

*Leave of Absence*

*Friday, May 19, 2017*

**HOUSE OF REPRESENTATIVES**

*Friday, May 19, 2017*

The House met at 1.30 p.m.

**PRAYERS**

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Madam Speaker:** Hon. Members, hon. Stuart Young, MP, Member for Port of Spain North/St. Ann's East; Dr. Lackram Persad Bodoie, MP, Member for Fyzabad; and Dr. Bhoendradatt Tewarie, MP, Member for Caroni Central have asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

**CONDOLENCES**

**(MR. RENNIE DUMAS)**

**Madam Speaker:** Hon. Members, as you may be aware, our former colleague, Mr. Rennie Dumas, passed away on Sunday 14 May, 2017. Mr. Rennie Dumas served with distinction in both the House of Representatives and the Senate. He was first appointed as a Senator on January 10, 2001 and was then assigned as Minister of State in the Office of the Prime Minister from December 28, 2001 to October 09, 2002.

During the period 2002 to 2007, Mr. Dumas held the portfolios of Minister of Public Utilities and the Environment and Minister of Local Government. He was then elected to the House of Representatives as the Member for Tobago East on November 05, 2007 where he served until May 2010 as the Minister of Labour and Small and Micro Enterprise Development. During his service, Mr. Dumas contributed to 46 Bills, 10 Motions and served on eight parliamentary committees. I now invite you to pay tribute to our departed colleague.

**The Minister of State in the Office of the Prime Minister (Hon. Ayanna Webster-Roy):** Madam Speaker, I stand here today with a heavy heart to acknowledge the life of Rennie "Stretch" Dumas. In a personal capacity, I would have known him as my campaign manager. What I admired most about Mr. Dumas was his intellect. He was quite educated, quite eloquent but for me, more important, he was a humble, loving, and a giant of a man—giant in stature, giant in terms of his personality—but Rennie "the man" was truly the people's man.

*Condolences (Mr. Rennie Dumas)*  
[HON. A. WEBSTER-ROY]

*Friday, May 19, 2017*

Tobago East is a better place for having him represent us. Tobago is a better place for having him represent us but, most importantly, Madam Speaker, Trinidad and Tobago would have benefitted from his intellect, and personally I would have benefitted from him being a compassionate, caring and effective campaign manager.

I stand here and join the rest of Trinidad and Tobago. I mourn his death and I extend sincere condolences to his family, his friends and his loved ones and may his soul rest in eternal peace. Thank you. [*Desk thumping*]

**Dr. Roodal Moonilal** (*Oropouche East*): Thank you very much, Madam Speaker. Madam Speaker, it is indeed with a heavy heart that a few days ago we learnt of the untimely passing of a parliamentary colleague and friend to many of us on both sides of the House. I first became acquainted with Sen. Rennie Dumas in the Sixth Parliament where we served on opposite sides, of course, and he had always distinguished himself as a very powerful voice, powerful speaker and very passionate speaker on behalf—like the Member for Couva South, he had a booming voice—and he distinguished himself by his compassion and his passion for the people of Tobago and for the various efforts that he led. I have one—if you may just permit me—enduring memory of Sen. Dumas. In the Sixth Parliament, Madam Speaker, there was once a Motion on sustainable development in the Parliament and then myself as a young Senator, returning from abroad fresh with a PhD, I stood in the Parliament to deliver, I think, a 60-minute address on sustainable development, quoting from every journal and every article imaginable. I received some praise for the speech. Sen. Dumas stood after me, representing the Opposition PNM, and he said I do not know what Sen. Moonilal said there. That was just wishy-washy. He made news every hour on the hour for two days.

It was a political lesson of sorts, but such was the nature of the man. He had a “grass root” flare and a great character. He was fondly called “Stretch” as we all know. When he served later as Minister of Labour, an area where I also practised in industrial law, labour and industrial relations, I also worked with him again, and he was also very helpful, very thoughtful and supportive.

Time and time again, when he would be passing through constituencies—particularly opposition constituencies and so on—on government business or on private business, he would make it his business to drop by the constituency office to say hello. If he sees the MP on the street, he would pull aside, come out to talk a few minutes and so on. He had that character which I think, you know, is so

*Condolences (Mr. Rennie Dumas)*  
[DR. MOONILAL]

*Friday, May 19, 2017*

important for politicians as well, this ability to touch base, you know, with the grassroots and really carry about themselves with a dignity and a fellowship although we are on opposing sides, and we will not always agree on policy and programme. His death is untimely a relatively young age.

On behalf of the Opposition and the United National Congress and the Member for Siparia, who was also his colleague for many years and the Member for Caroni East, I am sure as well, the Member for Tabaquite and others—the Member for San Juan/Barataria as well—I want to extend condolences to his family, his friends, the community, you know, which we represented and to the Government and the party which I know he was very fond of and loved, his own political party.

Sen. Dumas, you know, like all of us, had our strengths also our weaknesses. He was not perfect—I do not think any of us are—but he has left us with enduring memories. He was really a great soul and I extend condolences on behalf of this side to his family, the people of Tobago and all those groups that he was involved with. Thank you very much. [*Desk thumping*]

**Madam Speaker:** Hon. Members, having served in the House with Mr. Dumas, I, too, would like to pay tribute to him. Mr. Dumas has held several portfolios in the public service, and he will always be remembered for his selflessness and patriotism in serving our nation. We will forever be grateful for his contributions in this House, and by extension, the wider community of Trinidad and Tobago.

Today, we remember not only the man who died, but also the noble life of service and selflessness which he lived. In our hearts, we will always treasure the honourable Mr. Rennie Dumas as a father, a brother, a friend, a colleague, a mentor and a true servant of our nation.

I take this opportunity to express my sincerest condolences to the Dumas family during this time of mourning, and I pray that the Almighty grants them comfort and consolation at this time of their bereavement. May his soul rest in peace.

I now ask that we stand and observe a minute's silence.

*The House of Representatives stood.*

**Madam Speaker:** Hon. Members, I have directed the Clerk of the House to send a letter of condolence to the family of the late Mr. Rennie Dumas on behalf of the Members of the House of Representatives.

**JOINT SELECT COMMITTEE REPORTS****(Presentation)****National Security**

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Madam Speaker. I have the honour to present the following reports:

**Day of “Total Policing”**

First Report of the Joint Select Committee on National Security for the Second Session (2016/2017), Eleventh Parliament on the Follow-up Inquiry into the Status of the Investigation of the Police Complaints Authority and the Trinidad and Tobago Police Service into the events surrounding the Day of “Total Policing” on March 23, 2015.

**Prisoners’ Access to Outside Facilities**

Second Report of the Joint Select Committee on National Security for the Second Session (2016/2017), Eleventh Parliament on the Inquiry into the practice whereby prisoners are granted access to services outside of the prison facilities.

Thank you, Madam Speaker.

**Gambling (Gaming and Betting) Control Bill, 2016  
(Second Interim Report)**

**The Minister of Finance (Hon. Colm Imbert):** Thank you very much, Madam Speaker. I have the honour to present the following report:

Second Interim Report of the Joint Select Committee appointed to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016.

**Madam Speaker:** For paper 3, I call upon the Member for San Fernando West.

**Public Accounts Committee  
Public Accounts of Trinidad and Tobago  
(Ministry of Education)**

**The Minister of Housing and Urban Development (Hon. Randall Mitchell):** Madam Speaker, I have the honour to present the following report:

Seventh Report of the Public Accounts Committee for the Second Session, Eleventh Parliament on the Examination of the Report of the Auditor General

on the Public Accounts of the Republic of Trinidad and Tobago for the financial years 2014 and 2015 with specific reference to the Ministry of Education.

#### URGENT QUESTIONS

#### Minister's Phone Bill (Payment of)

**Mr. Barry Padarath** (*Princes Town*): Thank you, Madam Speaker. Madam Speaker, question one, to the Minister of Tourism. In light of the justifiable public interest surrounding a phone bill of \$59,601.60 incurred by the Minister of Tourism during an official trip to The Bahamas, could the Minister indicate whether this bill has been paid to date?

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

**The Minister of Public Administration and Communications (Hon. Maxie Cuffie):** Yes, it has.

**Mr. Padarath:** Madam Speaker, the question is really to the Minister of Tourism. Having the Minister and the Member for La Horquetta/Talparo answer, I hope the hon. Member could also advise this House whether the Minister of Tourism—[*Crosstalk*]—I hope that the Member for La Horquetta/Talparo who is answering could advise this honourable House whether or not, in light of Government's mantra of waste, mismanagement and corruption, whether the Minister of Tourism is prepared to pay \$59,601.60 to the Government of Trinidad and Tobago going back into our nation's coffers? [*Desk thumping*]

**Madam Speaker:** Member? Member? I am not sure I know what the question is. Please, just ask the question.

**Mr. Padarath:** Madam Speaker, thank you. The question is a very simple one. Is the Minister prepared to repay or reimburse the Ministry?

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Madam Speaker, may I offer apologies. [*Crosstalk*] Sorry. May I be allowed? The Minister was outside, she is now here, so she will answer the questions.

**Mr. Padarath:** May I proceed?

**Madam Speaker:** Yes.

**Mr. Padarath:** Madam Speaker, question 1 to the Minister of Tourism. In light of the justifiable public interest surrounding a phone bill—[*Interruption*]

**Madam Speaker:** Member, the question was already answered.

**Mr. Padarath:** So may I ask the supplemental to the hon. Minister?

**Madam Speaker:** Yes, you may.

**Mr. Padarath:** Thank you, Ma'am. Hon. Minister, could you indicate to this honourable House whether you are prepared to repay this sum to the Ministry and to the Government of Trinidad and Tobago and the public purse with respect to this figure in light of your mantra of waste, mismanagement and corruption? [*Desk thumping*]

**Madam Speaker:** Member for Princes Town, I would not allow that as a supplemental question. It does not arise out of the response that was given. [*Crosstalk*] Member. I appreciate that we might all have a certain sense of anxiety when we come in here. Okay? But even though I recognize that, I expect us to abide by the Standing Orders. I have ruled that the supplemental question does not arise out of the answer that was given. You are allowed another question. Member for Princes Town.

**Mr. Padarath:** Thank you, Madam Speaker. Madam Speaker, in light of the SRC not making a provision for that sort of expenditure, again, could the hon. Minister indicate, based on that SRC provision, whether she is prepared to repay this sum in light of that SRC report not making that provision for a Government Minister? [*Desk thumping*]

**The Minister of Tourism (Hon. Shamfa Cudjoe):** Thank you, Madam Speaker. Madam Speaker, as was stated earlier by the press release that was given by the Ministry of Tourism, the matter is still under investigation. I want to place on public record, Madam Speaker—[*Crosstalk*] I am answering the question. [*Crosstalk*]

**Mr. Padarath:** The answer is yes or no.

**Madam Speaker:** Members. Member for Princes Town, I cannot be stretched beyond the limits. Member for Couva South, I would like us all to comply very early in today's sitting with the Standing Orders with respect to Members who are not speaking. Minister of Tourism.

**Hon. S. Cudjoe:** Yes. Madam Speaker, when I travelled to The Bahamas to be a part of the Caribbean Tourism Organization Meeting of Ministers, I travelled for work. I did not travel to play. [*Desk thumping*] When I was there, Madam Speaker, I was required to be in contact with the Ministry at home and to work as

a part of the working group that was preparing to present to the Council of Prime Ministers of Caricom the following month of February, so we would have exchanged documents over email, downloaded documents to deal with the work of our working group.

So, Madam Speaker, the breakdown of the Bill has been also released. It was \$1,111 for talk for the entire month. We would have seen in the breakdown of the report that we would have had so far the \$50,000 would have been from data roaming. And, as I said before, I would have asked TSTT to do a further investigation into the matter and we are awaiting that. [*Desk thumping and crosstalk*]

**Madam Speaker:** Member for Princes Town, I would invite you to just take a little walk and, therefore, get all your anxiety under control and you would be allowed back in.

[*Member for Princes Town leaves the Chamber*]

**Madam Speaker:** Member for Couva South.

**Mr. Indarsingh:** Thank you, Madam Speaker. Is the Minister willing to lay in this House the paper trail which initiated the investigation in relation to this said phone bill? [*Desk thumping*]

**Madam Speaker:** I would not allow that as a supplemental question.

**Mr. Charles:** Would the Minister be kind enough to lay in this House the information, the final information of the investigation with TSTT concerning this bill?

**Hon. S. Cudjoe:** Madam Speaker, when we receive the relevant document and information—from TSTT, what is required to be laid in this House would be laid in this House. [*Desk thumping*]

### **Minister's Phone Bill (Details of Conclusive Report)**

**Miss Ramona Ramdial** (*Couva North*): Thank you, Madam Speaker. To the Minister of Tourism: With respect to a telephone bill amounting to some \$59,000 which was incurred by the Minister during an official four-day overseas trip, would the Minister advise this House as to whether any time frame was given by TSTT for a conclusive report on the query as requested by the Minister into the Matter?

**The Minister of Tourism (Hon. Shamfa Cudjoe):** No.

**Miss Ramdial:** Thank you. How does the Minister intend to cut and contrive at her Ministry in light of her racking up a \$59,000 bill over four days?

**Madam Speaker:** I will not allow that as a supplemental question.

**Miss Ramdial:** Thank you, Madam Speaker. Will the Minister be paying the extra charges on her phone bill as the limit for a Cabinet Minister is \$25,000?

**Madam Speaker:** I would not allow that as a supplemental question.

**Mr. Indarsingh:** Thank you, Madam Speaker. In relation to this particular Bill, could the Minister advise if Wi-Fi services was available at the hotel and the conference centre? [*Desk thumping*]

**Hon. S. Cudjoe:** Madam Speaker, as the release that was issued by me from the Ministry of Tourism, I would have stated in the report whenever Wi-Fi was available, I utilized Wi-Fi and whenever it was not, I accessed the Internet otherwise. Thank you.

***MV La Caracola***  
**(Rationale for Shortlisting)**

**Mr. David Lee (*Pointe-a-Pierre*):** Thank you, Madam Speaker. To the Minister of Works and Transport: Can the Minister state the rationale given by the Port Authority of Trinidad and Tobago for shortlisting the *MV La Caracola* to service the sea-bridge between Trinidad and Tobago and how many proposals were submitted?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam Speaker. Madam Speaker, there were seven unsolicited bids which were contained in a database at the Port Authority of Trinidad and Tobago, and based slowly on the specifications submitted, two vessels were shortlisted, one of which was the *MV La Caracola*.

In keeping with the port authority methodology on finalizing offer to any perspective tenderer unless due diligence is performed, this includes but is not limited to surveys, inspections, sea trials and, of course, negotiations on terms and condition of the perspective charter. The identification of a selected vessel is but one step in the entire process. Thank you.

**Mr. Lee:** Thank you, Madam Speaker. To the Minister, supplemental. Could the Minister state the location and the owners of *MV La Caracola*?

**Sen. The Hon. R. Sinanan:** Madam Speaker, as the Minister of Works and Transport, the owners of the vessel, based on the recommendation to the port has



not been identified to us at this point in time because there are still ongoing negotiations and due diligence is being carried out on the vessel. Thank you.

**Mr. Lee:** The second part of that supplemental was the location of that vessel presently.

**Sen. The Hon. R. Sinanan:** Thank you, Madam Speaker. As correspondence from the port authority to the Ministry of Works and Transport, this vessel is located in Venezuela. Thank you.

### **Acquisition of Vessel (Timeframe for Acquisition)**

**Miss Ramona Ramdial (Couva North):** Thank you, Madam Speaker. Could the Minister inform this House of the precise time frame for the acquisition of a third cargo vessel to ease the sea-bridge woes between Trinidad and Tobago?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam Speaker. Madam Speaker, a recommendation has been made by the port authority. The process has started to give the opportunity to have a third vessel in the shortest possible time to ensure that when the vessels go on dry dock, we will have a smooth transition of the transport between Trinidad and Tobago.

**Dr. Moonilal:** Thank you very much. In this context Minister, could you indicate whether or not legal action has been initiated against the owners of the *Galicia* as you promised some time ago?

**Madam Speaker:** I would not allow that as supplemental question.

**Miss Ramdial:** Thank you, Madam Speaker. Minister, can you say what type of cargo vessel has been discussed to date by the port authority?

**Sen. The Hon. R. Sinanan:** Madam Speaker, a cargo vessel is a vessel used to transport cargo. [*Laughter*]

**Madam Speaker:** Order! Order!

**Sen. The Hon. R. Sinanan:** So—no, so based on the specs—[*Interruption*]

**Miss Ramdial:** I would rephrase the question. [*Crosstalk*]

**Madam Speaker:** Member for Couva North.

**Miss Ramdial:** Thank you, Madam Speaker. I will rephrase the question. Mr. Minister, is it a barge or is it a different type of cargo vessel?

**Sen. The Hon. R. Sinanan:** Madam Speaker, right now on the air bridge we do have a barge and a cargo vessel—sorry, the sea bridge—sorry about that, Madam Speaker—and the vessel that is being sought is a vessel that would take the required cargo to Tobago in the shortest possible time. Thank you.

**Mayaro Fire Station  
(Missing Tender)**

**Mr. Rushton Paray** (*Mayaro*): Thank you very much, Madam Speaker. Question No. 5 to the Minister of National Security. After the assurances given by the hon. Minister at the sitting of this House of Representatives on Friday 28<sup>th</sup> of April with reference to the provision of a Fire Tender at the Mayaro Fire Station, is the Minister aware that after one call out, the tender had gone missing?

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Thank you, Madam Speaker. Madam Speaker, the fire tender assigned to the Mayaro Fire Station is not missing as such. The fire tender is under repairs. But let me put on the table also, Madam Speaker, that the last Government, in fact, is the one who opened the Mayaro Fire Station.

Now, when you are building a fire station, you are supposed to order fire equipment almost before you build the fire station, because the lead time for fire equipment to come into Trinidad and Tobago is about 12 to 18 months. What is happening now, we are forced to move fire tenders from other stations to Mayaro. The Fire Chief right now has indicated to me that he is, in fact, sending a new fire tender to the Mayaro Fire Station. But I want to also again repeat that the lead time for fire equipment to come into Trinidad and Tobago is 12 to 18 months. The last Government did not order fire equipment in time for the Mayaro Fire Station.

**Mr. Paray:** Thank you very much, Madam Speaker. The fact that it takes 20 months Minister—sorry, 18 to 20 months—has the Chief Fire Officer given any assurances as to when we can expect a tender in Mayaro based on that?

**Hon. Maj. Gen. E. Dillon:** Thank you, Madam Speaker. The Chief Fire Officer has indicated that a fire tender should be in Mayaro over the weekend, Madam Speaker.

**Locust Invasion  
(Urgent Steps to Manage)**

**Mr. Rushton Paray** (*Mayaro*): Thank you, Madam Speaker. Question No. 6 to the Minister of Agriculture, Land and Fisheries. Can the Minister advise what urgent steps are being taken to manage the locust invasion currently affecting

areas of the Mayaro Constituency?

**The Minister of Agriculture, Land and Fisheries (Sen. The Hon. Clarence Rambharat):** Madam Speaker, I thank the Member for his question. There was no need in this case to take urgent steps. The Ministry had been proactive in preparation for this seasonal activity. We have had locust problems in 2014/2016 and during the nesting period, September to December last year, we recognized that we would have an issue coming into this part of the year.

In relation to Mayaro, on Tuesday we noticed that the locust had migrated from other areas into Mayaro in the Tableland area which is on the edge of the Mayaro constituency—Riverside Road, Poole and other areas—and the Ministry had already been prepared. We have put in place measures of spraying: on the low level with mist blowers and the high level with the boom cannon sprayers.

We are working with the regional corporation and the farmers in the area have already seen a reduction in the swamps, but it is something that you are reactive about. It is very little we could do to control it in terms of having them, the presence of it, and it is just control measures at this time.

**2.00 p.m.**

**Protest Action by Morvant Residents  
(Action taken)**

**Mrs. Vidia Gayadeen-Gopeesingh (Oropouche West):** Thank you, Madam Speaker. To the Minister of Public Utilities, question No. 7: In light of the fiery protest action recently conducted by the residents of Morvant, can the Minister indicate what action has been taken to rectify the situation?

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Madam Speaker. This question is very vague and hard, difficult to comprehend, but for the sake—[*Interruption*]

**Madam Speaker:** Minister of Public Utilities.

**Hon. F. Hinds:** Thank you very much, Madam Speaker, this question is very vague and hard, difficult to comprehend, but for the sake [*Interruption*] of this honourable House and the Morvant community, as I interpret it, and as I understand it, the protest action recently experienced in the Morvant area concerned a number of things: the condition of the roadways, the lack of employment opportunities, according to them, in the area, and the lack of water supply. The water issue was raised by residents of Angelina Terrace, who

normally receive water from the localized intake where the flow has diminished significantly on account of the dry season. The area referred to as Angelina Terrace, where residents are connected to the pipeline network, receives a supply on Wednesdays from 6.00 a.m. to Thursdays at 6.00 a.m., and on Saturdays, 6.00 a.m., to Sundays, 6.00 a.m., from the Morvant reservoir. That schedule is ongoing and will be faithfully continued.

There is also a truck borne supply based on requests, and we have two trucks in the area treating with those requests. We wish to underscore, the Authority—WASA wishes to underscore that there is no water supply shortage to the general Morvant community. Customers who are connected to the pipeline have been receiving the scheduled pipe borne supply, as I have earlier described. And in order to supply the existing customers, and to provide to residences not currently connected, the Authority is immediately developing plans for installation of a new pipeline—[*Interruption*] Thank you.

**Madam Speaker:** Member, your speaking time is expired, and, Members, the time for Urgent Questions has now expired.

#### ANSWERS TO QUESTIONS

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker. Madam Speaker, we will be answering all questions for oral response, and there are no questions for written response.

#### ORAL ANSWERS TO QUESTIONS

#### **PricewaterhouseCoopers Audit Reviews (Details of)**

**107. Dr. Roodal Moonilal (*Oropouche East*)** asked the hon. Prime Minister:

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

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

**The Minister of Finance and Acting Prime Minister (Hon. Colm Imbert):**

Thank you, Madam Speaker. On behalf of the Office of the Prime Minister, I have been advised by the OPM that the list of audit reviews completed to date is as follows: Caribbean Airlines Limited, a review of the monthly domestic air bridge subsidy, which is a requirement of Government; secondly, Community Improvement Services Limited, a review into revenue and receivables, project management tendering contract administration; thirdly, Education Facilities Company Limited, a review of accounts payable, human resources, a diagnostic into the finance function, an internal audit risk assessment, and a diagnostic into the procurement function. With respect to National Entrepreneurship Development Company Limited, an operational review. With respect to National Flour Mills Limited, the financial year-end 2015 audit, a human resource audit. With respect to Taurus Services Limited, an end of year audit, 2015. With respect to Trinidad and Tobago National Petroleum Marketing Company Limited, audit of the financial year-end 2015 and 2016. With respect to the Trinidad and Tobago Postal Corporation, professional services regarding the 2008 year audit, professional services regarding the 2009 year audit, the professional services regarding the year 2010 audit, and a year-end stock count for 2015 and 2016.

With respect to the Water and Sewerage Authority, an audit of financial statements of WASA daily-rated employee pension fund plan for the year ended September 30, 2015. With respect to the National Insurance Board of Trinidad and Tobago, an audit review of the years 2015 and 2016. With respect to National Lotteries Control Board, a due diligence audit for an international firm in the gaming industry. With respect to the Trinidad and Tobago Electricity Commission, the annual audit for the financial year 2016. The list of audit reviews that are in the process of being completed are ongoing audits for Caribbean Airlines Limited; for National Flour Mills Limited, financial year-end 2016 audit, an audit of divestment of rice milling operations. With respect to National Helicopter Services Limited, an audit of 2015 and 2016 financial statements. With respect to Trinidad and Tobago Postal Corporation, audit services for the year ended September, 2011. With respect to the Water and Sewerage Authority, two IT audits into Oracle EBS, a post implementation review, and an audit of financial statements of WASA's Daily Rated Employees Pension Fund Plan for the year ended September 30, 2015. With respect to the National Insurance Board, an audit review for 2017.

The answer to part (c), the cost per audit, or the cost of audits, one, for Caribbean Airlines, \$474,468.75; for Community Improvement Services Limited, \$366,055.28; for Education Facilities Company Limited, \$1,786,878.10;

for the National Entrepreneurship Development Company Limited, \$393,936.45; the National Flour Mills Limited, \$2,110,421—[*Interruption*]

**Dr. Moonilal:** Two million?

**Hon. C. Imbert:** Two million, yes. National Helicopter Services Limited, \$299,200; Taurus Services Limited, \$179,718.75; Trinidad and Tobago National Petroleum Marketing Company Limited, \$1,559,110.63; Trinidad and Tobago Postal Corporation, \$863,521, Water and Sewerage Authority, \$465,125.63; the National Insurance Board of Trinidad and Tobago, \$2,150,000; the National Lotteries Control Board, \$414,414, and the Trinidad and Tobago Electricity Commission, \$500,000. The outstanding quantum of moneys yet to be paid to the audit firm, \$2,473,721.13.

**Dr. Moonilal:** To the hon. acting Prime Minister, in response to this figure of \$10.5 million in audit, could you shed light on the fact that both PricewaterhouseCoopers and Ernst & Young are doing audits on Caribbean Airlines Limited at the same time?

**Hon. C. Imbert:** Madam Speaker, I cannot verify the arithmetic of the hon. Member, and with respect to audits being done by two separate firms, I will have to check that and report back.

### **Laptop Distribution to Schools (Details of)**

**114. Mr. Rodney Charles** (*Naparima*) asked the hon. Minister of Education:

Given the Minister's statement that laptops will be given to schools, could the Minister tell the House:

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

**The Minister of Education (Hon. Anthony Garcia):** Madam Speaker, barring unforeseen circumstances, each Government and Government assisted school is scheduled to receive, in the second half of fiscal 2017, between 35 to 50 laptop computers depending on the number of students entering the respective secondary schools at the Form 1 level. Thank you.

**Madam Speaker:** Member for Chaguanas East.

**Mr. Karim:** Thank you, Madam Speaker. Will the Minister give us some data with respect to the number of persons and the average per population of school? You did give a figure of computers, will the Minister be able to tell us, what is that percentage? How many persons to a computer on an average secondary school?

**Hon. A. Garcia:** Madam Speaker, it all depends on the size of the secondary school and the intake of the secondary school. Some secondary schools have an intake of two forms, some have an intake of three or four forms. The average size of a form is between 25 and 30 students.

**Madam Speaker:** Member for Naparima.

**Mr. Charles:** Is the Minister satisfied that the ratio of laptops to students is consistent with best practices in education globally?

**Hon. A. Garcia:** The simple answer to that question is, yes.

**Madam Speaker:** Member for Chaguanas East.

**Mr. Karim:** Thank you, Madam Speaker. Can the Minister state whether there are sufficient resources for teachers to deliver the curriculum via ICT?

**Hon. A. Garcia:** Madam Speaker, that was one of the deficiencies in the last exercise, and we have done quite a large amount of work to ensure that our teachers are adequately trained. Thank you.

**Madam Speaker:** Member for Naparima.

**Mr. Charles:** My understanding, Madam, is the Minister aware that in the State of New York the ratio of computers to secondary school students is one to one? Would he, in the light of that, be prepared to retract his previous answer to my question?

**Madam Speaker:** I would not allow that as a supplemental question. Member for Caroni East.

**Dr. Gopeesingh:** Is the Minister aware that over 6,000 laptops were distributed to principals and teachers during the five years of the People's Partnership administration? [*Desk thumping*]

**Hon. A. Garcia:** Madam Speaker, yes, I am aware that a large number of laptops were distributed to teachers and students. It is our information that more

than 90 per cent of those laptops have crashed. Thank you.

**Back Pay Owed to T&TEC Workers  
(Details of)**

**115. Mr. Rudranath Indarsingh** (*Couva South*) asked the hon. Minister of Public Utilities:

Could the Minister advise this House:

- a) the total back pay owed to the workers of the Trinidad and Tobago Electricity Commission of the respective bargaining units; and
- b) the date that each sum at part (a) will be settled?

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Thank you very much, Madam Speaker. Madam Speaker, the Trinidad and Tobago Electricity Commission owes arrears to workers belonging to the following three bargaining units: the Oilfields Workers' Trade Union, the Senior Staff Association, and the Estate Police Association. As it pertains to the OWTU, it is to be noted that negotiations for the period 2012 to 2014 were settled on November 04, 2016. The agreed settlement was based on a 10 per cent increase to the workers for these years as follows: 2012, 3 per cent; 2013, 3 per cent; and 2014, 4 per cent.

Based on these negotiations the Commission has agreed to make payment to the OWTU workers in the amount of \$541,111,000. This payment has been broken down into three tranches, tranche one, which represents 29 per cent of the outstanding arrears valued at \$153.39 million was paid to workers in December, 2016. Tranche two represents 36 per cent of arrears, and is valued at \$200.815 million. The Commission has communicated with the OWTU and proposes to make this payment in two equal parts. As such, the first part \$100.408 million is to be paid in June, 2017, and the second part, which is valued at \$100.407 million, is scheduled to be paid in September, 2007. The final payment, tranche three, represents 35 per cent of arrears, and is valued at \$186.902 million. The Commission anticipates that this payment will be made to the workers in December, 2017, subject to T&TEC's cash flow position, which I might add is troubling. Should any difficulties arise in making these payments, Madam Speaker, the Commission will not hesitate to promptly communicate with the OWTU.



Madam Speaker, as it pertains to the Senior Staff Association and the Estate Police Association, negotiations are ongoing with these respective bargaining units. As such, arrears to these workers have not yet been settled or determined. I thank you. [*Desk thumping*]

**Tourism Development Company  
(Details of)**

**116. Mr. Rudranath Indarsingh** (*Couva South*) asked the hon. Minister of Tourism:

Could the Minister advise this House:

- a) the commencement date of the manpower audit into the operations of the Tourism Development Company (TDC); and
- b) whether there has been any other audit into TDC's operations since September 07, 2015?

**The Minister of Tourism (Hon. Shamfa Cudjoe):** Thank you, Madam Speaker. Madam Speaker, an audit of the human resource process at the TDC was conducted by the company based on a request by the board of directors in 2016, when it was discovered that the staff complement increased from the approved organizational structure of 56 in 2005 to over 100 persons by 2016. The report on the audit of the human resource process was approved by the then acting CEO on October 12, 2016. At the time of the conduct of the audit the company was using a 2011 organizational chart, which was not approved by Cabinet, that allowed for the employment of 154 persons. Conclusions drawn from the report include the following: only the 2005 organizational chart was approved by Cabinet; the 2005 organizational chart facilitated the employment of only 56 persons. The review recommended, among other things, a comprehensive review of the organization, its chart, structure, and each department, in an effort to determine the relevance and efficacy to the vision, mandate, and operations of the TDC; a new organizational chart be developed and properly approved by the board of directors, line Minister and Cabinet; a review of each position to determine its relevance to the TDC; a review of the qualification, résumé, contract of each employee to determine if they are the right fit for the organization; a review of the résumé, qualification, contract of each employee to determine if they are employed in the right positions currently, and whether these employees should remain in the positions, should the organizational chart be approved.

With respect to part (b), Madam Speaker, the Tourism Consultant International Incorporated conducted a review on the company, and the said

review was completed by June 15, 2016.

**Madam Speaker:** Member for Couva South.

**Mr. Indarsingh:** Thank you, Madam Speaker. Could the Minister clarify the current status of the Tourism Development Company, please?

**Hon. S. Cudjoe:** Madam Speaker, I am sure the Member is well aware that the Government took the decision, after the review was done, to close the company and to establish another tourism entity, one for Trinidad; the THA would establish one in Tobago, a regulatory authority also. Madam Speaker, thank you. [*Desk thumping*]

**Madam Speaker:** Member for Couva South.

**Mr. Indarsingh:** Could the Minister advise if due consideration has been given by the proposal sent to the Ministry by the Communication Workers Union as it relates to restructuring the Tourism Development Company?

**Madam Speaker:** I would not allow that as a supplemental question.

#### **Aviation Campus (Details of)**

**117. Mr. Rudranath Indarsingh** (*Couva South*) asked the hon. Minister of Education:

Could the Minister inform this House when will the Aviation Campus, University of the Trinidad and Tobago located at Camdem Couva be opened and when will the first intake of students commence?

**The Minister of Education (Hon. Anthony Garcia):** Thank you very much, Madam Speaker. Classes in aviation-related courses at the certificate and bachelor levels are being conducted at present at UTT's Point Lisas Campus. Barring unforeseen circumstances, the students are scheduled to be relocated to the Aviation Campus in the second term of the academic year 2018. Thank you.

**Madam Speaker:** Member for Chaguanas East.

**Mr. Karim:** Thank you, Madam Speaker. Will the Minister indicate to us, where are the practicals for these programmes being conducted?

**Hon. A. Garcia:** Madam Speaker, I am happy to respond to that question to state that the practicals are at present being conducted at Caribbean Airlines Limited and the National Helicopter Services Limited in Couva. Thank you. [*Desk thumping*]

#### **Prime Minister's Houston Trip (Details of)**

**118. Dr. Roodal Moonilal** (*Oropouche East*) asked the hon. Prime Minister:

Could the Prime Minister indicate the public servants and their respective positions and the technocrats from Trinidad and Tobago who accompanied him on his recent trip to Houston, Texas in April 2017?

**The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):** Thank you, Madam Speaker. On behalf of the Prime Minister, I am advised that the following persons accompanied the Prime Minister on his recent trip to Houston, Texas: firstly, the hon. Minister in the Ministry of the Attorney General and Legal Affairs and in the Office of the Prime Minister; secondly, the International Affairs and Protocol Officer, Office of the Prime Minister, a public servant; thirdly, the Press Secretary, Office of the Prime Minister, a technocrat; fourthly, a Web specialist, Office of the Prime Minister, a technocrat.

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

**Dr. Moonilal:** Mr. Acting Prime Minister, are you telling us that the only persons who attended this key energy conference and key energy meeting are officers of the OPM for Web press information and no technical officer from the Ministry of Energy and Energy Industries, Permanent Secretary, [*Desk thumping*] Director of Minerals?—no legal person from the Ministry of Energy and Energy Industries for negotiations of any kind? Then what type of arrangements have been made there?

**Madam Speaker:** Member, which is the question?

**Dr. Moonilal:** Well, the first part.

**Madam Speaker:** Okay. Prime Minister.

**Hon. C. Imbert:** Madam Speaker, he was carrying on at such a rate I did not catch everything, could you kindly repeat it?

**Dr. Moonilal:** Yes, I must. I must. Mr. Acting Prime Minister, are you telling us that the only personnel that accompanied the Prime Minister to a meeting, or a series of meetings in Houston to discuss gas negotiations, the energy sector investment projects for Trinidad and Tobago, are the Information Officer, the Press Secretary and a Web official from the Office of the Prime Minister, and not one technical officer from the Ministry of Energy and Energy Industries?

**Hon. C. Imbert:** Madam Speaker, the question asked for the persons who accompanied the Prime Minister on his trip and the answer is as given.

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

**Dr. Moonilal:** May I ask the Acting Prime Minister, did any legal technical expert from the Ministry of Energy and Energy Industries participate in those meetings in Houston?

**Hon. C. Imbert:** Madam Speaker, as far as I am aware, there were other persons at those meetings, but I do not have the precise details. They may have made their own travel arrangements, they may have been based in the United States; I would not want to venture that information without getting a proper check done of the record.

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

**Dr. Moonilal:** Thank you very much. Could the hon. Acting Prime Minister tell us then, on what basis were arrangements deemed to be negotiated and settled in the gas sector at a meeting that had no technical expertise from the Ministry of Energy and Energy Industries? [*Desk thumping*]

**Hon. C. Imbert:** Thank you, Madam Speaker. I think it is precipitous and premature, and simply wrong of the Member for Oropouche East to make those assumptions. I will check into this matter and respond in due course. [*Desk thumping*]

**Dr. Moonilal:** Final question.

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

**Dr. Moonilal:** Then the final question to the hon. Acting Prime Minister. Hon. Acting Prime Minister, in the interest of continuity of policy programme and projects, are you suggesting that when another Government comes into power very soon we will have to speak to the Web officer [*Desk thumping*] to understand what happened in Houston and what policy should be continued?

**Madam Speaker:** Okay, so I would not allow that as a supplemental question.

### **Super Fast Galicia (Details of)**

**119. Dr. Roodal Moonilal** (*Oropouche East*) asked the hon. Minister of Works and Transport:

Could the Minister state the reasons why the Cabinet did not approve the recommendation of the Board of the Port Authority of Trinidad and

Tobago for the extension of a contract to ensure that the *Super Fast Galicia* continued to service the people of Tobago?

**The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan):** Thank you, Madam Speaker. Madam Speaker, it is the view of the Port Authority of Trinidad and Tobago and the Ministry of Works and Transport that a contract existed with the agent of the MV *Super Fast Galicia* for the period May 01, 2016, to October 31, 2017. In the circumstance, the issue of the alleged non-approval by Cabinet for the recommendations of the Board for an extension of the contract does not arise. Thank you.

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

**Dr. Moonilal:** Is the Minister saying that no recommendation was taken to Cabinet from the Board for an extension of the contract?

**Sen. The Hon. R. Sinanan:** Thank you, Madam Speaker. Madam Speaker, based on information submitted to me, the line Minister, no note was taken to Cabinet for the extension of the project.

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

**Dr. Moonilal:** With regard to your answer to the question, substantive question, are you prepared to tell us whether your Ministry has initiated legal action against the agent and/or owners of the *Super Fast Galicia* for a breach of contract?

**Sen. The Hon. R. Sinanan:** Thank you, Madam Speaker. Madam Speaker, a pre-action protocol letter has been sent to the charter of the MV *Super Fast Galicia*.

**DEFINITE URGENT MATTER  
(LEAVE)**

**Dispensation of Inefficacious Drugs  
(Chronic Disease Assistance Programme)**

**Dr. Tim Gopeesingh (Caroni East):** In accordance with Standing Order 17 of the House of Representatives, I hereby seek your leave to move the adjournment of the House of Representatives for the purpose of discussing a definite matter of urgent public importance, namely the fact that presently the health and the lives of thousands of patients are seriously endangered through the dispensation of inefficacious drugs through the Chronic Disease Assistance Programme, CDAP. The matter is definite because it refers to the admission by the hon. Minister of Health in Parliament on May 11, 2017, that CDAP drugs for the treatment of

*Definite Urgent Matter*

*Friday, May 19, 2017*

diabetes and hypertension are not effective based on empirical data from the Pan American Health Organization's finding.

The matter is urgent because these ineffective CDAP medications for diabetes and hypertension, and others, continue to worsen their diseases, patients' diseases, and to imperil the lives of thousands of patients suffering from chronic ailments, and that no new procured pharmaceuticals have been implemented for the drugs presently used. The matter is of public importance because of the very disturbing impact on a significant part of the national population who depend on and manage their diseases from medications of the Ministry of Health administered CDAP.

**Madam Speaker:** Hon. Members, I am not satisfied that this matter qualifies under this Standing Order. I advise that the Member pursue this matter under Standing Order 16.

**2.30 p.m.**

**JOINT SELECT COMMITTEE REPORT**

**Gambling (Gaming and Betting) Control Bill, 2016  
(Extension of Time)**

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very much, Madam Speaker. Having regard to the Second Interim Report of the Joint Select Committee appointed to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016, I beg to move that the committee be allowed an extension of six weeks in order to complete its work and submit a final report by June 30, 2017.

*Question put and agreed to.*

**BAIL (ACCESS TO BAIL) (AMDT.) BILL, 2017**

*Order for second reading read.*

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

That a Bill to amend the Bail Act, Chap. 4:60, be now read a second time.

Madam Speaker, I am very pleased to commence debate of this particular Bill in the context of the package of laws which we brought to the Parliament, all squarely centred upon improvements to the criminal justice system and definitely the improvement to the lives of people of Trinidad and Tobago.

I will repeat again that the concentration upon the national mischief is removing the obstructive time frame from the equation. The closure of the gap between the reporting of a crime and conviction and sentencing by a court in this jurisdiction is approximately close to unacceptable. The statistics show us that there are cases in the system well beyond 20 years in backlog. We have, through successive debates in this particular session, focused upon the thousands of backlog matters both at the Magistracy and also at the High Court and Court of Appeal.

It is interesting to note that the amendments that we propose today, centred upon the Bail Act itself, focus upon dealing with an improved access to bail which has a direct correlation to the prisoner population of this country, and a direct nexus to the Constitution of the Republic of Trinidad and Tobago. After all, it is squarely the constitutional rights that are in balance today.

On the one hand, we have section 4(a) of the Constitution which, of course, guarantees us the right to liberty, to freedom, to protection, life, liberty, security of the person, enjoyment of property and the right not to be deprived thereof except by due process of the law.

We also have on deck in this Bill the section 5 rights, particularly at section 5(2)(f) of the Constitution, where the exceptions provided in law to the fundamental rights state that no law should derogate from rights and, in particular, the qualification given that derogation must comply with certain constitutional standards in section 13, the derogation given and the caution given at section 5(2) is that:

“Without prejudice to subsection (1), but subject to...”—the Constitution and section 54 in particular—“Parliament may not—

(f) deprive a person charged with a criminal offence of the right—

(i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on...such person the burden of proving particular facts;—”

There should not be a deprivation of the right:

“(ii) to a fair and public hearing by an independent and impartial tribunal;”

And (iii), importantly, that someone before a court for a criminal offence should not have a deprivation of the right:

“(iii) to reasonable bail without just cause;”

Now, in Trinidad and Tobago, Madam Speaker, the manner in which the law manages these countervailing rights was reformulated in principle in 1994. In 1994, Attorney General Keith Sobion, standing in the Parliament then, moved the consolidation and restatement of the laws in relation to the manner in which a court considers the access to bail, within the constitutional parameters, and borne in that Bill, coming to life in Act No. 18 of 1994, which became operational on the 15<sup>th</sup> of September, 1994, was the mechanism in law prescribed for someone who is brought before the court to access the position of bail. Specifically, this concept of access to bail is something which must be carefully balanced.

On the one hand there is, of course, the overriding separation of powers principle which says that the Judiciary ought to have the liberty and freedom to conduct the affairs of State as it should. On the other hand, we have section 2 of the Constitution which prescribes the supreme law, and then we have laws in statutes as we have the Bail Act, Chap. 4:60 before us. And in dealing with that prescription to bail, we have to be very careful that we preserve the balance of laws between the Judiciary’s discretion, which ought not to be fettered or fettered only in certain circumstances provided by law, and also these rights as to how we are going to consider what the Parliament directs by way of primary law to be unacceptable exceptions to the rule that bail should be granted to all.

Specifically, the Act was amended approximately 12 times. In the period 2005 to 2015, in particular, we saw successive Parliaments, successive governments, come to the fore and say that the bail provisions needed to be treated with, and we introduced the right to appeal. We introduced the provisions where bail was not going to be granted in the context of kidnapping for ransom; in the context of use or possession of firearms; in the context of the anti-gang law which came about; in the context of sexual offences against children; and in the context of trafficking in persons. And I am generalizing, of course, across the 12 amendments which were brought to successive Parliaments.

Last year, on the 1<sup>st</sup> of July, 2016, the Parliament was moved again to consider amendment number 13, and that would have been to allow for the saving of law which was set to expire, pursuant to successive sunset clauses. In particular, the Parliament was moved then to continue the anti-gang law, and the amendments to the Bail Act which allowed for pre-trial detention, if evidence was taken beyond 120 days, that you would be allowed to proceed on to your application for bail. But that if you had commenced your taking of evidence, that



you would be prohibited from accessing the court to be allowed the consideration for bail.

So Parliament had stepped in, successive governments one on top of the other, to consider the prohibition of the granting of bail. As we all know, the attempt to keep that law alive, to keep the successive amendments coming from 1994 straight up to 2015 alive, that unfortunately collapsed as there was not three-fifths support in the House of Representatives.

It is interesting to note, Madam Speaker, that the flipside of the coin is the consideration, not of how you continue to keep people incarcerated, but now the position is making sense of those who are incarcerated. I am very pleased to say that the Government actually started, as one of its primary exercises, a consideration of the prisons system. In 2016, we went to the public forum with facts and statistics to speak to Trinidad and Tobago about what Trinidad and Tobago was managing. We looked at the position of the remanded population and the convicted population, and we rolled out for the first time as a Government, at least from my recollection and research, what our system of incarceration looked like.

We saw in particular that back then in 2016, the remand population was close to 2,200 persons in total—[*Interruption*—2,200. I will give you the current statistics in just a moment, Member for Siparia. So we noted back in 2016—and forgive me it was April 6<sup>th</sup> of 2016—we looked at the actual position. We first of all did the tour of facilities. We confirmed to the population that there were eight points of incarceration centres, eight prisons. There was one industrial institution. We noted the Port of Spain prison built in 1812, the Carrera Convict Prison in 1877, the Tobago Convict Prison built in 1902, Golden Grove Prison built in 1940. We looked at the Remand Prison built in 1950, the Women’s Prison in 1970, Maximum Security Prison built in 1998, Eastern Correctional Rehabilitation Centre built in 2010, and then we looked at the Youth Training Centre as constructed in 1949.

When we looked at the figures then, we saw in terms of capacity at these prisons, that at YTC we had actual occupation of 40 per cent of capacity. At Golden Grove Prison, the capacity filled was 67 per cent. At the Women’s Prison, the capacity filled was 32 per cent. At the Remand Prison, the capacity was 157 per cent, meaning that it was 57 per cent over-occupied, with 1,032 people where a capacity was really 655.

[*Cell phone rings*]

**Madam Speaker:** Would the Member who is offending the rule with that device, please leave the Chamber, and all other Members are advised to put their handheld devices—*[Interruption]*—I am still hearing the device, I am still hearing the device! Can we have some order please, I am on my legs. All other Members are advised to take off their devices or put them on silent.

**Hon. F. Al-Rawi:** Thank you, Madam Speaker. The Maximum Security Prison was at 39 per cent capacity; the Port of Spain prison at 290 per cent per cent capacity; Carrera Convict Prison at 108 per cent capacity; the Eastern Correctional Rehabilitation Centre at 32 per cent capacity; the Tobago Convict Prison at 170 per cent capacity.

Now, looking at those capacities and knowing that my learned colleague, the Minister of National Security, will speak in greater detail to those, we took a tour next of what persons were in there for. It is important to note for those listening through you, Madam Speaker, that you can be incarcerated for two purposes: one, you have been convicted under the laws of Trinidad and Tobago and are serving sentence as a convict or, secondly, that you are awaiting your trial and you are therefore remanded or in pre-trial detention.

When we looked at the category of offences for pre-trial detention, 42 per cent of our capacity was being used for murder. Approximately 1,000 persons incarcerated for murder, and murders of course are a non-bailable offence so you cannot access bail. Illegal drugs, 5 per cent of it was simple possession; trafficking, 6 per cent; sexual offences, 7 per cent; possession of firearms and ammunition, 13 per cent; and there was a category called “other”, which was 27 per cent. In that category of other, there were people who were spending time on remand for using obscene language, one person there five years and six months in remand; failure to pay maintenance, six months in remand; breach of a traffic regulation, one year on remand; malicious damage, two years and three months on remand.

When we looked further and we examined what the Judiciary was doing in terms of the pull of persons out of the prison population into the judicial system—by now this House is quite familiar with the statistical caseloads. On average at the Magistrates’ Court, we know there are roughly anywhere between 120,000 to 142,000 cases in the Magistracy per year. There is a vast volume of them comprising traffic matters.

When we looked to the positions of case flow through the Judiciary, we see that the High Court has significant backlog there, with some 29,000-odd

indictable cases coming up. We looked to the Court of Appeal, we see that there are significant issues there. When we looked to the time and averages for disposition, by way of referencing how fast persons come out of the incarceration for pre-trial detention, we see that the six-year average for criminal cases disposed in the law term between 2009/2010, that is one year, straight up to 2014/2015, on average there were 173 non-capital indictments filed, and 83 of them were disposed. That is a 47 per cent disposition rate.

In the translation of that to the number of people who were before the court, those 173 non-capital matters equal to 1,300 people. Of those cases disposed, when you translate the number of cases to people, of the 1,300 people involved, only 84 of them, or 6 per cent of them, actually have had disposition of their cases as a six-year average coming from the Judiciary. When we looked to the magisterial indictable summary and indictable cases heard summarily, the six-year average is 23,803 cases. When we looked to the new criminal indictments—that is, filed in the High Court—we are looking at an average of 219 indictments per year.

Now, I want to put this against the fact of the resources that manage this. Firstly, when we looked to the Judiciary, we are looking at the Court of Appeal prior to the proclamation of the Children and Family Division amendments. In the Fifth Schedule there, we had 10 Court of Appeal judges, 29 High Court judges, 57 magistrates, and Clerks of the Peace, 12. When we look to the Magistracy, we see that there are a cross of resources involved there. In particular, we are looking to the fact of the Trinidad and Tobago Police Service having only 53 prosecutors, they handling 95 per cent of the prosecutions. Of those 53 prosecutors, only eight of them are attorneys-at-law, the rest are police prosecutors. When we looked to the DPP, we note that they are now up to 81 members of a staff complement of 130, they having had 32 persons or posts filled recently.

But when we looked against this position of the limited resources in the Judiciary, the limited resources of prosecution, the remand statistics looking as they do, with persons on remand for up to 17 years, when we look to a 6 per cent of persons affected in terms of cases disposed of, and we compare that across what the country spends, it is actually quite an interesting figure. From a whole-of-government ministerial perspective, the Trinidad and Tobago Police Service, over the last six years alone, has spent \$15.1 billion.

When we look to the five years prior to this present Government, the total figure spent was approximately \$26 billion. Office of the Prime Minister, Ministry of National Security, the AG's Office, the Ministry of Justice, and

Communications, which does the publication and products of that, \$26 billion plus \$15.1 billion. Now, Madam Speaker, those statistics are put in the context of the access to bail. [*Interruption*]

**Dr. Gopeesingh:** Would you be kind enough to give us some statistics if you have on the amount of cases in the Appeal Court, whether there are any Masters, and the amount of cases due to traffic offences?

**Hon. F. Al-Rawi:** Sure. I can immediately inform that there are approximately 100,000 cases in traffic offences—100,000 cases, which is why we are debating the Motor Vehicles and Road Traffic Act to decriminalize those matters, to remove 100,000 cases away from judicial attention and deal with them by violations. I will get you the figures for the Masters and the Court of Appeal positions. I can do that during the course of the debate and certainly in wrap-up. I do not have them with me immediately.

When we look at the further figures now, it is important to drill down to the fact of the incarcerated population. We are talking about access to bail. We know of the 3,200-odd persons who are there. Madam Speaker, 1,000 of them are there for murder—this is on average—cannot access bail. But at the current position as at March 09, 2017, we have 2,280 people in remand, pre-trial detention. Of that 2,280, we have 1,170 of them there forailable offences. Of the 1,170, 839 are still incarcerated, even though they have been granted bail. So they have gone to court, they made an application for bail, they have been told, “You are permitted bail, provided you can access the conditions of bail”, and of those persons who were not granted bail, it is only 331. So, 71 per cent of the remanded population who are entitled and have been granted access to bail, 71 per cent of them are still there.

When we translate that into numbers, we did a conservative estimate of the cost of maintaining people in remand, and the cost ranges between \$19,000 to \$25,000 per head, per remandee, per month. Those costs are, of course, direct and indirect costs: clothing, feeding, prisons officers to look after them. But when you start to add the indirect cost of transportation to and from the courts, of the prosecutors, of the magistrates, of the judicial system which articulates around it, we got the range between \$19,000 to \$25,000 per head.

When we look into the statistics, 12 per cent of the total inmates on remand have been there for more than 10 years—12 per cent for more than 10 years; 33.88 per cent have been there for more than five years; and 54.09 per cent of them have been there for just about five years and under. But when we translate that into a dollar cost to the taxpaying dollars—so we know whole of Government

over six years, \$15 billion in the police, \$26 billion by central government—but let us look at the remanded cost population now per head. For the persons who have been there for 10 years and over, if you just took them at the 10-year marker, that percentage of 12 per cent translates to \$804 million, at \$25,000 per head.

**Mrs. Persad-Bissessar SC:** Hon. AG, if this was 10 years ago surely at that time it was not \$25,000 per head. Over the years that amount increased, so I think the arithmetic might be a bit off.

**Hon. F. Al-Rawi:** Sure. The hon. Member for Siparia has made a good point, that this is a *de maximis* position. There will be a *de maximis*. I accept the logic in your argument that one should perhaps calculate the mean average over time. That is possible to do. So let us be on the upper end of it, and I accept the criticism in the argument.

**Dr. Khan:** I just want to find out, of the 839 people who are still incarcerated and were granted bail, what was the value of the bail amounts for those people on a range?

**Hon. F. Al-Rawi:** Sure, I will come to that in just a moment. Let me just get through a bit of the particulars, okay?

**Dr. Khan:** Yes, sure.

**Hon. F. Al-Rawi:** So I accept the point raised by the hon. Member for Siparia, and on the maximum scale we are looking for those there over 10 years at \$804 million. For those who have been there just for five years, not counting the average where they are between six and 10, we are looking at a figure of approximately \$1.135 billion. When we look at the people who are under five years, we are looking at a rough figure on the upper end of approximately \$1.085 billion. That is a fancy way of saying that the delay in justice is very, very expensive for the people of Trinidad and Tobago.

When we look a little bit further, we see that of the persons who are incarcerated for bail, there are a range of offences. There are, of course, those who are there for very significantly important offences, or serious offences, like shooting or attempted trafficking in cocaine, et cetera, et cetera. But there are people in there for possession of small quantities of marijuana, for possession of a weapon or a knife. People in there for sacrilege. People in there for maintenance arrears. People in there for using obscene language. People in there for throwing missiles. [*Interruption*] All criminal offences—surely a missile well aimed like David to Goliath could cause significant problems, I accept, but the point is that

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[HON. F. AL-RAWI]

*Friday, May 19, 2017*

there is a range of offences—[*Interruption*]—or a teacup. [*Crosstalk*]

So, Madam Speaker, focusing and trying to get constructive work in the House today, we come now to the point of what is access to bail. Why should one even consider access to bail? Surely we do not want to be deemed to be promoting, “Look, let us just get rid of remandees because it is expensive to do that”, that is far from the case. In fact, the position is the balancing of rights issue.

When one looks to the balancing of rights issue, the mechanism inside of this is that it is a fact that the conditions of remand are very significant.

I want to refer to an excellent report done by Daniel Khan, who acted as Inspector of Prisons and produced a very thorough report in 2012. In that report, the hon. Madam Justice Gobin was quoted for her dicta in *Colin Edgehill v the Commissioner of Prisons and the Attorney General*, which is an Unreported Case 3178 of 2004, and it jumped out at me. This is the quote from Madam Justice Gobin at paragraph 31 of her judgment:

“The atrocities of the slave trade as well as indentureship are well known to us and have been part of our history. Some of the conditions at the Remand Yard are not so different from those experienced by our forefathers.”

In that context I know my colleague, the Minister of National Security, will speak to the significant reforms which are going on at prisons right now. I will leave that thunder for him. But the point that I wish to make right now is that one of the aims, a laudable aim, in promoting a better working access to the justice system, is to deal with the reality that the vast majority of persons who are remanded come from lower socio-economic brackets, some of whom are incarcerated in conditions where new offenders for relatively minor matters find themselves as cellmates, sleeping as they call it “razor blade”, meaning on your shoulder, cannot lie flat on your back in a remanded cell for very long periods of time. There is an effect to that, and the effect is obviously multidimensional.

On the one hand, are you causing an increase in recidivism? Secondly, are you breeding criminals in your jail who would otherwise not offend? Thirdly, when you remove someone out of the family support structure, and someone is a provider to a family, what happens to that person left? Of course, that is counterbalanced against the rights of the victim and the fact that there is no guarantee for speedy trial under our Constitution, just a fair trial. But the point that we look at time and time again, be it Deosaran report, be it the many reports standing on the state and conditions of prison and the criminal justice system, we

are seeing that we have reached breaking point and past it a very, very long time ago.

When one looks into the cause reasons for the inefficiency of the access of bail, as currently stated in the law, Chap 4:60 before us now, we note that the mechanisms for access to bail are set out largely in the second part of the Bail Act, in particular section 12 of the Bail Act deals with the processing aspects and milestones for processing bail. When we look to that we see that the current law, section 12 in particular, speaks to the two hallmark concepts that must be achieved if you are going to access bail. A judicial officer considering the positions under section 6 of the Bail Act, then goes to section 12 of the Bail Act, looks at the provisions and says, “You may be required to have a surety or security”. Why?

You are given conditions of bail, you are set free by judicial discretion, so that you can be warned that you must come back to the court to answer the case against you. The law currently provides that you must be subjected to conditions which include a surety, or somebody who comes and guarantees by way of some, if I can use the word, “indemnity” that you will turn up, and that indemnity is put into something called a recognizance, and that recognizance is translated to a dollar value, and they say, “Look, if you are going to stand bail or be the surety for this person, you must be potentially liable to lose the asset which you pledge against this”.

**Mrs. Persad-Bissessar SC:** Put your money where your mouth is.

**Hon. F. Al-Rawi:** Put your money where your mouth, as the Member for Siparia says.

**3.00 p.m.**

Secondly, you may have a security aspect where you physically have the opportunity to put forward cash security or land security, movable or immovable, actual land value or not. Because the law, whilst it does not define property or define surety or define security, there are references when you cross-reference section 19 of the Act to section 12 of the Act and then the schedules to the Act, you can see that we have the judicial perspective to have property in the form of movable or immovable, you can have surety there and recognizance provided. You could be released in a number of circumstances or a mix of them. And when we look to the surety, you can have bail with a named surety or you can have bail with a surety to be approved by the Clerk of the Peace where the surety is not actually known at that point in time.

But the law has grown up in the courts such that the Judiciary now has a preponderance towards the insistence of land as the security to be provided under recognizance. And when we looked to that we realized that of the prison population the vast majority of them standing in impoverished and landless conditions, even though you have bail, we know from the statistics, 800-plus people out of 1,000-something have been granted bail, but cannot access it because they are landless, they are asset less. And therefore, the insistence for the provision of putting your land forward has had two consequences. One, we have kept the remand population in a constant state “stagnancy”. And two—  
 [Interruption]

**Dr. Gopeesingh:** Stagnation.

**Hon. F. Al-Rawi:** Stagnation. Thank you, malapropism and all. And two, we have turned a blind eye to an active and unlawful and illegal operation of professional bailors. We know—my learned friend from St. Augustine would know this well—that there is an offence prescription in the law as it stands right now that sections 18 and 19 of the Bail Act provide. You cannot agree to indemnify the person who is giving the surety for you. It is an offence. You cannot, as a bailor who comes forward and gives land as surety, use it again without the permission of the court. But in our Magistrates’ Courts, standing on the pavements in Port of Spain, in San Fernando, in Sangre Grande, in Arima, in Tobago, there are professional bailors known to everyone who stand up there and have little side conversations in front of the courthouse or in the halls of the courthouse saying, “ah go sign for yuh”, and these people turn up over and over again using a system of providing the deeds across multiple times.

Now, how has that allowed to prosper? For a number of reasons. One, the Magistracy has not been computerized. There is no record on a computerized system, on a daily basis of dockets. Nobody knows on a day to day, minute to minute basis, as we have in the High Court, what a magistrate’s docket looks like. It is a paper management system which is why we were insistent as a Government to put in the Criminal Proceedings Rules which came in effect in April 2017, because concomitant with that was the buildout of the Judiciary’s case management on an IT platform. So we are loading everything into the data management system so that you will know as a matter of reality where you stand in the cases, which judge has what, what the load looks like.

That has caused some problems recently we have learnt, and the fact is that that is the system. But in that system the professional bailors come up because there is no knowledge now of what property you have used in what circumstances



because the left hand is not talking to the right hand, the court downstairs does not talk to the court upstairs or the court in San Fernando and, therefore, professionals bailors have been allowed to prosper, Madam Speaker. It makes a nonsense of the entire system of bail.

In these circumstances, that is why we are also driving the reforms on the compulsory registration of every lot of land and parcel of land in Trinidad and Tobago, and the opening of that access at that registry as we are doing in the four Bills now before us—not anticipating them—and in other Bills which will come in September you will see that we have a whole land package where the data on land is known. Why? So that we can make sense out of nonsense. We have spent billions of dollars as a country for umpteen years, but our systems do not talk to each other.

And I have heard now for the second time in crosstalk, albeit quietly, a suite or architecture. Yes. If you do not have a bird's-eye view of the connectivity of each of these areas—the registries being open, the registry in the criminal justice system being computerized, the left hand talking to the right hand, prisons with access to information on case management with the Judiciary, motor vehicles with access to the Treasury, with access to the court, with access to the police—so that you have a system of connectivity to make sense of our expenditure to ensure value for money, then we are not in the correct direction.

**Dr. Moonilal:** You have 10 minutes to debate the Bill.

**Hon. F. Al-Rawi:** There being 10 minutes to debate the Bill, very rare that I would take any advice from the Member for Oropouche East, but he has come good today. You see, the context of the Bill and the rationale of the Bill is now anchored in the context of Trinidad and Tobago and the mischief that we seek to solve.

You see, this Bill is a very short Bill. This Bill is exactly six clauses long. Short title, clause number 1; Commencement, i.e. there shall be proclamation in clause number 2. The interpretation section in clause number 3. We are now dealing with three substantive clauses, clause 4 which is amendment to section 12, clause 5 which is an amendment to section 17 and clause 6 which is an amendment to the schedules for the introduction of a Fourth Schedule.

What are we talking here in clause 4? Clause 4 of the Bill deals with allowing the legislative statement of the forms of security that are now acceptable and specifically when we look to clause 4 of the Bill we are prescribing in a new subsection (4A) that you can use cash, certified cheque where the amount is under

\$10,000 or less. And as a direct conversation that I would like to hear from the Opposition on the concept of cash.

You see, we have prescribed in the new (4A) (a), cash can be used for \$10,000 or less. Why have we stated \$10,000?—we are linking it to the money laundering provisions where you make declaration of cash, et cetera. But there may be an odium in the use of cash because the question is going to be, are you going to have somebody—and I am going to put it raw—rob someone, get the \$10,000 in cash and turn up at the prison and say, “Here yuh go, leh meh go”. Where did you get the money from? What is your source of revenue? What is your source of income?

**Mrs. Persad-Bissessar SC:** Or you could deposit \$150,000 in a bank.

**Hon. F. Al-Rawi:** Or you could deposit money into the bank and have—  
[*Crosstalk*]

**Madam Speaker:** Members, could we, please, control the crosstalk. Every Member will be allowed an opportunity to make his contribution.

**Hon. F. Al-Rawi:** Madam Speaker, you would note that I am trying my best to raise and elevate the level of conversation in this Parliament. I am trying my best. “Ah gehing tested a lil bit.” But anyway, you can, in fact, put cash into a bank, fill out a source of declaration and then draw a certified cheque. But clause 4 of the Bill which amends section 12 of the Act allows us to use cash and certified cheque for amounts below \$10,000. You can use a certified cheque where the amount is greater than the security of \$10,000. And we are prescribing as well that you can use a bond. The word, in fact, should not be, and I propose an amendment of a registered financial institution should be a “licensed” financial institution, allowing for a bit of flexibility in the type of institutions which you could access, or you can have a charge on immovable property meaning land.

We are also allowing in terms of the insertion of a new (4B) that bail can be granted to that person who stands to give the security or to the person who comes forward, and that when the court actually closes, because you have missed the three o’clock cashier deadline, that you do not need to be worried about the working day close of cashier at the court, if you have got the security as approved in the form by the judicial officer, you can actually now access the prisons which can receive the form of security, issue a receipt for it, return it to the Inland Revenue into the Consolidated Fund via acknowledgment through the court the very next day. So that we are improving the times for accessing the conditions of bail which is where clause 6 comes in, which is where we amend the schedules by

adding a Fourth Schedule to prescribe the times by which you can access the payment of these forms of security or lodging of security.

When we look to, of course, the mechanisms that flow in (4C) in clause 4, again, it is just what I referred to which is the fact that you must have an accounting system by the prisons when they receive the forms of security, the issuance of receipt and repayment across to the correct positions. But I ask you to bear in mind that cash can actually be paid by LINX or by credit card because you have, of course, the Exchequer and Audit provisions which allow for the payment by those mechanisms being tantamount to cash.

**Mrs. Persad-Bissessar SC:** In the court?

**Hon. F. Al-Rawi:** Yes. In the courts, at the Registrar General division, at Immigration, at Customs. Cash can actually be paid in significant ways, but rules of court and protocols between the Ministry of Finance and the courts can actually take into effect if we wish to have electronic payments of security.

Clause 5 of the Bill deals with the mechanism for improving the forfeiture of the types of security that we have actually put in, Madam Speaker. And when we are looking to the forfeiture provisions there was the complaint that it was onerous and that there was some difficulty to it and therefore, in our consultations—and I will give you in a moment the persons that we consulted—in our consultations we came up with an improved mechanism to allow for forfeiture to extend to certain values. We are proposing the repealing of subsection (2) of section 17. We are replacing it with a new subsection (2) which captures what the old subsection (2) did, but goes now a little bit further and adds that the forfeiture can actually be less than the amount. The defendant can actually have seven days to show why that forfeiture should not be made, so you can show cause why. And we are adding in now the concept of paying the sums already put on security, that cash or certified cheque or lien on land or bond as it comes from a financial institution, that there can be an election by the defendant to have those moneys used for the reparations, if I put it that way, for payment of fines ordered by the court or compensation to victims.

Clause 6, of course, just simply deals with the amendment of the schedule by inserting, as I said before, a Fourth Schedule. So it is a rather simple Bill. I would like to add, as we draw close to a close for this piloting of this debate, that we did consult with the Commissioner of Prisons, with the Judiciary, the DPP's Office, the Criminal Bar Association and the Law Association. In particular, I can say that the Judiciary had fulsome responses in particular in relation to the forfeiture

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[HON. F. AL-RAWI]

*Friday, May 19, 2017*

and security provisions. The Commissioner of Prisons was fulsome in response as well. Regrettably, notwithstanding attempts to get a certified position from the DPP's Office, the Criminal Bar Association and the Law Association—I can tell you that we wrote the DPP's Office on five occasions between July 2016 and January 2017 and several follow-up phone calls; we have got nothing back. We have also had letters written to the Criminal Bar Association, again, July 2016 straight up to December and umpteen phone calls. Nothing back. From the Law Association, July 2016, September 2016, January 2017, February 2017, and constant calls and meeting with the counsels. Nothing back.

**Dr. Moonilal:** Why are they ignoring you?

**Hon. F. Al-Rawi:** So—perhaps they knew you were going to speak in the debate. So the fact is that we have made attempts to obtain the responses and views of several persons. We have certainly made constant enquiries into that fact.

I would like to commend this Bill to Trinidad and Tobago through you to all Members present, Madam Speaker, as one which is due, as one which is necessary to deal with the ills of our society. I would like to add that it, of course, coordinates with the operationalization of the electronic monitoring system, so that if you are released on bail or conditional release, that there is a mechanism for electronic monitoring which the Minister of National Security will speak to. So that it is not just that you are letting people out. What you are doing is facilitating the judicially approved access to bail and looking towards a balancing act for the people of Trinidad and Tobago. I look forward to the views of the Opposition on this material and I beg to move. [*Desk thumping*]

*Question proposed.*

**Madam Speaker:** Hon. Member for Siparia.

**Mrs. Kamla Persad-Bissessar SC (Siparia):** [*Desk thumping*] Thank you very much, Madam Speaker. I join this debate not to congratulate the hon. Attorney General who sought to create the impression that this piece of legislation is due and provided a host of reasons why it was necessary. But, Madam Speaker, I intend to show in the limited time allotted to us, and my colleagues will follow thereafter, that is Bill is a retrograde Bill; [*Desk thumping*] this Bill in many aspects contains unconstitutional provisions; [*Desk thumping*] the Bill also contains exceedingly flawed drafting in terms of the ends that it seeks to meet; [*Desk thumping*] the Bill will not achieve the aims, the objectives and purposes that the hon. Attorney General has put forward and which is contained in the

Explanatory Note of the Bill. And, the hon. AG said he has not had the benefit of consultations from the bodies, the stakeholders which, through no fault of his own and so we give him credit for trying. But perhaps if we had had some of that we may not have fallen into the errors that we find in this Bill.

Madam Speaker, this Bill, you know, we say with a Motion it is frivolous and vexatious and totally without merit. I would say that this Bill constitutes total unadulterated legal “dotishness”. [*Desk thumping*] And I intend to show why I am saying it is retrograde, unconstitutional, fraud in drafting, will not achieve the aims and objectives and purposes set out in the Explanatory Note of the Bill.

First of all, there is a movement in the world right now and the movement is one that is moving away from what is termed as money bail. Money in terms of whether it be as cash bail, certified cheques or property, whether real property which will be movable property—furniture, chattels and so on—or immovable property, your land, where deeds are required. There is an entire movement away from that. And in fact, when we look at the history of bail which dates back really from Roman times, but for us it is over 1,000 years coming down from the Anglo Saxons down through the British and to us, the whole bail system developed, it was not for you have to pay money to get your liberty. The purpose of the bail when it initially started was not to pay bail, pay money for liberty, but that is where we have gone.

And in the United States they went totally, totally into money bail, an entire industry. AG spoke of professional bailors and so on, in the United States this is, in fact, by statute that these bondsmen, professional bondsmen operate and there is an entire industry in that regard, but that is where they have the extreme of it. They are moving away completely from money bail. And I would like to read a short quote, with your leave, Madam, and this was in about 1963:

“For 175 years, the right to bail has not been a right to release, it has been a right merely to put up money for release...”

What has been made clear today,... is that our present attitudes toward bail are not only cruel, but really completely illogical. ...usually only one factor determines whether a defendant stays in jail before he comes to trial.”

And we are speaking about pre-trial justice and this is where there is only one factor determining whether the defendant stays in jail before he comes to trial. And what is that factor?

That factor is not guilt or innocence, it is not the nature of the character of the

defendant, that factor is simply money. How much money does the defendant have?

These words were spoken by former US Attorney General Robert Kennedy in 1963. And as a result of his efforts in the United States in the federal system they have completely removed money bail as being one of the factors to obtain release. There have been several projects—the Manhattan Bail Project, the Vera project, several—which moved away from money bail and used alternatives for securing liberty for pre-trial justice.

That conference then led to major bail reform in the form of the federal Bail Reform Act of 1966, and what they did, they recognized there and they provided generally that non-capital defendants—and for us the capital offences murder, treason and so on where you do not get bail, non-bailable—once it was a non-capital offence, defendants were to be released pending trial on their own personal bail, personal bonds unless the judicial officer determined these incentives would not adequately assure appearance at trial. And thereafter in all 50 states in the US they have enacted law authorizing release of defendants on their own recognizance.

So this Bill, I say, in putting out forms of security, and let us understand the difference between a surety and a security when we talk about bail because in some ways people get confused and the AG's presentation I would not say it was confused, but it was not made clear. The sureties of persons, in the days with bail you would bring a family member, a relative, a neighbour will say, "Look, I guarantee". That is what bail was. I guarantee this person will attend court. That is the surety, the person.

And then it developed into—they were not just taking the person's assurance that the accused would attend court on the days that he needed to or she needed to—moved away from that and said, well, you know, it is not enough for you to come to court and give an assurance that you will be the surety, you need to give something called a security.

And so the law developed—security became, it could be your car, in those days no cars; it could be your horse or your bull cart; could be furniture; movable property, what we call personal property; it could be in the form of land, your land deeds and so on. And that system developed down to where we are moving away from that personal assurance only to security for bail to bring in persons into securing their attendance at court.

So what the hon. Attorney General presents in this Bill, not measures for access to bail, you know. So to start with even the name, the title of the Bill is wrong. It is wrong. [*Desk thumping*] What it sets out to do is to identify security for bail, the things that must be given to the court in order to get your freedom, your release, pre-trial release. And the other provisions which in clause 5, I will come to it in a moment. Clause 4 basically is just to identify. And you know what is very interesting—[*Interruption*]

**Mr. Hinds:** Would the Member give way?

**Mrs. K. Persad-Bissessar SC:**—on the one hand—I am sorry. Yeah.

**Mr. Hinds:** Thank you very much. Thank you very much for giving way. Since it is your view that the name of the Bill is wrongly denoted, what do you propose that it should be?

**Mrs. K. Persad-Bissessar SC:** I propose that the Bill should be completely withdrawn. [*Desk thumping*] So I am saying, starting from the very name and as we go through the clauses, the Bill should be completely withdrawn and I started off, and I intend to show that in the time I have left.

So, we have all the articles, with respect, I am saying in the world now, the movement is away from money bail whether by cheque, whether by cash whether by land deeds and so on. Okay? We are moving from that. And you know, the hon. Attorney General, really, it is his righteousness to hold these poor fellas, poor fellas, they are so poor in the jail and they have been incarcerated and they have bail, they have received the order for bail, but they cannot make the bail. How many of those 800 people inside there would not be able to make the cash bail that you are now suggesting? How many? [*Desk thumping*] How many of those 800 people in remand who you say already got bail will be able to find the \$10,000 in cash or more than \$10,000 in a certified cheque? So it is not just simply a question that they do not have a land deed, because right now in our law, right now in our law the different kinds of security for bail are all these things that are already there, handed down through the common law.

Our Bail Act 1994 is silent as to what should be security; it is silent. Nowhere in the Bail Act does it say what should be security, but the Judiciary and Magistracy has been granting bail, own bail it is called, with a deed. Cash bail, Madam, certified cheques, all those things are happening as we speak. Yesterday about 20 applications for bail before the Port of Spain bail court here in the Magistracy. And you know, people who were coming in, saying, “You know what I want? Can you kindly give me cash bail?” They were asking for cash bail. “Give

us, I want the alternative cash bail” and so on. So every one of these types of security are there.

And, you know what is interesting? In the securities mentioned here by the hon. Attorney General in clause 4, does not mention at all, does not mention movable property, chattels. And you know that is happening right now? I was told of a case where a lady came, a mother with respect to her son and so on and they have no money, they have no land deed. And they said, okay. “Do you have anything in your house of value?” And she said, “Yes, I have some furniture, I have a spoon and the spoon is valued at \$500”. You know, asked by the judicial officer, “Well how can a spoon be \$500”? This is a real matter. How can it be—well you know, well first it start off being gold plated, brass plated until, “Well, you know what?—is the lawyer really told me to put \$500 to make up the value”.

So it is cash bail. Yes. In money, in certified cheque or in personal property. One case of furniture, a photograph was brought, photograph, nice furniture, look this is the furniture valued at X amount. “I am offering that as security.” When you check it out, you know, the judicial officer say, “But wait, that looks like a Courts signage”. So people use, and that is a problem we have to solve. That is a problem we have to solve, the valuation of the properties or the movable property or immovable property, real and personal and that is a problem that is happening with bail. Well, that is another issue.

So, I am saying now, the whole movement away from money bail and whether this Bill will serve the purpose of getting these over 800 people on remand who got bail to get them out of bail. And it is my respectful view, it will not, but there are other points and we will come to those. It will not. It may have some of them who could find the cash, but has any study been done, any statistics obtained as to how many of these are saying, “You know, I cannot go because I just do not have the cash. I do not have a deed.” How many of them?

And then now when we look, as I say, what is happening around the world moving away from money bail, already in Canada, in the United Kingdom and so on, you did not have this severe development of a sort of total dependence on money bail, and as I say money, I use it in terms of money the cash, or in monetary instruments in terms of a certified cheque or in terms of a land deed and so on.

And we look at the articles. I will not have time to read them, but my colleagues will take them up. But you get an article just last year in the *Guardian* of February 2016, reforming, “The cash bail system should be eliminated rather



than reformed”. And in this article:

“Reforming the cash bail system to keep non-convicted poor people out of pre-trial detention is the right thing to do.”

Article goes on with that.

April 2016 an article in here in *The Atlantic* April 12, 2016, “The Dangerous Domino Effect of Not Making Bail”. Again, you cannot find the money. You are told to get the money, all kinds of nefarious activities go to get the money or the certified cheque as it may be.

“When low-risk people enter this maze after arrest, pre-trial policies can ruin their lives.”

“Detaining the poor”.

Another article May 2016:

“Detaining the poor: How money bail...”—and I am using money not simply cash, but instruments—“...perpetuates an endless cycle of poverty and jail time.

One reason that the unconvicted population...is so large is because our country...has a system of money bail in which the constitutional principle of innocent until proven guilty only really applies...”—to whom?—the rich, the rich.

It is those who could pay with the deed or with the monetary instrument, they will go, on this bail system that we have.

And so this Bill, I am saying, does not take that into account, but yet the hon. Attorney General is talking about poor people inside. It talks about somebody in for sacrilege. I know the case, you know. A fella over 60 years on sacrilege. When I heard about it, I said, I do not believe we still charge people with respect to sacrilege. This guy has been in there for years.

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

Madam Speaker, the sacrilege was he broke down a church door, which is really sacrilege to do a thing like that—so he was charged—and I think he was further trying to pick up some of the items in the church, so there would have been some trying to take what was not his, but at the same time, the break—and he has been in there, and you know, for how many years? He has already served almost the max of the sentence that he would get should he be found guilty at the end of it. But, because of the delays in the system, no trial, and therefore he is

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[MRS. PERSAD-BISSESSAR SC]

*Friday, May 19, 2017*

inside. What do you do with that person then on an offence that would be in some sense as minor, already serving his term? And I have not heard the AG addressed that.

I would suggest that all those persons inside who have been granted bail, cannot get out because they do not have the instruments to get out; the judge has ordered the bail, look, why do you not just bring all of them—if they have already served their sentences, and no trial yet—and give them all bail. Give them all bail, because they have already been punished sufficiently. [*Desk thumping*] There were issues, I remember, people discussing earlier the DPP will bring the *nolle prosequi*, but then there will be difficulties if you say you are not prosecuting, then a person who might have been guilty went away without a blemish on their record. So, bring them in, because of the failure of the State and the criminal justice system to provide a speedy trial, and the long delays, you have already served out the term, please just bring them before the court and grant them bail.

One suggestion, but I will have some others as we go along. Again, on this cash bail, October 2016 by *NBC*:

“Cash Bail, a Centrepiece of the Justice System, Is Facing its Undoing.”

And what is happening as we speak now in California, there is filed in the Senate in California—a Bill has been filed to take away the California Money Bail Reform Act, 2017, and this is where the promoter of the Bill in the Senate says:

The presumption of innocence is one of the foundations of the justice system, but every day thousands who are awaiting trial are forced to be in jail because they do not have the money to post bail. The current cash bail system is the modern equivalent of a debtor’s prison. It criminalises poverty pure and simple, and that is not right.

So, the Bill is before the Senate. I have with me a copy of the history of the Bill, as we have the history of our Bills. I have obtained a copy of it, and as recently —continues April 2017 from the *Oakland Post* with respect to that Bill,

“California bill to eliminate bail system clears its first hurdle”

—April 2017, where it was approved—that Senate Bill—and then April 04, 2017, bail reform legislation passes the first step, what is called a Public Safety Committee in that Senate, and on May 15, 2017, the California’s Bail System is unfair to non-wealthy, especially if they are innocent, and that bail as at the 15<sup>th</sup> of May has been placed at a special committee, the Appropriations Committee of the

Senate in California, and looks set to go with respect to money bail.

So, that is one reason I am saying it is retrograde, and we should be looking at bail reform in a more holistic manner rather than punishing and really creating that domino effect on those who are already poor that whether you pay it in cash, certified cheque, or land deed, you still cannot afford to pay it.

The other issue with respect to money bail, Madam Speaker, is issue relating to constitutionality. In the United States there are several cases filed and that are pending now, where they are using an amendment of the Constitution—I do not remember the exact number, but it is one which deals with equality provisions. And in our own Constitution we have the equality provisions in our Bill of Rights contained in the Constitution, section 4 and so on, and the issue arises, if I am poor, I do not have a land deed, I cannot get \$10,000, I cannot get \$5,000, I cannot get even \$1,000—how many thousands are living below the poverty line with just a few hundred dollars per month? I cannot get any of that, and I am being subjected to treatment that really discriminates against my condition, then it is unconstitutional.

So, these are the things happening in the larger world. And if we are really concerned about the prisoners, as we say, and they are not just prisoners as criminals, eh, we must remember that a prisoner is presumed innocent until proven guilty. That is a fundamental tenet of our criminal justice system and of our democracy. So, that is where we are in terms of the movements across the world, and this bail Bill is coming back to confine us, not take us out of that, but confine us into money bail, a system that is fast on its way out in the modern democratic society.

When we look at the history of the legislation, we see two trends developing over the years with respect to bail. There is one trend which has to do with a movement from unsecured bail—which I spoke about already—by a surety, and we are moving to secured bonds by professional bailors here, in other countries, professional bonds men. And then there is a second trend of development which has to do with bail or no bail. That is the decision that the judicial officer has to make. Do I grant bail or do I not grant bail? And having made that decision is only then you go to that second stage of secured bail or unsecured bail. This Bill deals with respect to whether secured bail or unsecured bail, and in our own jurisdiction, before our Constitution and up to the 1994 Bail Bill which is now our Bail Act, Chap 4:60, I believe it is, what was the law?

The hon. AG spoke of then Attorney General Keith Sobion who piloted that

Bill in the Parliament in 1994, and for the first time we got one statute only dealing with bail matters. Before that, and there is a judgement in the Court of Appeal, I think it is *Sinanan v The State*, No 1, and it is reported at the West Indian Reports 44 WIR at page 359. Our Court of Appeal there, Justice Sharma, Justice Ibrahim, and CJ Bernard, gave a judgement in 1992, and the Bail Bill was passed in 1994. So, the state of the law at 1992 was that of the United Kingdom. Imported under our Supreme Court of Judicature Act and under the Supreme Court Act, and the Constitution Act, where it was saved law coming out of England received law—if you may want to call it that—where all laws prior to 1962 received into Trinidad and Tobago from the United Kingdom.

So, what the 1994 Bill tried to do and did not totally do, was to take up the common law and statute law that we received from the United Kingdom and to codify some of it in the 1994 Bill. But, Madam Speaker, the Bail Bill, 1994 which became Act, Chap. 4:60 is silent on many matters relating to bail. Many, many matters. So, it is still that common law out of the United Kingdom which governs, for example, areas where the Bail Act is silent, and these are: for example, it is silent with respect to a definition of Bail. There is no definition of bail in the Bail Act. There is no definition of bail anywhere. The Constitution gives us the right to bail, to reasonable bail, but it is not defined. What is defined in the Bail Act, Chap. 4:60, is bail in criminal proceedings but is silent on a definition of bail. It is also silent on the various types of bail that may be granted—the types of bail—and it is also silent on what is the security for bail.

Coming out of that then, the Judiciary on its website has put out a definition which can only have come out of the common law. And, on the Judiciary website bail is defined in these words, and this is in terms of really what would have been a common law: Pre-trial release. Bail is pre-trial release. It may be considered a contract whereby an accused person is released on certain terms from custody to his surety or sureties. The surety or sureties responsibility is to ensure the defendant attend court at every hearing. Then the Judiciary website answers the question, what are the different types of bail? And they say: own bail, where you sign your own bail bond; bail with a named surety, this is where a person is a named bailor, disapproved in court, and you have to present a valid ID Card, DP or Passport, no form of security is used. So, this is the bail with a named surety. There is bail with a surety to be approved by the Clerk of the Peace, and these are the kinds of orders that are made for bail. The documents needed: A certified copy of a deed, most recent land and building taxes receipt, ID Card and so on. The person who is accepted as a surety, a bailor, must be approved by the Clerk in

terms of the Magistrates' Court or by Registrar in the High Court.

The Judiciary, whilst it also says, cash bail—this is another type of bail—the person who is presenting himself as a surety for the cash bail is required to show proof of the source of funds. This requires a production of a recent bank statement to the Clerk of the Peace or to the Registrar. And the other type of bail that the website speaks of is police bail where a senior police officer decides a person charged for a minor offence may be granted bail, and this usually happens where you are in custody during hours when the courts are closed.

So, what does it mean? Our courts are already giving, as I said, the different types of bail; the own bail, secured bail with the securities being cash, where you can give cash bail or land deeds. So, what is the difference in this Bill, Madam Speaker? What is the difference that we now have? And let us go to see what is the difference as we look at clause 4 of the Bill?

Let us see clause 4. Let us see the Explanatory Note. In clause 4, section 12 of the Act is amended by inserting after subsection (4) the following subsections—please take note:—

“Section 12 of the Act is amended by inserting after subsection (4), the following subsections:

“(4A) The security given under subsection (4) may be in the form of—

- (a) cash or certified cheque...security is ten thousand dollars...
- (b) certified cheque...security is greater than ten thousand dollars;
- (c) a bond...”—form, well, the AG now said a licensed Financial institution under the Act, Chap. 79.

“(d) a charge on immovable property.”

Note, it does not put personal property, so that is left out, and we do not see anything here with respect to own bail, where you sign your own bail bond. Those are the simple ones for the poorer people. Not the cash. Own bail, and of course, your furniture, other kinds of personal property that you have.

Now, this is very, very dangerous what is happening here. I said this Bill is so badly flawed in its drafting. The insertion of this section, we need to go back and look at where we are inserting it. I mean, I am flabbergasted that this could have come through to this Parliament where it is so badly, badly drafted that it just applies to a small category of prisoners. It does not apply to security for bail for the majority of prisoners, but a very minor category of prisoners, so let us see what clause 12(4) says because we are inserting after clause 12(4), this (4A).

Clause 12 of the parent Bill tells us—

**Mr. Hinds:** It would not be clause, it would be section.

**Madam Speaker:** Member for Laventille West, please.

**Mrs. K. Persad-Bissessar SC:** So, clause 4 of the Bill asks us to insert in section 12 of the Bill, and this is where section 12(1):

“A person granted bail...shall surrender to custody.

(2) A Court may require any person applying...to provide, as a condition for bail...a surety.

(3) A Court may...require to—

(a) surrender his passport...”

—as certain conditions. And you come to 12(4). Clause 12(4) reads:

“Where it appears that the applicant for bail is unlikely to remain in Trinidad and Tobago until the time appointed for him to surrender to custody, he may be required, before being released on bail, to give security for his surrender to custody and the security may be given by him on his behalf.”

This is only for persons applying for bail, where that person is unlikely to remain in Trinidad and Tobago. This is not for any applicant for bail, and now you want to insert (4A) which says, the security under section 12(4) shall be cash, certified cheque, deed, immovable property. Madam Speaker, this is madness, this is nonsense. How many people out of those 800 people that you see are remanded who got bail are persons who are unlikely to remain in Trinidad and Tobago? [*Desk thumping*] Are they Venezuelans, Bajans, Jamaicans, how many? This is totally being inserted in the wrong place in the Bill. It is being inserted where—

**Madam Speaker:** Member for Siparia, your original 30 minutes are now spent. You are entitled to a further 15 minutes to continue if you wish.

**Mrs. K. Persad-Bissessar SC:** Yes. Thank you very much, Madam Speaker. So, this is totally wrong. Maybe because the word “Security” was in section 12 of the main parent Act, so they said, “Hi, what is a security?” So, now in (4A) where we are dealing with section 12(4) of the Act, the word security there now means these various things.

What legal—I do not want to say “dotishness” again, but this is so totally, totally fraud. It does not belong. What would it do with your 800 persons on remand, or anybody else? They will still have to use what is at present defined and put out by the Judiciary, as obtains coming as received law out of the United

Kingdom. That is nothing new—nothing new for the majority of persons. There is only one category of persons. Now, there are a whole host of issues which deal with cash, and I will leave that to my colleagues to—because time would not permit, because there is another very important matter I would like to raise, and it has to do with all the dangers with cash. I will go to, with respect to cash.

Madam Speaker, you may or may not know that the United States has put out, what are they called here? International Narcotics Control Strategy Report, INCSR report, in March 2017. And out of 196 countries, Trinidad and Tobago along with some others in the Caribbean, we are now lumped into what is known as, major money laundering countries.

**Hon. Member:** What?

**Mrs. K. Persad-Bissessar SC:** Major money laundering countries. I have not heard the Government say this is not true, it is a lie. If you look at Vol. I of that report, at page 5.

**Mr. Al-Rawi:** Would you give way? Member for Siparia, would you give way?

**Mrs. K. Persad-Bissessar SC:** My time is very limited, Sir. In your winding up, please. Volume I at page 5, Trinidad and Tobago now lumped with some other countries, out of 196 as a major money laundering country. The Volume II, pages 6, 8 and 25—time will not permit me, but again, this is serious cause for concern, and money laundering relating to what they are talking about. All the things the hon. AG tells us all the time about the FIU, and that the hon. AG is the chairman, I believe, of the FATF, and he goes back and forward to deal with these issues, and here we are for 2016, you know, because the first thing they would jump and say it was for 2015. No, this is for the 2016 we are lumped in as a major money laundering country, together with several of the Caricom, and indeed several Caricom countries are also lumped in this net. And my respectful submission will be—[*Crosstalk*]

**Madam Speaker:** Members! Members, I would like to hear the contribution of the Member for Siparia. Please continue.

**Mrs. K. Persad-Bissessar SC:** My contribution would be, that we—together with the other Caricom countries—make statements on this. And indeed, some other Caricom countries have already spoken out on that stigma, that demarcation that we are together with them amongst money laundering countries.

So, here we are now on the whole issue of cash bail, on the whole issue of source of funds, and some complaints that people are making is that when they go

to the Magistrates' Court they are asking about source of funds, and you need to bring a bank statement for six months. Similarly, to get the certified cheque, no bank is going to let you walk in with \$150,000, or whatever it is, and just deposit it. You have to have source of funds. So, if the bail is set in a certified cheque for \$150,000, you have to show source of funds. So, is it going to help people who already do not have the money? Will they go around and beg their family and friends? Which is what many people do to assist in raising the money? How will this help those poor people that we are talking about?

Then we come to the constitutionality of the cap. The hon. AG talked about the separation of powers and not fettering the discretion of the Judiciary, and I would like the hon. Attorney General, with this same clause 4, the constitutionality of the cap being set that the cash bail will be only up to \$10,000. In my respectful view following upon the judgement of Barry Francis, a very landmark judgment which the AG relies upon a lot, where five Court of Appeal judges sat to determine constitutionality of sections of the Dangerous Drugs Act. Following upon that, what is happening here is that there is discretion being given to a judge or a magistrate to consider individual circumstances before imposing the bail.

So, if it is that you have to give cash bail, well you could only give up to \$10,000. Why \$10,000? Why not \$11,000? Why not \$15,000? And in that sense it is arbitrary and it is offensive. There is no rational relation to the type of security, reasonable bail to the actual offence. It goes even further to be capricious, because the judicial discretion is being removed. You can give cash bail only up to \$10,000. So, you have fettered a discretion that resided in a judge or in a magistrate, a judicial officer. So, this is a provision, respectfully, which indiscriminately applies a mandatory type of maximum cash bail, and leaving the offender to have to find security. This is gross and unfair, and offensive to the principles of justice rule of law and cannot be reasonably justified.

As I say, the dangers with bail—before I get to some suggestions, I want to look at clause 5 of the Bill, which is also, in my respectful view, totally unconstitutional, should not be forming part of this Bill, and should be struck out. Clause 5 tells us where a defendant has been granted bail and security has not been forfeited—this is clause 5(c):

“by inserting after subsection (4)”—of the parent—“the following...:

‘Where a defendant has been granted bail and the security...has not been forfeited, the Court may, if the defendant is convicted, order that the security be applied towards the payment of—any fines imposed on the defendant if the defendant elects to pay the fine;’”



So, you are going to take money that was put up for bail to secure your release, and you are saying now, “Listen, you now have to take that and pay fines first.” And/or you pay:

“any compensation ordered by the Court for victims...”

This is deprivation of property without due process. [*Desk thumping*] It is in contradiction of section 4 of the Constitution of the right to property, not to be deprived thereof except in the same circumstances the hon. AG spoke of in section 13, with respect to having the three-fifths majority, and being reasonably justified. How can you take money that was paid into court for the purpose of releasing you on bail, of setting you free for pre-trial release and then say just by a simple Act of Parliament, come and say, you know what, I am going to take that money. What about if the money was put up by a third party, a surety? When that person signs that bail bond that I guarantee I will pay the \$10,000 or less; I guarantee the \$150,000; I guarantee my land deed for \$500,000. They did it to secure what? The attendance of the defendant in court. [*Desk thumping*] And this is where the bail has not been forfeited, it meant that the defendant attended the court. I did my part of the contract. I attended the court, I made sure this accused defendant that he went to court every time he had to go, and I did all that I had to do, and guess what? Simple Act of Parliament, you all want to take away my \$500,000 to pay compensation. It is laudable, you know. It is laudable to want to pay compensation. It is laudable to use it to pay the fines. But because it is laudable it does not mean that it is lawful. [*Desk thumping*] It is totally, totally unconstitutional; totally unconstitutional, and therefore clause 5 also in this regard has to be struck out.

So, we have constitutional issues with clause 4. We have issues with clause 4 which is seriously flawed where it is placed in—we are talking about—section 12(4), which is only where the applicant is unlikely to remain in Trinidad at the time of his release up to the time of the hearing—not even at the hearing, you know. In that interim period before the hearing he is unlikely to remain. I mean, you could have a student at university, for example, come here from Barbados to study in Trinidad, and, okay, some minor offence happens, he probably had an obscene language case or something, and it is unlikely he has to go back to his home country, unlikely he will remain between now and the date of trial, but he will come back for trial, so he gives his security and so on. He gives one of the securities; that is what could happen.

But, all these persons cannot fall into this category, so I am saying it is seriously flawed in that regard as well. And in the few minutes left, we talked

about prison officers. I mean, prison officers are great people, but there are always those with the propensity to be not great and to abuse the system. You had keys missing. Am I correct, keys missing in the prison? You want to deposit cash into the prison, Ma'am. You want people go in there up to six o'clock with money in their pockets. And do not tell me it is only up to 10, because a person could have several charges and they choose to have accumulative kind of way, \$10,000 with charge one; \$10,000 with charge two; \$10,000 for three; \$10,000 for four; adding up to \$50,000 or \$60,000; going down to the prisons what hours of the night, who is signing there for it? What systems are in place to ensure the integrity of any deposits made? So, I have serious problems with prisons, and I think that is a recipe for disaster to have cash being deposited there.

Solutions—some solutions. The issue of professional bailors, the AG spoke a lot and cried about it, and it is very, very bad. Has any single professional bailor committed fraud, fraudulent document? Has anybody in this country ever been brought to the courts for being fraudulent in their dealings with professional bail? And whilst it is an offence under the law, has anyone been charged? So, that is another major issue that has to be dealt with in the context of looking at bail reform. There was a Mayor of Arima, I think his name was—

**Hon. Member:** Mr. Gaston Youssef.

**Mrs. K. Persad-Bissessar SC:** Mr. Gaston Youssef. Would you believe this mayor was—he was the sitting mayor, Madam Speaker, his deed found its way into a court and was used as bail, as a deed, as a security for bail by someone, and what happened is the bailor and the defendant did not turn up in court, and the judicial officer sent for Mr. Youssef and say, “But, hey, you gave the surety here, what happened here?” And he said, “Look, I eh know nothing about this. Absolutely nothing.” That was when he was a sitting mayor, the fraudulent use of documents again.

The AG speaks a lot about the IT, and the technology, and the networking. That is a serious matter that must be addressed at the earliest opportunity. So, all of that, those and other issues that would arise. [*Interruption*] Oh yes, the traffic offences. AG, please just bring—bring it, bring the Bill dealing with the traffic offences. You will knock off half the cases in the Magistrates' Court. [*Desk thumping*] Just bring it. Bring it, and we will help you with it along the way. You would get half—

**Mr. Al-Rawi:** Talk to each other first.

**Mrs. K. Persad-Bissessar SC:** You know, well, it is in the Senate, but you

have not put it for debate. It has not been put for debate. Some suggestions: So, one is the traffic—[*Interruption*]

**Madam Speaker:** Members! Members, I have another half an hour before the suspension. I will ask Members, please, to abide by the Standing Orders. Please, Member for Siparia.

**Mrs. K. Persad-Bissessar SC:** Thank you very much. One, I have already made the suggestion of fast tracking the traffic Bill that is in another place at the moment. Let us get that going so we can knock off—and many of the reasons given, not the real righteous reasons about feeling sorry for prisoners and they are suffering, and the bad jail conditions, they were about expenditure, too much money to keep them, overcrowding. Those were some of the reasons advanced, overcrowding, all these reasons. I do not know if I would have time for this, but I did have here coming out of the CSO population expenditure prisons 1999 to 2010 for every year, showing the differences in how much was actually spent. Strange enough, after 2010 no statistics have appeared up to today as to expenditure.

Solutions: So, first persons who are on remand, they had spent close to or in excess of the statutory sentence for the respective crimes being brought before the courts and granted bail, this will not apply to accused persons who are charged with non-bailable offences. I have made that point.

Secondly, we need to spend a little more time with pre-trial supervision and monitoring. There was a great programme started by Justice Carmona, now His Excellency, and followed through by Justice Hold up. It was called the “Bail Boys Programme”. It was a bail supervision court, and they would take the young ones and then they extended—they took the age of those up to 25, then they say up to 35. So, there was bail supervision on pre-trial release—they were on bail—they spent time, and that had helped tremendously in ensuring persons came back to court, and so on.

In addition, there were calls to establish—to monitor compliance with conditions and restrictions attached to bail orders. That is another thing. There is no networking, there is nothing that gives you what happens when I put all these conditions on you, who reports back if you keep the conditions? So, we need to spend some more resources to institutions such as the Piparo Empowerment Centre, the new Life Drug Rehab Centre, Tobago Rehab Empowerment Centre, and the Probation Office. These are some, I will give it to others. I say that this Bill should be withdrawn.

I thank you very much. [*Desk thumping*]

**4.00 p.m.**

**The Minister of Public Utilities (Hon. Fitzgerald Hinds):** Madam Speaker, we have just been regaled with—we have just listened to a rather frenzied, confused attack, discombobulated attack on a measure that has so much value, so much potential for improving the current system. I am absolutely amazed, though not surprised, because clearly the Opposition, led by the Member for Siparia has one purpose, and one purpose alone. It is to oppose anything that is good for the

people of Trinidad and Tobago. [*Desk thumping*] It is the most frenzied and wild and confusing attack on solid measures that I have ever heard in my parliamentary career.

So, Madam Speaker, let me attempt to bring some sobriety to the discourse again. The purpose of this, the Bail (Access to Bail) (Amdt.) Bill, 2017 is as clearly stated in the Explanatory Note. And for the benefit of those who would have listened to this frenzied attack, let me read it again.

“The purpose of the Bail (Access to Bail) (Amendment) Bill 2017 is to amend the Bail Act, Chap. 4:60 to facilitate a move away from the use of property as a means of providing security for accessing bail and the introduction of the requirement for security by way of up front deposits of cash or certified cheque.”

It is as simple as that.

The Member for Siparia though, describes it as unconstitutional as though she is the final appellate say-so on the matter, as though the Member is the final appellate say-so. [*Crosstalk*] I want the public to know, when it hears a statement about unconstitutional, that is an opinion coming from the Member of Siparia, and in my view ought not to be treated too heavily. It should be treated with short shrift.

She described it as flawed. And the reason is because, where the amendments to section 12 of the parent Act are is being placed, it is inelegant; it ought not to be there. [*Crosstalk*] Without an understanding or an acceptance even—without an understanding that as a matter of law, every provision in the law, every section stands on its own. When a person is charged for an offence, it is in accordance with section (a), (b) or (c) or section (1), (2) or (3), it does not matter about the others and makes a point about whether it is elegant or inelegant. That is a moot argument in a serious debate, on a serious matter. It is frenzied and ought to be rejected.

So let me say, the Member described it as total, unadulterated “dotishness”, trying to get a playback on a description from my Prime Minister on the question of “dotishness” recently.

**Dr. Gopeesingh:** But racist.

**Hon. F. Hinds:** But it went nowhere. [*Crosstalk*] It went nowhere.

**Madam Speaker:** Members.

**Hon. F. Hinds:** And I—I am sorry.

**Madam Speaker:** Members, I know it is quite close to the suspension and Members may be forgetting where we are, we are not as yet in the tea room. I ask you to display the decorum this Chamber requires. Please, Member for Laventille West.

**Hon. F. Hinds:** Thank you very warmly, Madam Speaker. I quote in aid, some lines from a song from one of my favourite artistes, may his soul rest in peace, Peter Tosh. A beautiful conscious singer, who in a song called “Vampire” makes the point—they:

“...fight against morality

...fight against integrity

fight against everything good for the younger generation”

Call them vampire.

The property tax is an example—just moving forward. The people are willing and lining up to pay their tax, the Opposition opposed to that. [*Crosstalk*]

**Hon. Member:** Madam Speaker, 46(1).

**Hon. F. Hinds:** But let me deal—[*Interruption*]

**Madam Speaker:** Member, I am sure you will move on.

**Hon. F. Hinds:** I am obliged.

**Madam Speaker:** Thank you.

**Hon. F. Hinds:** Let me go straight to the measures in the Bill. But before I do that, the Member calls in aid in her frenzied presentation circumstances in the United States. Those circumstances are manifestly different to ours, and our laws are different in many ways. Their mores are different, their circumstances are different, and therefore our bail regime is likely to be different. In the United States you could buy a gun in every corner shop. Not in Trinidad and Tobago.

**Hon. Member:** You sure?

**Hon. F. Hinds:** Yeah. At least legally and we deal with it legally here and treating with the illegal. So I again, I do not want to spend too much time about what, but the Member confused me now, because the Member tells us that the only factor that determines whether a person stays in jail or not, based on American research, is money. Well, the question the Member for Siparia raised, does the person have money or not? And in the United States, the Member argued that they sought alternatives; for non-capital offences they went to personal recognizance, where the person signed their own bail and I take it that for capital offences no bail at all. The Member raised those matters.

Let me get into the provisions of this. Clause 4 of the Bill in attempting to amend section 12 says, clause 4(a)(i):

“subsection (4A) provides for the forms in which security for bail shall be provided;”

Well that is clear. Roman (ii) says:

“subsection (4B) seeks to provide for a person acting on behalf of a Defendant...”

So the defendant is in custody. He cannot act on his own. So a relative or a friend or some concerned person for the defendant is acting on his behalf on the outside of custody.

It goes on to say:

“...who has been taken...”—[*Crosstalk*]—yes—“acting on behalf of a Defendant who has been taken into custody to give...by way of cash or certified cheque to a prison officer...”

This to my mind, Madam Speaker, makes the current regime far more liberal, because today you have to give this cash to the court and you have to do so before 2.00 or 2.30 when the cashier closes operations as a matter of public service regulations.

Yeah, Madam Speaker. So now it broadens it, it makes it more liberal, you can now pay this cash to a prison officer presumably at the prison facility. So if you do not get the bail negotiated by 2.00 or 2.30 or 3.00 you have no chance, you spend the night in custody as it now exists. But now you could go to the prison and you can do that. And let me tell you, in schedule four of the Bill, in the schedule to the Bill which treats with this, clause 6 says:

“The Act is amended by inserting after the Third Schedule, the following

Schedule...”—and this will be the Fourth Schedule.

And it says:

“Days and Times During Which Persons May Give Security...at”—the—  
“prisons.”

It now extends it—so it is Monday to Friday from 8.00 a.m. to 6.00 p.m. That is three hours more than you would have had in the court house to avoid spending the night. And it further extends it to Saturday as well, making it more liberal as I have argued, from 8.00 a.m. to 4.00 p.m.

So you have liberalized the regime in terms of place, not the court alone, but the prisons too. You have liberalized it in terms of time, giving an additional three hours each day and Saturday and of course, Madam Speaker, the Member for Siparia in a frenzied attack tells us that this is wrong and this cannot work. The clause 4 that I was reading in (ii), let me continue. So it says:

“...by way of cash or certified cheque...”

As it now stands, Madam Speaker, a young man appears or a woman appears before the court, the court fixes bail and says, surety to be approved in the sum of \$200,000 or \$120,000. That is plenty money. They do not have it. Notwithstanding that, unfortunately and misguidedly they go robbing people around the place—which I as an adult and a Member of Parliament call on the young people of this nation to stop and cut out; Trinidad has too many powerful positive opportunities to earn a legitimate income to do that and hurt people in doing it.

So, they go and they do it. The court fixes bail in the sum of \$120,000. “They doh have the money. Granny doh have it.” All the friends who they went and rob with “doh” have it either. In fact, they are not even showing up at the court. Is only mammy and granny going to be there and in a few cases, unfortunately, daddy.

So the court says, we know you do not have the money, so there are professional bailors around with deeds and in some cases false deeds. A serious problem, but not relevant and germane to what we are discussing now. And I heard the Member for Siparia tell us that something ought to be done urgently about it, while she sat as head of the Cabinet and head of the National Security Council and did absolutely nothing about it for the last five and a half years and three months. [*Desk thumping*] That is why I call them vampires and hypocrites. [*Crosstalk*] But let me continue. But let me continue.

**Hon. Member:** Madam Speaker, 48(4).

**Dr. Gopeesingh:** Yeah, withdraw that, “man”. Come on.

**Hon. F. Hinds:** All right, it was just a metaphor, Madam Speaker—

**Madam Speaker:** All right, I would ask you to be guided. [*Crosstalk*]

**Hon. F. Hinds:** I will be guided. [*Crosstalk*] It was just a metaphor and an appropriate metaphor. Let me press on. [*Crosstalk*] So, Madam Speaker, I am being disturbed by the Member for Caroni East, you know, he looks like he wants to—yes. So it now liberalizes it further. So the man is now called upon to find—so the professional bailor as I was saying, he is here now lurking around the court because he has a deed, whether bona fide or otherwise, but he has a deed and he is prepared to make this deed available so that the man could access his bail. But he says, I need 10 per cent of the bail amount in cash. So if it is \$120,000 the family as it now stands will have to find \$12,000 which is 10 per cent of the \$120,000 or \$20,000 if the bail was \$200,000 to give to him. So the cash transaction is already with us for a long time.

What the Attorney General is proposing, what the Government is proposing today that rather than give the professional bailor the \$20,000 or the \$12,000 in cash you pay it into the court or you pay it into the prison with the liberalized regime as I have just described it. And that is what is happening now. There are problems with the bailor.

Very often when the bailor shows up, the professional bailor, he or she is now well known to all the courts in Trinidad. As a matter of fact, they have a list of some of them who are not permitted because of their behaviour to access bail for anybody. So the court, wherever he presents this deed, spends the next two, three days, sometimes a week checking on the document to see that the title is a bona fide one, on the one hand, to see as well that it has not been used in a court in Siparia or in a court in San Fernando or in Arima and now you presenting it as though it was never used in security in Port of Spain; and as well they also spend time checking on the bailor as a person because some of them are with “whitelisted”, to be politically correct. [*Laughter*]

So the thing continues, I mean no offence, I mean no offence. So the definition—so, Madam Speaker, I am demonstrating to you—[*Interruption*]

**Madam Speaker:** Member for Barataria/San Juan. Please continue, Member for Laventille West.

**Hon. F. Hinds:** The Member for Siparia continues her frenzied attack from her seat, which is wrong. Calm her down, Madam Speaker. [*Crosstalk*] And the definition I was reading, so it says, and I continue:



“...by way of cash or certified cheque to a prison officer designated to collect same by the Commissioner of Prisons for that purpose...”

And hear what the last words of this provision say:

“...should that person be unable to pay said security into Court due to time constraints...”—as I have just described.

So this provision alone, clause 4(a)(i) and (ii) completely liberalizes the entire existing regime and therefore I as Member of Parliament for Laventille West on behalf of some of the persons who are caught in this scenario and for all the people who can be charged for an offence in Trinidad and Tobago, innocent or otherwise, I support this measure *ab initio*. I am starting with that. And then I proceed to (iv) of the same clause 4, which reads:

“subsection (4D) would seek”—well the explanatory— “to provide that the Commissioner of Prisons ensure that a proper record of all bail monies received is kept;”

So he issues the Commissioner of Prisons or his delegate, an officer, he issues a receipt upon receipt of the cash or the certified cheque as the law will now mandate. And the reason for that is, the person with this receipt could demonstrate to the court when he or she appears on the next occasion that I have secured my bail and this is the evidence of my having so done.

In addition to that, no doubt, it is to protect the prison service from issues of mismanagement with cash, not unknown to Trinidad and Tobago and other parts in the world. So a proper record has to be kept. And I commend the Attorney General for going this far to ensure that the regime works quite well in the circumstances.

And, Madam Speaker, I will take the opportunity to make the point that the Attorney General is fond, because of his psychology, because of his thinking as a member of this Government as its legal adviser. We are abjectly and out and out against corruption and money laundering and “tiefing”. [*Desk thumping*] So the Attorney General finds himself from time to time dealing with FIU issues and money laundering. They criticize him for that. I tell “yuh dey doh wah nothing good”. They criticize him for that, but that is his psyche, that is his training, that is because he is part of a PNM government, “is so we does think”. [*Desk thumping*] Criminals “doh” like police.

**Mr. Singh:** Some police are criminals.

**Hon. F. Hinds:** Good. I know. Some Cabinets were criminal too. [*Laughter*]

*and crosstalk*] But that is not the point. We will deal with that in another place.

**Madam Speaker:** Members, could you all please stop the crosstalk. Please continue.

**Hon. F. Hinds:** Thank you, Madam Speaker. The Attorney General proposes here quite sensibly and persuasively in my opinion, hence my support, that if it is \$10,000 or less you produce cash to the court or cash for your bail to the prison and you get your receipt. But anything above that should be in the form of a certified cheques. It is because, once it is going to be above \$10,000, issues of scrutiny of the bank, authenticity of the document, large sums of cash for FIU issues will become relevant. And therefore, rather than come with \$100,000 if the court sets cash bail, because if you are caught with 700 kilos of cocaine and the bail is \$1 million you are not going to show up with \$100,000 in cash just so. We want to know a lot, so there has to be a paper trail and it is sensible and persuasively so to have done more than \$10,000 by way of certified cheque. And I commend the Attorney General for that. It is another check and balance. [*Desk thumping*] But the Member for Siparia has a problem with that, with checks and balances. She always has a problem with checks—the Member has and my friends on the other side.

And the country knows why, that is why they treated with them on September 15<sup>th</sup>; that is why they treated with them in the manner that they did. So, I think that that is a very sensible provision and as I said it has be commended.

So, Madam Speaker, [*Crosstalk*] the Member for Siparia asked, how many people will be able to meet cash bail? And in the same breath, immediately after, juxtaposed closely to it, the Member tells us that only yesterday there were 20 persons appearing in some Magistrates' Court making applications for bail and the Member bold facedly, after wondering how many people will be able to pay, tells us in the same breath that of those 20 people most of them were asking the court for cash bail. Do you remember, Madam Speaker? And that is why I describe it as frenzied, knock-kneed, confused and twisted, [*Crosstalk*] “tie-tongue” too.

In the same breath implying that, how many people will meet it but witnessed yesterday and told us so, unashamedly, that most of them were asking for cash bail and why, because they consider it more accessible to them. Instead of paying the professional bailor and all of the hoops they have to go through for a week with the cheques and all of that and sometimes you pay the professional bailor and after, he or she takes your \$10,000 and disappears.

When the court conducts the check and you appear on the next occasion the court says, this deed is not a valid one or that bailor was not an appropriate person for this and recoup the—man, take back the bail. And then the person is in custody again and when the mother or father or aunt or granny go to find the bailor his address is, 29 Port of Spain, or light pole number X, Mayaro Road, Naparima/Mayaro, cannot find him, no house there.

So there has been a lot of pain and a lot of loss in this whole bail regime and the measures proposed by the Attorney General are a direct attack on the confusion and intended to make it more efficient. I commend the Attorney General again. But the Member for Siparia has a problem with that, Peter Tosh all again. So, Madam Speaker, all the other things that the Member told us, in my view, including that we cannot expect their support on this measure because rather than tackle this measure of bail and securing it in the way that it is now proposed we should come with a holistic bit of legislation on the question of bail. Whenever they want to obfuscate and obstruct and they want to run away from that which is good for people of this country that is one of the things they say. You need to come with a holistic approach. But with all the holistic approach, they passed a Bail (Amdt.) Bill allowing people to remain in custody for 120 days which expired since we are in the Government, [*Crosstalk*] kidnapping, and when we came back here with it holistically they opposed it holistically and it does not exist today.

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

**Hon. Member:** Because you in charge.

**Mrs. Persad-Bissessar SC:** Thank God.

**Hon. F. Hinds:** And calling for statistics. Well, we have some statistics in front of us through the lips of the Member for Siparia; she told us there was a sample of 20 people who appeared in court yesterday and of the 20 most were asking for cash bail. You cannot get more live statistics than that, anecdotal as it is, if the Member for Siparia is to be believed, which is a risk in itself. [*Crosstalk*] I am sorry.

**Hon. Member:** That is insulting, Madam Speaker.

**Mr. Lee:** 48(6).

**Mrs. Persad-Bissessar SC:** That is the kind of person he is. Totally offensive.

**Madam Speaker:** Member for Laventille West I just ask you to retract that last—[*Crosstalk*]

**Hon. F. Hinds:** I withdraw—

**Madam Speaker:** One minute please. One minute please. Member for Siparia—

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

**Madam Speaker:**—and Member for Naparima, I appreciate your interest in this debate and your passion. Member for Siparia you have had your opportunity and I am sure you can pass on other matters you would like to be ventilated to the other speakers.

**Mrs. Persad-Bissessar SC:** But Madam, he is being offensive.

**Madam Speaker:** Member, Member for Siparia, [*Crosstalk*] Member for Siparia—

**Mrs. Persad-Bissessar SC:** He is totally insulting.

**Madam Speaker:** Member for Siparia I am on my legs. I dealt with the insulting, I have asked the Member to retract. This is separate and apart. As far as—Member for Naparima also, you have not had your opportunity to speak in this debate but I assure you, when the time comes, once you catch my eye you will be given that opportunity. So, Member for Laventille West could you please retract the last part, formally for the record.

**Hon. F. Hinds:** I withdraw, I retract without more. In fact, if I hurt the Member for Siparia's feelings, [*Crosstalk*] I withdraw it.

**Madam Speaker:** Member for Siparia, Member for Siparia—

**Mrs. Persad-Bissessar SC:** I apologize Madam. But he should behave himself.

**Madam Speaker:** Member for—how many persons want to be in the Chair? Member for Laventille West, I would ask you to retract without any further statement which may appear to undo the retraction. Please.

**Hon. F. Hinds:** I withdraw, I retract without undoing, Madam Speaker. [*Laughter*] Madam Speaker, let me remind the Member for Siparia when she led, when the Member led, the Cabinet in March of 2013. I have in my hand a Cabinet Minute No. 612 of March 07, 2013, in which Cabinet agreed and I am quoting:

To approve the policy document for the amendment to the Bail Act, Chap. 4:60 a copy of which is attached to this Cabinet Note.

Madam Speaker, this policy document and the public must know, whenever there are proposed changes to legislation or introduction of new legislation it must

as a matter of course be supported by a policy document. So the Minister with the responsibility he gets the policy document drafted, he satisfies himself that this a policy that he can take to Cabinet, the Cabinet considers it and approves or disproves of it. In this case it was approved. And it was approved on March 04, 2013—no, it went to Cabinet on that day. Under the heading:

Proposed Policy for the Amendment of the Bail Act, Chap. 4:60.

The matter for the consideration of Cabinet is the amendment to the Bail Act in accordance with the proposed provisions set out in the policy at Appendix attached to this Note. [*Crosstalk*]

Paragraph nine, Madam Speaker—Madam Speaker, I am being disturbed by the Member for Siparia.

**Mrs. Persad-Bissessar SC:** The AG is disturbing—

**Madam Speaker:** Members, I expect this is the last time I will rise on that point before the suspension. Please continue.

**Hon. F. Hinds:** Paragraph nine, Madam Speaker, says:

Cabinet is also advised that with reliance placed on land as the main means of security for bail there has been blossoming a lucrative black market for professional bailors. There are persons who hold deeds to parcels of land either on their own or through agents actively trawl the courts daily; for a fee these bailors offer to stand a surety for person who have been granted bail. This practice is not only improper in its own right but has significantly contributed to the illegal—the spin-off—illegal practice where false deeds to parcels of land, whether that land exists or not are being created bearing all the required features of the illegitimate deed. These false deeds are then utilized for the purpose of securing bail.

This is in the policy document approved by the Member for Siparia as Prime Minister. Paragraph 10 says:

Even further, where bail is accessed by the offender and he fails to surrender to custody the process through which the court may move to exercise forfeiture is administratively tedious and amongst to an inefficient use of court's time.

Paragraph 11 says:

Accordingly, the amendments proposed in the Appendix are expected not only to eradicate illegal conduct associated with the use of these to secure bail, but

are also expected to permit more persons to access bail—with more persons being able to access bail, the strain on the remand system would be reduced.

Did you hear this, Madam Speaker?

**Mrs. Persad-Bissessar SC:** What is wrong with it?

**Hon. F. Hinds:** No need to rehearse it or to repeat it. Those are words found in a document which, a policy document which was appended to a Note that was approved. The Ministry of Justice, which cost this country for the short time it spent there, and all the infamous reputation—

**Hon. Member:** Infamous?

**Hon. F. Hinds:** Yes, that it acquired for Trinidad and Tobago, \$2 billion, the Ministry of Justice during its time they drafted this policy and, Madam Speaker, in this document I quote:

The law with respect to bail has grown and developed in many foreign jurisdictions with respect to financial conditions. In order to ascertain best practice, the Ministry of Justice examined the bail systems operating in several jurisdictions, including the United Kingdom and Northern Ireland, Scotland, Jamaica, St. Lucia, Guyana, Australia and the US. This jurisdictional examination and the shortfalls of the bail system highlighted above have revealed quite evidently the need for reform and amendment to the system of bail with respect to financial conditions in order to eliminate the negative effects. To this end the Ministry of Justice—which was set up by the Member, eh—proposes by way of this policy amendments to the Act which are outlined herein.

Among the varying conditions—I am still reading—[*Interruption*]

**Dr. Gopeesingh:** You will read after.

**Hon. F. Hinds:** Yes, I am still reading.

**Dr. Moonilal:** You will read tomorrow.

**Madam Speaker:** Members, we shall take the suspension now. We shall return here at 5.05 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

**Mr. Deputy Speaker:** Okay, as we resume, Member for Laventille West, you have your additional 15 minutes. Do you care to avail yourself of it?

**Hon. F. Hinds:** I most certainly will, but I thought I was still in original time, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** No. Well, according to the Clerk, you just have a couple of seconds, so you could resume with your 15 minutes.

**Hon. F. Hinds:** I am most obliged, Mr. Deputy Speaker. [*Desk thumping*] Mr. Deputy Speaker, I am thanking you for the green light to proceed. I was telling our colleagues in this House that the Cabinet approved a policy and some proposed amendments to the Bail Act, Chap. 4:60, and I was quoting from that document which I propose now to continue. The document says in the proposed amendments to the Bail Act:

In order to address the shortfalls of the current legislative provisions with respect to bail and streamline the provisions with modern approaches that are designed to reduce the incidence of undue pre-trial incarceration and to facilitate restorative justice regime, it is submitted that the new regime must include a simple process by means of which bail may be secured by the defendant or the accused and facilitate a simple procedure for forfeiture. On this basis—

This is the Cabinet of the United National Congress—so-called PP at the time. Now that the “corpse” is dead, the UNC.

On this basis, the following amendments to the Bail Act are proposed.

And, remember, Mr. Deputy Speaker, it was approved by the Cabinet led by the Member for Siparia. And it says and I quote:

Under the rubric, ‘use of cash or certified cheque’, where a court deems it appropriate or necessary to impose secured financial conditions of bail, the security provided should be in the form of cash or certified cheque only. The full amount of the security must be paid into the court at the time the bail is secured and held for the entire period of bail. Such security may be required whether or not the defendant or the accused is likely to remain in Trinidad and Tobago during his period of bail. In addition to payment directly into court, security may also be paid directly through the banks into an account opened for that purpose in the name of the Registrar of the Supreme Court of Trinidad and Tobago.

I continue:

Where the security amount is \$10,000 or greater, payment should be made by certificated cheque. This dollar amount will maintain consistency with current provisions related to anti-money laundering, enabling the defendant or the accused and the court to properly account for source of large sums of cash.

**Mr. Imbert:** A UNC policy?

**Hon. F. Hinds:** UNC policy approved by the Member for Siparia, and now stands up in this House criticizing it.

**Mr. Deputy Speaker:** Member. Member, please.

**Hon. F. Hinds:** Hence I had to withdraw a comment earlier. So when you read this, approved by the Government of the UNC, led by the Member for Siparia, you must understand why the terms “hypocrite” and “vampire” are apposite, applicable, without challenge.

The document continues to say:

These provisions will require amendments to sections 12 and 17 of the Act.

The Member stood up here and criticized the Attorney General for putting the amendment in section 12, saying it ought not to be there. It says:

These provisions will require amendments to section 12.

And so, Mr. Deputy Speaker, I am approaching the conclusion of my own contribution and, in closing, I stood up during the contribution of the Member for Siparia and asked, rather calmly and soberly, whether, since she criticized the name and said even the name of this Bill, which is an amendment to the Bail Act—let me get it. Let me get the name of the Bill: The Bail (Access to Bail) (Amdt.) Bill, 2017. The Member for Siparia told us here that that name was inappropriate, it was wrong and it ought to be changed. I got up here and asked in sincerity and with humility: “Do you have a proposed name?” The Member said we should withdraw the whole Bill, a Bill that they approved in the Cabinet led by her; measures they approved, and promised in the same breath that she will come to that later.

The Member did no such thing and now she has disappeared. She could not even offer another name for the Bill, and that tells me, as I close, that the attack was as frenzied as I described it, baseless, without any moral authority whatsoever, in light of what I have just read from approved UNC documents. And as such, I commend the measures as put by the Attorney General for discussion here to all Members for its support, not the least my friends on the other side who



sat in the Cabinet, considered this, agreed to it, approved it in their Cabinet on the—it was approved and confirmed. It was approved by the Cabinet on March 07, 2013 and confirmed by the Cabinet on March 14, 2013—hypocrisy at its highest.

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

**Mr. Deputy Speaker:** I recognize the Member for St. Augustine. [*Desk thumping*]

**Mr. Prakash Ramadhar** (*St. Augustine*): Thank you, Mr. Deputy Speaker. For those who are probably too young to remember, there was an episode at the Queen's Park Oval many, many years ago that the delivery of the Member for Laventille West reminds me so totally of, of Uton Dowe bowling to Gavaskar. He has confused the ferocity of the delivery with accuracy of the point. [*Desk thumping*] He has, with a horrible sleight of tongue, moved from a policy decision to one of a Bill approval in the Cabinet. And maybe he did not listen and maybe the arguments were higher than he normally will be, and therefore it eluded him altogether.

Mr. Deputy Speaker, nobody has said that the issue of cash bail is an atrocity. It is not. And "Captain Obvious" as we will probably have to call him, has stated those things that everyone knows would be helpful. It is so obvious. But the argument for the Member for Siparia is very different, and if we were just to listen rather than try to respond without hearing, then we, I think, would make far better law.

Mr. Deputy Speaker, it is without doubt that the issue of bail in this country is fraught with grave difficulty and a lot of suffering in-between, and to have heard the Attorney General repeat of those persons who have found themselves afoul of the law for sometimes menial crimes but not able to access bail. It is very, very difficult in a modern day to accept these things and, therefore, we need to do things better. But the point I heard the Member for Siparia make was very clear. It is this, that if we truly ascribe to the belief that all of our citizens are, under our Constitution, presumed innocent until proven guilty, the issue of bail must not be one of punishment but one which is to ensure the one thing that it was always intended to be, that is to ensure the attendance at court.

And having heard so many numbers, so many bits of statistics, we have not heard the most important of that statistic, which is this: How many persons who have been placed on bail, whether secured by deed, by cash, by signed bail, who have absconded? That really is the issue. How many of our citizens who have

been charged for a criminal offence, put on bail—how many of them have absconded? I suspect, with good reason to suspect, extraordinarily little in number have absconded. So the issue of absconding with bail, as a percentage—I am sure the Attorney General will be able to furnish that figure to us at some later point—it is minuscule. And that is the point we should start at.

If it is that bail, by whatever form or fashion, creates an obstruction to your liberty—because remember where I started, that we are presumed innocent and therefore should not pay a penalty until proven guilty—then that is the slate upon which we should start to write this new law. And that is the point I heard, clearly, the Member for Siparia making, that it is good and easy to say, yes, because of the atrocious quality of bail access now. I will give you some live examples.

When the PNM instituted prosecutions for voter padding in 2000 went on, do you know what happened? Police officers went to the court and obtained warrants, not to charge under the Representation of the People's Act for a misstatement or a false statement, as I addressed, but under the Perjury Act took out warrants for indictable offence for perjury, and then—hear this one—put as a condition for bail that it could be approved only—Member for Laventille West, I share with you this, as you know, that only a Clerk of the Peace, No. 3, could grant approval.

Do you know what there was? In the entire Trinidad and Tobago there were two Clerks of the Peace—three—in the entire country. So that if you were arrested, for instance, in Sangre Grande, the Sangre Grande court Clerk of the Peace could not grant that bail. You had to get the Clerk of the Peace in Port of Spain or the one in San Fernando to do it. So they had to bring you to Port of Spain, or take you to San Fernando for that bail to be approved. And much worse, many of those persons who were arrested, just like the Member for Laventille West said, maliciously, on weekends, Friday evenings, and therefore had no access, some of them, to even get the opportunity to present deed, whatever it was, they had no access.

So that bail and the issue of the conditions for bail have been used in a very punitive manner in the past and we must take a very manful approach to it and deal with it. But now to abridge everything and suggest that the panacea for it all is to allow cash bail, is really to not understand that there are persons in this country who are not really in the business of crime. As the Member for Laventille West said, from his experience people that he acclimatizes with repeat offenders who will go out, commit offence, get cash bail, go and commit more offence—

their friends—to get money to pay for the cash bail. No.

We are dealing with the fella who, really, for one reason or the other, has found himself on the wrong side of the law. His family has never, ever attended a police station or a courtroom and they do not know what to do, and this thing now, you hear that they set bail and you have to get a deed. Most of them might be in squatting districts. And I “doh” want to get the property tax issue yet on those matters. But there are serious restrictions on those persons to access bail. But to say that those persons who, in any event, would not have had a deed; they could put a cash deposit for them to come up with, is saying the same thing. They do not have it. They do not have access to it. And that is what I heard the Member for Siparia speaking to. [*Desk thumping*]

And a modern approach to bail, if we are to ensure and really respect our constitutional right to the presumption of innocence, says that you must do more than just give an access to cash bail. That is what I heard. And the legislative change that we have here today is extraordinarily limited. And it is true that that was a policy paper put forward, and it is to be lauded. But it was much more and I want to share with you, Mr. Deputy Speaker.

That Bill that my friend has presented here today was not drafted by him. It was under the hard work of the members of the LRC and the members of the Ministry of Justice. And it came to the LRC in 2015, I believe, and when we saw it we said, no. The intent of the People’s Partnership was to do far more than just plug a little hole here, plug a little hole there. It was to revamp the issue of bail access.

And part of the work that had been put to be done was the issue of bail-bond houses as an example. We see in the United States bail is set and there are bail-bond houses, lawfully, legitimately recognized and you go and you pay a fee and they are the ones who are responsible to ensure that whatever requirements are put by the court, that you oblige and you live up to. So you have your freedom and they are responsible. If for whatever reason you do not turn up in the court—there was show called, I think, “Dog” or something like that. Yes, “Dog”.

**Hon. Member:** *Bounty Hunter.*

**Mr. P. Ramadhar:** *Bounty Hunter.* Thank you very much. Where they go and they bring you back, because it is for them to bring you back or they lose. So it was in that context, in that concept that we were looking at in terms of revolutionizing the issue of bail. But there was much more. My friends have completely forgotten as part of the effort with the People’s Partnership Government, the COP being a part—it is still alive. It may be a little bit weak

*Bail (Access To Bail) (Amdt.) Bill, 2017*

*Friday, May 19, 2017*

[MR. RAMADHAR]

these days, but rest assured it is coming back up—we also introduced in this nation, electronic monitoring. And, Mr. Deputy Speaker, you remember what the electronic monitoring was for? It was for the very thing, for persons who may have gotten charged and could not access bail, that we could give them their freedom, but at the same time be monitored. And there is a bigger picture to that in terms of the parole system that we were working on to introduce, for persons who were serving time already and because of their good conduct and so, while in custody, could be given early release with proper monitoring.

So these are the things—and I am sure in that policy. If not in that one but in other policies of the People’s Partnership Government. All of these are the things that we were considering, and not just this little pinhole, prick-hole in the issue of bail and to say that it is now law, that you could provide a cash deposit. Because if the Attorney General would have asked he would have learnt that this has been a practice in many courts for many, many years, to accept cash deposit. And one of the reasons for that, of course, there are persons who can, in fact, access the cash. It simplifies the entire process.

What the Member for Laventille West says is so known to everyone. There are professional bailors. You set the bail and they are like vultures right around the court, and they tell you, “Look, pay 10 per cent”. If the bail is \$500,000 you pay them \$50,000 and they will sought out all of the documentation. I want to tell you—and it has been a long time. I am 30 years at the bar this year. When I just became a lawyer in San Fernando, there was a particular court, a magistrates’ court, that was notorious as being extremely hard, difficult, and resistant to the grant of bail. You would hear that that magistrate “not granting bail”. What you did not hear then was that after your second refusal, there was a process by which, if you had done the things that were required of you, bail would have been granted. And it is a notorious fact in South—young Mitchell, you were probably too young to know it—that the prosecutor in the court and the persons outside worked as a team. They worked as a team. So that when you are refused bail your family will be told, “Listen nah, if you want to get bail, this is what you have to do, yuh know. Yuh have to take this one as your bailor and on the next occasion let your lawyer make your application and yuh getting bail.” And we saw these things happen. So there is, in fact, tremendous corruption in the system and we need to weed that out, and any effort made to do that, we support it, we congratulate it. But what is happening here now, is that it does not help for the very poor who cannot access bail.

There is something we called “signed bail” where a court, having regard to

your antecedents, having regard to the seriousness or lack of seriousness of the offence, will decide, “You know what? This person is unlikely to abscond having regard to their roots and the number of family members who have turn up to court”. That is a very important thing, to show support. And they will allow either a mother or father to sign—once they have proper ID—you know these things—to ensure that they will return them to court.

In fact, I had an experience a couple weeks ago. I shall not call a name, but a police officer got into some trouble and he was required by his colleagues to come in for an interview on a Friday. When he arrived, we had our two young lawyers with him. We were then told, “This is not an interview. You are under arrest.” This is a Friday afternoon. He was then told, “Well, we have to process you and it appears that you may not be able to access the court and therefore the issue of bail will probably have to be dealt with by a Justice of the Peace, an outside JP.”

But as it was, he was brought to court late in the afternoon, and I attended, and the magistrate there—I had to explain that we were not prepared because we had no deed, or so, ready at that point in time, and having regard to the hour of the day, even if you set bail there was no possibility of accessing it over the weekend. You are right. You would be taken by involuntary transport up to the prisons where you would spend the weekend until you return, possibly on Monday for bail. Or if you are lucky to have access to a JP on the Saturday for bail to be taken. And the magistrate, very wisely in the circumstances, says, “Do you have any family member here?” We volunteered—the mother was present, and he enquired whether she had a motor vehicle. And we said yes, and he allowed her to sign, and he was given his freedom in a matter of minutes rather than hours, or possibly days.

And that is the innovative, forward-thinking of many of our judicial officers. So this law brings nothing new. What does it really do? It gives us a sense—because it is law—that something dramatic has changed. Nothing dramatic has changed. All it has done now is to more institutionalize the idea that the poor are more likely to be excluded from the presumption of innocence.

Indeed, over the break the Member for Naparima brought to my attention a very painful case—and I am sure the Member for Laventille West might want to hear this—of a gentleman who, for whatever reason—and it pained me when I saw it in the media—had gone to work but had left his infant children—Member for Laventille West, I do not know if it is from your constituency—and this baby went outside and drowned. And this man was arrested. Such quickness of the investigative process, he was arrested and charged and he could not access bail, a

[MR. RAMADHAR]

cash bail of about \$15,000 was set or something. I am sure some of the Members on the other side, in a matter of two phone calls, that spend out. [*Laughter*] But \$15,000—

**Mr. Indarsingh:** He only spent \$7,000.

**Mr. P. Ramadhar:** Well, seven or 14, right? But the man spent—and I congratulate you, Member for Laventille West, for having taken some interest. And, in fact, I wanted to volunteer myself but I could not at the moment, and I am still willing to. The man could not access the \$15,000 in bail. His baby “dead” and he could not come to the funeral? Is that it? Eh? That is the inhumanity of some of the circumstances of the bail system in our country. That is the case that screamed out for a signed bail. This man is grieving. His baby is dead. The world is saying, “You are responsible”. You think you could pain him more than the pain that he himself feels? And that is what I heard screaming from the conscience of the Member for Siparia, for persons like that cash bail means nothing. If it is \$1,000, they “cyar” raise it. If they are career criminals, however—

**Mr. Hinds:** Not true.

**Mr. P. Ramadhar:** This is a fact that fellas, when they need to get money for bail, because they have to pay the professional bailors, their colleagues go out and put down “wuk”, and pay the professional bailors so that they can come back out. That is why electronic monitoring is crucially important and innovative, modern thinking, and it helps us in the suppression of crime.

Nobody has condemned this Bill as if it was, you know, God's derelict or Satan's own. No. What we are saying, that if you are coming, come much better. And they had the opportunity. And the members of the LRC will tell you the directions that we had given as to what we wanted in it, but yet it has come back with this bare-boned approach with a fallacious belief that it dramatically improves—sorry.

**Mr. Hinds:** I thank you very sincerely for giving way, Member for St. Augustine. In respect of the electronic monitoring—and the Attorney General is now out of the Chamber. He has stated in his published legislative agenda, it is for the discussion of the Parliament, but before he brings it, the mechanics of it, the administrative elements, the technical elements, must first be put in place—to comfort you.

**Mr. P. Ramadhar:** I am so happy to hear that the work of the People's Partnership is being cultivated. [*Desk thumping*]

**Hon. Member:** You walked into that. [*Laughter*]

**Mr. P. Ramadhar:** No, no. I truly believe in the continuity of government, but too often we have had the ungracious positions when acknowledgment is not made. So, yes, there is work to be done and therefore when you tell half of a story or an “unk” of a story, you really have not told the story. These are the things. And I want to tell you, I warn you all, there is nothing called a second term. I want to tell you all that. [*Desk thumping and laughter*] As much as we had done, there was much more we wished to do. There was much we wished to do, and that we had created, we had planted and that therefore the time for reaping, if you are fortunate to have been able to reap the benefit, well, so be it if it is used for the benefit of the people of Trinidad and Tobago.

However, having said all these things, it had fallen from the lips of the Member for Laventille West, a man who I know better but behaves in a different way, when he told this Chamber—and it is a repetitive thing—that the Ministry of Justice did precious little for \$2 billion. Wow! Paying prison officers is precious little? The \$2 billion—the budget of the Ministry of Justice paid the salaries of our prison officers. So it sounds like a big thing, \$2 billion. But what is the salary percentage of that budget? It was very, very high. So “doh” tell a little bit of truth. [*Crosstalk*]

**Mr. Deputy Speaker:** Member for Laventille West, you had your opportunity.

**Mr. Hinds:** Sorry, Sir. I am obliged.

**Mr. Deputy Speaker:** Member for St. Augustine, proceed.

**Mr. P. Ramadhar:** Thank you very much. So I think it is important for us to understand that, yes, it is important to score political points, but let us do so on truth, not do so on other things. The Ministry of Justice was an incredible idea. It had its problems, but one of the biggest problems of this country has been the justice system and therefore the People’s Partnership took a view that having regard, if you have a big problem you need to put the resources to fix those problems, and that is what the justice Ministry was dedicated to doing.

A lot of the legislative change that my friends have cultivated, have picked, came from the Ministry of Justice, and I want to pay recognition to some of the—well, not some, all of the members of staff of the Ministry of Justice. For the short time I was there I thought they were incredible people, [*Desk thumping*] hard working and dedicated to solving many of our intractable problems for the last

several decades. They were able to manfully and womanfully take on a lot of those challenges. So I think we should put to rest this attack on the Ministry of Justice and how much money it spent. Nothing is perfect. It was a zero when we started and it was a built ministry from the ground up.

So having said that, we want to move on a little bit, Mr. Deputy Speaker, on the point of the subsection (4A) amendment into section 12. Having read voluminously from the Cabinet note that approved a policy that section 12 needed to be amended, of course section 12 needed to be amended, and it is because of this, and with your leave, Mr. Deputy Speaker, I think it is important for us to know what this formidable section 12 is. It is a very large, a very powerful section. It is section 12 of the Bail Act, Chap 4:60, and it is under the subhead of “General provisions relating to bail.” It says at 12(1):

“A person granted bail in criminal proceedings shall surrender to custody.

(2) A court may require any person applying for bail to provide, as a condition for bail before his release, a security to secure his surrender to custody.

(3) A Court may further require any person applying for bail to—

(a) surrender his passport to the Court;

(b) inform the Court if he intends to leave the State;

(c) report at specified times to any police station, and comply with any requirements as appear to the Court to be necessary to ensure that—”

**5.35 p.m.**

“(i) he surrenders to custody;

(ii) he does not commit an offence while on bail;

(iii) he does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person; and

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

But this is where it gets a little ridiculous. Section 4 reads—this is section 4, Chap. 4:06:

“Where it appears that the applicant for bail is unlikely to remain in Trinidad



and Tobago until the time appointed for him to surrender to custody, he may be required, before being released on bail, to give security for his surrender to custody and the security might be given by him or on his behalf.”

So this is a subsection (4) that deals—the real subject and object of this is for persons who are unlikely to remain in Trinidad and Tobago until the time appointed for him to surrender to custody, and the point the Member for Siparia was making is that the amendment at clause 4 of this Bill which says:

“Section 12 of the Act is amended by inserting after subsection (4), the following subsections:

(4A)”

Therefore, the interpretation reads in context with subsection (4) of section 12. I do not want to call too many numbers, but what I just read about a person who may not be likely to remain in Trinidad and Tobago subsection (4) is that, and this is the (4A), so therefore it reads from that:

“The security given under subsection (4) may be in the form of—“

Hear this, Mr. Deputy Speaker:

- “(a) cash or certified cheque, where the amount of security is ten thousand dollars or less;
- (b) certified cheque, where the amount of security is greater than ten thousand dollars;
- (c) a bond issued by a registered financial institution as defined in the Financial Institutions Acts; or
- (d) a charge on immovable property.”

What this does, all of the gallery today has heard about how this is to help all the people who are charged, but by putting it where it is put or is proposed to be put, it is limited in scope to those persons who are unlikely to remain in Trinidad and Tobago, and therefore, all this thing about cash deposit, about cheque, about \$10,000, about bond under a financial institution, or an immovable property, refers only to that condition for bail under subsection (4) of section 12. So it has no relevance to the wider interpretation or application for others who are charged, who do not fall under the category of consideration as persons who will not be or may not be in Trinidad and Tobago for their trial, and that is the point I heard clearly because I listened with my intellect and not my emotions because it is obvious there is a level of animosity bordering on hate for anything that the

*Bail (Access To Bail) (Amdt.) Bill, 2017*

*Friday, May 19, 2017*

[MR. RAMADHAR]

Member for Siparia says in relation to the last speaker. There seems to be nothing but insult—[*Interruption*]

**Mr. Deputy Speaker:** Member, please, the term “hate” and the reference you are making it to, please, rephrase it please.

**Mr. P. Ramadhar:** Extraordinary dislike and animosity that is bordering on contempt, because you know—and it is important for us to sometimes identify these things because sometimes we carry subconscious baggage. And it just—you know anytime you open your mouth it jumps out, jumps out, and it comes across to members of the public as the word I used, that four letter word that is not an “f” word, but it is worse than that, H-A-T-E. We cannot have that.

**Mr. Deputy Speaker:** Member! Member, I just mentioned to you in terms of using the word, you have now spelt it out. Please, again, rephrase or just move on.

**Mr. P. Ramadhar:** Thank you much. I was making the point. So therefore, a lot of the criticisms does not come from the idea you know, it comes from the person. As a friend of mine in Florida, he loves golf. His name is Ram Coodie and he told me something that is very profound—he loves golf. He loves golf. He loves golf bad—and he says, whenever he plays what he has learnt is that you never play against the players, you play against the course and you play against yourself. I want people to just reflect on that moment of wisdom in this Chamber.

So it does not matter who else around you, it does not matter what it is that surrounds you or consumes you, what matters is that you play the game for the sake of the game, to beat your own self and lift yourself of your own limitations. [*Desk thumping*] Play the course not the player, and I have seen that happening in this Parliament over and over where many of the contributions are personal and not based on considerations of ideas. This country is in big trouble because you have bad ideas, and bad people with bad ideas, and small people with small minds who have big power and little ambition for the improvement of our people, and we need to fix these things.

So having said that, I just want to move on to another very, very important point raised by the Member for Siparia. It seems innocuous when one first looks at it, but it is this introduction of clause 5 of the Bill, and 5(5) to make it doubly sure where it says:

“Where a defendant has been granted bail and the security given by him has not been forfeited, the Court may, if the defendant is convicted, order that the security be applied...”

Listen to this, eh:

“...the Court may...order that the security be applied towards the payment of—

- (a) any fines imposed on the defendant if the defendant elects to pay the fine; or
- (b) any compensation ordered by the Court for victims of the offence committed by the defendant, and any remaining balance shall be refunded to the defendant.”

**Mr. Deputy Speaker:** Hon. Member, your speaking timesA has expired. You have an additional 15 minutes. You care to avail?

**Mr. P. Ramadhar:** Thank you so much.

**Mr. Deputy Speaker:** Proceed.

**Mr. P. Ramadhar:** The Member for Siparia, in an almost professorial approach with the cool demeanour that is required for intellectual clarity, said it was a constitutional issue and it obviously is. It is not just an opinion. It is an opinion based on what we have before us. To cut it down in the simplest lowest level for those who do not want to understand, they will be spiteful to not understand because if it is—and the real example is before us—you put up money as a cash deposit for bail, your case starts, for whatever reason you are convicted—you did not hire the right lawyer maybe—[*Interruption*]

**Mr. Indarsingh:** They hired Laventille West.

**Mr. Deputy Speaker:** No, no, no. Please, please. Member for Oropouche South—Couva South, sorry, I heard the remark. Please, let us not go down that road. Member for St. Augustine, go ahead.

**Mr. P. Ramadhar:** Thank you very much. There is precious little time. You are convicted and you get an imposition by the court of a fine or jail. You are fine \$30,000 or two months—I just give you that as an example—but you have a \$20,000 deposit for bail. That money that was put, whether by you or by someone else—the fact is that it is for you—the court without any reference to your intent or wish, according to what we have read here, will take out of that \$20,000 all of it and put it towards your fine of \$30,000. Is that what we are hearing?

It is open to that interpretation under the way it is written and I cannot believe that this could ever have been the intent, because what if, first of all, that that money was put up by your friend, the Member for Couva South, they say, “Ah want you out ah jail. I will put it up and I am convinced that you are innocent.” Therefore, when you are acquitted they will release the bail, and even if you are

[MR. RAMADHAR]

convicted—and that is the thing about bail—the bail law, or those who put it up are entitled to the return of whatever they have put forward because remember where I started, bail is not a punishment, it is not a fine. The purpose of bail is to ensure attendance at court.

So the Member for Couva South ensured attendance at court every single day that this case would have been called until completion, but then the magistrate having found you guilty—and I use the Magistrates' Court as an example—says, “You know what, that \$20,000 wap da'as we one.” You have \$10,000 more to pay, you have a two-month alternative and there may be compensatory issues, but not only that. What if the defendant, now the convict, decides instead of paying a fine, “What, two months? I go make my jail. It worth it for me because I does earn a thousand dollars a month. So that is 30 months' work. I will spend two months in jail and I won't have to pay a fine.” That takes away his right to do that? And “meh” friends had the gall to suggest for a moment this is not a constitutional issue that interferes with the right to the enjoyment of your property, whom ever property, without a majority of Parliament to pass it?

Am I as clear as I could be [*Desk thumping*] gentlemen, ladies? Therefore, it is beyond, per adventure, even the simplest of our children and some of the simplest of our Members, to appreciate that it is a constitutional issue because under our Constitution, no one shall be deprived of their property without due process under section 4 [*Desk thumping*] under our enshrined rights—and I thank you, Member for Couva South, for your Constitution. It reads and I shall not go through the earlier part but go directly to, with your leave of course, 4(a). Well, maybe I should read the whole thing, yes.

“4 It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without...”

Anyhow, it says:

“a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;”

That is an enshrined right, and therefore, if you take the property of the bailor and do with it what you wish without due process—because he has no right to be heard on the matter—it is as palpably wrong as you could ever get, and therefore, it is a constitutional issue and, therefore, this section alone in its own way requires a constitutional majority if it is to be amended. [*Desk thumping*]

So it is easy to flippantly suggest with the ferocity that is well known because it is an opinion. Even the Privy Council gives its opinion, even in the opinion of Their Lordships, but because they are who they are that opinion becomes the law, but it does not derogate from anyone to have an opinion on something, but you could have opinion that you are right when you are totally wrong. But if you have an opinion based on fact and on logic, the likelihood that you are right is far greater, and therefore, to be subscribed to. [*Interruption*]

**Mr. Hinds:** That is COP logic.

**Mr. P. Ramadhar:** It is COP logic. It is COP logic. COP—Anyhow. “I doh have to study he.”

**Mr. Deputy Speaker:** Members! Proceed.

**Mr. P. Ramadhar:** Thank you very much. The pronouncement of debt is an easy thing, but I will tell you something. That the haunting that they shall face is not from the COP or from the UNC but from the people of Trinidad and Tobago, [*Desk thumping*] and to use words of hypocrisy and who are vampires and everything else reminds me of section 49 of the Summary Offences. You know it well, that is what they call the obscene language section. It is not just obscene language you know, but annoying language, insulting language, and I fear, Mr. Deputy Speaker, that had we applied section 49 in this Chamber, many of our friends would be requiring bail today.

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

**Mr. Deputy Speaker:** Member for—[*Member for Oropouche West and Member for Point Fortin both stand*] Member, my eye caught you first, so you care to go? Okay. I recognize the Member for Oropouche West. [*Desk thumping*]

**Mrs. Vidia Gayadeen-Gopeesingh** (*Oropouche West*): Thank you, Mr. Deputy Speaker, and thank you to contribute to this Bill, the Bail Act, Chap. 4:60 to facilitate a move away from the use of property as a means of providing security for accessing bail and the introduction of the requirement for security by way of upfront deposits of cash or certified cheques.

Mr. Deputy Speaker, if one were to fix or apply for bail, one first has to fix the system that is pervading the criminal justice system. What I mean by that is that if one has to procure bail and a relative is in custody, there are certain scenarios that unfold. Take, for example, if you go to procure bail for a relative, first you will see a police officer may call a particular bailor, this bailor might call a particular Justice of the Peace, and the Justice of the Peace may call a particular attorney-at-

[MR. RAMADHAR]

law. What a Justice of the Peace does, is that he prepares a statutory declaration. That statutory declaration will say that the person who is coming to “provide the bail”, to act as the surety, is well known to the accused, and he signs for it.

So the person who goes to apply to the JP and the JP prepares the statutory declaration, if you were to go looking well-dressed, you look dapper, you look with sartorial elegance, a different fee is assigned to you. Let us assume, Mr. Deputy Speaker, that you go now and you look very dishevelled, you look unkept, you look like to do not belong to anyone, you get a different fee as that, and that is the system—*[Interruption]*

**Mr. Deputy Speaker:** Silence.

**Mrs. V. Gayadeen-Gopeesingh:**—that is pervading the criminal justice system. And when the bailor comes and he said, okay, I am prepared to take your bail, as the Member for St. Augustine says, a 10 per cent is charged.

So if the bail is set at \$50,000, 10 per cent of it is \$5,000. Under section 18, Mr. Deputy Speaker, our Bail Act states at section 18 that it is an offence:

“(1) Where a person agrees with another to indemnify that other”—person for—“any liability...that other may incur as a surety”—for—“a person”—charged with—“an offence...”

In simple words, Mr. Deputy Speaker, it means that an offence both for a person to pay another to take bail and for that person paid to do so, to take bail, is illegal, but it has been continuing and what we have happening in Trinidad and Tobago, Mr. Deputy Speaker, you have what is called professional bailors.

Mr. Deputy Speaker, if one were to go to San Fernando Magistrate’s Court there is a notice which has been existing for over two years. So this Bill that the hon. Attorney General brought here today for cash to secure bail is nothing new because this notice has been existing for over two years, and I read with your kind leave:

All cash transactions, extracts, fines, tickets, notice of evidence must be paid directly to the cashier and an official receipt will be issued.

Part II.

Please be advised that all applications for bail approval must be made directly by the parties involved, meaning, the bailor relative, attorney to the Clerk of the Peace. Under no circumstances would any other person be allowed to have an audience with the Clerk of the Peace for the purpose of bail.

So, Mr. Deputy Speaker, this notice has been existing for over two years. The question is: how many persons from two years back have applied for bail via cash

and the approval for bail has been granted by the court? How many persons; is there any data; is there any empirical evidence? When we do things, whether it is in law, whether in medicine, we must be, not precise, we must have evidence in the sense that it must be evidence-based and you must have empirical evidence. Take for example a drug that has to be tested, Member for Caroni East will know, you have to do a placebo and a placebo means—[*Interruption*]

**Dr. Gopeesingh:** A double-blind controlled trial.

**Mrs. V. Gayadeen-Gopeesingh:** That is right, a control trial. So it is the same thing as if you want to run and to test the effectiveness of this, you must come with some evidence, say, yes, two years ago, three years ago, X numbers of persons applied for bail using cash and this is what happened, how many persons were incarcerated are now out on bail, but there is no evidence.

The other thing, Mr. Deputy Speaker, is that, again, if you were to go to San Fernando Magistrates' Court what you will see happening in First Court, the number of persons who apply for bail and are not granted bail are persons who have been charged with an indictable offence. What an indictable offence is, Mr. Deputy Speaker? It is that you are not allowed to plead your innocence, nor your guilt. Who do we see coming in the San Fernando Magistrates' Court, whether it is Port of Spain, Sangre Grande, Princes Town, Point Fortin? You would see persons who are charged with these indictable offences and whose bail is not set at less than \$10,000. What bail and whose bail will be set less than \$10,000 will be for summary offences, like for traffic offences, like a simple assault, like obscene language—you will get that for less than \$10,000. But, Mr. Deputy Speaker, the persons who cannot procure bail at any of the Magistrates' Court their bail is set greater than \$10,000, and who are those persons?

Those are the persons who are in the lowest rung of the social ladder in this country; those are persons who are in the lowest social standing in this country; those are persons who cannot read nor write, they cannot spell their names; and those are persons who cannot get cash. There may be some of them who may be squatters, or who have been renting. There are some of them, Mr. Deputy Speaker, who is a child of a single parent and they cannot procure the cash to come and take the bail, and this is what we are seeing. So you are trying to say we are allowing persons now to come and procure bail with cash, but the poor person cannot procedure bail because they cannot afford cash.

What is happening right now in this country, Mr. Deputy Speaker, people cannot even put food on their table, they do not even have money to buy bread or roti, but you want them to get cash. I will use even a similar example which the

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[MRS GAYADEEN-GOPEESINGH]

*Friday, May 19, 2017*

Member for St. Augustine had used for the child that drowned. I believe it is somewhere in Laventille the child that drowned. The father went out to work and he had to remain incarcerated for one month because bail was set—when I double-checked just now—at \$75,000. Where would a poor person get \$75,000, a person who has been charged with an offence? Wilful negligence he was charged for you know, Mr. Deputy Speaker. Wilful negligence. He went out to perhaps get money to help to mind his child. The child drowned, he cannot go to the funeral.

We have another instance where a mother, she wanted to get her husband out of the jail to spend some time with the little three-year-old child, bail was set at \$10,000. She had gone all over asking friends for that \$10,000 to help her. She could not get the \$10,000. Birthday passed and the child stepped into a fourth year, and that is how difficult it is with the poor persons. Poor persons cannot even get a \$100. It is plenty for a poor person now because this same mother—the example I have used here, Mr. Deputy Speaker—she complained about when she went to apply for the bail is that the Clerk of the Peace is asking her to provide a list or a bank statement of the last six months of the balance that is posted on the bail. Meaning, that the bail is \$10,000, but she must provide a statement for the last six months to show that there was a balance of \$10,000. Where would she get \$10,000 to continuously have it as a balance? She cannot, as I say, provide even for her child, she cannot even pay rent, she cannot buy food, and she cannot even pay her phone bill far less to do anything with roaming. So that is how difficult it is, Mr. Deputy Speaker. [*Crosstalk*]

Mr. Deputy Speaker, there are those when they put their property up—  
[*Interruption*]

**Mr. Deputy Speaker:** Silence.

**Mrs. V. Gayadeen-Gopeesingh:**—to secure and procure bail what happens, take for example—I like to use examples perhaps being a lecturer once it makes it easier—[*Interruption*]

**Hon. Members:** What? [*Crosstalk*]

**Mrs. V. Gayadeen-Gopeesingh:** Mr. Deputy Speaker—[*Interruption*]

**Mr. Deputy Speaker:** Proceed, Member.

**Mrs. V. Gayadeen-Gopeesingh:**—take for example when a movable property is used, like we have section 12 of the Bail Bill here, and clause 4(4A)(d), you can also use a charge on immovable property.

There are those who have used land and I have known of instances. Take for



example an old man, he has given his deed—and, of course, the deed must be cleared, no mortgage on it. It must not be encumbered—to procure bail for a relative of his. What happens is that, the case I know about, it is eight years now and this matter has not even started at the Magistrates' Court. So it is eight years his land is being held by the court as surety and the matter has not started. He is getting older and he is trying in the best of ways to get this bail revoked, but he cannot. Why he cannot get it revoked, Mr. Deputy Speaker, is because a magistrate is a creature of statute and a magistrate is guided by statute. So the onus now rests on the bailor, who had taken the bail, to come and prove that the person who he has taken the bail for is a flight risk.

So imagine you have your property; the matter cannot start in eight years and you cannot get your property back. So he is getting older, and as the Member for St. Joseph will know about non-communicable diseases. The person is getting older, he has heart disease, he has high blood pressure and diabetes, and he is—  
[*Interruption*]

**Mr. Deputy Speaker:** Silence! Silence! Members! Member for Barataria/San Juan, please. Proceed, Member for Oropouche West.

**6.05 p.m.**

**Mrs. V. Gayadeen-Gopeesingh:** Thank you. So he cannot get his property released. So what happens in that instance, Mr. Deputy Speaker? He may die. He may die testate or he may die intestate. If he dies testate, he has to probate his will and if he dies intestate, a letter of administration has to be done. So he has, Mr. Deputy Speaker—[*Interruption*]

**Mr. Deputy Speaker:** Member for St. Joseph.

**Mr. Deyalsingh:** I apologise.

**Mr. Deputy Speaker:** Silence and proceed, Member for Oropouche West.

**Mrs. V. Gayadeen-Gopeesingh:** Yeah, thank you. So the executor or executrix of his will, Mr. Deputy Speaker, will probate the will. The personal representative will do letters of administration. But when it is time now to do a deed of assent or a memorandum of assent, it cannot be done because the land becomes encumbered and it remains encumbered. So maybe the hon. Attorney General, when he is winding up, perhaps he could address that issue and say whether those who have given their land can now come and ask, not for the bail to be revoked but the bail to be substituted and if cash can be paid instead. You cannot revoke and we need to know whether there will be a substitution for cash

and for land, to replace the land with the cash.

Mr. Deputy Speaker, another important aspect of this bail with respect to cash being \$10,000 and less and greater than \$10,000 is with respect to trafficking offences. Sometimes what we have found is that a police may set up roadblocks and they set up roadblocks close to a school zone and what happens is that they might stop a young man and find one cigarette of marijuana in his vehicle. And what is the offence? He will be charged for the possession of this one cigarette but for the purpose for trafficking and the bail that is set for trafficking would be about \$150,000. So you have a young man, you are not sure why he is using the cigarette, maybe for some medicinal reason, maybe he has epilepsy or he may have asthma. I am not here to advocate the legality and to legalize marijuana but there may be some reason. But he is placed on a bail of \$150,000. Where is he going to get that money for the possession of one—because it is close to a school zone and he is charged for trafficking?

**Dr. Gopeesingh:** “Sometimes the police set them up.”

**Mrs. V. Gayadeen-Gopeesingh:** And that is another issue. So what we are saying, Mr. Deputy Speaker, is that persons who are charged with trafficking—not with the simple cigarette example I have used for you but the main traffickers who are doing narcotics and so, they will welcome cash bail because they would have readily available cash. But not like the little young man there who cannot and he would remain incarcerated because he cannot post that \$150,000. Those who are charged with trafficking kilograms of marijuana and narcotics and so will welcome this.

And, Mr. Deputy Speaker, when we look at this—let me just get the correct—I need to explain or to revert to one quotation that the hon. Attorney General had said and it was made on February the 16<sup>th</sup>, 2017 and he spoke about bail by cash and he said:

“There is an allegation and a statement that there is almost an underground element to the manner in which bail is procured. There is the phenomenon of what people refer to as professional bailors because the Magistracy has sought to opt to one version of bail only, that is the production of deed of property.

‘What this [Access to Bail Amendment Bill] allows is for the placement of cash or certified cheques into the judicial system,’”

He said, the hon. Attorney General:

That this would be placed in the—“prisons themselves to access bail under the

new system every day except Sundays and public holidays.”

The Attorney General went on, Mr. Deputy Speaker, and said that:

There were—“2,242 prisoners currently in Remand Yard, 1,000 were there for non-bailable offence and 1,242 remaining prisoners, nearly half had been granted bail by the court but could not”—get it.

And I would like to remind this august House that when we did the Anti-Gang and Bail (Amdt.) Bill, I think it fell through, half way through when the hon. Attorney General was speaking, there was all this fanfare that because there is a sunset clause which would have expired on the 15<sup>th</sup> of August, 2016, that prisoners or those who had been incarcerated, at the expiration of the sunset clause, would all be running out looking and to seek bail, and they will be outside there and they will cause havoc, and the crime rate will increase. But there we have it, the Attorney General is saying those same people who could have gotten bail and would have access to bail, could not get it. Again, it is because of the kinds of persons of the lowest social strata that were present there. They cannot procure the bail.

In fact, on July 23<sup>rd</sup>, 2016, in the *Newsday*, the Attorney General went on to say that:

“...the Judiciary...”—is—“placed on ‘high alert’ to deal with a rush of bail applications and...there was ‘a security concern’...”

He went on to say:

It is going to be a big event in the country.

Big event, small event, nothing happened. All those persons are still there waiting to procure bail and because of their state of affairs, their economic state of affairs, they cannot procure the bail.

So what do we do? How is it that we can help resolve what is happening in the criminal justice system because this morning, the hon. Attorney General said that he was bringing this package of laws to improve the criminal justice system. He was going to remove all the obstructive time frames in doing these matters because he actually said that there were some 20 years’ backlog of cases, both in the Magistracy and in the High Court. And of course, he spoke directly to the constitutional rights of persons because, Mr. Deputy Speaker, we know that if one is arrested for a bailable offence, then that person is entitled to bail, if it is a bailable offence. Non-bailable is like murder and treason and so but every bailable offence, that person is entitled to it and he has that right under the

Constitution, section 5. It is enshrined in the Constitution of your right to be brought promptly to court and that presumption of innocence.

So, Mr. Deputy Speaker, we have to have some solutions. How are we going to deal with matters of this nature? How are we going to remove the mystery that surrounds the granting of the bail? And what we need to do is that perhaps persons who have a first offence, perhaps they can post cash bail for themselves and first offence meaning not actual violence. So those persons who have committed perhaps minor offences that they can post their bail for themselves. And what we have seen also in the United States, we have what is called bail bondsmen. It is a system that 10 to 15 per cent is contributed. So the person who wants to go and procure bail for his relative, he gets 10 to 15 per cent which is aided to help in procuring the bail for the relatively poor ones. So what we need is that these bail bondsmen, whether it is an agent, whether it is an institute, these persons have a contractual relationship or a contractual agreement with the court and a contractual agreement with a financial institution.

So what happens is that beyond work hours or opening or operating hours, these bail bondsmen, they will have that relationship which is a 24/7 relationship, so they can continue to have moneys and cash to take the bail for the person. Because what we see here in the Fourth Schedule, Mr. Deputy Speaker, where we see:

“The Act is amended by inserting after the Third Schedule, the following Schedule...”

We see that the:

“DAYS AND TIMES DURING WHICH PERSONS MAY GIVE SECURITY FOR BAIL AT PRISONS”

We are seeing Monday to Friday, eight to six and we are seeing Saturday 8.00 a.m. to 4.00 p.m. But in Trinidad, Mr. Deputy Speaker, if an offence were to be committed Friday evening, I do not know where we have any institution that may be open on a Saturday if you have to get cash between eight and 4.00 p.m. Where are you going to get the cash to post bail especially if it is beyond \$10,000 and if you have to do a certified cheque? So the bail bondmen is one of the ways in which, perhaps, we can ameliorate or to cure that problem of the time where we have here, Saturday 8.00 a.m. to 4.00 p.m. Also, the hon. Member for St. Augustine has also spoken about the tracking and I believe the Member for Laventille West stood up very quickly to talk about electronic monitoring of persons.

Mr. Deputy Speaker, what we find in the criminal justice system is a whole cadre of problems. What we are seeing is that no matter how we try to bring a suite of legislation, which might not be so sweet, what we are seeing is that it is just bottlenecking. No matter what Bill or Act we are trying to bring before the criminal justice system to see how we could cure the ills of it, nothing really can resolve it in a timely fashion because it is cumulative, it is over the years nothing has been happening in the criminal justice system.

**Mr. Deputy Speaker:** Member, your initial 30 minutes has expired. You have an additional 15 minutes. Do you care to avail yourselves?

**Mrs. V. Gayadeen-Gopeesingh:** Yes, to just summarize.

**Mr. Deputy Speaker:** Summarize, so proceed.

**Mrs. V. Gayadeen-Gopeesingh:** Yeah, thanks. So we saw the indictable proceedings Bill, we saw plea bargaining here, now you are seeing this Bail Bill and we have this whole cadre of Bills and which will soon be Acts and we are trying to see whether these things could resolve or to try and dilute and to see how this whole criminal justice system could be unclogged. Because we are looking—also we are seeing the DPP's office cannot even deal with all these matters. We are seeing the criminal—the High Court, the Appeal Court, the Magistracy, backlog of cases.

So, Mr. Deputy Speaker, this Bill, as it stands, it needs to have certain amendments and how it stands here, because there are certain sections which the hon. Member for Siparia and the Member for St. Augustine had already dealt with, the constitutional rights, the infringement of the constitutional rights of persons.

And with those few words, Mr. Deputy Speaker, I thank you. [*Desk thumping*]

**Mr. Deputy Speaker:** Before I recognize the Member for Point Fortin, I just want to remind Members of the House of Standing Order 53(1) (e), that when Members are speaking, Members shall maintain silence while another Member is speaking. Right. So Members, please, and according to the procedural bulletin submitted by Chair, number three, please let us ensure that decorum is maintained in the House.

**The Minister of National Security (Hon. Maj. Gen. Edmund Dillon):** Thank you very much, Mr. Deputy Speaker. I rise to support the Bill, the Bail (Access to Bail) (Amdt.) Bill, 2017. Let me, first of all, compliment the Attorney

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[MRS GAYADEEN-GOPEESINGH]

*Friday, May 19, 2017*

General for once again bringing a menu of legislation that is geared towards dealing with the whole situation of crime and criminality in Trinidad and Tobago. We continue to see what I consider a whole-of-government approach as the Attorney General brings in this House the legislative framework. From the Ministry of National Security side, we continue to trust the operational side and together we ride on the same train, together we continue on the same vein, to treat with the whole issue of crime in Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker, this Bill seeks to amend to Bail Act, Chap. 4:60, to facilitate a change from the use of property as means of providing security for accessing bail to the use of upfront deposit of cash or certified cheque. Before I go into the Bill, when I look at what the Member for Siparia mentioned in terms of this Bill is a retrograde step, she may have used the right word retrograde, but I think in terms of the Members on the other side, I believe that they are suffering to a large extent with retrograde amnesia which is a loss of memory with respect to events that occurred before. [*Desk thumping*]

Because you have heard the Member for Laventille West bring to this House that they, in fact, through a Cabinet Note, had approved the very same Bill that we are dealing with today. Yet, they consistently seem to forget, as I said retrograde amnesia. They consistently forget that they, too, would have presented the very same issues and now that they are on the other side, amnesia steps in, so that they completely forget what has occurred before. [*Desk thumping*] Mr. Deputy Speaker, it reminds me very much of our attempt in this very House at another time to deal with the Anti-Gang and the Bail Bill where the very same Opposition, who supported the Bill then, refused to support it at a time when it was required in this country. It is truly retrograde amnesia.

Mr. Deputy Speaker, I think I want to locate the whole idea of this Bill and we have seemed to have heard a number of legal frameworks treating with the Bill, and while it is a legal instrument that we are dealing, I think there is a social aspect to it. But I want to locate it within what is the security landscape now and first of all, I looked at what is the situation and I know the Attorney General mentioned it some time ago. What is the situation in our remand prisons right now? The total number of remandees in our nine institutions is just over 2,000 plus in remand alone. In Golden Grove alone, there are approximately 960 remandees.

Mr. Deputy Speaker, the remand prison which was constructed many years ago—in fact, many people do not know that the remand prison was, in fact, an air

base for people who served there in the Second World War. It was really that. That was the structure and the structure was then created, outfitted, the very same shed was outfitted to host prisoners, remandees. Their rooms are, in fact, 10 by 10 rooms designed to hold three prisoners. To date, there are about nine plus prisoners in that very same 10 by 10 room. There are about almost nine to 10 prisoners in that very same 10 by 10 cell. There is no doubt that the remand prison is overcrowded at this point in time.

When you look at the cost, the cost of someone being held in remand prison, on a daily basis, it cost about \$618 per person; of a monthly, roughly \$18,000 plus per month; annual cost is \$225,920.40. When one looks at the cost and the fact that the remand prisons, in which we are dealing with today with respect to bail, is overcrowded, one can understand the situation that we are dealing with which, to some extent, contributes to what is happening in the security environment.

Mr. Deputy Speaker, added to that, I want to do some statistics from the Trinidad and Tobago Police Service with respect to arrests. So we get an idea as to the amount of people that have to go through the system because at the end of the day, it is based on the police arrests that people are sent into the Remand Yard. So I want to give you an idea as to what that looks like and I used as the base here 2014. In 2014, a total of 10,986 persons were arrested and charged by the Trinidad and Tobago Police Service, 10,986. In 2015, a total of 10,942 persons were arrested and charged. In 2016, a total of 10,679 persons were arrested and charged. To date, in 2017, it is a total of 4,192 persons were arrested and charged. I say that so that the public, so that we in the House, could get an understanding of the volume of the amount of people that are being charged by the Trinidad and Tobago Police Service—arrested and charged. And I can tell you, a fraction of those people end up in the Remand Yard and a Remand Yard that is already crowded.

So we have to understand what we are treating with and what we are trying to remedy here by the amendment to the Bail Bill. What the amendment to the Bail Bill seeks to do is, in fact, to close a gap or as they say in legal terms—I am not a lawyer by any stretch of the imagination—a lacuna, I think that is the correct word, a gap within the law. Because as it says, the Bail Act does not make provisions for the forms by which bail may be secured and as such, what the Bail (Amdt.) Bill is trying to do is amend section 12 by inserting six new subsections. Subsection (4A) which speaks to:

“cash or certified cheque, where the amount of security is ten thousand dollars or less;”

And subsection (4B), subsection (4C), subsection (4D), subsection (4E). I mean these have already been stated already so there is no need for me to repeat them. But what the Bill is trying to do is to fill that gap. To fill that gap so that at the end of the day, we can address issues pertinent to the Remand Yard, pertinent to the amount of arrests that the Trinidad and Tobago Police Service handles in any one year or any one period. Mr. Deputy Speaker, so therefore, we can see the relationship between the amendments and in fact, between what happens in the security environment in Trinidad and Tobago.

Mr. Deputy Speaker, I think one of the other things that is missing in this debate is the people issues. A number of issues that were dealt with before seems to address the legal issues in the absence of, how does this situation affects the individual, how does it affect the family, how does it affect the communities? And so, Mr. Deputy Speaker, I want to bring into the debate the whole question of people who are held without bail. At the level of the individual, I believe one of our first responsibility is to the individual who, to a large extent, expects our care and protection, expects us to protect and serve with pride to a large extent and to hold and treat them. But more importantly, to be able to consider their health concerns because persons who are incarcerated, especially those who are unable to secure bail, to a large extent, a degree of stress, a degree of worry steps in. To some extent, even mental illness steps in.

I am drawing this reference, because, as the Minister of National Security, at the end of the day, these people end up contributing to crime and criminality because of the stress they are placed in, as an individual, in the confines of Remand Yard and so on and there is a nexus. And so what, again, I continue to emphasize that what this Bill is trying to do is, again, prevent this from happening. Give them some way or some measures of relief.

You can see that personnel who are so incarcerated experience financial difficulties, loss of employment. Because if for instance, a young person who appear before the court on some minor offences and placed in the Remand Yard, he may have been employed for some period of time. During that time, he lost the benefit of being employed; he lost the opportunity to earn his own income. And for what? For a very small infraction. The Attorney General mentioned thousands or hundreds of thousands of traffic offences. The Attorney General mentioned in terms of minor infringement of the law, persons are held in Remand Yard for five years, and six years and seven years. Some of those persons may be young people who have been employed and therefore, they lose the opportunity to gain employment to secure their own future. So future earnings are destroyed. This



amendment would assist so that they, themselves, will be able to continue their employment even while pending their court appearance.

To some extent, people have experienced loss of housing for instance because being place in Remand Yard and so on. Their ability to—their pre-trial detention, they have lost opportunities to gain what we call basic shelters, basic accommodation and sometimes you will find that the very same people, because of that lost opportunity, may end up as street dwellers for instance, again, in an area where they can contribute to crime and criminality. So what I am doing is drawing the kind of relationship between what we are doing with crime and criminality because at the end of the day, this is what we are trying to reduce. Between the Attorney General's legislative framework and national security operations, we are trying to reduce the incidence of people committing crimes in Trinidad and Tobago.

When we look at the issue of families, for instance, the effect of persons being incarcerated in Remand Yard and so on, affects the families. So we deal with the individual, not looking at the effect of the families. Separation from one's family, of course, can strain communication and to a large extent, destroy households. When fathers or mothers are placed in remand or pre-trial detentions or even sons or daughters, it affects the family. It affects the family as a whole and even that, again, you see the breakup of family, again, leads to a certain kind of behaviour that, again, can contribute and add towards dealing with crime and criminality in Trinidad and Tobago.

So that the amendments being provided here, again, is to bring relief to the family also. They are also to bring relief to the communities because at the end of the day, the family is a microcosm of the community and, therefore, what affects the community in terms of people being incarcerated for whatever offences, it also affects that. Because at the end of the day, Mr. Deputy Speaker, our interest is to ensure that we do not contribute to creating the environment where people are placed in to contribute towards a life of crime and criminality.

**6.35 p.m.**

You see, the Ministry of National Security, Mr. Deputy Speaker, is in the business of dismantling gangs, not in the business of dismantling families. [*Desk thumping*] And so we believe that, when I tell you, and I can tell you outright that I support the Attorney General, in terms of this Bill, those amendments that he has brought to this House because I believe and I strongly believe that it will definitely contribute in our fight against crime on another level, Mr. Deputy Speaker.

Mr. Deputy Speaker, so, as we look at the data to some extent, the data suggests to us that roughly about 70 to 75 persons who are accused of committing crimes, acquisition, or other non-serious offences, most of them, Mr. Deputy Speaker, in fact, can be affected and can have access to what we are presenting here in this bail amendment. And that, to my mind, will have a very important effect, because when you look at the situation in Remand Yard and we say it all the time; we talk about Remand Yard being almost like a factory, like an institution where the persons who are there for slight infractions, sometimes first offenders would go into Remand Yard, never had, really, before that infringement, led a life of crime and so on, but when they return to their communities, they become hardened criminals. And, I mean there are test cases to show that.

When you look at, and if—I do not know how many people here have seen Remand Yard. I have seen it. I have been to Remand Yard. I do not know how many others have seen it. I did a tour of that since becoming Minister of National Security, and it is not a sight that you would want to see. As I mentioned before, a 10 by 10 room that was designed for three individuals now hosts about nine, sometimes 10; sometimes 10. And remember, as I said, that is an institution that was built in the days of—for airmen in the Second World War. So that they are not communal. They are not single bathrooms, as we say, single toilets; communal toilets, which is what we are trying to change, I will come to that in a while, to address those issues. Yeah? So that the over crowdedness that we are talking about is something that we must bring relief to, if we have to do this legislatively by amendment to the Bail Act.

And I heard Members on the other side talk about—almost singling that this alone cannot do it. And we are aware of that. It must be a combination of efforts; different kind of approaches to treat with a situation. This is just one of many approaches to treat with the issue of over crowdedness in our cells, because the bulk of our issues in our prison system is not the convicted prisoners, you know, not the convicted prisoners.

The bulk of the issues are those on remand who have been waiting for so many years for their trial to take place, and the Attorney General mentioned as much as 20 years in some instances. Imagine that, you are inside and you have been in pre-trial mode for 15/20 years, unable to see your loved ones, your family is gone and you do not know what is happening to them and so on. And in an overcrowded facility, your mental state, of course, would be affected. So you either—again, it is survival of the fittest to some extent. So what kind of

individual are we sending? And we as a society must have a responsibility to treat with that. [*Desk thumping*] We must be able to treat with that.

And if we are bringing measures to treat with that in this House, measures that the Opposition themselves have already approved, I think this debate is a simple debate, Mr. Deputy Speaker. I think this is a very simple debate. But if again we are suffering from amnesia then I understand why we have to go round and round until maybe we have to juggle their memory a bit so that they could return to their moorings, one that treats with the issue of the people. We are not talking about the legal—I mean, we have many lawyers in the House, but there needs to be some social scientist thinking at times. There needs to be some social moorings at times [*Desk thumping*] and not just think about just the legal parts of these arguments, Mr. Deputy Speaker.

Mr. Deputy Speaker, sometimes we look at even the cost to the defendants themselves, because they too—the defendants themselves—for time spent in prison, cost of jobs, cost of family, cost of relationships, and yet their matter has not been concluded as yet. So there is a cost to them. There is a cost to their families, serious social cost and serious social implications, Mr. Deputy Speaker.

So that when we look at what we are trying to do with the proposed subsections (4B) to (4F) which are meant to ensure that persons who want access to bail have the opportunity to do so, I mean it was mentioned a while ago that cashiers and so on close at 3.00 p.m. and so on. We have seen where they have introduced where—and which is new I believe—you can now make payment through a designate. It is either the Prisons Commissioner or a designated officer, not only on a Friday, but on a Saturday. And the Member for Oropouche West, Royal Bank is open on a Saturday, so if you are wondering where they can get money, there are banks that open on Saturdays now. And, I mean, technology. There are also ATMs where you can withdraw X amount from it. [*Crosstalk*] You can do that. So there are avenues. But what is more important is getting rid of a system whereby three o'clock on a Friday, cashier closes and therefore you have to stay incarcerated until Monday as the case may be. Now you are seeing an improvement in that system. There is an improvement and no, you cannot deny that. If you now, you could now be able to make payments to either the Commissioner of Prisons or his designate up to Saturday mornings as well as, I think, five o'clock or so on a Friday afternoon. So that you are seeing some changes; changes that, again, would allow for a reduction, would allow for preventing people from being sent to Remand Yard.

When you look at clause 5, it was meant to ensure, *inter alia*, that the security

used to acquire bail can be set off against fines or be paid straight to the Comptroller of Accounts as part of revenue. But also, it permits the court a discretion to forfeiture part of the value of the security, which previously did not exist. Again, Mr. Deputy Speaker, you are seeing something different taking place. We are seeing something new taking place. You see this is important, as in some instances the bail figure may be high. It allows, again, forfeiture from part of that. So there again, you can see some relief insofar as that is concerned. Because this measure permits the court to treat with the forfeiture in a fair and just manner, Mr. Deputy Speaker.

You see, Government is not in the business of pawned arrangement, whereby a person's property has to be seized, evaluated, marketed and sold. We are not in the business of foreclosure either. We are in the revenue-making business and believe this speaks for itself, Mr. Deputy Speaker. In addition, Mr. Deputy Speaker, in relation to the forfeiture of the security for payment of fines, where a fine is imposed on someone they can apply for an extension if the fine is not paid.

So, Mr. Deputy Speaker, we must look at these measures in a cumulative manner and not in an isolated manner, because what these measures are bringing to bear, at the end of the day, is to treat with the issues of overcrowding, treat with the issues of treatment of individuals who are still innocent, have not been proven guilty, and we are losing that fundamental right of the individual. We are choosing individuals who have not been convicted in the courts as yet. They are still innocent until proven guilty. And if those who, especially those who are in minor infractions, first-time offenders, people who we can still salvage, people who we can still save, if we can do so I think there is a responsibility on us as a society and as a Government, and we are doing that as a Government, I hope the Opposition is just as responsible as us [*Desk thumping*] to save those people, Mr. Deputy Speaker; to save those people, Mr. Deputy Speaker.

You see, Mr. Deputy Speaker, what on the other side is the Ministry of National Security doing? What is the Ministry of National Security doing? [*Interruption by electronic device*] Mr. Deputy Speaker—[*Interruption*]

**Mr. Deputy Speaker:** Member, leave the Chamber, please. Proceed, Member for Point Fortin.

**Hon. Maj. Gen. E. Dillon:** Thank you, Mr. Deputy Speaker.

[*Continuous interruption of electronic device*]

**Mr. Deputy Speaker:** Members, please, electronic devices, the rule continues that it ought to be on silent or muted accordingly.

**Hon. Maj. Gen. E. Dillon:** Thank you, Mr. Deputy Speaker. Mr. Deputy

Speaker, again as I mentioned a while ago, we have adopted a whole-of-government approach, and that is manifested here by national security working together with the Attorney General. Whereas I said before, legislative framework, operational aspect. [*Continuous crosstalk*]

**Mr. Deputy Speaker:** Member for Oropouche East, I spoke to you three times within that short space, please.

**Hon. Maj. Gen. E. Dillon:** Thank you, Mr. Deputy Speaker. Yes, Mr. Deputy Speaker, as I said the whole-of-government approach is at work manifesting itself here today, where you are seeing the legislative framework taking place, and also the operational aspect from the Ministry of National Security. And so I want to highlight that the Ministry of National Security, in looking at the same issues, have in fact advanced the whole question of the electronic monitoring devices. And I said advanced, because you see, I hear the Member for St. Augustine mentioned that electronic monitoring bracelets and so on. Yes, it was in fact the Administration of Justice Act, 2012 was assented to in July 2012, by the last administration; 2012, 2013, 2014, 2015, nothing happened. [*Desk thumping*] Yes, you started it. That is fine. Nothing happened; 2012, 2013, 2014, 2015, nothing happened. But what has happened since then?

In 2016, what has happened? An implementation committee was formally established on August 05, 2016. The committee comprises representatives of the Ministry of the Attorney General and Legal Affairs, the Director of Public Prosecutions, the Judiciary of Trinidad and Tobago, Trinidad and Tobago Prison Service, Trinidad and Tobago Police Service and other members from the Ministry of National Security. Not only that, but a building to accommodate the unit, has in fact been identified. The Electronic Monitoring Unit, we now have a manager who has been hired. Thank you very much, has been hired. The Deputy Electronic Manager has also been hired and they are in fact staffing out that unit right now. They have already started preparing regulations for the unit, and I can tell you, Mr. Deputy Speaker, I can tell you, that before the end of this year, this unit will be up and running and contribute significantly, significantly. [*Desk thumping*]

We are right now looking at the—we have engaged three Governments outside: the USA, UK and Canada. We have cut away the middleman, dealing directly with the Governments who have had these electronic monitoring mechanisms installed already and we are looking at three providers. We are assessing that right now. We are evaluating them and will select whichever we feel is best for us.

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[HON. MAJ. GEN. E. DILLON]

*Friday, May 19, 2017*

At the end of that selection process, after the evaluation has taken place, then we will engage the local telecommunications industry because we have to have a service provider to provide the platform from which we are operating. And then of course, the police at the same time is developing the mechanism to do the response, so if anyone breaks the, what we call the geo-fence with the electronic magnetic bracelet, there is a response mechanism. So all that is taking place and I can tell you, Mr. Deputy Speaker, this will come into effect before the end of the fiscal year and that is a Government that insists on ensuring that we deal with issues.

So that between 2015 and 2016 you have seen what we have done, which you did not do 2013, 2014, 2015, 2016. But again we did not throw away what you did because we are a responsible Government. We used what you did but we advanced on it, unlike what you have done with my offshore patrol vessels. [Crosstalk] No, no, no you got rid of them and Brazil is happy with them right now. You dumped them without any reason or justification. If you had only continued the vein and you did like a responsible government those offshore patrol vessels would have done a lot for us in this maritime security environment today. [Desk thumping] I know you were sorry that you did it afterwards, when you understood that you made the blunder of the day. I know that you made a blunder of the day by getting rid of those offshore patrol vessels. [Crosstalk] He was not the one that got rid of them. It was not him.

**Mr. Deputy Speaker:** Members, silence.

**Hon. Maj. Gen. E. Dillon:** I know who got rid of them.

**Mr. Deputy Speaker:** Silence, and Member for Point Fortin address the Chair, thank you.

**Hon. Maj. Gen. E. Dillon:** Mr. Deputy Speaker, when I remember the offshore patrol vessels I get kind of emotional. Because I was involved in it. I was the CDS at the time so I knew it was a blunder that they live to regret.

So, Mr. Deputy Speaker, as I mentioned, the implementation committee with respect to these bracelets is in fact currently developing policy in respect to the regulations and by the end of this month, May 31<sup>st</sup>, the brief is to be provided to the legal unit for the implementation committee. So we are working. We are working.

The other thing that the Ministry is doing, Mr. Deputy Speaker, is in fact looking at the situation at the Remand prison, looking at the situation at the Remand prison, and so we have looked at, not just refurbishing but bringing the

Remand prison into modern-day standard where prisoners have an individual—well, they are still using pails up there I might add. Yes, they do. Imagine 10 people, the AG mentioned vertical sleeping in a razor blade position. We have to improve the condition and that is part of the remit of the Ministry of National Security, through the Trinidad and Tobago Prison Service. We have to. So we are looking at the Remand prison right now, in terms of creating the kind of accommodation, the kind of space that will not contribute to their mental state, that will not contribute to the factory where we build and we continue to turn out more hardened criminals before they went into that sort of environment.

And so, in fact, a Note is before Cabinet right now, for a certain kind of expenditure to treat with refurbishing the Remand Yard right now, Mr. Deputy Speaker. Because we understand the people issues. We understand what that would do if they continue to live in that environment; how that will contribute to the whole question of crime and criminality in Trinidad and Tobago.

Another initiative that we are using now, that we are into right now, Mr. Deputy Speaker, and I share with you, is the whole question of the DNA. While the DNA may not be directly related, but there is a sort of a nexus between the DNA, because the DNA is there in terms of crime detection, speed up the issue of crime detection. If we do so, then again it would reduce the amount of people who are sent for pre-trial.

**Mr. Deputy Speaker:** Member, your initial 30 minutes has expired. You have an additional 15. Care to use it?

**Hon. Maj. Gen. E. Dillon:** Yes, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Proceed.

**Hon. Maj. Gen. E. Dillon:** Thank you. Mr. Deputy Speaker, the DNA is one of our long-term initiatives, in terms of not only DNA database but the DNA custodian. And, again this Act was there since 2007. It was again during our administration but amended in 2012. While it was amended in 2012, again, 2012, 2013, 2014, 2015, nothing was done. Nothing was done and that is a very crucial and important part if we need to look at the detection rate in Trinidad and Tobago. The DNA is actually game changer when we are talking about detection rate. And what we have done thus far, Mr. Deputy Speaker, having identified that this is a very major initiative, I am pleased to report that this project is well underway. The DNA custodian assumed duty, has been hired and actually took up duty in January 2017, Mr Deputy Speaker, and he has been working assiduously to operationalize this databank. So we have the custodian. We have his staff and now we are

working on the databank itself. Right now we are engaging more than one firm who are there to supply us, in terms of assisting us in the databank. Selections will take place in the near future. The regulation have been developed and in fact first presented to the Law Review Commission, the LRC, it has been completed, to the best of my understanding. So we are moving apace, again, in terms of the DNA custodian and the DNA databank.

We are engaging right now, we are looking at quotations with respect to the buccal swab kit which is presently before procurement. So once we procure these swab kits with the custodians, with the database, when we start to build the database, again it will be a game changer in dealing with detection rate which has again a relationship between persons who are incarcerated for pre-trial, pre-trial incarceration, and so on. Because if the detection rate is faster then, again, people would be brought to trial in a speedier manner and, therefore, reduce the fact that they will be sent to Remand Yard. So you see the nexus, Mr. Deputy Speaker. Again, another initiative by this Government, by this Ministry, Mr. Deputy Speaker.

Mr. Deputy Speaker, let me conclude by saying that the amendments raised in this Bill, which seek to facilitate the change from the use of property as a means of providing security for accessing bail to the use of funds or deposit of cash or certified cheque is just one of many measures, one of many approaches to treat with the whole criminal environment in Trinidad and Tobago. It cannot be viewed in isolation. It must be viewed in totality. There is a number of issues. There are a number of measures that are being brought. The Attorney General has brought a menu of legislation.

**Mr. Charles:** Suite.

**Hon. Maj. Gen. E. Dillon:** Forget suite, I use the word menu because menu means you can select them individually. They all have a taste of its own but they contribute to the whole. It is a menu of legislation that he has brought. It is a menu that he has brought. When you put that menu of legislation together with the national security trust, then you understand that both of them running on the same track, with the same aim in mind to deal with the issues of crime and criminality in Trinidad and Tobago. And you are talking about measures? Those are measures that you want to look at. That is an effective Government. That is the approach that you must take, [*Desk thumping*] and that is how we treat with crime and criminality in Trinidad and Tobago, by a collective approach, whole-of-government approach.



Mr. Deputy Speaker, I thank you very much.

**Dr. Roodal Moonilal** (*Oropouche East*): Mr. Deputy Speaker, I thank you very much for your recognition, and it is a pleasure to contribute in the House today on this short but, perhaps, very significant piece of legislation which the Opposition leader spoke to earlier and did indicate our very serious concerns.

Mr. Deputy Speaker, I have had the opportunity, of course, to listen to the contributions of colleagues opposite, beginning with the Attorney General, the Member for Laventille West, I believe, earlier and then the Minister of National Security. So with your leave I will like to respond to some of the issues raised in the debate by colleagues opposite. But might I add, Mr. Deputy Speaker, that this is a very significant and historic moment as well for us, because we have said, Mr. Deputy Speaker, that if things continue the way they are many people may need bail and whether they get it in cash or through certified cheque or through deeds, many would need bail. Because you see, Mr. Deputy Speaker, in my introduction may I announce that a few minutes ago the Supreme Court of Trinidad and Tobago injunct the Government of Trinidad and Tobago [*Desk thumping*] for implementing the property tax. [*Desk thumping*]

And, Mr. Deputy Speaker, in passing let me indicate that the court ruled that the applicant, former Minister Devant Maharaj, had an arguable case. [*Desk thumping*] And the court indicated at first glance that it may well be that the matters that the Government brought by legislation was illegal.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker—

**Dr. R. Moonilal:** What is the Standing Order?

**Mrs. Robinson-Regis:**—this matter is sub judice.

**Mr. Deputy Speaker:** Member, I trust you would be moving on now?

**Dr. R. Moonilal:** Yes, Sir, with the few minutes you allowed me in the introduction I wanted to make that point.

**Mr. Deputy Speaker:** Okay fine, proceed.

**Dr. R. Moonilal:** And to indicate that with this court matter, like any other.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, Standing Order 49—

**Mr. Deputy Speaker:** Member, as I said, proceed. Move on to your actual—

**Dr. R. Moonilal:** Mr. Deputy Speaker, I will move on. I anticipated this so I will move on. Mr. Deputy Speaker, is there a bail provision for persons who refuse to fill out the form to pay property tax? I am asking. [*Desk thumping*] This

is an issue of bail. There is a warning from the administration in a press release by the Ministry of Finance that citizens may be committing offences—[*Interruption*]

**Mrs. Robinson-Regis:** Mr. Deputy Speaker—[*Interruption*]

**Dr. R. Moonilal:**—if they do not fill out the form.

**Mrs. Robinson-Regis:** Standing Order 49, Standing Order 48(1).

**Dr. R. Moonilal:** I am about bail.

**Mr. Deputy Speaker:** Member. Right, I have given you some leeway. You made mention of the property tax. Make the point, come to the point and then I would determine as we continue along. Okay?

**Dr. R. Moonilal:** Mr. Deputy Speaker, I would enquire from the Government the offences that a citizen can commit that areailable [*Desk thumping*] in the event of a failure to submit documents, 13 documents, as requested. I am asking the question: What offences do they commit and under what legislation? And if that is the case, in light of the injunction granted a few minutes ago, would those persons still be committing an offence? [*Desk thumping*]

**Mr. Deputy Speaker:** Member for Oropouche East, I am not going to mention to you again. You have now started your discourse and I told you to move on. You spoke about the property tax. You spoke about the injunction. Move on, kindly.

**Dr. R. Moonilal:** Mr. Deputy Speaker, I will speak only to the issue of bail, which is the Bail Act. Mr. Deputy Speaker, some matters arose over the last couple of hours and—well, I need to think carefully now before talking.

But the tenet of the argument of the Attorney General is very consistent with the approach of the Government. The Attorney General's argument, and in fact the Attorney General commended me when after 35 minutes I enquired when he was going to get to the Bill and he took, of course, the 10 minutes remaining to speak directly to the Bill. But in his 35 minutes of introduction that he was well permitted to do, he spoke about the philosophy, the vision, the values, the suite, the menu, the architecture in his 35 minutes, before getting to the Bill. And there is a certain issue that comes alive here and it comes alive in other debates as well, it is, how do you save money and how do you raise revenue? Whether it is in speed guns, whether it is in breathalyser, whether it is in fines, whether it is in taxes and whether it is in bail, it is the issue of how do you save money and raise money, and this appeared to be a money-saving venture.

I have heard the Minister, who I knew some years ago, and the Member for

Point Fortin has never been a politician and is still not politician. I mean, I say that thing—that does not mean that but is still not. And the Member—I am making this point in relation, Member for La Horquetta/Talparo, who aspires to be a politician that you spoke of the difference between law and social scientists and that is what I am coming to. The political scientist is also a social scientist, as you know. [*Crosstalk*]

**Mr. Deputy Speaker:** Member.

**Dr. R. Moonilal:** I am on bail.

**Mr. Deputy Speaker:** No, just. Member for Couva South, please. I am hearing you. I am hearing you clear up on this side. Proceed.

**Dr. R. Moonilal:** The point I am making to the Member for Point Fortin is that when you root your argument into how do you save money, how do you spend less, there is a danger that you may take decisions that are not in the long-term interest of institutions or the citizens because you are looking how you save money.

And why this is important is because the current Prime Minister of this country, who is now on vacation, I think this is the umpteenth vacation and many of us think he should not be on vacation but he should indeed vacate. [*Desk thumping*] When the Member for Diego Martin West was Opposition Leader, I want to remind colleagues opposite, he stood on this side of the House and he was very concerned about the amount of food the army eat and the cost of feeding the army. When he became Prime Minister, he was concerned with the cost of roti— [*Interruption*]

**Mr. Deputy Speaker:** Member, Member.

**Dr. R. Moonilal:**—and today there is a cost to— [*Interruption*]

**Mr. Deputy Speaker:** Member, Member, please, relevance. Come to the point. Tie it into the Bill.

**Dr. R. Moonilal:** One of the principles here at work is how do you save money. It is about the prisoner cost, the cost per prisoner, and I am saying this is consistent because of the leadership of this Government. They are concerned with food. They are concerned with keeping people there and paying for people, and today we got the cost of a prisoner, how much it would cost to keep a prisoner.

**Mr. Charles:** \$29,000.

**Dr. R. Moonilal:** Twenty-nine thousand. But that, I believe you are making a

mistake when you look at some of these challenges in relation to the plate of food, how much it costs, whether it is in the army, whether it is in the prison, and so on. You may take decisions and it is the wrong decision because you are starting from the wrong premise. That is my opening point here this evening.

And we continue that argument, Mr. Deputy Speaker. The Attorney General, of course, brought all the statistics to tell us that there were 800 and odd persons there and they can access bail. They have bail. They have been granted bail but they cannot meet the conditions of bail, but could not go further to tell us why they could not make the conditions of bail, and if they could not make the existing conditions of bail, why do you believe they will have \$10,000 to pay to get bail now?

**7.05 p.m.**

Some of the folks that we talk about here come to our offices as Members of Parliament—all of you are Members of Parliament, you meet people coming and going—and people will ask you for \$200 to pay their light bill; they will ask you for some help for grocery. If they go to the pharmacy and the CDAP drugs they cannot get now—I understand the drugs are no use—they will ask you to help them to get money. These are people for who \$200 and \$300 is big money. They will not readily have \$10,000 to get bail. This assumption that 861 persons or thereabout, a majority of them, can get \$10,000 Monday morning and come out of the prison system so that we do not have to feed them, that is flawed.

Now, the Member for Laventille West, straining to be as decent as he could made the point—*[Interruption]*

**Hon. Member:** It is impossible. You cannot help him.

**Dr. R. Moonilal:** I think he has run out of locks. The Member for Laventille West made the point that a Cabinet decision previously of the Partnership spoke to this issue of cash for bail, and as the Member for St. Augustine has indicated on the floor and elsewhere, this is a useful policy. This is not a bad policy by itself. This is a policy well worth consideration and this is why the Cabinet—where some of us sat in the Cabinet—we were in approval of a policy that deals with cash for bail. But this is a Bill that you have before us. It is a Bill, it is not a draft Bill. It is a Bill for the Parliament to discuss. So we must not confuse policy and law. *[Desk thumping]* As a policy, Mr. Deputy Speaker, I do not want to talk about property tax again, because others may be concerned. But there is a difference between policy and implementing policy by way of law. So we may agree on policy, but we disagree with the way it is being implemented and we

have brought the issues to the fore. There is an issue of constitutionality, I will get to that a bit later.

The other matter I want to raise concerns the use of the prison officers in this case. Now, we are in a situation—the Member for San Fernando East, the Minister of Housing and Urban Development will well know—all of us know—the threat that prison officers are under. Many complain about their physical threat, their safety. In fact, as Minister of Housing and Urban Development, there was no end of approaches by prison officers and their association for housing, because almost every prison officer believes that he or she is under threat. I mean, I do not know if any prison officer believes he or she is not under threat. So, the Minister of Housing and Urban Development will know of this. I know of it, and at all material times you try to help the prison association as best as you could with limited—I understand on Wednesday they gave 31 keys out to members of the protective services. It is not a bad start, but you have much more work to do in that area. As you know, we had given those prison officers and the protective services thousands of housing units. So, Mr. Deputy Speaker, the prison officers themselves are under threat.

The Attorney General came to the House I think a few months ago, if not a year ago, and indicated that he went to the prison and he took a tour a morning there. I think he spelt out how much knives they got, and how much mobile phones and how much illicit materials they confiscated on this one trip that he took. We were concerned that he himself was not being a party to seizing the materials illegally. So the Attorney General spoke to this matter.

It is common knowledge that there are a few—certainly not a majority and not all—prison officers who themselves, questions have been raised about prison officers and their own conduct; that is a matter of public record. Today you are bringing a law that invites a prison officer to participate in money business, in collecting moneys. [*Crosstalk*] I thought was another 48(1). So you are inviting prison officers now to collect money. Now in the public service, given the history of our Civil Service Regulations and culture, you have to be very cautious. There are prescribed roles of employees according to their collective agreements, according to their regulations, who are authorized to collect money—whether they are at the Comptroller of Accounts building, whether they are at the license office, whether they are at revenue office or wherever—the regulations of the civil service, their job description, their training, means that they are employees who are authorized to handle moneys on behalf of Government.

Prison officers, to my knowledge, I could be wrong, have never been specific

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[DR. MOONILAL]

*Friday, May 19, 2017*

officers handling money. I have never known that prison officers are trained or have been, according to their job description, officers who handle moneys. Today, short-staffed as they are, there is now a human resource management challenge. They are short-staffed. There is a prison association representing those workers—because they are workers under the law—and you are now trying through statute to give them work, to change their job description so that they become officers who handle money—they collect money. And I think they have to go and drop money the next day.

Now what is going to happen when, at the prison, prison officers start collecting thousands of dollars? First to begin, I do not know, the Minister will not tell us because he took 35 minutes with an introduction, could not tell us whether they have had discussions with the Commissioner of Prisons; they have now put in place new systems; they have a vault for money; they have a cashier desk; they have other—maybe a pan with a lock and key to put money in; and they have the accounting systems in place—otherwise you pass this and in six months you hear \$100,000 missing. Keys went missing and the Member for Port of Spain North/St. Ann's West had to stand up and say we are changing all the locks. Keys went missing. You are now saying thousands and thousands of dollars could be held by prison officers there. We do not know what system is in place, whether they are trained. We do not know whether this is proper under their job description.

You see, you could come to Parliament and put in section 4 of this Bill a prison officer can collect money. You can pass it. But you may be violating, at the same time, their own regulations, their own job descriptions, what they are trained to do. So the Prison Officers Association must indicate whether or not this is part of their job description; whether they are prepared for this; and whether they have the human resource management capacity to deal with this. [*Crosstalk*] You are now encouraging other types of criminal offence. You are now encouraging that.

When we look at Schedule I, I believe it is Mr. Deputy Speaker, you have times for this business. Now, we know of course prison officers operate on shift and so on, but now they are going to be collecting money on Saturday. The court, to my knowledge, will not be open on Sunday or Saturday, so that money stays at the prisons for a day or two, maybe more, to be deposited in the court. Now, how is money moving from prison to court? Of course, you have to get some kind of armoured service or some kind of, again, security arrangements in place to transport money. [*Crosstalk*] So there is a cost to the administration of this. There is a particular cost. You cut money from food and now you pay for money for

transporting the money up and down, you pay more to do that to secure this, and you run this grave risk of further criminal offences and so on, because essentially you are going to hold money next to people who are in there for stealing money. That is what you are doing.

The other danger with this matter—and it needs to be thought out is what we are saying—while cash for bail is something you know we look at, we find it is progressive as a principle, as a policy, in reality from a point of view, a practical point of view, \$10,000 you could get your bail with \$10,000 go in the prison and pay it. Your loved one is there, \$10,000 for whatever offence and so on. Right? Where would someone get this \$10,000 if they do not have it? This could encourage further robbery. So you hold up some business near the prison, you get the money and you go inside there with \$8,000 or whatever and say: “Look, ah reach bail, bail time”, because it can be used now quickly for that purpose.

And in this country, Mr. Deputy Speaker, how many murders do we have for the year, 180?

**Dr. Gopeesingh:** 200?

**Dr. R. Moonilal:** More? Two hundred—I would have been sleeping for the last couple days. 200 murders? Mr. Deputy Speaker, 200 murders in a few months and people are being murdered for a dollar or two. This is like the Wild Wild West. There was a video on Facebook the other day. A man went in to line up in KFC, they broke in like the Wild Wild West, like Marshall Dillon in those days, and just shoot the man down there and leave. It looked like the Wild Wild West. I thought it was some make-believe fictitious posting somebody did to make a joke. I could not believe it. So, Mr. Deputy Speaker, when persons are held, as we know, someone might be a suspect for murder, but they are not held for murder, they are held for another offence that isailable, because you want to do something else. So you put the person inside there, they are on remand, bail \$10,000 or less, there are two accomplices outside or one we saw in the video, they have to get \$10,000 overnight now to get bail. Where is that coming from? This thing has to be thought out properly.

Now, while we say sometimes with a sarcastic admiration that the Attorney General has, you now, his suite and his architecture and his menu—The Member for Point Fortin likes menu. It may be the days at Atlantic LNG on Borough Day, but he likes the menu, but while we know there is a menu of options available for the Attorney General, you cannot just come to Parliament with this piece of legislation that is not well thought out, you know, legislation by vaps and say we

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[DR. MOONILAL]

*Friday, May 19, 2017*

have to do something. Because the problem the Government faces, Mr. Deputy Speaker, is that they have to appear to do something, and in appearing to do something, they are not thinking carefully of what they are doing and this, Mr. Deputy Speaker, will create problems.

Because if you go along to pass this—I do not think it requires a constitutional majority, so you can go along to pass, you have the majority, you can pass this, and then you create this devilish environment where everybody needs a \$10,000 quickly and they need it in cash—[*Crosstalk*] Section 5, or yeah, I am coming to that—but as it is stated in the Bill now, there is no requirement. The Bill has no certificate. So this is another case to lose. I do not want to go back to the case of the last hour. [*Desk thumping*] With this, Anand Ramlogan who won the case an hour ago, can go back and get a next injunction. Mr. Deputy Speaker, let me get back to the matter.

**Mr. Deputy Speaker:** Member, again, you are a seasoned campaigner in the House, please, let us do not go down that road. Proceed.

**Dr. R. Moonilal:** Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I come to another section of the Bill, you will be happy to know that we have made a serious case here. First, there was an issue that the Member for Laventille West thought was a typographical error or was an error of elegance and so on, but it is not a problem of elegance. In fact, the Opposition leader at no time suggested that it was a matter of elegance and the Opposition Leader will not use the word “elegance” in relation to the Member for Laventille West, but it is a matter where it speaks specifically to an issue. I will have to read it because there is a need to understand carefully the business at hand.

[MADAM SPEAKER *in the Chair*]

You see, Madam Speaker, in clause 4 of our amendment Bill, and I just want to go to the relevant area, it says:

“Section 12 of the Act is amended by inserting after subsection (4), the following subsections:”

And then you are free to insert subsections as you want. You are free. But when you go here, they put in subsections (4A), (4B) and (4C), but it is clearly in relation to section 12 of the Act, 12(4), and 12(4) deals with applicants for bail who are unlikely to remain in Trinidad and Tobago. It says this. I want to just repeat this, because I mean, it may be typographical, but it is still a serious matter if it is typographical.



“Section 12 of the Act is amended by inserting after subsection (4), the following subsections:”

—and it goes clearly in relation to subsection (4). So if you want, just remove that and put it in as another section of your Bill. Take away in relation to subsection (4), so we have absolutely no doubt about the generality of the amendment. Do not make it specific to that, because again you could go to court and, as you did an hour ago, you could lose. So, Madam Speaker, the matter at hand is that matter.

The other matter is related to section 17 and that is a matter that is important as well, because it cannot be, in layman language, I do not think it is proper, it is legal to be taking money from someone for purpose A and then by a working of a system, using it for purpose B, to put it in a simple term. You cannot be taking money for an expressed purpose and then use it by the working of a law for another purpose.

**Madam Speaker:** Member, I will give you a little leeway, but I believe this point has been made by previous speakers on more than one occasion, so you may be bordering on what I would consider tedious repetition. I would give you a lil leeway to develop it in a different way.

**Dr. R. Moonilal:** Thank you very much, Madam Speaker. Madam Speaker, then I would not want to go further into that because I do not want to run that risk at all at this hour. But, Madam Speaker, like you, I listened attentively to the Minister of National Security and the Minister of National Security spoke to us—just to remind the House—about the OPVs, the DNA, dismantling gangs, what he saw in Remand Yard and electronic monitoring devices, I feel certain that I would be able to respond to some of these matters raised by the Minister of National Security.

The first concern I have is that every time officials of Government or the State go to Remand Yard they recommend that everybody else go as if we yearn for the site and the smell, as if we yearn for that. I want to tell the Member for Point Fortin, we take your word. Whatever you see is okay. We do not have to go and see it, because I remember for a professor as well, in charge of a committee for prison reform, went to Remand Yard and made a whole story about everybody should go. I really do not think everybody should go. I think we can understand the problem we face there. Yes, we need to deal with that problem, but will passing this Bill in the form it is in now deal with that problem? Will it really deal with that problem?

For the arguments we raised early and other speakers raised earlier, I do not believe that. Although we share the view that a proper investment has to be made to bring, as you say, the refurbishment and the expansion, but I remind the Minister on that argument, the former administration invested in the eastern correctional institution which was today named as one of the institutions by the Attorney General. The thinking behind that was to remove persons who are convicted from one jail facility, put them into the eastern correctional institute, but also to take persons who were no longer a risk.

There is a body of prisoners, a group of prisoners, who would have been convicted. They are serving, 10, 20, and 30 years. There is a time at which you will determine that they are no longer persons that will create a risk—they are serving out their time, they have 10 years to go, five years to go. Do you know, Mr. Minister, the thinking behind that correctional centre was that those prisoners will be removed from the jail? [*Crosstalk*] I will come to you now. Let me just finish it for you and then you will comment. They would be removed and placed there with a certain intention that it will be for rehabilitation, for skills transfer to prepare them to return to the society. [*Desk thumping*] Your view about the humane nature of this is consistent with our approach, our policy.

So the investment in the eastern correctional institution was meant to remove prisoners from the jail opposite in Arouca, put them into the eastern correctional institute for training, for skills training, to learn maybe small micro-business techniques and so on so that they could come out and become small vendors if necessary—to become plumbers, to become persons fixing stoves and air-condition and so on—so they could get a job when they come out. And as you create space in the main jail at Arouca, you would take the remand population and move them, you will get more facilities for them. That was the intention of the Eastern Correctional Institution where, clearly, you have space, I believe for 200 prisoners or so. And currently, unless I am not mistaken, you probably have 50 prisoners or so. But you wanted me to give way to you, please.

**Maj. Gen. Dillon:** Thank you very much. I just wanted to—the Eastern Correctional Facility, in fact, if I recall well, it was actually acquired based on the response to the SOE that is the initial response. Let me let you know, it is being used now. We do have prisoners there at this point in time. So, it is being used. [*Crosstalk*] I cannot give you the number, but it is being used. I just want to refresh your memory that it was, in fact, created based on the response to the SOE.

**Dr. R. Moonilal:** Could I indicate to you, it could not have been created for that purpose, because to acquire a place like that, as you would know, it will take

a year, a year and a half to do it. The state of emergency could not have been planned in 2009. So it was not acquired, but it was used or the idea was that it could be used for the purpose of a state of emergency as well. So it was not. The intention was to move prisoners from Arouca to Eastern Correctional Institute. When we were doing that, we were also mindful of the community. We engaged those communities in dialogue to ensure that whatever problems they had, whatever they felt—apprehension about a jail coming in their neighbourhood—you know, we assured them that there will be no danger.

**Madam Speaker:** Hon. Member for Oropouche East, your original 30 minutes have expired. You are entitled to 15 more minutes if you intend to avail yourself. Please proceed.

**Dr. R. Moonilal:** Thank you very much. So, eastern correctional institute is a facility that is available to you—made available to you by the former administration. I am happy that you are using it. I would hope you would use the Children's Hospital after the mammoth protest today at Couva. [*Desk thumping*] I hope you would also use that facility as I move along.

Madam Speaker, the Minister also spoke about the OPVs. May I indicate to you on this OPV matter that the recommendation to discontinue that arrangement was made by a technical committee and not politicians. It was made by a technical committee, and I must say by a committee of men and women to whom you are close and you would have been close in your previous incarnation. So it was based—I have served on the National Security Council—I think for five years plus as well—and I can tell you it was based on a technical recommendation about those OPVs. [*Desk thumping*] It was not based on a recommendation by politicians. When that happened, of course, a conflict arose and there was a dispute that went to arbitration I believe in London. Is it?

**Hon. Member:** Yes.

**Dr. R. Moonilal:** Now, we could not have won that if we were wrong. [*Desk thumping*] We could not have won that. So the OPV matter was settled and I think the Government of Trinidad and Tobago got moneys. How much?

**Dr. Gopeesingh:** One billion.

**Dr. R. Moonilal:** \$1.3 billion—received \$1.3 billion returning to us from that arrangement [*Desk thumping*] but that could not have been the case if we had acted wrongly, if we had acted unlawfully. So you are rest assured. Now other boats—because you were very concerned with your naval security framework, and with your background I understand that concern. I understand the concern in

the context of arms and ammunition and your current challenges—this is why we made another investment in other boats of another category and that today, you would be the first to admit, has reaped the rewards of that investment [*Desk thumping*] by the seizure, I think the path-breaking seizure recently of drugs and so on, you will agree with that, because we also understood the importance of a maritime net. We understood that. So rest assured that the groundwork had been there for you to work with that.

Now, it is very instructive, the Minister also spoke, Madam Speaker, and like you I listened attentively to his discourse when he spoke about the electronic monitoring devices. Now, I keep hearing electronic monitoring devices, I am not hearing electronic monitoring bracelets. I do not know if you are using that interchangeable or is it another menu of options you have?

**Maj. Gen. Dillon:** The same thing.

**Dr. R. Moonilal:** The same thing. Okay, good. I thank him for giving the former administration credit for the legislation and the vision. [*Desk thumping*] It was not just the legislation, it was the vision of doing it and that you will continue that, and you will continue that. You have assured us that notwithstanding the 20 months or so in office that by the end of this year, we will see the product. So it is going to take some time to cook, but you assured us that something would be baked at the end of this year and by January next year, rest assured, you will get a question filed on the matter.

So the electronic bracelet, the electronic devices as you called it, was also a fundamental policy pillar upon which we were going to deal with this prison crisis of overcrowded prisons, of remand yard problems and so on, because as you remove persons who are convicted, and you move them to another locality or as the circumstances prescribe and they can now come out and be monitored electronically, you would get more space in your prison.

Now, as you know, there is a crisis where the Prime Minister has admitted now, after 18 years in public office, that the Port of Spain General Hospital is on its last legs, in fact, it is on stilts, I believe, and there is a need for the Port of Spain Hospital to be rebuilt which we were onto. In fact, the Couva Children's Hospital was meant along with Mount Hope to decant the Port of Spain Hospital so we can build a brand new Port of Spain Hospital [*Desk thumping*] and today by the thousands who came out to that demonstration, it suggests that that hospital should be opened and operational at the earliest opportunity. The Government

should waste no time, but to open the Children's Hospital in Couva. [*Desk thumping*] You may well get a court case like today which you lost and on an injunction where the court injunct you from putting the property tax to people so that today you may well get a court case on the Couva Hospital as well. Be warned.

I want to return to that prison problem there because, Madam Speaker, the Minister of National Security would be aware by now that the Royal Gaol on Frederick Street is in need of not rehabilitation, but I believe closing down completely and being relocated. UDeCOTT, when we were there, was concerned with that and we had done some early work on removing, because it has to do with prison reform. The Minister spoke with a bit of passion, I think—a touch of passion—before his final run-up. He spoke with a touch of passion about the humane conditions that were necessary for character formation, if I read him correctly. He was concerned with character formation being the end result of inhumane conditions, and he spoke of that. But one challenge you have there is with this the Port of Spain jail.

Now it is as you know part of our colonial history. The colonial powers built jail, they built port and they built whatever, so that they can extract from the country raw materials, but they can put you closely so that the constabulary could monitor you and everything would be convenient in the little town. So if you look at all the Caribbean islands where their cities are located which were formally towns, their prisons, of course, are right there because it all makes sense. If you look at the make-up of early town and country planning, you had to put prison close to police, close to court. In those days, it did not have mass transport and that type of thing like today. Communities were not connected. Today, you may well want to look at the relocation of the Port of Spain jail which has implications, not only for prisoners and conditions and the building itself—I do not know if you are aware that there was an attempt to put I think—what was it Member for St. Augustine? The electronic doorway in Port of Spain and that we had to buy hair dye when we were finished with that project. It really taxed us, you know, not the property tax, but it taxed us. That facility has reached the end of the line, that facility.

Apart from that, as you may be aware, in Port of Spain as well, there are Town and Country Planning restrictions on buildings around the jail. So you want to establish business, you want to become, Port of Spain, Financial Centre of the Caribbean, but you cannot go up a certain amount of floors near the jail. You cannot do extensions; you cannot get Town and Country Planning permission and

so on. So the Port of Spain jail relocation project was meant to deal with this prison reform matter and getting a brand new facility, which would be adequate and as comfortable as can be for the prison population.

**7.35 p.m.**

So our argument this evening is that while this may appear to be one step towards prison reform and a greater efficiency, and maybe greater human conditions, and so on, it is not a significant step at all, because you do not know how much people you are going to target by this—you do not know. You are creating greater problems with money transfers and using prison officers as if they are bank tellers. I am not sure the prison has a vault to keep money like this, you can check and tell us. I am not sure if they even handle cash there, and, it is a recipe for disaster when you put money this way in a prison, and then ask the same prison officers to transfer it out.

There could have been another system, you see, and this is the issue. It is not the policy, you know, it is the operationalization of policy. You could have put another system in place where you grant cash bail, if you so choose, using an independent adjunct institution to the prison. It is done in other countries as well. Create a company for this purpose and allow that company to work with the Judiciary and the prison system to handle the sensitivity of money and cheques, and so on, and so on.

Now, I ask you an interesting question, when persons come with certified cheques by the prison, who checking the cheque? Who is authorized there to verify that these things are—these are serious matters. When you go to the bank there is a process. You are buying a car somewhere, there is a process. There are officers who will do this. Is the prison going to call the bank, whether it is Republic on a Saturday, whoever, and say, we just received a cheque for \$10,000 from John Smith; it is a certified, signed by—we cannot recognize this signature here at all, but could you tell us please? Are the prison officers going to do this, the understaffed prison association that already is under threat?

Sometimes in making law—and we did this at the LRC, when we were in LRC we did this. The Attorney General and the legal luminaries, like the Member for St. Augustine, and others, would come and tell us the law, and how they will do it, and we were always concerned, some of us, with—walk us through, how do you operationalize that, how will it work, and then we would come with daily examples and say, suppose this happen what would happen, suppose this person does this what will happen?

**Mr. Ramadhar:** We stress-test it.

**Dr. R. Moonilal:** We stress-test it, to use another technical term. We stress-test the law at the LRC by having the requisite type of composition to do that, and I wonder whether this Bill was subject to a stress test. I wonder whether it was subject to a stress test, because in closing, I know I have a few minutes left—how much?

**Hon. Member:** Three more.

**Dr. R. Moonilal:** Oh, I have a lot of time. In closing, I want to issue a—well, I know I cannot advise, but I would say to the Attorney General, be very cautious with these matters. We have raised a critical issue of constitutionality. The Attorney General has lost, not one, but several cases, including one a few hours ago.

**Mr. Al-Rawi:** Name them.

**Dr. R. Moonilal:** The Commissioner of Police.

**Mr. Al-Rawi:** Name them.

**Dr. R. Moonilal:** The property tax, a few minutes ago—he is asking me to name it, Madam Speaker. I am not being irrelevant. He is inviting me.

**Madam Speaker:** Well, the thing about it is this, that there is a rule against crosstalk, and I am certain the Member, as seasoned as he is, knows that who he addresses is the Chair, so that I would ask you to ignore, or rise above all those temptations and, please, direct your contribution here.

**Dr. R. Moonilal:** Do you want me to give way for you to ask me the question? [*Crosstalk*]

So, through you, Madam Speaker, I heard in crosstalk that someone asked me to name one, I named the Commissioner of Police order, I named the property tax matter today, a few minutes ago; this could be another case. This could be another case that a real Attorney General in San Fernando takes up, and if they take up this, on the basis of those principles raised today in relation to section 17, I believe, you could find yourself facing the barrel of a gun, metaphorically, metaphorically.

**Madam Speaker:** Analogy, I do not like that analogy, please.

**Dr. R. Moonilal:** I withdraw the metaphor.

**Madam Speaker:** Yes, good.

**Dr. R. Moonilal:** You could find yourself in a bad place as an Attorney General, because it is not a good reputation to develop losing cases at court. It is

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[DR. MOONILAL]

*Friday, May 19, 2017*

not a good reputation for an Attorney General. So, Madam Speaker, I think those are the few points I wanted to raise at this juncture, and to thank you for your patience. Thank you. [*Desk thumping*]

**Madam Speaker:** Attorney General. [*Desk thumping*]

**The Attorney General (Hon. Faris Al-Rawi):** Thank you, Madam Speaker. Ah, Madam Speaker, it gives me great pleasure to bring this debate to a close; regrettably, the difficulty is having to respond to the last speaker. You know, sometimes when you have a long day an intermission of comedy reflection is often what people bring out, and I thank the hon. Member for bringing the levity. I mean, after all, when one contributes and has to stop constantly to laugh at one's own jokes, clearly, the debate tells you that it is going in the wrong direction. It is a constant habit of the Member for Oropouche East. But, anyway, Madam Speaker, there are very few issues raised, collectively, by the Members opposite, very, very few issues, and I propose to address them.

Number one, the Member for Siparia stood, with all sincerity, said that, essentially, this was a—and I use the word she used—it was a “dotish” Bill, replete with condemnation of the lack of focus, bad drafting. At the end of it, listening to the hon. Member for Siparia, one would have the certain impression, one would be drawn to the inexorable conclusion that the Opposition could never have come up with legislation as brought to this Parliament. Madam Speaker, I am pleased to tell you that I have confirmation from the Office of the Chief Parliamentary Counsel that the very form of Bill that we are dealing with today was confirmed on June 01, 2015, in its exact fashion by the Members now sitting opposite.

But when you look at the Member for Oropouche East and you listen to the jocular fashion, the condemnation, the scorn poured on the legislation; you listen to the hon. Member for Siparia talk about “dotishness”; Madam Speaker, thank God there are written records in this country [*Desk thumping*] which could actually tell the citizens of this country that you must not believe everything that people say, especially those opposite.

Let me give you an example, again, with the contribution of the Member for Oropouche East. [*Interruption*]

**Mr. Ramadhar:** Would you give way, please, Attorney General?

**Hon. F. Al-Rawi:** Seventy children, in fact, is the bed count at the Couva Hospital, because he spoke about the Couva Hospital. Seventy to 80 beds are the



bed count for adults at the Couva General Hospital—the Children’s Hospital, as they call it. The Port of Spain Hospital has a bed count when you are not at over capacity, and it is constantly, there are 450 beds. The hon. Member for Oropouche East stands up with a straight face, well, yes, we knew that, we were going to use it as a decanting centre. Four hundred and fifty people going to move into 70 children’s beds and 80 adult beds. The hon. Member for St. Joseph, the Minister of Health, confirmed to me that a team went down to the Couva Hospital, and that team comprised the North Central Regional Health Authority and the North-West Regional Health Authority, led by Andy Bhagwandass, and they confirmed that there was no way on earth that that could have happened.

But the Member for Oropouche East, as he is wont to do, stands up here with aplomb, laughing at himself halfway through the contribution to tell us, yes, they knew everything. You see, it comes right down to this Bill, because when we look to a written policy document attached to a Cabinet Minute and Note, the hon. Member for Laventille West referred to it, but I want to centre upon it. The Cabinet of the Republic of Trinidad and Tobago on the 4<sup>th</sup> of March, 2013, considered a policy document for adoption, for amendment of the Bail Act, Chap. 4:60. It confirmed its decision that the policy be adopted on the 14<sup>th</sup> of March, 2013, and the policy document squarely deals with the very policy that has caused the production of this Bill. This Bill was confirmed by an LRC, chaired by no less a person than Members sitting opposite. The confirmation coming from the Office of the CPC today in writing, and, Madam Speaker, the policy document itself deals with cash, deals with prison officers accepting money, [*Desk thumping*] deals with security. But we heard the Member for Oropouche East a little while ago, in between his laughter at his own contribution, stand up and tell us, so prison officers going to become cash tellers, “dem is bank tellers”—words to that effect. Listen to what page 8 of the policy document approved by the UNC Cabinet says:

Where the defendant/accused is granted bail but can only satisfy bail after banking hours he may pay the bail amount set to an officer appointed by the Commissioner of Prisons to receive bail moneys at the prison.

I will stop right there.

#### PROCEDURAL MOTION

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you, Madam Speaker. Madam Speaker, in accordance with Standing Order 15(5), I beg to move that the House continue to sit until the completion of the Attorney General’s contribution. [*Desk thumping*]

*Question put and agreed to.*

**BAIL (ACCESS TO BAIL) (AMDT.) BILL, 2017**

**Hon. F. Al-Rawi:** Thank you, Madam Speaker. So there was the Member for Oropouche East a little while ago, mid-laughter, “prison officers going to be bank tellers”, he sat on the National Security Council, the hon. Member, sat as the Leader of Government Business, sat in the Cabinet of Trinidad and Tobago, approved a policy on the 7<sup>th</sup> of March, 2013, confirmed the policy on the 14<sup>th</sup> of March 2013, and in the policy document it says, in black and white, that they will receive moneys at the prison. So we are to now take the Member for Oropouche East seriously, yet again. You see, Madam Speaker, the Member for Oropouche East is a special brand of politician, but, not surprising.

Madam Speaker, we heard the hon. Leader of the Opposition go to town, jurisdictions around the world, she said, hon. Member, are moving away from the system of cash deposit. Jurisdictions around the world—Madam Speaker, we had a very close look at what the hon. Member had to say, jurisdictions that actually use the cash deposit system, where the exercise of that system is now in dispute, stand as two in number: one, the United States of America, where only some of the states of the US use it, and, two, the Philippines—two jurisdictions.

As a matter of fact, the hon. Member said that people are going to use this cash system, and what they are going to do, they are going to run down people, et cetera, Madam Speaker, a bail bond, which is the method of cash deposit that the hon. Member was referring to in one of two jurisdictions, which is the United States, is a very particularly organized system. Number one, the cash deposits are accepted by a licensed bailor. That licensed bailor—and you heard the Member for Oropouche West say it—that licensed bailor takes a 10 per cent fee, secures that bail by a bail bond, including the ability and ambit to broaden it with a mortgage over real or personal property.

That licensed bail bond is a regulated system at local state level and at federal level. That licensed bail bond system allows bail bond agents to go off by debt hunting arrangements where they hunt you down. They can take you to court on a civil debt for recovery of the amount done. They do it as a fee for profit. But, Madam Speaker, just so, just so, make it up as you go, the UNC says, why are we doing this now, the world is running away from this; well, the world is two countries. The United States is having a discussion on it, and in the United States is a licensed bail bond system where you are allowed to take a 10 per cent fee, where you are allowed to hypothecate it, you are allowed to give a mortgage, you are allowed to have a bail bond agent hunt you down, bounty hunter style, but,

Madam Speaker, our Act says the exact opposite. Because it is as if Members cannot read, with the greatest of respect, make it up as you go and “doh” worry what is in the written word, Oropouche East style.

So let us look at the Act. The Act itself, the Bail Act, in black and while since 1994, small amount of time, amended 12 times in the history, amended umpteen times by Members, including when the Member for Oropouche East sat on Joint Select Committees to deal with the bail amendments, right there it says, section 18, “Offence of agreeing to indemnifying surety in criminal proceedings”, and section 19, “Offence to stand surety on consideration of property being used as security”. You know what that means, Madam Speaker? It means you cannot do the bail bond system like the United States of America because it is criminalized. “Oh, for heaven’s sake”, at least have the courtesy to read the law. [*Desk thumping*] “For heaven’s sake.” And for the record, there was an application to the court this afternoon for leave for judicial review on the property tax matter, leave was granted—[*Interruption*]

**Dr. Moonilal:** Madam Speaker, 48(1).

**Hon. F. Al-Rawi:** I am not discussing the subject matter. Madam Speaker, the hon. Member raised it while you were out of the Chair.

**Madam Speaker:** While I may have been out of the Chair I was within hearing of the Chamber. There was mention of injunction granted by the court, and repeatedly throughout the contribution there was reference, so I will allow you to just respond to that very carefully.

**Hon. F. Al-Rawi:** Thank you, Madam Speaker. And for the record, the matter is being appealed. It is on at 9.00 a.m. on Monday, and it is merely on the lowest rung of the ladder, leave to appeal. And I take no comfort in the hon. Members directing this Government on any aspect of the law, because they were convinced that election petitions were going to happen. We went all the way to the Court of Appeal so that they could say they did not lose an election, which they actually lost, the judicial process will take it its course, Madam Speaker. [*Desk thumping*]

Madam Speaker, similarly, there certainly was not, as the hon. Member for Oropouche East put it, any loss on any Commissioner of Police case. There was a judicial interpretation, and the matter did not affect the substance of the order, which is why it was not even appealed. So that is a storm in a tea cup all by itself. Madam Speaker, so coming down now to the brass tacks and the sheer shamefacedness that should exist by Members opposite to actually read the law that they are drawing reference to, the fact is we do not have—[*Interruption*]

**Dr. Gopeesingh:** 48(6).

**Hon. F. Al-Rawi:** I think the Member was “tripping”, hon. Madam Speaker, perhaps, I did not hear that clearly. Madam Speaker, the fact is that the law, as it currently stands, at sections 18 and 19 of the Bail Act, Chap. 4:60, which has been around for 20-plus years, makes an absolute legal nonsense of the entire contribution of Members opposite, several of them, that jurisdictions are moving away from cash bonds; you are comparing apples with watermelons, you are comparing horses with humans, it just does not make sense. And, Madam Speaker, most respectfully, it is downright embarrassing.

Madam Speaker, there were a couple of other points raised by hon. Members opposite. [*Crosstalk*] In particular—[*Interruption*]

**Madam Speaker:** Members at the lower part of the Chamber, I would just like you all to know that your voices are extremely audible on the television. I am sure you do not intend that. Please, continue, Attorney General.

**Hon. F. Al-Rawi:** Yes, Madam Speaker, thank you. Madam Speaker, hon. Members gave a song and a dance, literally. In the Member for Oropouche East’s case, lots of laughter at his own jokes, but when we look at section 12—[*Interruption*]

**Dr. Moonilal:**—hence the refrain.

**Hon. F. Al-Rawi:** That is the refrain, it is the truth, laughing at yourself. [*Crosstalk*] When we look at section 12, Madam Speaker, in clause 4, Members opposite went on to complain that the insertion of the provisions into the body of clause 12, in the location that it did, had to be read *ejusdem generis*. They said that persons who were required to give security were confined to a narrow class set out at sub-clause 4, which is persons who were required to give security as there was some risk that it would be unlikely for them to remain in Trinidad and Tobago. Yet, coming out of the mouth of a seasoned practitioner, like my learned friend from St. Augustine, we heard him give a tale of a client who he did not name, a police officer he said, who could not arrange his land and deed for the purposes of the bail application, and thank God there was somebody in court to give the surety, et cetera, for him. Well, why on earth was a deed being offered there for an average policeman? Where was the risk of that person getting out of the jurisdiction? You see, Madam Speaker, they do not really think about what is coming out of their mouths, you know.

The fact is that in the vast majority of cases, Trinidad and Tobago being an

island in the Caricom with free movement, where it is a mere couple of hundred dollars, or a little bit of money to leave this jurisdiction to go Grenada, or take a boat to go Venezuela; there is a risk of travel out of the jurisdiction on a constant basis, and for that reason it is by far not the exception to the rule that section 12(4) of the parent Act is often invoked so that you are required to give security in the form of land security. That is the norm, but, yet, Members tell us, no, it is to make judicial nonsense, or legislature would be exercising itself in futility. Not only does it come from the very policy which their Cabinet accepted from a draft of a Bill which the LRC accepted, but, Madam Speaker, it does not bear resemblance to the actual practice in the courts, and that is a fact. You see, Madam Speaker, we consulted, as I indicated earlier, but one of the entities to actually respond was the Judiciary of Trinidad and Tobago, and when we look to the practice in the magistracy, in particular, we clearly saw that this is a potential for exploring the opportunities available for improving the access to bail.

Now, Madam Speaker, a lot of people said—the Member for Oropouche East, again, in between his comic relief to himself, went on to say that people essentially are going to “put dong ah wuk to geh de money overnight”. How are they going to get the money, the 10,000? Well, the fact is the Member for St. Augustine gave us an acknowledgement of what all of us know, the professional bailors. The professional bailors are accepting, in contravention of section 18 and section 19 of the Bail Act, their 10 per cent fee. They are acting like unlicensed bailors in the United States of America; yet, where do they get the 10 per cent money from? “Where dey putting dong ah wuk to geh de 10 per cent money from?” The Member for St. Augustine said if it is a million dollars bail and 10 per cent is 100,000; if it is 500,000, where does the money come from? Where does the money come from to pay the practitioners in the criminal justice arena? Is that money disclosed?

Would it not be sensible to agree that if one had to wait on the professional bailor and leave the system as it is, that what you are inviting people to do, that 71 per cent of people who have been granted bail, 800-plus people granted bail and cannot get out because they have to land, so what are we going to do? Let them save chirrup, chirrup, buy a piece of land in about 20 years’ time and then get out? Because the statistics show us that that is what is going on.

On the other hand, Madam Speaker, most respectfully, where you are providing the provision for a financial institution to allow for a bond to be placed, or for some other form of immovable security, or for cash, or for certified cheque, are we not saying, it is, by far, a better system to get rid of the 10 per cent

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[DR. MOONILAL]

*Friday, May 19, 2017*

undeclared to the professional bailor, give that money, whatever it may be, to the court, or to a licensed institution, hypothecate the security by way of the bond, or the immovable security, or other form of security, which this law now contemplates in a rather radical and beneficial way for the citizens of this country. But that way we get rid of the professional bailor, and we have a declaration of source of income, and that deals with money laundering, that deals with proceeds of crime, that allows a track of who procured the money, because the professional bailor is the one that comes and stands up in the court, not the man who “puh dong de wuk” for the \$10,000.

So leave the system as it is, hon. Members opposite say, and leave it in darkness shrouded in secrecy, let us acknowledge an open breach of section 18 and section 19, but that is okay—do not do as we say, “doh change nutten”, let us talk some more, come back with a holistic review, “wheel and come again”, and if you go Oropouche East style, laugh at yourself several times while you are saying that.

You see, Madam Speaker, the fact is for the people who are incarcerated there is not only a cost, financial cost, there is an emotional cost, there is a systemic cost; they can be put into conditional release conditions where there is better operationalization. Oropouche East was talking big and bold just now, that is why we were doing electronic monitoring. You know what the title of that Bill is if you check the Parliament website? Administration of Justice (Electronic Monitoring) Bill, 2011—12, 13, 14, 15, 16, we are in 17, nothing goes on, but “we coming, we coming, we doing, we doing, let us go back, let us go back”, but plenty money spend under the last regime you know, \$400 billion by the time you take off the book lending.

I heard a speech in the Senate the other night where the hon. Minister of Agriculture, Lands and Fisheries was saying it was like when you go out to dinner, you go out to a place, you are buying food, a whole set of people there, liming with your partners, and then you realize they stick you with the Bill, well, they stick us with the Bill—spend, spend, spend, spend, spend. So, Madam Speaker, with the greatest of respect to hon. Members opposite, to the people who are languishing in remand, I think it would be by far better a situation to compliment [*Desk thumping*] the hon. Minister of National Security for finally operationalizing the Electronic Monitoring, for finally putting the vessels, the OPVs into operation, because the idea was not which vessel better, but was actually putting them into operation.

And, Madam Speaker, it is very noteworthy that Members say Trinidad and Tobago won the arbitration with the OPVs and BAE, well, I can tell you now, standing as Attorney General, that certainly is not the case. And that technical team that the hon. Member for Oropouche East is talking about, that decided that these were effectively lemons that could not be purchased, well, the Government of Brazil bought all the vessels, and BAE now calls these vessels their Trinidad-class vessels.

So only this team, and only the National Security Council of which the Member for Oropouche East was a member, only they got it right. The whole Government of Brazil, the whole of the United Kingdom, the Trinidad-class vessels, all of that is just nonsense, we must listen to the Member for Oropouche East. No wonder he persists to laugh at himself all the time, cannot help it. I would laugh at myself if I was saying what he had to say.

Madam Speaker, the Member for Oropouche East talked about comfortable jails, I think he is on to something there, but I would not go much further. I would not go much further just yet. So, Madam Speaker, the other issue on the table is whether there is an unconstitutionality, and Members are talking about a deprivation of property, in particular, in clause 5 of the Bill, which seeks to amend section 17 of the Act. Hon. Members are expressing the view that there is a deprivation position.

**8.05 p.m.**

Madam Speaker, it is incumbent to put on the record that section 17 of the Act itself, before amendment, literally 17(1) stands as it is. This is what 17(1) says:

“Where a person has given security in pursuance of section 12(4), and the Court is satisfied that he failed to surrender to custody, then, unless it appears that he had reasonable cause for his failure, the Court may order the forfeiture of the security.”

It is the existing law right now, unamended.

Subsection (2), which we now propose to amend by bifurcating it to deal with the circumstances of the new methods, goes no further in jeopardy than subsection (1), but goes further in the right direction of constitutionality by saying in subsection (b) that there is now a show-cause provision as to why the forfeited security, or part thereof, should be returned. Subsection (2) of the existing law, which is being replaced, read as follows:

“Where a Court orders the forfeiture of security under subsection (1) the Court may declare that the forfeiture extends to such amount less than the full value

of the security as it thinks fit to order.”

Full stop! No show-cause, no due process, no anything. So are the hon. Members telling us that after they proceeded to amend the legislation in 2011 by Act No. 9, Act No. 11 of 2011, Act No.12 of 2012, Act No. 1 of 2014, Act No. 7 of 2015? On five occasions, the Members of the Opposition amended the Bail Act, Chap. 4:60; they come today to complain about section 17, saying it is unconstitutional, and not once did they bother to address that? Not once in five occasions of moving the House and five occasions of moving the Senate and going to a joint select committee was it raised. But today we had to listen to them tell us that it is unconstitutional.

The Member for Oropouche East gone. The Member for Siparia gone. The Member for St. Augustine quiet, holding down his head in shame. [*Laughter*]

**Madam Speaker:** Order!

**Hon. F. Al-Rawi:** So, Madam Speaker, that includes Act. No. 7 of 2008, Act No. 25 of 2007, Act No. 15 of 2007, Act No. 10 of 2007, Act No. 30 of 2006, Act No. 32 of 2005, Act No. 19 of 2005. Because they were sunset clauses in those Bills, and hon. Members who still sit in this House participated in those debates. And you know what they had to say about constitutionality of section 17? Absolutely nothing.

Twelve times in this Parliament, and the Member for Siparia was a Member on each of those occasions. The Member for Caroni East was a Member on each of those occasions. The Member for Oropouche East was a Member right here, boasting today that he was in the Senate. So twelve times he had nothing to say, but all of a sudden laughing at himself, the Member for Oropouche East comes up again. You see, Madam Speaker, I am on this constant refrain of the manner in which people deal with this because you just cannot take them seriously.

No acknowledgment for the fact that there is a show-cause this time. But you know what? If we were to take even an iota of common sense out of what they are saying, the one point of merit that I heard today was the potential for including the election by the defendant for the position of forfeiture by consent. There may be merit in that, which we undertake to look at, but certainly we do not derogate any further than the existing law; in fact, we improve it.

So, Madam Speaker, try as I may to have suffered through the contributions of my learned colleagues opposite, try as I may to have watched them say with aplomb all of the things that just do not stand up to scrutiny and truth, those are just the simple points for answer today. Nothing more, nothing less. Comparing



apples with oranges, not reading the law properly, laughing at oneself constantly, while others in fact join him.

But the fact is that this is beneficial for the citizens of this country. *[Interruption]* It is associated with a proper plan—and I am hearing the Member for Oropouche East say, “Tell Anand”. I wonder why he was fired. I wonder why Anand Ramlogan was fired by the last Government.

**Mr. Deyalsingh:** “And then go and challenge his own laws.”

**Mrs. Robinson-Regis:** Because he was the best.

**Hon. F. Al-Rawi:** And I wonder if he was that successful why they lost the election petitions? You see, Madam Speaker I take no comfort, you know.

**Hon. Member:** Anand will deal with you.

**Hon. F. Al-Rawi:** God forbid, that kind of dealing “ah doh want”. *[Laughter and desk thumping]* What I can say is that this is good and solid law—

**Madam Speaker:** Order!

**Hon. F. Al-Rawi:**—and I recommend that this Bill go, for the benefit of the citizens of this country, forward into the books of this country by the amendments that we propose.

I beg to move. *[Desk thumping]*

#### ADJOURNMENT

**The Minister of Planning and Development (Hon. Camille Robinson-Regis):** Thank you very kindly, Madam Speaker. I beg to move that this House do now adjourn to Friday, the 26<sup>th</sup> of May, 2017 at 1.30 p.m. Madam Speaker, that is Private Members’ Day. We have not heard as yet what will be done on that day, and I will give way before I complete what I am saying.

**Mr. Lee:** Thank you, Madam Speaker. To the Leader of Government Business, we have proposed to do Motion No. 3 on our business, moved by the Member for Naparima.

**Hon. C. Robinson-Regis:** Thank you very much to the Member for Pointe-a-Pierre. So, we will do Motion No. 3, as stated by the Member for Pointe-a-Pierre. And after that, we will move on to do Government Business and we will do Motion No. 1. We will do the committee stage of the Bill that is now before the House, and we will do another Motion on that day, Madam Speaker.

*Bail (Access To Bail) (Amdt.) Bill, 2017*  
[DR. MOONILAL]

*Friday, May 19, 2017*

**Mr. Lee:** Madam Speaker, if I can interject.

**Madam Speaker:** Yes.

**Mr. Lee:** I will just like to state for the record that Private Members' Day is our day, and the Opposition is objecting doing any other business on that day, [*Desk thumping*] in keeping with Standing Order 15(1), and I want to quote 15(1), just the end:

"...the House shall not be adjourned earlier than 6.00 p.m."—but that does not mean that Private Members' Day has to end at 6.00 p.m. So I object strongly about conducting any other business than Private Members' Day.

**Madam Speaker:** Members, as far as the point made by the Whip, all that the Standing Orders provide is that the Private Members' Day will have precedence on that particular day up to 6.00 p.m. It does not say that the sitting of the House ends at 6.00 p.m. Okay, and I so rule.

**Dr. Moonilal:** Is this a new practice?

**Madam Speaker:** I believe I am on my legs. [*Interruption*] [*Madam Speaker sits*]

**Dr. Moonilal:** Madam Speaker, can I address you as you are no longer on your legs?

**Madam Speaker:** No. I sat, really, to allow Members to contain themselves, okay? I have ruled, I do not know what is the practice, I know what the Standing Orders say. The Private Members' Day, the Private Members have precedence up to 6.00 p.m. It does not say that the sitting of the House ends at 6.00 p.m. All right? As I said, I so rule.

Now, there are some matters that qualify on the adjournment. There are two. I believe what I have been told is that by agreement the second Motion, which is by the Member for Barataria/San Juan, has been agreed to be deferred. Leader of the House, is that so?

**Hon. C. Robinson-Regis:** Madam Speaker, yes.

**Madam Speaker:** Whip, is that so?

**Mr. Lee:** Yes.

**Madam Speaker:** So, I now call on the Member for Princes Town.

**Brian Lara Stadium**  
**(Findings of Independent Testing)**

**Mr. Barry Padarath** (*Princes Town*): Thank you, Madam Speaker. Let me first take the opportunity to thank you for the opportunity to advance this Motion, namely the findings of two independent sets of testings on the welds of the steel structure at the Brian Lara Stadium, contained in the report of the Commission of Enquiry into the Construction Sector of Trinidad and Tobago.

The issues surrounding the Brian Lara stadium have been long and varied. Madam Speaker, it has been shrouded in massive amounts of waste, massive amounts of mismanagement and massive amounts of corruption. This project started under a previous PNM administration in the year 2005. It was then promised for the Cricket World Cup that occurred in 2007. It is well known that Cricket World Cup 2007 came, it left, it met us with another World Cup and still no Brian Lara Stadium.

I want to deal specifically with the structural and the engineering issues as identified in the Motion. I saw the hon. Member for Diego Martin Central, together with the Chairman of UDeCOTT. In one day two press conferences were held to refute claims and allegations that were substantiated by evidence contained in the Uff Commission of Enquiry, which was informed by the Arun Buch Report of 2009, and the McCaffrey Report of 2009. [*Interruption*]

**Madam Speaker:** Member for Caroni East, while I know the Member for Princes Town has the great ability to throw his voice and fill this Chamber, I again advise you, at the point at which you sit, your voice will carry more volume on the television. I advise all Members at the lower part—[*Interruption*]

**Dr. Gopeesingh:** I am provoked by the Member for Laventille West.

**Madam Speaker:** A practice is developing that when I stand people speak as if we are in a conversation. Unfortunately, we are not. Right? All Members at the lower part of the Chamber, their voices carry louder than the Speaker, on the television. I do not think it is fair to the Member for Princes Town. Please continue.

**Mr. B. Padarath:** Thank you, Madam Speaker.

In dealing with the actual structural and engineering issues that surround the welds in the Brian Lara Stadium, I am almost certain that my friend, the Member for San Fernando East, who will respond to me, will raise the Arun Buch Report that was commissioned in 2012. But, I want to indicate to the Member for San Fernando East that if that is the basis of his entire argument, he must then tell this country whether or not he is aware of the Arun Buch Report that was contained in

*Brian Lara Stadium*  
[MR. PADARATH]

*Friday, May 19, 2017*

2009 that first advised Trinidad and Tobago that the welds on that stadium had failed two sets of independent testing.

You see, Madam Speaker, on March 22, 2009, in a *Newsday* front page article entitled, “Lara Stadium built on ‘condemned’ steel”, by Andre Badoo. It read and I quote:

“The structural steelwork on the \$900 million Brian Lara Stadium project at Tarouba ‘is effectively condemned’, according to a report into the UDeCOTT project prepared by Gerry McCaffrey, the construction expert hired by the UFF Commission of Inquiry whose future participation in the inquiry has also now been cast in doubt.”

You see, Madam Speaker, the article further went on to say, and I quote:

“I have asked UDeCOTT for a position statement on this issue. I understand zero roof welds have been inspected/tested. Access was not made available,’ he noted in his preliminary report. McCaffrey also noted a series of findings into the structural works on the project contained in a separate report which was prepared by structural engineer”—who?—“Arun Buch...”

—who they will now depend on, in 2012, that tells them that the stadium is fit for purpose, but never refuted or absolved the first claims made in the 2008/2009 report.

Madam Speaker, it goes on to say:

“The Buch report, according to McCaffrey, contained allegations that there were problems of ‘mistakes in design assumptions’, ‘material incompleteness of design’ and an issue of ‘inexperienced designers proposing impractical construction details having undue complexity’.”

Madam Speaker, this is where it gets very interesting in this article. It says, and I quote:

“Udecott lawyers in the inquiry have argued that the Buch report is subject to legal privilege.”—and therefore it was never placed in the public domain.

So, Madam Speaker, we see in the 2008 Arun Buch Report, which informed the McCaffrey Report, which was part of the UFF Commission of Enquiry, that they said one thing in 2008; then in 2012, my friend comes out from Diego Martin Central and the Chairman of SPORTT and UDeCOTT to say, “Well, it says fit for purpose”. Madam Speaker, at no point did the Arun Buch Report of 2008 or the Arun Buch Report of 2012 absolve or refute the claims of the McCaffrey Report

as contained in the UFF Commission of Enquiry with respect to the welds.

Now, Madam Speaker, the Motion deals with the welds of the stadium, and let me go into a little bit of the details with respect to how welds are measured and tested. There are several areas that were identified in the McCaffrey Report. It spoke about the air or a draft of some kind disturbs the delivery of the shielding gas during the welding process, identified and dealt with in the McCaffrey Report of 2009. The presence of moisture can lead to problems. Again with respect to the welds, identified and dealt with in the McCaffrey Report of 2009. Plugged or restricted gas metal, arc welding gun nozzles, typically from welds splatter, impede the delivery of shielding gas, again identified in the report and not refuted or absolved in any other findings.

It speaks about the paint, grease, oil, glue and sweat release large amounts of gas when exposed to arc welding temperatures and also temperatures with respect to climate temperatures. It goes on to say when mill scale and rust are welded over decomposition, gases are formed and oxidation begins. It also speaks about plating compounds with zinc. It speaks about the gas flow being too high, a pinch or smashed gas hose, improper use of anti-spatter compounds, weld filler metals contaminated with paint, grease, oil, tape and glue. Contaminated GMAW gun liners can introduce unwanted elements to the weld pool. GMAW right on the edge of an outside corner joint—*[Interruption]*

*[Cell phone rings out]*

**Madam Speaker:** Am I hearing a device? Am I hearing a device? Could the Member whose device has gone off please leave the Chamber.

**Mr. B. Padarath:** Madam Speaker, two of the last findings dealt with if the weld joint is opened at the root it will suck in air from the back. Unprotected liquid metal can absorb air easily. The welding gas itself could be contaminated. A contaminated gas hose could also be the culprit, but also if the materials involved, especially the steel, these problems will continue to exist.

Madam Speaker, when I take my seat today, I just have one burning question that I am hoping the Member for San Fernando East will be able to tell us. That is, how many additional testings were done to the welds of the stadium before the Brian Lara Stadium was opened? Did third sets of independent testings take place? Did fourth sets of independent testings take place? Did fifth sets of tests take place? Did sixth sets of tests take place? If those tests took place, we demand as part of the Opposition—I demand on behalf of the Opposition and all those that

*Brian Lara Stadium*  
[MR. PADARATH]

*Friday, May 19, 2017*

are concerned with this Brian Lara Stadium that you put the results of those third, fourth, fifth, sixth and seventh sets of independent testing that refute and absolve the claims contained in the Gerry McCaffrey into the public domain.

You see, Madam Speaker, my friend, the Member for Diego Martin Central and the Chairman of UDeCOTT ran out to say that Padarath is not telling the truth, but they did not come out and say—[*Interruption*—thank you, Member for San Fernando West. They did not come out and say at what point in the Arun Buch Report of 2012 did it absolve or refute the claims contained in the UFF Commission of Enquiry.

You know, Madam Speaker, the AG said it has been a long day, and we engaged today in a massive exercise of standing up for the rights of the people of Trinidad and Tobago. And that is why I am here this evening, to ensure that all the matters related to that stadium—I am advised that the day it was opened there were still structural issues. There were drainage issues. There were parts of the facility that were actually flooded and could not be used.

When they come and they say that at least half the facility was filled, that is a total untruth. By their own admission, half of the facility remained unfilled up to 11.00 in the night.

**Madam Speaker:** Hon. Member, your speaking time has now expired.

**Mr. B. Padarath:** Thank you, Madam Speaker.

**The Minister of Housing and Urban Development (Hon. Randall Mitchell):** Madam Speaker, I thank you for the opportunity, and I promise you I will not shout.

Madam Speaker, before I answer the Member for Princes Town, allow me to put on the parliamentary record my sincere congratulations and commendation to the Member for Diego Martin Central and the Minister of Sport and Youth Affairs, for an outstanding official opening of the Brian Lara Stadium. [*Desk thumping*] By that same token, allow me to congratulate the Sports Company, the Ministry of Sport and Youth Affairs, as well as the management and the board of UDeCOTT for bringing this stadium to completion. [*Desk thumping*]

Let me just quote some numbers from the attendance. The Member for Princes Town spoke about flood, but the event was a success, and notwithstanding the mayhem that certain sections of the population tried to create, the stadium was flooded with persons, [*Desk thumping*] 11,000 patrons. [*Interruption*]

*Brian Lara Stadium*

*Friday, May 19, 2017*

**Madam Speaker:** You had my full ear and you captured the full volume of the Chamber. Please now. Continue, Minister.

**Hon. R. Mitchell:** Thank you, Madam Speaker. I am told that \$750,000 was generated from ticket sales, party stand rentals and the general sponsorship.

And Madam Speaker, let me just say I thank you for the opportunity to respond to the Member for Princes Town, because for the past few weeks he has been trying to create fear and panic in the population, which now appears to be the modus operandi of the Opposition.

Madam Speaker, questions were asked and questions were answered on this stadium, but I have the opportunity now to answer the Member for Princes Town.

The stadium was started in 2005 and since then it has been mired in controversy. The stadium was the subject in 2009 of the Uff Commission, and in assisting the commission, Mr. McCaffrey delivered a report. His initial report dated the 20<sup>th</sup> of February, 2009, under section 5, Item 531, Causes of Delay, Mr. McCaffrey stated, and he prefaced his statement with the words, "I am advised". He wrote:

As at January 2009 the structural steel work is effectively condemned as two separate independent testing companies tested a significant portion of the welds. The average failure rate is 78.5 per cent.

Madam Speaker, from the McCaffrey Report I have not been able to ascertain where those independent reports came from as cited by Mr. McCaffrey, nor have I been able to ascertain who he would have spoken to in coming up with his report.

But in any event, in the world of construction where a contractor is undertaking construction works, there will be independent testing on those construction works. And where a weld has failed, do you know what the contractor does? He chips it out and he re-welds, that is all that happens. He re-welds, and then another testing firm comes and tests and determines whether those welds have passed scrutiny or not.

Madam Speaker, between the period 2008 to 2010, this is exactly what was done by the contractor, Hafeez Karamath. He would have taken corrective action and independent re-inspection and testing to the welds by the firm In-Corr-Tech. I understand the difficulty for the Member for Princes Town. I would have expected as a former Minister of Housing, the Member for Oropouche East would have told him. These are all the tests here, all the reports. [*Member displays documents*] In-Corr-tech. I am not sure why the Member for Oropouche East

*Brian Lara Stadium*  
[MR. PADARATH]

*Friday, May 19, 2017*

would not have told you. All are there, the weld certificates and the weld maps.

Madam Speaker, two sets of testing were done. Ultrasonic testing on the butt welds and on the fillet welds. All the tests were done to all the welds and they were certified between 2008 to 2010. That is the missing piece to your puzzle. [*Desk thumping*]

Shortly after May 2010, the project was halted by the People's Partnership and left in abeyance. Notwithstanding that, the Government by their public pronouncements committed to complete the stadium, and every time the former Minister spoke the price to complete went up. At one time it was \$150 million; another time it was \$185 million, it ended at \$200 million, and it was not touched.

Fast-forward to 2013, UDeCOTT would have commissioned, under the Member for Oropouche East, that Arun Buch Report to conduct an independent review of entire facility. Arun Buch is not a welding inspector. Arun Buch would have relied on these same reports from In-Corr-Tech to come up with his determination. It is noteworthy to report that in 2013 in the Arun Buch Report on Part 2, page 11, it is expressly stated that the stadium structures were approved by Arun Buch as fit for purpose. The Member for Oropouche East knows this. I am not sure why he would not have told you.

Considering the public funds that were already sunk into this project, it was unconscionable for this administration to just leave it to deteriorate further. So in September 2015, the Government took the decision and ensured that refurbishment work on the project was conducted, so that this facility could be reopened and able to serve its intended purpose. As such, UDeCOTT was tasked with completing this project at a budget of \$90 million. I am very happy to announce that it was done for less than \$90 million.

Madam Speaker, some additional works were needed, civil and structural works, renovation to the facility's roof, sheeting on nine roof canopies, complete relaying of the field, installation of security and decorative fencing, installation of turnstile handrails, replacement of stolen electrical cables, reinstallation of 10,000 seats, which were stolen and vandalized when it was left in abeyance, and installation of a digital scoreboard.

Madam Speaker, all the works have been completed and all the defects have been remedied and certified by the projects consultants and engineers. [*Desk thumping*] Further, prior to the official opening, UDeCOTT and sporting officials have tested and monitored various aspects of the facility, including the pitches,



*Brian Lara Stadium*

*Friday, May 19, 2017*

media centre, lighting, public address system, public access, egress from the facility, seating, restroom and concession stands.

In closing, allow me again to acknowledge the Minister of Sport and Youth Affairs and UDeCOTT, as well as the various consultants and contractors who were instrumental in completing this world-class facility were for all to enjoy. I thank all the cricket fans who attended the formal opening on May 13<sup>th</sup>, as we opened this state-of-the-art facility. In further commendation to UDeCOTT, I wish to echo the comments from the 2016 Joint Select Committee Report on State Enterprises which stated:

The corporation—UDeCOTT—has faced a myriad of challenges in the past, but it has also demonstrated its commitment to being Government’s primary developer of choice, and arising from the recommendations of the Uff Commission has made a commitment to focus on integrity, transparency, accountability and value for money in its policies and procedures.

Madam Speaker, under this PNM-led administration, UDeCOTT will adhere to the principles of good governance, will be transparent, accountable and would provide value for money in all of its projects and activities.

Madam Speaker, with those words, I thank you.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 8.34 p.m.*