to believe that you have committed a criminal offence.”

**Mr. Al-Rawi:** If we remove “suspect”, then you move strictly to charge and then you must have somebody charged right away. The difficulty with removing “suspect” is that you are removing a larger category of persons who may otherwise be persuaded with the necessary safeguards that I described to the Member for Caroni East a little while ago. You would remove a larger cadre of people from the ability of easing the judicial system and themselves. So the experience, in particular the informal approach which the United States and the United Kingdom dealt with—what we saw India was now moving towards; China moving towards—multiple jurisdictions say start with as wide a base as possible, because this person, once released, would never be in the pack. This suspect is going to be charged to get a plea agreement.

**Dr. Moonilal:** No, but what I am saying is that when someone is charged you have more than reasonable cause to charge.

**Mrs. Persad-Bissessar SC:** Yes.

**Mr. Al-Rawi:** Well sometimes—you are right, but—

**Dr. Moonilal:** It is way beyond reasonable cause.

**Mr. Al-Rawi:** But the number of cases and the amount of damages that the Attorney General’s office pays for false imprisonment and malicious prosecution, which I am quantifying right now, to the tens of millions of dollars a year, demonstrate that they say they have reasonable cause and the court says otherwise.

**Dr. Moonilal:** And could you imagine that happens now with persons charged? What could happen now with persons who are suspects?

**Mr. Al-Rawi:** It is the same risk.

**Dr. Moonilal:** Because what happens is that any member of the public, a policeman takes him to the station and says, “Listen, I have reasonable cause to

suspect you committed an offence” and immediately the police officer allows a situation where that person enters into plea discussions.

**Mr. Al-Rawi:** Again, with the safeguards of DPP, Magistracy, High Court, Court of Appeal, Privy Council, appellate functions on both sides. So there are multiple layers of protection for the mischief, and it is a genuine mischief you are pointing out. I do not want to diminish the fact of the mischief that you are pointing out. But we balanced it by at least five layers of protection.

**Dr. Gopeesingh:** Madam Chair—

**Madam Chairman:** One minute, please. Oropouche East, are you finished?

**Dr. Moonilal:** I will come back to it later if it is necessary.

**Madam Chairman:** Member for Caroni East.

**Dr. Gopeesingh:** I understand what the Member for Oropouche East is saying because I have been a victim of that in 2002 when I was charged because somebody said they suspected me for doing something. But I had spend close to \$1 million to engage four attorneys to fight in the Magistrates’ Court. Thank God I had money then and my wife was an attorney—a senior attorney. All of you are juniors to her. I mean, she was the first graduate from the Hugh Wooding Law School in 1975 and thank God she was around. After, I was freed by the Chief Magistrate, Mr. Mc Nicholls, and he said, “I do not know why you have Dr. Gopeesingh in this court, a man of integrity being for two years here. Dr. Gopeesingh, you are free to go.”

Mr. Martineau cried in the court. He was my defence as well. But politically, it was appealed to the High Court. So the lower court, it said, no charges known to law; it went to the High Court, the judge said no charges known to law, but I had to spend money there again. Mr. Martineau is my best friend. He did not charge me,

but I had to pay money again in the High Court.

**Mr. Al-Rawi:** Caroni East, you are making—

**Dr. Gopeesingh:** So it was basically on a suspect.

**Mr. Al-Rawi:** No, but you are making the very point of the validity of the safeguards, because it was the court that vindicated you, like the court vindicated Franklin Khan.

**Dr. Gopeesingh:** But I had to spend money. And what about the innocent person who does not have money, AG? And anybody could say, “Look, I suspect you of the charge.”

**Mr. Al-Rawi:** Which is why, fortunately, we also have the right of Legal Aid described inside of here.

**Dr. Gopeesingh:** Oh God! Who want to go to Legal Aid?

**Mr. Al-Rawi:** Madam Chair, if I could just bring us—I do appreciate the hon. Members’ observations. They are correct. There is mischief, but the position is that we are proposing that there is an answer to that. Could I respectfully ask that we move along, if Members are okay? Because the discussion is a good one but it can continue for a while.

**Mrs. Persad-Bissessar SC:** Just a final point on this and we move on. You could look at it after. With respect to “suspect”, we have concerns about it and perhaps some of that may be saved because of the offences that we are proposing be created. But if one goes without the other, I do not think we feel comfortable with this, because we have had people we know who have been the butt of—it is like you are creating an industry of people who will frame people for all kinds of purposes. We have seen it.

**Mr. Hinds:** Madam Chair, in fairness to the citizens of this country who are

listening to this discussion, I am obliged. Based on the suggestions of the Member for Oropouche East, when the police arrests someone, they must do so on the basis of some—

**Mrs. Persad-Bissessar SC:** Reasonable cause.

**Mr. Hinds:**—reasonable cause. That is to say, they anticipate that an offence has been committed, was about to be committed. These are, you know, right. So the police arrests someone and they bring them to the station, that person is a suspect. And the Member for Oropouche East is fearing that any police officer, just having a suspect, can enter into plea discussions with them. It is not going to be like that, because this question of reasonable cause, while we use it, and the police officer has to have it, it is going to be determined by some court or some tribunal at a later stage, looking at his conduct on the day to determine whether it was reasonable or not. That is really it.

So that this fear about—and the example given by the Member for Caroni East, it really does not bear in on this directly, in my view, you know, because the police, they have the suspect and they can only enter into plea discussions if they have some level of evidence. Otherwise it would be improper in accordance with this very law. They cannot enter into plea discussions on any matter improperly. And by “improper” I mean if there is not sufficient evidence to found that serious charge. And remember, the plea discussion will be with the suspect either for a lesser charge or a reduced number of charges, or later on a plea agreement for a lesser sentence. So the question of improper inducement applies here and that is catered for in this law. I hope you are following me.

**Dr. Moonilal:** Could I just clarify, based on the Member for Laventille West?

**Mr. Hinds:** Yes.

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**Dr. Moonilal:** Is a suspect a person arrested?

**Mr. Al-Rawi:** No.

**Mr. Hinds:** A person could be suspected but not yet arrested.

**Dr. Moonilal:** That is the point.

**Mr. Hinds:** And a person can be suspected and then arrested. And when the police arrests him, the police would have to have some reasonable, lawful authority for so doing.

**Dr. Moonilal:** But you are not dealing with a person arrested.

**Mr. Hinds:** If he does not—

**Mr. Al-Rawi:** Hold on. You can be arrested because you can be detained and then charged, or you can be detained and then released. There are actually Judges Rules and there are other prescriptions as to how long you can hold someone without charging them. But there is detention, yes.

**Dr. Moonilal:** I just want to be absolutely clear that a suspect is not a person arrested.

**Mr. Al-Rawi:** No, it can be a person who is arrested.

**Dr. Moonilal:** It can be, but it is not.

**Mrs. Persad-Bissessar SC:** It may be.

**Dr. Moonilal:** It may be, but it is not. And then you are entering into plea discussions with a person who is not charged nor arrested.

**Mrs. Persad-Bissessar SC:** That is right.

**Mr. Hinds:** If you do that, as I am saying, if you enter into plea discussions with someone and the evidence does not support that, then it would be an improper inducement.

**Mr. Al-Rawi:** The Member for Oropouche East's observation is correct. Your

observation is correct because it could happen in a fraud squad matter where there is ongoing discussion with the Fraud Squad and several interviews, but you are not detained or arrested. That can happen, yes.

**Dr. Tewarie:** But AG, I thought you said that the critical factor was the DPP's intervention.

**Mr. Al-Rawi:** Yes. You cannot specifically in this Bill here—you cannot, under clause 6, enter into a plea discussion or conclude a plea agreement unless the prosecutor first obtains the written permission of the DPP. That is the key.

**Madam Chairman:** Is there anything else on clause 2? The Member for Cumuto/Manzanilla.

**Mrs. Newallo-Hosein:** Thank you, Chair. I just wanted to ask the Attorney General what is “reasonable cause” and would it be left to interpretation by the DPP or by the court, and so forth? And my concern is that we may be creating an industry of people who will frame innocent persons and criminals may tend to use this system to save themselves and actually put innocent people at risk. And, of course, the Member had indicated he had spent how much money to be able to prove his innocence—

**Mr. Al-Rawi:** I understand. So the answer is—

**Madam Chairman:** Just one minute. I think, Member for Cumuto/Manzanilla, the AG has been at pains to explain from the beginning—since we sat—what is reasonable cause is.

**Mr. Al-Rawi:** In summary, it is a term of art which is judicially described. It has been interpreted by the courts on umpteen occasions and it excludes everything that is malicious for which you can be dealt with in court for malicious prosecution.

**Dr. Moonilal:** Could I ask the AG to just clarify, a suspect can refuse to go to a police station?

**Mr. Al-Rawi:** Yes. And then it is up to the police to do whatever they wish to do.

**Dr. Moonilal:** Like arrest.

**Mr. Al-Rawi:** Because you have the constitutional right against self-incrimination, et cetera. Madam Chair, could we put clause 2?

*Question put and agreed to.*

*Clause 2, as amended, ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed:* That clause 3, as circulated, stand part of the Bill.

Delete subclause (1) and substitute the following subclause:

“(1) This Act applies to both summary and indictable offences.”

**Mr. Al-Rawi:** Madam Chair, the Leader of the Opposition proposed an amendment to clause 3 which I have agreed to, and so the version which I have circulated factors the amendment proposed by the Opposition, that we delete the word “suggested” which was effectively words indicating a retroactivity. So we now have that:

“This Act applies to both summary and indictable offences.”

**Mrs. Persad-Bissessar SC:** I appreciate the change made there. Clause 3(1) has been deleted and reworded. Clause 3(2) as well. Nothing is wrong with it but I think we are here statutorily recognizing the MSI and I think this is a good thing. This has been a good move by the Judiciary, with their practice—90 of 2015. They have a practice—

**Mr. Al-Rawi:** Yes.

**Mrs. Persad-Bissessar SC:** They have the common law with the Goodyear case.

**Mr. Al-Rawi:** And a sentencing handbook.

**Mrs. Persad-Bissessar SC:** So this is a statutory recognition, I think, of a great initiative undertaken by the Judiciary with the MSI. So I just want to put that on the record.

**Mr. Al-Rawi:** And one of the drafters of the handbook is sitting to our left right there.

*Question put and agreed to.*

*Clause 3, as amended, ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed:* That clause 4 stand part of the Bill.

A. In subclause (1)—

- (a) in the *chapeau*, insert after the words “accused person”, the words “or suspect”;
- (b) in paragraph (a), insert after the words “accused person”, where they first occur, the words “or suspect”;
- (c) in paragraph (a)(i), delete the words “against the accused person”;
- (d) in paragraph (b)(iii), delete the words “in respect of the matter with which the accused person is charged” and substitute the words “or suspect”;
- (e) in paragraph (b)(viii), delete the word “summons” and substitute the word “complaint”.

B. Delete subclause (2).

**Mr. Al-Rawi:** Madam Chair, in keeping with the introduction of the cleaved definition of “accused” now cutting away “suspect”, we have had to cause a consequential amendment to clause 4 and clause 4 now separates out the two

species of what was once an accused, between accused person or suspect. And that is the only amendment that we propose to (a) and (b) until we get to (iii) where we delete the words, “in respect of the matter with which the accused person is charged”. So it was to tidy up that definition and that is the sole purpose for clause 4 being amended as circulated.

**Mrs. Persad-Bissessar SC:** On that amendment, we have a difficulty with 4(3), which is what I think one of my colleagues also mentioned, where part of what the prosecutor can agree to on behalf of the DPP is they can enter into an undertaking not to institute charges against family members or friends of the accused person or suspect. Now, I know a question arose of our parliamentary manuals, and so on, and if I am not mistaken, the hon. Prime Minister said, “Well, if you want to find out it is my family, you will have to take a DNA test”. How are you going to institute charges—not to institute charges against family members? How would you know it is a family member, a friend, of the accused? How do you know it is not someone that might be putting duress on a person to take a certain course of action to get themselves freed? And therefore I am not of the view that we should have, as part of this, the agreement where you are undertaking not to pursue charges against other people.

**Mr. Al-Rawi:** It came up in the context of looking at constructive possession matters where strict liability, possession of marijuana, for instance, was found at a place and the famous expression that “everybody going down”, particularly recognizing that Trinidad and Tobago is often comprised of what we call the “Trini” family or Tobagonian family, which is people treated as family as opposed to the strict Christian definition of what a family or relative is.

**11.15 p.m.**

So it was specifically with the constructive possession charges in mind that we dealt with it in the fabric there and left it open for judicial determination. The phrase that we have used is specifically intended if you read it, “an undertaking not to institute charges against family members or friends of the accused”. That is something which we felt the court could easily consider as to the bona fides of that. Remember, all of this still has to go before the court. Those terms would have to be disclosed to the court, and in open court unless it is deemed otherwise.

**Mrs. Persad-Bissessar SC:** Before my colleague, I do not agree with this 4(b)(iii) and I will not support 4(b)(iii) for many reasons. The night is late, but I do not support this. We are undertaking not to institute charges against other persons. I do not agree with that at all. Look, this man who has to come and make a discussion with you, and an agreement, he has to be first charged before he gets off the loop. You are here making a deal to free somebody else. I do not think this is reasonably justifiable, or just—

**Mr. Al-Rawi:** According to the statements of the informality in the DPP’s Office—not ascribing this to him at all—I am told that this happens on a daily basis, both at the police and at the DPP’s Office because sometimes people turn to give evidence and that is the way it is done.

**Mrs. Persad-Bissessar SC:** Not to prosecute their family. But look I know of a particular person whose children are charged with something. They have promised him should he come forward and give himself up, they will release the children, but it has not happened. So I know there are cases where you bargain, but I do not agree with this. I think persons who break the law should be charged and make their own deals, their own agreements. That should not be a bargain to be made by a person who is a suspect and thereafter charged as part of his deal, not to charge

somebody else.

Now I understand your difficulty with the strict liability matters with the drug offences, and perhaps that law may need to be relooked, but that does not mean that people who may have broken the law, you have a third party brokering to—that they must not be charged. I mean, I do not agree, I feel very strongly about it. You have broken the law, face the consequences, either by a plea agreement or trial.

**Mr. Hinds:** Let me share with you—

**Madam Chairman:** Just one minute please, I recognize Member for Oropouche East.

**Dr. Moonilal:** Thank you, and then maybe the Member for Laventille West could comment on both. I agree with everything the Member for Siparia said. This is a very serious problem here. You are saying that something happens right now in practice and it is familiar to some who know about it. It happens out there. You are running now with a grave problem that you are going to put in statute something that happens in practice which we are not very clear is correct, is right. So you are taking a practice which there is no consensus that this practice is right and you are now going to give it statutory life, then you are going to ask the court to give interpretation to something you are deliberately making vague. So this Parliament is going to make something vague, deliberately, and ask the court to interpret our vagueness because we are not clear ourselves.

While we may get a definition somewhere on family members, I think we have other pieces of law that deal with family. What really could we tell the court that we met in Parliament and passed a law and we agreed that friends could get off? What do we mean by “friends”? This thing is much too wide. How do you define

that? This can be used to pervert the course of justice, this can be used to undermine the law, this can be used for several—one man could take the rap for a next fella for many reasons. Now it may happen in practice. I am not saying this does not happen you know. What I am saying is that it is not correct for us to give statutory right to a practice that we are not sure is correct, and it is a practice that some of us think is wrong. And worse, to tell the Judiciary that we have “vagued” deliberately and you can interpret “friends” anyhow you want and “family members”. The Attorney General—

**Mr. Al-Rawi:** Member for Oropouche East, suppose I—sorry to cut in. I caught your point—used instead of “family member”, “relative”, which is now defined in the Bill?

**Dr. Moonilal:** Well, this is why earlier when you were describing “relative” I made this point prematurely, I came to this. That itself is also fraught with problems. That is fraught with problems although you give a definition. It is still fraught with problems in the principle. The problem really is the principle that we ought to be plea bargaining for the person who is charged, not for an assortment of people out there who are not involved in any way, and it can be used to pervert and undermine the law that we are trying to make. The other major problem which you are not answering is that, really, if you are to go on record now to assist the court, who and what is a friend?

**Mr. Al-Rawi:** You see, first of all I—well, I catch the drift of what you are saying. Your mischief as presented is that it can be argued that this thing is vague, that you ask the court to determine “what is family”, “what is friend”. First of all, they are associated because it is an agreement which must be disclosed to the court that somebody else was involved who potentially could have received a charge.

The construction offered by the Criminal Bar—because this came from them and it came from the wide consultations including the foreigners who came in from the US Department of Justice, et cetera—was that this is the reality of what happens every single day in terms of the practice at the DPP's Office and also at the police, particularly when one is looking to state charges. So it is: (a), within the parameters of every court to consider the definition of what something is intended to mean; (b), as an aid to interpretation *Pepper v Hart* provides for these parliamentary transcripts to provide an aid to interpretation; and (c), it is to treat with the reality of an actual situation which exists in practice, not only here but in multiple jurisdictions.

**Dr. Moonilal:** Could I remind you that while you are using the examples of strict liability offences, drugs and so on, they prescribed in circumstances where you are on a common compound, you are in a car, you are in a locality, this is for conceivably every criminal offence. So that the people who are our friends and family in the context of this piece of legislation is not the same people who are also in a house at the same time that you seize drugs, also in a motor car at the time you seize drugs. This could be anybody, even outside of Trinidad and Tobago.

**Mr. Al-Rawi:** True, which is why we are giving the DPP first, and the Judiciary, and the Court of Appeal, and the Privy Council the ability to, number one, have this thing mandatorily disclosed in the agreement if that is the case; and secondly, subject to judicial and DPP consent.

**Dr. Moonilal:** All I can end with is saying that you have defined "relative". As difficult as that is, there is a definition of "relative". You are not going to define this at all. You are going to tell the Judiciary and the court to interpret our vagueness anyhow they would like. You are going on record to actually suggest

that that is the best course of action, and this is fraught with problems and I really object strongly to it.

**Mr. Hinds:** Again, if the Member for Oropouche East is correct it would be an absurdity, and the intention of Parliament in this, and from the recommendations of the practitioners of the Criminal Bar, it cannot be for wholly unconnected matters. It typically has to do with connected matters, people in the same car, in the same location, in the same building. It cannot be for something all—it could never be. Otherwise it would be improper that you are entering into a plea discussion, or an agreement on a matter where you were held with marijuana in a van in Maraval with three people but you are saying, “Yuh see meh cousin and dem who have guns in Toco”, it does not work like that.

Typically, this is a situation where sometimes the suspect or the accused is very happy and he wants to be able to exonerate his family, or his friends. I will give you a quick example. I defended a man, he had marijuana in his van, he stopped in the gas station to gas up but he had a girl in the car, turned out to be his girlfriend. The police came in the gas station, do not know if they smelt it or if they had some information, but they got on him. Of course, they charged both of them. He was insisting from the start that look this was mine, and you see in that offence, Madam Chair, knowledge. So while it is in the van, you still have to have—and this is where we bring the question of strict liability. It is not necessarily strict liability because to prove a marijuana charge, whether simpliciter or for trafficking, depending on the quantum, you have to have knowledge.

So the question was: she was in the van with him, the marijuana was in there, but did she know it was marijuana? Issues of whether the bag was transparent, or whether it was an opaque bag and you could not see in, all of that

arose. In order to convict her, the prosecution would have had to prove that she had knowledge that the thing in that black bag was marijuana. He was saying, “I knew it was marijuana. It was mine. She did not know. Exonerate her.” But they went ahead and charged them both because typically when the time for trial comes, he says now—he changed his tongue—“I do not know”; she says, “I did not know”; who is guilty?

So what happens is that they are both charged, typically. He pleads guilty, she pleads not guilty. When he is convicted and sentenced, procedurally this is how it works. He then comes to give evidence in her matter and says, “Look, I took the rap for this. I served a sentence. I paid a fine. She knew nothing of it, let her go.” And that is exactly what typically happens. In a plea agreement of this nature, which this is intending, it will prevent all of that. He says, “Look, don’t charge the girl, my friend, or my wife, or my son. They were in the house with me, don’t charge them. I will take the responsibility for this.” He enters into an agreement on those terms. That is how it works.

**Dr. Moonilal:** Could I just ask the Member for Laventille West to just give me a comment on the other scenario that two brothers commit murder. Both are accused, one declared that I am guilty and enters into a plea agreement and said part of the arrangement is that you do not charge my brother.

**Mr. Hinds:** If the police has evidence that both participated in the murder, they will not need any agreement.

**Dr. Moonilal:** They are accused.

**Mr. Al-Rawi:** Plus the DPP has to approve this, and the Judiciary has to—and if the DPP objects, the DPP can say no at the plea agreement.

**Mr. Hinds:** Correct.

**Mr. Al-Rawi:** You see, you do not enter into a plea agreement without (a), written consent and (b), you must actually agree to the agreement.

**Mr. Hinds:** And it has to be on the basis, the agreement—take this fundamental point, Member for Oropouche East. All agreements must be properly on the basis of some evidence. If it is unconnected, or it is not —

**Mr. Al-Rawi:** It cannot stand.

**Mr. Hinds:**—on the basis of evidence, it will be improper on its own.

**Madam Chairman:** Member.

**Mr. Hinds:** So in the case where the two brothers—I am so sorry. Just to conclude—if the evidence, video recorded evidence, or some other evidence supports that they hacked this man to death, the prosecution will not enter into an agreement to say only one because they have evidence.

**Dr. Moonilal:** And if they do not have the evidence? If they are charged and they do not have the evidence?

**Mr. Hinds:** Ah! If they do not have the evidence and they only have against one—

**Dr. Moonilal:** They charged two.

**Mr. Hinds:** Ah?

**Dr. Moonilal:** They charged two and they do not have sufficient evidence to guarantee a conviction.

**Mr. Hinds:** Well then, he will be exonerated in court anyway.

**Mr. Charles:** As a layman thinking that our family bonds are so strong, let us say a scenario of five of us commit a crime—some family included—and the evidence is not strong, but they need my evidence, or my statement, in order to get a conviction. So they enter into a plea agreement—I may be using the words loosely—where my evidence to get Mr. Big convicted. The arrangement is you do

not charge my brother, or sister, wife, or whatever, but the person is guilty. I am thinking, our law should be that everyone who permits a crime should pay the penalties for committing a crime. They cannot use—by creating a situation where we legalize what takes place even though it is wrong.

**Mr. Al-Rawi:** Sure. Could I, Madam Chairman? I genuinely appreciate the views expressed by my colleagues opposite. The rationale for family members and friends is specifically to take care of the widest possible ambit for judicial consideration. Friends, for instance, would include a girlfriend who does not quite meet the Cohabital Relationships Act, she did not live over a year; you are under nine months. So we had to use that concept. Family members can be judicially interpreted, it can be strict, it can be wide depending upon it. I am comfortable with leaving that to the judge.

I hear the point about the policy, should you let anybody off the hook. The point is, this is not new. Multiple jurisdictions do this. It is the actual practice. It is the utilitarian concept of trying to get accountability, not in an ultimately perfect sense, but on a balancing of utilitarian purposes. In those circumstances, Madam Chair, could I respectfully suggest, I understand my learned colleagues' principles. They are well articulated under a veil of ignorance in the sense of creating law—I do not mean it any other way—where ones wears the veil of ignorance in coming up with a proper law, but respectfully the Government is going to stand on the position here.

**Mrs. Persad-Bissessar SC:** My final comment, Madam, through you, if I may, is of course, as I say, the AG is free with the majority in the House to go, but I think it is very wrong for us to be legislating for a lawbreaker to go free in this manner. Let him come, or her come, in the same plea discussion and plea agreement, but at

least there is something that you have to answer to. Why are we, as lawmakers, legislating for lawbreakers? And that is my final word, AG.

**Madam Chairman:** I think Attorney General, you have answered that—

**Mr. Al-Rawi:** As best as I can and I do understand the laudable objectives put forward and policy considerations.

**Madam Chairman:** The question is that clause 4 be amended, as circulated.

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed:* That clause 5 stand part of the Bill.

Delete clause 5 and substitute the following clause:

“5. A plea discussion may be held and a plea agreement concluded at any time before conviction, including—

- (a) before charges are instituted;
- (b) during committal proceedings;
- (c) before arraignment;
- (d) at any time after committal; or
- (e) at any time before or during trial for a summary offence or indictable offence.”

**Mr. Al-Rawi:** Madam Chair, we have proposed an amendment to clause 5 taking care of some of the observations raised by the Opposition but, instead, proposing others which we propose to stand on. They are as circulated, that the plea discussion may be entered into at any time before conviction including before

charges are instituted, again to treat with the concept of suspect; during committal proceedings; before arraignment; at any time after committal; or at any time during the trial for a summary or indictable offence. So the mischief pointed out was again in relation to the treatment of suspect, that is from the Opposition's perspective, but we have kept with the broad base inclusion of suspects. So the same agreements offered and cautions would no doubt apply, but we are respectfully holding to the policy that a suspect ought to be included.

**Mrs. Persad-Bissessar SC:** No, hon. Attorney General. I do not know if I am seeing in a blurry eye at this point, but basically your red five just changed the order of your black.

**Al-Rawi:** You are correct. It was to take care of the process flow. So before charges—

**Mrs. Persad-Bissessar SC:** So it is identical?

**Al-Rawi:** Yeah. But the process was a little bit mixed.

**Mrs. Persad-Bissessar SC:** Sure. Okay. For the flow, okay. Stylistic issue, I have no problem.

**Al-Rawi:** But what I was flagging was the fact that “suspect” is definitely still included.

**Mrs. Persad-Bissessar SC:** Yeah, but there is the problem here you see. If I take you at your word, the suspect has to come before a court, before an agreement can be concluded. But here you have a plea discussion, may be held—so we have no problem—before charges. That is okay. But you have in a plea agreement concluded before charges are instituted. That cannot be right. We just made the distinction, the agreement cannot be until you are charged.

**Mr. Al-Rawi:** So I catch your point. Your point that you are raising here—I catch

your point. Just give me one moment to speak to the drafters.

**Dr. Gopeesingh:** Madam Chair, I sincerely grave your indulgence. There was an issue that had been bothering me since this thing came up on plea discussion, but I missed it altogether on clause 4, which was the issue of the seal, and we—

**Madam Chairman:** Member, we have already passed—

**Dr. Gopeesingh:** I know.

**Madam Chairman:**—and we have not just only passed it in terms of time. We have already passed—

**Dr. Gopeesingh:** I am just asking for consideration, but that—

**Madam Chairman:**—and maybe in some other part of the Bill you may get an opportunity to ask it, but I cannot return to clause 4.

**Dr. Gopeesingh:** All right, but I tried. I missed that point altogether.

**Mr. Al-Rawi:** Member for Siparia, the clarification offered is this: you can have a plea discussion before charge; you then go to—you, the tripartite team, suspect, accused and DPP agreeing to an agreement to be presented to the court. So when we get to the Part IV, the plea arrangement, yes the agreement can be actually signed, but to take that agreement you have to take it to court. To get to court, the ticket to court is a charge.

So the agreement is drawn up; the parties enter into the tripartite team without or without their representatives; the agreement is signed—it is not perfected. That is the parties' intention—the locus to get before the court is the charge; the charge then takes you to the court with the agreement, you present it to the judge, you disclose the facts, you say this is why we are here, this is how we got here, this is what we propose, will you consider it. Then the victim impact statements are brought in, et cetera, et cetera, et cetera.

**Dr. Moonilal:** So what you mean here is a plea discussion may be held and a plea agreement drafted at any of the following stages?

**Mr. Al-Rawi:** No, you can actually enter into the agreement, but the acceptance of the agreement is ultimately for the judge under Part IV. So that agreement may be rejected clean, which creates its void having been issued.

**Dr. Moonilal:** No, but if you just go back to the elementary point, a plea agreement cannot be made with someone who is not charged.

**Mr. Al-Rawi:** A plea agreement—

**Dr. Moonilal:** Cannot be made with someone who is not charged.

**Mr. Al-Rawi:** Plea agreement cannot be concluded and accepted by a court unless you are charged.

**Dr. Moonilal:** Right. So you are saying here a plea agreement can be concluded before charges are instituted?

**Mr. Al-Rawi:** So it is a fluidity of agreement. There is the agreement—

**Dr. Moonilal:** Well, remove the word “concluded” to a term that captures that. Concluded means you are finished.

**Mr. Al-Rawi:** No, the Bill must be read in its entirety, and the entirety is that the process of getting to a plea agreement which is accepted is that a court must accept it. So that agreement is done tripartite, DPP, accused with or without representatives, prosecutor in the circumstances described. That is then documented, it is taken to the court, but to get inside the door of the court, the springboard to get there, the ticket or the key to get in there is a charge.

**Dr. Moonilal:** I just think it is convoluted and it defeats the earlier argument we had in which you were very, very clear as to the separation of the two actions.

**Mr. Al-Rawi:** My apologies.

Criminal Procedure (Plea Discussion  
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**Dr. Moonilal:** What would you lose if you just put a plea discussion may be held at any time, at any of the following stages but before conviction? Just remove plea agreement concluded.

**Mr. Hinds:** Why?

**Dr. Moonilal:** Because you are going to finalize that, and sign off, and whatever when you go to the court, when the person is charged.

**Mr. Al-Rawi:** The rationale is again the flow. So if I read it the way you propose, a plea discussion may be held—

**Dr. Moonilal:** At any of the following stages.

**Mr. Al-Rawi:**—at any time—a plea discussion may be held and a plea agreement concluded. Let us get to plea agreements.

**Mrs. Persad-Bissessar SC:** What happen is you amended clause 4 now to include a suspect entering into an agreement—

**Mr. A-Rawi:** Correct.

**Mrs. Persad-Bissessar SC:**—which I did not pick up now until now and I am trying to see what is—

**Dr. Moonilal:** No, the suspect is not entering into an agreement.

**Mrs. Persad-Bissessar SC:** AG, I cannot pursue this because we have not had time to study properly and it is bouncing itself all over the place.

**Dr. Moonilal:** But a suspect is not entering into an agreement.

**Mrs. Persad-Bissessar SC:** Well, it is now changed—

**Mr. Al-Rawi:** A suspect can.

**Mrs. Persad-Bissessar SC:** Clause 4(1) has now been changed to allow the suspect to go into an agreement.

**Dr. Moonilal:** No, no, but that again is contradictory.

**Mr. Al-Rawi:** So if we look clause 19(1):

“A plea agreement concluded between a prosecutor and the Attorney-at-law for an accused person”—or a suspect—“shall in the form set out in Form 3 of the Schedule.”

And when we look to Form 3 of the Schedule:

“Whereas the accused...was on”—X—“day...charged with the following offence(s):”

So Form 3 definitely brings life to the flow that I just described. So the agreement itself has to get to court with the charge happening. So the flow of the entire Bill takes care of the position.

**Mrs. Persad-Bissessar SC:** Madam Speaker, I beg to move that this Committee be adjourned to a more reasonable hour.

**Dr. Moonilal:** This is a very serious thing.

**Mrs. Persad-Bissessar SC:** This is a very serious thing

**Mr. Al-Rawi:** Madam Chair, would you do me a—I am looking for the Leader of the House right now.

**Madam Chairman:** May I? I am going to propose that we suspend for five minutes and, therefore, the Government will decide where we go from here.

**Mr. Al-Rawi:** Madam Chair, it is not that there is any difficulty in my mind, but I do recognize that Members have had a very long day and I am seeing a genuine effort on the part of the Opposition. [*Interruption*] I personally have no difficulty with this, but I would appreciate if Members are in fresh mind, of course, and we have been here for 12, 13 hours straight right now. So if you just facilitate a short break, perhaps we need to stretch our legs and just let me speak with the Leader of the House on the issue.

Criminal Procedure (Plea Discussion  
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**Madam Chairman:** Might I just ask, Attorney General, just not this, but the entire business of the day because I have calculated—so that I can get the cooperation of all Members when we come back here—we had at least nine hours and 20 minutes of the day, of today's sitting. Okay? Whatever day of the week you call it.

**Mrs. Persad-Bissessar SC:** The 15 minutes, Madam Chairman, will mean tomorrow.

**Madam Chairman:** Whatever day you call it. Thank you.

**Mr. Al-Rawi:** Yes, Madam Chair, I catch you because we still have the procurement and other aspects.

**Madam Chairman:** So this meeting is suspended for five minutes. Thank you very much.

**11.44 p.m.:** *Committee suspended.*

**11.52 p.m.:** *Committee resumed.*

[*Madam Chairman: Mrs. Annette-George*]

**Mr. Al-Rawi:** Madam Chair, are we resumed?

**Madam Chairman:** Yes, Attorney General.

**Mr. Al-Rawi:** Thank you, Madam Chair. We had some discussions in the break and because of the very short parliamentary space which we have which is just nine weeks and bearing in mind that this Bill will go to the Senate and that the Opposition Senators have an opportunity to give a little more clarity on perspectives, we propose to complete the business on this Bill in this House, going with an open mind and certainly not being mindless of the suggestions which have been made from those opposite.

I have communicated that to my learned friends. I know that we are agreeing to disagree on this particular point but that is the position on account of where we are

Criminal Procedure (Plea Discussion  
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in space.

**Madam Chairman:** Okay. So we are at clause 5?

**Mr. Al-Rawi:** Yes, please.

**Madam Chairman:** The question is that clause 5 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed:* That clause 6 stand part of the Bill.

**Mr. Al-Rawi:** Madam Chairman, we do not propose any amendments to clause 6.

*Question put and agreed to.*

*Clause 6 ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed:* That clause 7 stand part of the Bill.

Delete clause 7 and substitute the following clause:

7. No improper inducement shall be used to encourage an accused person or suspect to participate in a plea discussion or conclude a plea agreement.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 7 be amended as circulated. We have sought to tidy up the language keeping the improper inducement position as a mere prohibition and not returning to the position where it is criminalized because the observations coming from the DPP's Office and members of the Criminal Bar say that the reason that there were only 12 plea bargaining arrangements between 2000 to 2017 is because of that dissuasion on the criminalization of improper inducement.

I should add for the record that the contempt of proceedings of the court certainly allow the court to institute sanctions for any improper inducement and there are other criminal charges that can flow from that. But we did not propose to return to what was the old section 5 of the Act.

In those circumstances, clause 7 is proposed to be amended as circulated.

**Madam Chairman:** Whip, do you have any comments? Okay.

So, the question is that clause 7 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 7, as amended, ordered to stand part of the Bill.*

*Clause 8.*

*Question proposed:* That clause 8 stand part of the Bill.

Insert after the words “accused person”, wherever they occur, the words “or suspect”.

**Mr. Al-Rawi:** Madam Chair, we propose that the clause 8 be amended to cleave the definition of “accused person” and separate it out from “suspect”. In those circumstances, we propose that clause 8 be amended as circulated.

**Madam Chairman:** Whip? The question is that clause 8 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clause 9.*

*Question proposed:* That clause 9 stand part of the Bill.

Insert after the words “accused person”, wherever they occur, the words “or suspect”.

**Mr. Al-Rawi:** Madam Chair, for the same reasons offered with respect to clause 8, we have cleaved, again, “suspect” out of the definition of “accused person”. In those circumstances, we propose that clause 9 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

**Mr. Lee:** Sure.

**Madam Chairman:** The question is that clause 9 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clause 10.*

*Question proposed:* That clause 10 stand part of the Bill.

Delete clause 10 and substitute the following clause:

“Procedure **10.** (1) A prosecutor shall not initiate a plea for plea discussion with an accused person who is not discussions represented by an Attorney-at-law unless –

with (a) the prosecutor has informed the unrepresented accused person –

persons (i) of his right to be represented by an Attorney-at-law during plea discussions; and

(ii) that he may elect to have a third party of his choice present during the plea discussions;

(b) the accused person has informed the prosecutor, in the form set out in

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- Form 1 in the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a) –
- (i) he desires to represent himself;
  - and
  - (ii) he agrees to the plea discussions being recorded; and
- (c) the Court has been informed of the matters set out in paragraphs (a) and (b) and approves of the initiation of a plea discussion.
- (2) A prosecutor shall not initiate a plea discussion with a suspect who is not represented by an Attorney-at-law unless –
- (a) the prosecutor has informed the suspect –
    - (i) of his right to be represented by an Attorney-at-law during plea discussions; and
    - (ii) that he may elect to have a third party of his choice present during the plea discussions; and
  - (b) the suspect has informed the prosecutor, in the form set out in Form 1A in the Schedule, that having

been advised by the prosecutor of the  
matters referred to in paragraph (a) –  
(i) he desires to represent himself;  
and  
(ii) he agrees to the plea discussions  
being recorded.”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 10 be deleted and substituted with the version circulated. Here is where we have taken avail of how we treat with the issue of suspects and how we conclude with plea agreements for unrepresented persons. In those circumstances, we propose that clause 10 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 10 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 10, as amended, ordered to stand part of the Bill.*

*Clause 11.*

*Question proposed:* That clause 11 stand part of the Bill.

A. In subclause (1), delete the words “accused person” and “accused”, and substitute the word “suspect”, respectively.

In subclause (3), delete the word “accused” and substitute the words “suspect or accused person”.

**Mr. Al-Rawi:** Madam Chair, we proposed that clause 11 be amended by again carving out the definition of “suspect” and treating with it separately from “accused person” and in those circumstances, we recommend that clause 11 be

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
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amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 11 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clause 12.*

*Question proposed:* That clause 12 stand part of the Bill.

**Mr. Al-Rawi:** There are no proposed amendments to clause 12.

**Mr. Lee:** Sure.

*Question put and agreed to.*

*Clause 12 ordered to stand part of the Bill.*

*Clause 13.*

*Question proposed:* That clause 13 stand part of the Bill.

- A. In subclause (1), delete the words “the prosecutor with”.
- B. In subclause (2), delete the words “the prosecutor with”.
- C. In subclause (3) –
  - (a) in the *chapeau*, insert after the words “an accused person”, the words “or a suspect”; and
  - (b) in paragraph (a), insert after the words “accused person” the words “, suspect”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 13, again, be amended to factor the split in the carve out of “suspect” from “accused person”, that we treat with them in separate categories. In those circumstances, we propose that clause 13 be amended as circulated.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 13 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 13, as amended, ordered to stand part of the Bill.*

*Clause 14.*

*Question proposed:* That clause 14 stand part of the Bill.

- A. In paragraph (a), delete the word “or”.
- B. In paragraph (b), delete the word “.” and substitute the words “; or”.
- C. Insert after paragraph (b), the following paragraph:  
“(c) the victim’s opinion about the type or severity of sentence to be imposed.”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 14 be amended specifically to limit the inclusion of victim’s opinion about the type or severity of sentence to be imposed in keeping with the philosophy as it comes out of the case law and from multiple jurisdictions, and in those circumstances, we propose that clause 14 be amended as circulated.

**Madam Chairman:** The question is that clause 14 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 14, as amended, ordered to stand part of the Bill.*

*Clause 15.*

*Question proposed:* That clause 15 stand part of the Bill.

In subclause (1), delete the words “the prosecutor with”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 15 be amended by the

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

deletion of the words “the prosecutor with” just to tidy up the clause as proposed in the draft circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

**Mr. Lee:** Just repeat that, Attorney General.

**Mr. Al-Rawi:** We propose that clause 15 be amended by deleting in clause 15(1), the words “the prosecutor with”. The clause will now read:

“A relative of the victim may provide a victim impact statement on behalf of the victim...”—and it continues as was and that is as proposed in the draft circulated.

**Madam Chairman:** The question is that clause 15 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clause 16.*

*Question proposed:* That clause 16 stand part of the Bill.

**Mr. Al-Rawi:** No amendments proposed, Madam Chair.

*Question put and agreed to.*

*Clause 16 ordered to stand part of the Bill.*

*Clause 17.*

*Question proposed:* That clause 17 stand part of the Bill.

Delete the words “the prosecutor with”.

**Mr. Al-Rawi:** Madam Chair, consonant with the amendments proposed to clause 15, we propose similar amendments to clause 17 to remove the provision to the prosecutor, that is the victim impact statement. It is just really stylistic to clean up the language expressed there and in those circumstances, we propose that the

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

clause be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 17 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 17, as amended, ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed:* That clause 18 stand part of the Bill.

In subclause (1), delete the words “submitted to him”.

**Mr. Al-Rawi:** Madam Chair, flowing from the proposed amendments in the earlier clauses 17 and 15, we propose that clause 18 be amended by deleting the words “submitted to him” as proposed in the draft circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

**Mr. Lee:** Yeah.

**Madam Chairman:** The question is that clause 14 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

*Clause 19.*

*Question proposed:* That clause 19 stand part of the Bill.

Delete clause 19 and substitute the following clause:

Form and **19.** (1) A plea agreement concluded between a  
filing of plea prosecutor and the Attorney-at-law for –  
agreement (a) an accused person; or  
with a (b) a suspect,

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

represented shall be in the form set out in Form 3 of the  
person Schedule.

(2) Where an accused person is before a Magistrate, the plea agreement shall be filed with the Clerk of the Peace, along with the following documents:

- (a) a statement by the accused person in the form set out in Form 4 of the Schedule;
  - (b) a statement by the Attorney-at-law for the accused person in the form set out in Form 5 of the Schedule;
  - (c) if a Court Interpreter was used during plea discussions, a certificate in the form set out in Form 6 of the Schedule, by the Court Interpreter as to the accuracy of the interpretation during the plea discussion and the accuracy of the translation of the plea agreement;
  - (d) victim impact statements, if any; and
  - (e) the complaint or draft
- Schedule

indictment in the case of  
committal proceedings.

(3) Where an accused person is before the  
High Court, the plea agreement shall be filed with  
the Registrar of the Court, along with the  
documents referred to in subsection (2)(a) to (d).”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 19 be amended as per the draft circulated subject to the inclusion of a few words which I will point out to you. The proposal behind this is, again, arising out of the cleaving of a suspect from an accused person, we propose that the draft include at the very end in subclause (3), just after the (d) which appears and before the full stop at the very end of it, that we include the words “and an indictment”.

So that subparagraph (3) will read:

“Where an accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)(a) to (d) and the indictment.”

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 19 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 19, as amended, ordered to stand part of the Bill.*

*Clause 20.*

*Question proposed:* That clause 20 stand part of the Bill.

Delete clause 20 and substitute the following clause:

Form and filing of **20.** (1) A plea agreement concluded between a

plea agreement prosecutor and –  
with an (a) an unrepresented accused  
unrepresented person; or  
person (b) an unrepresented suspect,

shall be in the form set out in Form 7 of the  
Schedule and shall be signed by both parties in  
the presence of a Justice of the Peace.

(2) Where an unrepresented accused  
person is before a Magistrate, the plea  
agreement shall be filed with the Clerk of the  
Peace, along with the following documents:

- Schedule
- (a) a statement in the form set out  
in Form 1 or Form 1A of the  
Schedule, where applicable;
  - (b) if a Court Interpreter was used  
during plea discussions, a  
certificate in the form set out in  
Form 6 of the Schedule, by the  
Court Interpreter as to the  
accuracy of the interpretation  
during the plea discussion and  
the accuracy of the translation  
of the plea agreement;
  - (c) victim impact statements, if any;  
and

(d) the complaint or draft indictment in the case of committal proceedings.

(3) Where an unrepresented accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)(a) to (c) and an indictment.”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 20 be amended as per the draft circulated subject to and a small amendment at the very last subclause, that is subclause (3), it is the second to last word. We propose to delete the word “an” and substitute it with the word “the”. So that the new subclause (3) will read:

“Where an unrepresented accused person is before the High Court, the plea agreement shall be filed with the Registrar of the Court, along with the documents referred to in subsection (2)(a) to (c) and the indictment.”

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 20 be amended as circulated.

*Question agreed to.*

**Mr. Al-Rawi:** And if I may just, for the record, indicate that 20 was so amended on account of, again, the splitting of “suspect” out from the definition of “accused person”.

*Question put and agreed to.*

*Clause 20, as amended, ordered to stand part of the Bill.*

*Clause 21.*

*Question proposed:* That clause 21 stand part of the Bill.

In subclause (2) –

- (a) in paragraph (a), delete the word “or”;
- (b) in paragraph (b), delete the word “,” and substitute the words “; or”; and
- (c) insert after paragraph (b), the following paragraph:  
“(c) the accused person,”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 21 be amended as per circulated draft. Again, we are including in this clause in subclause (2), the words “the accused person” as per the draft circulated, and this is to take care of the flow of persons who are actually involved in this matrix.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 21 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 21, as amended, ordered to stand part of the Bill.*

**Mr. Al-Rawi:** I am so sorry. Madam Chair, clauses 22 and 23 are unamended.

*Clauses 22 and 23 ordered to stand part of the Bill.*

*Clause 24.*

*Question proposed:* That clause 24 stand part of the Bill.

- A. In subclause 3,
  - (a) delete paragraph (d)(i);
  - (b) in paragraph (e), delete the words “; and” and substitute the word “.”;
  - (c) delete paragraph (f);
  - (d) insert after paragraph (c), the following new paragraph:

“(d) understands that his trial shall be conducted by a Judge and jury, where applicable;” and

(e) renumber paragraphs accordingly.

B. Delete subclause (5) and substitute the following subclause:

“(5) An accused person may, with leave of the Court, cross-examine the victim on the contents of his victim impact statement, to the extent that the Court allows.”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 24 be amended as per the draft circulated and we do so specifically to take account of one, an amendment to subclause (d) so that there is not an expression that there is in fact a right to trial by jury where applicable. We are deleting that Roman (i). Instead, we are putting that his trial—that the accused understands or that the accused person or suspect would have understood that the trial shall be conducted by a judge and jury where applicable to take care of the proposed amendments for the election of judge-only trials, and in those circumstances, we have also removed subclause (f) because that is taken care of by a further clause dealing later down in the logical flow. So it is not that we are losing (f) entirely but it is picked up at the further stage of process.

In those circumstances, we propose that clause 24 be amended as circulated. Oh, I should add that we have also taken avail of the suggestions raised by the Opposition that we include the ability to cross-examine a victim on the context of the victim impact statement to the extent that the court should allow. In those circumstances, we propose that clause 24 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 24 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 24, as amended, ordered to stand part of the Bill.*

*Clause 25.*

*Question proposed:* That clause 25 stand part of the Bill.

- A. In subclause (1), delete the words “Subject to subsection (2), the” and substitute the word “The”.
- B. In subclause (2)(a), insert after the word “accused”, the word “person”.
- C. Insert after subclause (1), the following subclause:  
“ (2) Notwithstanding subsection (1), where the Court makes a determination that there was an improper inducement offered to the suspect or accused person, the Court shall reject the plea agreement.”.
- D. Renumber subclauses accordingly.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 25 be amended as circulated. Specifically, we have included the fact that the court may, further to rejecting a plea agreement, also make a determination—and this is contained in the subclause (2) that we propose, that the court may make a determination that where there was an improper inducement offered to a suspect or accused person, the court shall reject the plea agreement.

This is to take care of some of the suggestions that there needed to be a balancing and a frowning upon improper inducement, particularly in light of the removal of the criminal offence which featured at section 5 of the existing law, and this is one of the safeguard protections there. Of course, it is without prejudice to the other powers which a court would have to condemn certain activities. In those circumstances, we suggest that clause 25 be amended as circulated.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 25 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 25, as amended, ordered to stand part of the Bill.*

*Clauses 26 and 27 ordered to stand part of the Bill.*

*Clause 28.*

*Question proposed:* That clause 28 stand part of the Bill.

In subclause (2), delete the words “decision to reject” and substitute the words “reasons for rejecting”.

**Mr. Al-Rawi:** Madam Chair, we proposed that the language be properly reflective of the actual process. It is not the decision to reject that should be dealt with but rather it is the reasons for rejecting. In those circumstances, we propose that clause 28 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 28 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 28, as amended, ordered to stand part of the Bill.*

*Clause 29.*

*Question proposed:* That clause 29 stand part of the Bill.

In subclause (2), delete the words “decision to reject” and substitute the words “reasons for rejecting”.

**Mr. Al-Rawi:** Madam Chair, again, we propose that the language be reflective of the reality that it is the reasons for rejecting the plea agreement that must be

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

demonstrated and we propose, therefore, that clause 29 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 29 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 29, as amended, ordered to stand part of the Bill.*

*Clause 30.*

*Question proposed:* That clause 30 stand part of the Bill.

- A. In subclause (1), delete the *chapeau* and substitute the following *chapeau*:  
“The Court may, upon application by an accused person, allow the accused person to withdraw from the plea agreement at any time before sentence, or to appeal against a conviction or sentence based on the plea agreement if –”.
- B. In subclause (2), insert after the word “conviction” the words “or sentence”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 30 be amended to better reflect the care and the approach the court is now—the expression will now read that:

“The court may, upon application by the accused person, allow the accused person to withdraw from the plea agreement at any time before sentence, or to appeal against a conviction or sentence based on the plea agreement if...”—and then the circumstances remain the same.

So we propose, in those circumstances, that there be a clearer expression of language and that clause 30 be amended as circulated.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 30 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 30, as amended, ordered to stand part of the Bill.*

*Clause 31.*

*Question proposed:* That clause 31 stand part of the Bill.

In subclause (2), delete the words “a prosecutor” and “the prosecutor” and substitute the words “the Director of Public Prosecutions”, respectively.

**Mr. Al-Rawi:** Madam Chair, we propose to confine the appeal against sentence imposed to the DPP himself and in those circumstances, we have removed the expression “a prosecutor” and seek to substitute “the Director of Public Prosecutions” so that there can be no delegation of authority in that line. In those circumstances, we propose that clause 31 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 31 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 31, as amended, ordered to stand part of the Bill.*

*Clause 32.*

*Question proposed:* That clause 32 stand part of the Bill.

Delete the word “prosecutor” and substitute the words “Director of Public Prosecutions”.

**Mr. Al-Rawi:** Madam Chair, for the very reasons offered in respect of clause 31, we propose that clause 32 be amended as circulated.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 32 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 32, as amended, ordered to stand part of the Bill.*

*Clauses 33 to 35.*

**Madam Chairman:** The question is that clauses 33 to—[*Interruption*]

**Mr. Al-Rawi:** Madam Chair, sorry. Clauses 33 to 34 because we proposed that there be a new clause substitution. [*Discussion with Clerk*] Yeah, but it is a new clause 35 so it is really a repeal and replace. [*Discussion*] I see. Just hold a moment. Sorry, Madam Chair.

Madam Chair, just for your advice, we propose in flow that there be no amendment to clause 33, no amendment to clause 34. We are actually proposing that clause 35 be renumbered as clause 37 because at the end of the Bill, we would have been proposing the insertion of a new 35 and 36. In those circumstances, I wonder if it is that the correct thing to propose would be clause 33 stand part of the Bill, clause 34 stand part of the Bill. Then, deal with 35 to be renumbered as 37, 36 to be amended as 38 and as circulated and then insert the new 35 and 36. I am entirely unsure as to how you do it.

**Madam Chairman:** I think the procedure is that the new clauses are proposed after the existing clauses of the Bill.

**Mr. Al-Rawi:** So, in those circumstances, would the numbering be then consequential? [*Discussion with Clerk*] Right, so it would take up unsequential and there would not be a need then to put 34(a) and 34(b). Correct?

**Madam Chairman:** No.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

**Mr. Al-Rawi:** Okay.

**Madam Chairman:** The question is that clauses 33—[*Interruption*]

**Mr. Al-Rawi:** Sorry, Madam Chair, because we proposed some substantive amendments—I see. Please proceed, I apologize.

**12.20 a.m.**

*Question proposed,* That clauses 33 to 35 stand part of the Bill.

**Mr. Lee:** Madam Chair.

**Madam Chairman:** Yes, Member for Pointe-a-Pierre.

**Mr. Lee:** One thing in clause 35.

**Madam Chairman:** We are looking at clauses 33 to 35 in the original until Bill.

**Mr. Al-Rawi:** So clause 35 would be approved and then when we insert the new clauses 35 and 36 they will renumber consequentially the old 35.

**Mr. Lee:** Okay.

**Madam Chairman:** All right.

*Question put and agreed to.*

*Clauses 33 to 35 ordered to stand part of the Bill.*

*Clause 36.*

*Question proposed:* That clause 36 stand part of the Bill.

A. In subclause (1) –

(a) in paragraph (c), delete the word “and”;

(b) in paragraph (d), delete the word “,” and substitute the word “;”;

and

(c) insert after paragraph (d), the following paragraphs:

“ (e) a right of appeal subsisting; and

(f) any document or form having effect,”.

B. In subclause (2) –

- (a) delete the words “Except as otherwise provided in this Act, every”  
and substitute the word “Every”; and
- (b) delete the words “under this Act” and substitute the words “under  
the former Act”.

**Mr. Al-Rawi:** Madam Chair, we propose that clause 36 be amended as circulated, specifically to include the further rights of appeal and that there is no invalidity in respect of a right of appeal which subsists as an addition to those other rights described or factors described, and that also there is no invalidity to any document or form having effect, and, therefore, we specifically then seek to clear up the language by treating with the former Act, specifically described. In those circumstances, we propose that clause 36 be amended as circulated.

**Madam Chairman:** Member for Pointe-a-Pierre.

The question is that clause 36 be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

*Clause 36, as amended, ordered to stand part of the Bill.*

*New clause 35.*

A. Insert after clause 34 the following new clause:

“Minister            35. The Minister may, by Order subject to negative  
may                resolution of Parliament, amend the Schedule.

amend

Schedule

*New clause 35 read the first time.*

*Question proposed:* That new clause 35 be read a second time.

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 35 added to the Bill.*

**Mr. Al-Rawi:** Madam Chair, if I could just indicate for the record, that we agreed with the Opposition's submission that there should be a specific inclusion of "Minister" and that the Minister should have the power to make regulations and that regulations should be subject to parliamentary scrutiny, in this case by negative resolution.

*New clause 36.*

Regulations        36. (1) The Minister may make regulations generally  
for the purpose of giving effect to the provisions of this  
Act.

(2) Regulations made under subsection (1) shall be  
subject to the negative resolution of Parliament."

B. Renumber clauses accordingly.

*New clause 36 read the first time.*

*Question proposed:* That new clause 36 be read a second time.

*Question put and agreed to.*

*Question proposed:* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 36 added to the Bill.*

*Schedule.*

*Question proposed:* That the Schedule stand part of the Bill.

Delete Form 1 and substitute the following Forms:

“

(Section 10(1))

**FORM 1**

(This Form applies if the accused/defendant does not wish to be represented  
by an Attorney-at-law)

REPUBLIC OF TRINIDAD AND TOBAGO

**DECLARATION BY ACCUSED/DEFENDANT OF DESIRE TO  
REPRESENT SELF IN PLEA DISCUSSIONS**

A.B- The State/Complainant

V

C.D- The Accused/Defendant

WHEREAS the accused was on the ..... day of..... 20.....  
charged with the following offence(s):

- (a)
- (b)
- (c)
- (d)
- (e)

And as the Prosecutor has informed me as to my right to representation  
by an Attorney-at-law during plea discussions and I have informed the  
Prosecutor of my desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into  
plea discussions with the Prosecutor and-

- (i) I have [elected/not elected] to have a third party of my choice be present during plea discussions; and
- (ii) I have agreed to the plea discussions being recorded.

Dated this ..... day of....., 20.....

(Signed)

(Signed)

.....

.....

*Prosecutor*

*Accused/Defendant*

(Section 10(2))

**FORM 1A**

(This Form applies if the suspect does not wish to be represented by an  
Attorney-at-law)

REPUBLIC OF TRINIDAD AND TOBAGO

**DECLARATION BY SUSPECT OF DESIRE TO REPRESENT SELF  
IN PLEA DISCUSSIONS**

WHEREAS the Prosecutor has informed me as to my right to representation by an Attorney-at-law during plea discussions and I have informed the Prosecutor of my desire to represent myself.

And whereas I have voluntarily and of my free will agreed to enter into plea discussions with the Prosecutor and-

- (i) I have [elected/not elected] to have a third party of my choice be present during plea discussions; and
- (ii) I have agreed to the plea discussions being recorded.

Dated this ..... day of....., 20.....

(Signed)

(Signed)

.....

*Prosecutor*                      *Suspect*

**CERTIFICATION OF THE JUSTICE OF THE PEACE**

I ....., Justice of the Peace for the County of ....., hereby certify that the above declaration was signed by the Prosecutor .....

*(name of Prosecutor)*

and the suspect .....

*(name of suspect)*

in my presence on the .....day of .....20.....

(Signed)

.....

*Justice of the Peace* “

Schedule

Form 7

A. Delete the words “to allow an independent third party identified, in writing, by the Court to” wherever they occur and substitute the words “ [to elect/ to not elect] to have a third party of his choice”.

B. Insert before the words “And whereas a plea agreement was on the ..... day of ....., 20.... concluded between the Prosecutor and the accused/defendant:”, the words “And whereas the accused/defendant agreed to have the plea discussions recorded:”.

C. After the words “hereby certify that the above plea agreement was signed by the Prosecutor ..... and the”

*(name of Prosecutor)* ,

delete the words “Attorney-at-law for the accused/defendant

Criminal Procedure (Plea Discussion and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

.....”

*(name of Attorney-at-law)*

and substitute the words “accused/defendant

.....

*(name of Accused/defendant)* “ .

Schedule

Insert after the word “conviction”

Form 7

wherever it occurs, the words

“or sentence

**Mr. Al-Rawi:** Madam Chair, we propose that the Schedule be amended as circulated. Specifically, Madam Chair, we propose that Form 1 be amended as circulated, that Form 1A be amended as circulated, that Schedule Form 7 be amended as circulated and that Schedule Form 9 be amended as circulated to tidy up the amendments taken care of to the parent law and certain observations, which pick up some slips in the drafting.

**Madam Chairman:** Member for Pointe-a-Pierre.

**Mr. Lee:** Just some clarification, Madam Chair. To the Attorney General, you never had a Form 1A before.

**Mr. Al-Rawi:** Thank you, I was just being reminded that there was not a Form 1A before and the 1A is specifically the form to treat with a suspect, as opposed, in a different species and separate category. So the 1A is a new form specifically to treat with the person who is the suspect.

**Madam Chairman:** The question is that the Schedule be amended as circulated.

*Question agreed to.*

*Question put and agreed to.*

Criminal Procedure (Plea Discussion  
and Plea Agreement) Bill, 2017 (cont'd)  
House in Committee (cont'd)

*Schedule, as amended, ordered to stand part of the Bill.*

*Question put and agreed to:* That the Bill be reported to the House.

*House resumed.*

*Question put and agreed to:* That the House agree with the Committee's report.

*Bill reported, with amendment.*

*Question put:* That the Bill be now read a third time.

**Mrs. Robinson-Regis:** We are calling for a division.

*The House voted:* Ayes 19

AYES

Robinson Regis, Hon. C.

Al Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Deyalsingh, Hon. T.

Hinds, Hon. F.

Mitchell, Hon. R.

Cudjoe, Hon. S.

Garcia, Hon. A.

Crichlow-Cockburn, Hon. C. Forde, E.

Dillon, Hon. Maj. Gen. E.

Webster-Roy, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Cuffie, Hon. M. Smith, Hon. D.

Francis, Hon. Dr. L.

Antoine, Brig. Gen. A.

Olivierre, Miss N.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**OFFICE OF PROCUREMENT REGULATION  
(DETERMINATION OF SALARIES AND ALLOWANCES)**

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam Speaker. I beg to move the following Motion standing in my name.

*Whereas* it is provided by section 11(9) of the Public Procurement and Disposal of Public Property Act, 2015 (hereinafter called “the Act”) that the salaries and allowances of the Procurement Regulator and Members of the Board of the Office of Procurement Regulation shall be determined by the Minister of Finance, subject to the approval of Parliament;

*And Whereas* the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation was laid in the House of Representatives on April 21<sup>st</sup>, 2017:*Be it Resolved* that the Salaries and Allowances contained in the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation be approved.

Madam Speaker, the Motion laid in this House is in accordance with section 11(9) of the Public Procurement and Disposal of Public Property Act, 2015, which states that:

“The salaries and allowances of the Regulator and other members”—of the board—“shall be determined by the Minister, subject to the approval of Parliament.”

Now, Madam Speaker, this public procurement Act has been the subject of a lot of

debate, quite a bit of passion among members of the national community. And it appears, Madam Speaker, as a result some of the sections in this Act were not given sufficient scrutiny. This is one.

I see no reason why we should be having a debate to determine the salaries and allowances of the members of the Board of the Office of Procurement Regulation. I do not believe this is a productive use of parliamentary time. What, in my view, should have been done is that the salary should have been published by Order, subject to negative resolution of Parliament. But be that as it may, this is what we have and we have to go with it, because if we do not determine the salaries and allowances of the Procurement Regulator and the board, then we cannot implement this Act. Because the Act requires that the President appoints the Regulator, and the President would not be able to appoint the Regulator until and unless the salary and allowances of the Regulator are determined. So this is a necessary procedure. We must do it. It will also have to go to the other place, which is a further cause for delay but it is something that we have to do.

So, the Ministry of Finance has looked at various salary level across the public service and quasi-public service and it has looked also at the functions of the Office of Procurement Regulation, and according to section 13(1) of the Act, the functions of the office are to establish a comprehensive database of information on procurement; set training standards; certification requirements; issue and review guidelines in relation to public procurement; prepare and update and issue model handbooks; standardize bidding documents, forms, and so on; approve in respect of each procuring entity special guidelines and handbooks; promote the use of technology in procurement; provide best practice advice in the conduct of procurement activities; audit and review—and this is a very important function—

the system of procurement and disposal of public property to ensure compliance with the Act; harmonize policies, systems and practices; review procurement practices and delivery systems on an annual basis to identify best practice; determine, develop, introduce, maintain and update reliable system-wide databases and technology; promote the awareness of public bodies and the public to issues relating to public procurement; undertake research; investigate on its own initiative, another very important function, or upon complaint from any party involved in public procurement or disposal of public property any alleged or suspected breach of the Act; act for in the name on behalf of the State to dispose of real property; create a public standard form contracts for procurement; prepare and maintain a database of pre-qualified contractors and suppliers; prepare and maintain a list of pre-qualified mediators, arbitrators and experts for the purposes of alternative dispute resolution under the Act and provide advice on best practice on the aggregation of procurement or disposal of goods for the purpose of obtaining value for money.

Section 13(2)(b) of the Act prescribes that the Office of Procurement Regulation shall not be subject to the direction or control of any other person or authority in the performance of its function.

Section 14(1) gives the Office of the Procurement Regulation the power to monitor the procurement of goods, works and services, conduct audits and periodic inspections of public bodies to ensure compliance with the Act; issue directives to public bodies to ensure compliance with the Act; carry out such other activities to other acts as it considers necessary for carrying out its functions.

Under section 14(2) as well:

“A public body or person without reasonable justification, fails to comply

with a direction issued under this Act commits and offence and is liable on summary conviction to a fine of one hundred thousand dollars.”

This, again, reinforces the power and authority of the Office of Procurement Regulation. And according to section 49(2):

“Challenge proceedings may be made”—by a supplier or contractor—“by way of application for review by the Office under section 50.”

Again, emphasizing a very important function of the office and the regulator.

The salary and allowance that we have looked at are drawn from the compensation package that is associated with the Auditor General and a “puny” judge.

**Mr. Al-Rawi:** Puisne.

**Hon. C. Imbert:** Sorry puisne. P-U-I-S-N-E. When you look at what we have recommended, in the report we are recommending that for the regulator, the salary should be \$50,000 a month. As I said, the benchmark that we used was the Auditor General and a puisne judge.

We have also recommended transport facilities, which are comparable to someone at this level; the provision of a car valued at a maximum of \$400,000, fully maintained by the organization. And because the Procurement Regulator will have a car, provided by the organization, there is no requirement for him or her to have transportation allowance.

We are also recommending a chauffeur or service allowance of \$7,500 a month, which includes for commuted overtime. The subsistence allowance is standard. If you look at the Salaries Review Commission reports, you will see these are typical subsistence allowances, \$200 a day. In travelling on official business beyond a radius of 16 kilometres from headquarters and when on duty in Tobago to be paid \$200 a day.

We have also included a security monitoring allowance, and this is based on the standard charge that TSTT charges for an alarm system, approximately \$250 a month. So, \$3,000 per year. We have recommended a housing allowance of \$12,000 a month, which is similar to what the higher levels of persons under the purview of the Salaries Review Commission are eligible for. The expenses are standard. They are expenses for official entertainment to be met from an official vote under the control of the office. And similar to the puisne judge, we are recommending a contact allowance or a continuing education allowance of \$118,000 per annum, which is just about \$10,000 a month, and this is referenced against similar provisions in the higher Judiciary and the Chair and Deputy Chair of the Environmental Commission. This contact allowance is to allow the regulator to go abroad and to have discussions with his or her peers in the field, to keep abreast of developments in the field of procurement, well established allowance for judicial or quasi-judicial officers. We are also recommending overseas travel facilities similar to what would apply for someone in the higher Judiciary or the Chair of the Environmental Commission.

Telecommunications facilities, \$800 per month, in respect of a landline, plus a cellular phone to a maximum of \$800 per month. Medical benefits similar to what the persons at the higher levels of the group under the purview of the Salaries Review Commission would enjoy. Typical entitlement to medical attention and prescribed drugs for self, spouse and children who are unmarried and under the age of 18, et cetera. Again, this is standard. You would see this in most of the higher positions within the Salaries Review Commission reports.

Gratuity at 20 per cent. This standard throughout the public service in Trinidad and Tobago. Vacation leave of 20 working days, again quite standard. Sick leave of 14

working days, again, standard; and maternity leave in accordance with the Maternity Protection Act.

With respect to the board—so this is the regulator—we are not recommending any additional remuneration for the chairman of the board, and this is another anomaly, which perhaps, we should have looked at a little more carefully when this Act was being addressed by this Parliament. Because the regulator is also the Chairman of the Board of the Office of Procurement Regulation and that is really a himself to himself relationship, which is really not appropriate. So that is something we may look to adjust in the future. But since the regulator is full time and will be in receipt of a substantial compensation package and since the meetings of the board of the office will take place during normal working hours, it is expected. We did not think it was appropriate for the regulator to get any additional compensation for performing the function of Chairman of the Board of the Office of Procurement Regulation, quite similar to many other offices where people perform dual functions but within the same time frame.

In terms of the Deputy Chairman of the Board, these were benchmarked against the Public Service Commission, the salary and allowances. And, consistent with the Deputy Chairman of the Public Service Commission, the salary recommended is \$13,000 a month. This is a part-time office. It is not full-time and this is why it is \$13,000. This board would meet maybe once or twice for the month. A transport allowance, typical to what is given to the members of the Board of the Public Service Commission; and subsistence allowance again taken straight out of the Salaries Review Commission report for this category of board, and for board members, again, taken in straight comparison to the Public Service Commission, we are recommending a salary of \$9,830 per month. Again, this is not a full-time

position, it is part-time, and transport allowance, as you can see here, \$1,140 per month, and so on.

The total cost of all of this, Madam Speaker, the cost of the salary and allowances of the regulator himself, and the board members, the annual cost has been estimated at \$2.4 million, which we believe is not going to be extravagant or onerous bearing in mind the tremendous responsibilities of the Office of the Procurement Regulator and the Board of the Office of Procurement Regulation.

As I indicated previously, the President is empowered under section 10 of the Act to appoint the Board of the Office of Procurement Regulation and the regulator after consultation with the Prime Minister and Leader of the Opposition. The President has requested the assistance of the Ministry of Finance, as he did in the past, under the previous administration and we have a team at the Ministry, as was the case in the past who are assisting his Excellency to build a pool of suitably qualified and experienced candidates from which he may move forward to make his selection.

We are hopeful that we can present His Excellency with at least 10 suitable candidates, ranked in order of merit, for him to exercise his discretion and we would not, of course, be telling him who he should select. That is a matter entirely for the discretion of the President.

And just by way of information, the original term of the regulator was seven years but we thought this was not consistent with the term of the life of the Parliament or the term of office of Members of Parliament or the President himself, which is five years. So we made it consistent with the term of Office of the President and the life of the Parliament.

Just to give some idea of where we are with this Act, we are now going through

this process, which is to get approval of the Parliament for these terms so that His Excellency can proceed to appoint the regulator and the board. On the other side, on the public service side, the Government is in the process of establishing procuring entities for each Ministry or Department, consistent with their procurement needs. For example, Madam Speaker, there are some Ministries and Departments which procure very little. They may procure water, paper and things of that nature but they do not get involved in large procurement exercises.

On the other hand, you would have Ministries such as the Ministry of Works, the Ministry of Health, the Ministry of Local Government, and so on, national security, et cetera, which would have significant procurement responsibilities. And, therefore, we have established a regime for large, medium and small procurement units and also basic smaller units as you get into the Departments which do not have any great demand for procurement. Each Ministry and Department is now looking at their needs on the basis of the volume of procurement they may be required to do, the risks and opportunities associated with each category of goods and services that they may procure.

We are getting assistance from the United Nations Development Programme. We have a consultant who is advising the various public officers in the system, training personnel, training accounting officers towards building capacity and also assisting in the customization of a procurement and disposal handbook as required under section 30(3) of the Act and also assisting with the establishment of internal controls for efficiency, transparency and effectiveness in the procurement and disposal process, preparation of guidelines as required by the Act.

**12.50 a.m.**

The UNDP consultants have met with key stakeholders in Ministries, Departments

and state agencies to make sure that all players have a proper understanding of the challenges faced by entities with the coming into being of this new procurement Act and also the challenges they would face with respect to significant construction projects and the allocation of money to state enterprises which would have the responsibility to procure on behalf of the State and so on.

We are also in the process of arranging for the training of internal auditors who would advise accounting officers on the necessary level of compliance with the internal procedures to be established for procurement.

And, finally, Madam Speaker, with respect to transitional arrangements for the Central Tenders Board staff, under section 66(2) of the Act, members of staff of the Central Tenders Board can opt for voluntary retirement from the public service, transfer to the Office of Procurement Regulation or they can remain in the Public Service and be redeployed into other Departments. We have an interministerial team looking at the transition of the Central Tenders Board and dealing with the staff in determining whichever option they may select and assisting them to implement this option.

The Ministry's officials have also met with the relevant trade union in February of this year, just before Carnival, and have agreed on the way forward with respect to staff who may be transferred, who may retire or may be redeployed.

In conclusion, Madam Speaker, I believe that the package of salaries and allowances that we have put forward is appropriate and I expect we would get the approval of this House so that we can move forward to implement this very important piece of legislation. I beg to move. [*Desk thumping*]

*Question proposed.*

**Mr. Rudranath Indarsingh** (*Couva South*): Thank you, Madam Speaker. At this

juncture, we are dealing with a very important Motion, and when I listened to the Minister of Finance in his presentation and attempting to justify the Motion before us, I really got the feeling that there was not what I would call a very focused and wholehearted effort on the part of the Minister of Finance [*Desk thumping*] in presenting this Motion for the benefit of all Members and by extension Trinidad and Tobago.

Madam Speaker, I listened to the Minister of Finance in silence, and we are here to continue the business of the people of Trinidad and Tobago, and I would expect that he would be very responsible [*Desk thumping*] as we seek collectively to carry out the people's business as it relates to this very important issue of procurement and the disposal of public property and so on in Trinidad and Tobago, something that has engaged the people of this country and political parties and Governments over time. But from a historical point of view, I really cannot say that the political party which the Minister of Finance belonged to for quite a number of years has really given any sense of credible direction to say that they would have wanted to deal with this in any decisive or clear manner over the years, and hence the lacklustre and lackadaisical approach in the presentation of this report, Madam Speaker. [*Desk thumping*]

Madam Speaker, the Motion before us says very clearly that it is provided by section 11(9) of the parent Act of Public Procurement and Disposal of Public Property, 2015 that the salaries and allowances of the Procurement Regulator and members of the Office of Procurement Regulations shall be determined by the Minister of Finance subject to the approval of the Parliament of Trinidad and Tobago.

And, Madam Speaker, the Office of Procurement Regulator and the members of

the board of the Office of Procurement Regulation is very important. It is very important as we continue to evolve as a democratic society. Madam Speaker, the citizens of Trinidad and Tobago, the stakeholders of Trinidad and Tobago will be looking to this very important institution and growing in their aspirations for greater knowledge in terms of how this very important office and this very important board will be of benefit to the people of Trinidad and Tobago. And, therefore, it is important to get it right and it is important to have what I would call a very attractive compensation package. A package that will give people who may want to serve or people who are desirous of serving in this capacity at the level of the board really the zest and the zeal of wanting to apply.

Madam Speaker, as we strive to practise good governance in Trinidad and Tobago, we must implement practise, policies and procedures that will always ensure that there is transparency and accountability and economic efficiency, Madam Speaker, in all of our operations.

Public procurement, Madam Speaker, is one of the most vital components of a country's public administration that links its financial system with its economic and social outcomes. And, Madam Speaker, the execution of procurement policies and procedures—I am just making some general comments and observations—reflects the degree of governance and performance with regard to the delivery of goods and services to communities and by extension the people.

Madam Speaker, needless to say, public procurement deals with approximately 30 to 40 per cent of the GDP. The Minister of Finance can correct me. I stand to be corrected, but public procurement deals with approximately 30 to 40 per cent of the GDP of our country. Madam Speaker, therefore, if it deals with approximately 30 to 40 per cent of the GDP, and it is seeking to address the issue of combating

corruption and achieving what we would call greater transparency and greater value for money which must be the order of the day, at the end of the day when we tackle these issues and we save the Treasury or we save the taxpayers of this country, at the end of the day, the citizens will benefit in whatever form and fashion—and as they like to use the terminology of prioritizing projects and so on—but at the end of the day they are supposed to be of benefit to the citizens of the country from the point of view of a better health care system, a better education system, a better pension and social security, and at the end of the day infrastructure in the country.

Madam Speaker, in this context, we in the Parliament of this country must send the right signals to the citizens of this country and the right signals to the stakeholders of the country. The Minister of Finance in his presentation read from the parent Act and he indicated—he read from section 13, “The Functions of the Office” and also section 13(2) which he referred to and I quote:

- “ In the exercise of its functions, the Office shall—
- (a) act expeditiously and take such other steps as it thinks fit in order to minimize any negative economic impact arising out of the performance of its functions; and
  - (b) not be subject to the direction or control of any other person or authority in the performance of its functions, but shall be accountable to the Parliament.”

—of Trinidad and Tobago.

Madam Speaker, this is very important because, as I said, this office will have oversight of approximately 30 to 40 per cent of the GDP of this country and that will run into billions of dollars. It is important that, as I said, we recruit an

individual from the position of Regulator and Deputy Regulator and those who would serve on the board, persons who would be fiercely independent and not be subjected to what we would call political manoeuvring and may cave in to political pressure and so on and bullying because, the PNM has a track record of bullying and attempting to apply what we would call political pressure, and their operations in Government have seen numerous examples, Madam Speaker.

In this regard, Madam Speaker, when I speak about the issue of being fiercely independent, I really want to ask the Minister of Finance and those on the other side, based on the compensation package that he has presented here today, is that if the Minister of Finance—based on the base salary of \$50,000 and benchmarking it against the Auditor General and a puisne judge—and by extension the Government led by Prime Minister, Dr. Keith Rowley, is really interested in sending a strong message and signal to the population of this country that they really want somebody fiercely independent and objective with the appropriate expertise to really fit the bill of being the Procurement Regulator, and really ensuring and tackling the perception of corruption and also transparency and ensuring that there is value for money and so on, because he indicated and he read directly from the report that the salary and allowances for the Procurement Regulator were benchmarked against the Auditor General and the puisne judge as set out in the 98<sup>th</sup> Report of the Salaries Review Commission.

Madam Speaker, my colleagues, if they choose to contribute to this debate—the Members for Caroni East and Caroni Central—the distinguished Members would have served on the joint select committee as it relates to this particular piece of legislation when it was amended and so on, they will indicate and based on the verbatim notes and so on of this report, it was recommended—and even the

independent Senators who made their contributions and so on during that joint select committee there was a strong argument that the salary should not be benchmarked or linked to the Salaries Review Commission. I leave it to my colleagues during their contribution to elaborate on this, and really what it tells me is that the Minister of Finance and the Government has gone against what was agreed to in the joint select committee's report at that time, and means that they really do not want to have someone with the expertise and the legitimacy and the independence occupying this particular office, because from the salary of \$50,000, who will come to really or who will apply to seek to—[*Crosstalk*]

The Minister of Finance, I do not know if he has any medical capacity at this particular hour and so on. I am in full flight and he is attempting to make a diagnosis as it relates to my state of health, but he will not attempt to side track me in fulfilling [*Desk thumping*] my sense of responsibility to the people of Trinidad and Tobago, because my responsibility to the people of Trinidad and Tobago is ensuring that the ills of the PNM and the sins of the PNM are revealed to all, Madam Speaker. [*Desk thumping*] That is my responsibility. [*Desk thumping and crosstalk*] I would leave that part to the Member for Caroni East, because the Member for Caroni East has the appropriate qualifications and so on.

So, Madam Speaker, I am coming back to the issue of why did they benchmark or choose to benchmark when in the joint select committee report there was a fierce argument that was put up against this benchmarking. As I said, in this particular salary that was set of \$50,000, in my opinion, really cannot attract the relevant expertise, experience and so on to deal with acting in a fiercely independent manner—[*Crosstalk*]

**Madam Speaker:** Order please.

**Mr. R. Indarsingh:** And, Madam Speaker, I am merely making some observations. I hope that the observations that are being made here this morning on behalf of the Opposition will really give the Government a sense of direction in saying that we want to deal with procurement. [*Desk thumping*] We want to appoint someone who we believe will tackle the issues that we want tackled in a very decisive and clear-cut manner. I say so because, as I said, this person must have oversight over billions of dollars in Trinidad and Tobago cut across Ministries and state enterprises and so on.

I just want to give a little insight on the salaries of CEOs and so on that they enjoy—just give a little insight into the compensation packages that this person will have jurisdiction and oversight—because we want an independent person. We want someone with an impeccable character and integrity and so on and someone who can withstand political pressure [*Desk thumping*] and probably the characteristics of a Minister of Finance who is prone to all kinds of wild-card statements and so on in the performance of his duties. [*Crosstalk*] But coming back to—well, certainly we are not of a zero-zero position and so on. [*Crosstalk*]

**Madam Speaker:** Order, please. Order.

**Mr. R. Indarsingh:** Madam Speaker, for example, the Procurement Regulator will supposedly have oversight over the President of Petrotrin, and the base salary for the President of Petrotrin is \$170,000 per month, and he is entitled to a fully maintained company vehicle, medical plan and contributory pension plan and so on.

I also want to read from a *Trinidad Guardian* article dated the 28<sup>th</sup> of February, 2015, that was written by Gail Alexander when she wrote that:

“WASA’s CEO received a basic salary of (\$88,500), a housing allowance

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(\$8,850), transport allowance (\$14,000),...reimbursable entertainment gratuity of 20 per cent of salary and performance incentive bonus of (25 per cent of basic salary)”

Madam Speaker, also at the National Gas Company, the president at that time in 2015, was enjoying a monthly salary of \$150,000 with housing and allowances and so on. At T&TEC, the general manager received a basic salary of \$70,300 plus a housing allowance and being involved in the employees' savings pension plan and all that goes with it. And, as I said, even at Nipdec, at that time in 2015, Madam Speaker, the general manager's salary was \$58,250 and at UDeCOTT it was \$65,000 monthly, again with a number of allowances and so on.

So it really tells me that we must review or attempt to address the issue of the base salary and also to ensure, Madam Speaker that we attract the right person in this particular job, because at the end of the day, Madam Speaker, we have a responsibility to ensure that the person is fiercely independent. Based on the salary and based on what has been outlined by the Minister of Finance, I really want to put it to the Parliament and put it to the stakeholders that the Government of Prime Minister Dr. Keith Rowley is not serious about advancing the process and operationalizing [*Desk thumping*] the entire procurement legislation as it relates to the Procurement Regulator and members of the board.

Because I want to make the point in combating corruption and ensuring transparency and value for money that the person who is recruited at the level of Regulator, Deputy Regulator and also members of the board, they must be what we would call beyond reproach. They must be like Caesar's wife, Madam Speaker, and we must put the checks and balances from a compensation package to ensure that they will be able to act in a very objective manner and not to be under any

influence or control or manipulation in Trinidad and Tobago from a political point of view, and also the issue of conflict of interest may arise in this particular issue.

I know that the Minister of Finance may want to spring to defending himself and so on and defending his Ministry because at the end of the day too, the Regulator will have that sense of oversight over his Ministry. In that particular issue, the Minister of Finance has the responsibility, as I said, of commissioning this report and so on, and in a way there is a conflict of interest because it is him onto himself and, again, this addresses the issue of whether the individual will be free from what we would call political control and manipulation and manoeuvring and so on. I think that it is important that I spend a little time on this particular issue, Madam Speaker, because up till now we have not heard from the Minister of Finance really in any clear-cut manner how this report was really arrived at. In a roundabout way and in a roundabout fashion and so on, he attempted to tell us about this \$50,000 salary and the other perks and so on.

Madam Speaker, it is important for me to make a couple of observations as it relates to the issue of—and I say that in the subsistence allowance—he has outlined a subsistence allowance of \$200 per day when traveling on official business beyond a radius of 16 kilometres from official headquarters and when it is necessary to purchase a meal. Under:

- (ii) When on official duty in Tobago the officeholder is to be illegible for hotel accommodation and meals as necessary. In the absence of the provision of any meal to be paid \$200 per day.

I just want to take the opportunity here, because the subsistence allowance of \$200 may not be enough based on the reliability of the sea bridge and air bridge and so on between Trinidad and Tobago [*Desk thumping*] because, Madam Speaker, the

sea bridge between Trinidad and Tobago has virtually collapsed. We are now being told that a barge and another boat was procured by the Government of Trinidad and Tobago. It is taking 15 hours and so on to get supplies—*[Interruption]*

**Mrs. Robinson-Regis:** Madam Speaker, Standing Order 48(1).

**Madam Speaker:** Member, I gave you a “lil” leeway, please tie it in quite quickly.

**Mr. R. Indarsingh:** Madam Speaker, I am talking about the terms and condition that are outlined in this particular report. I am very concerned that whoever occupies or attempts to apply for this particular position that there is a legitimate expectation that this will be totally fulfilled if they occupy the position. As a former trade unionist, I would want to ensure that they have the compensation package that will allow them to function effectively. *[Desk thumping]* That is the simple point I am making. Based on what is happening with the reliability of the sea bridge between Trinidad and Tobago, and the time that it is taking to get supplies across to Tobago and so on and the cost of foodstuff and the increasing cost of meals in Tobago, I am merely asking the Minister of Finance if \$200 will be enough as a subsistence allowance. That is all I am asking the Minister of Finance. And based on the lack of transparency as it relates to the procurement of the boats in Tobago, Madam Speaker, which this very Regulator may one day have to review and so on, it is important to get it right at the end of the day. *[Desk thumping]*

**1.20 a.m.**

Madam Speaker, when I look too at the medical benefits, the medical benefits under the report that the hon. Minister has piloted, he has indicated that under the terms of medical benefits, the individual is entitled to medical attention treatment and prescribed drugs for self, spouse and children who are unmarried and under the

age of 18 at any healthcare facility, under the regional health authorities, including the Eric Williams Medical Sciences Complex. Where such medical attention treatment is not available, and so on, at such healthcare centre, the office holder to be entitled to have costs met at any other hospital, and so on. Madam Speaker, from a standard point of view, and so on, the Minister of Finance may want to consider, from the children's point of view, once evidence can be provided that they are enrolled in tertiary level institutions, and so on, a recognized one, that is the medical care be extended to the children up to the age of 18, and so on.

Also, from the point of view of legitimate expectation, could the Minister of Finance guarantee that if this office holder, whether it is the Regulator or the Deputy Regulator, and so on, if he or she seeks medical care and attention and there is some kind of serious medical emergency for that person to access medical care at the Mount Hope Medical Sciences Complex, that he or she will be guaranteed that they will not be the recipient of, what we would call contaminated blood, and so on, Madam Speaker? They will go in there healthy and then you come out and be diagnosed as an HIV patient, and so on.

These are the things that we must be able to look at and examine, Madam Speaker, from the point of view of health care. And they, again, the Minister of Finance indicated that gratuity and vacation leave and sick leave, and so on, were benchmarked against what exists within the public service and the Salaries Review Commission, and this leads me back to the earlier point that I made, and I will leave that again for my colleagues, the Members for Caroni East and Caroni Central, if they choose, because they participated in the joint select committee's report. But I am saying that if, again, in attracting the right person from the point of view of competence and expertise, and so on, are we willing to review the

entitlements to gratuity and vacation leave, and sick leave, and so on, Madam Speaker.

The Minister of Finance, again, in addressing this issue, I did not hear whether—

**Madam Speaker:** Hon. Member for Couva South, your original 30 minutes have expired, you are entitled to 15 more minutes, if you intend to avail yourself of it.

**Mr. R. Indarsingh:** Yes, Madam Speaker.

**Madam Speaker:** You may proceed.

**Mr. R. Indarsingh:** Yes, I intend to carry this argument in the interest of the people of Trinidad and Tobago, Madam Speaker. [*Desk thumping*] As I said, the issue of whether this, in relation to the office holders, and the whole process, would it be advertised locally, regionally, or internationally?

The Minister of Finance did not outline, for the benefit of the Parliament, what will be, or how the Office of the Procurement Regulator and his Deputy, and so on, will be evaluated from a performance point of view. He failed to focus on the metrics to be used to measure, as I said, the performance of the Procurement Regulator, and the office, and there must be transparency in this particular process, because, at the end of the day, whatever salary and compensation package that we provide as a Parliament, the Parliament should have that sense of jurisdiction, and that responsibility to assess and evaluate the performance of the office holders.

Madam Speaker, I am sure that since this Government has come into power we have been hearing jargon, especially from the Members of Parliament for Port of Spain South, Port of Spain North/St. Ann's East, and the hon. Attorney General, San Fernando West, and so on, the Member of Parliament—about following the money trail and civil forfeiture and explaining your wealth, and so on. Madam Speaker, I am sure that when the both of them look at the compensation package

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and the salary which is being offered to the Deputy Director of the Office of the Procurement Regulator, [*Crosstalk and Interruption*] I am sure that—

**Madam Speaker:** Members, if we could at this stage, please, observe the Standing Orders. If Members wish to make an interjection, there is a particular way by which to do so. Continue, Member for Couva South.

**Mr. R. Indarsingh:** I am sure, Madam Speaker, that they too will come to the conclusion that the compensation package, especially from the point of view of the Deputy Chairman of the board really does not lend itself to attract the right, as again, the right person, the right fit, in terms of competence, and so on.

I am sure that you would want, from the point of view of this being the gestation period for this important piece of legislation, and growing the process, and so on, in Trinidad and Tobago, you all will want that the person who is the Deputy working in full tandem with the substantive office holder. [*Interruption*]

**Madam Speaker:** Member for Port of Spain North/St. Ann's West, as I indicated, if one wants to make an interjection, there is a particular way with which one can do that. Okay? And all Members who at this stage are a bit maybe restless, I invite you to take a little walk and come back in. Continue, Member for Couva South.

**Mr. R. Indarsingh:** You see, Madam Speaker, the persons who are attempting to sidetrack, they feel that they know it all, and in their quest to sidetrack, and distract, and so on, they have little respect in—

**Madam Speaker:** Member, what I am saying is, you have precious time, I think you should not be distracted. Please, proceed.

**Mr. R. Indarsingh:** Thank you, Madam Speaker, guided. But at the end of the day the corruption busters of the Government, they should be advancing a cause for a proper compensation package, because, as I said, in this growth period for this

legislation, and carrying the process forward, and so on, and operationalizing the Act, certainly, there is a wide disparity between the Regulator salary of \$50,000 a month and the Deputy Chair of \$13,000, a wide disparity. And you would really want both individuals working hand in hand, working left and right to make sure that we get it right in relation to addressing the issues, Madam Speaker.

In that regard too, Madam Speaker, it is important to address the issue of what will happen beyond the recruitment of these very important office holders, what will happen in the relevant Ministries, and so on. Is the Government prepared to walk the talk in relation to the legislation, Madam Speaker, and ensure that they promote the awareness of public bodies and the public to issues relating to public procurement and the disposal of public property? Will the Government be prepared to create and publish standard form contracts for public procurement and disposal of public property? Madam Speaker, will the Government be prepared and maintain a database of prequalified contractors and suppliers?

And, also, will the Government, across relevant Ministries, or across all Ministries, and state entities, which fall under the purview of the Procurement Regulator and the board, will the Government be willing to put the necessary financing to what we would call advancing e-procurement, and so on, in Trinidad and Tobago? Because, Madam Speaker, as I said, based on this report, based on the compensation package which has been put forward by the Government of Trinidad and Tobago, I can only conclude, Madam Speaker, that they are not serious in terms of advancing the cause of procurement in Trinidad and Tobago, and really walking the talk as it relates to procurement legislation, and so on.

Because I read with interest, Madam Speaker, that the Minister of Works and Transport discovered corruption existing at the Licensing Office out in Caroni. He

said that it was an open secret, and he acknowledged that there is corruption at Licensing Offices, and a working team has been mandated to deal with this. I do not know that if this working team is something that he has developed in isolation within the Ministry of Works and Transport, or is that he is linking it with the Minister of Finance and the Ministry of Finance, and he is prepared to advance the cause of, what we would call procurement, and advancing the procurement legislation and disposal of public property within his Ministry.

Madam Speaker, I say so because within recent times, as I said, there are a number of headlines in Trinidad and Tobago, a number of headlines, “Minister: public gyms to help keep population fit”, and they want to procure. In fact, they want to borrow—the Minister of Health—approximately US \$48.4 million via loan through the Inter-American Development Bank to establish gyms, community gyms in Trinidad and Tobago, and so on, and up till today we need to know how it will be procured.

Then, “TSTT to buy TV rival Massy”, and “Elias: Details of TSTT/Massy deal confidential”. I think, Madam Speaker, in the interest of the taxpayers of Trinidad and Tobago, and in the interest of value for money and transparency and governance, and so on, I was rather flabbergasted to know that \$255 million of taxpayers’ money could have been expended, and the Cabinet of Trinidad and Tobago had no knowledge of this transaction. [*Desk thumping*] That tells me, and it has sent a very serious message to me that the Government of Prime Minister, Dr. Keith Rowley, is not serious about tackling the issue of corruption. [*Desk thumping*]

How was the value of this shareholding arrived at? When was it commissioned, Madam Speaker, and so on?—or, is it that the Prime Minister, dissed the entire

Cabinet of Trinidad and Tobago [*Desk thumping*] and was carrying out a business relationship between himself and the chairman of TSTT? I think that that is a very important question which needs to be answered in the interest of the taxpayers of Trinidad and Tobago, Madam Speaker.

And also, I am sure that as we continue to evolve as a Government, as the democracy of Trinidad and Tobago continues to evolve, we do not want to hear via media releases, and sometimes through the press, and so on, outside of Trinidad and Tobago, that a Government has resorted to the recruitment of a lobbyist, and a lobbyist that cost the taxpayers of Trinidad and Tobago \$17 million, and up till today the citizens of this country cannot be told, in a very clear-cut manner, how this lobbyist was procured—was it by sole select tender, or simply because the person, as my colleague from Oropouche East said of his eating habits, and so on, that he was procured based on that kind of behavioural pattern.

There is too much at stake as we continue to evolve as a country, and I am sure that if we go back in history, we will know why, and we, on this side, can come to the conclusion, in a very decisive and in a very clear-cut manner, that the PNM has not really had its heart in what we would call, addressing the issue of procurement legislation, and how contracts, and so on, are procured in Trinidad and Tobago. Because I could start to speak from Lock Joint, come up, till this particular year of 2017, and there are examples in history that will point you in a direction that the PNM will never address this in a very decisive manner.

Based on what they have outlined in this compensation package, Madam Speaker, I want to say to you, and I want to say to the stakeholders, and I want to say to the citizens of Trinidad and Tobago, that they are not serious about advancing this process. They are not serious about working in the interest of the taxpayers of

Trinidad and Tobago, and saving the Treasury of this country the appropriate moneys that can be channelled into schools, and a better pension system, and a better health care system, and so on, and that is why I make the call for a more effective compensation package which will attract the relevant person with the experience and the expertise, and so on, so that they will be able to fulfil. And when I say, “they”, from the point of view of Regulator, Deputy Chairman, and office holders at the level of the board of procurement. [*Interruption*]

**Madam Speaker:** Member for Couva South, your speaking time has expired.

**Mr. R. Indarsingh:** I thank you. [*Desk thumping*]

**Madam Speaker:** The Minister of Finance. [*Desk thumping*]

**The Minister of Finance (Hon. Colm Imbert):** Thank you, Madam Speaker.  
[*Continuous crosstalk*]

**Mrs. Persad-Bissessar SC:** Dr. Tewarie was standing there; this is the second time.

**Dr. Rambachan:** Dr. Tewarie was standing.

**Hon. Member:** Too bad.

**Hon. C. Imbert:** I think I caught the Speaker’s—

**Dr. Tewarie:** I am not giving way, Madam Speaker, and you are going to have to get somebody to move “meh” now. [*Crosstalk*]

**Madam Speaker:** Member, I do not think it is an issue of giving way, it is a question of who catches my eye.

**Dr. Tewarie:** I stood up, Madam Speaker. [*Continuous crosstalk and interruption*]

**Madam Speaker:** Members, Members, I have no doubt that the Member stood up, but it is the Member that caught my eye.

**Dr. Tewarie:** Well, you should have been watching, Madam—[*Continuous crosstalk and interruption*]

**Madam Speaker:** Member—[*Crosstalk*]

**Hon. Member:** “Too out ah place”.

**Dr. Tewarie:** I am not out of place.

**Hon. Member:** You are out of place, you are disrespectful to the Speaker, disrespectful.

**Madam Speaker:** Member for Caroni Central, I realize it is late, it may be having some effect on all our attitudes in here, I am sure that you really do not mean that outburst, that behaviour. So that I would ask you to kindly apologize and we can continue. I saw, my eye caught the Minister of Finance first—

**Hon. Member:** Sorry, sorry.

**Madam Speaker:**—that is what my eye caught. Minister of Finance. [*Desk thumping*]

[*Opposition Members exit the Chamber*]

**Hon. C. Imbert:** Thank you, Madam Speaker. [*Crosstalk*] Madam Speaker, I will just wait for the disturbance—

**Madam Speaker:** Minister of Finance, please, proceed.

**Hon. C. Imbert:** Okay, thank you very much. As I was listening to the Member of Parliament for Couva South, I was looking at some history and the origin of words, Madam Speaker, and one of the words that came to mind was the word “hypocrite”. Now, the word “hypocrite” came into English from the Greek word “hypokrites”, which means an actor or a stage player. Now, the Greek word took on a meaning to refer to any person who wears a mask and pretends to be something, or someone they are not. In the English usage—[*Interruption*]

**Dr. Gopeesingh:** “Talk to yuh self, Imbert.”

**Madam Speaker:** One minute, please. Member for Caroni East, if you are leaving, I do not mind, but please leave in silence. Thank you very much. Minister of Finance.

**Dr. Gopeesingh:** Sure.

**Hon. C. Imbert:** Thank you, Madam Speaker. What I was saying, I was looking at the etymology of the word “hypocrite”, and I looked at the word as it moved from the Greek, “hypokrites”, to the English, hypocrite, and it moved from an actor or stage player to a person wearing a mask and pretending to be someone they are not, to a person who acts in contradiction to his or her stated beliefs or feelings. [*Desk thumping*] And then, Madam Speaker, I thought about the word “dissembler”, and I decided to check the etymology of the word “dissembler”, and I saw that dissembler is “someone who professes beliefs and opinions”— [*Interruption*—and he walks out—“that he or she does not hold...” or “conceal his...real feelings or motives”.

The point I am making, Madam Speaker, is that when I listened to the Member for Couva South, I was satisfied that he did not believe a word he was saying. Imagine a Member of Parliament, we have come to this Parliament tonight, and we have proposed a compensation package for a public officer, a package that is of the order of approximately \$85,000, higher than a Minister, higher than the Prime Minister, I dare say, close to the President, higher than the Speaker; we have proposed a compensation package for this public official, totalling approximately \$85,000, and I have to listen to the Member for Couva South tell me that that is not enough. That is why the word “hypokrites” came into my mind. [*Desk thumping*]

I am certain that the Member for Couva South did not believe one iota, one word of what he said. He was simply an actor on stage playing to the gallery. These are the same people who will come in here and say this is a Government for the upper class, and a Government for the rich, [*Crosstalk*] all of them driving luxury vehicles, living in mansions, talking about the poor as if they have feeling and compassion, and, yet, they think that \$85,000 a month is insufficient for a public official. Political hypocrisy at its worst, Madam Speaker. [*Desk thumping*]

We think it is appropriate. We think it is adequate. We think it is reasonable. There must be an element of public service in all of this. When someone takes up the office of Procurement Regulator, one is not doing it for the money, one is not doing it to be rich, one is doing it as you, Madam Speaker—I do not want to draw you into the debate.

**Madam Speaker:** Thank you very much.

**Hon. C. Imbert:** But as a Speaker, a Presiding Officer in a House of Parliament does it as a form of public service. The Ministers here, we do our jobs as a form of public service, and when the Salaries Review Commission determines the salaries and terms and conditions of persons within its purview, in all cases the element of public service comes into play.

I would be very disappointed if a person who aspires to the Office of Procurement Regulator would turn down and look askance and look down their nose at a package of \$85,000 a month. We think it is perfectly adequate. We think it is suitable, and I remain dismayed, alarmed, shocked, and embarrassed at the political hypocrisy of our absent colleagues. [*Desk thumping*] I beg to move. [*Desk thumping*]

*Question put and agreed to.*

Office Of Procurement Regulation (Determination  
Of Salaries And Allowances) (cont'd)  
Hon. C. Imbert (cont'd)

2017.05.05

*Resolved:*

That the Salaries and Allowances contained in the Report on the Determination of Salaries and Allowances of Members of the Board of the Office of Procurement Regulation be approved.

**Madam Speaker:** Leader of the House.

### **ADJOURNMENT**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very kindly, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to Wednesday the 10<sup>th</sup> day of May, 2017, at 1.30 p.m., at which time we will consider the report of the Standing Finance Committee, and debate the report.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 1.47 a.m.*