

Leave of Absence

Friday, September 15, 2017

HOUSE OF REPRESENTATIVES

Friday, September 15, 2017

The House met at 1.30 p.m.

PRAVERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, the hon. Maxie Cuffie, MP, Member for La Horquetta/Talparo, has asked to be excused from today's sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Green Paper on the Draft National Parenting Policy of the Republic of Trinidad and Tobago. [*The Minister of Social Development and Family Services (Hon. Cherrie-Ann Crichlow-Cockburn)*]
2. Ministerial Response of the Ministry of Rural Development and Local Government to the Fourth Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Community Based Environmental Protection and Enhancement Programme for the financial years 2009 to 2014. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]
3. Response of the Service Commissions Department to the Seventh Report of the Public Accounts Committee 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. [*Hon. C. Robinson-Regis*]
4. Response of the Personnel Department to the Seventh Report of the Public Accounts Committee 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. [*Hon. C. Robinson-Regis*]

5. Ministerial Response of the Ministry of Finance to the Seventh Report of the Public Accounts Committee 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. [*Hon. C. Robinson-Regis*]
6. Ministerial Response of the Ministry of Finance to the Seventh Report of the Public Accounts (Enterprises) Committee on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Estate Management and Business Development Company Limited for the financial years 2008 to 2010. [*Hon. C. Robinson-Regis*]
7. Ministerial Response of the Ministry of Public Utilities to the Sixth Report of the Public Accounts [Enterprises] Committee on the Examination of the Audited Accounts, Balance Sheet and other Financial Statements of the Trinidad and Tobago Solid Waste Management Company Limited for the financial years 2008 to 2013. [*Hon. C. Robinson-Regis*]
8. Ministerial Response of the Ministry of the Attorney General and Legal Affairs to the Eighth Report of the Public Accounts Committee on an Examination of the Report of the Auditor General of the Republic of Trinidad and Tobago on a Special Audit of the Public Transport Service Corporation. [*Hon. C. Robinson-Regis*]
9. Ministerial Response of the Ministry of Health to the Ninth Report of the Public Accounts Committee 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 Health. [*Hon. C. Robinson-Regis*]
10. Ministerial Response of the Ministry of Public Administration and Communications to the Ninth Report of the Public Accounts Committee 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 Health. [*Hon. C. Robinson-Regis*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statement of the Mayaro Civic Centre for the year ended September 30, 2015. [*The Minister of Finance (Hon. Colm Imbert)*]

12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2013. [*Hon. C. Imbert*]
13. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2014. [*Hon. C. Imbert*]
14. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2015. [*Hon. C. Imbert*]
15. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayaro-Rio Claro Regional Corporation Chairman's Fund for the year ended September 30, 2016. [*Hon. C. Imbert*]
16. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Eastern Regional Health Authority for the year ended September 30, 2014. [*Hon. C. Imbert*]
17. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Eastern Regional Health Authority for the year ended September 30, 2015. [*Hon. C. Imbert*]

Papers 11 to 17 to be referred to the Public Accounts Committee.

18. Guidelines on the Implementation of the Tax Information Exchange Agreements (United States of America) Act, 2017. [*Hon. C. Imbert*]
19. Delegation Report on the 42nd Conference of the Caribbean, the Americas and the Atlantic Region of the Commonwealth Parliamentary Association held in Basseterre, St. Kitts and Nevis from June 16 to 24, 2017. [*Parliamentary Secretary in the Ministry of National Security (Mrs. Glenda Jennings-Smith)*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Public Administration and Appropriations Committee

Dr. Lackram Bodoë (*Fyzabad*): Madam Speaker, I have the honour to present:

System of Internal Audit Within the Public Service

Fourth Report of the Public Administration and Appropriations Committee on an Examination of the System of Internal Audit within the Public Service.

Ministry of Housing and Urban Development

Fifth Report of the Public Administration and Appropriations Committee on an Examination into the Ministry of Housing and Urban Development with specific reference to Accountability and Transparency, Inventory Control, Internal Audit, Sub-Head 02-Goods and Services, Sub-Head 03-Minor Equipment Purchases, Sub-Head 09-Development Programme-Consolidated Fund and Infrastructure Development Fund.

Gambling (Gaming and Betting) Control Bill, 2016

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

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

Cybercrime Bill, 2017

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I have the honour to present:

Report of the Joint Select Committee appointed to consider and report on the Cybercrime Bill, 2017.

PRIME MINISTER'S QUESTIONS

Measure of Personal Protection (Tasers and Pepper Spray)

Miss Ramona Ramdial (Couva North): Thank you, Madam Speaker. Are there any plans for citizens, particularly women, to be allowed to carry tasers and pepper spray as a measure of personal protection in light of 40 women being murdered for the year already?

The Prime Minister (Hon. Dr. Keith Rowley): Thank you very much, Madam Speaker. In light of the request for this particular non-lethal response to criminals, the Commissioner of Police is actively considering the use of these non-lethal weapons for citizens, women, and, particularly, the security services.

Dr. Rambachan: Prime Minister, has the Commissioner of Police indicated how long he is going to continue to take to make a decision in the interest of women who continue to be brutally murdered in this country?

Hon. Dr. K. Rowley: I do not know of any specific date, but I do know that the Commissioner is giving it active consideration, and we anticipate a decision in the not too distant future.

**Tobago Hoteliers Association
(Details of)**

Miss Ramona Ramdial (*Couva North*): Does the Prime Minister have any intention to negotiate with the banking sector on behalf of the Tobago Hoteliers Association so that properties are not lost to repay debts due to the steep decline in the Tobago tourism sector?

The Prime Minister (Hon. Dr. Keith Rowley): There are not very many opportunities to create negotiations with the private sector banking community. However, the Government has appealed to the private sector, in general, to be understanding of circumstances of this nature, and also that there are certain kinds of relief that the Government is considering at its end to bring about some relief to those persons who are so affected. However, there are some instances which might be beyond any kind of intervention that the Government or the banking sector can respond to.

Dr. Khan: Prime Minister, on a supplemental question, could you give us the status of the \$250 million grant that a previous budget had given to the hoteliers in Tobago?

Hon. Dr. K. Rowley: I do not think it is a grant system, I know it is a guarantee system. That guarantee system—and I do not know if the quantum is at—I think there are—we looked at it a few weeks ago and it is about \$60 million. However, what happens is that there is some support from that system but it is not being utilized as was anticipated, because a large number of the applicants do not initially qualify as bankable projects. The way that system works is as if there is a bankable project. The entrepreneur gets the Government as a guarantor, and the bank provides the money to the business, and the bank that provides that money has the Government guaranteeing the funds, but first and foremost, the projects have to be bankable and they have to apply to tourism.

Recently, when we looked at how it was functioning we discovered that the majority of applications that went to the bank were unsuccessful on the basis that the projects themselves were not bankable, so there was nothing for the Government to guarantee. But, however, we intend to review it and to encourage greater use of that facility, because it has the potential to provide this financial support for those who are successful with bankable projects.

**Ocean Flower 2
(Details of)**

Mr. Rodney Charles (*Naparima*): Prime Minister, considering the recent ferry fiasco involving the *Ocean Flower 2* and *Cabo Star*, could the Prime Minister elaborate on the information available to him which prompted his suggestion that the procurement of the *Ocean Flower 2* deal was crooked?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, as you might be aware, I have been summoned to appear before the Joint Select Committee that is investigating this matter; I have agreed to attend, and I would prefer to make my comments at that venue on that occasion.

**Government Senator
(Connection to A & V Oil and Gas Limited)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. Could the Prime Minister indicate whether a Government Senator is a shareholder and/or director of A & V Oil and Gas Limited?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I do not have that information, and I have no such knowledge.

Dr. Moonilal: Thank you very much. Would the Prime Minister agree that if a Government Senator is indeed a shareholder of this company would be in receipt of dividends from moneys paid by Petrotrin for what is now alleged to be fraudulent arrangements?

Hon. Dr. K. Rowley: Madam Speaker, I am not in a position to speculate on this matter, and I would rather not, in answering questions in Parliament, engage in speculation.

Dr. Moonilal: In light of the Prime Minister's statement to the press at the post-Cabinet press briefing, would the Prime Minister indicate the qualifications of this person to be a Senator in the Parliament of Trinidad and Tobago?

Hon. Dr. K. Rowley: As a Member of the House of long standing, I am sure that the Member for Oropouche East would know that the qualification to be a Senator is written in the Constitution.

**A & V Oil and Gas Limited
(Frequency at Private Residence)**

Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*): Thank you, Madam Speaker. Could the Prime Minister indicate how often he has been a guest at the private residence of the owners of A & V Oil and Gas Limited?

The Prime Minister (Hon. Dr. Keith Rowley): In the last seven years I have been to the home of the Baksh family about five or six times, which is a whole lot less than the number of times spent by the last Prime Minister in Gopaul house. [*Desk thumping*] [*Interruption*]

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

Dr. Moonilal: Would the Prime Minister agree that his telephone call and/or conversation with Mr. Baksh has prejudiced any further investigation and compromised an investigation by Petrotrin by the police and the DPP? [*Desk thumping*]

Madam Speaker: I will not allow that as a supplemental question. Member for Oropouche East.

Dr. Moonilal: Would the Prime Minister agree that his conversation with his friend on this matter could be also the subject of an investigation by the relevant law enforcement agencies?

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

**Board of Directors of Lake Asphalt
(Mr. Vidya Deokiesingh)**

Mrs. Vidia Gayadeen-Gopeesingh (Oropouche West): Thank you, Madam Speaker. Could the Prime Minister indicate if Mr. Vidya Deokiesingh who was named in the Petrotrin Internal Audit report continues to be a member of the Board of Directors of Lake Asphalt?

The Prime Minister (Hon. Dr. Keith Rowley): Mr. Deokiesingh has been a member of the Lake Asphalt Board since December 2015, and given the fact that he is now implicated in this investigation, my information is that he intends to resign from the board, and I expect that resignation to come in short order.

Dr. Moonilal: In light of that statement and investigations, could the Prime Minister indicate, having said that he spoke to his friend while abroad, could you indicate whether you took the opportunity to contact the Minister of Energy and Energy Industries, who is on record as saying he could not contact you, or you contacted the Chairman of Petrotrin, and/or the President of Petrotrin, in addition to your good friend?

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

Dr. Moonilal: Could I ask the hon. Prime Minister if he is aware that Mr. Baksh travelled one day before him to the United States and returned the day before him to Trinidad and Tobago?

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

**Bridgemans Services Group
(Irrevocable Letters of Credit)**

Mrs. Vidia Gayadeen-Gopeesingh (Oropouche West): Could the Prime Minister indicate whether the Government, through any state bodies and/or the Ministries, cause to be issued irrevocable letters of credit to Bridgemans Services Group, pursuant to securing the *Cabo Star* and the *Ocean Flower 2* vessels for the sea bridge?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, a letter of credit was extended to the Port Authority by First Citizens Bank for the *Ocean Flower 2*. A letter of credit was also extended to the Port Authority by Republic Bank for the *Cabo Star*.

Dr. Moonilal: Could the Prime Minister indicate the circumstances of that arrangement in light of the cancellation of the *Ocean Flower 2*, and by the fact it is an irrevocable letter of credit?

Hon. Dr. K. Rowley: Madam Speaker, those statements are not correct in that the letter of credit is meant to provide security for the action in terms of the establishment of a charter party. The letter of credit with respect to the *Ocean Flower*, once the contract was terminated by the Port Authority for reasons given, and it is in the public domain, the Port Authority then would have instructed FCB, Port of Spain, not to pay, and, therefore, the owners of the *Ocean Flower* cannot collect a letter of credit, because the contract has been properly terminated. So that assumption made by the Member for Oropouche East is misleading and incorrect.

Dr. Moonilal: Could the Prime Minister explain the circumstances why a private provider of a vessel for service needs credit from the taxpayers of Trinidad and Tobago?

Hon. Dr. K. Rowley: Madam Speaker, clearly, the Member for Oropouche East has no idea what a letter of credit is. [*Desk thumping*]

Dr. Rambachan: Prime Minister, between the time that the letter of credit was issued and the contract was terminated, did the port incur any kinds of

expenses, where relative to that period of time, with the arrangement with *Ocean Flower* and Bridgemans?

Hon. Dr. K. Rowley: The statement coming from the Chairman of the port in response to this particular question, which was made in the public domain, was that there were no moneys paid to the principals of the *Ocean Flower* with respect to its response to the action of becoming a ferry service in Trinidad and Tobago.

**Government Action
(Details of)**

Dr. Bhoendradatt Tewarie (*Caroni Central*): Thank you, Madam Speaker. Prime Minister, given that a recent poll published in a daily newspaper indicated that 83 percent of the population think that the Government is taking Trinidad and Tobago in the wrong direction, is the Prime Minister willing to consider changing course or redirecting Government action?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, unfortunately, unlike my friend from Caroni Central, I have not read or studied the poll, and I do not believe that 83 per cent of this country think that the country is going in the wrong direction.

Dr. Tewarie: Prime Minister, there, obviously, in a response like that to a poll—

Hon. Member: What is your question?

Dr. Tewarie: I am going to ask the question at the end of—[*Continuous crosstalk and interruption*]

[*Madam Speaker on her legs*]

Mr. Imbert: Sit down. [*Crosstalk*]

Madam Speaker: Members, order, please. Order. [*Crosstalk*] Order. Order. I wish to caution both sides on courtesy and parliamentary decorum. Member for Caroni Central, please, proceed.

Dr. Tewarie: Prime Minister, as you know, a poll represents the opinions of people as expressed to the pollster, on the basis of that—

Madam Speaker: Is this the question, Member?

Dr. Tewarie: I am asking the question, Ma'am.

Madam Speaker: I know, but, Member, just, really, in terms of you have 15 seconds to ask it, so we do not want the précis. If you can just go directly to the question, please.

Dr. Tewarie: Prime Minister, do you think that your Government is taking the country in the right direction?

Hon. Dr. K. Rowley: The answer is yes. [*Desk thumping*]

Dr. Tewarie: Could I then ask if you have any intention of taking the opinion of people into account?

Hon. Dr. K. Rowley: And it is precisely because we have intentions like that why I, as Prime Minister, go out and talk to people on a frequent basis to hear what they have to say. [*Desk thumping*]

Resumption of Hangings (Details of)

Dr. Fuad Khan (Barataria/San Juan): Thank you, Madam Speaker. Prime Minister, six months ago you announced that Ramesh Lawrence Maharaj, Senior Counsel, was hired to advise the Attorney General on the resumption of hangings for those convicted of murder, can the Prime Minister please advise this nation on the status of this matter and when can we expect this to produce actionable results?

The Prime Minister (Hon. Dr. Keith Rowley): Advice has been obtained from Mr. Ramesh Lawrence Maharaj and has been forwarded to the Attorney General. A desk has been established at the Attorney General and Legal Affairs Office to advance movement of cases through all stages so as to avoid the *Pratt and Morgan* situation. Regrettably, nothing like this was done during the period 2010 to 2015, and most of the cases on death row would have been influenced by this inaction of that period where the *Pratt and Morgan* effects have already taken place.

Dr. Khan: The last part of the question, Prime Minister, says, when you are expected to produce actionable results; when do we expect to see something happening? How soon?

Hon. Dr. K. Rowley: Well, what is happening is that the desk is pursuing, ensuring that as matters come up in the court they are dealt with in such a way that you get the best movement through the court, and until the matter is concluded in the court you cannot attach a date as to when a particular action will take place.

Mr. Lee: Thank you, Madam Speaker. To the hon. Prime Minister, supplemental: could the Prime Minister state what was the cost of these advisory services?

Hon. Dr. K. Rowley: I am not aware that there is any cost. This was a pro bono contribution, as far as I am aware.

**A & V Oil and Gas Limited
(Contract to Replace *Galicia*)**

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker. Could the Prime Minister inform this House if a company named A & V Oil and Gas Limited bid for a three-year contract to replace the *Super Fast Galicia*?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I do not have that information with me, and I am sure if that question is put to the Minister or the port you would get an extensive answer, and a very accurate one. I do not want to speculate on that.

Dr. Moonilal: Is the Prime Minister saying that the Prime Minister took no effort to get an answer for this question in light of his responsibility as Prime Minister during Prime Minister's Questions?

Madam Speaker: Not going to allow that question. Member for Naparima.

Mr. Charles: It was the same question, Madam Speaker.

**Christian Mouttet Investigation on Sea Vessels
(Completion of Report)**

Mr. Rudranath Indarsingh (*Couva South*): Could the Prime Minister inform this House when will the report of the sole investigator, Mr. Christian Mouttet, into the circumstances surrounding the procurement of the *Cabo Star* and the *Ocean Flower 2* and entering into the charter party agreement for these vessels be completed?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I requested this report from Mr. Mouttet by letter of appointment dated August 15, 2017, as a sole investigator to report within 30 days. I am pleased to announce that a report has been submitted to me last night, and that report is now to be read, and be made available to the Joint Select Committee for its assistance.

Mr. Indarsingh: Given what the Prime Minister has just indicated, Madam Speaker, will the Prime Minister lay the said report in this august Chamber?

Hon. Dr. K. Rowley: Madam Speaker, I have just said, and I hope it satisfies the eagerness of the Member, the report is in my possession, I will read it over the weekend, and make it available to the committee that is sitting specifically on this matter, and I trust that that will meet the needs of the House.

Mr. Singh: Thank you, Madam Speaker. To the Prime Minister, could the Prime Minister indicate whether or not the Chief Secretary of the THA, and members of the Executive of the THA availed themselves to the sole investigator, Christian Mouttet?

Hon. Dr. K. Rowley: I am not aware that he requested their presence or availability, and I do not know whether they did in fact comply. That was not part—the investigator was free to speak to whoever he wished, and I am not sure if the THA was one of those bodies.

Mr. Singh: Thank you, Madam Speaker. Prime Minister, in view of your instructions that there should be full cooperation with the JSC, how do you view the non-compliance of the Chief Secretary of the THA and members of the Executive ignoring the request of the JSC at their meeting in Tobago?

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

Recommendations to Restructure Petrotrin (Details of)

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker. In light of the delivery of the report of the seven-member committee headed by the Permanent Secretary in the Ministry of Energy and Energy Industries, Mr. Selwyn Lashley, to the Cabinet on the 6th of June, 2017, to restructure Petrotrin, could the Prime Minister inform this House as to the recommendations contained in the said report for the restructuring of same?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, it is the intention of the Government to make that report available to the Standing Committee of Energy in the House, and that would be done in a matter of a few days, and on that occasion a comprehensive summary of the report would be read to this House to satisfy this question in terms of what the report contains.

Mr. Indarsingh: Madam Speaker, just on a point of clarification, is the Prime Minister going to lay a full report in this said House?

Hon. Dr. K. Rowley: Madam Speaker, again, I cannot lay any fuller report than the report of the committee. I just said that it is the intention of the

Government in the next few days to lay the committee's report in this House, and on that occasion a summary of the report would be read out in this House.

Dr. Gopeesingh: Would the hon. Prime Minister indicate whether the restructuring exercise includes the restructuring of the massive financial debt that Petrotrin owes close to about \$14 billion?

Hon. Dr. K. Rowley: That is a major consideration in any restructuring of Petrotrin, that so large is that concern and the assignment, that that matter is really now being dealt with by the Minister of Finance since Petrotrin's inability—and let me rephrase that, since Petrotrin has put to the Minister of Finance its inability to service that debt, so that debt has now become a matter for the Minister of Finance more so than Petrotrin.

Dr. Moonilal: Prime Minister, in light of the appointment of Mr. Lashley to the board of Petrotrin, does the Prime Minister consider it to be good governance to have the head accounting officer and administrative head of the Ministry of Energy and Energy Industries as a member of the board of directors of a state enterprise under the aegis of the said Ministry?

Hon. Dr. K. Rowley: Madam Speaker, I notice that this particular subject has been exercising some thought, but it is not the first time that this happened in this country. And secondly, given the nature of the assignment that is responsible for bringing Petrotrin into some sustainable operation, and given the requirement for Petrotrin's business to be handled by the Ministry of Finance and the Ministry of Energy and Energy Industries, the presence of the Permanent Secretary on the board would be a great advantage and not a disadvantage. [*Desk thumping*]

Dr. Gopeesingh: When the board makes the recommendation and there are issues of accountability, and the Permanent Secretary is the person accountable in the Ministry of Energy and Energy Industries, who would they account to when the recommendations of lack of accountability or any accountability process?

Hon. Dr. K. Rowley: There is a body called the Corporation Sole. And I must tell you that the Permanent Secretary is not a member of the operations at Petrotrin, and he is not a part of the company of Petrotrin.

Campaign Financing Legislation (Reaching the Parliament)

Miss Ramona Ramdial (*Couva North*): Could the Prime Minister indicate when the campaign financing legislation will reach the Parliament in light of the contractor in the "fake oil" scandal being linked to the PNM as a party financier?

The Prime Minister (Hon. Dr. Keith Rowley): Madam Speaker, I was very delighted to see the energy of the Opposition with respect to this whole question of campaign finance. Because, Madam Speaker, the Government coming out of the Opposition with the PNM has continuously been advocating for this kind of enthusiasm, and the Member for Couva North would have noticed that in my meeting with the Member for Siparia a few weeks ago, one of the matters that was put on the table by the Prime Minister, myself, was this matter of campaign finance. And the Government is actively preparing to engage all political entities and the public on this matter with a view to having campaign finance reform legislation enacted before the next general election. And I trust that this enthusiasm on the Opposition side will reflect itself in cooperation so that we can have proper campaign finance legislation with regard to the legislation in Trinidad and Tobago.

Dr. Moonilal: In light of this scandal, could the Prime Minister indicate, as he spoke yesterday, what further investigation he is contemplating outside of the DPP and the police on the fake oil scandal?

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

URGENT QUESTIONS

Rio Claro East Secondary School (Faulty Sewer System)

Mr. Rushton Paray (Mayaro): Thank you, Madam Speaker. To the hon. Minister of Education. Having regard to the shutdown of the Rio Claro East Secondary School by the Public Health Department for a faulty sewer system, and EFCL's inability to effectively deal with the issue, what is the Ministry doing to urgently address this situation?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, the contractor is presently on site at the Rio Claro East Secondary School, and work has commenced. It is expected that the works would be completed over the weekend 15th of September, 2017. Works are being implemented by way of two crews to ensure timely completion. Thank you.

Textbook Top-up (Details of)

Miss Ramona Ramdial (Couva North): Could the Minister inform this House how soon can schools secure the 10 per cent textbook top-up for the new school term?

Madam Speaker: Before I call on the Minister of Education, can I ask Members to please observe Standing Order 53 with respect to Members listening in silence. Minister of Education.

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. During the period May 15th to June 21st 2017, the Ministry of Education conducted an inventory audit exercise of existing textbooks in primary and secondary schools to facilitate the re-distribution of usable textbooks to identified schools. The audit revealed that approximately 8 per cent of all textbooks across all primary and secondary schools are to be replaced. As a result, Cabinet approved the top-up of 8 per cent of textbooks in the school. The Ministry of Education has prepared the required textbook manifest for procurement and we await the availability of funds. Thank you.

**Student Nurses
(Moneys Owed)**

Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker. To the Minister of Education: Could the Minister inform this House how much money is owed to student nurses within the public health care system and how soon will the payments be made to the said student nurses?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, the information that is before us would tell us that COSTAATT is owed \$1.5 million, the School of Nursing and Midwifery is owed nil, but there is some concern with respect to the money that is owed to the University of the Southern Caribbean. Madam Speaker, the University of the Southern Caribbean is a private institution. There was an arrangement between the University of the Southern Caribbean and COSTAATT which ended in October 2016. As a result, this Ministry, the Ministry of Education, is looking into this matter to decide whether we are indebted to this University of the Southern Caribbean. Thank you.

Mr. Indarsingh: Thank you, Madam Speaker. So the Minister is telling this House that he does not know when the student nurses will be paid their stipend?

Madam Speaker: Is that a question, Member?

Mr. Indarsingh: Yes! [*Crosstalk*]

Madam Speaker: Member, could you phrase the question?

Mr. Indarsingh: Thank you, Madam Speaker. I am asking the Minister of Education again to advise this House when will the student nurses be paid their stipend? A very simple question.

Madam Speaker: I believe that question was answered already. Member for Chaguanas East.

Mr. Karim: Thank you, Madam Speaker. Could the hon. Minister indicate how many students we are talking about with respect to the indebtedness of student nurses at USC or to COSTAATT?

Hon. A. Garcia: Madam Speaker, at this time I do not have that information available to me. This is a new question.

Dr. Gopeesingh: Bearing in mind the students at USC—what would be the students who are enrolled at USC now, what would be their plight while you continue to investigate the matter?

Hon. A. Garcia: Madam Speaker, we are sympathetic to the plight of the students at the University of the Southern Caribbean. However, we have to ensure that what we do is in keeping with the way we spend Government's money. This is a private institution and before we can disburse funds we must ensure that we do the proper thing. Thank you.

Fake Oil Scandal (System to Verify Production)

Mr. Rodney Charles (Naparima): To the Minister of Energy and Energy Industries: In light of the fake oil scandal, can the Minister say what foolproof systems are in place to ensure that the daily oil production figures provided to the Ministry of Energy and Energy Industries—and by extension, the Ministry of Finance—by various oil companies, including Petrotrin, are a true reflection of what is actually produced?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam Speaker. Under the Petroleum Act and Regulations, the Ministry of Energy and Energy Industries has regulatory and oversight authority of the energy sector which includes both oil and gas. With regard to the measurement and veracity of crude oil measurements, it falls into two types. The first is crude oil exported—which is largely Galeota's production coming out of BP's condensed production Perenco and BHP. And there is a very robust system in place for measurement and shipment which is all supervised by

the Ministry of Energy and Energy Industries. All other crudes eventually end up at the Pointe-a-Pierre refinery through a series of steps that comes from the individual tank farms of the field into three major bulk storage areas. One is in Bernstein Forest Reserve, which is for the western district, one is at Trinmar, which takes Trinmar crude, and one is in Barrackpore, what is called eastern district crude.

The Ministry of Energy and Energy Industries does not have a direct role in the daily production report, and production reporting is two-fold: One, which is bulk production; and second, which is well test production, because all the wells cumulatively make up the bulk. The system that is currently in place, a lot of it is very antiquated technology. It deals with physical measurements by gaugers, and what this whole issue has shown is that the whole system needs some modernization, especially with regard to bulk tanks and fiscalization point.

The Ministry of Energy and Energy Industries also has a very big role to play. All tanks, before they come into service, must be calibrated by the Ministry of Energy and Energy Industries to make sure that the volumes are valid. So, what we will want to propose ultimately is that more accent is now to be placed on what is called the lack units, and flow metre technology that has a digital recording of all the flows and all the measurement for posterity, and it does not fall solely under the influence of a single individual. [*Desk thumping*]

Mr. Charles: So, the Minister is saying that he cannot give 100 per cent foolproof assurance that the figures presented are in fact correct given what has taken place at Petrotrin?

Sen The Hon. F. Khan: No system in the world is 100 per cent foolproof. Okay? There will be constraints. As a matter of fact, in the Petrotrin system a variance of 0.5 per cent of shipment to receipt is acceptable, because that normalizes itself through time. Okay? So “foolproof” is the wrong word to use, but we need a more reliable system at the end of the day.

Dr. Tewarie: Minister, Mr. Vidya Deokiesingh, who allegedly verified the numbers for A & V Oil and Gas, does he verify the numbers for other companies or only this one company at Petrotrin?

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

Dr. Moonilal: Could I ask the hon. Minister, in the aftermath of the startling revelation of the Leader of the Opposition and the response by Petrotrin, did you hon. Minister make any effort to contact the Prime Minister to brief him on this matter?

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

Mr. Lee: Thank you, Madam Speaker. To the Minister of Energy and Energy Industry, supplemental: Sometime in question, Petrotrin, based on a May statement this year that their oil production was on a boost, a higher production, now given this fake oil scandal, would Petrotrin be giving a revised statement of what is the actual production of oil?

Sen. The Hon. F. Khan: The audit report has not been completed, so if any adjustment has to be made I cannot prejudge that situation. As I said in the Senate yesterday, let due process take its course.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. There are nine questions for oral answer. We will be answering all nine questions. There is one question for written answer that was prepared last week—it was ready last week, and it has been distributed. So, we will be answering all questions.

WRITTEN ANSWER TO QUESTION

Pre-Action Protocol Letter (Owners/Agents of *Galicia*)

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

Could the Minister provide a copy of the pre-action protocol letter sent by the Ministry and/or the Port Authority of Trinidad and Tobago in relation to the alleged breach of contract to the owners and/or agents of the *Galicia*?

Vide end of sitting for written answer.

QUESTIONS FOR ORAL ANSWERS

Alleviation of Traffic Problem (Old Southern Main Road, Chase Village)

187. Miss Ramona Ramdial (*Couva North*) asked the hon. Minister of Works and Transport:

Could the Minister provide the Ministry's plans to alleviate the traffic problem along the Old Southern Main Road, Chase Village?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. In addressing the traffic problems along the Old Southern Main Road, Chase Village, the Ministry of Works and Transport has completed the designs for a proposed roundabout at Chase Village Triangle, at the intersection of the Chase Village Interchange Connector Road and the Southern Main Road, Couva. The designs took into consideration the congestion of an urban double-lane roundabout, road widening and rehabilitation along the approached legs of the roundabout, extension and rehabilitation of the existing culvert crossings and drain channels in the vicinity of this project, and improvements for the pedestrian accessibility and safety along the roadway. During this process the Ministry liaised with the major stakeholders to obtain the necessary approvals and plans. Construction will start in fiscal 2018/2019, subject to the availability of funding. Thank you.

**Rainy Season Preparation
(Flood Mitigation Strategies)**

188. Miss Ramona Ramdial (*Couva North*) asked the hon. Minister of Works and Transport:

Could the Minister provide the flood mitigation strategies that are being implemented to prepare for the upcoming rainy season?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you. Madam Speaker, the Ministry of Works and Transport, prior to the rainy season and on an ongoing basis, continues to provide major cleaning and rehabilitation of rivers and water courses, maintenance and the existing drainage infrastructure, and projects aimed at improving the channels flow to alleviate any potential flooding and health hazard. At present there are 118 projects which have been executed by the Ministry throughout Trinidad and Tobago. Some have been completed and some are ongoing. Thank you.

Mr. Charles: Thank you. Could the Minister indicate to this honourable House what specific plans he has in respect of the Williamsville area that is subject to perennial flooding?

Sen. The Hon. R. Sinanan: Thank you. Madam Speaker, at this point in time what I have in front of me is 118 projects. I cannot tell you exactly where the 118 projects are, but I will facilitate the response in writing. Thank you.

**Reimbursements to Farmers
(Livestock Losses)**

192. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Works and Transport:

Could the Minister indicate: what is the policy, if any, to facilitate reimbursements to farmers who suffer livestock losses due to illnesses resulting from livestock being housed at the inter-island ferry port in Tobago?

The Minister of Works and Transport (Sen. the Hon. Rohan Sinanan): Thank you. Madam Speaker, the management of the Port Authority of Trinidad and Tobago has no policy in respect to reimbursement to farmers for loss of livestock. These animals are not kept at the ports and management has made every effort to ensure priority is given via advance booking for the transportation of animals on the cargo vessels. Thank you.

**Limited Number of Pathologists
(Measures to Address)**

194. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of Health:

Could the Minister state the measures to be implemented to address the limited number of pathologists available to conduct autopsies in Tobago?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you, Madam Speaker, and I am grateful to my colleague for the question. Currently the services of one pathologist are available at the Scarborough General Hospital. The services of one of the expected three graduates of pathology are now available, and the services of the other two are expected within fiscal year 2018. It is envisaged that these additional persons would improve the service and patient experience across the country. As a medium and long-term strategy, the Ministry of Health identified pathology as a major priority area, and specialty for training and development to be taken by the Ministry of Education by the Scholarships and Advance Training Division. I thank you, Madam Speaker.

**Packaging Warehouse Opening
(Breachin Castle, Couva)**

198. Mr. Rudranath Indarsingh (*Couva South*) asked the hon. Minister of Agriculture, Land and Fisheries:

Could the Minister advise this House when the packaging warehouse built by the National Agricultural Marketing and Development Corporation at Brechin Castle, Couva will be formally opened for use by agriculture stakeholders?

The Minister of Agriculture, Land and Fisheries (Sen. the Hon. Clarence Rambharat): Madam Speaker, the National Agricultural Marketing and Development Corporation (NAMDEVCO) is in the process of conducting an audit into several projects, including the packing house at Brechin Castle. This audit is to identify the cost of works to date and whether NAMDEVCO has received value for money.

At the same time, at the request of NAMDEVCO, the Ministry of Agriculture, Land and Fisheries has engaged the Urban Development Corporation of Trinidad and Tobago (UDeCOTT) to prepare a request for proposals to explore the possibility of partnering with the private sector to bring the Brechin Castle packing house to operation. Based on the outcome of the request for proposal process, the Ministry of Agriculture, Land and Fisheries would make appropriate recommendations to the Cabinet on the operationalization of the Brechin Castle packing house. We expect to be in a position to make such a decision by the end of December 2017. Thank you.

Mr. Indarsingh: Thank you, Madam Speaker. Based on what the Minister has just outlined in terms of this request for proposal for public/private partnership point of view, does this mean that the stakeholders that will use the Brechin Castle packing house now be subjected to some kind of fee structure?

Sen. The Hon. C. Rambharat: Madam Speaker, Government does not intend to impose onerous charges on the stakeholders for the use of the facility. It is intended to make it easier for agro-processors and other value-added processors in the agricultural sector. It is difficult at this stage to determine what fee structure would be implemented. But, of course, the Government would ensure that the stakeholders are protected in whatever arrangement we arrive at. Thank you.

Sugar and Heritage Museum (Status of)

199. Mr. Rudranath Indarsingh (*Couva South*) asked the hon. Minister of Community Development, Culture and the Arts:

Could the Minister provide the current status of the Sugar and Heritage Museum located at Brechin Castle, Couva?

The Minister of Community Development, Culture and the Arts (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. The Government of Trinidad and Tobago had given the approval for the establishment of a sugar heritage village and museum on lands and buildings formerly owned by Caroni 1975 Limited in the vicinity of Brechin Castle, Couva. In accordance with Minute No. 1523 of September 29, 2016, Cabinet agreed *inter alia* that the project, the sugar museum, be returned to the original concept of establishing a sugar museum at Sevilla House, as approved by Cabinet Minute 3476 of December 16, 2004, and the project referred to above be placed under the Ministry of Community Development, Culture and the Arts. In light of this, the Ministry's technical officers conducted site visits in 2017 and recommended that in order to make this facility functional the following works be undertaken:

- completion of electrical upgrade;
- termite treatment of building;
- general repairs to broken windows and doors; and
- general maintenance of the external environment.

These works are scheduled to commence within fiscal 2017/2018, with a view to opening to the public the museum in 2018.

Mr. Indarsingh: Thank you, Madam Speaker. From my knowledge, the building that was formerly the clinic at Brechin Castle was fully functional and open to the public, and also at Sevilla it was open to the public. Both of these buildings that are part of the sugar and heritage museum are in the constituency of Couva South.

Madam Speaker: Your question!

Mr. Indarsingh: Is the Minister aware that these buildings have been padlocked and are overgrown with bushes and so on, and are closed to the public?

Hon. Dr. N. Gadsby-Dolly: Madam Speaker, these buildings have been closed to the public before I assumed office in 2015, so it is not now that the buildings are closed. They were closed during the tenure of the last Government as well. They were open for a very brief time, but because there was no particular plan going forward dealing with them they had to be shut. And so I met them as they were shut in 2015, and then the Cabinet had to make a decision because there was a revised plan that included not only the museum, but there is also a golf course and so on attached to this project with a budget that could not be supported

at this time. And therefore we had to make a decision on this closed and halted project. We did so, and therefore we are going forward with the original concept which is the museum, and that work will begin, and we expect the museum to be opened in 2018.

Mr. Indarsingh: Madam Speaker, is the Minister aware that she is misleading the House?

Madam Speaker: Member! Member for Couva South, I would just ask you to withdraw that comment, please.

Mr. Indarsingh: Madam Speaker, under what Standing Orders? [*Crosstalk*]

Madam Speaker: Member for Couva South, I am certain that you do not mean that. I give you another opportunity to withdraw the statement that you made after Minister of Community Development, Culture and the Arts spoke.

Mr. Indarsingh: Madam Speaker, I am guided, I withdraw.

Madam Speaker: Thank you very much.

Mr. Karim: Thank you, Madam Speaker, supplemental to the hon. Minister. Hon. Minister, could you say what is the cost of works to be done in moving forward with the decision you have made?

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. The site visits having been done, we are now preparing the RFPs, and we will be able to determine the cost when that process has been completed.

CXC and CSEC Online Exams (Details of)

205. Miss Ramona Ramdial (*Couva North*) asked the hon. Minister of Education:

With respect to the administration of online Caribbean Examinations Council (CXC) and Caribbean Secondary Education Certificate (CSEC) examinations for Paper 1 of Mathematics and English subjects in the year 2018, could the Minister indicate:

- a. the total number of secondary schools that are fully prepared for these examinations;
- b. the total number of Mathematics and English candidates for these examinations; and

- c. the systems in place for the provision of the necessary operational facilities and adequate devices for the examination of 18,000 students?

The Minister of Education (Hon. Anthony Garcia): Madam Speaker, currently no secondary school in Trinidad and Tobago is fully prepared for online e-testing in the Caribbean Secondary Education Certificate Mathematics and English exams in 2018.

Answer to (b): approximately 21,000 candidates are expected to sit the CSEC exams in Mathematics and English in 2018.

And answer to section (c): Madam Speaker, CXC has advised that the Ministry of Education, in each of the countries in which CSEC is administered, can proceed with e-testing when the necessary requirements are in place. To this end, the Ministry appointed a committee to conduct an audit of the ICT infrastructure to determine the readiness of schools to undertake e-testing. A number of areas were examined by this committee, including availability of laptops, desktop computers for candidates, reliability and speed of Internet connections to schools, Wi-Fi distribution of Internet to examination rooms; supply of electrical power to examination rooms; the number of candidates expected to sit CXC examinations in 2018.

Madam Speaker, our audit has revealed that there are significant gaps with respect to bandwidth, reliability and speed of Internet connection, Internet and Wi-Fi distribution, and in several instances electrical supply to examination rooms. The Ministry of Education is working systematically to address these issues, and engage the various stakeholders in the process. Principals of secondary schools, both public and private, have been engaged in and apprised of the requirements for e-testing. The Ministry of Education, our ICT division, is also currently engaged in discussions with local Internet providers in an attempt to ascertain the most effective approaches to meet the requirements for bandwidth and the connectivity in schools.

Madam Speaker, the Ministry of Education is mindful of the need to keep abreast with emerging technologies, and is willing to work towards getting the infrastructure in place. In the meantime the Ministry of Education will continue with paper-based testing until we are satisfied that all requirements from both the Ministry and the CXC sides are met. Thank you.

Miss Ramdial: Thank you, Madam Speaker, supplemental. So, Minister, are you saying that we will not be ready—the schools in Trinidad and Tobago—for this e-testing in 2018?

Hon. A. Garcia: Madam Speaker, yes, I am saying that we will not be ready in 2018.

Mr. Karim: Thank you, Madam Speaker. Will we be ready in 2019?

Hon. A. Garcia: Madam Speaker, as I indicated just now, we are doing everything possible to ensure that we keep abreast with the technological changes, and it is our hope that by 2019 we will be ready to have these tests administered. Thank you.

Mrs. Newallo-Hosein: Thank you, Madam Speaker. Hon. Minister, in light of the fact that you would require the ongoing services of ICT technicians, would they be given full-time contracts as opposed to month-to-month contracts? Thank you.

Hon. A. Garcia: Madam Speaker, the Cabinet is about to pronounce on the ICT technicians in our schools, and until that decision is made I cannot reveal further.

Mr. Singh: Hon. Minister, supplemental. Having regard to your statement with respect to keeping abreast of an emerging technological change, how can you justify and deal with the fiasco over the CSEC results?

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

**Trinidad and Tobago Police Service
(Number of Vehicles Acquired Annually)**

207. Dr. Surujrattan Rambachan (*Tabaquite*) asked the hon. Minister of National Security:

Could the Minister state the number of vehicles acquired annually by the Trinidad and Tobago Police Service from 2010 to 2016?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. During the period 2010 to 2016, the Trinidad and Tobago Police Service purchased 908 vehicles as follows: In 2010, no vehicles were purchased; 2011, 74; 2012, 103; 2013, 426; 2014, 150; 2015, 124; 2016, 31.

2.30 p.m.

Dr. Rambachan: Thank you, Madam Speaker. Minister, between 2011 and 2015, the People's Partnership Government purchased 55 per cent of what I understand is the available number of vehicles to the police service. How many vehicles are actually available to the police service at this point in time and how many are serviceable, do you have that?

Hon. Maj. Gen. E. Dillion: Madam Speaker, I cannot say how many vehicles are available right now. What I can say, the total amount of vehicles in the police service right now are 1,351. There is a shortage right now of about 349 vehicles. I cannot say how many are serviceable at this point in time, but I gave you the total amount.

Treatment of Manpower Resources (Prison System)

209. Ms. Vidia Gayadeen-Gopeesingh (*Oropouche West*): asked the hon. Minister of National Security:

In relation to the findings of the Fourth Report of the Joint Select Committee on National Security on an enquiry into prison security and the status of investigations into the prison break of July 25, 2015, could the Minister indicate the efforts, if any, to treat with the inadequate manpower resources within the prison system?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, information obtained from the Trinidad and Tobago Prison Service indicates that measures are being undertaken to treat with the inadequacies in manpower within the prison system. One such measure is the recruitment of additional prison officers and drivers.

In this regard, advertisements inviting applications for male prison officers and drivers were circulated in three newspapers in July 2017. In total, the Trinidad and Tobago Prison Service received 2,207 responses to the advertisement for prison officers and 1,254 responses to the advertisement for prison drivers. The recruitment process is ongoing and the prison service is currently compiling a list of the qualified candidates to provide to the Service Commissions Department which will notify the said candidates of the examination date.

Notwithstanding this overall strategy to address these inadequacies, in the

interim, the Commissioner of Prisons has advanced a number of short-term workforce planning strategies to maximize existing resources while also ensuring there is no breach in security. These include granting approval for prison officers to work extra hours; sanctioning that prison officers take up extra duties; authorizing a temporary reduction in the number of persons allowed to proceed on vacation leave and augmenting the staff complement with officers who resume duties from official leave by placing them in specific areas where the demand is high.

In addition to the aforementioned, a review of the organizational structure of the Trinidad and Tobago Prison Service is ongoing. Ultimately, this review will provide guidance and clarity on specific human resource needs and other issues and lend support to the prison service manpower management process thereby informing staffing and budgetary decisions, Madam Speaker.

STATEMENTS BY MINISTERS

Status of the Poverty Reports for Trinidad and Tobago (Survey of Living Conditions 2014)

The Minister of Social Development and Family Services (Hon. Cherrie-Ann Crichtlow-Cockburn): Thank you, Madam Speaker. [*Desk thumping*] Madam Speaker, I have been directed by the Cabinet to make a statement on the Status of the Poverty Reports for Trinidad and Tobago based on the Survey of Living Conditions 2014. The understanding of living conditions in Trinidad and Tobago have over the last 30 years depended to a large extent on 2 major studies, the Survey of Living Conditions and the Household Budgetary Survey. The Household Budgetary Survey is a national survey focusing on household expenditure on goods and services. The Survey of Living Conditions is a report that analyzes the standard of living of the people and is based on a study which collects socio-economic data, at the individual and household levels.

The main purpose of the SLC is to provide primary data for the construction of poverty estimates as it relates to the annual minimum cost of a food basket, an indigence line, a poverty line and a variety of other indicators, to enable regional and international comparisons. The SLC also facilitates the planning process and informs programme design. The provision of valid and reliable data is therefore of utmost importance.

The SLC 2014 commenced in April 2014 with the conduct of fieldwork by the Central Statistical Office. The analysis and reports were prepared by Kairi Consultants Ltd, who was contracted in March 2015 to conduct the analysis and

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prepare reports. The initial final reports were submitted in November 2015. A further review of the reports was undertaken over the next three months to improve their quality.

However, on further examination of the Final Poverty Report for Trinidad and Tobago 2014, a number of concerns were identified, as follows:

I. One of the key findings was that based on money metric measures, 24.5 per cent of the population or approximately 329,609 persons were living below the poverty lines of \$959.25 and \$1,014.75 in Trinidad and Tobago respectively. Figures provided for the labour force and persons with jobs indicated that 22,800 individuals were unemployed. Even if the assumption is that the 22,800 households are without breadwinners, there would have to be approximately 14 persons per household, for the 24.5 per cent to make sense. This seemed highly unlikely. In addition, when consideration was given to Trinidad and Tobago's minimum wage and the fact that more than 210,000 persons received grants and pensions in excess of \$1,100 monthly, the accuracy of a 24.5 per cent poverty rate was seriously questioned.

II. Kairi Consultants was contracted solely to undertake the Data Analysis although it is standard for the firm responsible for analysis to review the data collected and to conduct some measure of editing and cleaning of the SLC data set. The inclusion of the consultants responsible for analysis in the data processing phase is usually done so that certain editing idiosyncrasies could be identified, and the question arose, therefore, whether the exclusion of Kairi Consultants Ltd from this phase could have compromised the integrity of the process and/or findings of the SLC.

III. In terms of appropriateness of sample size, the design made an allowance for a maximum non-response rate of 15 per cent from any of the stratified regions surveyed. It was noted however that nine of the 21 districts surveyed had non-response rates above 15 per cent. These districts included Port of Spain, San Fernando, Mayaro/Rio Claro and Tunapuna/Piarco. Concerns were expressed regarding the impact of these high non-response rates and what they may have had on the findings for those districts.

Due to the foregoing concerns/questions and other discrepancies regarding the reports for Trinidad and Tobago and the responses to them, the Ministry of Social Development and Family Services decided to seek independent reviews of the Poverty Report for Trinidad and Tobago for 2014 and the analysis of the SLC

2014. The United Nations Economic Commission for Latin America and the Caribbean (UNECLAC) and the United Nations Development Programme (UNDP) were invited to undertake the reviews and analysis.

The reviews concluded there were significant problems with the poverty analysis and that those problems had a major impact on the poverty estimates. They also commented on the use of arguable procedures that while not necessarily wrong, are doubted, due to a lack of accuracy or consistency with the 2005 estimation.

The reviews identified, *inter alia*, estimation errors in the command script to estimate poverty, also called the “do file” for STATA, a statistical software package utilized in the area of research for data management and statistical analysis. One of the most significant errors was the non-annualization of imputed rent data, which caused gross underestimation of household consumption expenditure. Due to these errors, one of the main conclusions of the UN agencies was that the original poverty estimation outlined in the poverty reports was not valid. Both agencies concluded that correcting the annualization of rent and imputed rent data would reduce the final poverty head count from 24.5 per cent to approximately 7 per cent to 8 per cent.

A concern with respect to the use of the adult equivalence scales was also highlighted. In this connection, the UNDP noted that there was no international consensus regarding the use of adult equivalence scales as, based on the literature, different scales appeared to be utilized by different organizations such as OECD and the World Bank.

The UN agencies recommended, *inter alia*, that the independent review should be used as an opportunity to initiate dialogue between the Ministry and the consultants. Two identified issues that should be assessed and agreed upon are the estimation of missing values and the adult equivalence scale. They also suggested that steps should be taken to increase the country’s capacity in measuring poverty, recalculating the food poverty line, including a secondary analysis of the change in absolute poverty over time and the promotion of public debates regarding poverty measurement.

Kairi Consultants Ltd was presented with the findings of the reviews and acknowledged the oversight of errors made in the “do file” and agreed to make the necessary amendments to the code. The consultants also indicated their openness to changing the equivalence scale to one that allows the interpretation of

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the data with respect to a reference person. Additionally, with respect to the suggestion to recalculate the poverty line using “standard methodology”, the Consultant agreed to recalculate using “its acceptable methodology”.

The Poverty Report for Trinidad and Tobago, together with the reviews of UNDP and UNECLAC, and the response of Kairi Consultants Ltd were referred to the Central Statistical Office (CSO), as the official National Statistical Authority, for its consideration. The CSO’s conclusions were similar to those of the UN agencies.

Based on the findings, the errors in estimation and the number of inconsistencies identified by the UN agencies and endorsed by the CSO, the integrity of the information contained in the Final Poverty Report for Trinidad and Tobago 2014 was considered compromised and the reports duly rejected.

The Parliament is also informed that the poverty report and the SLC 2014 data sets would be handed over to the CSO for follow-up action with Kairi Consultants and that the CSO would soon commence the conduct of the SLC 2018, in collaboration with the Ministry of Social Development and Family Services.

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

National Budget, 2018

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, the 2018 budget will be presented on Monday, the 2nd of October, 2017 at 1.30 p.m. [*Desk thumping*]

STANDING ORDER 79(3)

INSURANCE BILL, 2016

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, in accordance with Standing Order 79(3), I beg to move that the proceedings on the Insurance Bill, 2016 be resumed in the next session at the adoption of the report stage and that consequently the work of the Joint Select Committee, established to consider and report on this Bill, be saved.

Question put and agreed to.

GAMBLING (GAMING AND BETTING) CONTROL BILL, 2016

The Minister of Finance (Hon. Colm Imbert): Thank you, Madam Speaker. In accordance with Standing Order 79(3), I beg to move that the proceedings on the Gambling (Gaming and Betting) Control Bill, 2016 be resumed in the next session at the adoption of the report stage and that consequently the work of the Joint Select Committee, established to consider and report on this Bill, be saved.

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Question put and agreed to.

CYBERCRIME BILL, 2017

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, in accordance with Standing Order 79(3)—[*Interruption*]

Madam Speaker: Attorney General, may I interrupt you. I believe this will be taken later in the proceedings.

Hon. F. Al-Rawi: Sure.

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

Order read for resuming adjourned debate on question [September 08, 2017]:

Question proposed.

Madam Speaker: On the last occasion the Attorney General was giving his wind-up contribution to clause 5 of the Bail (Access to Bail) (Amdt.) Bill, 2017. I now call upon the Attorney General, you now have nine minutes left.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, it is really just to perfect the business that was incomplete on the last occasion when regrettably the Members of the Opposition refused to support the continuation of the work in a positive fashion, notwithstanding the fact that their Members in the Senate had originated the very amendments which are before the honourable House.

Madam Speaker, there was, on the last occasion, raised in respect of clause 5 of the Bill, which we are seeking to adopt amendments for, an enquiry with respect to the inclusion of section 12 of the Bail Act as it relates to the amendment at—[*Interruption*]

Mr. Lee: Point of clarification. When we accepted the change I think he had already wound up—

Mr. Al-Rawi: No, I did not. [*Crosstalk*]

Madam Speaker: I recognize the anxiety of everybody to assist. [*Laughter*] Member for Pointe-a-Pierre, the question was not put and the winding-up was not complete. Nine more minutes.

Mr. Al-Rawi: Thank you, Madam Speaker. I am not surprised that the hon. Members were not following in their anxiety to obstruct on the last occasion.

Madam Speaker, the propriety of the amendment—that is, deleting the reference to section 12(4) as it appears in section 17 of the parent legislation and

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replacing it with a reference simply to section 12, is in fact an appropriate one for adoption by this honourable House. It is to anchor into law the ability to forfeit all forms of security as may be provided by the discretion of the honourable court when it makes a decision with respect to security.

Section 12 which is referred to by reference in section 17 is the provision which requires security to be placed in respect of flight risks. However, the only mandatory aspect of section 12 of the parent law is in fact the obligation to surrender to bail. In those circumstances, it is entirely appropriate to adopt the forfeiture provision on the broad footing that is now proposed and I beg to move.

Question put and agreed to.

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

Order read for resuming adjourned debate on question [September 08, 2017]:

Question proposed.

Madam Speaker: On the last occasion the Clerk read the amendments to clause 2, I will now call upon the Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, I beg to move that this House agree with the Senate in the amendments to clause 2 Criminal Procedure (Plea Discussion and Plea Agreement) Bill, 2017.

Madam Speaker, the amendments proposed at clause 2 are in essence best disaggregated by reference to the individual aspects of the clause. And if you would permit me to do that so that it will make sense to honourable Members as they follow in the proposals brought from the Members of the Senate.

I should add that, it was in fact by virtue of a Special Select Committee of the Senate in which there was strong participation by Members in relation to the work that was done there by the Opposition, Independents and Members of the Government, that we had the advantage of coming back with significant reflections upon the Bill that flowed into the Senate's work on the committee stage, clause by clause; and coming out of that there was retooling of the legislation some of it stylistic, some of it to ease with the read of the law, some of it to cause some improvements which hon. Members made by way of suggestion.

I reflect firstly upon the proposal for the deletion and substitution under the definition of improper inducement. In dealing with that particular point we were seeking to capture, by the reformulation of subclause (a) under the definition of

improper inducement, we were seeking to capture those persons who could have participated in the plea discussion, who would not have been caught other than by way of a restatement. It was submitted by hon. Sen. Chote in particular, and then joined in by Sen. Ramdeen, that persons would have been participants in the process on a *de facto* basis and not a *de jure* basis. In other words, persons may have involved themselves in the process and not been caught by the definition.

In those circumstances we seek to now change the language by deleting subclauses (A) and (B) and instead reformulating into one formula where we will now have an improper inducement reading as:

“(a) the laying of a charge or causing a charge, to be laid, without reasonable cause.”

We seek also to ensure that persons are not being coerced into concluding a plea agreement. And in that regard we have sought to add in language to subclause (b). subclause (b) of the definition of improper inducement would now read:

“the coercion of an accused person or suspect to enter into a plea discussion or conclude a plea agreement including a threat—

- (i) to lay a charge or cause a charge to be laid of the type described in paragraph (a);”—and then,
- (ii) “that any plea of not guilty entered into by the accused person will result, upon the accused person’s conviction, in the prosecutor asking for a sentence more severe than the sentence that usually imposed upon an accused person who is convicted of a similar offence.
- (c) the misrepresentation of a material fact either before a plea discussion is entered into or during the course of the discussion; and
- (d) an offer or promise, the fulfilment of which is not the function of the”
DPP; or
- “(e) an attempt to persuade the accused person or suspect to plead guilty notwithstanding the accused person’s or suspect’s denial of guilt.”

The additions there would simply be the introduction of the words “or conclude a plea agreement”, in paragraph (b), the deletion of “the reference” to paragraph (b) and “or” in (i) of paragraph (b). The deletion of the words, “by the prosecutor” in

paragraph (c) and that would be in essence the clause as remodelled.

These amendments really seek to drive at ensuring that misrepresentations in the larger context of a plea discussion are caught by persons who would not, strictly speaking, be the identified persons as leading the prosecutorial end of the plea discussion. And in those circumstances the Members of the Senate agreed that it was appropriate to advance those submissions.

The second part of clause 2 that falls for consideration and adoption by this honourable House, is the deletion of the word, “other” and the substitution of the word, “appropriate” as it relates to the definition of relative”. It was certainly the subject of significant discussion as we engaged in victim impact statements and the concept of it appearing in law for the first time, that we caught the Trinidad and Tobago context for victims and relatives of victims being allowed to advance a position on behalf of victims in respect of the offence committed by persons who stood before the court and who would participate in plea discussions leading to plea agreements which would result in convictions. In doing that, it was felt that it was better to attenuate the word, “other” into the word, “appropriate” so that we could have the court focus upon establishing a sufficient nexus between the relative and persons who may be associated in the loose social context to the victim.

Those in summary, Madam Speaker, therefore, constitute the amendments to clause 2 and I beg to move.

Question put.

Dr. Moonilal: Thank you very much, Madam Speaker. Madam Speaker, I rise to make a few comments on the amendment before us as I intend to make comments about other amendments that will come later, but to deal first with clause 2. If I may just say at the very beginning to the worthy Attorney General, that if it is one revealing observation we got in the Tenth Parliament by the PNM Opposition then, was the revelation that what happens in the other place happens in the other place and this is independent of the other place. [*Desk thumping*]

You will recall on almost 50 occasions when we dealt with business in the Lower House and the then Opposition chose not to take the same line as colleagues in the other place, when we enquired we were told resoundingly that they are two different Houses and they are not obliged to follow the other place. The Member for St. Joseph will remember that well I think and others. So I would like to ask the Attorney General—to save some time, there is no need to tell us

who made the recommendations, where it came from and the qualifications of the people making them and so on, because we want to deal with this from the perspective of our own Chamber and our own comments, [*Desk thumping*] as they did in the Tenth Parliament.

Madam Speaker, to analyze the amendment to clause 2 and others, it is also important to reflect on the parent Bill—the parent Bill that is to be amended and therefore it necessitates quoting from the parent Bill to understand what are the changes, what is being contemplated and why.

Now, unless I am in receipt of the wrong Bill from the Parliament, there is a major issue here that the Attorney General apparently did not dwell on, well certainly not today. Because of the overwhelming amount of confusion and collapse of last week when the Government [*Desk thumping*] did not have the numbers to sustain themselves, I am not sure what happened last week and what did not happen and I am not sure the Attorney General spoke to clause 2 last week, because of the sort of position the Government found itself in and when they had to collapse, I think, quickly and adjourned and had difficulty in so doing.

3.00 p.m.

So, I am not sure if last week or this week we dealt with clause 2 but I will assume that the Attorney General is dealing with it for the first time. Now, when we look, Madam Speaker, at the original “improper inducement” piece—because it is part of clause 2—they are now deleting “improper inducement” and replacing it by something else. But I am not sure, “delete and substitute the following”—I am not sure, to the Attorney General, substitute what? What would be the definition? Is it still the definition of “improper inducement”? Because you are saying:

“‘improper inducement’ delete and substitute the following:

- (a) the laying of a charge or causing a charge, to be laid, without reasonable cause;”

The difference here, Madam Speaker, as I said before, you have to reflect on the parent Bill to understand what you are trying to do here.

Now, where does this fall? In clause 2 this is definition—interpretation, and you will have a reference to different Acts of Parliament and so on. So what are you calling this heading? Is it still to be called “improper inducement”? It cannot be called by all these names: (a), (b), (b)(i), (b)(ii). I do not know if anybody follows what I am saying. But there is no heading if you delete “improper inducement”.

The other major issue I have to raise here at this stage that carries over into other amendments—but I cannot speak to that yet—again, unless I have the wrong Bill before me from the Parliament, there is now this notion of “suspect” that came into the amendment but was not in the parent Bill—unless I am really reading wrong and I have the wrong copy. Now, the Opposition expressed serious concerns with this notion of a “suspect” and engaging a suspect in a discussion on plea bargaining and being a party to such a bargain as a suspect. I think it took us some time in the House and we spoke on this matter. But the amendments now, all of them—but we are dealing with clause 2—filter into the Bill this fundamental change—which, unless I am mistaken, the Attorney General did not speak to—of “suspect”.

And, we will just ask the Attorney General to tell us from clause 1—because it will override other clauses as well—who brought it in? Why? “Where it come from?” And what is the policy position on that? Because, for example, is there a need in the interpretation section to define what is a suspect? Or is it that it is well known in the normal course of action in this area of the law that you know what a suspect is?

Madam Speaker, we spoke about this matter having enormous danger that the police—and I want to make the point that when we make law, we make law, yes, in the interest of justice, but as part of our principle that we follow is also to defend citizens from the arbitrary use of the law, to defend citizens from the abuse, to defend citizens from a breach of the rule of law by anyone in the law enforcement community. [*Desk thumping*]

Mr. Al-Rawi: I regret the interruption—48(1). We are discussing a specific relevance to the clause as proposed. The hon. Member is speaking to things that are nowhere in the reflective context of this clause and he is re-debating an entire policy position which we have passed already. So 48(1).

Madam Speaker: My recollection of the original debate is that that term “suspect” was debated in the original debate, so it would be in the Bill as passed here. So that while I gave the Member some leeway, because it appears in the amendment from the Senate, I am really not going to allow a rehash of the discussion about “suspect” and the policy position. So that I therefore ask you to contain yourself within the context of the amendment.

Dr. Moonilal: Madam Speaker, just so that I may be properly briefed and guided so I do not trample upon the Standing Orders and your ruling, it is being suggested that the word “suspect” was never in the parent Bill. It now appears in

an amendment. But, because we debated it on the floor, it now finds its way into an amendment in written form now, that one should curtail the discussion on the amendment and the concept of a “suspect” which comes to us now as a written amendment. Is that the position that I am understanding? [*Desk thumping*].

Madam Speaker: The concept of “suspect”, as my recollection allows, was introduced in the Bill that already came before us, and that was already debated. “Suspect” as appearing here is not new. While this is a new provision, “suspect” has already been debated in the Bill that we already passed here and, therefore, what you are articulating is something that was ventilated in the Bill as passed here. Therefore, if you wish to speak about the effect of this amendment coming from the Senate, I will allow it. If, however, you are going to deal with the issue about whether there should be a suspect, where this has this come from, that was already ventilated on this floor.

Dr. Moonilal: Okay. Thank you very, very, very much. So, Madam Speaker, we did not have this term “suspect”. We have it now. I am in mortal fear of asking where it came from, but I can ask the Attorney General to outline for us, since it is an amendment proposed in writing now, what are the implications of doing this. What are the implications of using a “suspect” as a party to a plea agreement [*Desk thumping*] when the “suspect” has not been charged, may not ever be charged at all, even with or without a furtherance of a plea discussion?

Mr. Al-Rawi: 48(1), Madam Speaker.

Madam Speaker: Member for Oropouche East, I will give you a little leeway but please be guided by what I have ruled and therefore not revamp the whole discussion. Okay, please.

Dr. Moonilal: Madam Speaker, I suspect I can go no further with that. I will go to B where we talk about “relative” and “appropriate” and “other” and to ask the Attorney General, again, what are the implications and consequences of this change for “relative”, and to ask—because we are trying to follow from two documents we received from the Parliament—and to ask the Attorney General to again tell us what is the heading—under which heading this will fall. If “improper inducement” is deleted, what is the new heading of this definitional area that he is proposing?

And, Madam Speaker, the gist, or the intent of “improper inducement” continues with this amended definition. It is just, I think, the bringing in of that term that I do not want to call, and it is the change with the reference to “relative”. But at (e) it is quite instructive as well:

“an attempt to persuade the accused person or”—that name—“to plead guilty notwithstanding the accused person’s or suspect’s denial of guilt;”

Madam Speaker, in bringing amendments like this it would be useful if the Attorney General, briefed by staff of the Attorney General’s Office and by others as well, I imagine, could indicate to us in layman terms—because when you make amendments like these and you pass legislation it is for the layman; it is for ordinary people who go to court [*Desk thumping*] and it is for lawyers as well, many of whom may not still understand some of this. But you are saying that the accused person, if that person or the suspect has a denial of guilt, it is an offence to attempt to persuade the accused person or suspect to plead guilty—

Mr. Al-Rawi: 48(1), Madam Speaker. This is nowhere in the definition of “relative”.

Dr. Moonilal: I am speaking to (e).

Madam Speaker: He is speaking to (e), Attorney General. The clause 2 amendment there is a subclause (e) under A and I think this is what the hon. Member is asking for some explanation.

Dr. Moonilal: You are correct.

Mr. Al-Rawi: He actually went on to “relative”.

Madam Speaker: And he came back to this. Please. [*Desk thumping*]

Dr. Moonilal: The Attorney General may be a bit anxious to move on, but we are just asking the question. You “doh” need to get touchy and so on. We are just asking the question as to where, how, and in what form is a denial of guilt recorded? And our understanding of a negotiation is that you have to seek to persuade.

So is it that once someone, a suspect or an accused person, states for the record a denial of guilt, that person is no longer fair game to engage in a plea bargain? Because in the practical workings of this matter, a suspect or a person accused will begin by a denial of guilt because if they do not begin with a denial of guilt, they could begin with a confession. But, Madam Speaker, I do not want to make, you know—I want to say, hypothetically, that if someone is accused of something, it is almost standard practice that they begin with a denial of guilt. [*Desk thumping*]

Someone is accused of ripping off oil, they begin by saying, “No, no. I doh know anything about that. It never happened. I doh know.” There is a denial of

guilt. It is a default automatic position. Now, what happens, is that a crime as contemplated by this clause? So if someone begins by saying, “I know nothing of this. I read it in the news and, not me, not me”; they get their lawyer to write a letter and so on, there is an automatic denial of guilt. How do you now go to a plea bargain arrangement without persuading the accused person, or suspect in this case, to change their mind? I just do not understand the practical operationalization of something like that. [*Desk thumping*]

Madam Speaker: Member for Oropouche East, your speaking time is now spent.

Dr. Moonilal: Okay, I will speak again.

Madam Speaker: Member for Caroni East. [*Desk thumping*]

Dr. Gopeesingh: Madam Speaker, this issue on clause 2A is fraught with issues of fundamental rights of citizens. [*Desk thumping*] And as you mentioned, the whole issue of suspect was discussed earlier, but 4E, now they bring it in here. Now, Madam Speaker, bear with me for just a few seconds. In the practical world, an officer of the law comes and says, “I suspect you to have done X and Y and I have 15 charges on you”—

Madam Speaker: Member, are you on clause 2? You are on clause 2?

Dr. Gopeesingh: Yes, 2A, Madam Speaker. “You are a suspect in so and so case. You are now accused of doing X, Y, Z. We want you to have a plea agreement. And then for that now, we want you to give information of X and Y.” You are a suspect in this case, no charges known. They just go and tell the person, “You are a suspect to be charged. These are the charges—five, 10 or 15 charges—“We will let you off on all of these charges if you give information about X and Y.” That is the “most deadliest” part of this piece of legislation. [*Desk thumping*] And this is unacceptable. Because why do you go to a suspect? Why it just cannot be an accused? So that is the issue that we are talking about.

Madam Speaker: Member, again, that is rehashing an issue that was dealt with. What we are dealing with is a definition of “improper inducement” and therefore I will allow you to speak if you are dealing with these definitions as they relate to an “improper inducement”.

Dr. Gopeesingh: Well, I am just asking for the deletion of the word “suspect” inside there, Madam Speaker. All right? I have made my point on that issue. And then I just want to ask, as my colleague was coming to but his time ran out, was the issue of substituting for “other”, “appropriate”. Madam Speaker, I mean, here

we have a number of attorneys in the Chamber, but for me as a layperson, on the parent law it says:

“relative” a parent, a spouse, a person, a child or a stepchild or other dependant.

And they want to substitute “other dependant” by “appropriate”. What is appropriate? [*Desk thumping*]

And as far I have been—I went to the thesaurus; I went to the dictionary. I did not know whether you have a law dictionary that defines “appropriate”. But the synonyms for “appropriate” are:

“Suitable, proper, fitting, or suitable or proper in the circumstances.”

So how is that relevant here? What does substituting “other” and putting in “appropriate”—who does that signify? It is ambiguous [*Desk thumping*] and really has no proper meaning inside here.

Madam Speaker, I think you would understand clearly, and there are a number of attorneys who deal with the criminal law here, and we have one on the other side, one on this side. So perhaps this could be a matter that the Attorney General could amplify and discuss. We know that the work of the other place was quite a lot, but even having been through there and coming here now with that definition and putting in “appropriate” for “other”, it is still confusing, Attorney General. And therefore I think the word “appropriate” is inappropriate there now. [*Desk thumping*]

So, Madam Speaker, these are my two points. I am asking for deletion of the word “suspect” and the issue of the “appropriate”.

Madam Speaker: Attorney General.

Mr. Al-Rawi: Thank you, Madam Speaker. I thank my learned colleague, the last speaker, for bringing some sense into the debate.

Hon. Member: What!

Mr. Imbert: Is it possible? [*Crosstalk*]

Madam Speaker: Order!

Mr. Al-Rawi: I wish to respond unfortunately to the observations made by the Member for Oropouche East, again demonstrating a fundamental lack of preparation. The hon. Member started off by saying he was not sure if we spoke to clause 2, (a) having been present on the last occasion, (b) having voted down

the fact at the continuation of the debate and, (c) not bothering to have reflected upon the records of the Parliament which are in black and white.

The hon. Member also went on to speak to what he put, the deletion of “improper inducement” which begs the question as to whether he even bothered to read what was actually on the Senate table, as now brought onto the House’s table. We are not proposing the deletion of “improper inducement”; we are proposing an amendment to “improper inducement”. So I cannot understand how the hon. Member could come to the conclusion that the phrase was being deleted. It just begs the question of whether there is preparation at all in the Member for Oropouche East’s contribution.

The hon. Member went on to say that there was—what happens after a denial of guilt, and he posited that there would be no fair game for a plea bargain, again begging the question as to whether the hon. Member even read the Bill, because the Bill specifically speaks to the fact that—

Mr. Charles: Mr. Speaker, Standing Order 48(4). He is insulting my colleague in reading the Bill. [*Desk thumping*]

Madam Speaker: Continue, please.

Mr. Al-Rawi: Thank you—again begging the question as to whether the hon. Member even bothered to read the Bill, because the Bill specifically provides for the entry into a plea bargaining discussion at any time before conviction. I mean, that is just pellucidly clear and it is quite embarrassing for a senior Member of the Opposition to come and make these statements just for the purposes of saying something. There must be context in this debate—

Mr. Charles: Madam Speaker, Standing Order 48(4). It is embarrassing?

Madam Speaker: Attorney General.

Mr. Al-Rawi: Thank you, Madam Speaker. Yes, Madam Speaker, it is unfortunate and embarrassing to receive submissions of the type volunteered by the Member for Oropouche East. I am not surprised but it is embarrassing.

Madam Speaker, the hon. Member for Caroni East spoke to the concept of the redefinition of “relative” by the qualifying context of “appropriate” being put to the nexus to the “relative”. The context is—and the hon. Member asked who deals with this. He volunteered a submission that it was ambiguous and he said that he could find no proper meaning. The context of that particular amendment is grounded in the fact that it is within the courts’ discretion to consider what

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“appropriate” means and it is to be interpreted in the context of the literal meaning of the word insofar as a court would be invited to consider a nexus between a relative and a relative in the broader context of Trinidad and Tobago.

The use of the qualifying word “appropriate” is not uncommon to jurisdictions such as ours. It is, in fact, represented by the wide definition that one gets for the cohabitational relationship structures in our society and therefore there is ample precedent in our jurisdiction to deal with this. In those circumstances, Madam Speaker, I beg to move. [*Desk thumping*]

Question put and agreed to.

Senate amendments read as follows:

Clause 4.

- A. In the chapeau, after the word “made” insert the words “in the interest of justice”.
- B. In sub-clause (b)(iii), insert after the word “suspect” the words “where there is evidence to sustain such charges against such persons”

Clause 5.

Delete and substitute the following:

- 5. A plea discussion may be held and a plea agreement concluded at any time before conviction, including, before charges are instituted.

Clause 8.

Delete Clause 8 and substitute the following:

“A prosecutor shall not initiate or participate in a plea discussion or conclude a plea agreement that requires—

- (a) the accused person or suspect to plead guilty to an offence that
 - (i) is not disclosed by the evidence; or
 - (ii) does not adequately reflect the gravity of the provable conduct of the accused person or suspect unless, in the discretion of the Director of Public Prosecutions, the charge is justifiable having a regard to-
 - (A) the benefits that will accrue to the administration of justice; and

(B) the protection of society from the prosecution of the accused person or suspect; or

(b) the prosecutor to withhold or distort evidence.”

Clause 9.

Insert after the words “shall not” insert the words “initiate or”.

Clause 10.

A. Delete sub-clause (1) and substitute the following sub-clause:

“(1) A prosecutor shall not initiate a plea discussion with an accused person who is not represented by an Attorney-at-law unless-

(a) the prosecutor has informed the accused person-

(i) of his right to be represented by an Attorney-at-law during plea discussions;

(ii) of his right to apply for legal aid and advice under the Legal Aid and Advice Act, where the accused person cannot afford to retain an Attorney-at-law;

(iii) of his right to protection against self-incrimination;

(iv) of his right to be presumed innocent;

(v) of his right to remain silent;

(vi) of his right to seek a sentence indication from the Court of the maximum sentence that the Court may impose if the accused person pleads guilty to an offence; and

(vii) that he may elect to have a third party of his choice present during the plea discussions;

(b) the accused person has informed the prosecutor, in the form set out as Form 1 of the Schedule, that having been advised by the prosecutor of the matters referred to in paragraph (a), he desires-

(i) to enter into plea discussions; and

(ii) to represent himself in those plea discussions; and

(c) the Court-

- (i) has been informed of the matters set out in paragraphs (a) and (b);
- (ii) is satisfied that the accused person is competent to enter into plea discussions and conclude a plea agreement; and
- (iii) approves of the initiation of plea discussions.”

B In sub-clause (2), delete paragraph (a) and substitute the following:

“(a) the prosecutor has informed the suspect-

- (i) of his right to be represented by an Attorney-at-law during plea discussions;
- (ii) of his right to apply for legal aid and advice under the Legal Aid and Advice Act, where the suspect cannot afford to retain an Attorney-at-law;
- (iii) of his right to protection against self- incrimination;
- (iv) of his right to be presumed innocent;
- (v) of his right to remain silent; and
- (vi) that he may elect to have a third party of his choice present during the plea discussions; and”.

Clause 11.

- A. In sub-clause (1) delete the words “the evidence against him” and substitute the following “the relevant evidence against him including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the suspect.”
- B. In sub-clause (2) delete the words “the evidence against him” and substitute the following “the relevant evidence against him including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the accused person.”

Clause 13.

- A. In sub-clause (1) delete the words “has the right to” and substitute the word “may”.

- B. In sub-clause (2) delete the words “of his right to” and substitute the words “that he may”.
- C. In sub-clause (3):
- (i) delete the word “of”.
 - (ii) In sub-clause 3(a) insert the word “of” before the words “the substance”;
 - (iii) In sub-clause (3)(b) insert the word “of” before the words “the date”.
 - (iv) In sub-clause (3)(c): Delete the words “the victim’s right to” and substitute the words “that he may” and delete the word “to” after the words “in Court or”.
 - (v) Delete sub-clause (4).

Clause 18.

In sub-clause (4) insert after the words “practicable to do so” the words “, and in any event before it is filed with the Court.”

Clause 24.

- A. In sub-clause (3)(e):
- (i) Insert the words “ (i) not incriminate himself; ”
 - (ii) In sub-clause (vii) delete the word “and” after the words “to remain silent;”
 - (iii) Re-number accordingly.
- B. In sub-clause (3)(f) delete the word “.” and substitute the words “; and”
- C. Insert new sub-clause:
- “(3)(g) was offered an improper inducement to enter into plea discussions or conclude a plea agreement.”

Clause 27.

In sub-clause (1)(b) delete and substitute the following:

“(b) adjourn the matter for listing in the High Court within thirty days.”

Clause 28.

In sub-clause (2) delete the words “fourteen days” after the words “schedule within” and substitute the words “twenty-eight days”.

Clause 29.

In sub-clause (2) delete the words “fourteen days” after the words “Schedule within” and substitute with “twenty eight days”

In sub-clause (2) delete the words “section 25(2)” and substitute the words “section 25(3)”

Clause 30.

A. In the chapeau:

- (i) Delete the words “(1)” ;
- (ii) Delete the words “to appeal against a conviction or sentence based on the plea agreement”;

B. In sub-clause (b) delete the word “or” after the words “plea agreement;”

C. In sub-clause (c) delete the word “.” and insert the words “; or”

D. Insert new sub-clause:

“(d) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice”.

E. Delete sub-clause (2).

Clause 31.

Delete and substitute the following:

“(1) Upon application by the Director of Public Prosecutions, the Court may set aside the plea agreement at any time before the sentence, if-

- (a) the prosecutor was, in the course of the plea discussions, wilfully misled by the accused persons or by his Attorney-at-law in some material respect;
- (b) the prosecutor was, induced to conclude the plea agreement by threats, force, bribery or any other means of intimidation or influence; or
- (c) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice.

- (2) The Director of Public Prosecutions may appeal to the Court of Appeal, with leave of the Court of Appeal or a Judge thereof, against an accused person's conviction or sentence pursuant to a plea agreement where –
- (a) the prosecutor, in the course of plea discussions, was wilfully misled by the accused person or his Attorney-at-Law in some material respect;
 - (b) the prosecutor was induced to conclude the plea agreement by threats, force, bribery or any other means of intimidation or influence; or
 - (c) there are any other grounds upon which the plea agreement may be set aside by the Court in the interest of justice.
- (3) Where, in accordance with subsection (2), the Director of Public Prosecution is granted leave to the Court of Appeal, the Director of Public Prosecutions shall give notice of Appeal in form set out as Form 10 in the Schedule within twenty-eight days of the sentence passed.”

Clause 34.

Delete and substitute the following:

“A Court may, in exceptional circumstances, upon application by either party or in its discretion, order that the records of plea discussions or a plea agreement be sealed, if the Court is satisfied that the sealing of the records is in the interest of justice and the Court shall give written reasons for the order.”

Clause 36.

Delete and substitute the following:

“The Rules Committee established by the Supreme Court of Judicature Act may, subject to negative resolution of Parliament, make rules for the purpose of this Act.”

Schedule.

A. In Form 1 delete (b) and substitute the following:

“(b) I have not been induced, threatened or forced in any way to enter into plea discussions.”

B. In Form 1A insert the following:

“(c) I have not been induced threatened or forced in any way to enter into plea discussions.”

C. In Forms 3 to 11 insert the word “/suspect” after the words “accused/defendant” wherever they occur.

Madam Speaker: Attorney General.

Mr. Al-Rawi: Madam Speaker, I beg to move that this House agree with the Senate in the amendments to clauses 4, 5, 8, 9, 10, 11, 13, 18, 24, 27, 28, 29, 30, 31, 34, 36 and the Schedule of The Criminal (Plea Discussion and Plea Agreement) Bill, 2017, so volunteered by agreement between the two Benches of this honourable House via their leaders.

Madam Speaker, clause 4 of the Bill now brought before us seeks to pluck five amendments which the honourable Senate has provided to this House for consideration. In the first round, if I could take the first of the five elements, we are proposing that in the chapeau after the word “made” that we insert the words “in the interest of justice”. So that it will now read:

“For the purpose of this Act, a plea agreement is an agreement made in the interest of justice between the prosecutor and the accused person or suspect.”

This amendment was considered appropriate for consideration so that the court would be enveloped into consideration of usual parameters in law which the courts are called upon to consider as being in the interest of justice. These are terms of art in the law in the administration of justice and the other phrase that usually goes along with that is “in the administration of justice” and it is meant to tie in the prevention of abuse where there is insufficiency of evidence in particular.

That flows logically to the second part of amendments to clause 4, and that is where we seek to insert after the word “suspect” the words “where there is evidence to sustain such charges against such persons”. It means that in subclause (b)(iii) the clause would now read as follows:

(b) would start:

“the prosecutor agrees to take a particular course of action including—

(iii) an undertaking not to institute charges against family members or friends of the accused person or suspect;”—
where there is evidence to sustain such charges against such persons.

This again was volunteered by the Senate as an appropriate consideration for the House for adoption to seek to prevent the abuse for insufficiency of evidence, and albeit that the language expands the thought already there, it was considered to be an appropriate expansion simply to safeguard against abuses which Members of this honourable House had also raised on the first occasion of considering this Bill.

The third part of amendments really are now in subclause (b)(iv) where we seek to delete the word “by” and substitute the word “on”. This is really just a stylistic change. It causes no real impact into the interpretation of that subclause (b)(iv). The fourth part would be the deletion of subclause (b)(vii). We propose to delete (b)(vii) which would have provided that the prosecutor agrees to take a particular course of action, including—and here is what (vii) said:

“an undertaking that a conviction pursuant to a plea agreement will not be used as evidence of bad character at the trial for a specified offence or for any other offence;”

Hon. Members of the Senate felt that this was appropriate for the discretion of the court and that bad character evidence should not be excluded as a statutory provision and instead it should be left to the discretion of the court to consider that, because it may well be appropriate for the introduction of “bad character” evidence in certain egregious circumstances, or where the prosecution considered it appropriate. It does not prevent us, however, from it not being admitted in the circumstances of the aim and intention behind plea bargaining in and of itself.

The fifth part of this clause 4, which is proposed for adoption is:

In subclause (b)(viii), delete the words “by complaint rather than by information” and submit instead the formula “summarily rather than indictably”.

Again this is a stylistic change grounded in terms of the utilization of language which one can find between Chap. 12:01, the Preliminary Enquiries Act and Chap: 4:20 which is the Summary Courts Act.

I move on next to clause 5, Madam Speaker. Clause 5, we propose that there be a small amendment in a reformulation and tightening of language. We propose that there is a deletion and substitution such that clause 5 would now read, instead of having the break-out in subclauses (a) to (e), there would be one paragraph restated as follows:

“A plea discussion may be held and a plea agreement concluded at any time before conviction, including, before charges are instituted.”

This was thought to be necessary simply because the break-out could have been subsumed in one paragraph rather than in the individual statement of the specific time markers of before charges, during committal, before arraignment, any time after committal or any time during summary offence. So it was a tightening-up of the expression of language used there.

I move on to clause 8, Madam Speaker. It is proposed that clause 8 effectively be substituted as follows, and as appears on the submission. Excuse me, just one moment. Madam Speaker, in Clause 8 we are proposing a restatement as circulated and in the restatement as circulated it really is just a restructure and renumbering exercise in clause 8 where we say that:

“A prosecutor should not initiate or participate in plea discussion”—unless there are certain circumstances provided as restated.

In clause 9 we are proposing that after the words “shall not” that we insert the words “initiate or”. This submission is intended to extend the prohibition on prosecutors from encouraging plea discussions where representation is in effect. And if there is representation by an attorney-at-law, then there was a request that there be a further safeguard so that all aspects of the initiation of the plea discussion could be captured.

I move on to clause 10. In clause 10 we are proposing the deletion of subclause (1) and the substitution as appears in the amendments as circulated. What we are seeking to do here is to really express constitutional rights which are guaranteed in any event. One always knows that section 2 of the Constitution expresses the supremacy of the Constitution. There is no technical need for the expression of entrenched rights as a matter of course into statutory laws. But nonetheless we have taken the opportunity to be expansive in the expression to provide for the right to legal aid, to provide for the protection against self-incrimination as appears in the Constitution, to provide for the right to be presumed innocent, the right to remain silent and the right to seek a sentence indication of the court for maximum sentence. That latter point, of course, being something which has been incorporated by way of the Goodyear principle, now the subject of a direction and practised direction by the Chief Justice, so gazetted.

3.30 p.m.

The reflection of those amendments which I have just referred to, the expression of stated rights and practised directions, finds itself repeated in the further provision suggested in clause 10 for amendment, and that includes the

agreement of plea discussions being recorded, being removed. It was felt that the inclusion of plea discussions being recorded, particularly in circumstances where there was a lack of representation, that that would perhaps infringe against the right of self-incrimination, and that, of course, is something which we have to be very careful to provide against, and so the recommendation was provided in that form.

We have dealt with the issue of competence in Roman (ii) as an inclusion that would happen there. In that particular point, we took avail of the discussions as to competence which we had dealt with in the committal proceedings, another piece of law which, without reviving that piece of law, we felt that there should have been proper consideration on. So we have added in the concept of competence which would cause a court to explore the competence of persons engaged in plea discussions as a matter of requirement for the court, so that somebody who is not mentally incompetent, or with deminished responsibility, found himself unwittingly admitting to a plea bargaining discussion moving into a plea agreement which could have been otherwise avoided. In B of this particular amendment, we are reflecting again upon the so-called rights of the Constitution being expressed again as we provide for in subclause (2).

I move on to clause 11. In subclause (1), we are proposing the deletion of certain words as they appear in the circulated amendments and the addition of the words including “the relevant evidence against him including any evidence in the possession of the State”. This is to insert into the law the common law discovery and disclosure of provisions, such that you are obliged to produce the evidence which is detrimental to the State’s case as an automatic consideration for disclosure and, importantly, that we take avail of all evidence for disclosure which the State may have and not just that which the prosecutor may have. So it was felt that this was an improvement to the law in that regard.

We have similarly repeated that in subclause B as it appears in the circulated amounts—in the circulated provisions, forgive me. We have also sought the insertion of the word “relevant” as a qualifier to evidence. So that again, we are dealing with the safeguard of disclosure and discovery as a protection for the rights of the accused.

We move on next to clause 13, Madam Speaker. In clause 13, we are seeking to make sure with respect to “Victim Impact Statement” that we have in fact the provision that there is a voluntary participation in victim impacts. It was felt by Members of the Senate that we ought not to put in a mandatory provision. It

should instead be a voluntary position and that the court should understand it in that context, particularly in respect of any adverse inference which may be drawn from that.

I move on to clause 18, Madam Speaker. Clause 18 deals with the filing of victim impact statements and it was really an attenuation to insist that the filing of statements, that it be exchanged in any event before it is filed at the court, and that is to avoid a wastage of time, consequent upon adjournments, occasioned by late service, so that we could actually act in the best administration of justice.

I move on to clause 24. In clause 24, we are repeating the proposals which we have added in respect of clause 10, specifically by the recanting of rights against self-incrimination and the renumbering of clauses as so provided in the circulated draft. We are seeking as well, in clause 24, to insist that the judicial officer have a reflection in considering the propriety of adopting a plea discussion into a plea agreement that there was no improper inducement to enter into plea discussions or conclude a plea agreement.

I move to clause 27. In clause 27, Madam Speaker, we are seeking to make amendments to avoid persons having the opportunity to jump the queue. By jumping the queue—we could have jumped the queue in the original language because there was a prescription that the matter be listed for trial as opposed to return to the court to then enter into the queue—it is to avoid an abuse of process where persons could have elected to go into the system in non-genuine circumstances and then cause an acceleration of the time frame for their trials before the High Court.

I move to clause 28. We are seeking to adjust the time frames away from 14 days instead to 28 days to be more realistic as to the time frame that it takes to involve oneself in the type of process and the administration of justice. That finds itself similarly in clause 29 where we make an adjustment to the time frame away from 14 days to 28 days.

I move to the clause 30. We are proposing to disaggregate the provisions against appeal away from the circumstances where there is withdrawal or setting aside of agreements. And in that regard, Madam Speaker, what we are seeking to do is to make it clear the circumstances that one engages in in causing a withdrawal from a plea agreement, in causing a setting aside of that which has been agreed, and then in allowing for an appeal on that which has already been entered because there are three separate circumstances. That would naturally flow into the observations in clause 31, as appears in the draft as circulated, where we

have disaggregated the setting aside of plea agreements from appeals per se, again, to allow for a better fluidity in the understanding of the application and process of the law.

I move to clause 34. We are seeking to qualify the sealing of records by making it such that they are only sealed in exceptional circumstances as opposed to automatically and that that sealing is caused in the interest of justice, again a term of art as a qualifying statement to ensure that the courts do not just seal everything automatically.

Clause 36 as I come to a close, we propose, instead of the Minister making regulations, that it goes to the Rules Committee as is the normal circumstance, and in the Schedule we have taken a care of the necessary consequential amendments caused to the Schedule by way of adoption that we now have.

In those circumstances, Madam Speaker, I beg to move. [*Desk thumping*]

Question proposed.

Mr. Ramadhar: Thank you, Madam Speaker. It is unfortunate the statement that the road to hell is paved with good intentions. This legislation really has a genesis in an effort—and I congratulate the Attorney General and this House and the Upper House for the efforts they have made to bring legislation that could truly be a tool in crime-fighting to limit the length of time in terms of investigation, to limit the time in terms of the court and, indeed, what is most significant, as a tool in a weapon against cohorts, co-conspirators and others involved in crime. But I think we have missed the mark altogether because in this legislation—and I hope I could be borne out to be wrong—there is absolutely no penalty imposed on a person who uses his doorway into our judicial conscience to walk with a dagger and use the machinery that we are creating here today, not as a tool in crime-fighting, but as a weapon that will leave a bloody mess with those who might be innocent. [*Desk thumping*]

Madam Speaker, it is obvious that there are many who will be highly motivated to access this new mechanism to avoid lengthy jail terms or even the penalty of death in certain matters, and that they must produce to that effort to avail themselves some material usable by the police and the prosecution to further prosecutions against other persons. In this era, in particular the recent past, I had grave concern when I read in the newspaper last weekend of a meeting of the highest levels of national security where it was reported that a Minister of this Government instructed the head of Special Branch to lay charges against—I do

not know the name of the person, whomever, but a constable I believe in the police service. This person having been investigated, the report—[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6).

Madam Speaker: Member for St. Augustine, one, in terms of, I would like you to tie your contribution strictly to the amendments before the House. Nobody raised 48(1), but this is coming from the Chair. In terms of the statement that you made, even though it may be a statement you read in the newspaper, I think you have to be careful because whatever you say it is really your statement here, and therefore, you do not want to offend Standing Order 48(6).

Mr. Ramadhar: I am most grateful and that is why I have waited with bated breath for any denial that that meeting ever took place and I have not heard it, and that is what troubles me to no end. In fact, when we have these suspicions, whether they are grounded in truth or in reality, or whether they are just fictitious, it is very fertile ground for very good legislation to be demonized, and that is the point I am making. And there is a fix that could be easily done in all of the amendments to deal with this, that where a person who may have been improperly induced to plead, that if it is that they should manufacture evidence whether with assistance or not, and that it is found out, there should be a special penalty for such person. [*Desk thumping*] To do—sorry.

Madam Speaker: Is it that you are proposing a further amendment?

Mr. Ramadhar: Yes. Absolutely, I am because otherwise it will be a rogue's gallery for those to present themselves, [*Desk thumping*] suddenly getting a conscience call to offload, when in fact it is manufactured evidence and this country is replete with examples. I do not have the time or the inclination to repeat myself of the matters that involved Mr. Basdeo Panday, Dhanraj Singh, Narinesingh and a host of others. [*Desk thumping*] But if we are today to limit ourselves to just the mechanics of words and say that we have done amendments and we have not fit that foundation upon which all of this will have credibility, then we are wasting our time. [*Desk thumping*] Not just we are wasting our time, we are creating a weapon for the evil in the society to succeed. [*Desk thumping*]

I do not take credit for this, but I will tell you when we came into office in 2010 under the prime ministership of the hon. Kamla Persad-Bissessar, one of the things that we decided upon was really to deal with this issue of plea bargaining, and it took a lot of effort and a lot resistance in the society to get things going, and a lot of work—and the Attorney General I am grateful. I think he actually acknowledged the work that had gone long before in our administration and the

continuity that is required for good things to come forward, but they did not do the most important and essential thing and that is to protect the innocent. [*Desk thumping*] In this period where allegations flow left and right, even our dear Prime Minister is now implicated in some form or fashion, you may have persons who may wish to come forward and give—[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6).

Mr. Ramadhar: Let me rephrase. I am sorry, Milady. What I am saying, no one is above allegations in this country [*Desk thumping*] and when I speak I do not speak as a member of the Opposition or whatever. I speak as a citizen who cares about the future and the judicial system and the processes of this country.

If it is that we are to do this thing and to vote for this bit of law, how could we not then appreciate the greatest weakness in it and fix it here and fix is now? [*Desk thumping*] It might seem convenient that when you are empowered and in a position of power to feel that the law will not come back and bite you, but when a creature—I understand there is a loose snake in this building. I read it in the newspapers. I do not know. You never know when you could be bit by the very thing that you feel is your friend.

So, Madam Speaker, I am not here to do anything other than to give you what I consider my conscience speaking to law that could be very great or be very, very evil. And indeed, I am reminded that what I speak to is not based only on personal feelings, but it is one of the strictures in our scriptures. At Exodus 23.1 it is said:

“You shall not bear a false report; do not join your hand with a wicked man to be a malicious witness. You shall not follow the masses in doing evil, nor shall you testify in a dispute so as to turn aside after a multitude in order to pervert justice;” [*Desk thumping*]

I ask of nothing more, that if we are to proceed—and I speak for the support of all of us I am sure, that if we have to support law it must be on a basis that it is good law first of all, it is useful law, but more important than anything else it must be a tool and not a weapon. [*Desk thumping*]

Madam Speaker: Member for St. Augustine, in terms of, are you speaking to any one of the specific amendments?

Mr. Ramadhar: Yes.

Madam Speaker: And if I understand the general gist, may I ask if it is that you are going to be proposing the text of an amendment?

Mr. Ramadhar: Thank you very much. I do in relation to improper inducement. You see because the issue of improper inducement is very wide. One can look at it from a very narrow point of view that one can be induced to plead against yourself, but one could also be induced to plead against yourself to get a lesser sentence but that part of the deal would be that you be used as a witness against others [*Desk thumping*] and we have had a long history where there is no testing of the evidence that is created, cultivated, nurtured against others other than who say what. They take their word, put it in writing and have it sworn and call that sworn testimony, and that is good enough when there is no scientific or other even logical testing to ascertain whether there is creditability to the very evidence upon which we rely.

In Dhanraj Singh, as an example, the witness who was part of murder by his own word, he was part of a conspiracy to kill and the killing took place, therefore he was a murderer, gave evidence that a door had been locked—[*Interruption*]

Madam Speaker: Member for St. Augustine, I am really having a bit of a difficulty, in that, this is very specific. I have heard you said you are talking about improper inducement which was dealt with and already passed, so that we cannot be dealing with clause 2. If it is you are talking in the general context of the Bill, again I cannot permit this procedure because we are limited to the amendments before us. So I will ask you if it is that you are speaking to one of the clauses that we are now considering, I will allow that. I cannot take us back to clause 2 and I cannot allow a general debate.

Mr. Ramadhar: Thank you very much. Well then I will move directly now to propose that there be included an amendment for a very high penalty for anyone who is found to be manufacturing evidence, lying, or perverting the course of justice in that effort.

Mrs. Robinson-Regis: Madam Speaker, if I may, if the Member would allow? Is that the specific amendment that there will be a general—I was not sure. Is that the amendment that you are proposing?

Mr. Ramadhar: To be without doubt and be without uncertainty, there must be an amendment that creates a specific offence with a high penalty for anyone who uses this law and manufactures evidence as a part of the inducement to plead. [*Desk thumping*]

Madam Speaker: And again, is the text going to be circulated? So that I want to know if there is going to be an amendment to put to the House, is that text going to be circulated?

Mr. Ramadhar: Madam Speaker, I could ask the assistance of the Attorney General's Office and I see—I am a Member of the Parliament.

Madam Speaker: Members! Members, could we have some courtesy please?

Mr. Ramadhar: If I should *viva voce* suggest it, I do not know if there is a requirement. I have no great skill in legislative drafting, and there are the experts sitting amongst us and the very purpose they are here is to assist in these matters. So I do not propose to put a script before this House, but to put the idea for fulmination on the matter. [*Desk thumping*]

Madam Speaker: Okay, may I call now upon the Member for Laventille West.

Mr. Hinds: Thank you very much, Madam Speaker. I should not be long, except to say, and to say, that my friend, the Member for St. Augustine, is saying that he has proposed an amendment and that amendment is supposed to create an offence for improper inducement, a place we had been before in this debate. That was originally proposed, it was taken out and the effect of the current law, for his edification, is that if there is an improper inducement it will have the effect of nullifying the force and the legality of the plea, rendering it a nullity. That is the effect of it. And, Madam Speaker, if anyone is found liable for an improper inducement in that context, lending itself to a nullity in respect of the plea or the agreement, then that officer or that person can be dealt with in accordance with other laws that are in existence including perverting the course of justice and such like.

Hon. Member: Where the criminals?

Mr. Hinds: Ah?

Hon. Member: Where the criminals?

Mr. Hinds: Where there are heavy criminal sanctions. In addition to those, Madam Speaker, it is the case that—well I need say no more. I will confine myself to that, and if you accept my propositions in this regard, Madam Speaker, then my friend is taking us again around the mulberry bush, quite unnecessarily, we have dealt with that. Thank you very much.

Dr. Moonilal: Thank you very much, Madam Speaker. I will address a few matters in the clauses that have been outlined for us to debate pursuant to the Motion, and let me say at the beginning, after my last experience, I will speak to the national community and not to the Attorney General. If hurling abuses and

insults is the order of the day, we will not address the Government. [*Desk thumping*] I think we are numb to it here and the national community is numb to bullying, intimidation, insults and abuse by all.

Madam Speaker, I just want to follow up on that matter raised by the Member for St. Augustine, and quickly by the Member for Laventille West. The amendments tampered with before improper inducement and that is fine. I am not debating that. In the parent Bill which we debated some time ago, is there an offence of improper inducement with requisite penalties? Is there?

Hon. Members: No.

Dr. Moonilal: Because it seems to me, Madam Speaker, if you create in the interpretation section “improper inducement” which you now amend—that is fine. That is gone—what flows from that in the other clauses here? No special—I think that is the point the Member for St. Augustine is making—offence is created.

While the criminal law may cater for that, in the parent Bill another amendment—if the Government so minded—would have created the specific offence of improper inducement pursuant to this piece of legislation and put the penalties associated for it right here [*Desk thumping*] and I think that is what we are talking about. Is it an offence in the first place for improper inducement? As defined here it renders it null, but if, for example, the prosecutor in this piece of legislation breaches a conditionality here for improper inducement then you have to find the penalty in another area of the law, whereas, the recommendation here is to create a special offence here pursuant to this and I think that is something we could merit.

I just want to go to a few of the clauses and raise simple questions, but again at the risk of insult because I am raising these questions—I remember, Madam Speaker, when we were in the LRC for several years, under the distinguished chairmanship of the Member for St. Augustine, it was common knowledge—well the Minister of Finance who is not the chairman of the F&GP now talking—in the LRC that when we go through legislation like this we would ask colleagues, particularly colleagues who were not in the law, to interpret and explain, and every single area we were asking, explain how do we operationalize it, explain how could this be abuse and let us put in measures now to stop abuse. [*Desk thumping*] Now, if that was done some of these discussions we would not be having in the first place.

So, Madam Speaker, it is of course evident that the word “suspect” carries over, but we are not going to talk about that anymore. At number four there is

amendment at clause 4 in the interest of justice, insert the words “in the interest of justice”. It comes in there and that is fine although I do not know what is the meaning of it. In the parent Bill it says:

“...a plea agreement is an agreement made between the prosecutor and the accused person...”

And now it is:

“...made in the interest of justice between the prosecutor and the accused person...”.

At B the amendment reads:

“In subclause (b)(iii) insert after the word ‘suspect’ the words ‘where there is evidence to sustain such charges against such persons’”

Madam Speaker, just the question to ask for the practical operationalizing of this measure at (b)(iii), who sees this evidence, “where there is evidence to sustain such charges against...persons”, and this is a matter in plea agreement. Is it that the accused, or the suspect, or their counsel will see the evidence where there is evidence to sustain such charges? Again, if I explain it in layman terms and if I am correct in the first place, you are making a plea agreement with someone, a plea bargaining, and you are telling them, look we need you to agree to A, B, C because we have X, Y, Z on you, and you are saying here where there is evidence to sustain such charges against the person, who sees the evidence here? Is it that the authority goes to the suspect and accused and say we have evidence against you? But would they be allowing counsel or the accused or the suspect to see the evidence? Because, Madam Speaker, what obtains now is that you call in a suspect, you [*Interruption*]*—*Madam Speaker, the Minister of Finance will bore the country for four hours in the next few weeks and is disturbing me now.

What obtains now is you call in the accused, you question the accused I understand for a day and a half, you ask the accused 190 questions, when it is finish you tell the accused sit down and then you go the next morning and you charge. When the accused go to court the prosecutor says, “When the case call in January we will tell you about the evidence then”. At no time is an accused or an attorney-at-law, defence attorney, seeing evidence. Now you are saying, “where there is evidence to sustain such charges against such persons”, but they will not see it. They will not see it. In fact, the accused person would not even see a search warrant. They cannot even see a search warrant. [*Interruption*] No, Balisier House will get that before the accused person get it. [*Desk thumping*] So you cannot

[*Interruption*]*—*well the Prime Minister has knowledge of these things. So the point I am making—[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6), please.

Dr. Moonilal: Oh, she got up.

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(6).

Madam Speaker: Member for Oropuche East, I rule that it is out of order. So if you could rephrase that and also remember to tie in what you are speaking with respect to the amendment that is before us. Okay? You are stating an amendment, but you have gone off on something else. Bring it in to the amendment.

Dr. Moonilal: Yes, sure. But, Madam Speaker, I will just stay on this one piece to amendment I am on. The question I am asking is just a simple—[*Interruption*]

Madam Speaker: And you would just—[*Interruption*]

Dr. Moonilal: At the earlier point?

Madam Speaker: Yes please.

Dr. Moonilal: And the earlier point I was making is that the police, the prosecutor, will have in their possession evidence of one sort or another. Other people may or may not have it, but as is the practice now there is no compulsion to show an accused person or counsel what you have. How it works now is like you play poker and you keep the cards to your chest, you question, you arrest, you charge, and when your case comes up next six months you may see a search warrant and next two years disclosure. They will get disclosure as they go along.

4.00 p.m.

So in 4B, is this upfronting disclosure? Are you telling the suspect or the accused by 4B here:

“...where there is evidence to sustain such charges against such persons”

Who sees this evidence? Is it the DPP? Because the accused person or suspect, as of now, does not see evidence. He may never see evidence. So you are asking people to plea-bargain with you based upon what you tell them, what you mamaguy, what you intimidate, what you harass, what you torture, but this will not be shown to an accused or a suspect. They will be told, “we have evidence against you, yuh facing 30 years in jail”. But the law says:

“where there is evidence to sustain”

—but they will not see it. And my point, just for clarity, is who will see this evidence against the persons where charges can be sustained and that person, or persons, is a suspect or an accused will not see anything and just to clarify that. And when? If they do, it is after they are charged. Or is it that when the person signs a plea bargain agreement, then you show them evidence?

Madam Speaker, the other point—I want to go on to clause 5 now:

“A plea discussion may be held and a plea agreement concluded at any time before conviction, including, before charges are instituted.”

And just to return to the earlier point that a suspect, a person who you have grounds to suspect is guilty of something and now we are told where you have evidence to sustain a charge that the person will not see, that person qualifies to enter into a plea agreement with the authorities. And the same risk you carry here, those persons are before a law enforcement agency—the police or a branch or a unit of the police service—they do not know what evidence is against them, they are told one or the other and they now qualify to get into a plea bargaining arrangement on that alone and that, we have a difficulty with that.

Madam Speaker, there is also at clause 8, something that struck me there as well at clause 8, and that deals with prohibition against plea discussions in certain circumstances, and I will just go to the parent Bill:

“A prosecutor shall not initiate or participate in a plea discussion or conclude a plea agreement that requires the accused person to plead guilty to an offence that—

(a) is not disclosed by the evidence;”

Again, this raises a fundamental question. Did the accused person see the evidence or is it in the hands of the DPP? So that, it is now a wrong—I do not know if it is an offence but it is a wrong for a prosecutor to initiate plea discussions or conclude plea agreement which requires an accused person to plead guilty but that offence is not disclosed on the evidence. Who sees the evidence? Is it the accused person and his counsel or is it the DPP? Who is policing, in a way, policing, supervising, overseeing this particular part of the legislation? I think that is the more fundamental question. Who is responsible for overseeing this?

Because you are setting here an interesting thing. A regime is coming into place to deal with plea bargaining but there is no one body or one person

overseeing it. Now when you go to the court, that is after presumably somebody plead guilty, that is after somebody enters into a plea agreement, the court will then supervise it. So the court supervises way after the fact. Down the road. By then somebody in jail for 12 months, 18 months and so on and much later after the fact. They create, of course, prohibitions against the prosecutor withholding or distorting evidence in the original.

The Form 1—I will just go to clause 10 immediately. I notice the Form 1 is out and I think that is because of the changes that they have brought. Clause 10 deals with, just so we know:

“Conditions for entering into plea discussions with an unrepresented accused person”

It has been taken out because of the subsequent changes.

Madam Speaker, back to clause 10 and one of the amendments here at (vii). The accused person has a:

“...right to seek sentence indication from the Court of the maximum sentence that the Court may impose if the accused person pleads guilty to an offence; and that he may elect to have a third party of his choice present during the plea discussions;”

This is for unrepresented people. I am not sure in any area here if there is any identity or any qualification of what would be “a third party of his choice”. Again, I could be wrong, it may be somewhere, but for clarity, you know. Someone is engaging you for the purpose of a plea discussion, that person is unrepresented, possibly by choice, you allow the person to have a third party of his choice. Now who is this third party? Who could it be? A relative? A friend? A co-accused? Another suspect? An assistant? I do not know and maybe when this was drafted and whoever gave this would have had something in mind that we are not seeing there.

Madam Speaker, moving now. The victim impact statement, I think it is clause 13. We go to 13 as well. Before we go to that, I just want to stay at clause 11 for a minute. I am trying to follow the amendments here as we have them outlined. Clause 11 deals with:

“Prosecutor’s duty to disclose evidence”

If plea discussions are initiated before charges are made, the prosecutor shall inform the accused person of the allegations against him and provide the

accused or his Attorney-at-law with a written summary of the evidence against him.”

Now, is this actually an inducement? And the Member for St. Augustine has a wealth of experience in this process. Whereas in the common practice, there is no requirement to tell people the evidence you have against them, you are putting here now:

“If plea discussions are initiated”—but—“before charges are laid, the prosecutor shall inform the accused person of the allegations against him and provide...a written summary of the evidence against him.”

So you are providing a written summary of evidence presumably to the legal counsel of what we have against you, but plea discussions have been initiated. It may end in agreement or it may not. But does not this accused person has a big advantage over normal people, normal accused who is not contemplating plea discussions? So someone is contemplating a plea discussion, they get to see the evidence that you have against me. I am not going to be entering into any plea discussion, I do not see the evidence you have against me. How will that work in practice? This is also an inducement for someone to enter. And it is summary, eh, and I will come back to this business of summary in a little while. But it is a summary of the evidence that you have against them goes to what is now a special accused person because that person wants to be in plea bargaining arrangement, whereas a normal accused person does not have this as a matter of law, as a statutory protection even, does not have this. And again, I wanted to raise that.

I mean, I raised this for the members of the public because you see, Madam Speaker, somebody out there would be an accused, would be a suspect. They would go to a police station and the police station say, “Well we want to put you through a plea bargaining arrangement, what yuh say?” And all of this written in law and statute, “duz sound good, is nice”, but when “yuh reach dey, is yuh squealing or yuh not squealing. Yes or no.” And they will operate in a particular culture, it is the culture of this country. And police culture, in this country, is a distinct post-colonial police force culture of which the Member for Laventille West was once a part, I think. He was an early recruit to the police, eh, when the requirements, I think, were three O levels.

Mr. Hinds: Would you give way?

Dr. Moonilal: No, I am not giving way. [*Crosstalk*] I know it must be important coming from you but “gimme ah minute”. [*Crosstalk*] You will have your lawyer and the point I am making is you will get a written summary of the

evidence when somebody else will not get a written summary of evidence so you bring them into this process now, where they may choose not to enter into a plea agreement. [*Crosstalk*] But what I am saying is that an accused person involved in plea discussions and plea agreement, once he says, “Listen, I want to bargain with you, yuh see written submission”. If somebody not bargaining with you, you do not see it, and there is a particular culture.

Madam Speaker: Member, again, remember, we are not dealing with an overall policy, we are now dealing with the amendments that are coming from the Senate. That point you may have made in the earlier debate, if you wish, it is not permissible at this stage.

Dr. Moonilal: Okay. Madam Speaker, staying with clause 11, because I think I made this here, it says:

“In the sub-clause (2) delete the words ‘the evidence against him’ and substitute the following ‘the relevant evidence against him including any evidence in the possession of the State which materially weakens the case for the prosecution or assists the case for the accused person.’”

So, again, this gives a particular advantage to accused persons involved in plea bargaining and plea discussion that they will see—and I am very curious about “the relevant evidence against him”—not “the evidence against him”, what is determined to be relevant.

Who is determining this “relevant evidence” to show as opposed to “the evidence against him”? If you accuse somebody, you have evidence against them but now someone in authority will determine the relevant evidence that the person must see. [*Interruption*] Madam Speaker, the Member for Laventille West had all his time, he chose not to use it, he wants to use mine now, he wants to share my time. So could you please—

Madam Speaker: Hon. Member, please proceed.

Dr. Moonilal: Yeah, let me proceed, Madam Speaker.

So, Madam Speaker, and I want to proceed again, number—well I will jump right down to number 24 now because I think we are dealing with that as well, 24. It deals with procedure at plea agreement hearing and spells out:

“A plea agreement hearing shall be held in open court, unless...”

—et cetera, et cetera, and at (3)(g), they are now suggesting at (3)(g)—well, it is to insert now.

“Insert new sub-clause:

‘(3)(g) was offered an improper inducement to enter into plea discussions or conclude a plea agreement.’”

And that deals with the procedures, it deals with:

“Before accepting or rejecting a plea agreement, the Court shall”—look into all the circumstances that have been done—that they went through.

But that matter dwells here as well is that this disclosure requirement for plea discussion, whether or not that by itself induces someone to enter into a plea agreement, contrary to the overall policy framework of the Bill, which is, I think the overall policy is not to induce, to have people of their free mind give some type of consent.

And Madam Speaker, this will also have another—again, I want to make the point that police culture is police culture. It does not work like this, you know, following all these things in black and white in the statute. It will work with a heavy hand given the culture that exists here and the extent to which this type of amendment, particularly with the inclusion of what we spoke about before, could lead to abuse by persons.

So, Madam Speaker, I would just end by reiterating my support for the proposed amendment that a specific offence be developed to deal with this improper inducement pursuant only to this piece of legislation.

Madam Speaker, thank you. [*Desk thumping*]

Mr. Al-Rawi: Thank you, Madam Speaker. I start to address the point raised by my learned colleague for St. Augustine in speaking to the encouragement that there be an offence for improper inducement and I wish to harken back to the extensive consultation, including those consultations reduced into writing under the tenure of the last Government, now Opposition, where there was an open agreement that as a result of the presence of section 5 of the existing law, which created an offence for improper inducement, Trinidad and Tobago was reduced to the position where they have only been 12 plea discussions leading to plea agreements in the time frame and it was a specific recommendation of all stakeholders, including the circumstances where those stakeholders brought submissions to the Government. There was broad agreement under the UNC Government that there should be no offence associated expressed so to be an offence in the parent law.

The fact is that the Member for Laventille West has put it quite properly. There is in fact a sanction to the existence of an improper inducement. Firstly, that the agreement itself is polluted *ab initio* and is set aside. Secondly, the agreement may itself be withdrawn. Thirdly, it may be the subject of an appeal within the processes prescribed by the Bill. Fourthly, the common law applies in particular in relation to the perversion of the course of justice, administration of justice. You have breaches of the Judicial and Legal Service Commission in terms of the officers of the DPP's office; you have breaches of the Standing Orders, rules and regulations of the Police Service Act and therefore, one can find oneself in proper criminal circumstances for a breach of an improper inducement. So the law is pellucidly clear that there are sanctions, and laws of course operate as are articulated together.

Madam Speaker, I listened trying to pick sense out of the submission of the Member for Oropouche East. I have to say it is embarrassing [*Desk thumping and crosstalk*] and it is embarrassing for the following reasons. The hon. Member stood up, stumbling his way through the Bill which he appears to read for the first time and he asked in relation to clause 4 of the Bill. He asked whether we were dealing with a situation of who is going to disclose evidence. Whose hands is the evidence in? Is it the DPP's evidence? That the accused would not see the evidence.

He went into the whole administration pouring scorn upon the fact that evidence would not be disclosed until he stumbled upon it when he saw it in clause 10 and clause 11. Asking serious questions in relation to clause 4 where discovery is not and disclosure is not the subject of clause 4 itself, when he stumbles and reads it for the first time in relation to clause 10 and clause 11, he then asked a different question, so he is approbating and reprobating; blowing hot and blowing cold. Because the parent Act is absolutely clear that there is an obligation for the prosecutor to disclose evidence. There is an obligation.

Dr. Gopeesingh: They do not, they do not.

Mr. Al-Rawi: And if they do not disclose the evidence, you can set aside the agreement. The hon. Member then went on to ask whether it was an improper inducement and he said that there should be no inducement. This Bill is about inducement. What this Bill is about is saying that there should be no improper inducement. It is an inducement to get a lesser charge, ease up, as the common man would say, "ah ease up" in terms of the full brunt of the law to enter into a plea agreement via a plea discussion with due process.

And for that reason, it was painful to listen to the Member for Oropouche East

read the Bill for the first time on the floor of the Parliament, because his contribution just does not make sense.

Dr. Moonilal: Well, move on. Why are you talking about it? [*Crosstalk*]

Madam Speaker: Members, members, order, please.

Mr. Al-Rawi: I notice that the hon. Member for Oropouche East is talking about talking to the public and someone may be an accused and he was wondering if they are going to squeal or not. I can understand the hon. Member for Oropouche East being as concerned as he is, about people facing the brunt of the law, about people being called upon to answer for charges that they may or may not have happened. There is a police culture, he is correct. I can understand his anxiety and his discomfort, the hon. Member, in expressing it as he does. All of us understand it.

However, Madam Speaker, the Bill is proportionate properly. It is proportionate because it provides for a mechanism from start to finish. A suspect is met with a process that a suspect may choose. If the suspect chooses to enter into a plea discussion, he can either be represented or unrepresented. There is a process for the disclosure and discovery of evidence so prescribed in the law. The rules of common law also applied in that process. If you do not disclose the evidence provided to you, you will find that the agreement is to be set aside and then the prosecutor runs into the risk of falling into the circumstance of the other laws applying where improper inducement is, in fact, found to be an ingredient of the engagement. That is obvious, that is clear.

The position of the inducement applying in this case is intended to better the course of criminal justice and the system of criminal justice. It is definitely the case that we cannot tolerate the overburdened system that we have. There are 29,090 matters in the magistracy at preliminary enquiry stage. There are approximately half a million cases per year passing through the Magistrates' Court including liquor licences, traffic offences, et cetera and this is definitely a tool to better the administration of justice.

In all those circumstances, I cannot agree with the Member for St Augustine that this Bill ought to have a specific offence for improper inducement nor can I agree to any of the wild submissions put forward by the Member for Oropouche East as he stumbled his way through the Bill for the first time.

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

Question put and agreed to. [Interruption]

Madam Speaker: Is there a call for a division? [*Crosstalk*] Okay.

Mr. Al-Rawi: Madam Speaker, I beg to move that this House agree with the Senate in the amendments to clauses 4, 5, 8, 9, 10, 11, 13, 18, 24—

Madam Speaker: That has already been moved and carried.

Mr. Al-Rawi: It is on my Order Paper, I apologize. [*Continuous interruption*]

Madam Speaker: Members, may we have some order, please? Attorney General, I now call upon you with respect to the Cybercrime Bill.

STANDING ORDER 79(3)

CYBERCRIME BILL, 2017

The Attorney General (Hon. Faris Al-Rawi): Sure. Thank you, Madam Speaker. I have just received the proper paper before me. In accordance with Standing Order 79(3), I beg to move that the proceedings—sorry, this is on the subsequent delayed item. Yes, Madam Speaker? Yes. I beg to move that the proceedings on the Cybercrime Bill be resumed in the next session and that the new committee be established to continue the work of the committee that had been established in this session.

Question put and agreed to.

Continuation of Bills in the Third Session

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. In accordance with Standing Order 79(3), I beg to move that the proceedings on the Bill to amend the Mutual Assistance in Criminal Matters Act, the Proceeds of Crime Act, the Financial Intelligence Unit of Trinidad and Tobago Act, the Customs Act and the Exchange Control Act be resumed in the next session and that a new committee be established to continue the work—sorry—be continued in the next session. Thank you, Madam Speaker. That is number one on the Order Paper.

Question put and agreed to.

ADJOURNMENT

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very much, Madam Speaker. I beg to move that this House do now adjourn *sine die*.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.24 p.m.