

*Leave of Absence**Wednesday, March 22, 2017***HOUSE OF REPRESENTATIVES***Wednesday, March 22, 2017*

The House met at 1.30 p.m.

PRAYERS[MADAM SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Madam Speaker: Hon. Members, Dr. Fuad Khan MP, Member for Barataria/San Juan, has requested leave of absence from today's sitting of the House. The leave which the Member seeks is granted.

**JOINT SELECT COMMITTEE
(APPOINTMENT TO)**

Madam Speaker: Hon. Members, I have received correspondence from the President of the Senate dated March 21, 2017, which reads as follows:

“Dear Honourable Speaker,

Change of Membership to Joint Select Committees

I wish to inform you that at a sitting held on Tuesday, March 21, 2017, the Senate agreed to the following changes in Membership:

- on the Joint Select Committee on Energy Affairs - Mr. Gerald Ramdeen in lieu of Mr. Daniel Solomon;
- on the Joint Select Committee on Local Authorities, Service Commissions and Statutory Authorities (including the THA) - Ms. Khadijah Ameen in lieu of Mr. Daniel Solomon;
- on the Joint Select Committee on Land and Physical Infrastructure - Mr. Wade Mark in lieu of Mr. Daniel Solomon.

Accordingly, I respectfully request that you cause these matters to be brought to the attention of the House of Representatives at the earliest convenience.

Yours respectfully,

Christine Kangaloo

President of the Senate”

PAPERS LAID

1. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2000. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]
2. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2001. [*Hon. C. Robinson-Regis*]
3. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2002. [*Hon. C. Robinson-Regis*]
4. Third Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Point Fortin Civic Centre for the year ended September 30, 2003. [*Hon. C. Robinson-Regis*]

Papers 1 to 4 to be referred to the Public Accounts Committee.

PUBLIC ACCOUNT (ENTERPRISES) COMMITTEE REPORT

**Sports Company of Trinidad and Tobago
(Presentation)**

Dr. Tim Gopeesingh (*Caroni East*): Madam Speaker, I have the honour to present the following report:

Second Report of the Public Accounts (Enterprises) Committee of the Eleventh Parliament (Second Session) on the Examination of the Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Operations of the Sports Company of Trinidad and Tobago with particular reference to the development and upgrading of Sporting Facilities in Trinidad.

URGENT QUESTIONS

**School Social Workers
(Renewal of Contracts)**

Mr. Fazal Karim (*Chaguanas East*): Thank you very much, Madam Speaker. To the Minister of Education: In view of the widespread behavioural problems experienced in our schools, can the Minister indicate when will the contracts of school social workers be renewed?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, may I request that this be taken a little later under the Urgent Questions? Thank you.

**CEPEP Workers
(Outstanding Wages)**

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much. Question No. 2 is it? To the Minister of Rural Development and Local Government: In light of reports that CEPEP workers have not received their wages, can the Minister indicate when the 11,000-plus CEPEP workers will be paid outstanding wages that were due March 17, 2017?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, with regard to this question, we are not sure that the number that the hon. Member has quoted is accurate, and we are in the process of ensuring that all workers receive their payments in the shortest possible time.

Dr. Moonilal: Could I ask, is there any definitive statement on when—whatever the number of workers—when the workers of CEPEP will be paid?—they were due last week Friday. [*Desk thumping*]

Hon. C. Robinson-Regis: Madam Speaker, as I indicated, we are working on ensuring that all workers are paid in the shortest possible time.

**CEPEP Contractors
(Outstanding Contract Fees)**

Dr. Roodal Moonilal (*Oropouche East*): Question No. 3 to the hon. Minister of Rural Development and Local Government, again: In light of reports that CEPEP contractors have not been paid, can the Minister indicate when CEPEP contractors will be paid outstanding contract fees that were due March 10, 2017?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, similar to the CEPEP workers, we will ensure that all CEPEP contractors are paid in the shortest possible time.

**HDC Housing Units in Harmony Hall, Gasparillo
(Evicted “Residents”)**

Dr. Roodal Moonilal (*Oropouche East*): Question No. 4 to the Minister of Housing and Urban Development: Can the Minister inform this House as to the circumstances that led to over 50 residents at HDC Housing Units in Harmony Hall, Gasparillo, being evicted and what measures are being advanced to ameliorate the situation?

The Minister of Housing and Urban Development (Hon. Randall Mitchell): Thank you, Madam Speaker. Let me say at the outset that the word

“residents” conveys the impression that they are legally resident at the Harmony Hall building, when in fact they were illegal occupiers, and let me also say that any illegal occupier at any HDC unit found to be in occupation are liable for eviction.

Madam Speaker, with respect to the particular question, there are a number of buildings at the Harmony Hall development that were declared structurally unsound and therefore unfit for occupation. The lawful occupants who were in occupation at the time were relocated between the period 2012-2014. Subsequent to the relocation, the site was boarded up, locks were placed on doors, and danger signs put on the building, as well as signs, warning of no trespassing.

Madam Speaker, following numerous reports in 2016, a number of squatters were found to be resident in these units, and in August of 2016 nine evictions were conducted. A number of further reports were received in late 2016, where reports were that illegal activities were taking place, there was illegal squatting, there were illegal electrical connections, and the HDC, their security personnel, their social workers visited the site, gave notices, asked those who were found to be in occupation, come to the HDC and prove their right to be in occupation. This was not done, and on Monday, Tuesday and Wednesday—no, today. Monday and Tuesday the HDC security personnel along with the social workers, as well as the police conducted eviction exercises—

Madam Speaker: Hon. Member, your speaking time has expired. Member for Oropouche East.

Dr. Moonilal: I wish I could have extended his time, Madam, but a supplemental. The buildings in question, of course, are buildings 4 and 5. Could the Minister indicate in light of this development of persons residing illegally, when buildings 4 and 5 will be demolished, since they were built in a river at the cost of \$32 million, and the report of 2013 speaks to its demolition?

Madam Speaker: Member, is it a question?

Dr. Moonilal: Yes.

Madam Speaker: Please, limit your question.

Dr. Moonilal: Okay, when would buildings 4 and 5 be demolished as recommended by the structural retrofitting report of April 2013?

Hon. R. Mitchell: Madam Speaker, this development received planning permission in 2003. I am aware that there was a report done by KS&P, a civil and

structural engineering firm, and they gave a number of recommendations: one of which was to knock down entirely, one was to repair the foundation, and one was to remove the roof—the top floor to reduce the weight of the structure. Madam Speaker, in 2013 under the last Government, they attempted to build a retaining wall and that retaining wall failed. The engineers would have been engaged to try and save this structure so that we can provide affordable housing to those who need. [*Desk thumping*]

Guidance Officers at High-risk Schools (Ratio to Students)

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker. To the Minister of Education: Could the Minister tell us the ratio of guidance officers to students at primary and secondary schools deemed high risk?

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Madam Speaker, again, I have to request that this be taken at a later time, please?

Madam Speaker: Leader, could you indicate whether they will be within the question time?

Hon. C. Robinson-Regis: Madam Speaker, I really am not sure.

Madam Speaker: Okay, so maybe you can seek to enquire and let us know later. Member for Pointe-a-Pierre.

Public Sector Investment Programme (Details of)

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of Finance: In light of the statement that the withdrawal of funds from the Heritage and Stabilisation Fund will be used to fund Public Sector Investment Programme (PSIP) projects, can the Minister state of the \$5.1 billion allocated, what is the total percentage and quantum of the PSIP implemented to date?

The Minister of Finance and Acting Minister of Energy and Energy Industries (Hon. Colm Imbert): Thank you, Madam Speaker. I am advised by the Ministry of Planning and Development that the expenditure to date is \$1.34 billion, and the performance—the percentage performance so far for the year is 26 per cent, but I would like to add that that does not include commitments already made for work done where invoices are being processed. So, the figures would actually be more than that.

**HDC Housing Unit at Harmony Hall
(Services Provided to Families)**

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker. To the Minister of Social Development and Family Services: What social support or counselling services have been provided for the 25 families, many with children who were evicted from the HDC Housing Unit at Harmony Hall?

The Minister of Social Development and Family Services (Hon. Cherrie-Ann Crichlow-Cockburn): Thank you, Madam Speaker. The Ministry of Social Development and Family Services has been in contact with one of the displaced residents who advised that he ask on behalf of the 25 evicted families. He initially indicated that he would consult the families and get back to the Ministry. Subsequently, he requested that counselling be provided to the families this afternoon, and indicated that he would get back to the Ministry regarding other forms of assistance. Arrangements have been made for officers of the National Family Services to visit the families this afternoon. Thank you, Madam Speaker. [*Desk thumping*]

**Tourism Development Company
(Details of)**

Miss Ramona Ramdial (*Couva North*): To the Minister of Tourism: In view of growing public disquiet surrounding the sudden dissolution of the TDC, can the Minister provide the details regarding the outcome of yesterday's meeting between the CWU, which represented the TDC workers, and the Government?

The Minister of Tourism (Hon. Shamfa Cudjoe): Thank you, Madam Speaker. Firstly, I would like to place on the record that this was no "sudden dissolution" of the Tourism Development Company, as you are well aware. The Government would have sanctioned a review of the company, just like the previous Government had intended to, based on letters from the former Minister to the former chairman of the company, questioning its relevance and its effectiveness in the performance of its duties.

Now, Madam Speaker, the Member, I am sure, is well aware that yesterday a team from the Ministry of Tourism met with the union, and matters relating to consultation with the union were raised. I want to say that discussions with the union are ongoing, and I am sure she is also well aware that the union would have filed an industrial relations order stating its grievances with the court, and therefore I am unable to offer any further details at this time. [*Desk thumping*]

Miss Ramdial: Is the Minister saying that after these talks 120 workers will still be sent home?

Hon. S. Cudjoe: Madam Speaker, as I stated before, these discussions continue with the union which has filed its grievances with the court, and the discussions are ongoing and I am unable to provide any further details. Cabinet has made its decision which still stands. Thank you.

Mr. Indarsingh: Thank you, Madam Speaker. Can the Minister please advise this House, when the Cabinet took a decision to dissolve the TDC, did the Cabinet adhere to the Industrial Relations Act and related labour laws of Trinidad and Tobago?

Hon. S. Cudjoe: Madam Speaker, the Cabinet of Trinidad and Tobago always observes the laws of Trinidad and Tobago. [*Desk thumping*] So, again, the union has filed its grievances with the court.

Mr. Indarsingh: That is why you tell them sorry. That is why you tell them sorry yesterday.

Hon. S. Cudjoe: Thank you, Madam Speaker. You have a following question?

Mr. Indarsingh: You apologize—

Hon. S. Cudjoe: And what?

Madam Speaker: Members, there are a little over two minutes left of Urgent Questions time, we have two questions that have been deferred, do I have your concurrence to take those two questions when we resume after tea within the remaining allotted time for Urgent Questions?

Dr. Moonilal: In two minutes? No, no, no. I do not think you could answer two questions in two minutes.

Madam Speaker: Yes?

Mr. Lee: Yes.

Madam Speaker: Okay.

CRIMINAL PROCEDURE

(PLEA DISCUSSION AND PLEA AGREEMENT) BILL, 2017

Order for second reading read.

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

That a Bill to establish a system of plea discussions and plea agreements and for matters incidental thereto, be now read a second time.

[HON. F. AL-RAWI]

Madam Speaker, I rise yet again in this month, in this session of Parliament, to carry on a very purposeful and connected series of steps to improve the criminal justice system in Trinidad and Tobago, and I do so with the statement and publication of the Order Paper in both Houses of Parliament demonstrating that there are several Bills on the floor for discussion in respective Houses, which treat with the manner in which we propose that the culture of Trinidad and Tobago is shaped and brought into order by the laws of Trinidad and Tobago.

There is a live dispute in our country as to whether laws can shape culture, or whether culture changes law. There is an allegation which stands without having been addressed that Trinidad and Tobago is too far gone, and has been too far gone for too many years. The barometer of serious crime is murder, and the statistics for murder demonstrate that for years this country has been wrestling with a runaway crime situation.

Murders in 2013, or 2014, January, year on year compared with murders in 2017 stand barely one murder different. Successive Governments have been wrestling with the issue of how to apply the laws of Trinidad and Tobago to arrest criminality. The mischief when properly demonstrated is in fact that the allegation of crime, and the conviction for a crime, those two events are separated by what seems to be an endless chasm of time. The largest case for corruption in our country is the Piarco Airport enquiry. The airport started in 1995, completed in 1999. Charges were brought in this country and stand before the Magistrates' Court in preliminary enquiry for nearly 18 years since the completion of the airport.

1.50 p.m.

On the contrary, in another jurisdiction, as a result of a plea bargaining process, the persons alleged to have committed crimes in the Piarco Airport enquiry, in fact, approached a US court in 2006, pleaded guilty under a plea bargaining arrangement, entered into the criminal justice system, entered into incarceration, forfeited assets and are now out of jail having served time.

Similarly, Trinidad and Tobago would well remember the murder of a Trinidadian man who was a US citizen, referred to as "Balo", Mr. Maharaj. He was murdered in Trinidad and Tobago. Eleven people were brought before the courts. While those 11 people were brought before the courts, the United States of America asked for the extradition of one of those accused, a lady. That extradition was complied with in 2013. In April 2013 she was extradited to the United States of America and in October 2013 she pleaded guilty under a plea bargaining

arrangement in the United States of America and in those few months she began a 20-year sentence for hostage taking which resulted in death.

In Trinidad and Tobago, we have murders that are outstanding for 14 years awaiting trial in the preliminary enquiry arena. We have 2,200 odd cases in backlog in the High Court; we have 29,000 cases in backlog in the Magistrates' Court for indictment alone; we have close to 69,000 cases in the traffic courts, not including Tobago and San Fernando statistics. We have in those circumstances the prisons filled with 2,200 odd people, 980-something odd for murder who cannot come out because it is a non-bailable offence. But the rest of them, properly entitled for an application for bail to be presented; 71 per cent of them, 800 odd, have been granted bail but cannot get out of the prisons because they do not meet the sufficiency of having property; 30-something per cent of them have to stay there, they have been denied bail.

We have an Opposition in Trinidad and Tobago who served as a Government of Trinidad and Tobago in the period 2010 to 2015, who had the lawful opportunity as a sitting Government with a special majority constitution in the House of Representatives as they had, we had them given the privilege to address the criminal justice system and have improvements. In fact, they came to the country in 2010 and said, here is a Ministry of Justice specifically carved out to treat with improvements of the order that is required in Trinidad and Tobago, this Ministry will be fast-tracked into performance.

Let me, for the record, put some of the statistical information as to what our country has purchased in the last Government's tenure in terms of expenditure, because it applies to the statistical overlay of what this Bill is going to treat with.

In the Ministry of National Security, in the period 2010 to 2015, \$20,349,083,480 billion were spent; Attorney General, \$1,353,765,382 spent; Ministry of Justice, \$2,578,854,591 spent; communications, \$771,483,201; GISL, \$121,800,000; \$136,200,000 in CNMG; Office of the Prime Minister, \$1,483,372,587. A grand total of \$26,794,559,241.

Let us go further. The Trinidad and Tobago Police Service which is the entity required to receive reports of crime, investigate the allegations, bring charges for consideration by the Director of Public Prosecutions, 95 per cent of prosecutions are being handled by the police service. The Trinidad and Tobago Police Service consists of 77 police stations and outposts. They consist of approximately 8,000 policemen, including SRPs, in the period 2011 to 2017, to make it comparable

*Criminal Procedure (Plea Discussion
And Plea Agreement) Bill, 2017*

Wednesday, March 22, 2017

[HON. F. AL-RAWI]

with the last Government's tenure, the total sum spent in actual expenditure by allocations, comparison, \$15,083,124,998. Add that to the \$26.5 odd billion spent by the Government Ministries in the last regime, with close to \$40 billion of expenditure on crime. That is what we as taxpayers are paying.

The Opposition, then in Government, said to the country, allow us the opportunity to bring forward Bills to help us. There were amendments to the Legal Aid and Advisory Authority, DNA, electronic monitoring, electronic transactions, three excursions into preliminary enquiries. The then Opposition, now Government, supported every single one of the measures, Anti-Gang Act, Bail (Amdt.) Act. There was no conversation about three-fifths majority and eroding the Constitution. Bills were passed without three-fifths majority, like the preliminary enquiries committal proceedings route in 2014 by the last Government, not even a conversation or noise in changing from three-fifths in the 2011 Bill to no three-fifths in the 2014 Bill.

But, Madam Speaker, that Government, in the period 2010 to 2015, now as Opposition, tells the country change nothing. Do it the way we say, do not do it the way we did. I am putting on the record now, I saw a conversation in the media that it does not cost, in terms of legal fees, to run the system of justice that we are having and it came up in relation to the conversation that is being had on trial by judge only. And I heard Sen. Sturge in the public domain speak about the fact that it cost only \$25,000 a month to run that.

I want to put on record, I have pulled out one year only of the State's expenditure across the legal aid division, Magistrates' Court, High Court, Duty Counsel. I have included the matters which are specially arranged, in particular, the Vindra Naipaul case and I have added in the expenditure in the DPP's office. These are direct expenditures. For the period 2015 to 2016, let me put on the record, the total sum spent between the DPP's office, the Legal Aid and Advisory Authority, including the Vindra Naipaul case, for one year only, is \$98,294,958.97. That is one year only. Nearly \$100 million. But an Opposition will stand up to the public and say, "oh", it only cost \$25,000 a month and every legal aid matter is little small change. Because they do not care to factor what the State spends on its side of taxpaying expenditure for the criminal justice system.

So there we are as a nation looking down the barrel of massive expenditure, the cases moving nowhere, prisoners breaking out of jail saying that they wish to just have a trial. The country will recall the gentleman found Down the Islands who was 12 years awaiting trial said, he broke out just because he wants a trial.

And then there is scorn poured upon the Government of Trinidad and Tobago that comes to connect the dots between the manner in which you access bail, the removal and decriminalization of traffic matters; the removal of preliminary enquiries to speed up the system; the option to have judge only and today we feed it into plea bargaining. But we have done so because it is connected to the operationalization of the Criminal Procedure Rules in April of this year as this Government has put the operationality of those rules into effect.

Madam Speaker, I want to put the purpose now into Trinidad's environment. This Bill before us applies, if you look to section 3 of the Bill, [*Cell phone rings*] this Bill before us specifically applies to—if the Opposition's technology would stop going off—[*Crosstalk*]

This Bill applies to summary and indictable offences— [*Crosstalk*]

Madam Speaker: Order!

Hon. F. Al-Rawi:—both before and after the operation of the law. This Bill has a proclamation clause in it.

Mr. Karim: Turn off the speaker.

Hon. F. Al-Rawi: This Bill says that the Act applies to plea discussions and plea agreements entered into in respect of indictable or summary offences committed before and after this Act. And this Bill, Madam Speaker, specifically at clause 22 and clauses 23 and 24 allow for a fast-tracking of the backlog of matters for plea discussion.

Now let us get into the purpose of this Bill. This Bill is intended to repeal and replace the existing law. The existing law which is to be replaced is a law by the same name, literally, which was passed in 1999. The Member for Siparia then sat as the Minister of Legal Affairs, contributed to that debate, and in that debate the argument put forward for the plea bargaining approach was quite simply to cause an acceleration of the ability for:

“...prosecutors and defence counsel to engage in plea discussions aimed at arriving at a plea agreement in respect of a course of action to be taken in the prosecution of a summary or indictable offence.”

And I am quoting from the *Hansard* of the then Attorney General, Ramesh Lawrence Maharaj, in piloting this Bill.

And, Madam Speaker, the Bill then was to take account of the fact that plea bargaining has been around for a very long time in many jurisdictions. And the concept of plea bargaining, in fact, with origins way back in France and then coming into a formal structure in the United States of America in 1749, the tour of legislative environments around the world, both common law and civil law jurisdictions demonstrate that there is no one model for plea bargaining, but a plea bargaining has been very successfully used in the United States of America to result in almost 95 per cent of charges being plea bargained so that only 5 per cent of them go to trial.

In the Canadian experience, 90 per cent of charges going through plea bargaining and 10 per cent only getting to trial. In the United Kingdom, a similar success rate and in Trinidad and Tobago, in 1999, the attempt was to take avail of this good phenomenon and put it into effect. What happened between 1999 to today's date is that Trinidad and Tobago experimented with this position, the existing law to be repealed which is all of 17 clauses long, had some particular deficiencies. But those deficiencies, in 2014, resulted in a statement by the Director of Public Prosecutions at a workshop held at the Radisson Hotel, Port of Spain on April 24th and 25th, 2014, which was a combined event hosted by then, now late Dana Seetahal, Senior Counsel, several members from the Judiciary, the DPP's office and experts coming out of the United States of America. The Director of Public Prosecutions indicated to Trinidad and Tobago that only 12 matters actually went through the plea bargaining process under the law which we seek to repeal today; only 12.

Now, Madam Speaker, that must be compared with the position of how many matters actually are in the courts which demonstrate that there may or may not be an appetite to plead guilty. When we looked to the statistics in the Magistrates' Court and in the High Court we note, and if we look at just one category of non-capital matters, a six-year average for criminal cases disposed of in the period 2009 to 2015 showed that on average 173 non-capital indictments were filed and only 83 disposed of. That average of cases when you translate it into how many people and not cases, of the 173 cases that resulted in, translated to people, 1,300 people. When we looked to the number of people that actually admitted to guilt, in that average again, guilty pleas over the 1,300 people translated to only 28 people actually pleading guilty or a 2.15 per cent success rate.

What we noticed further, Madam Speaker, is that this bit of information should be compared against the number of dispositions which we have had by

way of statistics in the Magistrates' Court which gives a real litmus test of how Trinidad and Tobago operates. One can easily argue that the Magistrates' Court is probably the best example of how the administration of justice operates, [Crosstalk] or not operates, as the Member for Siparia, I think, has just said.

If we look to sentences by pleas of guilty, persons sentenced in the period 2011 to 2016 for hard labour by way of a guilty plea, 7,464. Persons sentenced for simple imprisonment, 3,044 for the same period. Those placed on bond, 4,181; those placed on probation, 173; those ordered to do community work, 672; those discharged under section 71, a reprimand and discharge, 6,571. Add that to the traffic matters where you get pleas of guilt, traffic matters are 69,523, you get a total of 91,628. That tells you that there may be an appetite for plea of guilt and therefore if you bring a Bill which relates to the existing proceedings, the backlog, if you take a Bill which allows you to enter into a plea discussion, before you are charged, right up until your conviction, if you allow that range of services and if you allow particulars and balancing of rights and cautionary measures into the legislation you may well find out that you can invite more guilty pleas and therefore lighten the burden of the criminal justice system. Madam Speaker, that is exactly what this Bill seeks to do.

This Bill, very specifically, took note of some very excellent work produced by Mrs. Pamela Elder, Senior Counsel; Ms. Dana Seetahal, now late, Senior Counsel, God rest her soul; and in particular, the policy position coming out of Mrs. Elder and the workshop report coming out of the National Center for State Courts and the Attorney General of Trinidad and Tobago, 2014, where, as I indicated, four persons from the US Federal Public Defender, US District Attorney, US court judge, senior programme manager, added in with our judges, our magistrates, our Criminal Bar Association, Central Authority, DPP, law school, law reform, legal aid, police prosecutors, et cetera, when they came together the analysis of what was wrong with the current law which we seek to repeal became quite evident.

You see, there was a disincentive in section 5 of the existing law which criminalized an improper inducement by a prosecutor. A plea negotiation which results in a plea bargaining agreement is one where the prosecutor and the defendant and the victim appear before a court and the arrangement for how the accused is to be treated if the accused pleads guilty to certain matters is solidified and at that point, under the existing law, there was an unfortunate inclusion of a criminal offence to prosecutors which dissuaded them from participating in the process. That is the first point.

The second point is that the ability to include pre-charge matters was not a feature of the existing law and therefore you had to wait until it was more formalized. A third deficiency observed was that the concept of prosecutor specifically included a police officer. And there was a danger in including an officer who was not, one, associated with the independence of Office of the Director of Public Prosecutions.

Further, the definition of “relative” was too narrow, in that, a relative fell to be considered as persons who were only directly related, did not include fiancés, persons who may have loved someone and been in a familial relationship as guardianship or otherwise. It also did not allow for the formalization of process for the inclusion of a formal document which we now call a victim impact statement, to allow for the rights of the accused, if one can put it that way, to be factored in the judicial determination of accepting or rejecting a plea agreement.

Further, when we actually looked to the positions there was ambiguity, certainly, in the time frame and processes and there was a noticeable lack of safeguards in the process by which you get to the point of admitting to guilt or withdrawing from the procedure. There was not any real amplification of the rights of appeal in the event that you withdrew or the judge rejected the plea agreement. And that is both on the defendant side and the prosecutor side.

When we looked at those, we actually came upon the fact that the last Government was sitting upon a body of work to deal with plea bargaining that they just simply did not bring to Parliament by way of formalization of law which could work in tandem with other laws to lighten the load. We specifically have come, after significant consultation, significant work, and I wish to compliment the work that was done prior on the policy work, that is purchased by Trinidad and Tobago by taxpaying dollars, but completing the work, operationalizing the work, required coming to the Parliament of Trinidad and Tobago and placing a Bill as we have now into the laws of Trinidad and Tobago.

But, Madam Speaker, what we do on this occasion is to put this Bill to articulate and work with other laws to lighten the load as well: judge-only election, abolition of preliminary enquiries, access for the ability to get bail perfected where it has been granted but the security is not available, lightening the load on the motor vehicle and road traffic side. And therefore, when you add all of this together with operationalizing electronic monitoring, operationalizing DNA legislation, so that rape victims do not have to suffer the indignity of traipsing up and down for 10 years to court, when a DNA swab can tell detail with 99.9 per

cent accuracy. When you take the will of the people and the tragedy of our system into context, this Bill operates as an important solution to improving the pace of the criminal justice system.

Now, Madam Speaker, the Bill itself is really one which firstly seeks to aim at the deficiencies which were observed. Secondly, it is one which seeks to have a balancing effect. I will say openly, the Bill requires nothing more than a simple majority approach. It is so because there is no intrusion upon right in terms of derogating a right and the rights that one could probably consider, would be the right to a fair hearing, the concept of due process, the concept of separation of powers. If you look to section 5 rights in the Constitution together with section 4 rights, what this Bill actually does is that it amplifies the protection of those who ought to have the cover of our constitutional rights. It allows for the speeding up of trials; it allows for the de-clogging of the criminal justice system; it allows for victims to have an input into the equation; it allows for the cover of judicial discretion at every stage of the process. And therefore, Madam Speaker, the terms of the Bill itself really echo and anchor a very dedicated approach by the Government to achieve the closure of the gap between allegation and conviction.

Now, Madam Speaker, I wish to go to the terms of the Bill. When we look to the 36 clauses, five Parts, and nine forms included as a Schedule in the Bill, you will see that it is neatly divided out. The first part of the Bill, the Preliminary Part, Part I of the Bill has a very important definition section. And I would refer Members to the definition of an “accused person”. We are specifically saying that an “accused person” means also the inclusion of “a person suspected of committing a criminal offence”. We have provided for the inclusion of criminal proceedings and we have done so, Madam Speaker—“committal proceedings”—sorry, which is preliminary enquiries because in the measure which we seek to abolish preliminary enquiries, that is a go forward measure, existing preliminary enquiries still continue and therefore this Bill must contemplate the existence of the preliminary enquiries law, Chap. 12:01.

When we look to the definition of “improper inducement”, we have now set out in several sub-clauses what that actually means, because that was a deficiency in the existing 1999 law. We have gone further to categorically state what a “prosecutor” means and a prosecutor now no longer includes a police officer. We have categorically broadened the definition of a “relative” to include the wider circle of persons who may be related, persons responsible for the care and support of a child, for instance, a cohabitant, a fiancé, step parent, a guardian. We have

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specifically included a definition of “victim” which allows for persons who suffer physical, mental or emotional harm to come before the court to give their version of how this has impacted upon them, including businesses, which are corporate or other associative elements or business.

Specifically, we allow for the Bill to have application to matters prior to proclamation and after proclamation, for summary and indictable matters and definitely we have gone into a clear description of what a “plea agreement” is. When we looked to the definition in clause 4 of a “plea agreement”, we are taking note of the elements to be included, the accused person, the prosecutor, the victim and the judicial officer. And when we move now to Part II of the Bill and we look to clause 5 straight through to clause 12 of the Bill, we noticed that we are specifically dealing with the separation of plea discussion.

Now, Madam Speaker, some jurisdictions confine a plea agreement to charge negotiation or sentence negotiation. And therefore, there is a limited approach that the last attempt to this law had and some jurisdiction have, but when we looked to the comparative jurisdictions that we found, quite persuasive, we noticed that there was merit in having a good view of the following jurisdictions. The laws to be found that were persuasive are the Criminal Justice (Plea Negotiations and Agreements) (Amdt.) Act, 2010 of Jamaica; the Criminal Code (R.S.C., 1985, c. C-46) of Canada; the Criminal Justice Act 2003 of the United Kingdom; the Plea Negotiations and Agreements Act, 2010 of Zambia; and the Federal Rules of Criminal Procedure of the United States; and lastly, the Criminal Procedure Act, 1977 of South Africa. When we looked across that suite of laws, we noticed that there was merit in broadening this to the pre-charged discussions. And under the “Plea Discussions” part, which is Part II of the Bill, we have specifically sought in clause 6 to decriminalize the role for the prosecutor. And clause 6 says now, as opposed to what section 5 of the Act says:

“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.”

We have removed the policeman, we have removed the offences and what we have specifically said you can only do so if the DPP who is institutionally and constitutionally independent, if the DPP gives written permission. We have put in clause 8 that there shall be safeguards, the circumstances where a prosecutor should not initiate or participate in plea discussions and that is where there is no evidence to support it. It is not of the usual type where there is a frown upon

coercion of an accused person into this, because the right to innocence is indeed a golden thread still acknowledged in our laws so many years later after 1935 first observed in the Privy Council or House of Lords.

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When we refer to clause 10, we are looking to the need to have the separation and procedure specified between someone who is represented and someone who is unrepresented, someone who is in the Summary Court, someone who is in the High Court. And, therefore, the Bill proposes that each step along the way has the safeguards where, if someone is unrepresented, as we see in clause 10, that the accused person must, if a prosecutor approaches that person, there is the first pass that you must deal with an attorney-at-law unless the person says that he does not want to be represented, and there is a certification as to his knowledge of the rights to be represented, the right to enter by statutory provision right—I am speaking now—into a plea discussion or plea agreement. So safeguards are built into this.

We look in the clauses further, in clause 11, to the prosecutor's duty to disclose evidence, and we spell out in detail what the disclosure looks like. But we have balanced it, because in the pre-charge context, one does not wish to expose witnesses to odium or throw away the discussion. Summary evidence is provided and there is a discretion to not provide certain evidence if the names of witnesses or other information, et cetera, if in the prosecutor's reasonable view that information should not be disclosed at that stage of the proceedings. We ask you to remember, Madam Speaker, that you still have to get to a judicial officer under the terms of the Bill, because whilst you may have a plea negotiation resulting in a plea agreement, it must still have judicial certification as being proper in all the circumstances. Madam Speaker, Part III of the Bill—sorry, before we get to Part III. Clause 12 of the Bill has a very interesting feature. We have introduced, what I can now call, a statutory right on first appearance for an accused person to be told of his right to enter into a plea discussion and to be represented, and that is a very interesting phenomenon in balancing rights in this Bill.

Part III of the Bill, in clauses 13 straight up to 18, deal with the concept of the victim impact statement, and that specifically allows for the victim's views to be put into the court and the procedural safeguards that the prosecutor must inform the victim, now in the broader sense, of the opportunity and the privilege of providing the victim impact statement into this Bill. When we look further, we see

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that we have also given provision for victims who do not wish to give their statements.

So that in clause 13(4), you will notice that there is no negative inference to be drawn if a victim chooses not to give a victim impact statement. We have provided for the circumstances where a child under 14, or over 14, may be involved, and we have put safeguards there for those under 14 where the parent or guardian, or person with responsibility, gives the statement, and those over 14, with supervision, may give statements but the parent, guardian, et cetera, is there in terms of the guiding and watchful view of a child's testimony.

We have also provided for the circumstance where the victim cannot be found. But more importantly, we have put prescriptions against what a victim's impact statement should not include, and that is to be found at clause 14 of the Bill where we say it should not have a restatement of the facts or criticism of the accused person. We further provided the ability for the judicial officer to redact parts of the statement deemed to be inadmissible, and we have provided for the opportunity for the accused to actually challenge any statements which are included in the victim impact statement.

Madam Speaker, Part IV of the Bill deals with the plea agreements and plea agreement hearings, and that is where we get to clauses 19 straight up to clause 27. And these are really the heart of improvements, in particular, on the fast tracking route. And when we look to the set-out, we have provided for the process for a plea negotiation to result in a statement that a plea is to be heard. We have said what happens in the Magistrates' Court and in the High Court. We have said what happens when you are represented, when you are not represented, and the procedural safeguards are stated there. But, specifically, we allow for the fast tracking when we get to clause 22.

Clause 22 is potential dynamite to the backlog system, because the plea agreement, if you are making a plea agreement and it is to be filed, as we said before a High Court, magistrate; whether you are represented, unrepresented in certain process fashion, you have the ability in an existing preliminary enquiry to stop at that moment, transfer it directly to the High Court and proceed directly to a plea hearing. That has the ability where you have matters which are 14, 15, 16, 17 years old in committal proceedings, where you have now a liberty for the prosecutor, the victim, the accused and the court, to enter into an analysis of maximum sentence, et cetera. We have the ability now to cause a serious fast tracking of the system.

Now let me be careful to observe that the Bill specifically, in clause 3, preserves the route of sentence indication which is what is referred to as the Goodyear hearings. The Goodyear hearings, so named after *R v Goodyear* [2005] ECWA, at page 888, has been brought alive in our jurisdiction by way of—a practice direction, actually, coming out of the Chief Justice in August 2015 as has been gazetted. And that runs alongside the publication of a sentencing handbook. So right now the criminal justice system can allow for fast tracking because plea bargaining will allow for this. You have a judicial sentencing guidebook produced in written form to tell you what you may be liable to in certain circumstances by way of analysis on the case law. We have a practice direction from the Honourable Chief Justice, published by way of *Gazette*, and that allows for the improvement of the chances of having people say that they are guilty. Because there are some people in incarceration now who may very well have passed maximum sentence.

And, in fact, we have conducted an exercise as to those who have passed maximum sentence. Unfortunately, you may pass maximum sentence on charge one, but not charge two and not charge three. Finally, Trinidad and Tobago will have the opportunity under this Bill to have an accused indicate, “Look, I wish to plead in relation to the other matters because I have already spent 14 years in jail”, or “20 years in jail awaiting a trial that still has not happened.” That would allow us, Madam Speaker, to definitely throw some dynamite into the backlog and the jam.

Madam Speaker, when we look to the safeguards, we notice that the DPP has to prefer an indictment at the committal stage proceedings. We notice that the procedure at the plea bargaining hearing is actually given. Now the accused—or the defendant as he is called—and the prosecution, both have the right to call for the hearing to be brought up before the High Court judge. We also have prescribed in detailed form the inclusion of the process where a plea bargain—a plea agreement—is rejected, or where a plea bargain—a plea agreement—is withdrawn from. You see, you can enter into this plea bargain any time before conviction, but the accused may change his mind and therefore you have to cater for that in the Bill and it is catered for.

The DPP and the victim and the accused, coming before the court, the court may very well reject the process, and in those circumstances, it must return to the system. So what the Bill prescribes is that you will go back before a fresh judge or a fresh magistrate, so that there is no pollution of the mind of the judicial officer

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who is sitting to hear the case. Specifically, we allow for the accused and the DPP to have the right of appeal in relation to a judicial rejection of a plea agreement. We also have the right of the accused, or the DPP, to say that there was a misrepresentation which ran to the core root of the plea bargaining arrangement and to allow for it to be set aside.

So that the multiple options are included in this Bill. Madam Speaker, the Bill provides for time and for the adherence of time. The Bill also allows, if one cannot adhere to time in the appellate process, for an application for extension of time. Madam Speaker, this Bill is one which has the sincere potential, with improvements having been factored, deficiencies observed, consultation being had—and I should add that we certainly had on board the comments of the advisor behind this Bill, and that is Mrs. Pamela Elder of Senior Counsel.

We had the work of Dana Seetahal—[*Interruption*] The country had the work of Dana Seetahal—and I am hearing someone take propriety ownership of that. Let me just say, I found it a very unfortunate event that notwithstanding the work done by Ms. Seetahal, that two Attorneys General prior to me refused to pay her for the work, and that that Bill is still outstanding and which I have sent, on having received it, for payment processing in the Ministry of the Attorney General.

And, Madam Speaker, we have certainly had the commentary coming in from the Judiciary. We have had the commentary coming in from leading members of the Criminal Bar. We have had commentary coming in from the round table discussions which are held with the Judiciary and the Criminal Bar and the criminal justice advisory team. And, Madam Speaker, I wish to express my gratitude to Mr. David Robinson who is here on behalf of the Criminal Justice Advisory Team, paid for by the Canadian Government, in conjunction with the United Kingdom, that have supported Trinidad and Tobago now for many, many years with various persons; the Secretariat at the Attorney General's Office; the CPC's department, in putting together the work which this country purchased and unfortunately which was not brought to the Parliament of Trinidad and Tobago.

This is one that I commend to all the citizens of Trinidad and Tobago to be viewed in the context of the laws that we have brought, and in those circumstances, I beg to move. [*Desk thumping*]

Question proposed.

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

Mrs. Kamla Persad-Bissessar SC (Siparia): Thank you very much, Madam Speaker. I listened attentively to the hon. Attorney General partly on the radio and then, of course, in the Chamber itself, and I am struck by what some may call the intellectual dishonesty of the hon. Attorney General. [*Desk thumping*] I remember when I was in this Parliament over the years and the hon. late Prime Minister, Patrick Manning, was also in the Parliament, and in my more junior years I stood up and I said, “We are doing this; we are doing that”. And I repeated the word “we” and “we” and “we”, and the honourable late Prime Minister—you know, he always had a tremendous sense of humour, and you could not miss him because of the dimples. I mean, do what you like, he was a very, very graceful person, [*Desk thumping*] on the floor of the Parliament, outside the floor. He was very graceful in his interactions in the Parliament as a parliamentarian over time. So I am using this word repeatedly, and the then Prime Minister, Mr. Manning, he shouted across the floor: “So what happen? You talking ‘we’, ‘we’, ‘we’. You have mice in your pockets or what?” I could not understand what it meant. I subsequently asked and I discovered what he meant.

And today I am hearing the hon. Attorney General: “We looked at legislation; we looked at across the various jurisdictions; we looked at the definition of accused; we looked and we did that.” Fine. I am sure the hon. Attorney General and the other “we’s” did do so, but I think it is very important to note that the paper done by Senior Counsel, Pamela Elder, every recommendation contained and even drafted clauses, are the ones that are contained in the Bill that is before this House—every single one. [*Desk thumping*] So the “we” and the “we” and the “we” I would like, at the start of this debate, to recognize the sterling contributions of Dana Saroop Seetahal SC. I would like to also recognize the work of Pamela Elder SC, and the work of the four persons who came out of the United States. The AG did not mention them.

Mr. Al-Rawi: I did mention them.

Mrs. K. Persad-Bissessar SC: I said the AG—[*Crosstalk*] What is this?

Hon. Member: “Yuh not listening.”

Madam Speaker: I would remind Members about Speaker’s Bulletin Number 3. Please proceed, Member for Siparia.

Mrs. K. Persad-Bissessar SC: Yes. We did get a procedural bulletin on that matter. Madam Speaker, I thank you. Yes, the AG did mention it, but he did not—the hon. Attorney General, in his construction, did not recognize when he said,

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“We changed the definition of accused to include”. He did not say, this was what Mrs. Elder recommended. [*Desk thumping*] And every single clause where he said “We did this” would not recognize—and I could go through every clause but time will not permit. But we have the report. This Bill is the joint effort of a lot of people. [*Desk thumping*] So I would just leave that alone because there is a more important issue.

When the hon. Attorney General, in his starting up, I heard him speak about whether law shapes culture or culture shapes law. Well, I am not sure where that was going because it did not go anywhere. I just heard the statement. Surely, it is a symbiotic relationship between law and culture and culture and law, and that is all I could say to him. But then when the hon. Attorney General says, “The barometer of serious crimes, murders, and year on, year off the murders over successive governments have been x, y, z.”, well, you know, the hon. Attorney General likes to use statistics and I have them here, taken from the TTPS website, CSO Crime Statistics and I would like to share this because there seems to be a relationship between when the PNM is in office [*Desk thumping*] and when there is a spike in the murder rate.

So in 1985, 86. In 1987, the NAR, you recall, came into office. The murder numbers for 1994 under the NAR: 102, 1987; 85, 1988; 1990, 84. Enter the “Red and Ready”: 1994, PNM, 143 murders—

Hon. Member: Wow.

Mrs. K. Persad-Bissessar SC:—1995, PNM, 122 murders. Thereafter, the UNC came into office, 1996: 107, 1996; 1997, 101; 1998, UNC, 98; 1999, UNC, 93; 2000, UNC, 120; 2001, UNC, 151. [*Desk thumping*] Enter the “Red and Ready”, 2002, PNM, 172—

Hon. Member: Wow.

Mrs. K. Persad-Bissessar SC:—2003, PNM, 228; 2004, PNM, 260 murders; 2005, PNM 384 murders; 2007, 391 murders; 2008, PNM, 550 murders—[*Desk thumping*]

Hon. Member: Wow. Shame!

Mrs. K. Persad-Bissessar SC:—2009, 508. That was when we came into office, 2010. In 2010, part of the year under the PNM, part under the People’s Partnership, 470, reducing from the 508: 2011, 352; 2012, 379 and so on. 2013, 407; 2014, 403, Partnership; 2015, partly the Partnership, partly PNM, it goes up

to how much?—420. In 2016, 463, and today, as far as I know, and those numbers could be more: 106 recorded murders for the year with 11 dead bodies found unclassified.

Hon. Member: Dead on arrival under the PNM.

Mrs. K. Persad-Bissessar SC: And today, a young school boy, found in the back of the Waterloo High School—the body found, the school boy, and condolences to his family. And another man believed to be Lalchan, another body found.

So I raised these—you know, I have them in my research files; did not bring it, but I am listening to the AG and I said, we must make this clear because the hon. Attorney General is saying to this House that the barometer of serious crimes, murders, and year on, year on, and year on—but the numbers speak for themselves. I remember there was an MP, young Hospedales—MP Hospedales—would tell us these are true facts. These are the facts.

And in addition to that, if we go further in the stats, which has—I want to get to the Bill. I am just rebutting what the AG said. The number of serious crimes went down to the lowest ever in 33 years under the Partnership Government. [*Desk thumping*] So, the hon. Attorney General spent a little time—[*Interruption*] Yes, you have the numbers—spent some time in giving us statistics on expenditure, statistics on legal fees. That is a favourite topic of the hon. AG, and then made a very interesting statement which is a repeat of a statement that has been made here and elsewhere. And I want to say, very clearly, Madam Speaker, that I am not a traitor to my country. [*Desk thumping*] The Opposition are not traitors to the country. We serve to the best of our ability according to the oath of office that we took, with faith in our God and love for our country. That is how we serve. [*Desk thumping*] So, the hon. AG said that when they were in Opposition they supported the special majority Bills of the then Government, the Partnership. Be that as it may. The point is that we brought good law that deserved to be supported. [*Desk thumping*]

And let us then look to the Bill. Those are some points and I have a few more which I will come back to as I go through the clauses of the Bill themselves. This Bill, the AG mentioned there are several on the Order Paper. He did not say they were on the other place or here, but together, Bills filed—[*Interruption*] well, the AG did; Bills filed in the Senate; Bills filed in this House, a suite of legislation, as the hon. AG says, designed really to deal with matters affecting justice and the criminal justice system.

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I want us to understand that, I think the top issue facing the country, second only to loss of jobs and, you know, the hardship in the economic situation, is the issue of crime in our country. And the hon. Attorney General, quite rightly, says, look, we are bringing this suite of legislation because we want to deal with crimes in our country. Let us understand that the suite of Bills, I have not seen one, out of those mentioned—and I stand to be corrected. I have not seen one that is addressing the criminal on the street. Every one of these [*Desk thumping*] is after the crime has been committed, *ex post facto*, after the crime. Yes, it has to be done. And therefore, the suite of legislation should properly be labelled to be what they are, that is to say, Bills, legislation, interventions for the purpose of tackling and improving the criminal justice system. And let us understand, then, how the criminal justice system works.

It is a system that tries, it punishes, and it rehabilitates persons convicted or suspected of committing a crime. The criminal justice system is at the core of a functioning civil democratic society. All the organizations involved, from the police force, to the DPP, the legal aid, the victims, the witness services, the Judiciary, and of course, the law, are all involved in making this system work. However, in our country there is no clear coordinating body. [*Interruption*] Madam Speaker, I think they will have a chance, you know. The AG spoke for 45 minutes. I did not disturb him.

Madam Speaker: Members, I would like to hear the contribution of the hon. Member for Siparia. Please remember the Standing Order with respect to those who are not speaking. Please continue, Member.

Mrs. K. Persad-Bissessar SC: Thank you, Madam. In Trinidad and Tobago, whilst there are so many bodies, departments of government and so on, there is no clear coordination of the system as a whole. We see in the UK they have something called a National Criminal Justice Board. We have here joint select committees of the Parliament, Standing Committees. One is on Legal and Finance. And there is, I think, a National Security JSC, but they do not meet very often. And then we had concerns that a Member of the Government is chairing—

Hon. Member: Still?

Mrs. K. Persad-Bissessar SC:—still chairing that committee after undertakings were given in the anticrime talks by the hon. Prime Minister himself—still chairing. [*Desk thumping*] And if they have held five meetings— [*Interruption*] well, then I might be wrong. They may have held six meetings over

the 18 months. So those are not working and not helping in any way in the fight against crime or in improving the criminal justice system.

I had planned to speak on statistics of what is going down in the courts and with justice, but the hon. Attorney General has provided all those statistics for us, and clearly the picture is a horrendous one. Madam Speaker, I would say that the circuits are overloaded in the system, and in piling more and more work at every level without the resourcing of all the units and departments, then that circuit will trip, if it has not already tripped. [*Desk thumping*] And that tripping will end up in electrocuting the entire civil criminal justice system of our country. My colleagues says, "Black out". It will be black out when it comes to the criminal justice system. And therefore that being the core of civil society, it is a very dangerous place we go.

People say we are on the edge of the slope, and on a slippery slope. Look, I believe we have already fallen off the slope. [*Desk thumping*] We are no longer on the edge of the slope. We are falling off from the numbers; the stats from the hon. Attorney General himself; the statements coming from the DPP; the hon. Chief Justice, all the players, all the stakeholders, all the actors in the criminal justice system, every single one has spoken of the crisis in the criminal justice system. Madam Speaker, you know, sometimes you get a little distance from it, but this is a frightening state of affairs. And therefore, legislative interventions, as one aspect, are very welcome and very important. [*Desk thumping*]

In this whole system we must remember what justice is for, and going back in our own country, the very distinguished Sir Hugh Wooding, in 1965, produced to paper which he gave at the Commonwealth Law Conference in Sydney, Australia in 1965. He made it very clear. What is the justice that you get in a matter? What is the justice? And really it boils down to the five principles of sentencing in criminal justice. And those five principles, Sir Hugh Wooding himself stated what they were, and he talks about:

Before leaving the topic of criminal offences something should be said on punishment. At first, its purpose was frankly retributive, which may be traced back to the Mosaic Law or Roman Lex Talionis. But in some African communities where the family was regarded as a complete unit, punishment often took the form of compensating the family which had suffered by giving into bondage from the family, a member which had inflicted the suffering and so on. Nowadays, sentencing has a five-fold purpose.

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And I want you to remember the sentencing is really the end of the justice process. So this is what the justice that you will get at the end of all this trial and all the proceedings in the courts and so on.

What do you get? Five-fold purposes. And there is a famous case in Trinidad, the Mano Benjamin case. I do not know if you are as young as me, Madam Speaker, to remember Mano Benjamin, a most horrendous, heinous matter. And in that case—I do not recall the name of judge at the moment. It is reported at 7 West Indian Law Reports. The judge in that case set out what are still considered to be the five principles of sentencing and therefore of justice. And they were as follows: First, it must be retributive or punitive. Now, how on earth—that is the first part of the justice—can something be retributive or punitive when 10 years later you are still waiting for retribution and punishment? You are sitting down, whether in the jail or outside on bail. So we have lost that aspect of the justice system.

It is to be a deterrent to potential offenders. Yeah, right. Deterrent what? They are out on bail. The cases take five, 10, 15 years. These guys are all happy. By the time you are ready to do the case 10 years later, witnesses disappear, they die, all kinds of things happen. So that deterrent is not deterring because the crimes are continuing to increase.

The third is a deterrent to the particular offender. Well, many of them are just laughing all the way outside on bail, and I see the AG who had told us about this big event of thousands being freed if we did not pass those bail laws by August last year, now talking about another bail Bill which would, in fact, get more people out on the streets.

Preventive of the particular offender or protective of society: well, it is clear that there is no justice to the ordinary man and woman in this country, with the increase in murder, the protections that we should be having. And the final one is rehabilitative—the fifth principle, and the fifth area of justice, to rehabilitate the offender to have him come back as a person who could function in the society. But what we are seeing is—there is a word that is a little difficult for my pronunciation sometimes, but it is the repeat offenders, like a revolving door.

Hon. Member: Recidivism.

Mrs. K. Persad-Bissessar SC: That is the word. Like a revolving door and you keep coming in and going back out. So justice is clearly not being served. Look at all the newspaper reports. I went through. I collected them. I will not

quote them, but they all say the same thing.

Now, we are here today. We have gone through 1965, Sir Hugh Wooding. What was the issue? Delays in the justice system. We have gone through the Gurley Report, 1992. What was the issue? Machinery to deal with delays in the justice system. We have gone through the McKay Report again. How to fix it? How to deal with it? So three reports and decades later, today yet again, we are talking about measures for dealing with delays in the court system and therefore denying justice to victims and to society as a whole.

2.50 p.m.

In fact, when we look to the Sir Hugh Wooding paper he presented in Australia, the Commonwealth, he starts off by saying:

Justice can seldom be attained by slow process or through avoidable delays.

And then he quoted the well-often-repeated maxim:

Justice delayed is justice denied.

And that is what is happening in our country. Apart from the banditry and the “wele” of crime, and the onslaught from the criminals, we are also having justice denied to victims and law-abiding citizens of our country.

So let us look at the plea bargaining. Well, one of a suite as the hon. Attorney General said. One of several measures. I want to make it very clear, it is not my respectful view that this will curb crime in the manner that we need interventions. So this has to go in tandem with other measures, [*Desk thumping*] but there are several benefits of plea-bargaining legislation. In our Bill it is plea discussions and agreements, others call it plea bargaining in their jurisdictions. Several factors:

- Witnesses can be spared the agony and the trauma of going into a court to testify if there is a plea entered, through the plea discussions.
- Prosecutors can avoid lengthy trials. So the players, the actors in the system, and the stakeholders in that justice system, can avoid lengthy trials.
- The accused is relieved of the uncertainty of the outcome.
- Defence attorneys save time. You may not have to pay for very lengthy trials, and I am the sure the hon. Attorney General will be very happy for

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that because the legal fees he is very concerned about may be reduced likewise.

- Judicial resources are more efficiently utilized by a judicial office and, of course, judicial space. Not just the judges themselves, but space, courtroom spaces and so on.

And so, it can be if legislated for properly, a useful tool to save costs, to save time and to reduce delay.

There are some who have expressed the views that it can also help you to get other criminals that you may not have been able to bring in and charge and so on, because through the system you can get a person who is willing to enter a plea of guilty for a lesser offence and so on, but they may then point you to someone else who was involved in the crime. But we have to be very careful with that part of it, Madam Speaker, because we are seeing serious abuses of that system [*Desk thumping*] where witnesses have been promised immunity—the Shawn Parris matter against Dr. Vijay Naraynsingh. We have seen it in several cases where the prosecutors used the bargaining process and ended up locking up people, innocent people, who have to go through this whole system and the real killer goes free. So that is another, to some an advantage, but is one that we have to be careful how we legislate for it, in that it can be open to abuse.

Chief Justice Ivor Archie has been singing the song for plea bargaining. I think President Carmona himself and, of course, lawyers across everywhere in the country. At his address for the opening of the law term, hon. Chief Justice described plea bargaining as an essential feature of most modern criminal justice systems and I quote:

“...and is a rational, albeit not perfect way of weeding out those matters that can be just as disposed of without a trial”.

End of quote from the hon. Chief Justice on plea bargaining.

So there are the benefits, of course, but we must legislate with the safeguards to avoid as far as we can because nothing is perfect; what may turn out to be abuses of this particular tool that can be used and I think my colleagues may speak a little more on that matter.

Now, plea bargaining we know exists in several other jurisdictions, but there is no consistent mechanism where it exists. In some countries there is a legislative framework, a statutory framework for it. In some countries there is an informal

process. So, for example, in Canada, strange enough, theirs is not a statutory process; in the United Kingdom only for serious or complex fraud is there a legal process. Other than that, no formal legal framework for plea bargaining; but others, right here in the Caribbean, and I think they were mentioned by my colleague on the other side: Jamaica, Guyana, Bahamas, in our regional setting and, of course, South Africa, Zambia, Australia, New Zealand, Scotland and the USA.

The example was given of the famous Balo Maharaj murder, of the woman who was extradited back to the US. She went out after. About a year, she has been out. She plea-bargained, put her in sentence and her matter is done, and the gentlemen who was charged along with her, who remained in the T&T criminal justice system, still awaiting trial till today, up to day. Ricardo Stevenson is his name. Ten years after is still awaiting trial, and it shows the stark contrast of what plea bargaining may be able to achieve in circumstances identical in a sense, just one happened to be US who was extradited and dealt with by the US Criminal Justice System.

Now, the hon. Attorney General told us that there are no breaches of rights and so on. I am not going along that pathway today. I am certainly not going down that pathway, but the jury is still out on that matter. It is a controversial issue—*[Interruption]*

Hon. Member: If there are still juries.

Mrs. K. Persad-Bissessar SC: If there are still juries around by the time our friend is finished with his suite of legislation. But the jury is still out in the jurisprudence and the academic circles whether plea bargaining is in effect—and there are several articles—taking away of a right, albeit with conditions, and whether the unconstitutional conditions in effect create an unconstitutional scenario. I am not going along that pathway today because I do believe there is much merit to be gained from having a properly working plea-bargaining system in Trinidad and Tobago. I really believe that that is the way it should go.

In fact, Trinidad and Tobago, I talked about the jurisdiction: we have had since 1999, Act 11 of 1999, Chap. 13:07 of our law; we have had a statutory framework for plea bargaining, plea discussions, plea agreements, and when that law was—I think it was the former UNC Attorney General, Ramesh Lawrence Maharaj. I see now he may be brought back as the assistant hangman, or maybe the Attorney General. I do not know. Some are saying it is an expression of no

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confidence in the AG to bring him. [*Desk thumping*] I will not be so unkind to the hon. Member for San Fernando West, but some people are saying that.

So the former Attorney General brought the Bill for Act 11 of 1999, and the legislative objective of that Bill which became the Act, *Hansard* January 13, 1999, I quote, was as follows:

- to assist in reducing cost and time spent in trial;
- to create a situation whereby an accused would be more willing to divulge information which could assist in investigation and prosecution of other criminal elements.

The 2017 Bill that we now have—so that is where we came from and where we are—seeks to repeal and replace the 1999 Act. But it is important to go back to—when the Member for Naparima spoke I heard someone shouting you want to take parentage and so on, but it is good to look at the genesis of the present Bill. It is very important because I heard the hon. Prime Minister say very clearly—there was an editorial where the editorial was saying, “You know you should not go backwards and lay blame here, there and everywhere”. And I heard the Prime Minister say, “No, no, no, no. We will go back, forward, anywhere. We will go back and we will talk and we will talk.” So let us go back to the genesis of the 2017 Bill. [*Desk thumping*]

On the 25th of April, 2014, there was a workshop held and this was coordinated by the same late distinguished Senior Counsel Dana Saroop Seetahal, Pamela Elder SC also distinguished—by the way, I had the privilege of knowing Senior Counsel Pamela Elder. She was in the same law class as me and my colleague, the Member for St. Augustine, as well. You know, we could never go as far as she has gone. Very distinguished senior counsel in the criminal law. Then, of course, the persons who came from the United States. I think we should thank the United States because they have paid a very serious attention at helping [*Desk thumping*] in work directed at the criminal justice system here through the DPP’s office, through the Judiciary and so on; and that team comprised Judge William Arthur Webb, Miss Joanne Richardson, Miss Kimberly Ann Moore and Miss Debra Greaves, Assistant Federal Public Defender.

So that workshop was to deal with the plea agreement and plea bargaining and really it came about because then Attorney General Anand Ramlogan paid attention and looked at the plea agreement Act that we had, and this is where we went to get the consultations and to see how or what could be done. That

workshop was attended by many persons, but at the end of it Pamela Elder SC produced a paper that I mentioned, July 2015, this paper, Reform of the Criminal Procedure (Plea Discussion and Plea Agreement) Act, Chap. 13:07, and she said:

The laudable objectives of the Act cannot be achieved in light of its serious deficiencies.

At the workshop there was consensus. The Act contained numerous defects and required reform and because of the amount of changes, Pamela Elder recommended that the Act be repealed entirely and replaced, which is where we have the 2017 Bill, but we go further than that. So Miss Elder completed her document, 15th July, 2014.

In July 2014, later that same month, 24th July, 2014, Cabinet—the Cabinet which I sat in and led—by Minute No. 2084 of 24th July, 2014, approved the policy contained in the Pamela Elder paper. [*Desk thumping*] Approved the policy embodied in that paper.

Hon. Member: We.

Mrs. Robinson-Regis: But why you all did not bring the Bill?

Mrs. K. Persad-Bissessar SC: Yes, well I am not finished. Are you hurry?

Mrs. Robinson-Regis: Yeah.

Mrs. K. Persad-Bissessar SC: Yeah, you will get burnt if you eat your curry too fast. [*Desk thumping and laughter*] And so, Cabinet approved the policy embodied in the Elder paper and agreed to implement the principal policies contained in that paper which informed the drafting of the Bill. Cabinet also approved at that same time the recommendation to repeal and replace the existing Act, and by early 2015 a Bill had been drafted.

Now, Madam Speaker, what happened? The Parliament was dissolved in or about June. So as at early 2015 we had taken this work far along [*Desk thumping*] and when I read this—[*Interruption*]

Madam Speaker: Hon. Member for Siparia—[*Interruption*]

Mrs. K. Persad-Bissessar SC: Yes, Ma'am.

Madam Speaker:—your original 30 minutes have expired. You are entitled to 15 more minutes if you are entitled to avail yourself of it. Please proceed.

Mrs. K. Persad-Bissessar SC: I thank you very much, Madam. I thank you. When I read the Bill before us, the 2017 Bill as I said, every recommendation except about two or three directly from Pamela Elder's paper are contained in this

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Bill, and because I have 15 minutes left, Madam, there is one that is not contained and I really would like to see it there.

First of all, this new Bill, unlike the 1999 Act, did not have anything for the victim to come, and to hear the voice of the victim, and given modern criminal justice systems—when you watch *Law and Order* and all these other programmes you see in the US how it works—the victim is a very important part of process and the 1999 Act did not have that, but this Bill contains it on the recommendations of Senior Counsel Elder. But there was one part of it that she recommended and I am not seeing it—I would like for it to be considered—is that at the moment the victim impact statement is received by the court and the court will review it. It is in writing, it can be read by the victim, or by someone on the victim’s behalf, but I think we should go a step further and the step should be that the victim could be cross-examined on the content of the statement because this is very important.

A victim if you put them through the cross-examination then you could see the value and the weight of what is faced in the statement, but given the statement alone you will not be able to test it and to verify the credibility of the person putting in this statement and this in fact in a recent decision, the case is *Perkins v R* in 2013. I have the citation written down. In that case the court clearly said that the victim should be tested on the witness statement. So I would like for consideration—[*Interruption*]
—well, I have 15 minutes.

Mr. Al-Rawi: Thank you, hon. Member for Siparia. Is your question also in light of clause 24(5) where the accused person may bring to the court’s attention any issue which he wishes to challenge in that victim impact statement?

Mrs. K. Persad-Bissessar SC: I think it is slightly different and I would want to see the right being given by leave of the court, of course. This is not the victim now. This is the right of the accused to say, “Look, I ask leave of the court to cross-examine”. So it is something that you could certainly look at. So that is one area that was left out from the Elder recommendations I think should be included.

Now, the hon. Attorney General—and I am speeding through here now. Ten minutes, Madam? There are several other clauses. I had intended to do clause by clause, but let us take one at a time:

Clause 1, I have no comment.

Clause 1(2), proclamation date. This is another example where we are being told of proclamations but we have laws passed no proclamation, SSA, Children and Family Division Bill and so on. So we are very sceptical when we see that.

The interpretation clause: I remember the hon. Attorney General talked about expanding the definition of “accused” in the manner as contained in the Bill, but I would ask that he consider going further and instead of saying “accused means”—and I do not want to get too technical. We will do some of it in the committee—should be amended to expand it to say, “accused includes”, the two categories you have there because there may be a third category of person, a third one, and I can deal with it in committee stage. But it should be expanded and leave it open, “includes”, so you do not close the doors for other kinds of scenarios, fact scenarios and permutations which may present themselves.

There is no definition of “court” in the definitions section, although there are references throughout to High Courts, Summary Courts and so on. “Director of Public Prosecutions” really is superfluous language. Just section 90, you do not read about his responsibilities and so on. We can deal with that.

The “improper inducement” definition is excellent here. Again, this came out of Pamela Elder’s direct words where she took it out of the Canadian Department of Justice Working Paper. So we are very happy with that. Offence: your definition says it is a criminal offence. Please explain because to me in order to be an offence it has to be a criminal offence. You cannot have a civil offence unless the AG knows otherwise.

“Plea agreement”, again we have plea agreement in clause 4, but in the definition section you say “plea agreement” means what is in section 4. But when you go to section 4, the entire clause 4 is a definition of the word “plea agreement”, and for legislative tidy drafting it should and rightfully belongs in the clause 4, in the definitions section. It should be lifted and placed in the definitions section.

Now, those are minor things which I can go—you have some spelling errors, you have left out some words in the drafting. I can deal with it in committee stage, but there are two clauses again in the short time that I have difficulty with, and they are the micromanaging. What is being given here as micromanaging an already overloaded DPP’s office. The prosecutors’ office you want to micromanage. So the DPP now I want us to look at clause 14, clause 18 and clause 27. Those three I have serious concerns with.

Clause 14 talks about the victim impact statement and so on, and saying it should not contain certain things. Why? Why? Why should it not contain it? And then you come to 18 and you say well the prosecutor will redact what is not

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admissible under 14. Why? Why are you taking the DPP to sit down, to go through, to redact what he believes or should not believe should not be in this impact statement? Why? More work for the DPP of course, already overloaded. Then we come down to, I believe it is 27, but then another clause in the Bill we come down and say when the statement comes the court will redact.

So what is the point of DPP and all these other people wasting time, because really this is a power and discretion that should remain in the court. It is the court who will decide if it is admissible, if the evidence contained in the witness statement, sorry, the victim statement and so on, whether that should be there. Leave that to the judge. It is the same problem when you took all the powers of judicial officers for the PIs—preliminary enquiries—and placed it in the hands of the DPP. I do not know what is going to happen to this poor DPP. He is totally overloaded, overburdened, overworked, and more and more is being pushed onto him. So please look at 14 and 18. There is no need for that, and then as I say for the 27. Then guess what?

So here they will redact it in clause 18. What they do not like they would redact. And you know, people in our country have a serious distrust of officialdom. [*Desk thumping*] Serious distrust. They may have a greater comfort zone if it is a judge handling this matter, and in any event all evidence before a judge is dealt with by the judge whether it is admissible or not admissible. Leave it in the hands of the judge. So you are redacting at this early stage, you redacting when we get to the judge, no. It may be very nice at this point to say the only thing that should be redacted is that Government sitting on that side. Redact. [*Desk thumping*] Redacted. So in the definition clause—and then there is some I think bungling and bundling.

The hon. Attorney General spoke about the inter-articulation—very nice words—articulation and the suite of legislation, they are all in tandem and—no, no, no. There are clauses in here. At committee stage I will point them out. There are clauses in this legislation that do not seem to understand you want to pass a new PI Bill, you want to take away certain things from the committal—they did not marry. They do not articulate. [*Desk thumping*] They do not articulate and it really comes from—you know, it is a kind of piecemeal approach. Pathetic, pedantic, really piecemeal approach to taking the law, and I have a recommendation that I will make on that in the two minutes I have left, 17—seven.

Mr. Lee: Seven.

Mrs. K. Persad-Bissessar SC: Seven, right. So those are some clauses I have difficulty with. I will deal, if I get the opportunity, in the committee stage, with them.

Mr. Hinds: “Leh we vote for de Bill and go home.”

Mrs. K. Persad-Bissessar SC: You want to vote for the Bill and go home? [*Desk thumping*] Look, you do not even have to vote for it. You could just go home. [*Desk thumping and laughter*]

Madam Speaker: Member for Siparia—[*Interruption*]

Mrs. K. Persad-Bissessar SC: I am sorry.

Madam Speaker:—do not be distracted.

Mrs. K. Persad-Bissessar SC: I remember—[*Interruption*]—Do not go there. MP Moonilal had some very strong words for him, but I will not go there. I will be guided, Madam Speaker. I will be guided.

So I want to say we agree we should have legislative interventions to deal with the backlogs in the courts. We have always in Government and in Opposition, then Government now in Opposition, supported plea bargaining, and even the first rounds under Mr. Basdeo Panday, but we need to get it right. I think we must stop spending too much time on who brought the better Bill and let us get at what is right. Let us get it right. [*Desk thumping*] We did it in the FATCA legislation. You know, we had to pull them kicking and screaming into the JSC, but we got it better, improved on. [*Desk thumping*] So when we look at the clauses in the Bill there appears to be no sufficient articulation in the clauses of this and the other legislation the hon. AG mentioned.

There are serious issues where the parties involved in implementing this Bill would be very hard pressed to meet timelines. So, for example, there are many timelines being set for things to be done within 14 days. Madam, is that real? The person who is doing that is sitting in an office and is not involved in the courts. They are not involved in the system like the Member for St. Augustine who will tell us about it. In 14 days you want to transfer all the documents? Impossible! Impossible! First of all, you have to get the transcript. Madam, I think without being personal, I practise in the courts and understand transcripts—how long do you take to get a transcript? Fourteen days? Way beyond 14 days. A lot of the timelines need to be—[*Interruption*] Yes, we want to deal with delay.

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You know, there is a point about fast-tracking legislation and so on, and there is a very important document put out by the House of Lords when they talked about fast-tracking legislation and also fast-tracking what is in the legislation, and they talked about five principles we believe should underpin the consideration of fast-tracking and they are:

- The need to ensure that efficient parliamentary scrutiny is maintained in all situations. So they are getting all of these, but we do not have that level of parliamentary scrutiny;
- The need to maintain good law. So whilst it is emergency, yes we know the barbarians are at the gates, the criminals are at the gates and we must do something. Hey, we still must pause for a cause even if to make sure that it is good law and does not further create an administrative nightmare in the system out there;
- The importance of providing interested bodies with the opportunity to speak;
- The need to ensure the legislation is—the famous words of the Attorney General—proportionate, justified and an appropriate response to whatever is the matter in hand; and
- The need to maintain transparency.

The five basic principles for fast-tracking and we have to stop and ask ourselves is this happening here; is this in this Bill? I am saying time will not permit me. My colleagues will help, and in committee we can deal with some of that, that how do we go.

So my suggestions are these, Madam—three minutes, three suggestions. One, to ensure consistency and a better free administrative flow. There should be established if this Bill should become law, what is known as a plea guilty court, or a guilty plea court. One in San Fernando, Port of Spain and one in Tobago. [*Desk thumping*] So all matters—they are carving out a whole new arena—will go to that guilty plea court, and my colleague may expand on the advantages.

The second is given—you know, all these pieces of legislation dropping on my desk today, on your desk today, on the other desks in the other place and so on, and the articulation I am not seeing it there. Pause for a cause and let us put all these Bills, hammer them out in a joint select committee. [*Desk thumping*] Now, we can get the work done. We showed it for FATCA. On the 6th of January, JSC was established and what was it? Two weeks or so thereafter—Dr. Tewarie?—

were completed. So we can work it. That is another suggestion. Other than that we face the real danger of the five principles set out in the document I read, real danger that this, instead of helping, will in fact further overload the system and overload the circuits.

And the third recommendation I would like to make is that—*[Interruption]*—two weeks more would not hurt you, Sir. I am hearing five years. Two weeks will not hurt. I am saying that we have had the 1965 Report on the justice system, the Gurley Report in 1992, the McKay Report in 2001. I think it is time for another enquiry into the criminal justice system. In addition to other legislation, 16 years ago was the last one. Things have changed tremendously. This year, Madam, if you look at the British—I am sorry, 2016—a comprehensive report on their criminal justice system was done, notwithstanding that several had been done previously. So that is another suggestion. You know, the hon. Attorney General does not take suggestions. That is why we will end up, and this country will end up in the position in the position in which it is. *[Desk thumping]* You do not take. Mutter and mutter and mutter. Mutter and mutter.

So as I close, I make these suggestions in good faith, Madam Speaker, and it is not simply to say, “Oh waste money, waste money”, because we are wasting lives in this country. The justice system has collapsed. It is no longer tottering, it has collapsed. *[Desk thumping]* Ask any man or woman out there—I was reading MP Hinds when he was in the House, when the 1999 Bill was passed—yes?—and talking about people lining up outside the courts and so on, justice delayed is justice denied. And finally in the 50 seconds, or no seconds, or one second for the time, I thank you, Madam. The hon. Chief Justice—*[Interruption]* *[Madam Speaker rises]* I thank you, very much. I thank you. *[Desk thumping]*

The Minister of Public Administration and Communications (Hon. Maxie Cuffie): Thank you, Madam Speaker. Madam Speaker, I was surprised by the beginning of the contribution of the Member for Siparia, because if I am not mistaken I heard her say that whenever the UNC is in Government crime rises, and—*[Interruption]*

Hon. Member: No, no.

Hon. M. Cuffie: But the obvious indication of when the PNM is in Government crime rises, is that whenever the UNC is in Government crime rises. Now, I do not want to see any relationship with those two facts. I am not one of those who believes that when the UNC, its official policy says that there would be civil disobedience, or they will sleep with the devil, and those inferences are not

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meant to refer to the fact that whenever they are in Opposition crime rises. But I notice that they, as usual, do not support any effort to deal with the increase in crime. [*Desk thumping*]

I want to begin by commending the Attorney General [*Desk thumping*] for the hard work that he has put into this suite of legislation aimed at reforming the criminal justice system and dealing with the issue—and we can say it is a crisis—of crime affecting the country in a holistic manner. So that we have had the Family and Children Division Bill which sought to look at the incidence of crime from the young people and seek to guide them towards a better life. We have had the Strategic Services Agency (Amdt.) Act which also looked at providing the intelligence for the security services to treat with the incidence of crime. We have had the whistleblowing Bill, the Miscellaneous Provisions (Anti-Gang and Bail) Bill, the Indictable Offences (Pre-trial Procedure) Bill, which treats with the issue of preliminary enquiries.

And these Bills are meant to address, in a holistic way, the incidence of crime and the fact that we are dealing with a serious situation.

3.20 p.m.

Now, I am surprised that the Opposition has yet again either said they are going for a joint select committee or inferring that they will not support the Bill in its present form. You see, my surprise stems from the fact that almost every month since this Parliament, they have sought to highlight crime as a “Definite Matter of Urgent Public Importance” and they have—in fact, I have the figures. Last week, the Member for Oropouche sought to bring such a Motion. On May 20, 2016, a Motion was brought by the Member for Siparia. On June 2016, there was another Motion on the unprecedented increase in murder. On February 3rd, there was another Motion. And the same strategy is being used in the other place so that in the Senate, there are similar Motions on the 11th of January, 2017, the 24th of May, 2016, the 25th of January, 2016. It is clear that what the country sees as a crisis, they are seeing as an opportunity to get back into Government. [*Desk thumping*] They see it as an opportunity to discredit the Government, to throw us off our guard and to seek to get the support of the population. But fortunately for us, I think the population is well aware of the UNC’s approach to this problem.

Now, their approach was spelled out when the Member for Siparia faced a similar situation with an upsurge of murders in 2012 and she declared a state of emergency. Now, I would just like to show that we fell off the slippery slope, according to the Member for Siparia, when we declared a state of emergency in

2012. [*Desk thumping*] Let me just remind this House of what the Member for Siparia said when she called the state of emergency. She said:

“The entire nation has been rocked with the...tragic news of the spate of murders over the past few days. The situation has reached proportions which the government must respond to in the most definitive manner possible.”

And how did she respond? She said:

“After much deliberation with the National Security Council and members of the Cabinet it has been agreed that the government consider the imposition of a limited state of emergency in hot spots across the country.”

Hon. Member: What? And limited.

Hon. M. Cuffie: Limited in hotspots. Now, she did not say what it was limited to—[*Interruption*]

Mrs. Persad-Bissessar SC: She?

Hon. M. Cuffie: The Member for Siparia did not say where the hotspot was or what the state of emergency was limited to.

Mr. Al-Rawi: Or how, in law, it was limited.

Hon. M. Cuffie: I think it was outside of the law because she went on to say—the Member for Siparia went on to say that:

“Such a consideration must of course have the agreement of the President of the Republic of Trinidad and Tobago, His Excellency, George Maxwell Richards and I will be meeting with him to discuss this matter.”

So, the Member for Siparia, after falling off the slippery slope and not being able to deal with the crime surge that was affecting her administration, called a state of emergency without informing the President. She called a state of—at the time she called it, she had not spoken to the President.

Mrs. Persad-Bissessar SC: That is not truth.

Hon. M. Cuffie: She called a state of emergency without identifying the areas that it was limited to.

Mr. Hinds: The Commissioner did not know.

Mrs. Newallo-Hosein: Madam Speaker, 48(1).

Madam Speaker: Continue.

Hon. M. Cuffie: Thank you, Madam Speaker. And that was the UNC’s

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approach with dealing with this crime situation. This Bill today and the series of legislation that have been brought before this House is our approach to dealing with the crime situation, and it is an approach that takes into consideration the fact that crime is a multifaceted phenomenon and that we all need to work together to solve this problem.

Now, the Bill before us today treats with the fact that we need to rekindle the trust of the population in the criminal justice system [*Desk thumping*] and that trust is borne out in several clauses of the Bill. So that the hon. Attorney General looked at, I think—if I am not mistaken, it is clause 24—no, clauses 8, 9, 10, where it speaks to the right of the accused when one enters a plea bargaining discussion and that, in effect, the accused has a right not to be hoodwinked, not to be taken advantage of, when one enters into a plea bargaining discussion.

Now, we all believe that attorneys are honourable people. In this House, we can say that we have several attorneys and they are honourable people. But there are concerns with trust in the criminal justice system and those concerns—I think if one looks back to how that state of emergency was prosecuted, the fact that one used the Anti-Gang Act to arrest and to bring a number of people before the court without proper justification and—in fact, I am looking at the *Express* of October the 08th, 2011—[*Interruption*]

Mr. Singh: “Maxie, yuh come with ah set play.”

Madam Speaker: Member for Chaguanas West.

Hon. M. Cuffie:—where it was stated that the number of people who were charged or arrested under the state of emergency for—[*Interruption*]

Mrs. Persad-Bissessar SC: He just lost me.

Hon. M. Cuffie: No, Member for Siparia. I am dealing with the handling of crime and the approach taken by the UNC when in Government to the issue of crime and the approach that we are adopting to treat with it. So that they arrested 449 persons and 52.56 per cent of them were charged, 213 persons were released without being charged and as of now, I think, we are still liable for paying those people who were innocently arrested, and that led to a lack of trust in the criminal justice system. I think the confidence in the police, in the Government, in the prosecution, was severely damaged by how that was prosecuted. [*Desk thumping*]

Mr. Hinds: Brought it into disrepute.

Hon. M. Cuffie: Yes, it was brought into disrepute. And what we have now is a Bill that seeks to—[*Interruption*]

Mr. Hinds: Restore.

Hon. M. Cuffie:—restore that trust, not only for the accused persons but also the victims. I think people do not realize that one of the problems we have with crime is that many crimes are not reported and even when they are reported, victims are sometimes afraid to testify, to go before the court and witnesses are also afraid to go before the court and that is because people have lost trust in the criminal justice system, they have lost faith in attorneys. And the Member for Siparia was right. People have lost confidence in the entire system. And I was impressed by the lengths to which this Bill went to address those issues of trust and those issues of faith. [*Desk thumping*] If you look at the treatment of the victim rights and the fact that they have a right to make a statement, to have it read out in the court. Now, the previous Bill did have the ability for the victims to be part of the system but it was not spelled out as it is now and there were several elements that were missing in that Bill that is in the present legislation.

And when we look at the section dealing with 14 days and the fact that there is a timetable for this to happen, I would like to think that that would have been commended by the Member for Siparia because what it means is that we are seeking to get the Bill fast-tracked, to get the delivery of justice fast-tracked, and to impose a timeline on the system so that we do not end up in the same situation that we are in today. And for the Member to criticize the fact that we put 14 days in the legislation and that it cannot happen in 14 days, now what that shows is that it could not happen in 14 days under the UNC [*Desk thumping*] because they were not committed to delivering justice, they were not committed to doing anything.

Mr. Singh: What is the basis for you saying that?

Hon. M. Cuffie: I will come to the basis for saying that. In fact, let me respond to the Member for Chaguanas West. The Member for Siparia went at great lengths to praise Pamela Elder for everything good in this Bill.

Mrs. Persad-Bissessar SC: Yeah, yeah. [*Desk thumping*]

Mr. Charles: Well said. Say it again.

Hon. M. Cuffie: Everything bad, she blamed the Attorney General. [*Laughter*] And it amazes me that—now the report, the Member for Siparia says she got the report in 2013. She had two years, she never brought a Bill. The Member for Siparia never took any action to make this actionable, realizable, to do anything to fast-track—[*Interruption*]

Mr. Young: “Yuh hata lay in Parliament at least.”

Hon. M. Cuffie: No, but I have to give her credit. I have to give the Member for Siparia credit. She did do one thing to fast-track the system of justice. She had a Bill with section 34 laid in Parliament. Right. *[Interruption]* And not just proclaimed, but proclaimed expeditiously. *[Desk thumping and interruption]* And she is right. We have been very supportive of all legislation aimed at fast-tracking the delivery of justice in Trinidad and Tobago. So far, we have had no support from those opposite for any of the attempts to expedite the justice system and for us to get real justice. And I have to believe that—*[Interruption]*

Mr. Charles: Madam Speaker, he is disturbing me, the Member for Laventille West.

Madam Speaker: Member, is it a point of the order you are making?

Mr. Charles: Yes, Madam Speaker, he is disturbing me.

Madam Speaker: Under what Standing Order?

Mr. Charles: Under the practice of talking whilst someone is talking.

Madam Speaker: All right. Members, I just want to remind everybody of Standing Order 53 and the Speaker's bulletin. I am going to enforce it because the breach is being committed on both sides. Please continue, Member.

Hon. M. Cuffie: Thank you, Madam Speaker. Now, the point I was making was that every time we bring a piece of legislation that aims to treat in a holistic way with the criminal justice system and expedite the system of justice, the Members opposite seek to kick the ball down the road. So they will say: let it go to a joint select committee, we need to discuss this more. Now, in some cases, the discussions have been taking place for over two years. Certainly, the reports that were sent on this plea bargaining matter were with them for two years before they left Government *[Desk thumping]* and now they want to go before a joint select committee to discuss, I do not know what.

And I think we have a Bill before us. If they have some serious amendments, they can put them forward but we need to pass this Bill now. I think the country expects us to do something about the high incidence of crime; the country expects that, as a Government, we will be governing and the country expects that as an Opposition, they will be responsible and do what is necessary to ensure that we get it right. With those few words, Madam Speaker, I thank you. *[Desk thumping]*

Mrs. Vidia Gayadeen-Gopeesingh (Oropouche West): Thank you, Madam Speaker, for the opportunity to contribute to this Bill, an Act to establish a system of plea discussions and plea agreements and for matters incidental thereto.

Madam Speaker, when I listened to the hon. Attorney General a few minutes ago, it reminded me of Archimedes' principle. Archimedes wanted to know whether lead was mixed with gold and he decided—he was so fed up that he decided he is going to take a bath. So he went into this tub of water and when his mass displaced the volume of water, he said “Eureka, I have found it”. And this is exactly what this Bill reminded me of when I heard the hon. Attorney General speaking here today, is that this Bill is really the solution for the ills that plague the criminal justice system and a Bill by itself, in isolation, because we are seeing that the hon. Attorney General is saying he is passing Bill after Bill, a suite of legislation to curb crime, and any Bill that is done in isolation, without looking at the institutional framework, without looking at how you can strengthen the institutions that have to work in tandem with the court will not work. [*Desk thumping*]

Madam Speaker, we are aware of the delays in the criminal justice system. We are aware that we have in excess of 2,200 remandees, 1,000 non-bailable offences and the rest still waiting for their matters to be tried. We are aware of the length of time matters are being called in the courts and which engenders a feeling of doom and gloom for the citizens of this country. [*Desk thumping*] When we have to have a Bill that is trying to curb crime, we have to look at the different institutions. For example, the institutions that deal with forensics, the institutions that deal with ballistics testing, the DNA bank. And even if the accused were to plea bargain, do we have the forensic capability to provide those technical evidence swiftly so trials are not delayed?

Madam Speaker, the Chief Justice, during his address at the opening of the 2013/2014 law term said and I quote:

“There is absolutely no way that all of the matters before the courts can be disposed of by trials within a reasonable time frame.”

The Chief Justice described plea bargaining as:

“...an essential feature of most modern criminal justice systems...albeit not”—the—“perfect way of weeding out those matters that can be justly disposed of without a trial.”

He went to say:

“It is not a soft option and the court retains the discretion over sentencing so that the prosecution and defence cannot simply cut a deal and impose it on the court.”

*Criminal Procedure (Plea Discussion
And Plea Agreement) Bill, 2017*

Wednesday, March 22, 2017

[MRS. GAYADEEN-GOPEESINGH]

Madam Speaker, when you listen to this speech, you may actually think that it is the panacea for the massive backlog of cases and we really have to focus on the institutional strengthening of the different institutions in this country. We have to look at the impact of this legislation on the forensic department, the legislation on the crime scene investigative unit and how all these different institutions can work together to swiftly take matters through the court system.

Madam Speaker, a few days ago, I believe last Friday, a Bill was passed in this House, the Indictable Offences (Pre-Trial Procedure) Bill and in that Bill, the DPP was given that additional portfolio to take cases from the Magistrates' Court and the High Court, filter these cases and see whether a prima facie case has been made out. We also see that there was no judicial oversight with this particular Bill. Now, we are seeing that we have this additional role of the DPP here where he has to do plea bargaining. The point I am making is that the DPP's office had already said they were under resourced. The number of attorneys supposed to be in the DPP's office ought to be about 104. He said that there were only about 34 attorneys. So how it is then that this additional function with this limited number of attorneys can deal with all these additional work for an under-resourced DPP's office? [*Desk thumping*]

Madam Speaker, when the DPP—even if there is a plea bargaining, the DPP must get all the evidence before the accused meets with the defence counsel and the accused meets with the prosecutor. All the evidence must be, before a plea bargain could stand. And if there is a gap between the detection rate and the conviction, then you could have how much plea bargaining—you will want to have plea bargaining but you do not have the evidence for the DPP to work so you still have delays because if you request ballistics report from forensic division, it takes between four to five months to get a report. [*Desk thumping*] As we speak, there are 3,200 cases in the ballistics division and you take four to five months to get a report and as we speak, I am sure, it is going to increase. So we have this further delay because the matters still cannot be expedited.

When we are looking also for the role and function of the DPP, we will ask also that there be transparency with the evidence that the DPP accepts, and I am using this in relation to the famous case of the Chandra Naraynsingh case where you had the accused Shawn Parris. As he went along, he started to fabricate evidence. He said there was a conversation that took place in a particular building in San Fernando; that never existed. So we have to be extremely careful on the evidence that we get—the DPP is getting and from whom he is taking the evidence

because it goes to the credibility because what that particular accused was doing, if he is trying to get himself off, so he can implicate other persons which is a dangerous thing. [*Desk thumping*]

Madam Speaker, under clause 12 of this Bill, it states that:

“Upon the first...”—hearing—“of an accused person before a Court, whether the accused is represented by an Attorney-at-law or not, the Court shall advise the accused...”

—of his right to legal aid. And clause 12(b) says:

“if the accused person cannot afford to retain an Attorney-at-law, of his right to apply for legal aid under Legal Aid and Advice Act for the purpose of entering into a plea discussion;”

What is the use of a person, an accused, knowing his right to apply for legal aid when the appointment of legal aid attorneys takes months in the court system?

Madam Speaker, my first matter I did was a murder matter and in the court, we had four accused. Two were awaiting appointment of legal aid, two. Every time you go to court, the matter had to be adjourned because of the lack of appointment of legal aid attorneys, and what we have also is a fixed number of attorneys who do criminal matters. So how is it, then, that the accused knows his right, yeah, but no appointment is taking place and the matter keeps dragging on? Again, a delay in the trial of matters.

Madam Speaker, in the *Newsday*, June 15th, 2014, I think most of the speakers had spoken about this symposium. The Dana Seetahal Symposium: Re-engineering the Criminal Justice System, at UWI. And in that symposium, the DPP said:

“...with the low detection rate and lack of strength of evidence, criminals have no real motivation to ‘cop a plea.’”

And that takes us to the point for a scenario. Let us take for example, a person was accused of occasioning actual bodily harm, grievous bodily harm or even robbery with violence. The minimum sentence might be about 10 years. You decide to do plea bargaining. The court will take into consideration: you have not wasted the court’s time, you have accepted your guilt, and the court has not used up resources, so we will take all this into consideration and reduce your time, your sentencing to four or five years.

[MRS. GAYADEEN-GOPEESINGH]

Madam Speaker, an accused now can either up for plea bargaining or he can up for trial and what we have found in this country in the judicial system is that most of the accused now, they will up for trial because when they go before the courts, the evidence that the prosecutors have beforehand is so unreliably—or manifestly unreliable that most times, they cannot get a conviction.

3.50p.m.

So the person who decides now I will go for the trial, the same person opts for a trial, he would be dismissed than going behind bars for a number of years. So we are saying that because the detection rate and the conviction rate is a big gap, most persons will decide to opt for a trial than to plea-bargain, because we know, Madam Speaker, the accused persons know about the evidence gathering in this country. The way in which evidence is taken, the way how it is stored, the ease of tampering, they know about these things and accused persons know about these things and they make tactical moves. So, it is not only the Attorney General knows to make tactical moves when he wants to remove the three-fifths majority. We have accused persons doing tactical moves and deciding that they prefer to go for trial than to plea-bargain.

Madam Speaker, I think the Member for Siparia also spoke and the hon. Attorney General spoke about the matter of Balo. He was a US war veteran, Trinidadian, and he was kidnapped from the Samaan Tree bar in Aranguez. I recall that particular day because that is the same day a relative of ours was released from being kidnapped. Madam Speaker, he was subsequently murdered.

We had the extradition of the seven accused and within one year you had the last person sent to the United States and indicted—one year—and the difference is because of the way they can gather evidence and to bring the evidence before the accused and the prosecution says: “This is the evidence”. Either you do a charge bargain or you do a sentence bargain because of the way evidence is gathered. I do the comparison now with Vindra Naipaul’s case, where we had 11 of them dismissed, murder, because of the evidence and the rate in which you have conviction being done in Trinidad.

So, Madam Speaker, we also have what is called risk-averse defendants, those who are innocent persons and who would really want to even admit to a crime. Let us say it is a murder. The punishment for murder is death. They might be innocent and they would still want to admit to those crimes because they know that they prefer to stay years in jail rather than to be hanged. So this risk-averse

person, these innocent persons with plea bargaining find themselves admitting to things—[*Interruption*—]—to a second charge.

Madam Speaker: Members, please. There is a particular way by which interruptions are done under the Standing Orders. I am asking Members to kindly respect the Standing Orders. Continue, Member for Oropouche West.

Mrs. V. Gayadeen-Gopeesingh: Thank you. Madam Speaker, the Member for Port of Spain North/St. Ann's West, yes, you could plea and you could plea from murder to manslaughter.

Madam Speaker, in the United States of America, that is why we are saying we have almost 90 per cent of these matters go for plea bargaining and the other 10 or less than 10, I think, go for trial.

Dr. Gopeesingh: Five per cent.

Mrs. V. Gayadeen-Gopeesingh: Five per cent, the Member for Caroni East is telling me. What we have in the United States, Madam Speaker, is that we have something called the Innocence Project. In the Innocence Project we have persons, 300 persons in the Innocence Project, and at least 10 per cent of that 300, which is about 30 persons, have admitted to a crime they did not even commit. And why it is that they have those 300 persons in this Innocence Project? It is because when they did the DNA analysis they have found out that those persons really did not commit the offences.

So, imagine you have persons actually admitting to offences they did not commit. So what—perhaps a way in which we could make changes to the Bill is if we could do a registry of exoneration, like people who have committed minor offences, let them be exonerated. In that registry the names would be there so these persons will have an opportunity to reintegrate into society, have an opportunity to get a job because most persons, when you have to gain employment, they want a police record.

I am seeing recently, Madam Speaker, I do not know if it is just or what, but to apply for the Director of Health for South West RHA, I am seeing the advertisement saying they need a police record. I am sure the Member for Caroni East would know that if you have a police record and you have some conviction you cannot be a doctor. So I was wondering if the advertisement is really an oversight for a doctor having any conviction. So, Madam Speaker, the registry of exoneration will also help the person to be rehabilitated and come back into society.

[MRS. GAYADEEN-GOPEESINGH]

So, Madam Speaker, this Bill has its limitations. This Bill has its flaws, in the sense, Madam Speaker, that if we need to expedite matters through the court, all the different institutions have to be strengthened. We cannot expedite matters through the court if we cannot get reports from ballistics, if we cannot get reports from forensics, and we have to have an efficient running with the different institutions working in tandem together with the courts. And with those few words, Madam Speaker, I take my seat. [*Desk thumping*]

The Minister of Health (Hon. Terrence Deyalsingh): Madam Speaker, it is with a degree of astonishment that I rise to contribute after the Member for Oropouche West. I will come to some or her astonishing suggestions. Madam Speaker, we are here to discuss a Bill on plea bargaining and the Bill centres around crime and criminality, and I am astounded and amazed at utterances coming from those opposite, consistently claiming that one Bill or one piece of legislation will not solve crime. And you know what? They are right, because to solve crime is a multi-faceted thing and we have never suggested that either the Bill on PI or any individual Bill will solve crime.

The police has a role to detect and to maintain general law and order, and that is why, under this administration, we have instituted the manpower audit so that we could have the data on the police service, know the amount of policemen we have, when they are on vacation, when they are in court and you could drive efficiency. But the Member for Siparia is saying that this Bill will not help crime and the criminal on the street. That is where the police will come in and that is why you need the manpower audit.

But what is the role of the Legislature, which is what we are here? We are here to debate and pass laws, which is what we are doing, to give the other facets of crime fighting an even chance. And it is clear that Members opposite do not understand how a criminal justice system works. But we are here. The PNM is here after 60 years, serving the public in and out of government and we are here again today to pass good laws.

I want to contextualize this Bill and to contradict what both the Member for Siparia has said and the Member for Oropouche West. The Member for Oropouche West said: "This is not the solution. This Bill in isolation would not solve crime. You have to work in tandem with other things." Mrs. Kamla Persad-Bissessar, the hon. Member for Siparia spoke about a suite of Bills not addressing crime or the criminals on the street. Let me remind the national population, via your good office, Madam Speaker, what the suite of legislation

referred to by the hon. Member for Siparia spoke about so that we can all see that no one Bill would address crime and criminality but in tandem, the suite of legislation proposed by the hon. Attorney General, via his legislative agenda, will do just that.

So what is the suite of legislation? The whistle blower legislation, 2016 Bill, important; the Strategic Services Agency Act, 2016. The Motor Vehicles and Road Traffic Bill has a serious, serious place to play in crime because most crimes are committed, after committed, with the use of a motor vehicle to either drive to the scene, or get away from the scene. So this is a very serious approach to crime. The Cyber Crime Bill, the Summary Offences (Fixed Penalty) Bill; the Bail (Amdt.) Bill, the Evidence (Amdt.) Bill. All are part of the suite of legislation. What about the Indictable Offences (Pre-Trial Proceedings) Bill? What about the Miscellaneous Provisions (Firearms Interception of Communication) Bill? What about the Prison Rules?

All these are pieces of legislation to work in tandem and I am not finished because they want to know what the suite is. The Criminal Procedure (Plea Discussion and Plea Agreement) Bill, which we have today; the Parole Bill, which will come; and very important, very important, campaign financing; civil assets forfeiture; Mutual Assistance in Criminal Matters Act; Proceeds of Crime (Amdt.) Bill, legislation for beneficial ownership of legal arrangements and the gambling Bill? So this is the entire suite of legislation to tackle crime and criminality.

So I am hoping that, through you, the population will see that this Bill is not the only Bill to deal with crime. And I am shocked and amazed at how the Opposition continues to fool the public by picking out one Bill and trying to put one Bill as the panacea for fighting crime.

Madam Speaker, I want to now respond directly to my friend from Oropouche West, with her national registry of exonerations, which may have some merit. But the hon. Member is quoting an advertisement to recruit doctors for the South West Regional Health Authority and is now suggesting we should recruit doctors with criminal records, [*Crosstalk*] that you exonerate certain crimes. Even to be a taxi driver, you need to have a clean record. I am amazed. I am flabbergasted that you would even want to have a doctor in the public health care system with a possible criminal record. That is what they are suggesting. [*Crosstalk*] It is absolutely amazing, absolutely amazing.

Dr. Gopeesingh: Three people got AIDS under your watch.

Hon. T. Deyalsingh: “Eh, yuh want meh tuh talk about dat?”

Madam Speaker: Member for St. Joseph. Please proceed.

Hon. T. Deyalsingh: Thank you, Madam Speaker. Madam Speaker, the hon. Member for Siparia said that there is no clear coordination for the criminal justice system. Right? [*Interruption*] Sorry, money?

Mrs. Persad-Bissessar SC: Body.

Hon. T. Deyalsingh: Body. Good. And I am glad you clarified it, body. Let us understand what the last administration tried to do, under the Ministry of Justice. Under the Ministry of Justice, and not one, not two, not three, but four Ministers of Justice, they did nothing, absolutely nothing and spent \$2.2 billion over five years and did nothing, absolutely nothing.

But let me show you, Madam Speaker, what was the cost of doing nothing for five years under this coordinating body that is now being proposed. And I go back to a question which I posed on Friday, June 11, 2014, to the then Minister of Justice, the hon. Emmanuel George, about the cost of four judicial centres, because the Member for Siparia wants this coordinating body.

They were never interested in the criminal justice system, but rather they were more interested in awarding contracts for TT \$1 billion to build four judicial centres—TT \$1 billion—in addition to the \$2.2 billion spent on the Ministry of Justice. So they would have spent \$3.3 billion and have achieved what? Nothing.

So let us talk about what we can learn from the failed experiment called the Ministry of Justice, because the Member for Oropouche West spoke about institutional strengthening. Under the last administration—[*Continuous interruption and crosstalk*] Madam Speaker, I sat here and said nothing, nothing, when the Members for Siparia and Oropouche West spoke. Could I speak in silence, please?

Madam Speaker: Member for Caroni East, I am on my legs—[*Interruption*]

Dr. Gopeesingh: Sorry, I apologize.

Madam Speaker:—and I think Members have had sufficient time to settle down and I will have to enforce breaches of Standing Order 53, if we persist like this. Please continue, Member for St. Joseph.

Hon. T. Deyalsingh: Thank you. Under the UNC Ministry of Justice it says here:

A criminal justice system comprises of four main components:

1. Legislative process, creation of laws.

That is what we are here about. I called out the suite of legislation that we are bringing. We did not need to create a Ministry to do that.

2. The investigative process.

Investigation and detection carried out by who?—the police service, and that is why we said let us do the manpower audit of the police service. We did not need to create a Ministry of Justice and spend \$3 billion to know that we have to do that.

3. The adjudicative process.

4. The provision of a system of trial.

Their Ministry of Justice said the provision of a system of trial, not trial by jury. And now we are saying let us free it up and have a system where the accused can opt for a trial by jury or a trial by judge alone. So we are doing what they promised, without spending \$3.3 billion. Also, it talks about the corrective process.

5. The provision of correctional and rehabilitative programmes.

The hon. Attorney General would have spoken about improvements being made to Remand Yard, provision of toilet facilities, and so on; a depopulating of Remand Yard. But plea bargaining, as I have come to understand, is one of the main methods of depopulating your Remand Yard. So we are doing everything you had promised under a Ministry of Justice, but we are doing it without waste, without mismanagement and without corruption [*Desk thumping*] and we are doing it without having to pay four Ministers of Justice.

Madam Speaker, my friend opposite, the hon. Member for Siparia, is quite fond of calling the name of Dana Saroop Seetahal. God rest her soul. And I want to refer to an article of May 30, 2010. By whom? Dana Saroop Seetahal, to show how that Ministry of Justice would have taken us nowhere and nowhere very fast. In that article, Dana Seetahal is actually questioning the constitutionality of having a Minister of Justice. Could you imagine that, questioning the constitutionality of having a Minister of Justice?

Miss Seetahal quotes section 76(2) of the Constitution which provides the AG is responsible for the administration of legal affairs, but subject to section 79, which allows the PM to advise the President, and so on. But Dana Seetahal QC then asked—*[Interruption]*—SC—“but can she”, meaning the hon. Member for Siparia, “assign responsibility for the Criminal Law Department to a Minister of Justice”?

I am just putting that on the table to show that that whole Ministry of Justice was badly thought out. It accomplished nothing and it was a feeding trough for contractors. *[Desk thumping]* That is all it was, and to create a Ministry so that they could hold a government together. That is all it was.

The hon. Member of Siparia, and I am quoting her words here, is talking about locking up innocent people. Could you imagine that our friends opposite have the audacity to speak about locking up innocent people? One of their anti-crime measures, their biggest one, after we helped them with the anti-gang legislation—we gave you the three-fifths on the anti-gang legislation. We gave you that. We did not insist that we go to joint select and all of that. No we did, sorry. But we made good contribution via the now Member for San Fernando West.

But, you know when the anti-gang legislation failed, what were the words of then Attorney General Anand Ramlogan?—blame the PNM. Do you remember that? Blaming the PNM because the anti-gang legislation failed as an anti-crime measure during the state of emergency. Do you know why? Because they talk about locking up innocent people. They locked up 7,999 innocent people because they locked up 8,000 people in the state of emergency and got one conviction—7,999 innocent people. So when I hear my friends opposite speak about crime, criminality and legislative process, I am amazed, I am stunned and I am surprised.

Madam Speaker, the Member for Siparia says that the UK, and I want to quote properly, has no framework for plea bargaining and it is only for serious crimes. I am hearing no opposition to what I am saying. I am quoting her words, no framework for plea bargaining and only for serious crimes. I want to alert—*[Interruption and crosstalk]* Madam Speaker, could you ask the Member for Oropouche West, I know that when the truth hits them they are offended.

Madam Speaker: Members, we have about 17 minutes for tea and any Member who feels a little distracted at this time, who does not want to that listen, who does not want to respect the decorum of the House, is invited—they can take the tea break a little early and maybe when we return they would be able to

comply. Continue, Member for St. Joseph.

Hon. T. Deyalsingh: So to refute the argument of the hon. Member for Siparia, I quote Baroness Scotland. Baroness Scotland says, of the UK system, the plea negotiation framework is specially designed, a framework eh, for our criminal justice system and it is not about offering discounts, immunity or incentives to fraudsters. So, contrary to what the Member for Siparia is saying, there does exist in the UK a framework for plea bargaining.

And you know what? It is also backed up by the code for Crown prosecutors accepting guilty pleas under sections 9.1, 9.2, 9.3, 9.4, 9.5, up to 9.6. So, again, do your research Members opposite. Come with facts. Do not oppose for the sake of opposition and do not fool the population with smoke and mirrors. The UK has a framework, which is codified. Please, we can do better than that as a Parliament and we ought to do better than that.

Madam Speaker, let me get directly to the Bill. The first thing we have to understand is the repeal clause, which is clause 35, where we are going to repeal the Criminal Procedure (Plea Discussion and Plea Agreement) Act, Chap. 13:07. And as both sides agreed, that old Act was only used 12 times, and I asked people in the criminal justice system why, from 1991 to 2017, we have this paucity of use, and I came up with this. It was said that in those Dana Seetahal workshops, it was pointed out there was a lack of proper process or steps to walk all the parties through the process, whether it was the victim, the accused or the advocate. And that is what this Bill now brings to us, because when you look at the Bill and you look at the Bill in Part III, which has two clauses, the old Act only had two clauses to deal with process. However, the new Act on Part IV has nine clauses to deal with it, from clause 19 to clause 27.

So Part IV is a big improvement over the old Act, which only had two clauses, as pointed out in the discussions that Dana Seetahal had. And what are the clauses in Part IV that serve to solve this mischief? I think it is important that this be put on the *Hansard* to supplement what the Attorney General has said. Part IV deals with plea agreements and plea agreement hearings because he did not have time to pilot all the Bills.

Clause 19 deals with form and filing of plea agreements with a represented accused person. Clause 20, form and filing of a plea agreement with unrepresented accused persons. So both represented and unrepresented. Because one of the dangers of plea bargaining is that what happens to the unrepresented

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one who may admit to a crime that they did not commit, as raised by the Member for Oropouche West.

Clause 21, listing matters for plea agreement hearing, very important. Clause 22, plea agreements of committal proceedings and down to 23, 24, 25, 26, 27, including the accused withdrawal from a plea agreement. So even if the accused wants to withdraw he can do that. So Part IV, with these 1, 2, 3, 4, 5, 6, 7, 9 clauses, is a most significant improvement over the old Bill, over the old Act which only dealt with this in two clauses.

But supplementing those nine classes in Part IV, Madam Speaker, and this is where the public needs to focus a little bit because the Dana Seetahal consultations mentioned this, no proper process. And when you look at the literature critiquing plea agreements, especially in territories that do not have it in statute, they talk about the fluidity and the change of practice in different areas.

Backing up Part IV with the nine clauses is the Schedule with forms 1 to 10, which clearly puts down in writing and black and white all the safeguards for the accused and for the victim. So the Attorney General should be roundly, roundly congratulated for this.

4.20 p.m.

Madam Speaker, in preparing for this debate, I tried to be as objective as possible. The Attorney General will tell you when we had caucus on Monday on this Bill, I pulled out a document, which I am going to refer to now, called William & Mary Law School “A Comparative Look at Plea Bargaining in Australia, Canada, England, New Zealand, and the United States”. This law school, William & Mary Law School, is one of the oldest law schools in the United States and it is highly, highly ranked, because in preparing for the debate, I actually quizzed the Attorney General in caucus about the pros and cons. [Crosstalk] Yes. I want to open with this:

“In the real world of criminal justice, though, the trial has increasingly taken a...back seat to the plea-bargained resolution of the matter.”

That is what they are saying here. But the critique goes on to point about the variability, the lack of procedural safeguards and, again, this goes back to what Dana Seetahal said.

I want to go to page 1170 of the report, under “Procedural Safeguards” and it

asks the question—and this is a question every single Legislature should ask itself:

“Does your nation have procedural safeguards in place for the protection of the defendant?”—and why?—“To ensure integrity in the process for the prosecution...”

It goes on to give you answers from Australia, New Zealand, Canada and the UK. This is what we are trying to do with the legislation, to get it right.

But what about the other negative perceptions that stem from the informality or lack of a statutory framework? And, again, the Member for Siparia said in the UK there is no framework, but what we are doing here is actually putting in a framework. I would refer to page 1184 of that same document—and this is important—talking about the public debate about plea bargaining. It talks about how we respond to all of these. This is why we are here, to repeal an old Act which is not working and to put in place a better piece of legislation so that from 1991 to 2017, it will not only be used 12 times, because we have a backlog. Everyone speaks about the backlog, but when you come to the Parliament to clear the backlog, what do you face? Opposition—leave it so, do not change it, let us go back to this, let us consult, we want a three-fifths, we want a joint select, let us talk. The population is fed up of talk. [*Desk thumping*] The population is fed up of the Opposition opposing for the sake of opposition. [*Desk thumping and crosstalk*]

On page 1184 of that document, in one of the critiques—[*Crosstalk*—it is clear that I am hitting a nerve, absolutely clear that I am hitting a nerve—it spoke about the:

“...negative perceptions are said to stem from the informality and lack of statutory regulation of the process...”

That is one of the main critiques of plea bargaining around the world where it has grown up in a very informal way, and there is no predictability of the process. What we are trying to do here now is fix the regulatory and statutory regulation process of this and, again, the Attorney General has brought this as part of a suite of legislation.

Madam Speaker, in that same report, it talks about the policy position of plea bargaining and whether we think plea bargaining is a positive facet of a criminal justice system. Is it necessary? And all five territories again—and let me repeat—

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Australia, Canada, England—because the Member for Siparia said in England so and so and so—England, New Zealand and the United States. When they spoke to eminent jurists of all of these things, and they posed the question:

“Is the practice of plea bargaining a good development?”

The answer is invariably yes, weighing all the pros and cons. And the evidence of this:

In—“Australia, Hon. Justice Fiannaca: Plea bargaining is a necessity.”

He goes on to support the argument that you could deal with people in remand. He goes on to say:

“As one of my colleagues put it, ‘a sentenced prisoner has greater access to programs than a remand prisoner, and a sentenced offender who should appropriately be released into the community can commence rehabilitation at the earliest stage...’”

So there is overwhelming evidence that a plea-bargaining system is desirable. And it goes on the talk about the resource issue:

“Finally, it is in the interest of the community that the resources of its prosecution service are used efficiently.”

And we now we have a resource constraint. We know that. So we want to support the Attorney General in bringing this piece of legislation. [*Desk thumping*]

Madam Speaker, the Attorney General glanced over, in my view, because he did not have enough time, a cause célèbre for Trinidad and Tobago as far as plea bargaining is concerned. In the last few minutes before tea I would deal with this cause célèbre in some more detail. We have in Trinidad and Tobago a case well known, but do you know in November 07, 2006, 11 years ago, the following people plead guilty, and who were they? Eduardo Hillman Waller, co-owner of Birk Hillman Consultants, Inc. who were convicted after pleading guilty as part of a plea agreement. In that case Trinidad and Tobago’s US \$210 million which was stolen from us was part of a settlement of a plea agreement.

And the *Newsday* article of *Newsday* 6th, 2016: “Accused faces \$210M penalty”. In that same case four of the other the six accused agreed to go to jail. That is a case that is going on today in Trinidad after, what? Madam Speaker, 14

years. But in the US they were able to plead, serve their time, out of jail and, hopefully—I do not know how much of that \$1 billion which was stolen from us was repatriated. AG, any of that money came back here?

Mr. Al-Rawi: Barely any.

Hon. T. Deyalsingh: Barely any money, barely any. Madam Speaker, I want to again—[*Crosstalk*—as I rose to make my contribution—[*Interruption*]

Madam Speaker: Hon. Member for St. Joseph, your speaking time has expired, you are entitled to 15 more minutes. Might I ask how much longer you intend to speak?

Hon. T. Deyalsingh: Fifteen minutes, please.

Madam Speaker: Fifteen minutes. So might I suggest that we take the suspension now?

Hon. T. Deyalsingh: Sure, agree.

Madam Speaker: When we resume at five o'clock I think we have about three minutes left under "Urgent Questions", so the questions to the Ministers of Education will be entertained for that remaining three minutes, then we will resume with the Member for St. Joseph.

Hon. T. Deyalsingh: Thank you.

4.28 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

URGENT QUESTIONS

Madam Speaker: Member for Pointe-a-Pierre.

Mr. Lee: Madam Speaker, the Member for Chaguanas East is here to ask his question.

Madam Speaker: The question is for the Member for Oropouche East.

Mr. Lee: It is No. 1 of the Urgent Questions, Madam Speaker.

Madam Speaker: Okay, so Member for Chaguanas East. [*Desk thumping*]

School Social Workers (Renewal of Contracts)

Mr. Fazal Karim (*Chaguanas East*): Thank you, Madam Speaker. Question No. 1 to the Minister of Education. In view of the widespread behavioural

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problems experienced in our schools, can the Minister indicate when will the contracts of school social workers be renewed?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, let me first state that the behavioural problems being experienced in our schools are not widespread. We accept the fact that there have been some cases of student indiscipline which require our attention. The Ministry of Education is working with our stakeholders to address these issues. To this end, the Ministry of Education has prepared and submitted a draft Cabinet Note for the renewal of contract positions for school social workers and other positions within the Students Support Services Division for the comments of the Minister of Public Administration and Communications.

Madam Speaker, 59 positions of school social workers will expire during April to May 2017. Once approval is granted by Cabinet, the Ministry will renew contracts for officers with favourable appraisals and the remaining vacancies will be advertised. Thank you. [*Desk thumping*]

Mr. Karim: Hon. Minister, might you say by when you expect this should happen, at least an outer limit?

Hon. A. Garcia: Usually PMCD takes about two weeks, and as soon as we get that a note will be sent to Cabinet and, hopefully, in about a month's time. [*Desk thumping*]

Guidance Officers at High-Risk Schools (Ratio to Students)

Mr. Rodney Charles (Naparima): Thank you, Madam Speaker. Question 5 to the Minister of Education. Could the Minister tell us the ratio of guidance officers to students at primary and secondary schools deemed high risk?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, under normal circumstances, there is one guidance officer attached to three primary schools and one guidance officer in each secondary school. In schools deemed high risk, the ratio of guidance officers to students is 1:200 students in primary schools and 1:400, sorry. In schools deemed high risk, the ratio of guidance officers to students is 1:200 students while in primary school this ratio is 1:400. At the learning enhancement centres there is a guidance officer to every 15 students. Thank you.

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

Hon. T. Deyalsingh: Thank you, Madam Speaker. [*Desk thumping*] Madam Speaker, just before the break—Madam Speaker, how much time do I have again?

Madam Speaker: You have 15 minutes.

Hon. T. Deyalsingh: Thank you. Just before the break, I was just recapping the cause célèbre for Trinidad and Tobago, that of Birk Hillman, to show how plea bargaining can be a useful tool. So I move off of that. The hon. Attorney General, when he was piloting, made a very erudite comment about: does law influence culture or does culture influence law? And I think the Member for Siparia tried to answer or to rebut, but did not do a particularly fine job. One of the issues about plea bargaining, as the law has evolved in different jurisdictions, is the constitutionality argument: is plea bargaining constitutional? The validity argument is that it is a valid process that could stand constitutional rigor. Does it infringe on the right to trial by a jury? Those are some of the arguments you would hear around the world that people use to talk about plea bargaining.

Coming back to the Attorney General's statement about law influencing culture or whether culture influences law, let us look at the US Supreme Court cases that have led to where the issue of plea bargaining is today. In the United States it is well known under the Sixth Amendment, I believe, the right to a jury is enshrined. The US Constitution provides that in all circumstances except in treason—except impeachment there shall be a jury. So the question is: is plea bargaining contrary to the US Constitution and could similar arguments be used in other jurisdictions?

There were two cases in the US Supreme Court that finally put this matter to rest. I think it is important for us on this side who are advocating for this Bill to repeal the old Act and to bring a new Bill before the Parliament, to rely on *US v Jackson* in 1968 where the court questioned the validity of the plea bargaining process and if it burdened a defendant's right to a jury trial, and that was a critique of plea bargaining.

So in looking at that case, one might see in the United States they are probably ambivalent about it, but then two years later after Jackson, the court actually defended and supported the whole issue of plea bargaining in *Brady v United States*, 1970. It showed that in an adversarial system of criminal justice which we have here as opposed to other systems like the French system, in an

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adversarial system, the court noted that the earlier opinion in Jackson merely required that guilty pleas be intelligent and voluntary, and that has to be taken into consideration. They must not be coerced.

The following year the Supreme Court in another case, *Santobello v New York*, 1971, the US Supreme Court further put the whole issue of plea bargaining on a sounder footing, and it justified the constitutionality of plea bargaining and called it an essential component of the administration of justice, but with a caveat. The caveat is the same caveat we had in Trinidad, the same caveat that Dana Seetahal brought out in her paper—that it is constitutional, it is an essential component of the administration of justice that the court added: as long as it is properly administered, plea bargaining is to be encouraged. That is what this Bill is about, administering plea bargaining on a sound statutory footing. So, again, we are sure on this side that the Bill brought before the Attorney General could stand constitutional muster.

Another issue to consider, Madam Speaker, and the Attorney General mentioned it briefly—and, again, he did not have time to go into everything so I am trying to supplement some of the things he would have mentioned en passant. The Attorney General, in piloting the Bill, spoke about a Goodyear Hearing and the Goodyear Hearing is a 2005 corruption case against Karl Goodyear at the Doncaster Crown Court. What a Goodyear Hearing does, it allows the defence, the accused, to request an indication of the maximum likely sentence he can receive should he plead guilty. The question that needs to be posed is: Does this Bill preserve the principles of the Goodyear Hearing? I am told by the Attorney General, yes it does and it would be formalized by the practice directions and the Bill presents the right for sentence discretion and direction. So, again, this Bill would stand muster on constitutionality. It will stand muster on protecting the rights of both victim and accused.

Madam Speaker, as I come to a close, and in wrapping up my little contribution, I want to appeal to the national community to see what we are about today. This Government, once again, is in nationalistic mode. We have never come out of the nationalistic mode. We have brought the Bail (Amdt.) Bill which those Opposition in true opposition style would oppose. We brought the other pieces of legislation, preliminary enquiry; again, as is their wont, they will oppose.

I remember, Madam Speaker, when I was in the Senate, the Opposition would come at the 11th hour to pass three-fifths legislation on FATF and CFATF and the

hon. Dr. Keith Rowley, then Opposition Member, would tell us in caucus, do what is right for Trinidad and Tobago, and give them their three-fifths majority so that we are not blacklisted, we are not downgraded, even though they would come at the 11th and a half hour, because they did not attend FATF meetings abroad or CFATF meetings. And with little notice, we have supported them on three-fifths Bills.

We were never an Opposition for the sake of opposition, but we have said over and over we have supported over 80 per cent of your anti-crime Bills, but I would put on record the two that we did not support and the population needs to be reminded are: the Bill to categorize murders into categories, the Hanging Bill, which we felt would not do the job and the other one was the infamous police/soldier Bill. We did not support that, because it was shown that this House was misled, possibly deliberately, into thinking that the police/soldier Bill to tackle crime was used in both Jamaica and Grenada. It was proven by then Faris Al-Rawi, Opposition Senator, that it was a misstatement, a blatant untruth to say it was used—and hon. Fitzgerald Hinds—in Grenada. I remember in the Senate, it was then Independent Senator, Helen Drayton, who blew the whistle on the fact that it was not used in Jamaica. So we have a history of supporting good legislation by the Opposition, but we also have a history of defending the rights of Trinidad and Tobago when they brought bad legislation.

So, Madam Speaker, in closing, again I urge us to take the experiences of the 1991 Act Chap. 13:07 which is being repealed today, not widely used, only 12 cases. We must expunge from our memory the failed experiment of the UNC on their Ministry of Justice, the squander mania in that Ministry of \$3.3 billion and let us re-examine what the hon. Attorney General is calling the architectural underpinnings, which is the opposite to “voops”, “vaps”, and vaille-que-vaille. Look at the entire legislative agenda and stop fooling the public by saying this one Bill will not solve crime, because no one Bill will solve crime, but in totality with the police audit, the manpower audit—[*Cell phone rings*]

Madam Speaker: Can I remind Members about the rules with respect to the use of electronic devices?

Hon. T. Deyalsingh: And with all that multifaceted approach we can make a dent in crime. So, Madam Speaker, I end with a quote of this same document which I highly recommend, the William & Mary Law School document: “A Comparative Look at Plea Bargaining in Australia, Canada, England, New

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Zealand, and the United States,” again, from the Australian Judge, the hon. Justice Finnanca and he says and I quote:

“Plea negotiations are part of a multifaceted approach to achieving criminal justice ideals, including early resolution of cases and a fair disposition of matters that adequately serves the community’s need to bring offenders to justice.”

Madam Speaker, with those few words, I thank you. [*Desk thumping*]

Mrs. Christine Newallo-Hosein (*Cumuto/Manzanilla*): Thank you, Madam Speaker. Madam Speaker, it gives me pleasure to rise on this occasion to contribute to this debate, and before I get into the crux of the matter, I just wanted to speak to a matter raised by the Members for St. Joseph as well as La Horquetta/Talparo regarding the legislation that is being brought before us, and to indicate that you had indicated and so did the Attorney General, that the Bills that were coming—and I do not want to sound repetitive by using the word “suite”, so I am not going to—by bringing these Bills before us that will fight crime.

I just want to go back to 1999, Wednesday, January 13th on a debate on the same matter. I would like to quote what the hon. Ramesh Lawrence Maharaj, a brilliant AG, at that time, who brought good law to the Parliament, and this is what he said about this particular Bill that we are debating here. He says:

“The main purpose of this Bill is to introduce an extended and regulated system of plea discussions and plea agreements in the criminal justice system.”

I jump to page 78. He continues:

“The Government is of the view that the introduction of a plea bargaining system would assist in solving some of these problems while it will also provide an expeditious means of dealing with some criminal matters at minimum cost. Plea bargaining can be described generally as the process of negotiation by which the defendant in the criminal case agrees to plead guilty and gives up his right to go to trial in return for a reduction of the charge or a real or anticipated reduction in the sentence.”

He continues and I end at that point. He says:

“Properly administered, they (plea bargains) can benefit all concerned. The defendant avoids extended pre-trial incarceration and the anxieties and

uncertainties of a trial. He gains a speedy disposition of his case, the chance to acknowledge his guilt, and a prompt start in realizing whatever potential he may have for rehabilitation...the judges and prosecutors can save vital and scarce resources.”

It speaks nothing here of fighting crime. It speaks specifically to reducing the backlog and to create a greater efficiency in the criminal justice system. [*Desk thumping*] That is the whole point of bringing this legislation of which I would like to remind the Government that we support.

5.20p.m.

Our brilliant political leader in her opening statement indicated that we support it wholeheartedly. She made recommendations and hopefully at the committee stage we will flesh out some of the things, but the thing about it is that we will support it. Why do we support it? Because we will support good legislation always.

Madam Speaker, I just wanted to touch again on some things that Members had indicated. The hon. Attorney General spoke of laws, whether laws can shape culture or vice versa. When you speak about impacting or shaping culture, you speak of social impact. Very often I am of the view, and we on this side are of the view, when legislation comes to this House there is very little social impact on how it will impact on society in any meaningful way. You speak about all the legislation, all the Bills, but you do not speak of how it will impact socially, which is of the utmost importance. I will get into it as I go later on into my debate.

I wondered about the hon. Attorney General when he came to the House and he spoke of the architecture of laws to fight crime. I was taken aback because I wondered if the hon. Attorney General is speaking about fighting crime or the architecture of One Alexandra, I do not know. [*Laughter*] The thing about it is that when you are dealing with architecture, you must understand that architecture speaks of the art and science of designing and constructing buildings, and as such when you think of construction you think of a proper foundation. [*Desk thumping*] In a proper foundation you cannot bring laws one, what you feel you think you do not need a three-fifths majority on so you could get it passed, and then bring something else and hope that at the end of it you can join it, because you would have something that is very disjointed. You will have laws that are in fact working against other laws, and that you will have to come back again to correct it.

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So when we stand here and make contributions, we are not opposing for opposing sake. We are engaging the Government and we are having discussions. In case we do not know, hon. Speaker, why it is we are in a Parliament, *parler, parlez-vous Francais*—we speak French. “Parler” it means Parliament, it means to speak. Therefore when we come here, I would like the Government to engage us. “*Parler*” means to speak. When we stand here, the Government needs to understand to engage us. The Member for St. Joseph indicated that there is always confrontation in terms of how we deal with criminal cases, and we are trying to move away from that, and so it must be said in the same way.

We are seeking justice for our nation, both sides, and yet inside of the Parliament we cannot get justice to speak, and that is ironic. It is ironic that we are seeking to pass laws that will bring about justice in the system, and yet inside of the Parliament we cannot see that same justice. Therefore, it is important for Government to understand the role of the Opposition. The Member for St. Joseph had indicated that he gave us support for Bills and of course there were some Bills—he spoke that when they met in caucus the hon. Member for Diego Martin West would have indicated that you must go and support; we will support whatever Bills that the Government brings. We are saying whatever it was you did not agree with, you did not support. Do you know what?

When we left here, Madam Speaker, we did not go outside and decide on a way that we could come back in here to bring the Bills without a three-fifths majority. We did not. We respected the thoughts and the ideas of the Opposition, and we went back to the drawing board to make the necessary amendments wherever possible.

As a matter of fact one of the things that we encouraged always, and it goes right back to 1999 when the UNC was in government. They went to various stakeholders to discuss matters concerning the laws that we were considering, and the same thing happened. This is why our political leader can safely say that she can support it, because we had a learned person in the form of Senator Dana Seetahal as well as learned counsel Elder, bringing about being a part of a discussion and how it should go forward. This is why we always support a JSC. We are not saying that we want a JSC in this. We are just saying that a JSC allows so many parties to come together to see how best legislation will mitigate, reduce, eliminate, assist, whatever, that that particular legislation that is coming, how it will impact upon society, how would it rectify the issues that are affecting us out there.

We have also where the hon. Attorney General indicated that some of the issues were going to be removed from the police in terms of their getting the necessary approvals, and putting it in the hand of the DPP. Madam Speaker, I think the next law that should come would be to give the DPP a Superman cloak, because I feel sorry for him. It sounds as though he is overworked and under-resourced, and we knew he was under-resourced.

As a matter of fact, while we were in Government we sought to engage the DPP to ask him how could the Government, how could the State assist in alleviating the issues that he had? One of the things that I remember—I have no choice but to remember it, because it impacted upon the Ministry that I was responsible for—the DPP indicated that having a building close to the Magistrates’ Court would alleviate a lot of the issues that they were experiencing. We said, “You know what, if that is what you need, that is what you would get”. We were making moves to have every part of that important Ministry as the Ministry of the People and Social Development to be removed to facilitate that. That is what we did. We were in the process of doing that.

More importantly, I heard the hon. Attorney General speak about the Ministry of Justice. Madam Speaker, I just want to tell you for what the Ministry of Justice was created. It was a vehicle created by the People’s Partnership to initiate the transformation of the criminal justice and penal systems in Trinidad and Tobago. The objective of the reform mandate was the delivery of speedier criminal justice and execution of the paradigm shift from retributive as the focus of punishment to restorative. This here is the social impact, because at the end of the day we want when persons are coming out of the system that they can be restored, that they can be rehabilitated, that they can be reintegrated into society seamlessly. How do we do that?

I found it disingenuous for the Attorney General to stand and quote a figure of 26 billion, 794 million—I did not get the cents—to say how much was spent.

Dr. Moonilal: He did not have any.

Mrs. C. Newallo-Hosein: The hon. Attorney General called out all the various Ministries. I wondered if the hon. Attorney General—he is not here—could indicate to the House how much of that was spent on transfers and subsidies and wages and salaries. Because if I had to estimate what it would have been, it would be close to 80 per cent of that figure was in fact based on transfers and

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subsidies, as well as wages and salaries. So to stand here and to state that all this money was spent and nothing was done and nothing was achieved, is furthest from the truth.

So I just wanted to indicate that the Ministry of Justice, in fact, was responsible for bringing together a number of mission critical statutory bodies, such as the Legal Aid and Advisory Authority, the Police Complaints Authority, the Criminal Injuries Compensation Board, as well as a number of other key bodies. And for what purpose? We have everything literally divided up. Sometimes you do not know who is responsible for what.

Under the People's Partnership it was decided that the Ministry of National Security would have their function and their role in dealing with matters regarding security of the nation. When the Ministry of Justice was established, it focused on aspects of the judicial system which would have allowed for better management. Of course, when you have your responsibilities clearly outlined, you are in fact creating efficacy within the system, in particular the criminal justice system. Like all the speakers before, we know that justice delayed is justice denied, and justice is not only for the perpetrator, but also for the victim.

You know, it is important for us to understand that yes people are crying out. The Member for St. Joseph indicated that the country is crying out for action, but the country is crying out because they are not seeing action from the Government. They are crying out for us to march against the Government. We are saying that this is where we will speak; this is where we will seek justice for the people, and that we are here to hold the Government accountable. That is the purpose of the Opposition inside of here. [*Desk thumping*]

Madam Speaker, I wanted to speak specifically to Part III of the victim impact statement. What does the Government have in mind when they deal specifically with the children, where the victim is a child under the age of 14 years? I ask the question: What role does the probation officer play in this regard? We have probation services that were initially under the Ministry of the People and Social Development, and we recognized that the probation services really did not belong there. That is what we did when we aligned and realigned Ministries. We saw where it would benefit better, where it would impact and, therefore, a conscious decision was made to move probation services and place it with the Ministry of Justice, because you would have had all the various bodies that interlink under one heading, one Ministry, and therefore you would have had that delay removed.

Because, Madam Speaker, when you have inter-ministerial work to complete, just as we have issues in the justice system where it takes how many months for transcripts to be removed from one area to the next, you have those same inefficiencies in the Ministries. So when you have the criminal justice system dealing with probation, but they are under another Ministry, you have to go through the channels which may take some time.

Fortunately I must say that the probation services functioning under the Ministry of the People and Social Development were highly efficient, and as a result of it I am not making any complaints about them. But the thing about it is that there was a lot more that could have been accomplished or even faster, had they been housed where they should have been, and again that was where we decided the Ministry of Justice—

When the “red and ready” Government took over, they assumed that all these Ministries were established because we wanted to feed. It was a feeding frenzy and we wanted to build whatever it is and whatever, but everything that we did, there was a clear understanding and a vision. Our leader had a vision, [*Desk thumping*] and that vision was to see the country move forward, to see the criminal justice system in a place where we could have speedier resolution, and we could have a functioning national security, we could have a functioning Social Development Ministry. All the Ministries would have functioned with the necessary arms under their ambit, and as a result of it I am of the opinion that it was a great disservice to the country when the Government removed and dismantled the Ministry of Justice. I do not think they really had the vision and the foresight to see where it could have gone.

We do not have to reinvent the wheel. That is something that we did not do on this side. Just as the Member for St. Joseph was able to quote in his closing statement on Mary someone who wrote on plea bargaining and so forth in Australia, we do our research as well, and we look at what is the best fit. Sometimes we may look at something that may be in another country, but we may need to customize it to suit what is best for our citizens and for our laws.

So it is important for the Government to not go through the process of dismantling everything and then coming back with laws that sometimes—we take a decision, we want to support it, but because it is not good legislation, it is just simply not good, that we have to say no, or to indicate that we require a joint select committee, because of the fact that we want whatever is best for our nation. Because we do not support it, does not mean we are not nationalistic, that is not so

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at all. We have our responsibility, and our responsibility is to ensure that if we were in government that the government would be comfortable with the laws that they are passing with we, this side, being in government. If they are not comfortable with it, then they should not bring it. That is not something that they consider. They say it all the time, you know, Madam Speaker, you do not hear it. “We go lock you up. We go lock you up.” Lock us up for what, what did we do?

We came, Madam Speaker, and the Government said how much money that the People’s Partnership had spent on crime. But you know we were able to put the necessary legislation in place. *[Interruption]* We were able to enact laws. We were able to put policies in place. You know it is very important that when you are bringing all these laws, you have to consider about the administrative aspect of it, and we were in the process of doing that. We took to Cabinet a six-year plan that put in place administrative positions. We did not hire anybody, you know; not a person we hired, but we put in place *[Interruption]*—no lobbyists—but we put in place the architecture—talking about architecture—for administrative staff to be efficient and to be able to do the work. But what has happened is that the Government has shut down everything.

Dr. Moonilal: “Is a shutdown Government.”

Mrs. C. Newallo-Hosein: They have fired everyone who they perceive to be UNC, and as a result of that it is sad because it was the process of having the necessary infrastructure in place. *[Interruption]* Madam Speaker, I cannot hear myself.

Madam Speaker: Members, could we just respect the decorum of the House. Member for Cumuto/Manzanilla I have allowed you a certain latitude. Could you please bring what you are relating to the Bill?

Mrs. C. Newallo-Hosein: Madam Speaker, in Part III as I was indicating, the victim impact statement, the hon. Attorney General spoke about allowing persons to be able to represent minors. He spoke about whether it is a parent or guardian or whatever it is, but really and truly I wanted to ask what role would the probation officer play. In light of the fact that the probation officers are the ones that interact more with the delinquents, and as a result of it they have an intimate and personal relationship as to how an individual would be progressing. As a matter of fact the courts today depend on the probation officers to determine the suitability and the supervision of participants. Therefore I was concerned about that aspect of it, what role would the probation officer play.

Even if I had to ask what role would the probation officer play, there are also some concerns in terms of what problems are experienced by the Probation Division. But before I go to the problems, the vision of the Probation Division really speak of an effective and efficient functionary within the socio legal network and to promote the philosophy of probation, and again that comes up socio legal. So that there is a social impact with whatever we do, and I do not see the social impact being discussed here. I do not see how it will impact.

I know that the hon. Attorney General indicated that he wants to see. He does not know how the laws will impact on culture and vice versa, therefore it would be worthy for the Attorney General to probably engage with the probation officers to indicate how they can work in the system and what role they can play. Of course, the mission objective of the Probation Division is to promote the rehabilitation of probationers, the offenders, victims and dysfunctional families, through educational research. Therefore the whole issue of data collection comes into play. Whether the Government has considered, in all their architecture of legislation, the key and most important aspect of data collection.

Madam Speaker, so many laws came here recently and when we on this side had asked the Government to provide us with data, with statistics and so forth, it was not forthcoming, and as a result of that it is important for us to understand what you hope to achieve. We know what it is you hope to achieve, but the country needs to know. You are the ones that are bringing these laws, and you want us to support it. You say the country is angry and they are upset and so forth, but we are asking you to provide us, provide the country with the necessary data starting from now. So that you could tell over the next couple of years what you have been able to achieve. I think that is very important.

If it is at all, Madam Speaker, that we are going to—[*Interruption*]

Madam Speaker: Hon. Member for Cumuto/Manzanilla, your 30 minutes have expired. You are entitled to 15 more minutes. Do you intend to avail yourself of it?

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. I just want to tell you that once we are going to engage the Probation Division there are challenges that they face. These challenges include the reduction in the number of staff that they have. During the budget debate we saw a number of divisions and departments being reduced, when we looked at the salaries and so forth, and we knew that there was going to be a reduction in a number of places. But when we asked about it, no answers were really forthcoming. Therefore, now that we are in this position

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and we see all these laws that are coming that we support, we ask how is it going to be managed, because you have a severe shortage of highly qualified staff.

As a matter of fact, one of the concerns that they indicated was that because of secondment and transfers and retirement and resignations due to unattractive remuneration packages, we do not have the qualified staff that is required. One of the challenges they also face, which is a very key one, is the inadequate accommodation, and our Leader of the Opposition spoke of the inadequate accommodation. This is of course due to increased caseloads. How is it that we are going to have this plea bargaining, and I support the suggestion of our Leader of the Opposition, where we have a plea bargaining court, specifically for that, so that you can reduce the backlog. So it is not just a matter of bringing legislation as we are indicating to you, Madam Speaker, it is a matter of looking at the administrative aspect and the infrastructure that all encompasses passing good legislation.

There was another matter with challenging space, they spoke of security concerns. Even probation officers have security concerns, and therefore they have issues when they are conducting social enquiries on the field they have issues with gang-related activity. So it is important that as we bring about legislation here we must ensure that there is safety of life for the persons who we depend upon to assist in the plea bargaining process.

There is also the challenge faced with difficulty in accessing court records. Could you imagine the probation officers having difficulty in accessing court records? They indicate that they are made to feel alienated by the courts and the judicial officers.

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1) please. It is not about probation.

Madam Speaker: Member for Cumuto/Manzanilla, I uphold the objection. Please, either quickly link what you are speaking about to the Bill or go to another point.

Mrs. C. Newallo-Hosein: As I indicated, the matter is raised in section Part III, I will get the page; Part III, pages 16 and 17.

Mr. Deyalsingh: What clause?

Mrs. C. Newallo-Hosein: The victim impact statement—the Attorney General raised in this House the matter of—on page 17:

“Where the victim is a child—

- (a) under the age of fourteen years, a parent or guardian or, where the parents or guardians cannot be located, a person who has custody of the victim or who is responsible for the victim's care and support may make a victim impact statement on behalf of the victim;"

I am saying that the probation officer works with a victim. *[Interruption]*

5.50 p.m.

Madam Speaker: Members, I think your behaviour, collectively, is unparliamentary, it shows a lack of tolerance, a lack of respect. Just remember we are talking about impact, impact of our behaviour on the nation. Please, continue Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker, thank you for that. And as such, we are looking at how we are going to empower the persons who will be working closely with victims. And if we are dealing with victims who are children, which obviously we are because we have children who are perpetrators, then you are dealing with another arm of the law which will be the probation officers and there is no mention of it.

And so I am asking the question as I indicated, and I am sorry that the Attorney General is not here to assist in this regard because it is an important aspect. The probation officers are very well acquainted with the individual that they are assigned and therefore, their role is not just to be an assignee, but their role, Madam Speaker, and if I may indicate their integral part of the whole system and the court depends on the probation officer to determine the suitability and the supervision of participants, and therefore, a treatment plan is developed in collaboration with the treatment provided to facilitate rehabilitation and reintegration into society of the participant.

And therefore, when we deal with social aspect, when we deal with culture change, I did not mention it, Madam Speaker, it was the hon. Attorney General who mentioned it and therefore, *[Desk thumping]* I have to respond to what he is saying. And he has indicated that he is asking a question: can there be—can law impact upon culture? Can it change it? And I am concerned about that too. I live here. I do not live away. I live in Trinidad and Tobago and I want something better for my country, for my citizens. *[Desk thumping]* And therefore as such, Madam Speaker, the question is, if we are going to integrate the whole role of the probation division therefore, it means that they have these challenges and because they have these challenges, they will require resources. *[Desk thumping]* They will require the administrative ability to be able to bring about the necessary

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culture change that we all desire. And so as a result of it, I am explaining that the challenges that they face and whether the Attorney General is going to take into consideration the challenges that are faced by the probation officers because they are the direct link to the delinquent teenager, under aged.

And then, of course, there is the multiplicity of roles and duties performed by the probation officers who, they are now burnt out. So therefore, it means that even though we have all these things in place, because of the burnt out, you are going to have now a backlog still.

So, if we do not deal with the legislation, you know, with the foundation, as I am trying to put forward here, when we deal with architecture we must deal with a proper, laying of the proper foundation, because if we do not, then everything will collapse, everything will crumble and all the good work that the Government is doing will be to naught. And we sitting here, Madam Speaker, will be to naught and that is not something that we want.

And therefore, Madam Speaker, as I conclude I want to let the Government know that we on this side we are extremely nationalistic, extremely. [*Desk thumping*] We love our country. We love our country. When we were on that side the work we did showed that we love this country. We know that the hon. Member for St. Joseph indicated that Dr. Rowley ordered them to give support and, yes, we are here to support. I support my Opposition Leader in regard to the plea bargaining court and, of course, I want to thank you, Madam Speaker, for allowing me this opportunity to speak. Thank you. [*Desk thumping*]

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—

Hon. Member: Just so.

Hon. C. Robinson-Regis: Not just so. I discussed it with the Member for Pointe-a-Pierre before. I am sorry he did not discuss it with you. Madam Speaker, I beg to move that this House do now adjourn to Friday, the 24th day of March at 1.30 p.m. at which time we will be discussing, debating Motion No. 1. It is Private—sorry, Ma'am—[*Interruption*]

Madam Speaker: Member for Naparima, I would really like to remind you with respect to Standing Order 53. Okay? And the Standing Order with respect to

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interruptions. We have been here long enough as Members to be familiar with the Standing Orders. This is not going to be tolerated.

Hon. C. Robinson-Regis: Thank you very kindly, Madam Speaker. Yes. As my colleague on the other side indicated to me, it is, and we know, it is Private Members' Day and we will be debating Motion No. 1 on today's Order Paper which is moved by the Member for Couva South. Now, Madam Speaker, that is the Motion:

"Be it resolved that this House take note of the rising levels of unemployment..."

Motion No. 1 by the Member for Couva South.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.57 p.m.