

*Leave of Absence**Wednesday, June 22, 2005***HOUSE OF REPRESENTATIVES***Wednesday, June 22, 2005*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

Mr. Speaker: Hon. Members, I have received communication from the following Members requesting leave of absence from today's sitting of the House: Hon. Eulalie-James (Member for Laventille West) and Mrs. Gillian Lucky (Member for Pointe-a-Pierre). The leave that the Members seek is granted.

PAPER LAID

A Green Paper—Consumer Protection in the Information Age. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley)*]

ORAL ANSWER TO QUESTION

**Jerningham Junction Community Centre
(Commencement of)**

The following question stood on the Order Paper in the name of Mr. Manmohar Ramsaran (Chaguanas):

- 33.** Could the Minister of Community Development, Culture and Gender Affairs inform this House when construction of the Jerningham Junction Community Centre would commence?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): I have to ask for a deferral of this question for two weeks.

Question, by leave, deferred.

OFFENCES AGAINST THE PERSON (AMDT.) (HIV) BILL

[Second Day]

Order read for resuming adjourned debate on question [June 17, 2005]:

That the Bill be now read a second time.

Question again proposed.

Dr. Adesh Nanan (*Tabaquite*): Mr. Speaker, I enter this debate to show the House this afternoon that the Member for Port North/St. Ann's West, in his presentation undermines the contribution of the Member for Laventille East/Morvant.

What we have before the House today is basically the criminalization of AIDS, and I will show the House the difference between HIV and AIDS.

Mr. Speaker, HIV is a human immuno-deficiency virus and AIDS is the Acquired Immune Deficiency Syndrome. The difference is that one can have the initial infection with the virus HIV and then one can have full-blown AIDS which comes about due to a deficiency in the immune system.

I will begin my contribution by giving some outline of the functions of the immune system in the human body, and then I will show how the immune system is deficient in a person who has the HIV virus. Later on, I will explain the legislative aspect of this particular piece of legislation before the House and the relevance of today's debate.

We are seeing today a situation that is developing in Tobago, and I want to start off with the concept of education. We heard from Members on the Opposition Benches with respect to the role of education in preventing the spread of the HIV virus and we heard about a situation in Tobago. I put on the record today that reports are reaching me that there is the impending closure of St. Joseph's Convent in Tobago and, recently, there was the closure of Elizabeth's College in Tobago. Is the Government saying today that they are moving on a policy of removal of the privatization of secondary school education? Today, St. Joseph's Convent, is almost closed. Is the Government undermining the denominational boards? Are they effecting the Concordat? I want to make it categorically clear that the Opposition will not support the destruction of the denominational boards.
[*Desk thumping*]

Dr. Khan: On a point of clarification, hon. Member. Are they only UNC-based students in those schools, according to what Sen. Danny Montano said?

Dr. A. Nanan: Mr. Speaker, I just want to answer the question with respect to the Member for Barataria/San Juan.

We have seen repeatedly, coming from the Government, that they are blaming the United National Congress government of setting up schools for the UNC cadre of children, Indian children in this country. Why are they now depriving children of an education in Tobago? Reports coming to me are that the Government is not going to pay for these students to attend these private secondary schools.

Mr. Speaker: We are, in fact, debating the Offences Against the Person (HIV) (Amdt.) Bill. Unless you can link AIDS to the school in Tobago, I think you need to move on.

Dr. A. Nanan: Mr. Speaker, I can do that but I do not want to waste my time with respect to going further. I just wanted to make the point that there is the undermining of the private secondary school system in Tobago, and they are asking me: What is the relevance of that to AIDS? They must be aware that the adolescent population, at the highest percentage now. They are unaware of that.

Mr. Speaker, the virus that this particular piece of legislation makes reference to, I will continue in my contribution to show the role of the immune system in the human body.

Mr. Speaker, if one takes a stick and scratches one's hand, one would see initially a reaction by the body. One will see the area becoming white. That shows there is a restriction of blood flow in that area. That is the initial phase where you have the restriction of the capillary blood flow.

In my contribution I will make reference to certain medical terms and if I need to explain, I will explain to the Members on that side, because it is important to understand the medical/legal analysis of this situation.

When the initial reaction, which is the constriction of the capillaries, and one sees the white line, if one goes on to add more force to that particular area one would see a red line and gradually the area will swell. I am sure you will recall when—I do not know if you got licks in school, but one would have seen after a while the area being swollen. It is the same situation that is developing here with respect to the immune system. That is the initial non-specific reaction of the body to that kind of trauma to the skin. And although it is only physical contact, it is a clear indication of the body's reaction. It shows that the body's immune system is beginning to function. What happens within the human body when that particular trauma is made to the skin, you have the initial constriction of capillaries. But then that is quite clear, with respect, common sense.

I know many of them on that side have common sense. They were appointed Ministers and they must have common sense and a level head. You will have an increase of blood flow to the area and the increase of blood flow to the area causes the capillaries in that area. A particular area of the skin will have blood coming in via the capillaries and blood leaving via the venules. So you have the end of the arteriole system which is capillaries, at the end of the venous system; so you have the arteries and the veins. The arteries bring blood in and veins take

blood out. The end of the artery system. You go from the arteries to the arteriole and the capillaries are in the middle, so blood is coming into the capillaries and by increasing the blood flow into the capillaries, you have the cells that are lining the capillaries, and they swell and you have what is called the plasma exudates from the blood vein into the tissue spaces. In this tissue you have this fluid coming and it is laden. In that particular respect if you are treating with drugs, the drugs will be in that fluid or any of the cells that are coming to destroy the particular bacteria in that area that would be coming in via exudates from the blood system. This is the humoral reaction. This is a non-specific reaction. Because of the large amount of fluid coming you would have dilution of the irritants, but you also have coming in there the white blood cells. These are the cells that are important in terms of the fighting of invaders in the system.

So there is another component coming in to deal with the white blood cells and—
[*Interruption*] That is the only thing the Member knows, but she will learn by the end of the debate how the system functions. So you have this particular situation where there is another component of the immune system getting involved; not yet for the virus. This is just with respect to the scratching of the surface of the skin. The system is designed in such a way that there are certain chemicals that are released into the area and besides the blood coming into tissue spaces, you also have drainage taking place from these tissue spaces via the lymph system. What happens is that there is a chemical release which blocks this particular drainage system so it traps everything and it is dealt with, with respect to what is called a “soup”.

You have this particular accumulation of fluid and the ingredients to fight bacteria. The chemicals form a clot so that you do not have the fluid moving quickly into the lymph system. That is a basic non-specific reaction to trauma and gradually once the—you have the white blood cells that are coming in and they have the power to engulf bacteria there, so there is a fight taking place with respect to bacterial invasion and this non-specific reaction. Gradually, the clot will wear away and the fluid would drain out through the lymph system and you would have the swelling going down. However, when the virus enters the system via blood, you have another reaction which is the cell mediated response, and that is what we are dealing with here this afternoon with respect to this particular virus and its mode of action. You would have a viron particle in that particular area and this is specific to certain areas.

There is a particular group of cells that deal with this particular response of the immune system, and I need to go back into a lot of biology to explain how the cell is formed, because it is important to understand that.

Mr. Speaker, in the pre-embryonic period and the embryonic period and a little later on, you have a situation developing where there is a particular gland in the body called the thymus and this particular gland is a bilobed gland on the heart and the blood vessel area and it takes stem cells from the bone marrow; just ordinary stem cells, goes to the thymus in the bone marrow and these particular cells go to the thymus because of the thymic hormone, or a message is sent out, these specific cells become clones. So there is a situation developing where these cells become clones and if they are attacked within the thymic area—if they attack their own cells they are destroyed. So this is a mechanism where the cells that are released into the lymphatic system into the liver, spleen and lungs, are cells that would deal with invaders, not cells. So you remove the cells that will destroy the human cell and you have a clone of cells that would target invaders. That is a basic set of information with respect to these cells, and these cells are called lymphocytes. When this virus enters there is a specific timeframe that needs to be followed.

There is a three to five-day period when there is infection of the HIV virus. Let us say the HIV virus is transmitted into the blood, three to five days after, there is the virus encountering the lymphatic system and there are particular cells called macrophages that will engulf the virus and once they engulf the virus, the virus has certain specific proteins that will come out on the surface of these macrophages, and it is this particular set of proteins on the outside of these cells that act as the identity system. This is what triggers the rest of the immune system and these specific proteins on the outside would now send a message to the lymphocytes and you would have a specific message sent to the helper lymphocytes, that is the T-4 lymphocytes, and the T-4 lymphocytes would come and read the antigens on the surface of these macrophages.

The T-4 lymphocytes are what you call the “orchestra conductor”. It is the one that gives all the directions. It is like the construction’s boss. It would send a message for these cells, the lymphocytes, they would read the particular antigen and trigger another set of cells called the plasma cells and this is the important area with respect to the HIV virus. These plasma cells would come and read the antigens and they would produce millions of antibodies. Now, the macrophages cannot control the virus with respect to removing the virus entirely. That is why you have these plasma cells coming in to produce antibodies that would be, in such large quantities, and would be able to deal with the virus particles.

Mr. Speaker, the antibodies that are produced by these B cells are specific so it is a kind of lock and key mechanism that is between the antigen, the virus and

anti-body and then they bump along until they actually fit into each other and once that happens they send another signal. The signal is that I have the antigen body complex here and you could come and eat me. That is simply what it is. So you would have this particular macrophage engulfing the antibody antigen complex and that would remove the virus at a certain level.

That is what happens to a certain extent. That is the cell mediated response. During the three to five days inoculation of the virus into the system—What I just explained was the mechanism that takes place. You cannot actually do any testing at that point because the anti-bodies are formed only after a certain period with respect to the formation. The formation is like six weeks, so only testing after six weeks would be able to show—and you are testing for the antibodies—the person is HIV positive.

But once you are inoculated in the blood stream the HIV is infectious and although the person may show HIV positive, there are no real symptoms. The symptoms are probably just flu-like symptoms, any other simple complications, so you cannot detect the HIV virus in a patient by just looking at the patient to see any debilitating situations. It has to be done by a blood test between the period of six weeks to three months, and it is this particular window of opportunity that is utilized.

In terms of the drugs that are being used now—and this is why this particular piece of legislation makes reference to the criminalization of AIDS. I want to put on record that the States that have legislation similar to this, what has happened is that it was brought about when AIDS was a fatal disease. So there was a situation at the time when AIDS was a fatal disease but now there are drugs to treat AIDS; in fact, to treat the infection, that you do not reach the AIDS status.

Mr. Speaker, to understand how the drugs relate to the viral phases, I will have to give the House some kind of information on how the virus actually works within the human body because then, you will be able to understand how the drugs are working.

When the virus enters the blood stream and encounters a lymphocyte, your specific proteins on the outside of the viral particle, that is attracted to certain areas of the lymphocytes. What you have on the lymphocytes are what are called docking ports, CD-4 receptors and there are specific areas on the virus particles that will attach to these lymphocytes and the attachment of the virus to the lymphocytes allow the transfer of nuclear material from the virus particles into the lymphocytes.

I need to go into a bit about genetics because one needs to understand how the genetic material of the viral particle is different from the DNA of the human body or cell. [*Interruption*]

It also affects paternity, too. Mr. Speaker, the deoxyribonucleic acid (DNA) model of 1915, is a double helix. In the virus you do not have DNA, you have RNA which is ribonucleic acid. There is a very interesting part that the virus is carrying the nucleic material in a form of RNA and the lymphocyte is carrying the genetic material as DNA and from molecular biology you will recall that to enter the nucleus it must be in the form of DNA. It cannot enter into the nucleus in the form of RNA, and that is why these viruses are called retroviruses, because they have the RNA component and there must be some mechanism where the RNA converts to DNA.

The RNA would convert to DNA only by some mechanism and there is a specific protein within the virus called reverse transcriptase that allows the RNA to be converted into DNA in the cytoplasm of the lymphocytes. And when the RNA is converted into DNA—I mentioned these two areas because what you have is the attachment of the virus to the lymphocytes and then you have the conversion of the RNA of the virus into DNA. It is important here, and I thought the Member for Port of Spain North/St. Ann's West would have mentioned that. There is where the drugs come into play. This attachment of the virus to the lymphocytes by this same docking mechanism of the virus to the lymphocytes; there are drugs that prevent this particular linkage from taking place. That is one way that they act. They act by blocking this particular site which is—so once you have that you cannot have this attachment taking place with the lymphocytes and the virus particles, so you do not have the exchange of nucleic material. That is one way that the drug works.

There is another area, this same reverse transcriptase area, where another set of drugs blocks the action of this protein so you do not have the conversion. If you do have this docking mechanism taking place between the viral and the lymphocytes, you would have a situation where you have another stop in the chain so that the particular enzymes, the reverse transcriptase would be blocked by another set of drugs and you would not have genetic transfer from the virus into the DNA of the lymphocytes.

Mr. Speaker, as I said before, you cannot enter the nucleus by being RNA. You must be deemed DNA and you also cannot leave the nucleus by being DNA, you must be RNA. So in these lymphocytes there is a transfer now from the DNA into RNA and then you leave the nucleus and go into the cytoplasm of the cell. That is

why this particular enzyme is called reverse transcriptase because it is going the reverse. It is going from the RNA of the cytoplasm into the nucleus. What they have there is called reading backwards of the particular RNA strand. And the other area where the other set of drugs works is a little lower down in the chain.

Mr. Speaker, if you permit me I need to go from the nucleus back to the cytoplasm to get to the particular protein synthesis component. These lymphocytes have their genetic component in the nucleus and this component carries all the components for the synthesis of proteins within the cell itself. The function of the cell is in the nucleus and when this particular viral RNA gets into the cytoplasm and is converted into DNA, the viral DNA gets into the nucleus and sows itself into the DNA of the lymphocytes just like a computer or a virus would get into a computer programme. It is a similar concept, and it is the main component of what you have, virus factories being set up because once the DNA of the virus enshrines with the DNA of the lymphocytes, you have a situation where the cell is taken over by the virus and the virus starts to replicate and produce more virus particles. So the virus leaving the blood stream is going to meet a lymphocyte and take over the lymphocytes and use its mechanism, and all its structures to produce more viral particles. When the DNA is leaving nucleus of the lymphocytes it goes into a form called "messenger RNA". So it leaves the nucleus and goes out into the cytoplasm.

2.00 p.m.

Mr. Speaker, the messenger RNA carries the message of how to form a cell, but the ultimate end of this particular reaction is that you are synthesizing proteins. You know from your biology classes that amino acids are the building blocks of proteins.

The other area where the drugs work is when this particular messenger RNA goes into the cytoplasm. There is another set of RNA called transfer RNA that brings the amino acid with it. So there is what is called a codon, three sets of bases that define a particular protein. It is specific. So, in an amino acid, specific, the transfer RNA would come with the amino acid and lock on the messenger RNA, so you would have a chain of events forming, so there would be more and more peptide bonds being formed and a very large protein. You need some enzyme to cut this particular chain to make the protein of a certain size.

Mr. Speaker, it is in this particular area that another set of drugs act. These enzymes are called protease and the other set of drugs are called protease inhibitors. So you cannot have protein synthesis taking place for the virus if you

inhibit this particular area of cutting the long protein chain to give you specific proteins for the formation of a virus particular. That is a basic kind of genetic explanation on molecular biology concepts.

There is also an area that is being dealt with now. There is research showing that there is a vaccine being worked on. There is a synthetic HIV gene being set up. So you have a gene, synthetically made, and they are finding that when they inject that particular gene into an animal, they are getting the HIV response. They are getting both the cell-mediated response and the humeral response. So, in the not-too-distant future, there can be a vaccine to prevent AIDS.

As I said in the opening of my contribution, AIDS is the Acquired Immune Deficiency Syndrome. There are certain values that you must be aware of when you are dealing with the HIV infection. I showed the role of the lymphocyte. What doctors look for is the role of the lymphocyte and specifically for the T4 component. If the T4 component, or white blood cell count, falls below a certain level, there will be a situation where certain types of diseases manifest themselves. That is what takes place when an HIV-infected person has to be tracked in terms of the potential of having full-blown AIDS.

So, there is the situation now where you have to be monitoring the person with blood tests. There are certain figures here that are of importance with respect to the particular blood cell count. *[Interruption]* My learned colleague here is asking me how they will monitor persons in prison.

The T-cell count can range from 500 to 1500 in a cubic millimetre of blood. It can also go down to zero. A cubic millimetre of blood is just like when you prick your finger and put the blood on a slide. As the T-cell count drops, there is a situation developing where you can have opportunistic infections. From a dental perspective, there are certain infections that manifest in the oral cavity, so a dentist can detect AIDS if it manifests itself in the oral cavity. There are certain areas that you may see purplish vesicles inside the mouth. Also, I am sure you are familiar with thrush, a white coating on the tongue, this is another opportunistic infection that manifests itself in the oral cavity.

If these diseases are not treated, this particular white coating of the tongue can be debilitating. It can move from the oral cavity and move down the oesophagus and erode the entire oesophagus. We have herpes simplex as another possible component of this particular suppression of the immune system. Micro-bacterium tuberculosis is another opportunistic infection. There is a whole range. In fact, Mr. Speaker, the purplish vesicles I made reference to earlier are called kaposi sarcomas. This is another stage in the disease.

When these drugs were not available, this is the kind of situation that developed in an HIV seropositive patient. There would be the manifestation of all these complications developing. Now, with the new drugs coming on stream, there is a controlled environment. That was T-cell count.

What also needs to be done is a viral load count to detect how many virus particles are in a particular cubic millimetre of blood. You can start off with 5,000 copies of the virus in a cubic millimetre of blood and in three to four months go into millions. That is the speed at which this particular virus can replicate if unchecked. That is why you must monitor via the blood, doing both viral load counts as well as the T-cell counts:

In this particular area of the transfer from the RNA to the DNA of the virus, mutation can develop drug resistance. So there is drug resistance and cross resistance if the person is not taking the medicine on time and not following the particular regimen, there can be a situation developing where there is drug resistance.

Mr. Speaker, I make reference to the *Guardian* editorial of Tuesday, June 21, 2005. "Ignorance and fear can spread Aids". If you analyze the global situation, you will see that a country like South Africa has not criminalized AIDS. There is no legislation with respect to disclosure. What we have with this particular piece of legislation before the House today is invasion of privacy. With the new drugs on stream, people are living with the virus. There is another area that needs to be mentioned. These various particles can cross the blood/brain barrier. They can enter the brain and the spinal cord and that is where it is so dangerous. The immune system cannot get to the brain or to the spinal cord. These particular lymphocytes cannot cross the blood/brain barrier.

The editorial says—and I will read with your permission:

"Fear, shame and silence have prevented people from seeking help and left them suffering needlessly."

As I said before when the legislation was brought forward, it was in the 1980s, it was when it was fatal when you tested positive for the disease. Today, with the modern drugs being utilized, it is no longer a fatal disease. That is why I said the Member for Port of Spain North/St. Ann's West undermined the contribution of the Member for Laventille East/Morvant because the Member mentioned it being a chronic disease.

Mr. Speaker the editorial goes on:

“Many people who suspect they may have the virus are afraid of going to be tested because they believe if they test positive their HIV status may become known and they may be victimized.”

That is exactly what the Members for Caroni Central and Caroni East said in their contributions.

We have before the House legislation [*Interruption*] Member for Laventille East/Morvant, I am quoting the editorial because I gave the House, in terms of molecular biology, how the virus enters the system and how the body treats with the virus. I explained to the House the role and function of the immune system and I showed the House how the drugs affect it, so that it is no longer fatal, but chronic.

I will continue to quote:

“The factors that help spread HIV/AIDS are ignorance and fear rather than malice.”

That is why education is so important: education on the virus and how it affects the human body. There is a big debate going on right now with respect to disclosure—to disclose or not to disclose. It is the right of the person not to disclose.

The legislation is saying that it will be a criminal offence, if the Bill is passed. If you look at all the states that have this particular legislation on the books, you will see that the cases cannot be proven. In fact, according to the lawyers, the burden of proof is insurmountable. That is why many of the states have repealed the legislation. They have left it for the public health system to take effect.

In certain jurisdictions, there is contact tracing. No names are given. They are just tracing the spread of HIV and they are informing people that you probably have had contact with an HIV person and you need to be tested—a gentle reminder. There is no legislative big stick. If they go into the mode where they are making it a criminal offence for non-disclosure, people will go underground and there will be a situation where they will not go for testing. If they do not go for testing—as I laid out the time frame for this particular virus; of how it works in the body—there can be full-blown AIDS.

It comes like a death sentence. If someone does not know that he has the HIV virus, he would not go for treatment and he would end up in a situation where he would have full-blown AIDS.

I thought the Member for Port of Spain North/St. Ann's West would have made the point. He made the point about the drugs being available, but if people are afraid to be tested, they would not go for treatment. It has been shown that you can survive 10 years with the HIV virus without treatment, and you can live a normal life; whereas some people get the virus and, in less than a year, they are in a debilitating state.

We do not want these people to go underground. There is a particular situation, hypothetically as it may be, let us say on a small island that the HIV virus is spreading so rapidly, now, there is almost everybody with HIV. So one person will tell the other he has HIV and the other tell the other and there is mutual consent. What will be the effect of something like this? If you do not control the virus; if the people go underground and there is not that control, then the entire population will be tested seropositive for HIV. What we have here is an invasion of privacy taking place and the point was made on this side.

With respect to this particular piece of legislation, it should remain an education arena and not a legislative component. We have enough problems in the country. We have a situation where people are protesting in our embassy in Canada. Coming in the car, I heard about a kidnapping in Valsayn today. What is the Government doing? Crime is going out of control and we come with the flippant piece of legislation that is not necessary.

Mr. Speaker: The speaking time of the hon. Member for Tabaquite has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. G. Singh*]

Question put and agreed to.

Dr. A. Nanan: Mr. Speaker, when we are dealing with the spread of the HIV virus and the seropositivity, we must understand that there is need for the explanation of certain areas—that is the test with respect to HIV virus. If we go on to the Internet and put “test for AIDS”, there are a number of areas where there is home testing. People have their kits at home and they are testing. How does this work? Simple! They are testing for the antibodies. But there are also false positives and we have to be careful. There was the report, not too long ago, where someone thought he was positive and he jumped off a building; that is before the onset of these drugs.

Someone reported in the journal that if their friends had these drugs now, they would not have died. We are looking at modern medicine and how this situation

relates to modern medicine. In these simple home tests, they are testing for the antibodies. They just have some simple reagents and they are getting colour changes. If two lines show up together, you are considered seropositive.

As I said earlier in my contribution, you have to wait. Let us just say in the dental environment, that somebody got stuck with a needle and you suspect that the person may have HIV, you can do prophylactics or treat immediately. You give a drug that would deal with the infection immediately and you can have some kind of control there. That drug actually deals with the link between the virus and the lymphocyte. But you have to wait for the confirmation. You would not go home and do your test and say: "Yes, the two lines are here. I am positive." You have now to confirm that. The antibodies will only appear in the bloodstream after weeks. That is a test you are going to use. You will use the ELISA, the Enzyme Linked Immunosorbent Assay, and there you will be testing for specific proteins of the viral particle. These are the antibodies.

You also have a situation where once you have this particular test showing positive, you are to go even further to confirm that and use what they call the Western Blood Test. These are complicated tests. That is why we have a situation now where our labs are up-to-date in terms of testing. On the Internet, there are a number of home testing kits, Chinese remedies; I even saw vitamins for AIDS. There are a number of Mother Nature herbal remedies for AIDS. That is why education is very important.

We heard a number of stories of people using a number of things to prevent AIDS. So there are these tests, the ELISA test and the Western Blood Test and we also have the use of electron microscopy. There is the immunofluorescence test. These test the antibodies of these particular antibodies that are created from the HIV virus. These antibodies shift the wavelength of light and there is that diffraction pattern showing up.

With the electron microscope you can actually see a plot and you will see the T-fault emphasized in this particular sample, graphically represented there and it will show that the T-fault is emphasized down and the B cells down.

There is another cell I did not mention, but I should mention, and that is the T8 lymphocyte. The role of the T8 is to stop the process. You will have T4 lymphocyte acting in that particular area and you will have all the cells working against the vice, once it is eliminated you have to stop the particular process otherwise they will act on the lymphocyte itself.

So there are the T8 cells, which give the message to stop everything, they have eliminated the virus and the battle is over.

So, Mr. Speaker, with modern day analysis and using immunofluorescence to do the particular labelling of antibodies and using the Western Blood Test and the ELISA test—this particular immune system is a network of complicated cells and substances.

Mr. Speaker: Hon. Member, I think that you have laid a fantastic foundation on the immune system, will you let us know how it squares with the new sections 18A and 18B, please?

Dr. A. Nanan: Mr. Speaker, I just wanted to make sure I did not leave out anything in my contribution. It is important, when you lay the foundation on this particular important topic, that everything is covered. I do not want to be accused of leaving out the T8 cells by some biochemist somewhere abroad and that I do not know my molecular biology because you stopped me and I could not continue.

Mr. Speaker, conventional wisdom holds that people who know that they have HIV, who have tested positive, are supposed to inform people. When I was doing some research on this particular topic, this phrase flashed out at me and I want to put it on the record: “It is not what you tell your partner during a sexual encounter, it is what you do”.

I put that on the record because we are dealing with a situation in which a lot of research is showing that if you have unprotected sex, you have a situation of greater transmission. That is why I said, it is not what you tell your partner, it is what you do. When you have protected sex, you reduce the risk of transmission. That is the whole debate that is taking place. Much of the legislation is pointing to public health and education. I think I am back on track now with the Bill.

If people practise safe sex, the risk to others is low. That is important. The Member for Port of Spain North/St. Ann's West, who is the Minister of Health, did not tell the House that if a person has unprotected sex, the transmission rate, percentage of the viral particles is higher. I am not an advocate of either side, but I am giving the facts of how the debate goes with respect to disclosure whether you are having unprotected sex or not.

This is not only with HIV. I lay the entire foundation to show you, Mr. Speaker, that this viron particle is not specific. If Mr. “X” tests HIV positive and person “Y” is HIV positive, there is no difference between that environ particle in

the person “X” and the person “Y”. That is why I said that the burden of proof is insurmountable. How can you tell that a person contracted AIDS from a particular person? That is the whole thing. The whole debate says that the antigens are specific, but when you come from individual to individual, you have to lock up the two of them, according to the Member for Caroni Central. The burden of proof is insurmountable.

That is why, when they are doing this particular profile, they are identifying any individual. They are doing it in such a way that they are informing a particular person that they have had contact with another person. They did not name the person. We are just guiding you that you probably need to have an HIV test to make sure that you are not seropositive.

2.30 p.m.

The public health part of that is, if that person is tested positive, the person does not go and jump off a building. This legislation is sending somebody who is tested HIV positive to jump off a building. The Minister of Health is supposed to educate the public. That is why I opened the debate with education. Education is important. That is why we need to have counselling centres. We did not hear anything about counselling centres here. We must have a situation if we are tested HIV positive—

Mr. Ramnath: Especially in the denominational schools.

Dr. A. Nanan: Yes, Member. I spoke about the rise in the adolescent population and unprotected sex. If that situation is developing we must have these counselling facilities. It is a situation that if someone is tested HIV positive, that could be life-rendering experience. Members will speak more on this particular area, with respect to the labour situation.

If you go on the Internet you will see testimonies of people who are living with AIDS and the HIV virus. They tell you their experiences, the kind of stigma attached to the AIDS virus and the kind of discrimination that is meted out to them. That is why people would not accept mandatory testing for employees, because of the stigma attached to this. That is why this editorial states ignorance and fear can spread AIDS.

There must be counselling centres. If you are tested HIV positive and it is not false, there must be advice. If you are tested HIV positive, who are you going to tell? If you are tested HIV positive and you have legislation like this, you are not going to tell anybody. Next thing I tell someone and the person reports me and

sets me up? Who am I going to tell? When it comes to disclosure, it is a very private situation we are talking about. The person has to think: “Am I HIV positive? If I tell my father, he might tell my mother and someone else would tell someone else”. In a small society like this country, your business will be on the streets.

Mr. Partap: Like Destiny!

Dr. A. Nanan: You have to be careful. That is why you have to counsel people on disclosure and you also have to be aware that there are new drugs on the market that can control this infection. A person can live with HIV or any sexually-transmitted disease.

That is another situation. The Government is legislating with respect to the virus. What if there is a situation with sexually transmitted diseases that are on the rise? That is why I said that protected sex keeps the percentage down. The Government cannot legislate and have the entire population saying: “You know what; I am negative so I am free. I did a test and I am negative, so I do not have any worries”. What about the other people who did not test? I am HIV negative and I am okay, because the legislation says if somebody is HIV positive and the person does not tell me, that person would go to jail. What signal is the Government sending? There must be that situation where the HIV-positive person must be free to disclose, but to a certain extent. The Government must not legislate to disclosure. That is the entire debate. The last report from the United Nations said that we do not need to have legislation for disclosure.

There are two forms of the virus; HIV-1 and HIV-2. HIV two is really centered in Africa, but HIV-2 can be on the rise. With this particular piece of legislation, we need to take into consideration the immigration situation, because HIV-2 is very prevalent in Africa. What they have found in Europe is that, because many of the workers are coming from Africa, HIV-2 is on the increase. We also have to be aware, because we have many persons coming from Africa and Nigeria. The molecular biological aspect of this virus is that it will mutate. In fact, when a person is infected with HIV/AIDS it can go into a dormant stage. It does not have to be prevalent right away; it could go into a particular area, remain there and later on down the road—but the only way you can know is if you do the antibody test. There is a migrant population. We have to be careful. We also have to watch the HIV-2 and resistant strains.

Mr. Ramnath: Check out all those people you are bringing from Africa for emancipation.

Dr. A. Nanan: Mr. Speaker, in some countries the law has been on the books for a long time and they have charged no one because they cannot prove that a particular person infected another individual. The burden of proof is insurmountable.

Mr. Speaker, the issue of sexually-transmitted diseases is congruent with this debate, because both of them are being transmitted. One is transmitted by body fluids and the other one, more or less, by the blood systems.

The Occupational Safety and Health Bill is very important in this debate, because the OSHA makes reference to employees in the workplace. In any particular environment, there must be a situation where you must be able to actually have your employees educated on this particular disease. You must have programmes. If a particular person is tested HIV, the person must be counselled in the office environment.

I want to go back to the dental environment, because there is where you can have a situation developing, where there could be the transmission of the infection. There must be the strictest conditions, in terms of when you are dealing with AIDS patients. I have first-hand experience dealing with AIDS patients, but that was in 1988, when the drugs were not on the market. That is a very difficult exercise, because you have to wipe down all the countertops with sodium hypochlorite, Clorox. You have to make sure, after the patient leaves, that you clean everything. The dental chair has to be wiped, the light fixtures, everything that you touch have to be wiped down. Of course, you must have a proper sterilization procedure.

When we are talking about transmission, this legislation will not help to control the spread of AIDS, it will only increase it, because people will be going underground.

Mr. Speaker, how much more time do I have, please?

Mr. Valley: None!

Mr. Speaker: You have eight minutes more.

Mr. Ramnath: Could we extend that time?

Dr. A. Nanan: In that particular environment, you must have the sterilization factor, which is of prime importance. People will be coming into the practice and will not disclose that they are suffering with the HIV virus, that they have been tested positive, or they do not know. You have to operate from a perspective

where the person is not aware and it is a possibility that the person could be tested HIV positive. We do not want to transmit that and increase the spread of the HIV virus within the dental environment.

In some medical practices in other jurisdictions, they do not break the confidence of the patient, but what they do is that they inform the persons—whom they think would have been involved with that particular patient—informally, that the person may have had contact with that particular patient and that patient has been tested positive. That is called contact tracing in other jurisdictions. I do not know if that is considered here. It is all to prevent the spread of the HIV virus.

Mr. Speaker, I spoke about the dental needle, if somebody got struck with the dental needle and the prophylactic kind of treatment. Do you know that these drugs are now taken twice per day and are moving to once per day? In fact, before, some patients would have had to take 50 pills a day. Member for San Fernando East, there is a drug that you can take prophylactically. It is a drug that was used for bacterial infection which they are now using. This is a drug called Septra. They give Septra to the patients. Septra is nothing new; it is a sulphur drug that has been around for years.

Mr. Ramsaran: That will help him?

Dr. A. Nanan: That is the kind of spectrum that we are seeing with this particular situation with the AIDS epidemic. States have been moving to deal with it. If you look at the entire global situation, they are dealing with it from a public health perspective. It is basically education of the population. That is the direction that should be taken; education of the population.

Mr. Speaker, there is a situation also with respect to the Caribbean environment. There are many reports coming in, about trafficking in human persons and all the different types of tourism. We have to be extremely careful.

Mr. Singh: The Prowler!

Dr. A. Nanan: In fact, Member for Caroni East, you just jogged my memory. There was a case with this legislation coming on board in a particular country, where they charged only prostitutes under this particular piece of legislation, and they could not prove any case. When the Government brings this Bill, it also has to consider its population and the tourism environment. You have to consider your tourism environment and how this will impact on your tourism. We attract many people from the United Kingdom and the Caribbean as a whole. This piece

of legislation can have a negative effect because we are going to say that it is a criminal offence. We would have many people thinking twice about coming to our island. We are competing internationally for the same market, the European market. It is not only confined to a debate, with respect to the health perspective, this debate can continue into the economy, the labour sector and all the different—a convoluted approach can be taken with respect to this particular debate.

It has been a pleasure for me to give this kind of information to the House and the nation this afternoon and to make sure that I have not left out anything in the chain, so that nobody can accuse me of knowing this part and forgetting that part and all of that. I gave the entire perspective of how the virus enters the system and how the drugs actually work in the particular viral chain.

I want to show that the United Nations' perspective on this is public health education; not disclosure by legislation. I have also shown, with respect to the testing of people who are suffering with HIV, the tests that are being done and the kind of composition of the white blood cells in the blood system.

I ask the Government this afternoon to reconsider this approach and to withdraw the Bill. I thank you.

The Minister of State in the Ministry of Community Development, Culture and Gender Affairs (Mrs. Eudine Job-Davis): Thank you, Mr. Speaker. Before I get into the debate, I would like to make two points very clear. Firstly, the Member for Tabaquite mentioned *en passant*, the education system in Tobago. I want to let the Member know that the THA, by Act 40 of 1996, has been given full autonomy and authority to develop policies with regard to Tobago's education system and other issues. I want him to know, if the THA sees it fit to enter into discussions and to make decisions along with other institutions on the island, then that is none of their business.

Secondly, every time we talk about HIV/AIDS in this House, Members on the other side point fingers to Tobago. When you point one, the next four fingers are pointing back at you. I want to let them know that.

Dr. Khan: Jail “eh” nice.

Hon. E. Job-Davis: There are, according to recent reports, 28,000 people living with HIV/AIDS in this country and they are all not living in Tobago, so stop it. Do not stigmatize a whole island with your nonsense. [*Desk thumping*]

I sometimes listen to contributions from Members on the other side and that includes the Member for Caroni Central. However—Central Trinidad; a seat that

we will get in the next election. For a while, during the contribution of the Member, I thought that he was going to subject the House to the normal drivel that some of the other Members on that side subject this House to.

Mr. Hinds: He gave us a special kind of drivel.

Hon. E. Job-Davis: But it goes to show that you cannot walk in the council of the ungodly, nor stand in the way of sinners and not be tainted. However, the honourable gentleman—

Mr. Manning: Give them the reference man.

Hon. E. Job-Davis: Psalm 1. The honourable gentleman, who I believe is the dark horse in the leadership race, soon caught himself and went on to give some solid proposals which I am certain the Minister of State in the Ministry of National Security and Minister of State in the Ministry of Trade and Industry will deal with when he is making his contribution.

The hon. Member for Caroni East once again has demonstrated his inability to think critically. It is not one of his characteristics. The Member comes to this House with old information and continues to mislead, misrepresent and misguide a whole nation for his own political expediency. Hear what the Member had to say in relation to this Government:

“You are seeking to find a scapegoat within the national community, within the population of Trinidad and Tobago. You are looking for scapegoats in order to perpetuate your culture of blame and in this instance your scapegoats are those who are infected with the HIV virus.”

How misleading! I am sure the hon. Member is a lawyer. I am certain that he did not believe what he was saying. Why would he come to this House and behave in that manner?

This Bill was not intended to prevent the spread of HIV/AIDS. The Bill is intended to change behaviour. We all know the major modes of transmission of the virus, which the Member for Tabaquite would have so eloquently given us in his debate. The major modes of transmission—I want to reiterate them—are: sexual intercourse, reuse of contaminated needles by drug users, infection by birth, nursing from mother to child, reuse of needles in medical settings and transfusions of contaminated blood or blood products. One cannot be contaminated by a sneeze or a handshake. We have been dealing with all these issues from the government level. We have injected funds into the NACC to assist in the awareness programmes and, of course, from the Minister of Health we heard that the drugs are being given free of charge.

In our Ministry, we have even taken up the mantle to fight this scourge. We have launched an HIV/AIDS programme, and education and preventing project for women in rural communities at Basseterre Village, Moruga. That was done in January 2004. We trained 40 women between the ages of 18 and 45. They learnt about understanding human sexuality. They dealt with the reality of the disease, HIV/AIDS. They talked about living positively with the disease. They talked about other sexually transmitted diseases, drugs, alcoholism and HIV/AIDS.

The Ministry took another step and formally opened the HIV/AIDS Information and Support Services Centre at Basseterre, Moruga where we offered the following services free of charge: counselling, condom demonstration and distribution, lecture/discussions, up-to-date information on HIV/AIDS and referrals. In order to ensure that we sustain this move, we have the Community Outreach Programme, where communities are targeted and house-to-house visits are made. We made visits in the bars, the police stations, groceries, barber shops, other business places, you name it, we are doing what we have to do. To date, we have sensitized over 40 villages and approximately 31,698 persons have benefited directly and another 120,000 persons have benefited indirectly. We are in fact doing what we have to do.

Mr. Speaker, according to our reports, the intervention has proven to be successful as the data we collect. We track what we are doing; we do not do it and leave it. The data collected indicates that there have been significant changes in life styles and behaviour. More women and men are using condoms correctly and consistently. Self-esteem has been boosted to the point where a number of women from this pilot are now pursuing evening classes to obtain GCE O'levels.

Mr. Hinds: All that is in addition to health.

Hon. E. Job-Davis: In addition to health, the number of persons who receive services at our information centre totalled 2,218, ranging from ages 15 to 49 years old. We have distributed over 12,000 condoms and the numbers of referrals to medical practitioners were 129.

The coordinator of this programme has been mandated to replicate this project throughout the entire country. That is our contribution to HIV/AIDS. We are trying and have been dealing with the major modes of transmission. What we have not dealt with is, according to my colleague from Laventille/East Morvant, the reckless and spiteful individual who becomes infected and then believes that he or she has the right to infect as many other people as possible, because 'I go dead anyway'. That is simply what this Bill aims to address; not like the Member for

Caroni East misrepresenting the Government's intent and misleading the country when he says that we are criminalizing HIV/AIDS. That is far from the truth and he knows that.

I listened to TV6 unscientific call-in interview programme on the said night that the Minister read that Bill. It is unscientific, but 86 per cent of the people who called in indicated that they supported this legislation. It is a clear understanding that the people of this country understand what we have to do as a Government and what they have to do as a people. Therefore, that is why I rise in full support of this Bill that intends to criminalize the offence of deliberate and wilful infection of innocent persons by those who are suffering with this dreaded disease.

Members on the other side call it a flippant piece of legislation. The Member for Caroni Central said that it is hilarious, laughable and humorous. I want him to tell the young lady who married the first man she ever knew; the man that she trusted, the man that gave it to her lovingly; who knew that he had it and did not disclose—biblically knew; the woman whose husband and child lay dying on the hospital bed and was being comforted by this other gentleman and who eventually ended knowing this man in a biblical way, how hilarious it is. When the nurses asked her about it, do you know what she said? He did not ask me so I did not tell. She knew she had it. How hilarious is that?

Mr. Hinds: Good question.

Hon. E. Job-Davis: How hilarious is it for the young lady who comes from Tobago, innocently going to classes, finds a young man, thinks that is the man of her dreams and within six months she is dead? He knew he had it because he was bisexual. Excuse me, Member for Caroni East. Mr. Speaker, how do you explain it to the maxi-taxi driver who got it and then proceeded to lure impressionable young girls into the “hard pong”, giving them this virus; how do you explain that? How laughable is that? How hilarious is that?

I remember 10 years ago, under a different administration in Tobago, when a nurse came out publicly, because of what she saw, and said: “Look, we have the beginning of a problem in Tobago”. That is what she told them. Do you know what they told her? She was told that she is a messenger of doom and gloom. They did not want to hear her. They did not acknowledge the existence of the disease then. The rest is history.

More than 39 million people in the world are now suffering from this dreaded scourge. If this newspaper article is to be believed, 28,000 of them are living in

Trinidad and Tobago. What more do you need to bring legislation into this House to deal with the evidence of HIV/AIDS?

We must not just look at this Bill from the health issue. We have to look at the other implications for our country, if transmission of this virus continues unabated. There is the economic cost to this country. The cost of intervention is free to those living with HIV/AIDS, but there is a cost to the State. Let us think about the opportunity cost. The moneys could have been used for other purposes, but we have to do what we have to do as a country in order to survive.

Do not speak about the lost productivity and sick days; those are some of the costs that we have to consider. We also have to look at the social and societal implications. This disease goes to the very core of the reproductive system. It goes to the very core of our reproductive capacity. It suppresses our ability to carry out our biblical mandate; to be fruitful, multiply and replenish the earth.

Mr. Speaker, if this disease continues unabated; if this Government does not do what it has to do to contain and maintain the spread of this virus, the stark reality of this country could be a growing population with the workforce comprised primarily of aging baby boomers.

The Inter-American Parliamentary Group on population and development argues that it is necessary to apply the power of the law, as an ordering factor and in its formative function to promote changes in personal behaviour, providing guidelines for the transformation of the socio-cultural values, which will reduce the personal and social vulnerability to transmission.

Other countries have laws relating to the testing of criminal offenders and their victims of infection and transmission of HIV/AIDS. The National Centre for the Victims of Crime in the USA passed laws in response to the recognized possibility of the transmission of HIV/AIDS during sexual assault or abuse as well as other crimes where an exchange of bodily fluids take place. They were also the result of a new understanding of the added trauma a sexual assault victim endures when faced with the possibility of having contracted a terminal disease.

In general, crime victim-related HIV laws require the testing of alleged and convicted sex offenders for HIV/AIDS and the disclosure of the offenders test to the victims.

In some countries such as Tasmania, Australia, by Royal Assent, on June 03, 1993, they passed an Act to provide measures for the prevention and containment of HIV/AIDS. In their law they stated that a person who is and is aware of being

infected with HIV or is carrying and is aware of carrying HIV antibodies must take all reasonable measures and precautions to prevent the transmission of HIV to others and inform, in advance, any sexual contact or person with whom needles are shared of that fact.

A person who is and is aware of being infected with HIV or who is carrying and is aware of carrying HIV antibodies must not, knowingly or recklessly, place another person at risk of becoming infected with HIV unless that other person knew that fact and voluntarily accepted the risk of being infected. This is the law in Tasmania, Australia with regards to the transmission of HIV/AIDS.

The Arkansas Code states—I could not put it more clearly myself—that it is a Class A felony for a person who knows that he or she has tested positive for HIV to expose another to HIV through, inter alia, the transfer of blood or blood products, by engaging in sexual intercourse, and so forth, without first informing the other person of his or her positive status. What are they arguing about? They are misleading, misguiding and misrepresenting. They know that the Bill is absolutely necessary, because this is not about the PNM or the UNC; it is about a country.

Mr. Hinds: A world!

Hon. E. Job-Davis: It is about a world. Thank you, my brother.

Mr. Hinds: Devious, heartless men and women.

Hon. E. Job-Davis: We must be careful that we do not become trapped in the awareness, prevention and care paradigm. It is vital, but it fails to recognize the issue of systemic erosion and impending socioeconomic collapse.

Kofi Annan could not put it any better when he said, and I quote from the Express of June 03, 2005:

“AIDS unleashes a chain of events that threatens to cause entire societies to unravel...”

We have to stop playing politics with this thing. He went on to say:

“And despite the many programmes and money spent, the epidemic has not been reversed.”

—worldwide; despite the programmes and moneys being spent.

Mr. Hinds: Because of the UNC.

Hon. E. Job-Davis: Because you refuse to support the Bill. This Bill, in part, is going to and will change behaviour. That is what we are talking about. [*Interruption*]

Forget what Kofi Annan says about the Bill, you deal with Trinidad and Tobago; he does not live here.

Mr. Hinds: You are a devious Member.

Hon. E. Job-Davis: Member for Oropouche, watch yourself!

“Nearly half of the estimated 39.4 million living with HIV, the virus that causes AIDS, are women and girls, whether married or single, promiscuous or faithful.”

That is the reality, Mr. Speaker. Therefore, we must not assume, as they want us to believe, that HIV/AIDS is a public health issue. If somebody wantonly continues to spread the disease, and fails to recognize it for the development and systemic management challenges it poses, then we are in trouble.

Mr. Hinds: That is right.

Hon. E. Job-Davis: One problem that we have—it is a global problem—is that the paucity of data does not show to the full extent the impact of the epidemic. Therefore, if we have people wantonly spreading this virus throughout this country, what will happen to a small society with 1.3 million people? It is not a passing health issue. We have to understand that. We have to understand and accept that HIV/AIDS is a systemic management challenge, rather than a public health problem. In viewing it as that, we can also view it as a crime against the State.

When the State starts to expend money on persons who are living with this virus there is a cost attached to it, which is moneys that could have been spent on other issues and developing other—HIV/AIDS will impact very strongly over the long term, and will also exacerbate the problem of capacity and sustainability. When people fall sick, who are we going to get to work? When they take sick days, it must impact on the productivity of the country.

The world has come to realize—I am not sure that we in Trinidad and Tobago have. I think that Trinidadians and Tobagonians do; I am not sure if Members on the other side do—that it is a developmental problem that threatens human welfare, socioeconomic advances, productivity, social cohesion and even national security. HIV/AIDS reaches into every corner of society. It affects parents, children, youths, teachers, health workers, rich man, poor man, politician, beggar, women, every creed, race and class. Nobody is immune. I repeat, nobody is immune. [*Interruption*] I would give way; do you want to say something?

I have listened with growing trepidation to the argument raised by the Member for Caroni Central and some of the other Members on that side as well. I quote:

“Transmission of the virus often happened when people did not know they were infected. And who would determine that the person charged had not informed his partner of his HIV status? It was a matter of one person's word against another's.”

This is what gets me; it is a matter of one person's word against another. I am very concerned about that statement. It is in fact the same nonsensical argument that has been used in instances of rape, incest, and sexual harassment in the workplace. The last one, sexual harassment in the workplace, I have a serious problem with that, but that is another debate for another time—I hope, very soon.

I locate the argument in the context of those issues. All of them are crimes primarily perpetrated against women. What is even more amazing is that the HIV/AIDS disease, which was a disease initially, predominantly affecting homosexual men, now has what is called a feminine phase. They call it the feminization of the disease and that spells trouble.

According to the United Nations Report, I am quoting:

“The global AIDS epidemic crossed a significant threshold in 2003 when, for the first time, according to new statistics, half of those living with HIV were women. At the outset of the epidemic in the 1980s, women were considered marginally at risk from a virus that seemed to be confined to men who have sex with men, sex workers and intravenous drug users. Now, HIV has infected tens of millions, many of them women who contracted it from their husbands or partners. AIDS has become the worst pandemic in human history—one from which no one is immune. In the world as a whole, at least half of those newly infected are women, and among people younger than 24, girls and young women now make up nearly two thirds of those living with HIV.”

The United Nations also posited several reasons for this occurrence including poverty, abuse and violence, lack of information, coercion by older men. I want to repeat that; coercion by older men and men having several partners. I want to repeat that too; men having several partners.

Maybe hon. Members on the other side would like to suggest other possible reasons for this frightening development. They need to desist from this one

person's word against the other person's word theory and start listening to women who have been victims of rape, incest and sexual harassment in the workplace. They have to start listening when women say: "I have been abused". They have to start listening if the woman says: "Look, I contracted HIV/AIDS from that person".

Mr. Hinds: Rao was not the first.

Hon. E. Job-Davis: Mr. Speaker, when they begin to do that, this will make a significant difference in the execution of this Bill when it is passed into law, and it will be.

As I said before, the Government does not see this Bill as the panacea for the spread of HIV/AIDS or to control it, but we see it as helping to change behaviours. The hon. Member for Caroni East seems to have a lot of information about where it is rampant and where it is not. He knows about Simona Frika, who had it in Tobago. I wonder why? I will give way for the Member to tell me how he knows.

Mr. Hinds: Go cool. Take it easy. Go cool.

Hon. E. Job-Davis: Mr. Speaker, the millions of dollars that we now devote to care and treatment, especially behind the active ART Programme, will be of no consequence, and we know that, unless there is a dramatic and drastic change in personal behaviour. We understand that, especially among members of the society who are at risk; that we know. We do not expect the Bill to prevent the spread of AIDS. We expect that if you know that, you are going to be held accountable and responsible for infecting somebody then you should stand the consequences. We believe that if you do the crime, then you should do the time.

Mr. Hinds: And not just one week.

Hon. E. Job-Davis: And not just one week. We on this side believe that the time has come for the transformation of relationships between men and women, where men are forced to take responsibility for their sexual behaviour and where women—I am not a man—are not afraid or ashamed to ask these men what is your position; where women are not afraid to stand in defence of themselves, where they are not afraid to demand disclosure and to disclose their positions. It is one of the ways in which we know that the disease can be controlled as well.

There are those who believe, and I concur, that the turning point in this epidemic will come when women can say no to unsafe sex, when women have their own access to preventative methods, become educated sufficiently in those or other countries to earn a living, and most importantly, where women live in social structures which place a value on them as contributing members of this

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[HON. E. JOB-DAVIS]

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society, when they are given the right to be heard, without accusatory fingers being pointed at them—she look for that because she wears the skirt too short, she looked for that because she trusted this guy who took her on a date, she looked for that because she lovingly went with her husband—when they stop pointing accusatory fingers, we believe that the turning point of this epidemic would come.

Mr. Speaker, every time the Member for Caroni East jumps up I remember—I do not know if you have ever heard of him—Rumpelstilzkin? That is what I remember.

Dr. Rowley: They put it on the wall in Tunapuna.

Hon. E. Job-Davis: No wonder the Member knows so much about this thing. I have to do research. He comes here with a piece of paper and flings it about and he knows all the information.

Mr. Speaker, I would like to encourage hon. Members to support this Bill, in the interest of the survival of our country. I would like hon. Members to understand—God forbid, they would not see this side before the next 40 or 50 years, and if they do, the problem will be theirs—that they should not sit and play politics with a situation that is threatening to erode the very fabric of the society, because they feel their name is Opposition and they must oppose. Do not follow the bearded one down the road to destruction. [*Desk thumping*]

Mr. Hinds: He will just shave the beard and leave you wanting. He looks quite handsome with the beard though, I must say.

Hon. E. Job-Davis: Yes, I think I prefer the Member for Couva North with the beard.

I would like to encourage Members in this House to support this Bill. In closing, I also want to urge us that we must never forget the A,B,C,D of HIV/AIDS, which is abstaining; gentleman, please be faithful; gentlemen, condomize; and gentleman, disclose.

Mr. Speaker, I thank you.

Miss Gillian Lucky (Pointe-a-Pierre): Thank you very much, Mr. Speaker. When this piece of legislation was introduced in the Lower House, I did not have the benefit of getting the live contributions that were made by Members on that day. However, I have taken the opportunity to avail myself of the contributions made by the Member for Laventille/East Morvant and the contributions that were made by the Members for Caroni Central, Caroni East and Minister John Rahael.

Unfortunately, I missed the Member for Tabaquite, but I have had discussions with him and he has given me the gist of what he said this afternoon and I have heard most of what the Member for Tobago East said. Let me state from the outset, therefore, that from my point of view, I think it is important that something is done to deal with something as serious as AIDS. That is a fact.

Secondly I do not think that the concept of legislation is anything new. In fact, academics, for a very long time, for decades I might state, have been pondering the whole question of potential criminal liability for the deliberate or reckless transmission of HIV.

I have listened to the contribution made by the Member for Tobago East. I must say that until she started pointing fingers, perhaps in jest and, of course, trying to make sure that persons were following what she was saying, I think that what she stated, most of it, came from the heart, in stating that it is time that persons become responsible for their activities, especially sexual activity. I think if I have gotten the Member correctly, the Member was encouraging all citizens, especially the male folk, to take responsibility for their actions because the repercussions of AIDS are very serious and in fact, in many instances, very deadly, because unlike other jurisdictions, the reality is that health care in Trinidad and Tobago is not where it ought to be. One can look at serious diseases such as cancer. We are not where we are supposed to be. When it comes to AIDS, we are in a very similar position; that is, this Government is not spending enough money in a wise fashion. Notice, I have conditioned it. I have not just said spending money, I have said spending money wisely in a way that has really upgraded the delivery of health care in Trinidad and Tobago.

Therefore, it is with this in mind that I looked very carefully at the piece of legislation. Let me also admit quite candidly that when I was a prosecutor, this piece of legislation—I do not mean this exact piece of legislation, but it was under the UNC administration that contemplation was given to the passage of legislation to criminalize HIV. That is a reality. [*Interruption*] In fact, I think the Member for Princes Town has gotten it very right. It was around the year 1997/98. I remember that representation was made from the Office of the DPP then, that if there was to be legislation to criminalize the transmission of AIDS, we had to make sure we got it right. What I am asking the Member for Laventille East/Morvant to do when he is finished with his little discussion across there is to bear in mind some of the legal points I intend to raise this afternoon. I want to give the assurance to the Member for Laventille East/Morvant and all Members that if things proceed the way they are, I do not intend to take my full time this afternoon, with or without

extension. There are some genuine concerns that I have and I am asking the Member for Laventille East/Morvant to please address these concerns when he is responding to the various contributions.

Therefore, I go straight to my concerns beginning with item one which is the definition of the criminal offence; which is a person who knows, or who ought reasonably to know, that he is HIV positive and who, without so informing another person; engages in conduct with another person, commits the offence of intentional or reckless exposure of another to infection with HIV. I stop right there. I deliberately leave out the actual specificity of some of the conduct that is included and it is for this reason. I know the Member for Tobago East—she should be commended for it—did refer to some legislation in other jurisdictions to make the point that other jurisdictions found it necessary to criminalize for the transmission of HIV/AIDS. Therein lies the important point. Some jurisdictions have criminalized for exposure and some jurisdictions have criminalized for the transmission.

What is important in this piece of legislation that is of great concern to me, is that there is the criminalization at the lowest level of the action. In other words, I would explain it; it is for mere conduct which exposes another person. In other words, when one looks at the legislation that was referred to by the Member for Laventille East/Morvant, in piloting the legislation, reference was made to the Bermuda Criminal Code Sexual Offences (Amdt.) Act, 1993 and it provided that where a person who knows that he or she is HIV/AIDS positive, does have sexual acts which involve the transmission of body fluids to another person—and it continues. In other words, in that jurisdiction, what they have done is that they have criminalized for the spread of HIV/AIDS, involving a sexual act. There must be the transmission. I understood what the Member for Laventille East/Morvant was saying when he was piloting the Bill when he said that in Trinidad and Tobago we did not just want to limit it to transmission, it must be to something that is even less than transmission, that is mere exposure.

Making the threshold for catching offenders too low has a very bad effect. I will say that right away. It means there is a phrase; I am sure the Member for Tobago East knows it; “ignorance of the law is no excuse”. In this instance, what is going to happen by making the threshold for criminal culpability so low, is that people are going to prefer to live in ignorance. Ignorance of one’s condition will now be a legal excuse.

Let us look closely at what is being criminalized. Even the references made by the Member for Tobago East, if she just reread them, she would see that there is the concept, in most of the pieces of legislation, that it must be sexual transmission.

I am admitting that we are not to be bound by that necessarily. The transmission of HIV/AIDS is through sexual activity. We have gone so low in making the category so wide, that mere conduct that leads to exposure is enough and there is going to be a problem. Persons are not going to go and check themselves. That is not something that is just coming from this side of the House, but that has been an international problem. I have read what the Member for Caroni East said; and I have read especially what the Member for Caroni Central said, because he dealt with this point.

3.30 p.m.

You know, the Member for Laventille East/Morvant often says—and even the Member for Tobago East said—that we must put the politics aside and work together as a country. Member for Laventille East/Morvant, please try to understand that the contributions that are coming from this side, putting the political rhetoric aside, are contributions to get it right. The Member for Tobago East made the point that we are all susceptible.

Mr. Speaker, if I might just take this particular example, there was a doctor in a foreign jurisdiction attending to a patient who had come for a blood test. The patient did not indicate that amongst other things he was HIV positive. When the blood sample was being taken, he fidgeted. Apparently, he was afraid of needles. In flinging his arms, he threw the needle out of his hand and it punctured the doctor who was taking the blood sample. For at least six months that doctor was constantly worried as to whether the HIV would have been transmitted to him. I am just giving an example of how the reverse can occur. In other words, we are all susceptible. We have to make sure that we are getting it right, because passing legislation is one thing, and applauding ourselves in theory is another thing, but it is the practical implementation that concerns most people in the country.

Mr. Speaker, being a former prosecutor, I think it would be remiss of me if I did not look at it from the perspective of if we were to admit that this became the law, whether there could be or would be successful prosecution. The first point I am asking the hon. Member for Laventille East/Morvant to consider is that in the very definition—I have looked and I have not seen any jurisdiction that has a definition that is so wide in terms of what is conduct, because what is “conduct” is “any conduct”. It is merely speaking to a person. It does not just restrict itself to a category of conduct that is intimate. Mr. Speaker, “conduct” is given its widest meaning, because it is not defined, so “conduct” could be any kind of interaction or any kind of behaviour whatsoever.

Secondly—I really do not have a problem with this aspect—if it is that the legislation contemplates less than transmission, that is exposure, well then let us understand that we must realize that persons are going to prefer to live in ignorance. So, therefore, whether the practical benefit of a good theoretical law is going to be any advantage is something that you might want to reconsider. If you look at other jurisdictions you would recognize that they have restricted themselves to the transmission by way of a particular kind of conduct; that is intimate conduct.

Mr. Speaker, I think the best way to explain the point is by looking at case law, very limited though it is, that has dealt with this particular issue of the criminalization of the HIV transmission—the recent prosecutions. Basically, there have been three. I am looking now at what has occurred in England. There is a case, which is now set for retrial and that is the case of Mohamed Dica. This is a 2004 case. In that particular case what had happened is that the accused person had intimate relations with two women, and he did not indicate to them that he was HIV positive. The whole issue in the case was whether, in fact, he had committed an offence. Let me state quite early in the day that England does not have any legislation that specifically criminalizes the transmission of HIV. If a person transmits HIV in England that person is charged under section 20 of the Offences Against the Person Act, which is a section that basically says “any person who unlawfully and maliciously inflicts grievous bodily harm”. Of course, the grievous bodily harm is, in fact, the transmission of the HIV virus. In other words, the innocent person now becomes a person who is contaminated.

What happened in that particular case—it was on appeal and the accused won his appeal and it is to be retried. The trial judge had gone wrong, because the whole issue was whether by consenting—the persons or the victims—there would have been a defence from Mohamed Dica, the accused. What basically happened is that the trial judge did not put the issue of consent to the jury, and by not putting the issue of consent to the jury, there was an appeal and Dica was successful in his appeal, but the matter is going to be retried.

There is another case, and that case actually occurred after Mohamed Dica. In January 2004, Kouassi Michel Adaye was sentenced to six years imprisonment for infecting someone with HIV. In May 2004, Feston Konzani was sentenced to three years for infecting three women with HIV.

However, it should be noted that Mr. Adaye had not been diagnosed with HIV, but it was claimed that he ought to have known that he would have HIV, because his wife who was living in South Africa, called him and said: “Listen, I have just

been diagnosed as being HIV positive”. In other words, that is something the courts had to contemplate. When you use in the definition “a person who knows or ought reasonably to know”, in other words, if a wife in South Africa calls her husband in England and says to him that she has just discovered that she is HIV positive, the court in England is saying that means that the man “ought reasonably to know” that he is infected.

Mrs. Job-Davis: But, of course.

Miss G. Lucky: I want the Member for Tobago East to understand that in those circumstances, from the perspective that you spoke in your contribution, yes, you might feel that he ought to have known and he ought to have checked, but understand that when you are dealing with criminal law, that is one example. In fact, those who have commented on the case would have said: “Well, that was an easy case”. But the evidence is not going to be so forthcoming.

In other words, Adaye admitted that he got the call, but when and if England decides to criminalize, do you know how easy it is for accused persons to forget that they got a phone call? In other words, what Parliaments around the world have had to determine is to pass the law and applaud themselves and say, “Yes, we passed the laws, and then you tell the citizenry that you have done something, but the citizenry now run away because they have realized that it is better that I say nothing; I know nothing; and I speak nothing.

The Member for Laventille East/Morvant shakes his head. I am just saying—you see, you ought to be concentrating on my contribution. The Member for Laventille East/Morvant has to be focused. [*Desk thumping*] We are talking about something important. As the Member for Tobago East who sits next to you says, let us not lose focus.

Mr. Hinds: Do not worry.

Miss G. Lucky: I am worried because this legislation worries me.

Mr. Hinds: Stay worried. I will respond when my time comes.

Miss G. Lucky: I have heard your responses in the past, and it worries me more when I hear your responses because I recognize that you dismiss contributions too easily. Mr. Speaker, as I continue, let us not allow others, like the Member for Laventille East/Morvant, to just flippantly dismiss the concerns, because the concerns that I am raising are coming based on prosecutions in the United Kingdom where learned jurists are saying that this is a problem.

Mr. Hinds: What did they say is the problem?

Miss G. Lucky: Member for Laventille East/Morvant, the problem is the proof of the case and, more importantly, if you remember the law that you have learnt on “recklessness” which is the taking of an unjustified risk.

Dr. Khan: Do you understand that?

Miss G. Lucky: I know the Member for Oropouche would understand what I am talking about. He has no doubt studied that within the recent past. When there is the taking of the unjustified risk, which is what defines “recklessness” and you now juxtapose a criminal principle into this legislation you get problems, because what is “recklessness” in this regard. That is going to be the problem, because of the very wide threshold that was used. If you want me to pass the papers to you after I am finished, I will.

Mr. Hinds: No.

Miss G. Lucky: The Member says no. You see, this is it, Mr. Speaker. The other side stands and bobs up and down and boasts about taking the country seriously and the national interest seriously, but when you offer them papers which they would not have—these papers have only recently been put on the Internet.

Mr. Hinds: I have them here, so I do not need your papers.

Miss G. Lucky: In that case, I challenge the Member for Laventille East/Morvant to name the three cases that have been decided on. He cannot rise to the challenge. He is not prepared to learn. Unless we get serious inside this House, the Members across there should understand that boasting is not good enough.

Mr. Speaker, what has happened as a result of those cases is the following: It has now become unclear to the courts as to how to determine that someone knew that he/she was HIV positive. Is it just those who have received a positive HIV test result? The Adaye case where the defendant was deemed to know because of the phone call from his wife, suggests a very worryingly wide view of when someone should know he/she is positive. Since Mr. Adaye pleaded guilty to the charges, his case never went to the court, so there was no opportunity to challenge this approach. So understand where the United Kingdom is right now in its thinking. Remember, a person who transmits HIV in England is charged and prosecuted under section 20 of the Offences Against the Person Act, which is an assault occasioning actual bodily harm. So do not think that the person would get away.

Mr. S. Panday: We have that law here.

Miss G. Lucky: Exactly. The Member for Princes Town makes the point. So, is it that we already have the law and we are just going to cause mischief by passing this one? Is it that we need to look at what we have and amend it accordingly? This brings me to the other point.

It is also unclear what knowledge is necessary to establish that someone consented to the risk of HIV transmission. There is a defence under this section for the accused person to prove that he informed the other person that he was HIV positive and that person consented to engaging in the type of conduct referred to in subsection. I think those on this side made the point that it is “he say versus she say” but pronouns could change accordingly. That is going to be a test or a challenge for the prosecution.

I agree with the Member for Tobago East that it is the same in most rape cases. Rape is not done in front of witnesses, so it is a case of whether you believe the virtual complainant or the accused person, and that should not stop you from passing legislation. I take your point on that. I am also saying that I accept the point, but understand with this particular piece of legislation, it is not just for us to say that is already dealt with in rape situations and move on. For example, do you need to be told by your partner that he or she is positive before consenting to the risk? Is it enough simply to know that they are from a high-risk group or that they have had a large number of sexual partners? Is consent to risk implicit, simply, in the decision to have unprotected sex at all?

In other words, one can argue that you “ought reasonably to have known” that you were HIV positive; bearing in mind you had many sexual partners.

Mr. Singh: That is the man in the maxi taxi.

Miss G. Lucky: That is what the English jurisdiction is worried about now. How do you or where do you draw the line? In the case of *Dica*, 2004 *Criminal Law Review* on page 944 makes the point that issues concerning whether the defendant was or was not reckless, and whether a complainant had or had not consented to the risk of a sexually transmitted disease were case specific issues of fact. The Law Lords in that case recognized that going into persons’ private lives and bedrooms is always very difficult. I am sure the Member for Tobago East is nodding because she understands that.

Mr. Speaker, you see, it is not simply a case of rape here; it is a case of, perhaps, a person knowing that the partner was HIV positive, and then because the relationship may have gone sour, just to get back at the person would say:

“Well, you know, I did not know, so I never consented.” It is a little different with rape. In fact, I would say to the Member for Tobago East, with years of experience in prosecuting, it would be easier to prosecute a rape case, which in itself is difficult than to prosecute anybody charged under this legislation. It makes a defence counsel’s day.

I am sure the Member for Princes Town would say that this is the kind of case that is very easy, or easier than most to defend, not to prosecute. The very purpose of the legislation is to ensure that you get prosecution. So passing the law might sound nice but, practically—the Member for Tobago East is nodding again, but all I can say to her is that my job is to share experience. It is your right, at the end of the day, to just disregard it and do it to the peril of the nation, because right now that is what is happening. The Government is not prepared to listen to the suggestions coming from those who are experts and who may know more. They disregard the suggestions and they go merrily along their way and, unfortunately, it is to our detriment.

Mr. Speaker, there is another point that concerns me. The Member for Laventille East/Morvant might be able to assist. In many jurisdictions that have criminalized the transmission of HIV positive, whether as transmission or exposure, there has been an amendment to the Sexual Offences Act. In fact, the very Bermuda Criminal Code referred to by the Member for Laventille East/Morvant referred to the Sexual Offences (Amdt.) Act. In other words, in Bermuda, they have amended the Act dealing with sexual offences and there is a reason for it. I am sure the Member for Laventille East/Morvant, who is in his technical meeting right now, would recognize the reason is that when dealing with these kinds of matters, one does not want them in the open court. Sexual offences are heard in camera. There is no provision, in this particular piece of legislation, which provides for “in camera” proceedings. Which victim is going to want his or her business—I use the word victim, the virtual complainant—bandied all over the society that has been allowed to become a bacchanal society, feeding on propaganda, because of this Government?

Mr. Speaker, in other words, you know, persons in this country know the reality is—and the PNM has been able to exploit it—that this is a propaganda nation. We have to stop being a propaganda nation.

Dr. Khan: Rahael.

Miss G. Lucky: When this kind of matter is heard in the open court, virtual complainant are going to recognize that their business would be all over. I know the rules. I know the Member for Laventille East/Morvant would say that in

preliminary enquiries—because it is an indictable offence being created—reporters are not supposed to write about what they hear in terms of evidence. Mr. Speaker, it is not the reporters that one has to be concerned about, but it would be the persons in the court who would start spreading rumours. Once a stigma is attached it would be very difficult to get rid of. Even the High Court, there is no provision for in camera proceedings. In the High Court one can report evidence that is taken.

I am asking the Member for Laventille East/Morvant to understand why in other jurisdictions they have made the amendment to sexual offences legislation; that already provides for in camera.

Further, if it is that it is going to be an amendment to the Offences Against the Person Act then there should be a special provision made here. Members want to think that we talk nonsense across here, but understand that in Alabama that is exactly what they did.

Alabama also criminalizes exposure. In Alabama it says that any person who exposes another human being to HIV by engaging in unprotected sexual activities when the infected person knows at the time of the unprotected sex that he or she is infected with HIV, and has not disclosed his or her HIV positive status and acts with specific intent to infect the other person with HIV—

Mr. Speaker, I just pause to say here that it makes the point that I referred to earlier. In Alabama, there is provision for criminal culpability for exposure, but understand that when one is talking about “exposure” you still lift the bar by talking about “specific intent”, not “recklessness”. So you ensure that there is that balance that does not make the threshold too low.

Mr. Speaker, the point I was making is that in Alabama, the legislation goes on to say that when there is a prosecuting attorney before a grand jury, there shall be the substitution of a synonym for the true name of the victim that is involved, and the actual name and other identifying characteristics of the victim shall be revealed to the court only in camera, and the court shall seal that information from further revelation, except to defence counsel as part of discovery. So understand that in legislation in other jurisdictions, dealing with the criminalization of AIDS, they have not just jumped up and down and waved it to the population and said: “Quick fix, quick fix, this is a part of the big crime package that we have to deal with crime, hey, hey.” They have not done it so responsibly—

What they have done is considered the virtual complainant; they have considered in camera proceedings; they have upgraded the health care system;

and they have done it holistically. They have not done it on an ad hoc basis to try to win political points, and then to come here, serious faced to say that they really care about the nation.

Mr. Hinds: I am so sorry to take some of your time. Is the Member saying that in this country—The Law Review Commission and your party began discussion on this matter since 1999, so, therefore, it is no “quick fix”. Since 1999 this was deliberated in this country under your government. That is just to deal with the “quick fix” argument.

Miss G. Lucky: Mr. Speaker, you know, the Member for Laventille East/Morvant rises to say that since 1999—and it is not a “quick fix”. “Quick fix” means when you do not conclude the discussions; when you do not properly avail yourselves to all the trends internationally, and you come to a country and say this will solve the problem. That is “PNM quick fix” that I am referring to. So understand the point! [*Desk thumping*] All you have done is buttressed my submission that it was in 1999. In fact, it was in 1997 that there was discussion about whether to criminalize the transmission of the HIV virus. So, Member for Laventille East/Morvant, thank you very much for just supporting the point.

Mr. Speaker, I would move on. In the same way the Member for Tobago East said she had her duty, I have mine. It is to make sure that the *Hansard* record—and those Members who are serious about putting country first, recognize that we need to get it right. That is all that can be done. The Member for Laventille East/Morvant prefers to stand and make submissions and points and refer to evidence that is not related to the point being made.

Mr. Speaker, there is also another important point that I am concerned about and that is the provision in subclause (8) where either person refuses without reasonable cause to give the sample of blood, and the court is determining whether to commit the person for trial. I am looking at the situation where a magistrate is sitting in his capacity as the presiding officer in a preliminary enquiry.

This piece of legislation is giving a magistrate, in a preliminary enquiry, the power to make an order that a party or parties go for a blood test. Mr. Speaker, assuming, but not admitting, that there is anything wrong with that, it is this part that concerns me—it talks about a jury and a judge. I am not concerned if the matter reaches to the High Court. I am talking about the magistrate in his capacity in a preliminary enquiry—and it says “that magistrate may draw such inferences from the refusal as appear proper”.

This provision in this legislation identifies the clear misunderstanding, by those on that side, about the purpose of a preliminary enquiry. A preliminary enquiry, as I am sure that you well know, is not for a magistrate to be a finder of fact. He is not sitting there as judge and jury; he or she is not determining guilt or innocence. All the magistrate is doing is determining whether a prima facie case has been made out. Why is this legislation taking the role of a magistrate, not sitting as a finder of fact as a judge in the High Court and allowing a magistrate to make inferences from the refusal as appear proper? In other words, it is not for the magistrate on a preliminary enquiry to be a finder of fact and to be making those kinds of inferences not based on evidence. I would tell you why this provision was put in.

Mr. Speaker, I mean no disrespect to those who are the drafters. Let me say that from now. In England—I see the Member for Caroni East is also about to nod because I am sure that he is predicting me—they have removed the right of silence. In other words, in the High Court in England, a jury can be directed to make any inference as to the silence of an accused person who does not choose to go in the box.

In Trinidad and Tobago we have not changed our law in that respect. There can be no negative inference that can be drawn from an accused person in Trinidad and Tobago, who exercises his right to silence in a trial, but England is different. That is why an inference of a person not giving a blood sample, which obviously would suggest that the person is guilty as opposed to innocent, could never be a positive inference. If an accused person refuses to give a sample of blood, there is no way any tribunal of fact can infer that is something positive or in his favour.

Again, I am asking the Member for Laventille East/Morvant, in his deliberations with higher technical crew, more so now the Member for Diego Martin Central, to please reconsider the legislation. Let us do it the way that we have done it in the past, so that there is no political embarrassment to the Government. The Government is so concerned about gaining political high marks, they can go using this suggestion, which is as follows: this is the legislation; it is a start. In its present formation, it is going to cause more problems than provide solutions. Therefore, I want to respectfully suggest that the other side consider, more so the Member for Laventille East Morvant, sending this piece of legislation to a joint select committee. In a joint select committee, with the benefit of the technical advisors and also the developments in the English legal system—it is not that I have a preference to laws coming out of the United Kingdom, but I am

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[MISS LUCKY]

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just saying that the Privy Council remains our highest Court of Appeal in the land, meaning that is the end of one's appeal. The Privy Council is the final Court of Appeal. I am saying that these are matters that have been considered in the United Kingdom. *Dica* is a case that has reached a particular distance and there are concerns. There are two other cases that I have referred to and they have highlighted the problems.

If we really want to get it right, in this fight against AIDS, which is a very dreaded disease, let us make sure that the Parliament, through legislation, does not cause more problems.

With these few words, I once again urge the Member for Laventille East/Morvant and his colleagues, to reconsider the Bill in its formation, and to consider sending it to a joint select committee so if it is passed, we do get it right.

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

Dr. Roodal Moonilal (*Oropouche*): Mr. Speaker, thank you very much. I believe that the Parliament and, indeed, the country benefited from the fact that this debate started last Friday. During the period Friday to Wednesday, we have had the opportunity to hear from several sectors of the national population, including the newspapers, via their editorials and so forth, and also from important social sector groups that are concerned with matters of the criminal justice system; with matters involving HIV/AIDS and sexually transmitted diseases and so forth. Mr. Speaker, it is clear that as of this moment, only two persons in Trinidad and Tobago support this piece of legislation namely, the Member for Laventille East/Morvant and the Member for Tobago East.

Mr. Valley: And the Member for Pointe-a-Pierre.

Dr. R. Moonilal: Mr. Speaker, we have had condemnation of the concept; we have not had condemnation of the drafting; we have had condemnation of the idea; and it is now left for this Government to withdraw the Bill once and for all from the Parliament of Trinidad and Tobago. [*Desk thumping*] Withdraw it!

Mr. Speaker, the Member for Port of Spain North/St. Ann's West went his own way by advertising, what he claims to be his good work in the Ministry and so forth. He did not bother too much with the Bill. The Member for Laventille East/Morvant and the Member for Tobago East spent more time on this matter.

I want to make an introductory point. When we on this side speak out against this measure, I want to tell the Member for Tobago East and others, it is not that we are not serious about this deadly disease; it is not that we are not serious about

the implications of this for citizens of Trinidad and Tobago. That is far from the truth. It was the UNC government that put several of the measures and programmes in place that today are benefiting the national community and, particularly, those infected. [*Desk thumping*] Mr. Speaker, it is not that we do not care. In fact, we care, and that is why we are objecting to this piece of legislation.

Mr. Speaker, another preliminary point is that the hapless Member for Laventille East/Morvant, in presenting this measure, you would have thought that he would have brought some research material in his presentation; some analysis and some argument, but it was left to Members on this side of the House to bring the research; to bring the argument; and to bring the criticism.

Mr. Speaker, you would think that the Member for Laventille East/Morvant, being supported by a complete Ministry where there is a research unit—the Attorney General’s office boasts of a Media and Policy Unit, whatever that does at the Director of Public Prosecution’s Office and the Attorney General’s office—you would think that they would marshal data and evidence to support this measure. Nothing was forthcoming! If you ask this Government: Why did you bring this here? What is the purpose of this? How many escape liability because of a lack of such legislation? They cannot answer. This is a Government that has laws on the books and they cannot implement them—whether it is OSHA, DNA of Tissue Transplant. They cannot stop people from littering, but they are going to stop people from transmitting disease? They cannot stop people from littering. Citizens and motorists are being killed on the road. They cannot stop people from driving fast, but they are going to stop people from transmitting a disease by legislation? This Government can do nothing with legislation. All the law books are a waste of time in the hands of the PNM. I do not understand why they are so adamant that they must pass this piece of legislation.

Mr. Speaker, you see, the Member for Tobago East maybe, innocently, exposed their hands. They are faced with a pandemic; they are faced with a disaster on their hands; and they have no creative solution to anything. If they could have built an AIDS research facility for \$850 million they would have built it.

Mr. Singh: It is erection.

Dr. R. Moonilal: If they could have erected an AIDS research facility for \$850 million they would have done that. They are into pretending that they are dealing with the nation’s problems. [*Desk thumping*] That is what they are about. They are into pretending! The Member for Tobago East had it right. This is a big

problem, we need to show that we are doing something; so that they could pull wool over the eyes of the citizens and they would feel that the Government is acting. AIDS is a national emergency; and they have acted to criminalize the transfer of the virus and so forth. That is what they are about. Pretence! They will begin and end with pretence. The citizens are no longer taking this level of rubbish and nonsense. If you cannot protect citizens from kidnappers and murderers, are you going to protect them from transferring disease behind closed doors? You cannot save someone who is being kidnapped by his front gate, but you could save someone from getting HIV behind closed doors? Mr. Speaker, this is the hypocrisy that we are faced with. [*Desk thumping*]

On the one hand, it would have been easy for us to just allow this to go unnoticed—no need for any lengthy debate on this matter because, in any event, nothing will happen; no one will be prosecuted. You have heard from the lawyers; you have heard from other speakers; and you have heard that it is almost impossible under this measure, to prosecute anyone. We could have allowed this to go unnoticed, but the very fact that we are debating, participating and discussing HIV, suggests to us that it is important. [*Desk thumping*] HIV/AIDS is important to us as a national issue; not this irrelevant piece of legislation by itself. The issue is relevant, and that is why we are in the debate; and that is why we are committed to articulating policies and programmes. It is not the incompetence of this Government alone in its failure to spend the resources and moneys and so forth allocated and budgeted towards dealing with this matter; it is not just their incompetence, but it is the pretence that they can do something.

Mr. Speaker, others on this side have gone through this short Bill almost line by line, and there is not one clause and subclause that we could look at and say that it is proper; this is a good clause. The Member, speaking before me, pointed out several deficiencies and so forth.

I want to add something. When you bring a measure such as this—Members have already pointed out that in the United Kingdom the law does not recognize any Bill or any Act looking like this Bill. They operate under the Offences Against the Person Act—sections dealing with the administration of offences and so forth—and they prosecute on that Act.

Mr. Speaker, what are the implications of this measure? Well, I cannot ask the Member for Laventille East/Morvant, because he might be busy calling in on a radio programme. [*Laughter*] Somebody must answer and, certainly, a colleague on this side of the House must answer as well. When you introduce a measure like this, where you are effectively saying that if a person is infected and that person

knows that he is infected and he indicates to the other person that he is infected, that person could have sexual intercourse with another person. Let us assume that the other person consents then there is no crime. If you consent to the conduct or the intercourse with someone who discloses his infection, there is no crime under this Bill.

Mr. Speaker, do you know that the implication of that is not just legal, but there are policy implications that the Government did not consider? Could you then consent to the risk of infection? According to this Bill, you could consent to the risk of infection. That means that you could consent to the risk of death. This Bill, if it is passed, would give persons the right in law to consent to the risk of death; to be killed. That, to me, has if not legal, certainly, policy implications, as to whether a society should permit consent.

As it is now, as I understand from the highly acclaimed lawyers on this side, you cannot consent to someone killing you or assaulting you. [*Desk thumping*] Except rules governing a contact sport and so forth, but you cannot consent to someone assaulting you or killing you. Under this measure you could consent to someone killing you, and consent is the defence. So, under this measure, it is lawful to consent to death.

Mr. Speaker, whatever might be the legal arguments of that, certainly, at the level of policy, we would want to know whether this society would want to develop, on the basis of giving persons the right to consent to death, as they have here. Once two persons get together, if one person is infected and he indicates to the other that he is infected, and the other person says that there is no problem with that let us go ahead with the business, you have consented to risk, but you have also consented to the risk of death. I do not know if the Government would have understood this implication or they have considered that matter or whether they are okay with that. Maybe the PNM Government supports a new policy framework that citizens should consent to death.

Mr. Speaker, they are not passing OSHA; they have implicitly consented that workers should be killed at industrial sites. [*Desk thumping*] So, it may be consistent that in their failure to implement the OSHA, they have consented that persons should be killed at industrial sites. So this is consistent with their approach. The man agrees to work under conditions whereby he could be injured or killed. For the year four persons have been killed on industrial sites; not to mention murder, kidnapping and so forth where you would go to work and never return home. Mr. Speaker, that is a serious implication of this measure.

Another serious implication of this measure is: Let us assume for the moment that this measure is passed and persons are convicted under this Act for either exposure or manslaughter—either the lesser crime or the heavier crime, that person would go to our prison and so forth—that person is not a thief; that person may not even be a rapist or committed for any traditional criminal offences that we know, but, by virtue of being in prison, that person is an infected HIV/AIDS citizen. One would have expected the Minister—who I believe in a previous incarnation—no, he had rejected rehabilitation early o'clock—to indicate to the House and to the country that the Government has taken certain steps with respect to the prison system and so forth, and persons who are going into jail charged and convicted under this Act, would be in a particular environment where they would have to be treated and provided for to reduce the risk and so forth. So you would have to address your prison system to cater for this. [*Desk thumping*]

It is not someone who is convicted of burglary going in the jail, and you just have to make sure that he has nothing to steal around him; it is not someone who is convicted of a traditional criminal offence; but it is someone who has transferred this disease knowingly to an innocent victim that has resulted in the infection or death. How are you going to manage your transformation in prison to deal with persons convicted under this Act? We have heard nothing from the Government on this matter.

So, in their thinking, you would round up the 20 or 30 persons who may be found guilty under this Act, and you throw them in prison with everybody else and they would stay there whether they have access to the drugs or not, because I assume that they are not going to be working there and earning, so they must have access to medication; they must have facilities and so forth for treatment. It also requires a medical apparatus as well—another rehabilitative apparatus to come into play at the prison once you decide that this is where you are going.

This Government, typically, would come to the House and would not understand when you take one step forward what the next step might be. Mr. Speaker, the transformation, the rehabilitation and the provision of medical assistance and so forth at the prison in Trinidad and Tobago must be considered. This has to be considered. The hypocrisy of this Government is that they would like to tell the population that they are doing something about the threat. That is what they are about! What have they done?

Mr. Speaker, it is now universally acknowledged—last evening on television I saw a specialist by the name of Dr. Alock Kumar, I think, at the Ministry of Health talking. This is the positive outcome of this debate in that it gives rise to

dialogue among the citizenry. On several occasions he made the point that the real problem is discrimination; the real problem is the lack of understanding at work in the society; and the real problem is not that one person will get away transferring the disease without a law.

Mr. Speaker, the Member for Pointe-a-Pierre, the Member for Princes Town and others recited the cases involving Dica, Konzani and others. They were tried and convicted under the existing Offences Against the Person Act in the United Kingdom, which is similar in several ways to our legislation.

In the United Kingdom, they did not introduce new legislation because they are very wary; they are very concerned. They used their Offences Against the Person Act to convict even someone transferring a sexual disease. That is in sections 18 and 20 of their Act and section 17 in our Act. What they have now, and there is case law to the effect, is that under the Offences Against the Person Act, there are several offences dealing with administration offences which is to poison and so forth, and they are using one where you administer a noxious thing to endanger life. The administration, which was held, was really the transfer of a deadly disease from one human body to another. That is the administration of a noxious thing consistent with the administration offence under the Offences Against the Person Act. It is a heavy sentence. I think it is No. 23.

Mr. Speaker, so you see how you could use your existing law to deal with the same problem without the criminalization; without the problems associated with the Magistrates' Court like the trial and so forth. We have the law on our books. No. 17 of the Offences Against the Person Act states: administering poison or a noxious thing or a destructive thing to inflict grievous bodily harm or endanger life. This is what the British have done. They have done that. They did not need to go and pass legislation with all the complications and implications and so forth, which several Members here have spoken about.

4.15 p.m.

As if we need to introduce more reasons why this should be withdrawn, there is also the matter which colleagues on my side may have to answer because it cannot come from their side, as to whether or not under this Bill, a magistrate could force someone to give their own blood—to subject that person to a blood test—and whether or not that violates the Constitution. That may be another debate. Persons may have views for or against, but we must consider before we pass. Before you enact, you must consider whether or not it may violate the Constitution. The bad news for the Government side is that the Attorney General

will not help them. He read a death warrant by accident to a prisoner. He became the first Attorney General in the Commonwealth that we know of, to read a death warrant by accident. That is what they do. It cannot surprise us that they did not consider the constitutional implications of this measure. If they would read a death warrant by accident, they could pass with this.

So, Mr. Speaker, there is no provision for in-camera hearing of the proceedings, given the sensitive nature of this offence; given the public perception, and so on. So there are several flaws, conceptually, in terms of drafting, with this matter, and we demand that they withdraw the Bill. [*Desk thumping*] It is unconscionable at this time to go ahead and pass this measure. I do not want to take time to quote the editorials and the persons from the different social groups and NGOs, and so on, who have spoken out against this. They are all telling the Government: “Look here, the issue is not legislation; the issue is discrimination and education.”

Hon. Member: Stigmatization.

Dr. R. Moonilal: And stigmatization. That is the issue. Our friend from Tobago East began by asking us not to use too much reference to Tobago and then used five references to Tobago, herself.

Mr. Singh: Government sent tax for that, say nothing about Tobago.

Dr. R. Moonilal: At the work place, this is a major issue. There is a reason that persons would not subject themselves to tests, because if they are tested and, God forbid, they are positive, they know they would be discriminated at work.

Hon. Member: They would be shunned.

Dr. R. Moonilal: And they would be shunned. But that is the first phase. The employer would find some way to terminate their employment. People are crying that they sleep on the street, because their own family does not want them at the home. Do you think an employer wants you at the job site, if you are found to be HIV? This Government should be promoting workplace policies and laws that prevent discrimination. [*Desk thumping*] That is what they should be doing.

Mr. Singh: You only—[*Inaudible*]

Dr. R. Moonilal: No, they are concerned with the bakers. Mr. Speaker, they should be promoting legislation and policy that make it an offence under the industrial relations law to discriminate against someone on the basis of HIV/AIDS, and prevent it. We have had cases in the trade union movement where workers have been fired under suspicious circumstances, but at the end of the day it is

because the workers admitted to the employers that they were positive for HIV/AIDS, and there is no redress. I stand corrected here, but the Government may want to stand and tell us, if a citizen discovers that he or she is infected, what does this citizen do? Where do they go to first? Which Government agency do they go to first and look for sympathy, support and care? They are thrown out of their homes. Who do they go to? Which Government agency do they go to?

Mr. Ramnath: Tamarind Square.

Dr. R. Moonilal:—and say: “Look, this is my predicament; how can you help me?” They should be concentrating on this. But this is a country where the National Emergency Management Authority (NEMA) does not work, and that is emergency. Do you think they can run a facility to take persons off the street if persons are infected with HIV/AIDS, and are chased away from home and lose their jobs, and so on? Someone loses his job, who does he go to? Who does he talk to? Which Government agency or officer would deal with this matter as a matter of priority? There is nothing. All you do is read in the newspapers big speeches about numbers going down and seminars at the Hilton.

Mr. B. Panday: Advertisements.

Dr. R. Moonilal: Advertisements, yes. This is Government by advertisement. The Member for Port of Spain North/St. Ann’s West is in the newspapers every day looking like a World Health Organization doctor. [*Laughter*] You know, when they go about Africa and India, they are always in short sleeves and with patients, and so on. You would think that he is with the World Health Organization, the way they are trying to con this population. But this is what the Government must concentrate on; facilities that are available, where citizens can walk off the pavement and go to the ministry, or the agency or the officer and you get immediate relief and sympathy.

A constituent of mine came to me, no home and so on, wanted assistance to construct a small wooden shack to live in. This person, a woman, indicated to me that she was HIV/AIDS infected. I believe as a Member of Parliament I should treat that situation as an emergency. I contacted several Government agencies to ask these Government agencies whether or not there was some emergency programme relief for persons like this, and I was told, no; they either apply for a house as normal; they apply for self-help as normal; they apply for whatever as normal. My constituent, the person I am referring to, was thrown out of her home and could not go to family for help. The family thought that if she came within 500 yards, that she could infect everybody, so they did not want to see her, and she is there

Offences Against The Person Bill
[DR. MOONILAL]

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without house, sleeping on the road, and so on, without food, shelter and without protection from a compassionate State. This is where they should be focusing, at the workplace. [*Desk thumping*]

The International Labour Organization, in collaboration with all the UN agencies that deal with HIV/AIDS, has promoted a policy agenda for governments, for member states, to address the HIV/AIDS crisis. This is dated June 2005. In their key principles for joint initiatives, not one principle deals with legislation. “Prevention and containment of transmission risks, risk control, social dialogue” to promote education. At every workplace employers must have a policy of equality, but this Government cannot embrace equality. Equality and the PNM are really a cross and a vampire. [*Desk thumping*] It will burn them, because you see, they cannot promote equality whether it is racism, class or bias, agenda HIV/AIDS or disability. Because we have the same problem with our citizens who are disabled. If they need a job, is there a special programme within this \$33 billion Government apparatus? Is there a special programme for persons who are disabled to get jobs that they can do? Because disabled persons can work. What is the programme? What is the name? Who knows about that programme? These are the development challenges they face: “Preventing social dialogue; developing education programmes.

This morning I addressed a primary school graduation and in my address I raised this matter of HIV/AIDS, and the students there, when I raised this matter, you could see the look on their faces, immediate fright. I asked if one student in the class had AIDS how would they respond. The students said the first thing they had to do was move out from next door. That is where we are. Do you think that policing people behind closed doors to see if one consented and the other did not consent, will stop that? That is where we are. You have to promote the dialogue; promote the education in the schools, in the community centres. Maybe you should take your CEPEP and your URP legions and have some education about HIV/AIDS, because they are promoting, aggressively, that CEPEP and URP. In fact, on another occasion I would deal with that, but I wanted to find out whether the Government has a database of all the persons charged for criminal offences who are employed with URP/CEPEP, because at the courthouse everybody is wearing CEPEP jacket to go to court.

Hon. Member: That is the court clothes.

Dr. R. Moonilal: Yes, that is the court clothes now. Maybe we should register, because it might be kidnapers; it might be a special brand of criminals, and so on. But the Government provided court clothes.

“Information, education and training”: In some groups, as a policy, the Government may want to consider mandatory HIV screening for particular groups: police officers, army officers, and so on. Maybe you want to consider that as well. It is the belief—and there is some research in the Caribbean as a whole, as to the conduct of persons in the protective services, who because of their work routine and because they are posted all around a particular country, find themselves involved in serial sexual endeavours. And that is also a concern for Caribbean governments; to do mandatory screening in the protective services, so that you can treat with that. Of course, the Member for Tobago East who gave us that emotional attack there—I will say nothing about that now.

There must be a gender focus and I would tell the Member for Tobago East, it is not women who have to talk about women, men have to talk about women. This thing about gender means women. [*Interruption*] Men have to speak out as well, not just women. There is a gender bias in discrimination at the workplace. Women who are infected are third class at the workplace, not just second class, because they receive the brunt of the bad treatment at the workplace, at the home and in the community—women. What is the policy approach to dealing with that? To chase down Frika under the law? Is that the approach? It cannot be. Mr. Speaker, with great respect to the Government, giving out 12,000 condoms, that may be helpful on the one hand, but there is much more to be done. Whether you give 12,000 or 100,000 condoms, that is not the answer. But they believe in these cosmetics, multiplying things and it will help. Eighty-two thousand street lights to solve crime, and then somebody reminded them that they are killing people in broad daylight. [*Laughter*] But this is their approach. It would be wise for the Government to come with a policy position on HIV/AIDS to deal with discrimination; deal with the gender bias; deal with education; deal with workers’ rights.

In South Africa, they have had to deal with this matter in an aggressive way for many, many years. You all are inviting his Excellency Thabo Mbeke, and others, to attend the Emancipation celebrations, and so on. That is fine, but you must also try to learn from the progressive legislation in South Africa and their progressive workplace policies. They did not wait to implement anti-discrimination law to deal with persons who suffer from HIV/AIDS and discrimination. You have had four years and you cannot implement the OSHA, but you could close down Caroni (1975) Limited. Do you know Caroni bungalows are being used now to keep kidnapped victims? That is the tragedy! Caroni bungalows are being used to keep kidnapped victims, that is why they closed them down.

Hon. Member: And to spread AIDS.

Dr. R. Moonilal: And to spread AIDS. So, you want to treat the disease on the one hand and then you spread it on the other hand, and that is the hypocrisy of the PNM Government.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea and will be resumed at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

[MR. DEPUTY SPEAKER *in the Chair*]

Dr. R. Moonilal: Mr. Deputy Speaker, before the tea-break I was making the point that the measure before us would do little or nothing to address the burning issue of workplace discrimination in Trinidad and Tobago, which has been recognized as a critical matter related to the HIV/AIDS pandemic.

In the Caribbean, we are fortunate to the extent that we do have some data coming out of Jamaica, the School of Management at Mona Campus, where several academics have indeed, studied this problem of HIV/AIDS as a workplace issue and have advanced policy prescriptions and so forth. It is noteworthy that in the policies being advanced in Jamaica, again, no indication is made; no suggestion advanced as to the legislation needed to criminalize the transference of the disease, such as we are discussing today. I just wanted to take the opportunity to alert the Government and Members on the Government side that may be deeply concerned with this matter that there is a policy framework already in place to address HIV/AIDS at the workplace.

It is argued that the HIV infection and AIDS can affect an enterprise in the following ways: higher insurance and health costs, loss of productivity, customer concerns, employee morale, potential legal cost from discrimination and breach of privacy; the high cost of recruiting, screening, hiring and training new employees; loss of highly trained, experienced and qualified personnel who may represent years of training and institutional memory and potentially adverse public relations. To a significant extent, educating employees about HIV/AIDS can prevent these disruptions at the workplace. All employees need basic, accurate information about HIV/AIDS, both for their own sake and for the sake of minimizing disruptions brought about by negative attitudes towards a co-worker who might be a known or suspected victim of HIV/AIDS.

Some of the southern African countries, not just South Africa, but Botswana and Lesotho, for example, have also been dealing with this AIDS as a workplace matter and have advanced policy measures to eradicate the negative attitude that comes with HIV/AIDS, and they have found that successful education and socialization at kindergarten, at primary schools, for example, help, and as children get older, they reduce, to a certain extent, the negative connotation, the stigma, associated with AIDS and HIV.

Mr. Deputy Speaker, HIV/AIDS is also a significant workplace matter, in that in several societies, particularly societies that are dependant on industry as opposed to farming, small island states like in the Caribbean states with a small workforce and so on, you can find over time the epidemic reducing your human capital, reducing the number of people you have available for work, not just because of the illness, but, of course, the death and fatality. You reduce the capacity to generate high-quality human resources. Because as the doctors would explain, there are implications for the type of work and the economic activity in which victims can get involved. So that we are reducing the number of people we have available to work in the Caribbean industrial sector.

We are also creating disruptions in that it is a cost for the employer, a cost involving health care; a cost involving in some cases, medical attention; a cost involving absenteeism, and so on. At the Industrial Court, for example, there is no known case as yet that deals with discrimination on the basis of HIV/AIDS. However, it is very instructive that there are cases at the Ministry of Labour, Small and Micro Enterprise Development, in that, the matter would not reach to the court, for one reason or another, because the employer or the worker may feel that that exposure in the Industrial Court would really be unhelpful, because, again, of the social stigma attached.

When discrimination matters arise in the workplace in Trinidad and Tobago, and in Jamaica, as well, you find that the matter would be dealt with at the level of company or at the level of the Ministry of Labour, Small and Micro Enterprise Development, at first base, as we call it. So, the matter has not yet engaged the attention of the court, so we do not have a judgment upon which we could look for some rules and guidance, as we do, for example, in Trinidad and Tobago on sexual harassment. As you know the Industrial Court has dealt with the matter of sexual harassment. They have advanced a definition and there are rules and regulations guiding employer policy on sexual harassment. So there are cases involving that.

So, in Trinidad and Tobago, in terms of the labour law of jurisprudence, we do have sexual harassment rules and regulations. That may be why there was an out-of-court settlement. But the matter of HIV/AIDS, we do not have that as yet. So, we cannot look to the case law to get help. We need to get Government policy to guide employers and guide workplaces in dealing with employees who may be infected.

Mr. Deputy Speaker, employees across the board need to know the following—and incidentally, I must say that we should really get a copy of the contribution of the Member for Tabaquite; put it in a little booklet and circulate it to employers in Trinidad and Tobago. [*Desk thumping*] We sometimes make comments about persons speaking and the content, and so on, but today we benefited, in large measure, from a very technically sound contribution by the Member for Tabaquite. It can also be an education tool that can be accordingly edited, presented to employers by the Ministry of Labour, Small and Micro Enterprise Development. A progressive Government would have considered that as well, because employers are not knowledgeable on this matter.

In fact, the Tobago employers and hoteliers, and so on, may need their own education as regards to this matter—employers across the board. We sometimes have this view that employers are bright and trade unionists or workers and labourers, are not bright. But, because someone is an employer and presumably with resources, wealth, and what have you, that does not mean that he is conscious or knowledgeable about social matters; that he is conscious and knowledgeable about these matters.

A contribution such as the Member for Tabaquite's, today, could be an excellent educational tool for employers and schools. Since he made the point which I am now reading from—and this is from an article, "HIV/AIDS: A Major Workplace Issue for the 90s" in a book *Human Resources in the Caribbean*". They are saying employees need to know the difference between HIV and AIDS, which was a difference pointed out by the Member for Tabaquite: How HIV is transmitted; how it is not transmitted; why there is no risk of casual transmission of HIV; precautions for the workplace; how to prevent the spread of HIV; company practices, guidelines or policies concerning HIV/AIDS; how to respond to a co-worker or family member infected with or thought to have HIV/AIDS.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. G. Singh*]

Question put and agreed to.

Dr. R. Moonilal: Thank you very much. Mr. Deputy Speaker, we were all intrigued by the Member for Tabaquite, so you could understand that we would all be using that as a point of reference for the entire debate. Let me continue, Mr. Deputy Speaker.

I was making the point the employees need to know certain facts about HIV/AIDS and confidentiality is also important regarding the medical condition of an employee. Where to go for additional information, that is important. I would just like to ask: imagine, if you will, that you are running a company, a small business operation somewhere in St. James maybe, and you have 10 workers or so, and you discover that an employee is HIV infected, what do you do as an employer?

Mr. Ramsaran: Ken will fire them.

Dr. R. Moonilal: What do you do? What is your initial reaction? This is also part of the approach to public policy, that employers must know that this person is no threat to the workplace; not a threat to other employees; can still work; can still be productive in his job. Employers must know this so that they do not look for the quickest remedy to dismiss and to get the person out of the workplace.

5.15 p.m.

Mr. Deputy Speaker, an effective education programme for the workplace may include the following items: explaining your company's guidelines concerning HIV/AIDS to all employees, that is the first point. At the place of work—let us imagine a hotel for example—there must be company guidelines on HIV/AIDS.

What is the company's policy? You declare up front that you do not discriminate on this basis, that persons who are infected or thought to be infected must confide in managerial personnel and seek medical attention and assistance, including counselling. We believe that it is not just the medicine that is required, it is also counselling, because this disease has a very serious psychological and mental dimension to it, and the worker needs counselling, assistance and a level of compassion. Notwithstanding what we may think, they need compassion, and company guidelines should do this.

Mr. Deputy Speaker, it is said that distributing a brochure or pamphlet about AIDS to all employees is not enough. It is not enough that you have brochures and literature and so on; you have to go further. It could well be in some workplaces, because workers may not be able to read properly, and we are not sure how many workers themselves may understand the language of the Member for Tabaquite.

So, it is important that you use, for example, videotape and multi-media type educational tools, to teach workers about this matter. Making available videotapes on HIV/AIDS for employees to take home and view with their family and friends. Could you imagine a modern workplace with OSHA legislation in place, company guidelines on HIV/AIDS where the employers would have videotapes for employees to take home for the weekend—half an hour, not too long—and they can sit with their family and look at it, and be educated about this illness? That really is a paradigm of the UNC. That is the sort of progressive practice and programme that we need.

Mr. Deputy Speaker, another element of an education programme is inviting persons who are dealing directly with HIV/AIDS infections to speak with employees—very interested—and I made the point already. Last week Friday we began debate, and today we continue. On the weekend, suddenly in the public domain, several personalities sprung up. They were there all the time, but they came up, because the debate was in the Parliament and we had articles in the press. But really, I have never seen Dr. Alock Kumar; I have never seen him before. I am told that he is the expert and so on. There are other experts in the Ministry, there are experts in the health sector.

There must be some planned and calculated programme for these experts to visit workplaces, visit factories and to interact with workers. It is not enough because we have a debate in Parliament that the experts pop up and give us a bit of advice and they disappear until the next matter in the Parliament dealing with HIV/AIDS comes up, whenever that would be. The experts themselves, persons knowledgeable must also find themselves in educational programmes.

The private sector will not promote this. I do not believe that that is a matter for the private sector; it is a matter for public policy. A private employer will not want to spend money to organize training seminars for employees, will not go and spend money to teach anybody about AIDS and HIV awareness. The Government has to do that; public policy must do that. An employer will say that is a waste of money to pay specialists and arrange seminars.

Apart from that, the employer might think it is a waste of time when workers could be in the factory working and you put them in a seminar hall to drink coffee

and tea. Many employers have this mindset; they believe training and education for workers is a waste of time. That is just spending money wildly to give people free food and drink, and we need to change the mindset of employers, so that they understand that it is an important matter, and public policy needs to do that; The Ministry of Labour, Small and Micro Enterprise Development, the Ministry of Public Administration and Information or whatever Ministry that is doing that.

In doing so these experts must also teach others to become experts. I may ask a question. Out of the 36 Members of Parliament, how many Members of Parliament have had AIDS awareness, HIV awareness programmes, even in our constituency office? *[Interruption]* I have had. This type of awareness, particularly for young people is very important in the community; encouraging employees to read or view information about AIDS on their own. Mr. Deputy Speaker, in terms of the education programme, let me re-emphasize that handing out a brochure is not an adequate employee education programme. Handing out a brochure is not! Neither is handing out 12,000 condoms.

Mrs. Job-Davis: It helps as a preventative measure.

Dr. R. Moonilal: It will help. Mr. Deputy Speaker, you need to have a comprehensive, integrated education programme funded by public money. *[Desk thumping]* You need that type of programme for the workplace. If the Central Statistical Office (CSO) can tell us we have 1,000 business places in the country, you get a programme to go to the place of work and educate employees. You may also consider, for example, getting the trade union movement involved in this battle, in this fight, since they are at the workplace already. They already have their groups, units and branches at the workplace. So the unions present a good ally in this fight against HIV/AIDS and the Government should consider that as part of that progressive and comprehensive approach. I do not know, you might say that you are doing it already.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, in developing a workplace policy, it is important that the policies address issues of concern to employees and employers alike. So far, we have been talking about HIV/AIDS as if it impacts negatively on the employee, or the infected person alone. So if you are infected as a worker, that really is your problem; you are the worker, that is your problem to deal with. But it is also an employer problem; a problem for the business. An education programme must promote that approach, that HIV/AIDS is both a problem for the employer and the employee.

This can be done through the following policy measures: by the company itself, declaring by way of a statement, its policy against discrimination on the basis of HIV/AIDS. Have you noticed that since the advent of human resource management everybody is putting up their vision and mission all over? You go in any modern workplace and on every post you see the mission and vision, because they want their employees to realize what is the vision, what is their mission. It is part of a human resource management fashion. Likewise, employers must also put up their guidelines, and policy against discrimination at work, to bring to light in a manifest way, their commitment to promoting equality at the workplace. So your antidiscrimination policy must be placed at the worksite.

Mr. Speaker, in terms of workplace policy, the other matter is desire and ability to work. Employers are recognizing that workers with life-threatening illnesses or disabilities are often physically able to continue to work. That is an important point. Do you know there are employers who believe that if workers have a particular disease or illness that they cannot work? That somehow when you contract a disease, you are ill, you cannot work. It is as if somebody comes into your office in a wheelchair and from the time you look at the person, you will say but you cannot work, but that person might be able to do a host of jobs: clerical work, communication work, research work or any type of work. It is just that the person has a particular disability in terms of walking. Likewise, persons with illnesses that threaten their life can also work, but employers believe that those persons cannot work.

One big complication in the Caribbean is that it is now driven increasingly by what we call the service sector, meaning tourism, hotels, and so on. Can you imagine, notwithstanding the foundational discrimination for HIV/AIDS—there is what is called foundational discrimination, which is discrimination by virtue of having it regardless of where you work—Can that in the tourism sector where you have all your tourists coming in, the beautiful sites, the lovely fountains, flowers, reception areas and cocktails and so on, that they put somebody to work at the front desk and you say that person has HIV/AIDS? It is a double-barrelled discrimination in the Caribbean, it is not just the first level discrimination, but when you are in the service sector the discrimination is heavier, because employers feel that if you are infected with HIV/AIDS, you cannot show yourself to the public. You may have to be under the swimming pool cleaning or in the backroom, in the kitchen or somewhere moving the gas tank, but you cannot be in any frontline position. The same principle holds, both in the tourism sector and the telecommunication sector, because the Caribbean is also emerging as a big player in telecom services and banking insurance and so on.

The point that I am making is that there is a double tragedy in the Caribbean for HIV/AIDS infected workers, that by definition, their work is frontline to the face, to the public, where everybody must see them and they must smile and be embracing and so on. That is the first problem and with HIV/AIDS, employers believe that you can spread this, there is a bad sign, there is an omen, there is a bad image of their company if somebody is working with HIV/AIDS. That is what they believe. If you have someone working with HIV/AIDS nobody wants to buy. Let us be honest and think about it.

If you are running a factory which sells cosmetics, you are in the beauty industry, would you think an employer in the beauty industry would put somebody who is HIV/AIDS infected as a receptionist? Because of this attitude, the mindset, the inbred discrimination on this matter, that person will be removed and treated unfairly, discriminated against. Those are the real problems facing infected persons, not the transference by sexual intercourse with consent or without consent. Those are the real issues.

Mr. Speaker, there are policies that one can adopt, for example acceptable performance standards. If an employer declares that persons will be judged on their performance standards, regardless of their illnesses, disability, sexual orientation, regardless, persons will be judged by performance. Getting an overt, clear, transparent performance appraisal system helps to reduce discrimination. That is the point. If an employer is driven by performance appraisal it will reduce discrimination. Once you do not have performance appraisal and standards, what happens is that the worker is then exposed to the employer's whim and fancy. [Interruption]

Mrs. Job-Davis: You need to elaborate, there is none in Tobago.

Dr. R. Moonilal: Yes, I will for the benefit of the Member.

Mr. Singh: I thought you said to leave Tobago alone.

Dr. R. Moonilal: You often find, for example, in Tobago that in companies or in an enterprise, if you have performance appraisal systems and it is transparent, it is clear; its employee and employer, supervisor, manager, worker knows that I am working in this category of employment, I will be judged according to my performance every month along the following 1, 2, 3 criteria. You follow a performance appraisal system. [Interruption]

Mrs. Job-Davis: I want you to rely—*Inaudible*]

Dr. R. Moonilal: I am coming there, but you understand that. What happens, is that an employer will find it hard to discriminate against a worker where there is a clear performance appraisal system in place, where you are judged according to your task, what task you do. It will be hard to discriminate against you because you have on paper, for example, the worker's performance appraisal for two years; every three months there is an appraisal as in the public service, they have a chance to participate in their appraisal, and you can correct the record if it is wrong. If someone said something bad about you, you can find out and so on. It is a clear performance appraisal. It reduces the capacity of an employer to discriminate, not to hire you, not to promote you, not to give you an extra bonus, not to treat you fairly.

It is the same principle with disability and HIV/AIDS. Once your work record is there, it is open and transparent by way of performance appraisal, an employer cannot fire you. [*Interruption*] Yes, the employer cannot treat you in an arbitrary way, if there is performance appraisal.

In several areas in the Caribbean particularly in the private sector, there are no performance appraisal programmes in place, so an employer who discovers that his employee is HIV positive or even disabled, the person met with an accident and damaged his back and cannot do a particular job, they will get rid of that person, on the basis of being medically unfit. But the person is not medically unfit to work. The person may be medically unfit to do the particular task, not to work. So this is the point that we are making here, that with acceptable performance standards you can reduce the discrimination of HIV/AIDS.

Mr. Speaker, the other point in policy is the co-workers' concern. What happens as well is that, if you do interview data, you will find that the co-workers have the worst, most nightmarish type of image of these diseases, of HIV/AIDS and these are the workers whom you expect to get support from every single day. Many persons spend more hours at their workplace than they do at home, and the co-workers then cannot provide the care, the consideration and the support that are required for an illness that has such a deep emotional and psychological impact on the victim.

Unlike other diseases and so on—some, because there are other life-threatening diseases, this has a severe, emotional and physiological burden on someone and the care you require is not just at home or at the pharmacy or wherever, it is also at the workplace. This is why no country in the world has succeeded in dealing with this HIV/AIDS epidemic without an aggressive education programme for the workplace, and particularly, in Caribbean countries where we

do have relatively low unemployment, and a heavy industrial and service sector, most persons will spend the majority of their life at work, not at home.

Mr. Speaker, the estimate as of 2004, which keeps changing as time goes by, we have 42 million, men, women and children worldwide estimated to be living with HIV/AIDS and this is from the International Labour Organization (ILO) 2004 Report "*Time for Equality*". The ILO claims that the socio-economic and sexual discrimination experienced by women increase their vulnerability to HIV/AIDS. It could well be, for example, that female workers are more prone to be infected than male workers. In some sectors in the world, possibly not in Trinidad, but in certain sectors, for example, with migrant workers, with workers in the sex industry they are exposed to the virus in a way that other workers are not.

The ILO is claiming from UNAIDS data that the rates of HIV/AIDS infection among women have been rising, and young women aged 15—24 are now twice as likely to be infected as young men of the same group. So again, you are seeing the target group for policy as women between the ages of 15—24. At work, discrimination against workers with known or suspected HIV/AIDS may originate from co-workers, customers, service suppliers and employers. The three critical problems the ILO identifies are: fear, ignorance and prejudice surrounding the illness, and a lack of information.

Mr. Speaker, it is very interesting that in 1988—1989 if someone were to indicate that he went to a conference and the topic was HIV/AIDS, you know at that time people laughed at him. People found that funny. That was something of humour by 1988—1989 when you attended a conference that was addressing HIV/AIDS. Today it is not! But that is the history of this disease. In fact, if you were travelling to attend a seminar on HIV/AIDS, you might really have told people, you were traveling to attend a diabetic association meeting, because you did not even want people to know that this was a matter that you are concerned with as a scientist. This is the origin of this disease. At the heart of discrimination at work is the lack of information.

The ILO also argues that the employers see this as a cost; therefore it must be a public policy matter, meaning Government must spend taxpayers' money to educate people. The decline in productivity is a serious matter as well, because your labour force is not only reduced, but capacity to produce in economic sectors change.

There is also a debatable matter in policy terms about pre-employment testing. In some societies governments are against pre-employment testing which they

believe will result in refusal to hire, while in other sectors for example, Government supports pre-employment testing, particularly from migrant workers and workers in the protective forces. In several countries, governments have embarked upon this strategy of pre-employment testing for long-term foreign visitors, students and workers, and I want to develop on this. A growing number of countries require mandatory HIV/AIDS testing from long-term foreign visitors, students, workers and so on prior to entry. This is something that we may want to consider for debate. It is not something that we should consider quickly because there are both arguments for and against.

In some Asian countries, migrant women workers are subjected to compulsory HIV/AIDS testing. One major problem associated with this, of course, is the breach of medical confidentiality. This was a matter raised in direct connection to the Bill, where there was a concern that persons who are positive would then be exposed at the level of the court and through the justice system as persons infected, and that would by itself bring some measure of discrimination and negative attitudes from the wider society.

In the Caribbean, workers, particularly in the tourism sector, face additional threat, not only from indigenous or self-grown problems, but also in the tourism sector, for example, tourists may be coming into your economy, who themselves are infected and may run the risk of infecting others. This is, of course, a case, I think in the context of Trinidad and Tobago.

Mr. Speaker, that is a matter that requires some testing, some discussion, requires wider policy consideration. To what extent can a society that is open, with a very significant tourist sector, allow a free-for-all, tourists coming in and out, without some type of system in place, not necessarily for testing, but certainly for protection and medical security of your host population? That is a matter for those in the tourism sector to consider, because you hear it on several counts.

I was at the airport sometime ago and a national of Trinidad and Tobago was complaining that a particular airline did not want him to go on the flight because he was in a golf short pants and an armless top, I think we call them merino. This local person was complaining that he was not being permitted to go on the aircraft because of how he was dressed and so on, but their tourists were coming in with half that clothes. Sometimes, as locals, we go somewhere and clubs and restaurants refuse to allow us to come in to eat, because we are wearing slippers, and as locals we cannot eat there, but when you look, you see who appear to be tourists in there in their underwear and in slippers and you wonder, well what is this? What type of hypocrisy is this?

Mr. Ramsaran: They have better legs than we have.

Dr. R. Moonilal: This level of discrimination—why I mention this, is because it is a bigger problem. You hear about clubs refusing people admission but the bigger problem is our attitudes to foreigners. Sometimes we allow the foreigner to benefit more than the local and in allowing the foreigner more leeway, more latitude because they have “the tourist dollar” we could be actually allowing infection. We could be allowing persons themselves who are ill to spread their illness by that attitude of *laissez faire* for the tourist, but oppressive and strict requirements for locals. A Government that really is committed to equality and ending discrimination would also be looking at that matter.

Mr. Speaker, the last point concerns schooling and the impact of education on HIV/AIDS for children, and we have spoken about that before. It is now incumbent upon the Government to produce as a policy, an aggressive, comprehensive and integrated HIV/AIDS education programme that is not just the brochure, not just the 12,000 condoms and so on, but education, training, sensitization, multimedia tools, education targeting kindergarten, primary schools, secondary schools, and university students.

Mrs. Job-Davis: What about constituency.

Dr. R. Moonilal: Targeting all universities, not the natural UNC constituency. *[Interruption]* I will deal with him later. It is incumbent on the Government to produce this type of education programme and separate education from all other policy measures, because that deserves specialization. We must separate education at the workplace from the wider education programme because workplace education deserves emphasis.

Mr. Speaker, these are some of the suggestions we will have, but we are sure at the moment that the Government will withdraw this Bill.

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

Mr. Manohar Ramsaran (Chaguanas): Thank you very much, Mr. Speaker. I was trying my best to get from the Government side what is more important in this Bill; is it the medical side, the health side, or the legislative agenda as the Government introduces Bills to deal with the crime situation?

When we look at what is taking place in our country with the crime and so on, and legislation, we all know that legislation is not the answer. We have so many pieces of legislation, good laws in this country and yet crime is on the rise,

murder, kidnapping and even actions of the officers who are asked to police and to apprehend people who commit these offences.

Mr. Speaker, just this morning I had a report from one of my constituents that five policemen raided her home at 2.00 a.m. They came in an unmarked vehicle, were not in uniform, and proceeded to surround the house. The lady kept asking if they had any ID card, because they claimed to be policemen. Of course, that was an insult to a policeman to be asked for an ID card. They did not provide any. Do you have a warrant, she asked? They did not provide any warrant. But people have a little common sense, they understand what is taking place and one of the members of the family called the Chaguanas police, who I must say came quite quickly to the scene. When they came they spoke with the people outside and they acknowledged to the owner of the property that yes, they were indeed policemen and they had a warrant to do some searches.

Of course, the warrant was not read to the family, it was flashed before their faces and they proceeded to ransack the house. There was a 73-year-old lady in a home whose door was broken and she panicked, she started to cry when I went there.

Mr. Speaker, are these the people we are going to put in charge of dealing with people with AIDS? Is it the police that we are going to ask to monitor this? I am very frightened about this whole concept of legislating against this at the moment, and I will make that point later on.

5.45 p.m.

Mr. Speaker, I asked the Minister of State in the Ministry of National Security where will this anti-AIDS crime section be placed, under whose watch? Will it be under the Minister of National Security, the Attorney General, or the Minister of Health? We are talking about legislation and when we create—well in this case—manslaughter charge and other charges, these must be policed by somebody. Where will this body be set up? How is it going to operate? Tell me what do you have in place to deal with this vexing problem of AIDS? How are you going to prosecute the persons charged for an offence? How could you charge somebody if you do not have supporting evidence?

As we know in Trinidad and Tobago there are problems of incest and carnal knowledge taking place overtime. There are children, as young as 12 years giving birth to babies in hospitals, yet no police officer will question that child and ask who the child's father is. That is against the law, and you cannot get pregnant without having sexual intercourse and especially by somebody who will commit the crime of carnal knowledge. [*Crosstalk*]

You tell me which police officer in this country ever interviewed a young 12-year-old or 13-year-old girl asking who the father of her child is. Have we ever done that? Incest is also an area where children are born with AIDS and you must tell us on this side how you are going to treat with this problem. It is not about charging somebody and proving a case, going to court, or going to the Privy Council. It is much more than that.

The Member for Tobago East talked about playing politics. This is not playing politics; this is a serious issue in this country which must be dealt with seriously. As far as we know, AIDS was discovered in Trinidad and Tobago in 1982, 23 years ago. People, as far as I am concerned, look at the problem—and as my colleague from Oropouche mentioned a while ago—and shied away from it. Now we have to deal with it head-on and it is no good to start in the middle of it charging people for passing on AIDS to somebody else. We must look at the whole question of a national policy to deal with AIDS. We have to put that on the table as quickly as possible. I want to read something here:

New report from the Centre for Disease Control and Prevention reveals that 40 per cent of people infected with the AIDS virus did not realize they had the virus for 10 years after being infected.

This is in the United States of America, and, as the Member for Tobago East said, we are a *mauvais langue* society, and if somebody gets tested for AIDS, the whole country knows.

Mr. Speaker, in the United States of America where privacy is much more guaranteed than in Trinidad and Tobago, 40 per cent were blissfully unaware of their lethal potential. What could guarantee us on this side that by doing this you are going to get people who are living with AIDS to be kept confidential? If you do not want it to be confidential, I ask for public disclosure. I want to listen to the Prime Minister when he talks about public disclosure.

I want to ask that every leader in our society, especially those who hold political office including the President, the Prime Minister, Junior Ministers, Ministers, Parliamentary Secretaries, Mayors, Chairmen of Regional Corporations, including the Chairman of the Tobago House of Assembly take mandatory AIDS testing. You do this; and you will signal to the community that you are serious about it. And we on this side will also take it. I guarantee that we have no problem in taking any AIDS test, but you are the Government you do it first. [*Crosstalk*] We can do it right now. It can be arranged.

Mr. Speaker, when one mentions the word AIDS, it conjures images of myths and fears and whether we like it or not, that is a fact. I did some research on this and it showed me that AIDS is indeed a misunderstood disease, and, as I mentioned earlier, 40 per cent of our people lived with HIV for 10 years and it was only discovered when it became full-blown AIDS.

The hon. Member mentioned that 80 per cent said yes to the Bill. That is because there is panic in the society. People are looking for some relief from what is taking place, so you come up with this Bill to charge people for spreading AIDS. I expected that result because the people in this country are ignorant of the facts concerning AIDS. I have no doubt therefore, that people will believe that this Bill will stop the prevalence of AIDS. How cunning, but deceptive.

I always say that this Government is deceptive. Here they come in the middle of the road—by passing AIDS from one person to another is the middle of the road. Where did the AIDS start? How did it happen? Are we educated? Do we understand AIDS? I am saying we do not; that is why I am calling for the National Policy on AIDS in Trinidad and Tobago. We need that.

Mrs. Job-Davis: Where do you live? There is already a policy.

Mrs. Robinson-Regis: We already have a policy.

Mr. M. Ramsaran: Mr. Speaker, the threat to people living with HIV/AIDS will never work. We have to do better than that. Just as the Prime Minister's or the Attorney General's threats of "hang him high; licks for them" is not working and will never be solution to crime, so the action proposed in this Bill is indeed a joke.

I ask, since this campaign for "hang him high" has started, did murders stop?

Mrs. Job-Davis: Murders have stopped.

Mr. M. Ramsaran: Murders have stopped? Then I have news for you.

"Manning to help murder victim's family

Prime Minister Patrick Manning yesterday extended his condolences and offered his assistance to the family of Sharon Carrington—a messenger in the Office of the Prime Minister who was brutally murdered on Sunday."

And this one may also be murder:

"Baby boy bashed to death

A 15-month-old baby boy was bashed to death..."

Mr. Speaker, this is only one page in the *Daily Express* of Tuesday, June 21, 2005. Are you sleeping?

“A 15-month-old baby boy was bashed to death by a relative yesterday.”

We cannot stop anybody.

“20 poisoned at wake”

“Body found at Siparia”

This is Trinidad and Tobago. Are you telling me that murders have stopped?

Mr. Speaker, I found this piece of paper in my motor car this morning and I tore off this page.

Mrs. Robinson-Regis: You found that piece of paper in your motor car?

Mr. M. Ramsaran: Murders have not been reduced. The point I am making is that we must not only talk about legislating things and putting bills in place to deal with a problem.

Mrs. Job-Davis: What should we do?

Mr. M. Ramsaran: I am talking, you will hear if you can stay quiet for a moment.

Mr. Speaker, I would have liked to see the Government come to this Parliament with an amendment to the Equal Opportunity Act redefining people's disabilities to include persons with AIDS.

Mrs. Robinson-Regis: It has been struck down; it is not a valid Act.

Mr. M. Ramsaran: It is said, that it has been struck down. You know, the problem in our country is that we were not dealing with the problems as they are. We start in the middle of the road, bring slipshod legislation and try something.

Mr. Speaker, in contrast to the Member for Tobago East, I did some research on the web site and I was not as lucky as she was to find some place in Australia, but all across Europe and North America, legislation shied away from this. People did not enact laws to deal with this, the closest they came is when somebody is arrested for crime, rape, incest, and assault he is tested for AIDS and then he is charged and money given to the victim for rehabilitation.

The legislation I came across was to provide money. How much money is this Government going to spend on AIDS? This is the sort of legislation I read about, and it is passed in Parliament to deal with that because there is a policy to deal with AIDS. Let us do that.

The Member for Diego Martin Central and his neighbour, the Member for San Fernando East, love to sleep so the Prime Minister was taking a little nap. He woke up—I think it was on television, so the country saw him sleeping for a long time and in response to my friend, the Member for Caroni East, he said full disclosure. I wanted to know what he was dreaming. But I would like full disclosure, I want the Prime Minister to tell us what he meant by full disclosure and I am asking for full disclosure, and do not get too scared, I would not talk about Destiny this evening. I am talking about other areas of full disclosure; full disclosure in the context of what is taking place in our country today. I would like some answers because this Government has been in office for three to four years and this country is slipping from us as never before.

We have been all over the world and people talk about Trinidad and Tobago very negatively and yet this Government is hiding its head in the sand and talking about progress. What progress?

Mr. Speaker, my friend and I went to Jamaica and they were talking about niches, and I am sure the Member for Diego Martin Central is quite aware of this. The Deputy was asking us to create niche markets and I said well Trinidad and Tobago could really be the exporters of kidnappers. What else do we have? [Crosstalk]

Mrs. Robinson-Regis: That is what you said?

Mrs. Job-Davis: That is what you think of your country?

Mr. M. Ramsaran: That was in a private conversation with the member and myself. I did not say that publicly.

Mr. Speaker, we have to deal with this. What do we create as our niche market? [Crosstalk] We have to wake up to the reality that this Government is taking us nowhere very quickly. [Crosstalk]

Mr. Speaker: Order please!

Hon. Member: “Look where yuh gorn to say that, Jamaica of all places.”

Mr. M. Ramsaran: That was a private discussion. That is okay, that is my opinion and you cannot change it. This country is heading nowhere quickly; AIDS, murders, unemployment, whatever, and you are taking us down a very bad road maybe never to return. The only thing to save us is probably early election and the UNC back in office to take us forward. [Desk thumping]

Mr. Speaker, threats would not work and I am asking, if not a sensible Government, at least a sensible country to let us develop a policy to deal sensibly with AIDS. As I said before, there are many myths and sometimes unfounded fears when HIV/AIDS is mentioned. Let us deal with this topic systematically.

Much work was done under the UNC administration with my colleagues, the Member for Caroni Central and Barataria/San Juan, as they had many committees dealing with the AIDS virus and much work was done. I do not want the Government to reinvent the wheel, but I heard the Member for Laventille East/Morvant recently say “we” and when I said it started under the UNC administration, he said, yes, he meant we the Government and the people of Trinidad and Tobago. Let us not reinvent the wheel, but look at the work that was done under the UNC’s administration. I want to ask generally, do we in this Parliament know about AIDS? Are we sufficiently aware about it?

Mr. Imbert: “We ain't sending you no way again. Yuh went Jamaica and bad talk Trinidad.”

Mr. M. Ramsaran: Mr. Speaker, if we ask any Member of Parliament about AIDS, you will see how misunderstood it is. So maybe we can start with defining and explaining what it is to the citizens of Trinidad and Tobago and encourage them to understand the myths about AIDS.

Mr. Imbert: “We ain’t spending money on he again.”

Mr. M. Ramsaran: Mr. Speaker, I am not ashamed to say that I, too, was discriminatory against AIDS for a while, but after having worked with the committee with Dr. Rafeeq, and even now in doing this research, I found out that AIDS could be misunderstood and I am sure that 75 per cent or more of the population of Trinidad and Tobago have misunderstood it. So maybe you can start in that way in dealing with people with AIDS, educating them about the myths.

Mr. Speaker, in developing a policy for AIDS we can look at what is HIV, the incubation period—as soon as they hear the word HIV and with some of the drugs being brought into the country we know that people can extend the HIV period before it becomes full-blown AIDS and this is something we can teach people.

There are myths that people believe they can contract the disease by touching, a social kiss, and even sitting on a seat a person with AIDS has sat on.

Mr. Valley: What is a social kiss?

Mr. Ramsaran: A peck on the cheek. Of course, these have all been proven to be wrong and if people are educated about it, they will learn something about AIDS.

Mr. Speaker, as I talk about drugs being brought into the country, it flashed across my mind that for the last four days there has been no air conditioner working at the Customs House in Port of Spain and the port has had the same problem also. Most drugs brought into this country would need proper refrigeration for storage. How can a country which boasts about becoming First World in the next few years not repair an air conditioning unit?

I was driving past Customs House and was stopped by some customs clerks who were on the pavement who told me the problem has not yet been solved. We treat everything flippantly; we do not listen and appreciate the problems so how can we solve them? Here we have the heart of the business activity in this country being threatened and you laugh about it. Mr. Speaker, I am calling on the Government to deal with that problem immediately.

Mrs. Robinson-Regis: We will fix it.

Mr. M. Ramsaran: But you cannot fix anything.

Mr. Speaker: Order please!

Hon. Member, please, the hon. Member for Oropouche perhaps was a hard act to follow, but do not go into Customs House. Try to concentrate on the Bill before us.

Mr. M. Ramsaran: Mr. Speaker, I have been talking about Customs House and the importation of drugs to deal with AIDS and I am not trying to cover up what I said, but sometimes as a Member of Parliament sitting in this honourable House I am amazed by your rules.

Mr. Speaker: No, no. You are going on dangerous grounds there. All I am saying is that you are talking about Customs House and air condition, and the drugs are not in the Customs House.

Mr. M. Ramsaran: Mr. Speaker, this morning I was trying to get your attention to talk about the questions on the Order Paper that were for written answers. [*Interruption*] If this is laughable, then laugh.

Mrs. Robinson-Regis: You have nothing more to say.

Mr. M. Ramsaran: Mr. Speaker, we have on the Order Paper question No. 25 which was due to be answered by April 08, 2005 and we have not had that answer. Question No. 26 due on the—

Mr. Speaker: Again. Take your seat, please. When the Speaker stands you must sit. I am sure that the Leader of Government Business is well aware of the

questions on the Order Paper for written answers. "Get on with the AIDS Bill before us nah."

Hon. Member: He wants to go home.

Mr. M. Ramsaran: No, I do not want to go home. I want to talk about the equity in this society and if we do not put our act together and our country first, we all would regret it. Here is a country that is being faced with its own survival when we talk about statistics and people living with AIDS.

I want to talk about children's issues, and I started with the UNICEF Declaration on the Rights of the Child. We should put systems in place to deal with that. How do we deal with a child who has been born with AIDS? This has been there, it has been approved in this Parliament and things had been put in place but for the last three years nothing was heard. So when we come here and flippantly talk about dealing with AIDS, who are you fooling? You have to deal with the problems, understand them and work with them, and to tell the country that the answer to the AIDS problem is when you bring legislation to this Parliament to deal with people who transmit the disease, we are barking up the wrong tree.

Mrs. Job-Davis: So we should not bring it?

Mr. M. Ramsaran: No, do not do it. Let us come with a comprehensive plan to deal with AIDS. I was the Minister of Social Development, so I am talking about facts. [*Interruption*]

Mrs. Job-Davis: That is why the AIDS rate went up so high.

Mr. Speaker: Order!

Mr. M. Ramsaran: There were people who admitted to me they had eight children with eight men and that is a fact. If this person presents with AIDS, who are you going to charge for transmitting it to her? Which of the eight husbands? How can we deal with that? [*Crosstalk*] Why are you angry, we are talking about the facts in this country with which we have to deal?

Mr. Speaker, we have to look at the issues in our country which are not to be treated like myths to disappear. We have to face reality. I was reading an article that came from the Caribbean, I would not call the country, it could be Trinidad and Tobago.

Mrs. Job-Davis: "Yuh went Jamaica and talk Trinidad bad."

Mr. M. Ramsaran: Mr. Speaker, it had to do with people who have AIDS and want to share their story with the rest of the world. We cannot put things under

the carpet and hope they will disappear. To look at AIDS, we have to look at our lifestyles, we have to respect it, and understand that these things start in the homes and if we do not stop it we can pass all the legislation we want and it would not be solved. We have to get to the root of the problems. We should not plaster sores.

Mrs. Job-Davis: How is the Government responsible for a woman having eight men?

Mr. M. Ramsaran: Mr. Speaker, I read from the first story: It says:

“Proud to be positive.

This is just to encourage all those who are HIV positive. I think I have been positive for 9 years now but have known for 2 years. I wont say much on how I felt when I tested positive (I am sure you know how it feels)... The father of my first kid died of an AIDS related illness and his son has swollen glands from birth but he has never had a major illness. My daughter is healthy. I take each day as it comes and I thank God for what I am. I am a better person because I did what many people could not do, ie, to go for an HIV test. I am proud of myself and proud to say that I inspired a person who was desperately ill to go for a test which turned out to be positive. She could have died but she is doing well. I took a relative's child for a test which turned out positive. Her CD4 count was 4. She is doing well and I believe if my result had come out otherwise (negative), I would never have been inspired to help others. I am proud to be positive, Hope you are too.”

Mr. Speaker, we have to accept the problem. If we do not talk about AIDS or our lifestyles, we would never solve the social ills in our country, and we would never solve incest which has been on the rise.

I want to go back to the point I was making which is, that we have legislation to deal with carnal knowledge. We have people who tell us they care about the young people in the society, so why not make an arrest, or interview these young mothers who are under the legal age to even have sex but are having children? Why do we not deal with some of those vexing problems?

Mrs. Job-Davis: You are dealing with the mind of a sick man.

Mr. M. Ramsaran: Well charge him. I would like to see him charged for carnal knowledge and we find where there is incest and child bearing at that age, of course, AIDS will follow. Are we dealing with the problems in a way that we can say we are getting at the root of them? That is my question; it is not this Bill.

This Bill has come in the middle of everything and we have to go back to our roots, we have to look at the culture of our people, correct them, have counselling courses, talk with them, and it is all of us. I am not pointing fingers at anyone.

I remember I went to Tobago, and you alluded to it earlier.

Mrs. Job-Davis: I mentioned...*[Inaudible]*

Mr. M. Ramsaran: Well, the nurse. I gave my speech and the person from the Tobago House of Assembly gave his speech and actually sought to manhandle me for saying that the “beach boys”—

Mrs. Robinson-Regis: At the function?

Mr. M. Ramsaran: After the function; that the “beach boys in Tobago—*[Interruption]* No, not the nurse. The nurse was on my side at that time. He said you do not touch my “beach boys”, those are macho men. I was amazed. How could you be dealing with the question of AIDS and then you are defending your muscular and strong “beach boys”? AIDS is no respecter of persons.

Mrs. Job-Davis: “You get away. Yuh lucky!”

Mr. M. Ramsaran: This is what we have to talk about. We have to get to the root of the problem and our lifestyles must be changed.

Mr. Speaker, when I talk about AIDS and try to bring in other external factors that could bring the point home, we must never forget that we are not here to reinvent the wheel. We have, for example, UNAids and this is something that amazes me in Trinidad and Tobago. We are coming with policies, and you just have to go to the Internet as my colleague, the Member for Tabaquite, did and research, get the data, and come forward with meaningful legislation to deal with the problem rather than coming with a quick fix.

Quick fix is not the way to go. Had this Opposition been careless, we can support this Bill, but then we know there is no guarantee that we will see AIDS being reduced to one per cent because nobody would take us on with this and say they know it is an offence to have sex with someone and transmit AIDS. They will never think about it. We live in Trinidad and Tobago, we understand the people and if we do not, who will? We understand the people will never take us on with this legislation. You can enact what you want in every field of endeavour in this country, you will pass legislation and nobody will take you on.

6.15 p.m.

You want to reintroduce the hanging Bill. It did not stop crime, it did not stop murders. I am asking you to look at it in a humane way. [*Interruption*] Think about AIDS. [*Interruption*] But, how did they get it in the first place? We started in the middle of the programme. And this is it. You got to give the people the right because they were not born with it. There is something about the chicken and the egg. [*Interruption*] But somebody spread it to them. I am not justifying that. I am saying, we have got to look at the problem systematically. Maybe, we could have our own legislation after. For example, do we come to the Parliament during our budget debate and say we have put aside \$25 million to deal with AIDS in a meaningful way, and this is how we are going to spend the money? [*Crosstalk*] We got \$500 million en bloc; \$100 million, \$20 billion—understand what I am saying. How are we going to spend the money? [*Crosstalk*]

Mr. Speaker: Please, the hon. Member for Chaguanas is on his feet and I would ask Members on the Government Bench to give him some respect. Let us listen to him in silence.

Mr. M. Ramsaran: I am not just talking about this off my head. I looked at the Declaration on the Commitment of the UN General Assembly of June 2000. This is the UN General Assembly that we went to. Policies and Strategy plans on HIV/AIDS are the foundation for any meaningful and sustained response to the epidemic.

“A policy provides an operating framework for people whose jobs entail prevention, treatment, care, support and generally reducing the impact of the epidemic in the population.”

It goes on to say:

“Without a policy, those managing the response to HIV/AIDS have no sense of national direction. The policy directs the creation of strategic plans, + allocation of funds aimed at achieving stated objectives and management of the situation.”

As I mentioned, we do not have to re-invent the wheel. Here was the United Nations speaking to us when the AIDS Convention was held in 2000. When one comes with ad hocism to try to get things going in a particular way and people criticize you—had you come to this Parliament and said you are now laying before this Parliament a national policy to deal with AIDS maybe, the first thing you would do is to pass this piece of legislation, we would have no problem with

that. And at the national debate the Prime Minister would say okay, we have now given the people who are responsible for establishing the policy to deal with AIDS \$50 million, and this is how it would be spent: on education, discrimination and so on, then we would understand that we have a systematic way to deal with this.

But when we come here, as my friend was saying, we cannot “vup” around the place, we cannot hope that things would be solved by just throwing some money at them. If money could solve problems this Government would have been a marvellous government. It has money as never seen before in this country. But the problems are there. I do not want to reiterate. We know the problems. They are there every day existing and nobody seems to be able to cope with the problems, so money is not the solution. Somebody mentioned that it is has been there since 1982 but, of course, AIDS was a word, thoughts, deeds, people did not know what it was. But now, we are aware, people are telling us what the difference between HIV and AIDS is.

You are telling me you are going to charge Mr. X for giving AIDS to so many women and so many women giving AIDS to so many men and so forth, but according to the report, the expert speaks of 40 per cent of persons who never realized they had HIV. They are normal, healthy human beings. There is no mandatory testing. You cannot force people to go for a test—and then this is another question I have been asking myself. Mr. X gives somebody AIDS, and after the incubation period AIDS is now full blown. There is a lifespan when you get AIDS. I do not know how much it is. Maybe, because of the advent of medication to deal with AIDS it might expand the lifespan, but how could two people—Mr. X gives Mr. Y AIDS, who will die first? Then you charge the other for manslaughter. [*Interruption*] How could you charge a dead man, Mr. Hinds? The Bill says if the person dies he is charged for manslaughter. So you have two people, you charge one for giving AIDS to the other one, but according to the legislation before us, you cannot charge that person for manslaughter until the other person dies. The point is, if he dies before—to me, it does not make sense. My argument is that we are not getting to the root of the problem of AIDS. We are covering up and trying to hoodwink the population.

Mr. Speaker, to put it bluntly, this legislation smells of politics and, of course, it achieves the status. The Member looks at television to see the results of the ‘People Meter’. Sometimes I ask myself, yes, it is unscientific, but how many people will call? Twelve persons call and eight persons say it is good and we accept that? We have got to go beyond that. Maybe, I am sounding like this because I am getting fed up with the politicizing of everything. You do something

and look to see the results but what about the people whom it would affect? How will it affect them? What guarantees are there that maybe, the next 20 years, we could get up in this Parliament and say we have done something to curtail AIDS in Trinidad and Tobago?

The Member for Port of Spain North/St. Ann's West—I know where he is now. We just heard the news that doctors will be off duty from tomorrow. Again, inefficiency of the Government. Doctors will strike and when they asked the doctors what would happen to the patients, they said ask the RHA and the Minister of Health, because there are no drugs in the country to be dispensed to the patients who go to the hospitals and when we come to this Parliament and talk about it, it is as if we are criticizing everything. The reality is there, money cannot solve problems and I make the point again and again, money cannot solve problems. We have to put systems in place and things will happen.

Twenty years from now people will remember us in this Parliament for stopping the scourge of this AIDS virus, but this is not the way to do it.

Do you know why one gets emotional about this? It is because we seem to be spinning top in mud. Just keep going left, right, hither, yonder, and nothing is being achieved. This is not being cruel to the Government.

I have asked for the last three years, what have we accomplished as a Government and as a people in this country—I will applaud, and this is another question I would like to put on the table for maybe, future discussions. Why is it when governments change people just forget the policies of the previous government, and just try to re-invent the wheel?

Mrs. Job-Davis: Why did you do that?

Mr. M. Ramsaran: We did not do that. At least, I did not do that.

I want to talk about children and AIDS in Trinidad and Tobago. The hon. Member mentioned that the majority of persons living with AIDS or HIV are under 25 years. This is something we have to be concerned about.

I want to point to the direction of child discrimination and the social ostracism that drives the epidemic. This is something we must come out in the open and talk about. Let us see how we could get the children protected because when one looks at the question of child prostitution, despite the fact that we are not hearing about it, it does not mean that it does not exist in Trinidad and Tobago. And the child is 18 years and under.

We have to look at the moral decay in our society. Maybe, people would blame poverty for that, but what are we doing to improve the quality of life of our people? This is what a government is all about. A government is not only about coming here and how good you speak, and what you talked about and what you hid under the carpet. Let us face the fact straight out and deal with the problems in our country.

The Member for Laventille East/Morvant is back. We were jokingly talking about it contrary to what he tried to put in my mouth. We talked about what niche could Trinidad and Tobago have and I told him one-to-one, “well we have kidnapping, jokingly, but the fact is, if one examines seriously, what are we doing? Let us say tomorrow there is no oil in Trinidad and Tobago, how are we going to deal with it? Could you tell me where you have taken the country forward to deal with the present problems of this country? What are we doing? You talk about Moruga and helping 40 persons. Okay, we now have pilot projects, never ending in Ministries but how long will the projects go on? We have to come out in the open.

We see much money being spent on advertising. Somebody said this Government buys advertisements but that same money could be used on the same media to educate people about AIDS so when we come to talk today, we would not have a headline stating “Ignorance and fear can spread AIDS”. Are we starting at the wrong place—that is one of my major arguments this evening—the middle of the road? Educate our people about AIDS. The *Guardian* admitted at one time it was against people spreading AIDS. I want to read this piece.

“...how often do such incidents occur, and will legislation be effective in preventing them?”

The Government has offered no figure for the number of people affected in this way.”

And I mentioned that in previous debates. When they come to Parliament they must come with their policies and let us know this is going to happen because of such and such and we expect the results to be that. We have not seen that.

“One reason for...this may be that, as prosecutors bringing such a charge will find, such an offence is very hard to prove.”

I mentioned that earlier.

“It may be difficult to demonstrate that the accused person was aware at the time that he or she was carrying the virus, and to show a casual link

between that person and the accuser's acquiring the virus, since it is a long incubation period.

As to whether the accused informed the accuser of his or her HIV status, it will be one person's word against another."

The *Guardian* is also echoing what we are saying on this side. Not that we agree with everything that the newspaper would say, but the fact is, here is an issue that affects the lives of the people of Trinidad and Tobago and we have got to deal with it. I understand the Member said he is going to withdraw it and send it to a Joint Select Committee.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. G. Singh*]

Question put and agreed to.

Mr. M. Ramsaran: Mr. Speaker, thank you very much. I want to just read this into the record which is from the Caribbean. This was sent on April 09, 2005, to illustrate that AIDS/HIV linking together is a problem we have got to deal with and understand the cries from the people who have AIDS. This is one instance where we should not play the blame game. As Members, we should not say as the Member complained a while ago of who gave AIDS to whom, but to look at the whole question of what this epidemic could do to us.

"I read everyone story and I am here to tell mine. Me and my boyfriend have been living together for the past two years and things got kind of rough meaning we have a lot of differences but we still love each other. Anyway when we moved in together we weren't getting so well because things always have to go his way but we would argue a lot, fight sometimes but one day I could not take it any more. Where I work this older guy came by my counter and I started talking to him and I give him my number and we started talking from there. I told him what is going on with my relationship with me and my boyfriend and I wanted someone to love me and not treat me badly. He was a great listener and he give good advice he didn't want me to leave my boyfriend but I was very angry so I decided I would go out with this guy he seems so nice and sweet we went out one night and the first night we made passionate love but unprotected he came inside of me. Then we met another night and we made love and I

felt really good and he wanted to start a relationship with me but deep down inside I missed my boyfriend and I loved him a lot. The guy got to find out about my not leaving my boyfriend for him and he broke off the relationship with me and I never got in contact with him since then. But a couple of weeks after one night I woke up and I had a diarrhea and vomiting whole day and it only lasted for one day and I thought nothing of it. Then my boyfriend came home with the same symptoms as me and it only lasted a day but I don't know if I have contracted the HIV or if it was something else. I am kind of scared. This is nine months since I haven't spoken to the guy and me and my boyfriend are still together. Right now I am pregnant with his child and feeling sick but I want to be tested for that HIV and I am very scared. I am sorry for what I did before and I wished it never happened. I hope this baby is fine and healthy and I am also."

This one attests to the fact that here we had, maybe, a good relationship going on and the person did something that was wrong and the guilt, the stigma. This person is from the Caribbean and did not talk about visiting a doctor and taking a HIV test because of the stigma and shame attached to AIDS in the West Indies.

I read that into the record to show that 99 per cent of people living in Trinidad and Tobago would never go for an HIV test. [*Crosstalk*] Would the Member go for an HIV test?

Mr. Valley: Yes. But why do you not go?

Mr. M. Ramsaran: This is the reality of the situation. So when you come with a Bill that tells me you are going to charge people for knowingly spreading AIDS there is a major problem there. There is a flaw because we do not understand our country and by stigmatizing people and that they would now be charged for manslaughter they will go underground and Ms. Frika from Tobago—I remember that story quite well. This is what could happen and it could happen again; and yes we have failed with murders, but dealing with AIDS is a very different matter.

I think we have got to look carefully and, as my colleague said, this Bill must be withdrawn and brought back to this Parliament with a whole series of legislation to deal with AIDS. We have got to start from the beginning, prevention, encourage people to be safe—yes, that was bandied about a lot but the question of education—because if you do a survey in Trinidad and Tobago the first hundred people you meet—I guess more than 80 per cent, the Member's figure, will not understand what AIDS means.

I did my own random survey this morning and people still believe that if someone with AIDS sits on a chair you got to clean that, you got to wash it, you got to get rid of it. Or, nobody would sit on it.

Somebody with AIDS came to my office about a month ago and sat on a particular chair and I asked my staff, “What was that chair doing out there? They said, “MP, a fella had AIDS and sat down on that.” And nobody dared sit on that chair. I told them, just clean it up and bring it back. The staff and people who visit the office once they heard a person with AIDS sat on that chair—and that is a fact. Do we understand that? Can we deny that? [*Crosstalk*] We are talking about the reality of a situation and we have people just dealing with it flippantly. We could never overcome this problem if we do not deal with it seriously.

We are formulating this policy. We come across educating the people to the reality of the situation because I dare say, we go out there and we talk to children in schools—it is still taboo in Trinidad, whether we like it or not, to talk about these situations. They have existed with us over time, and we tend to just plaster the sore. We do not start where we are supposed to. Why not go to the schools? Why not go to the youth of the country and explain to them? We believe people know, but they do not know. I am really a bit appalled this evening talking about a policy to deal with AIDS, not blaming anybody, but trying to see how we could get out of this difficult scourge, to see how we could improve the question of social behaviour, to see how we could improve the quality of life of the less fortunate in our society.

If one does a survey on AIDS, one would find it is mainly in the built-up areas and the poorer segments of the country, not that it has any—AIDS does not discriminate but one would find it is in the built-up areas where families have lost their values and their systems and so forth.

I call on all of us to go to these areas to see how we could deal with it. For example, in our prison system—this is where I will support mandatory testing. As people enter prison and they are sentenced to imprisonment, they should be tested and records kept and monitor what takes place in our prisons. Because our prisons, rather than help with crime, and we know the Government is talking about rehabilitation and so forth, but it is in there many things—there are many things that would fester. Homosexuality is one, and, of course, AIDS will continue to be there and we could look at maybe, the prison system—because these are the guests of the State—to deal with the problems, talk with them, understand what happens because they are our guests. So you have them with you, they are there, let us learn about lifestyles from these people.

We glibly talk about prisoners and overcrowding and so forth, but do we take time out to deal with them? For example, you go into a jail and you smell marijuana. How did marijuana get into a jail? Then the same thing could happen with sexual and other meetings. We have got to talk to these people, we have got to rehabilitate them, let them tell us—maybe they would talk the truth because they are behind bars and would want to get out. Let us learn from them what their mistakes are, how did this happen and by our knowledge, we could—we find that CAREC and these other institutions—I am not maligning them, but they could do sample research and come up with solutions. But would it not be better for us as a Government to go into these places to find out what happens? It is also recommended that we go into places of disrepute which we do not want to talk about except from the Member for Port of Spain South who talks about it from time to time. We believe we know and that is the problem with us, we believe we know everything but the more you try to learn the more you realize how much more you have to learn.

I recommend to this Parliament that we deal with this thing holistically. I am a bit disappointed to say the least about what has been done, since we demitted office, about the children's institutions in this country. When one hears reports of what is taking place sometimes one wants to know if there is any hope for our people. The same newspaper clipping, the same page, I forgot to read the last line. The last line says:

“PSA launches probe into youth lawlessness.”

I heard the President of the PSA, as if she now landed from somewhere, talking about the position in YTC, and I add, other institutions. What is happening there?

When the UNC was in office it built institutions, it looked at a remand yard for young people, it looked at different areas and how it could deal with drug addicts with problems. But we have not heard anything. For example, at Piparo, we created a complex that could deal with drug addicts, drug users, people with AIDS; they could be sent there to recuperate. I have not heard anything about it. And if one asks questions one would get one long story. Or they might not answer the question.

What is happening? We pay lip service. I remember my friend from Tunapuna when he was in Opposition used to enquire from me about what was happening close to him, about the youth centre. And he could tell you that we expanded and built new classrooms and so forth. You got to deal with the problems. [*Interruption*] When you do not know and you jump into something, you get in trouble.

We have to look at our children's institutions, go in there, talk to them. Do not wake up one morning like the President of PSA, Mrs. Baptiste-Primus, and talk about—as if 90 per cent of our population is Africans. Where was she all this time? It amazes me when things reach a stage of panic everybody would jump in and want to condemn people. I am not doing that. I still want to get our Government and our people interested in dealing with problems in a meaningful way. AIDS is too serious a problem to just come and debate and go home and look at one's television to see how well one did. It is much more important than that. We have to look at the—it might sound like being repetitious, but I am not at all happy with how this debate has gone on from the Government side. We must put things in proper perspective.

We wonder why our children's institutions, why the jail population is this way. Why is it that way? We, as MPs, must take the lead sometimes from the front.

Mr. Speaker, I will ask maybe, even Government MPs—the money is on your side; discuss AIDS or drugs with the young people in our constituencies. At election time we have all kinds of youth groups, youth movements and youth fests and use the young people but when the young people get into trouble, where are we, where are you? If somebody could tell me we had a dialogue with our youth—Do you know what we do with our youth? We give them fete, big bands, music. One hears politicians saying they like that, give that to them. And we are not educating them. We are not making them aware of their own bodies.

Mr. Bereaux: Would the hon. Member please give way? Hon. Member, I do not know what you do in your constituency but I do things in my constituency with my youth, with the young people, I meet on a daily basis sometimes. Maybe, you should suggest what we should do rather than say what we do because you are not in a position to say.

Mr. M. Ramsaran: Thank you very much. That is why I asked the question and I commend you for it. Knowing your background, I believe you are speaking the truth, and we would like others to do that. Why I am saying is this because when you could get a few young people to talk with them—and I did that up to yesterday evening—then you will be shocked to know what they do not know about lifestyles. They read things, they look at television, they go on the computer, they are computer whizzes and so forth, but when you ask them about real life situations they are not too aware of that.

If we remain aloof we are not going to help our young people. When pieces of legislation like this come to this Parliament, I feel a bit disturbed that they are not

well thought-out, that they just come like plasters on sores. Personally I become very emotional when I see this because I attempted in all different ways to see through the eyes of that Bill. I read it time and time again. What is it trying to achieve?

If one tries a hypothetical case, one will see how impossible it is. Just take a case of a policeman using this Bill, wherever the ANTI-AIDS unit is set up and you try as a policeman, think about how you could get somebody into jail using this Bill and you will see it is impossible. So rather than looking to jail people, let us look to educate people, let us get people to understand what is taking place. AIDS did not come and just strike us. It was started by somebody somehow. I would still like to get the origin of that disease, and get people to accept what is taking place.

Mr. Speaker, we would feel a lot better. I want to put on the record that this piece of legislation is laced with politics and aimed at a very naive population on the topic of AIDS, I once more ask for its withdrawal.

6.45 p.m.

Let us look at our development holistically. Legislation should deal with AIDS in a holistic manner and should also keep in line with what the UNDP has to say. The UNDP says that to prevent the spread of AIDS and to reduce its impact, developing countries need to mobilize all levels of government and civil society. As a trusted development partner, UNDP advocates placing HIV/AIDS at the centre of national planning and budgets and helping to build national capacity to manage initiatives that include people and institutions not usually included under health.

Mr. Speaker, the confusion remains with me, unless someone answers me. Is this legislation really serious about public health? Is it to get our people to lead better lives or is it to criminalize the offence, put people behind bars and maybe to spread AIDS in the prison? I want to be clear on what the Bill is trying to achieve.

Again, we have to look at the whole question of AIDS and what it is doing to our society as far as the economy is concerned and the health of our population. It weakens a society. When we look at the statistics, it is growing despite the boast of the Member for Port of Spain North/St. Ann's West that the numbers are being reduced. I do not believe that. The incubation period is now longer because of the medicine and drugs.

I speak for this side. Let us withdraw this Bill. This will take no more than a month. Let us come up with a policy to deal with AIDS. Let us look at the whole

question of budgeting and I would be the first to support any move to get rid of AIDS in Trinidad and Tobago.

Mr. Subhas Panday (*Princes Town*): Mr. Speaker, AIDS makes us angry, but in law we must be rational. We must take, as our guiding principle for law, something more than the creation of a response to a dangerous epidemic. We must look for effective and just laws that contribute to slowing the spread of AIDS. That should be the aim of legislation, not what we have here.

This Government is reacting to public anxiety. It said that there would be cause for law and order and a war on AIDS. Beware of those who cry out for simple solutions in combating HIV/AIDS for there are none. In particular, Mr. Speaker, do not put faith in a large amount of the criminal law.

The UNC government, in 1997, was considering this aspect of dealing with AIDS. Hence they set up a law commission in December 1997. I quote now from an article on AIDS by a member of the law commission. They also reiterated that statement I just made. They said law cannot prevent AIDS.

“T&T Law Commission says No to criminal HIV legislation”

This is the Law Commission of Trinidad and Tobago. It says:

“In December of 1997, the Law Commission received instructions from the then Attorney General to research and compile working papers on HIV/AIDS, the specific mandate was to examine the HIV/AIDS epidemic in the country from a legal and legislative perspective and also to look at the manner in which it is affecting the country's children and young persons.”

AIDS is something so emotional in society that we really must be careful that we do not enact legislation to hurt the people we are trying to protect.

It says that:

“The result of the Commission was a paper entitled “An Overview of HIV infection and its Spread in Trinidad and Tobago, exploring the need for legislation and programmes for reform”.

The article was written by Charlene Taylor-Basson, a Research Officer of the Trinidad and Tobago Law Commission. The recommendation and rationale of the paper she presented, at a workshop in Port of Spain at the Media Association of Trinidad and Tobago, was as recent as 2000.

The same issue, which this legislation attempts to address, is the same issue that the Law Commission at that time addressed. It says that since the onset of the HIV/AIDS epidemic, legal authorities have grappled with the question whether or not persons who know that they are positive and neglect to inform their sexual partners as to their position should be criminally prosecuted.

The hon. Member for San Fernando East said, when he shouted across during the contribution of one of our Members, that it is only information and disclosure; it is not transmission. I realized that he was a little confused. The point I am making is that the Law Commission had indeed looked at an identical issue about disclosure.

This Law Commission looked at all the countries that had enacted legislation. She went on to say:

“Some countries have passed specific legislation making this type of behaviour a criminal offence.”

Another school of thought contended that this issue could be dealt with under the existing criminal law—many Members here touched it, but I will return to that in a few minutes—that there are other public health approaches and that the public health approach is a better way of containing and controlling the disease. The Law Commission, an independent body, which was given the task to investigate and do research, came up with the position that a public health approach is the better way of controlling the disease. That is why I support the Member for Chaguanas when he said that if we have public health approaches in place, they would want to bring legislation as a subsidiary position. While we may look at it, we stand on the side of the law commission by saying that a public health approach is the better way to contain the disease. The Law Commission advising the government, after examining ways in which other jurisdictions have handled the matter and the effect, recommended that no coercive legislative measures be introduced to deal with any kind of transmission of HIV/AIDS. The Law Commission went on to say that bringing this type of legislation would send the wrong message. I will come back to the wrong message as I attempt to proceed and develop my argument.

Like my learned colleagues on this side, we looked at the legislation and I humbly submit that it is misguided. I go further to say it is unconstitutional. I will develop the point. I will come back to the other point of being unable to prove. When we look at subclause (7):

“Where a person is charged for an offence under this section, a Magistrate may, having regard to the circumstances, make an order directing the

accused person and the other person to each give a sample of blood for the purpose of HIV testing.”

I do not see why the magistrate would have to ask the other person to have the blood of the virtual complainant tested to determine whether she has HIV or not. In the first instance, her blood would have been tested in order to prove the offence that she has contracted AIDS. I do not see the redundancy in that point. Therefore, the mischief, the person they are really to catch with this legislation, is the accused because these charges are being laid indictably.

I do not know what is the thinking, however, when they say:

- “(8) where either person refuses without reasonable cause to give the sample of his blood:
- (a) the Court in determining:
- (i) whether to commit the person for trial; or
- (ii) whether there is a case to answer.”

Well, Mr. Speaker, they are trying to compare this legislation with the Sexual Offences Act where they say, for example, that if you charge someone for rape and she is a *virgo intacta*, that might go towards determining whether the person is guilty of rape or not, or probably indecent assault even.

Here, Mr. Speaker, [*Interruption*] Yes, a virgin. [*Interruption*] They use that in Tobago. If you go and get AIDS, the fellows in Tobago say: “Ah going man.” The woman says: “I have AIDS, you know”. He says, “I still coming”.

Mrs. Job-Davis: How do you know that?

Mr. S. Panday: You never hear about them “jillaway” in Tobago in Store Bay. They say, “It is okay I will take it. I will drink some Clorox and wash it down.” They went by the obeah man and he said you have to live with your niece or some other family and she must be a virgin and you will get rid of AIDS. You have never seen that in the newspapers? That was in Tobago, but I do not want to get into that argument. Have sex with a virgin; she must be a relative and the AIDS will go away. That is why we have so much AIDS in certain parts of the country. Coming back to our point, what they are really trying to do here is to catch the accused—to put pressure on the accused.

I humbly submit, Mr. Speaker, that it seems to me that the intention of the legislation is to use that same point from the Sexual Offences Act, where, if you take the test and prove that you are HIV positive, the magistrate may come to the

conclusion that you could not have transmitted the virus because you are not positive. That probably was the intention, but it creates a constitutional hiatus.

In any event, if a man knows that he is charged with AIDS, a magistrate does not have to order that. I am certain that, for the man, in his own interest, he will run for an HIV test and when he gets the test he can produce it. You do not have to tell him to do it. Why do you interfere with his constitutional rights? I humbly submit that a magistrate who may compel a person to give his blood is infringing upon the man's constitutional rights and hence this legislation is unconstitutional. I can go to the Constitution and see which area, maybe section 4, the person may invoke.

“(c) the right of the individual to respect for his private and family life.”

So, you as a magistrate cannot tell me that I must go to someone else and let that person take my blood. You might be interfering with my constitutional rights.

Mr. Speaker, that information, whether you accept it or refuse to accept it, the magistrate may come, as the Member for Pointe-a-Pierre indicated, to judgment of fact. I humbly submit that in that case, they will be depriving the person of his rights also under section 5, which is to be presumed innocent until proven guilty according to law.

The magistrate, in coming to that conclusion, because it is an indictable matter, will have to send you to the assizes for trial and for him to use this as a basis to send you upstairs is an indication that he has presumed on your guilt before trial. It is in those circumstances, Mr. Speaker, that I humbly submit that although the drafters had that good intention in mind, they have created a constitutional position.

What one could have said, like in paternity tests—there are paternity tests under the Family Law Act—the parties may consent. What could be put in legislation is that the magistrate, with the consent of the parties, may give an order for the taking of samples of blood. That would deal with the constitutional provision.

The Bill looks very simple, but one has to be very careful when one legislates. That is why we say we must not be too hurry to legislate. We should have sound policy. In order to be sound, policy must be developed through careful consideration of what is the big picture. Decision makers in this Parliament here have a responsibility to guard against the proliferation of what has been dubbed

Offences Against The Person Bill
[MR. S. PANDAY]

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the new virus; not HIV, but HUL. We must guard against HUL, that is, highly useless laws.

Mrs. Robinson-Regis: Somebody said that already. He is just repeating what was said.

Mr. S. Panday: I am sure she did not understand the constitutional point. When one's husband gets work so easily, without doing any work and getting paid—let her heckle me, Mr. Speaker. Let her heckle, I will deal with her! When her husband, who is so incompetent, gets a job, you think you can heckle people like that.

Mr. Speaker: Please! Stick to the Bill! You are going good. I am enjoying your contribution. [*Crosstalk*]

Mr. S. Panday: You should go for testing for AIDS!

You interfere with a young child who is going to school and in those areas where there is a proliferation of AIDS, one must take an AIDS test to protect one's life. [*Interruption*] Cocaine has not fried my brains, Mr. Speaker. I am not an unrepentant user of drugs.

Testing, not only affects you constitutionally, but there are international obligations to which I am certain that governments have been adhering. [*Interruption*] Not only that, but how were our files missing from the National Insurance Property Development Company Limited? We must find out that. That is worse than AIDS, Mr. Speaker.

Mr. Speaker: You are so easily sidetracked. You were making a good contribution. Continue to make that contribution! Forget the crosstalk!

Hon. Members, please, we do have the Hansard reporter opposite you. Be careful! She has to take down everything the hon. Member says.

Dr. Rowley: Is she allowed to laugh?

Mr. S. Panday: Thank you, Mr. Speaker. It also runs in people who use cocaine. As a result, some have suggested that compulsory HIV testing for those accused of transmitting HIV is a dangerous situation.

It says that testing a person for HIV without his or her consent, on the basis of a criminal accusation, raises serious human rights concerns. It is not only a constitutional concern, but also a human rights concern, associated with the liberty, the security of the person and most of all the privacy. As I said, it is a human rights issue, which is also enshrined in our Bill of Rights.

It says that that type of behaviour or such practice would violate bodily integrity to obtain information about his health. This is not passing legislation where a “fella” chop a “fella” or steal something or use or traffick in drugs. In this legislation, it is interfering with the status of your health. Nobody would like to have his health records known. Once that goes into a court system and forms a part of the public record—although the matter is held in camera, it forms part of the public record—for example, for an exhibit that is tendered, anybody can do a search and find it because it goes into the public domain.

Mr. Speaker, you know people who go for medical tests for insurance, and they are so concerned. They want confidentiality. That is why I think that the insurance companies have looked at that situation and they have put, not Tom Dick and Harry doctor, but designated doctors who, I suppose, have to give that oath of confidentiality to the insurance company and to the person.

Not only that, look at our embassies! When you have to go for a medical, they do not send you to any doctor. They have designated doctors. In San Fernando, we have Dr. Mootoo that the US embassy sends you to. It is a serious thing when you are giving a magistrate the power to force a person to put his health status in the public domain. That is why you have to look at this legislation seriously.

Mrs. Job-Davis: What is wrong with that in the case of HIV/AIDS?

Mr. S. Panday: The Member for Tobago East asked what is wrong with that. It is a criminal proceeding and in a criminal proceeding his records will become public and the Constitution gives you the right of privacy. For example, if a policeman wants to give you some pressure and he charges you, puts you in custody and brings you before the court, only after that time, if you want, you may get away. The point is that you cannot put people’s health in public like that.

Mr. Speaker, it says that information should, as a general rule, be subject to strict confidentiality. That is the problem—international law, not only our law. When you are passing legislation, you must also look at the international environment and international law. The Member for Arouca South says that she does not understand that. International law recognizes these rights as fundamental human rights, and I wish to say that even our law recognizes that position.

Mr. Speaker, the argument goes on. It says that other human rights consequences may follow for a person tested for HIV or is perceived, if even incorrectly, as HIV positive. The other problem, Member for Tobago East, is the problem, which all

our colleagues have spoken about, that of stigmatization. In many settings, the stigma and discrimination may be severe.

My friend, the Member for Oropouche, has indicated how it affects people at the workplace. Persons are ostracized at the workplace. Other workers do not want to eat with them. They do not want to drink from the same cup from which they drink because of the boogie that is attached to HIV/AIDS. They do not want to sit in the same chair. Also, as the Member for Oropouche said, because of lack of production, not only by that worker, but by other workers, the employer usually finds a way to get rid of the person. These are some of the problems of stigmatization.

We are passing laws that cause people in these settings to lose their livelihood. That is why we are passing legislation. In certain circumstances, this may cause people to lose their livelihood. They may be denied services. They may go in some place to buy something and they may say they have AIDS and not serve them or ask them not to come to their office. These things happen to people. So these people for whom we are passing laws are not pure criminals. Although we talk about intention and being reckless, we are passing laws for people who are sick, diseased, clinically and, in some cases, terminally diseased. That is why draconian legislation is not recommended for this type of offence.

7.15 p.m.

Mr. Speaker, you and I have been in San Fernando and most of the vagrants you see walking the streets, sleep on the pavement at the corner of Lord and Court Streets. There was someone who was a law clerk in San Fernando who contracted HIV. He came from a broken home in Piparo. When he went home the stepfather told him: “You ‘eh’ giving my children AIDS; out of here!” He was put on the streets. People from your firm and I used to give him money to buy medicine. For the record, his name was Ryan. I gave him money to help him buy drugs and food. He slept on the pavement. He was a beautiful young boy who wore shirt and tie when going to court, very decent. He ended up on the pavements. The latest I heard is that he died under Pooran’s at the Corner of Lord and Court Streets, San Fernando.

We are passing laws for persons like that, who could be rejected and ostracized by their families. In some cases, there are women we need to protect. If a female realizes that a male has given her AIDS, she would get vex and walk out. There are some men, although we are saying that the laws are to protect women; there are many universal cases like Simona. She was a woman who spread it. If a man

realizes, as most men realize, that he contracted the disease from a woman—I see the Member for Tunapuna folding his cuff already. Some people could be subjected to violence. You will see later on. I will probably say how we should look at HIV legislation.

Let us develop public health policies, which might be the way to go, rather than use the principles of criminal law to solve the problem. Criminal law deals with after the effect. After the alleged crime has been committed, then criminal law steps in. What we should do is have public health policies to ensure that it is not spread.

Mr. Speaker, I will come back to that in a few minutes. Let us assume that we intend to use laws. There is a school of thought which says: Why identify people with HIV/AIDS and put them in a special category? There are people who transmit sexual diseases such as gonorrhoea and syphilis. What is law for them? The Government is doing almost the same thing; the same act and method of transmission. The same principles in this Act will apply. We do not have any laws for gonorrhoea and other sexually transmitted diseases which could also be fatal. Why do we, in this legislation, specifically identify HIV/AIDS? I said when I opened, the society is pushing us and we have to resist.

AIDS makes us angry. That is the feeling of society. But we, as legislators and leaders, have to resist that and ensure that we have proper policies in place. There will be calls for law and order and the war on AIDS. The question is: why did we not say that we passed a law for sexually transmitted diseases; anybody who transfers any disease, so that it would not stigmatize such a small group of people in society. He does not care. No wonder Emile Elias—for him; he does not care. They built a wall and it fell down and he does not care. That is systematic of the PNM. They do not care. The Member said that.

Mr. Speaker, that is one school of thought. Apart from the public policy position on public health laws, there is another school of thought which says that we should not make a small categorization so that you do not stigmatize the issue of HIV/AIDS and that we should be sympathetic with people who have AIDS.

There is another school of thought, the English school of thought—I think the Jamaicans went that way—which says that there is law on the statute books which could deal with this.

If I may, my friend, the Member for Oropouche, spoke about section 17 of the Offences Against the Person Act, Chap. 11:08, which states:

“Any person who unlawfully and maliciously administers to, or causes to be administered to or taken by, any other person any poison or other destructive or noxious thing...”

They would probably deal with AIDS in that category.

“so as thereby to inflict upon that person any grievous bodily harm, is liable to imprisonment for fifteen years.”

Some people say that we can use that section. I have discussed it with other attorneys around and they have said that we can also use section 12 of the Offences Against the Person Act. Although section 12 is a hybrid offence which could be indictably or summarily, the prosecution has the option to elect a trial by jury. Section 14 states:

“Any person who unlawfully and maliciously wounds or inflicts any grievous bodily harm upon any other person either with or without any weapon or instrument is liable to imprisonment for five years.”

That is the hybrid offence.

Section 12 also is a section which falls purely under the Indictable Offences (Preliminary Enquiry) Act which states:

“Any person who unlawfully and maliciously by any means whatsoever wounds or causes any grievous bodily harm to any person, ...with intent to do some grievous bodily harm to any person, or with intent to resist or prevent...is liable to imprisonment for fifteen years.”

That trend creates a law for sexually transmissible diseases to prevent the stigmatization. Other persons are saying that our law, as it stands here, could deal with that issue. There was no need to pass this legislation to stigmatize and cause discrimination and criminalize HIV. This is what we think.

Further, if one looks at the Bill, one would see that this is not as though you shot or killed a man. It says that a person who knows, or ought to reasonably know, that he is HIV positive and who, without so informing the other person, engages in conduct with that other person commits an offence of intentional or reckless exposure. How will the prosecution prove the intention? This is an intimate relationship between a man and a woman. It is said that they usually, or otherwise—This activity is not only carried out by words, but also by action and in a state of ecstasy. I see the Member for St. Joseph cringing—ecstasy. In those circumstances, it is difficult to prove the intention, unless he says: “See you, yuh

old X,Y and Z, I will give you something that you will never forget.” This does not happen so. This is capable of more than one meaning. How do you prove intention without the spoken word?

I humbly submit that would be indeed difficult to prove. That is why the drafters, when they were drafting, said:

“A person found not guilty of the offence of intentional exposure of another to infection...”

They are charging you, but the drafters are anticipating that you would not be caught. It says: “the person found not guilty”. This is the first time I am seeing legislation like this. If I am charged for murder, I could be brought in for the lesser count of manslaughter. If I am charged for dangerous driving, I could be brought in for due care and attention. The Bill states that a person found not guilty of the offence of intentional exposure of another to the infection of HIV may be found guilty of reckless exposure to another person. Is it that the drafters of the legislation know? As a matter of fact, the law cannot be implemented. This is a deep analysis of the law.

Mr. Speaker, when an offence—[*Interruption*]

Dr. Moonilal: He knows about walls falling down.

Mr. S. Panday: In clause 2, section 18A(5), it is stated:

“Where an offence has been committed under subsection (1) and the other person contracts HIV and dies as a result of the conduct, the offence of manslaughter is committed.”

Before I go to that point, I am sorry that the Member for San Fernando East is not here. He said: “Do not take this on, this not disclosing.” Indeed, it is more than that. When one looks at section 5(1) it talks about informing. When one goes lower down, it says where you commit the offence of not informing and the other person contracted HIV—it is in law—and dies as a result of the conduct, the offence of manslaughter is committed.

We must look at the real situation as it stands for HIV/AIDS. I have spoken to some doctors and they have indicated that the incubation period for HIV is one to six months. In one to six months it will show up, the blood-sero conversion. The Member for Tabaquite was speaking. That was an academic and scientific analysis. One appreciates that now. One sees how it fits into the legislation. I thank the Member from Tabaquite for that intense contribution.

It takes months for the sero conversion. You can feel good, strong and normal with anybody, but the only way you will get to find out if you have AIDS is if you have to take a blood test for a job. Save that, there may be no need whatsoever to go for a test. The doctors indicated also that it takes, sometimes up to 11 years for the HIV virus to develop into full-blown AIDS. The length of time that it takes to develop is 1—11 years. If it develops at a later stage, one would find it difficult for that person to refer to where that person acquired the AIDS. In any event, usually, in those circumstances, by the time that person works out or tries to work out who gave him or her AIDS, unless the person had sex one time in 11 years, that person may not be able, in a lifetime, to determine that. You cannot find the “kidnapper”. What happens is that person usually dies long before you can catch anybody.

This is why we say that the HIV virus has the virus HUL, highly useless law. We know that we cannot legislate for every situation. We know, I am certain, that the policy makers would have done their research and obtained the data as to how the disease develops and fit legislation to suit that particular situation. I humbly submit that this legislation—if the person contracts the disease and dies, you can be charged for manslaughter—is really a scare tactic to create a sense of false security to people who are reckless with their own health. “Dey go lock yuh up if yuh give meh AIDS boy!” They are free and going to all the clubs, and Carnival fetes and “wining up in de place.” “Me eh go get yuh now because if yuh give me, yuh will get jail.”

I humbly submit that we need to look at this piece of law. Putting “manslaughter” is really trying to frighten people. The purpose of the criminal law, although it may be a deterrent—in effect, we should be careful what we are doing. I find it strange that you will give a defence. Why do we waste time and legislative paper? Look at the two-by-two defence. It is a defence for the accused person to prove that he informed the other person that he was HIV positive and he consented to engage in the type of conduct referred to in subsection (1). His defence could be that he told the other person that he was HIV positive and the person consented. It reminds me of section 21 of the Narcotics Act, which states if drugs are found in an enclosure, a vehicle, vessel, aircraft or any room or building, anyone who is an occupier of that building is deemed to be in possession of the narcotics. However, it gives a defence. That person will have a defence by saying that it was there and I did not know that it was there and because I did not know it was there, I have a defence.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. G. Singh*]

Question put and agreed to.

Mr. S. Panday: Thank you my learned friends, especially the mover of the Motion. This law will create a situation which, though not in writing, will cause a certain type of behaviour in persons, in that they will not go and have themselves tested; they will go underground. If they know or suspect that they have AIDS, they would not say: "Look boy, I am getting the cold and coughing all the time." or as the Member for Tabaquite said: "Thrush is in your mouth. Are you seeing the symptoms?" He feels that he would die anyway, he will not go for testing. He will now use a defence, which is not in the law, as a defence saying that he did not know that he had it, because he was never tested. This law is awakening persons who might be HIV positive, not to go for testing. If am I tested I will go to jail and in any case I will die.

We have to be careful when we pass legislation, that we do not awaken persons to find defences outside the Act, for the offences as charged.

Mr. Speaker, there are some parts of the Bill with which I cannot find fault. With respect to transfer and donate, I believe that clause 2, sections 18A, B and C, deals with persons who, in their course of duty, have a duty not to be negligent. Clause 2, section 18A(b) states:

"transfers, donates, or provides his blood, tissue, semen, organs, or other potentially infectious body parts or fluids for transfusion, transplantation, insemination, or other administration to the person, as the case may be;"

This section is really to catch the man in 18A(c). It states:

"dispenses, delivers, exchanges, sells, or in any other way transfers to the person any intravenous or intra-muscular drug paraphernalia which he has utilized,"

This will also catch private hospitals and the RHAs. If they could be caught, so be it. When one reads the whole Act, one sees the relationship to that in clause 2, section 18B(1)(b), which states:

"transfers, transplants or transfuses,
to or into a person, as the case may be, tissue, organs, blood, semen or other body parts or fluids and the person becomes infected with HIV owing

to the gross negligence of the individual, body corporate or incorporated institution, the offence of negligent transmission of HIV is committed.”

This speaks about nursing homes and qualified persons. I believe if you are qualified and you are engaged in the business, you should take precautions with matters which have such serious and debilitating effect on people.

When we analyzed this, the Member opposite thought that we were just arguing for the sake or arguing. We have brought our full thought to bear upon the proceedings. However, I am slightly confused. The clause speaks of an individual, that may be a doctor or technician. Clause 2, section 18B (2), states:

“An individual, body corporate or unincorporated institution convicted on indictment of an offence under subsection (1) is liable to a fine of five hundred thousand dollars and, in the case of a body corporate or an unincorporated institution, the Court may order that the operating licence of that body or institution be revoked.”

I suspect that they would bring the directors to court, in the case of a company and bring the doctor to court, in the case of an individual. I do not see how an unincorporated institution, the mechanism to bring that person to court—I do not know what it means by an unincorporated institution. That may be a partnership. In that case, there will be personal liability.

“An individual, body corporate or unincorporated institution convicted on indictment of an offence under subsection (1) is liable to a fine of five hundred thousand dollars and, in the case of a body corporate or an unincorporated institution, the Court may order that the operating licence of that body or institution be revoked.”

Nobody could vex for that. The only problem is that in the event, this is criminal law, the person does not pay. There is no alternative, because criminal law always carries alternative; either \$5,000 or six months hard labour. What is the position here? On a fine tooth analysis of the law, one would see, unless someone could prove otherwise, the fine is a penalty which may or may not be paid and there is no mechanism for the recovery of that, unless they go to the law and use the part of the Interpretation Act which speaks about fines and the alternatives.

Mr. Singh: Compensation to the victims.

Mr. S. Panday: That is what should happen.

Mr. Valley: Make it up as you go along.

Mr. Singh: That is better than what you are doing as a government.

Mr. S. Panday: It seems to me what they should have done was to find a mechanism which might say distress, in the case of a corporate body. It seems to me that the other punishment that they will inflict, instead of what the court may order, the operating licence of that institution is to be revoked. This is a good point that the Member for Caroni East raised; when this person has been convicted, this person has committed an offence against the State and that victim is merely a witness of the State. This law should incorporate compensation for people who have been affected. That is why Members are saying that we withdraw the Bill and look at it. My colleagues on this side are saying that it should go to a joint select committee. I have to be disciplined.

When one looks at the Administration of Justice Act, 1998 one sees that the judge in the Criminal High Court, prior to this, had the power and authority to award compensation of only \$450. With that Act, what has happened is that the Parliament then gave the judge the power to award compensation up to the sum of \$50,000. I feel that part of the law should be reviewed. In this legislation, we should see when a company, health authority, doctor or somebody who is technical, causes somebody to suffer that infliction, they should be made to pay a substantial sum. I am certain that you are aware that in motor vehicle accident cases, if someone's hand is broken—the Privy Council has recently increased awards. That is an indication that people who have been injured as a result of criminal wrongs—the courts and the system have decided to deal with that seriously and give people reasonable compensation. That was the point I was looking at in the Bill.

These are the issues. Everything that we have done here is after the event; after the person gets AIDS and after it is transmitted. Criminal law and criminal sanctions are not proactive. We should make sure that we prevent it from happening. When one applies the principles of punishment, one would see that throughout the world where this—I will go quickly on the principles of punishment.

PROCEDURAL MOTION

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, in accordance with Standing Orders Nos. 10 and 11, I beg to move that this House continue to sit until the matter before us, as well as the Motion relating to the Elections and Boundaries Commission Report, are debated.

I beg to move.

Question put and agreed to.

OFFENCES AGAINST THE PERSON (AMDT.) (HIV) BILL

Mr. S. Panday: The principles of criminal law were dealing with the issue after the event and, therefore, the normal principles of criminal law apply to this type of legislation, for example, rehabilitation. Rehabilitation may be a goal of criminal law. The purpose is to control and punish illegal behaviour. It is said that this has had very little effect, because it is not the kind of offence that controls the criminal but, incapacitation, that is you lock him up.

In this Bill, there is no provision for a fine, but it states that the person is incapacitated. In order to incapacitate the person, he must be placed in prison. In the extreme case, you have to try to prevent him from spreading the disease, so you incapacitate him by putting him in prison, where you hope he cannot spread it. Are we just imitating laws of other countries?

We know the conditions in the jails. If you want to know where AIDS is rampant, go to the prisons and you will see. You may incapacitate him in a way, but when he goes there, having regard to the type of behaviour which takes place behind the prison walls, it spreads more and when the other “fella” comes out he continues to spread it. Would that deal with it? We want to deter him from doing it again. There are many persons; the Member for Chaguanas spoke about that type of person, who says: “I have this, I do not care about what happens.” Simona was an example. She said: “I come in Tobago and I suspect they gave it to me in Tobago and I am giving it to everybody.” You could have jailed her or do whatever you wanted, because of the nature of the illness; some people become reckless. Therefore, if that is the case, how should we really approach it?

Before I go there, the United Kingdom brought four or five cases in respect of AIDS and there were prosecutions. As they prosecuted, what we found in the history of the law in England is that one sees that here were four or five cases. When one looks at the cases, one would see that the legislation in England created an opportunity for discrimination.

My friend from Pointe-a-Pierre spoke about the case of Mohammed Dica. With respect to the criminalization of HIV, the National Policy of June 2005 states that there has been the transmission of AIDS in England for over 20 years, but only since 2003, there were three prosecutions for HIV transmission, all resulting in convictions. My friend, the Member for Pointe-a-Pierre, spoke about Mohammed Dica and Quasi Ayadai. Poor “fella” he got six months. This is the one that my friend spoke about; the wife calling. The other one is Feston Koonzani who was sentenced to 10 years for infecting women with AIDS. Another one Paulo Mathias pleaded guilty, as the

Member said. The other one is Stephen Kelly who was also convicted. What one also finds is that the type of persons who were hauled before the courts were persons from the lower strata of the society. Nine out of ten of them in that society were refugees, foreigners or migrants. Everyone was deported, subsequently. What they found was that in the society when one wears a jacket and tie, the jury tends to believe you more, and the moment they hear that you are a migrant or a refugee, the jury tends to lock you out. This is an example of how the law works. As I said before, AIDS gets us angry and the people who adjudicate behave as though they are angry with the accused. They made the point that we made.

When we pass this legislation, we may have more ill effects than good. Apart from not being able to prove the offence, being stigmatized and victimized, it says that we must educate persons and let them know and affirm the individual's responsibility for his or her own sexual health. You must make sure. You must have your lifestyle in such a way—the Catholic Church asks that we try abstinence. If you know that you cannot abstain, the Government should make condoms available for everybody. The law is giving a false sense of security for persons to go and fling it about.

On Carnival day, when they put on their kinky, pinky, they “wine”, drink, go down and rub on you and get you mad. Then the person would say: “I do not want to ask him. I do not want him to tell me. I know he will get in trouble.” We need to have our cultural system changed. We should talk to band leaders and put an indigenous approach to it. We should tell the band leaders that persons should not be skimpily dressed on the streets. The parties cost \$150, all inclusive. Do you know inclusive of what? It is rum and food. When they drink the rum and start to get loose, this thing happens. Maybe we need to put a new dimension in our culture to make women of yesterday; like our mothers, who would have been ashamed to put on two beads and a stinky, “kwinky” thing and “wine” on the road. [*Member makes dancing gesture*] We need to change our culture.

Mr. Speaker: Hon. Member, you must use language that the *Hansard* reporter can take.

Mr. S. Panday: Kinky, kinky. They want to drink rum and fete on Carnival nights and that is when the action takes place when everybody is drunk. If the “fella” tells her: “Girl I have it”. She will say: “Forget that, tomorrow we will see about that.” She is drunk; everybody is drunk. We must change our lifestyle in society. We must get our calypsonians—instead of giving millions of dollars to cause calypsonians to sing all kinds of rubbish and smut and create divisiveness in the society—to receive big prizes for calypsoes that would build the morals in the

society; not I want to give “yuh dis and I will pin this”, all that sort of nonsense. They must uplift the society. This is the way.

The Chutney and Soca have rum. If they are not killed on the highway on their way home from these fetes, they are going down the road the other way. We need to look at this issue, not as a legalistic issue but as a social issue.

Hon. Member: I hope you do not drink.

Mr. S. Panday: No, I have diabetes “gyul”. I feel this started a long time where the calypsoes and chutneys that are being sung encouraged people in this type of—they are corrupting the minds of people. We need to deal with that issue.

This law will not be implemented, ask the Minister. I will come to the other issues, how much time do I have, Mr. Speaker? I have to cut it.

We have the laws in the law book and they cannot implement them, do you think the Government can implement this new piece of law?

I refer to the *Sunday Guardian*, which headline reads:

“Shame & Secrecy

Govt covers up scandal of pregnant schoolgirls”

That is the same kind of offence. I will tell you why now. I quote:

“The 2001 CSO also found:

- 25 babies were born to 14-year-old mothers”

What is the age of consent?

Mrs. Job-Davis: Wicked old men did that.

Mr. S. Panday: Okay, fair enough.

- “• four to 13-year-old girls
- one baby was born to a mother under the age of 13.”

The law is that it is statutory rape to have sex with a person under 16. This is “all yuh” children. Why has the Government not called in the police and prosecuted these men—we Government? Forget “we” time. You all are eunuchs; you cannot do anything. One would have thought, as Ministers, they would have ensured that the law is obeyed. There are cases where persons have gone to the public institutions and have given birth. One wonders whose name is on the birth certificate. We should find out who the father is and prosecute him. These are

offences which are easy to prove. If they cannot deal with this, do you believe that they will deal with such a piece of complex information?

Another issue is that we are passing laws. There were contradictions from the Members for Port of Spain South and Laventille East/Morvant. He was indicating that the number of persons affected is so high, while the Member for Port of Spain South was saying: "Oh no, we have everything under control." It seems to me that the Government has brought this legislation without proper data. This is legislation by vaps, that is what it is.

The Minister of Education called on the principals for information and they are hiding the information? When you look at the various commentators on this issue you would see that they do not want their schools to be stigmatized, so they are hiding the information. When the child comes to school and becomes pregnant, she is told to go home. When she delivers the baby, what happens? She is transferred to another school. I think Trevor Oliver said that there is a culture of shame and secrecy. It continues:

"Because of this, he said, getting statistics on the number of schoolgirls who become pregnant each year is very difficult.

'People know it's happening but you can't say if it's one or ten.'

This is why we say when the Government is bringing legislation, it must ensure that it has the data. You can correctly say if it is an increase, because of data recording. Those were the same questions that were asked about AIDS. Where are the data? The Government is hoping to get an NGO to give the data.

"He also said that principals were not obligated to report student pregnancies to the Education Ministry."

In this modern age, the principal would tell me that he is not obligated to report it to the ministry? I thought the former father of the nation said that they are carrying their future in their school bags? The Government is telling me that they are carrying the future in their bellies.

"Oliver also said the education system ignores the possibility of students becoming pregnant."

Look at how the system has fallen there!

"It is still a situation where people do not expect it to happen and no one wants it to happen in their school, so there is no record of it,"

He said that pregnant students are not only ashamed in the schools, but they are a disgrace to the family.

“Oliver said there ought to be a family life programme in schools to help deal with the situation.”

We are saying, not only in the schools for this type of education, but this HIV education case should be from primary school straight up.

Mr. Speaker, I am sorry that I did not have enough time to give you other alternatives but, with these few words, I thank you very much.

Mr. Harry Partap (*Nariva*): Thank you, Mr. Speaker, for allowing me to enter the debate on this Bill to amend the Offences Against the Person Act, Chap. 11:08. I have entered the debate this evening to drive home the point that this Bill should have been long withdrawn or redone, or have it taken to a joint select committee. From all contributions from this side, it is patently clear that the Bill is counterproductive and is not going to achieve what is intended.

This Bill will not stem the spread of HIV/AIDS at all. Therefore, we think it should be withdrawn and it should be looked at again. This Bill goes against conventional wisdom. This Bill makes a criminal of HIV infected individuals.

Mr. Speaker, it puts an unnecessary indictment against persons who have contracted this dreaded disease. It goes against the better judgment of the experts who have a different opinion from what the Government has put forward. Later on in my contribution, I would quote from those reports.

I want to look at the Bill at clause 2, section 18A, which states”

“A person who knows or ought reasonably to know that he is HIV positive and who, without so informing another person, engages in conduct with that other person, including if he—

(a) has intimate conduct with the person;”

When is this full disclosure necessary? When does the Bill envisage that the person must make full disclosure; is it before, during or after the act? I am not sure it is here. Suppose, half-way through the act, the person admits that he has HIV/AIDS, how does this Bill cover that incident? We may want to laugh at it, but it is possible.

Let us look at the lesser charge. It states:

“...the offence of intentional or reckless exposure of another to infection with HIV.”

Suppose a woman comes to the police and tells the police that she believes that so and so has infected her with HIV, how will the police know? How will he proceed? How will he know if to charge this man? How will he know if he has HIV? According to this Bill, you have to charge first and then you will verify. This is what is in this Bill; you charge the man first and then you will verify to see if he has AIDS. I am wondering if this is fair. It is consistent with how the PNM thinks. They will charge someone for corruption and then go all over the world looking for evidence, but they have already stigmatized your name and put you through the ringer. That is what they have been doing. They are looking for evidence after they have charged the person. They are doing the same thing with the HIV-infected person or the person who is not infected.

Suppose the man is charged and the magistrate orders that he get an HIV test and it proves to be negative, what happens? How does the Bill deal with that? Is that not the same thing with those corruption charges, where the Government charged Narinesingh? You put the charge on the person, look for the evidence and it does not matter what happens; whether the person is freed at other levels of the court or not, it does not matter. You have already put a stigma on the name of the person. The person's character is damaged for life. I do not know—something is wrong with this Bill. The Government has to protect the people.

Clause 2, section, 18A(6) states:

“It is the defence under this section for the accused person to prove that he informed the other person...”

The burden of proof is on the accused person. I thought the law was different. I thought a person is innocent until proven guilty? The responsibility is yours now, as the defendant, to prove that you are not guilty. Something is wrong. I am not a lawyer and I do not pretend to be a bush lawyer like some people do on that side. I want to know the process you can go through to prove this, without damaging people's character.

We raised the point that a woman, at some stage, might be against the gentleman and makes a report about a sexual act that took place maybe a month ago—a jilted lover. How do you protect innocent people? I am not sure I understand this Bill. Why is it that you have to charge the person and then verify? Why do you do that?

We stick to the suggestion that the Government take back this Bill and redefine it and bring it back to us and we will support it, or put it before a joint select committee and let the committee bring its recommendations. I know the

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Government does not deal in a fair way with joint select committees. Look at what the Government did with OSHA; they passed it through so many joint select committees and at the end, when it was passed the Government does not want to implement the law, so that workers in the workplace will be protected.

The Law Commission, in a working paper published on May 29, 1998—

Hon. Members: You quoting that again?

Mr. H. Partap: I will have to.

Mr. Speaker: Do not be repetitive, because there is a Standing Order that talks about that, so be careful.

Mr. H. Partap: Members on that side anticipated me. I simply wanted to make the point that the Law Commission said that no coercive legislative measures must be introduced to deal with the transmission of HIV. It is good for the Members to hear it again, so that they will withdraw the Bill and come back and put a proper Bill before us.

The Government is very sloppy, when it comes to dealing with legislation; very sloppy. I cannot understand that; it is either the Government comes here with a proper Bill or it does not come at all. Why is it that the Government comes and has to take back and change things and, perhaps, in the next four or five years, they would have to come back and make some alterations. That is what the Government does. The Government must think carefully about what it is doing. They do not have a technical person at the level of the Law Reform Commission. They have a tutor at a training colleague at that level to look after Bills. Everybody knows that.

In another report, it is stated that coercive measures should be used as a last resort. In one of my readings I noticed this. If the Government wants to put laws to deal with HIV/AIDS-infected persons, it should use that as the last resort. The Government is using the law as the first resort; it wants to jail people. That is all the Government is after; to jail, jail, jail. If you look at this Bill, there are only jail sentences, no fines; 7 years, 10 years and life time. The Government only wants to jail people. I hope when jail comes for them they can take it.

The Law Commission made some suggestions which should be—

Mr. Speaker: Hon. Member, please, you are sailing very close. If you continue, I will have to draw the attention of the House that you are being repetitive and tedious. If I do that, any Member can move that you no longer be heard, so be careful.

Mr. H. Partap: Okay. You are helping me and you are also anticipating me. [Laughter]

8.15 p.m.

Mr. Speaker, we in this House should try not to alienate HIV-infected persons; we should not alienate them from the community; we should not tell them that they are helpless and they are indifferent; and we should not treat them with contempt. That is the last thing we should be doing. If you look at all the reports and so forth—I would not say the Law Reform Commission—they have all said that. What we have to do, is to find ways to help these people so they can access some of the assistance that you are offering to them, and what we did when we were in office as well. We should be helping them. This Bill does not help them; this Bill makes them criminals. I do not think that is fair to these people.

Mr. Speaker, we should be encouraging a national campaign; a public awareness campaign; we should be offering an education programme so as to keep people alert; we should be organizing, at the level of the primary schools, the secondary schools and all levels of education, and putting an education programme so as to teach our young people, because they are the ones who we should be looking at. What are they doing? They closed down the Biche High School. They do not want to open the Biche High School. That should be another avenue that you could use.

Dr. Moonilal: People are spreading AIDS there now.

Mr. H. Partap: You could use that school as an avenue for educating the people of Biche, but you closed it down.

Mrs. Robinson-Regis: Was it ever opened?

Dr. Rowley: It was never opened.

Mr. H. Partap: You closed it down.

Dr. Rowley: You cannot close something if it is not open.

Mr. H. Partap: You do not want to open it. [Desk thumping] You do not want to open the school and you come here talking nonsense for me across the table. Mr. Speaker, I would talk to you.

Mr. Speaker: Now, please, if you address the Chair you may avoid some of these difficulties.

Mr. H. Partap: Mr. Speaker, you know I like to take your advice. Mr. Speaker, I

want to point out how some of the countries in the world dealt with this matter of AIDS.

Mrs. Robinson-Regis: We heard it already.

Mr. H. Partap: I am not sure that you heard it from this report that I have here. I am reading from UNAIDS on page 31. This is how some of the First World countries, as well as some Third World countries, dealt with HIV/AIDS-infected victims and I quote:

- “proposals to amend the Canadian Criminal Code to create HIV-specific offences have been rejected (indeed a previous section prohibiting the transmission of ‘venereal disease’ was repealed in 1985), and the development of criminal law in relation to HIV transmission/exposure has proceeded through judicial interpretation of traditional offences.”

In Canada that is how they dealt with the matter; not with a Bill like this:

- “In the United Kingdom, there is no unified penal code, and there is currently no HIV-specific statute; recent proposals for law reform in the area of criminal law, consent, and offences against the person do not appear to single out HIV for specific treatment.”

It is a little different from this:

- “In Australia, there is considerable variance between states: both criminal and public health HIV-specific offences have been enacted in some states; in others, criminal law is only partly codified, with common law offences remaining in effect.
- In South Africa, the Law Commission has recommended against creating a specific offence aimed at ‘AIDS-related behaviour’.

That is in South Africa and there is a high incidence of AIDS in that region:

- “In Sweden, there is no HIV-specific criminal offence; the public health statute provides for coercive measures including compulsory isolation orders, if necessary, after trying to obtain voluntary compliance.
- The Philippines imposes criminal penalties for knowingly or negligently infecting another person ‘in the course of the practice of his/her profession through unsafe and unsanitary practice or procedure’ ...”

I am dealing with having sex. [*Laughter*] Of course, I am giving you a worldview.

- Malawi's penal code contains an offence relating to negligent conduct likely to spread a disease endangering life.
- Argentina's penal code include a broadly-worded offence against public health of 'propagating a dangerous and contagious illness', but does not single out HIV/AIDS."

Mr. Speaker, UNAIDS also gave ideas on how you can deal with this dreaded disease. I just want to mention some of these ideas. In fact, this is what UNAIDS said and I quote:

“The haste to criminalize the risk of AIDS transmission ignores the failure of previous attempts to control venereal disease, as well as the considerable jurisprudential and public health problems that would arise.”

That is the point that we have been making on this side. [*Desk thumping*] There are laws, but these laws have not stopped venereal disease and things like that and we want to criminalize HIV. I am not sure that it is going to be successful. This is what UNAIDS said in terms of facilitating HIV protection, prevention, care, treatment and support:

“Protect against discrimination and protect privacy”

This is very important and fundamental for persons with HIV/AIDS. It says:

“States should enact or strengthen laws that protect people living with HIV/AIDS and other disabilities, as well as other vulnerable groups, from discrimination, as well as laws that protect privacy and confidentiality.

Address underlying causes of vulnerability to HIV infection and risk activities.

As recommended by the United Nations. ‘States, in collaboration with and through the community, should promote a supportive and enabling environment for women, children and other vulnerable groups by addressing underlying prejudices and inequalities through community dialogue, specially designed social and health services and support to community groups.’”

Now, I hope they are listening to what I am saying. These are some of the ways that you could deal with this matter, instead of the strictly legalistic way in which you are dealing with it in the law.

“Ensure access to HIV testing, counselling, and support for a risk reduction.”

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This is what UNAIDS said:

“States should ensure access to HIV testing, accompanied by pre and post-test counselling, to enable people to determine their HIV status, a critical component of preventing further transmission...”

Mr. Speaker, this is also very important:

“...States should also ensure access to understandable information about how to protect against HIV transmission, accompanied by economic, social and personal supports necessary to avoid conduct that risks HIV transmission.”

Now, there are two other points:

“Ensure access to anti-HIV treatment following exposure”.

Mrs. Job-Davis: And we are doing that.

Mr. H. Partap: Well, that is very good. Perhaps, we should reinforce it:

“States should ensure that at least those persons exposed to possible HIV infection through assault or occupational injury should have free, rapid access to anti-HIV post-exposure prophylaxis, as well as counselling and support.”

Mr. Speaker, finally, in the UNAIDS report it says:

“Repeal or amend laws that impede HIV prevention, care, treatment and support.”

So, you do not have to repeal this; you just have to withdraw it. That is what you have to do to comply:

“As recommended by the United Nations, states should review, with the aim of repeal or amendment, laws prohibiting sexual acts between consenting adults in private, laws prohibiting sex work that involves no victimization, and laws prohibiting measures such as needle/syringe-exchange that can reduce the harms (including HIV infection) associated with illicit drug use.”

Mr. Speaker, we are going to make this package available to Members opposite, if they do not have it. This would help them in drafting legislation, if this is what they want to do. So, perhaps, you can take this Bill back and make the changes.

Mr. Speaker, when we were in office, the Ministry of Labour and Small and Micro Enterprise Development, in collaboration with the Ministry of Health, worked on a national policy on HIV/AIDS in the workplace. There was a national

policy that we had developed. I would hope that the new Minister of Labour, Small and Micro Enterprise Development would bring it out and discuss it with all the players in labour like the trade union movement, the ECA, the Chambers of Commerce and so forth. Even in the economic policy, in terms of the Ministry of Labour, Small and Micro Enterprise Development, we were trying to get all the unions and employers on board, in terms of a prices and incomes policy. In that document, reference is made to workers with AIDS. They could bring it up again and have a look at it another time. The national policy made three points, which I want to mention here.

Mrs. Robinson-Regis: What national policy?

Mr. H. Partap: The HIV/AIDS in the Workplace: National Policy that was developed with the Ministry of Labour, Small and Micro Enterprise Development and the Ministry of Health when we were in office. I cannot talk for you all. You all have not been doing anything. I am simply referring you to the three points that were made. These three points should be taken on board. We did some good work there; if they did not know. I want you to look at it again and see if you could incorporate some of that into your new law, if you take the Bill back for revision. If you bring it before a joint select committee, I am sure that our representatives will raise these matters.

Mrs. Robinson-Regis: What are you reading from?

Mr. H. Partap: I am going to tell you after. I quote:

“(a) the protection of the social and legal rights of the employees with HIV/AIDS, including health and safety and the safeguard of their employment benefits;”

Mr. Imbert: What is the source?

Mr. H. Partap: The source is HIV/AIDS in the workplace and national policy developed under the UNC. [*Desk thumping*] That is the source. The second one is:

“(b) the assurance of HIV testing subject to proper control and the maintenance of confidentiality of medical information;”

Mr. Imbert: What is the source?

Mr. Speaker: Did you not give the source? What is the source of the document that you are reading from?

Mr. H. Partap: Mr. Speaker, the source is HIV/AIDS in the Workplace: A National Policy. It was listed from that—it is the Law Reform Commission. [Interruption]

Mr. Speaker: Order! The Member is quoting from a document. What is the document?

Mr. H. Partap: The Law Reform Commission Report. [Laughter] [Desk thumping] It is not me who has been receiving sweetbread.

Mrs. Robinson-Regis: Mr. Speaker, on a point of order. Standing Order 43(2), “Order in the House and in Committee”. Mr. Speaker, shall I read it?

Mr. Imbert: Yes, read it.

Mrs. Robinson-Regis: “Any member may, after the Speaker or Chairman, as the case may be, has under paragraph (1) of this Standing Order...”

Mr. Speaker: No, please. If you are raising Standing Order 43(2), I think you are a bit late in the day for raising that. There is another Standing Order, which may come to your aid, but it is not Standing Order 43(2). Please, continue.

Mrs. Robinson-Regis: Mr. Speaker, I think I know which one it is, and I will locate it. He is reading the same thing he read before.

Mr. H. Partap: The third point is:

- “(c) the promotion of counselling, support and education for employees and their families so that a responsible standard of motivation will result in satisfactory performance and productivity.”

Mr. Speaker, the point I am making is that we have—and I say “we” because when we were there. We were developing that policy in terms of how to deal with HIV/AIDS in the workplace; you have to do that now. I am dealing with workers. I do not think that you care anything about the workers. If you had cared about workers the OSHA would have been implemented. [Desk thumping]

The Minister of Labour, Small and Micro Enterprise Development had a full coloured page advertisement on Labour Day, and nothing in that advertisement was related to safety, health and HIV in the workplace. Nothing! He did not deal with it. This is what you have to do. You have to get up now and do some work to protect the workers out there, including yourself.

Mr. Speaker, in conclusion, it is clear to us on this side that this Bill should be withdrawn. The Government should look at all the points that we have raised and

try to develop them so that this Bill will be a little better. In fact, the policeman who has to interview the person who was reported as giving AIDS to the person would have something to go on and he would not be wasting his time. As it stands, all players in clause 18(a) would be wasting their time; you would also be wasting the court's time; and you would also be putting people's character at risk. So, to avoid all of that, take back this Bill.

Mr. Speaker: Hon. Member, you have said that about 15 times.

Mr. H. Partap: It would be the last time. [*Interruption*]

Mr. Speaker: No, you did not rise on that. Order please! Continue with something else.

Mr. H. Partap: Mr. Speaker, I am almost finished. I was only asking them to take back the Bill or put it before a joint select committee. Mr. Speaker, I am finished. [*Desk thumping*] Thank you.

The Minister of State in the Ministry of National Security and Minister of State in the Ministry of Trade and Industry (Hon. Fitzgerald Hinds): Mr. Speaker, thank you very much. Mr. Speaker, I have listened to my friends on the other side and, of course, I listened to my colleague, the Member for Tobago East. A number of issues were raised and I want to address all of them.

Let me begin by dealing with a point that was made by several Members on the other side—the provision in clause 2(7) permitting a magistrate—having regard to the circumstances—to make an order directing the accused person and the other person to each give a sample of his blood for the purpose of HIV testing—particularly, the Member for Oropouche, suggested that we did not give or take into account the constitutional issues surrounding it and hinting, without saying expressly, that provision may have contravened the Constitution and that kind of thing. Let me put that swiftly to rest.

Mr. Speaker, the Member for Nariva, who had to be upbraided by you for tedious repetition, was calling on us to withdraw the Bill. I want to tell the Member that while we have taken into account all that has been said, we are not prepared to withdraw any Bill. [*Desk thumping*] The people of Trinidad and Tobago need this protection and they will have it. They will have it! Let me put that first issue to rest.

Mr. Speaker, I want to quote from the Status of Children Act, Chap. 46:07, at section 13(1) which effectively says—I do not want to squander my time—so I am paraphrasing. By the way, this Act was passed with a simple majority. It

existed before 1980 and it is in the black volumes; it existed throughout the six years that they were in government and it still exists—that the magistrate has the power to order a blood test to determine paternity where paternity is an issue in many matters that arise in the Magistrates' Court. In that provision, the Status of Children Act, section 13(1), where either party refuses to have the blood test done to prove or disprove the issue of paternity then the court is free to draw inferences.

The provision that we have offered in this Bill is very similar, because the court may order, in those circumstances, a sample of blood for the same testing to deal with the HIV question and, failing this, inferences could be drawn.

Mr. Speaker, I really went there to deal with the first issue to demonstrate that nothing is strange or unconstitutional about it, and it was all part of the usual hype raised by my friends on that side.

The Member for Pointe-a-Pierre raised questions about the mens rea for this offence. Mr. Speaker, this brings me to the Member for Caroni East as well. He spent all of his time in this debate, as well as his colleagues, repeating the same nonsense, if I may say so, that we are attempting in this legislation to criminalize HIV. Let me reemphasize that there is nothing in the measures that we have proposed which suggests that. We understand full well that HIV is a public health issue; we understand full well that sufferers are diseased like any other; we understand that many persons contract the disease without being immoral; we understand the need for a policy of non-discrimination; and we understand the need for tremendous investment in dealing with this pandemic.

Mr. Speaker, this is why the Member for Port of Spain North/St. Ann's West, the Minister of Health spent his 75 minutes demonstrating what the Government has done, in terms of the Ministry of Health. The Member for Tobago East spent a considerable amount of her time demonstrating what the Government is doing in respect of community development. If the Minister of Education were here, she would have spent time demonstrating what the Government has done in respect of education to deal with this problem. In addition, the National AIDS Coordinating Committee (NAC) which was established a couple years ago, in the Office of the Prime Minister, has been spending a considerable amount of money and time and expertise to deal with these issues. We are not at all attempting to criminalize HIV.

We are dealing with a very small miscreant group of persons where the measures in health, education and social development, through the work of the NAC cannot be reached, because they are of an evil mind. That is the group that

we are trying to target. Some Members on the other side suggested that is a small group. Is it worth it? Yes.

If we have 20,000 or 28,000 persons in Trinidad and Tobago infected with this dreaded disease and the record showed where the majority of them have not indicated to those who deal with them like the professional health caregivers, the persons with whom they have had sexual intercourse or relations and unprotected sexual relations, then logic tells us that there are considerably more infected persons in the society and in the world.

Mr. Speaker, in fact, one person who maliciously causes someone the disease, the multiplier effect of that is tremendous. That is the group that we are trying to deal with. So, let me debunk the myth and the misrepresentation led by the Member for Caroni East that we are trying to criminalize HIV.

As I was saying, the Member for Pointe-a-Pierre spoke about the mens rea which, as we outlined, includes wilfully, intentionally, negligently and, in this case, recklessly. Recklessness is a part of the mens rea when we talk about “intentionally”. It is a concept that is well known to lawyers; it is well known to the courts; and well worked out. The Member for Pointe-a-Pierre told us that it would be hard-pressing and burdensome on someone who is charged for this offence—running the risk of conviction and serious sentence—if that person “ought reasonably to have known”.

We are saying that if you went around spreading this disease knowingly, or if you ought reasonably to have known that you have this disease, you would have satisfied the mens rea for this offence. Well, the Member read a case where a man in England received a call from his wife in South Africa telling him that she has tested positive for HIV in South Africa. He having heard that went ahead to have sexual intercourse with someone else and shared his condition with that person and that person complained. He was before the court and that is burdensome on him because he “ought to have known”. Well, yes, that is what lawyers know and call “recklessness”—you are aware that there is a risk of injury or harm or the outcome that we are trying to protect, and you nonetheless went ahead to do it.

The lawyers will know that the two seminal cases on the question of recklessness have to do with the well known case in 1981 of *R and Cornwell* and just before that, *R and Cunningham*. Every lawyer understands these cases which demonstrate what is recklessness. Just for the benefit of Members who may not be entirely familiar, let me share with them, essentially, what that means. There was another case in 2003, *R and G*.

In *R and Cunningham*, Cunningham went to the basement of a flat. He saw a meter and he realized that there were coins in there and he wanted to access the coins. He pulled out the coin box and the gas escaped, and along with his cigarette—he fell asleep there and the place was caught on fire. He was charged for criminal damage. Of course, the court looked at the facts and found that he was not even aware that there was a risk and he was exonerated. Cornwell came right after that.

In Cornwell, I will be a little more specific. A disgruntled former hotel employee, who had recently been fired by his boss, got very drunk one night in late 1979, and decided to set fire to his former employer's hotel, intending to damage the property. However, at the time he set the blaze, there were 10 guests asleep inside the hotel, and though the fire was extinguished, quickly, Cornwell was charged, not only with arson to which he pleaded guilty, but with the more serious charge of arson with intent to endanger human life. Of course, he was convicted. In this case, the court found that he was fully aware of a risk and he nonetheless went ahead and took it.

A more common case is a person who, for example, looking at a glass partition or a glass case, and deciding to throw a karate punch or kick at it, recognizing that if he made contact he would do damage to the property, but deciding to take the risk hoping not to make contact, but to get a short distance away. In fact, if such a person went on to break the glass, for the reasons that I have explained, that person would be and could be convicted for “intention” under the subheading of “recklessness”.

Mr. Speaker, having just said that, I want to reject forcefully the suggestion made by the Member for Point-a-Pierre that it would be burdensome on someone because that person “ought to have known”. Yes, the law is familiar with those concepts, and I have dealt with them in Cornwell, Cunningham, R and G and a number of other cases. I think I could set that aside and proceed.

Mr. Speaker, several Members on the other side suggested that we are creating an offence for transmission. We took pains to point out, when I piloted this legislation, that we are not dealing with transmission of the disease. We considered that, but recognizing that there would be some difficulty in proving that, precisely in the cases that they have raised—the hypothetical cases where the victim may have had two or three partners—would be difficult.

The disease takes a long period of incubation—some say five years and some say 10 years—so it would be difficult to ascertain and to prove, evidentially,

beyond a reasonable doubt, that the disease was transmitted by “X” or “Y”. That is why we went to the position, not of transmission, but exposure to the risk. This is precisely what I said when I introduced this Bill. Clearly, they were not listening and I quote:

“Mr. Speaker, may I also point out that because of the nature of the disease, the offence is not one of transmission as it would be difficult and at times even impossible, to prove that transmission actually took place. This is because—”

And I went on to explain; if I may say so, the time that it takes in hibernation and so forth.

“The creation of an offence of transmission would plunge prosecutors into obviously murky waters of having to establish a causal link between the alleged act of infection and actual infection.

For this reason the offence created is merely one of exposure to the risk of transmission...”

So, there is no need for transmission. We have said categorically that we intended to demonstrate that it is about exposing a person to the risk, and there is where we stopped. The Member for Pointe-a-Pierre saw that as a low standard—

Dr. Rafeeq: I thank the hon. Member for giving way. In light of what you are saying, and dealing with exposure, you said that it is difficult and sometimes impossible to prove transmission, what about clause 18(5). Could you discuss this in the light of 18(5)?

Hon. F. Hinds: I will come to that. Many jurisdictions that went for making transmission the criminal offence came to realize that may not have been the way to go, and it is now widely accepted that it should be one of exposure rather than actual transmission.

Mr. Speaker, my friend from Caroni East read a report: *Proposals for Reform by a Law Commission Working Paper* dated May 29, 1998. My friend spent a considerable amount of time demonstrating that the Law Commission rejected a legislative approach when dealing with the issue. The Member spent a lot of time saying that. I want to tell the Member—and I want the Member to take very good note of this fact—that the consideration of these matters arose as early as 1999, when his government was in power. This document is dated 1998. The Members of the Law Commission were as follows: Stanley Marcus, Senior Counsel; Jairam Seenath, Senior Counsel; Osborne Charles, Senior Counsel; Mrs. Blake, Senior

Counsel, CPC; and the Director of Public Prosecutions at the time was part of the discussion on this matter.

At that time, they were of the view that “cohesive legislation”, if I may use your phraseology, would not have been the right approach. Well, I want to tell the Member that as usual, he is a bit outdated. That is why I tried to intervene when he was talking to save him from himself, but he was determined to get on with it—as determined as the persons we are trying to trap with these measures—because he had a deliberate intention to mislead this House. I tried to inoculate you and protect you, but you would not give way. [*Laughter*] That is why I came to the conclusion—if I may say this without running afoul—that you behaved like someone who was intellectually HIV positive. [*Desk thumping*] [*Laughter*]

In fact, I have seen before, from your conduct in this House, that you are intellectually promiscuous, because you have moved from one intellectual position to the next. The Member for Caroni East got up here in this debate and told us that hanging is wrong; hanging is the most extreme form of corporal punishment; it is barbaric; and we ought not to do it, but that Member sat in a Cabinet, under a UNC government and under an attorney general called Ramesh Maharaj, and hanged 11 persons in one weekend—

Mrs. Job-Davis: Do you understand?

Hon. F. Hinds:—and another man a month later. [*Desk thumping*] He comes here now with his semi-deceptive self to tell us—I am sorry, Mr. Speaker. I said “semi”—I mean “pseudo”, in toto, ab initio—to tell us that hanging is suddenly bad and wrong. That is why I say that he is intellectually promiscuous. He jumps from intellectual position to intellectual position in a very promiscuous manner. And he, just like the persons that we are trying to trap, has a deliberate, wilful and malicious intention to corrupt, poison and to infect Members of this House and the national community by telling us that which he did not know.

At that time, the Law Review Commission changed its mind and they all came around to the position that a legislative solution was necessary and helpful, and they proposed it. This legislation has its genesis in that discussion. [*Desk thumping*]

Mr. Singh: Do you know the nature of that document?

Hon. F. Hinds: I can assure you—you seem to have very good investigative skills, although you only have strength in the Parliament here. You never have results and answers outside. I want to take this opportunity to tell you—I will save that for later. [*Laughter*]

Mr. Singh: Tell me the document!

Hon. F. Hinds: I will come back to you. Mr. Speaker, the Member for Pointe-a-Pierre—[*Interruption*] Take your time! I will come back to you. You can be assured of that—told us that in Canada there was no law and they took no action legislatively in this matter. I had to point out to her, and I am going to point out again, that a Trinidadian by the name of Ian Williams, age 43, was jailed in Canada—well, he is in jail now awaiting trial. He was arrested on March 08, 2005 by Toronto Police Sex Crimes Unit. He left Trinidad on one of the apple-picking farm programmes. They called him a “Trini Romeo”. He had intercourse with a number of women in Canada and today he is before the court for that offence.

Mr. Speaker, I just want to remind Members about Simona Frika that German woman—actually a Swiss woman, who came and did her thing to the detriment of many in Tobago. So there are clearly persons who are like that.

Mr. Speaker, I read a story about a young lady who is engaged in the sex trade in the *Express* newspaper dated Sunday, June 19, 2005. Two journalists went out here: one Imran Ali and Anna Ramdass. I want to congratulate them, because it is one of the rare occasions when you see this kind of activism on the part of some members of our media. Many of them prefer to just sit here and give their opinions on things that sometime they do not even understand. On this occasion, I saw some progressive and very encouraging behaviour.

In a response to what we discussed here last week, Mr. Ali and Ms. Ramdass hit the streets. Mr. Ali called me, as I presented this Bill, and he interviewed me at length and he reported very accurately what I said. I was quite pleased and I want to compliment him. Professionalism!

In the case of Anna Ramdass, she went on the street some where in Woodbrook or St. Clair, in the constituency of Port of Spain South—I told my friend that he should try to act on the matter and he promised me that he has tried but with great difficulty—and spoke with a young lady who was doing the business on the street, quite illegally. Here what she had to say. I am quoting from the article:

“I feel as if I have been cursed and I am angry at God and everyone for this’, Isabella said in an interview with the *Sunday Express* last week.

Isabella is a Venezuelan citizen who came to this country three years ago with the hope of finding a better life.

...In February of this year, she was diagnosed with HIV—but continues to

work as a prostitute. Isabella works three nights for the week and she said she tries not to reel in new customers.”

So, she has a measure of conscience. She tries to relate only with her regular customers. She tries to put off new customers.

“I don’t want anyone to suffer but sometimes I get angry and I just don’t care,”

When asked how many persons might have contracted HIV from her, her response was ‘many’.”

This is life; this is real. This is very real. It is precisely persons like her we are trying to deal with—not to discount everything else that I have described that we are doing—but you are set with a small group of persons whose impact, on the basis of the multiplier theory and practice, could be tremendous and, therefore, we are duty bound to do something about it.

The Member for Caroni East told us that we should give the medical institutions that do the testing some time in order to get their house in order before we pass this legislation. I pointed out to the Member that from the day they opened doors and started to get involved in dealing with blood products and blood transfusion, their house ought to have been in order.

In fact, the law already imposes a duty on them in the common-law concept of negligence. All we are doing is taking the same responsibility and placing a criminal liability, where the responsibility already exists. So, if that is your submission to deal with that matter, I submit that it is not worth its price in stone; notwithstanding all the help that he got from the man in the short white pants.

Mrs. Job-Davis: That says it. I now understand something.

Hon. F. Hinds: I just want to continue with the Bill. I will come to the Member for Tobago East. It was submitted from the other side that persons—

Mr. Speaker: Hon. Members, we will break for dinner at this hour and we will resume at 10.00 p.m.

9.01 p.m.: *Sitting suspended.*

10.00 p.m.: *Sitting resumed.*

Hon. F. Hinds: Mr. Speaker, thank you very much. Some Members from the other side made the point that it may work an unfairness against the accused because he may not know that he has the disease, and that is precisely why, as I

was saying, the legislation makes provision for conviction only when knowledge could be proved. There was a lot of talk, as well, about this legislation having the effect of deterring people from reporting their condition.

The suggestion was that, once this legislation is in place, because there was a risk of conviction, persons would not reveal their condition. I found that to be a very unwholesome and illogical argument, because by the time the issue of arrest and conviction would ever come into being, the accused would probably already be HIV positive—not probably, certainly—and if he did not declare it to the world before, there is nothing to suggest that the imposition or the implementation of this legislation would encourage him to declare it; that is not the issue. That kind of issue has to be dealt with on the educative side; measures like the one the Member for Tobago East outlined and measures like the one the Minister of Health outlined in the course of his discussion.

He pointed out that only a month ago, Government established a walk-in facility on George Street, one of, I think, four, and there are to be many more around the country to encourage persons, particularly, young persons, to come in, to get immediate testing, immediate results and immediate counselling and follow through as a result of that. So, the suggestion that this legislation would have that kind of effect, I cannot agree with that. Those are to be dealt with otherwise. As I indicated earlier, this legislation is designed to deal with that small group of people, who are determined, notwithstanding all that we have done; all that would be done, to perpetrate the serious offences of which we spoke.

Someone on the other side—there were so many, I think everybody on the other side spoke but they repeated each other ad nauseam—said that the burden of proof, that is to say, proving this offence against people, would be insurmountable. I think that came from the Member for Pointe-a-Pierre. But the fact of the matter is, as I have already demonstrated and as they have already demonstrated, several persons in this world have been prosecuted successfully for the offence, and the mens rea is typically knowledge which includes knowing or ought reasonably to have known, which includes as well, the concept of recklessness. The fact that we have had prosecutions and convictions is proof enough that the burden of proof from the State against the accused, is not really insurmountable. There is evidence of that. So, that argument, too, only has to be stated, to be rejected.

All of the debate which centered on promiscuity—the Member for Princes Town talked about young people going to parties. A lot of, perhaps, factual information, but for the purpose of this discussion, was very irrelevant. All of it

was misdirected and misguided because they were treating the legislation and the debate as though we were legislating against the virus when, in fact, we were not. So, all of that was quite irrelevant.

Mr. Speaker, reference was made to the Mohamed Dica case and as I told the Member for Pointe-a-Pierre—I had him. I just want to demonstrate familiarity with them *en passant*. On October 14, 2003, he was convicted of two counts of unlawfully and maliciously inflicting grievous bodily harm. Because there was no separate legislation in England, he was charged under the regular Offences Against the Person Act, for unlawfully and maliciously inflicting grievous bodily harm on two women, after infecting them with HIV. That case represented the first conviction for sexual transmission in this case, which is the highest standard; transmission rather than exposure to the risk which is all we are proposing. That was the first successful case and prosecution in England and Wales.

It was not the first in the United Kingdom, because in Scotland, in the case of *R and Steven Kelly*, he was convicted of having recklessly injured his former partner by infecting her with HIV. So, we have seen from all of the cases—whether it was in New Zealand, Australia, Canada or the United States—that where you do not have specific legislation—because it is a real and growing problem which societies have to grapple with—they find ways of charging and convicting persons even within their, already, established penal codes or laws as the case might be.

But the common feature in all cases was the fact that the accused had to be proved to have known, or ought reasonably to have known of his condition and went about, notwithstanding, to infect other people and that is behaviour that the society condemns in the way that it does.

Someone raised the issue—I think it was the Member for Caroni Central—about the question of condoms. If the accused is HIV positive and he does not disclose this fact to his sexual partner or partners but he uses a condom. The question is, would a criminal offence still be committed if HIV were transmitted, despite the use of the condom? The answer is probably no; no offence has been committed, because that person could not have been said to be acting recklessly. Recklessly is an objectively measured term, not subjectively. It is not what the individual thinks, but objectively in the sense what the jury—nine or twelve men and women, good and true, using their senses; their knowledge; their experiences and their understanding of the word—would be considering reckless based on the legal direction of the judge. Having used a condom, the learning is that, it is

unlikely that a jury can possibly find that someone acted recklessly, even if he did not disclose, when he utilized the most modern and the best known measures to have protected his partner.

The question was also raised about what happens if we imprison people, the few people. Because the learning also shows that there is unlikely to be any opening of the floodgates, that is to say, any significant number of persons prosecuted as a result of legislation like this. The question was, if you convict a man or woman and he or she is sent to prison, what will happen to him or her.

Mr. Speaker, I happen to operate in the Ministry of National Security with the responsibility for prisons, so I could speak to this matter with a measure of knowledge and experience. If a person comes into the prison, he generally stays in the regular prison population. There are times when he does not, for specific reasons. If there is a security risk—for example, when the Member for Couva North spent a week in the custody of the State, he was not kept in the regular prison population. There was great risk for his safety if they did that. There are many people in there who probably would have wanted to take the opportunity to bring harm to him. *[Interruption]* You just settle down, you settle down. So for security reasons he would have been isolated.

We saw the Vijay Narinesingh case when he was in custody. Because he was the beneficiary of a speedy trial, there were other persons in the system who felt that he was getting an advantage of an early trial over them. They demonstrated anger on a number of occasions in the San Fernando Magistrates' Court, during his preliminary enquiry, and for that reason the prison administration would have isolated him for his own safety, and in some cases the safety of others.

If a person comes into prison and suffers from a communicable disease, common sense and practice tell us that that person should be isolated to protect other persons from the communication of his illness. Tuberculosis is a case in point. In every closed, stuffy environment, as prisons tend to be, you have cases of tuberculosis. Once the disease is diagnosed in an individual, he or she is kept separate from the rest of the persons for obvious reasons; reasons that I have hitherto explained. If a prisoner without a communicable disease is in the prison, but is acting violently and threatening the safety of others, he or she would be isolated for that reason. So, the answer to the question is already very clear.

If someone is HIV positive, that does not mean that that disease is communicable simply by talking or touching—that is a myth. It has to be contracted or spread through sexual intercourse or exchange of bodily fluids. In those cases, ordinarily, he would not be a risk. In fact, over the last few months prisoners with HIV have

died. I have had about three cases of prisoners who died in prison as a result of HIV or AIDS.

That is not new to the prison and those matters could quite easily be worked out. If a person is HIV positive and very aggressive sexually—homosexuality is against the law—he would suffer a grave fate if he attempts to approach someone who is not in agreement with his approach. But if he is HIV positive and managing those aggressive tendencies, I rather suspect—I am not the prison commissioner—he, too, would be isolated for his own safety and other people's safety. So the matter is not a troubling one to us. All the contributions of the Member for Caroni Central, and all of that, it really does not take us very, very far.

Magic Johnson was used in this debate as an example. He had the courage to tell the world that he was HIV positive. So the world has noticed. If a young woman in the United States or in Trinidad and Tobago, goes to have sexual intercourse with Magic Johnson and he did not specifically tell her that he was HIV positive, I suspect that he, having given notice to the world, would find a defence there. But the disclosure we are talking about in this legislation is not disclosure to the whole world, so as to bring discrimination where it exists upon the AIDS sufferer. The duty we impose is not that he discloses his condition to the world. So that the discrimination, I admit, which exists against AIDS sufferers does not arise. He has a duty, according to these proposals, to disclose his condition to his sexual partner quietly and privately in the bedroom, and that is the difference. Because the person with whom he is going to have sexual intercourse, exchange bodily fluid by intimate contact, is giving consent to pleasure; giving consent to sexual intercourse but, certainly, not giving consent to sickness or death.

It is on that basis that we impose a duty to disclose his status to the other person, and if he does not do so, it cannot be said that the person was consenting to grievous bodily harm, sickness or death. They were consenting to pleasure; to company; to love and all of that; not sickness or death. It is on that basis that this legislation is very well justified.

To answer my friend from Oropouche, who raised, I must admit, a very interesting legal point on the question of consent. I want to have him know, that the learning in law is that—in fact, we give consent to being assaulted everyday; when we travel on the maxi-taxis; when we shake someone's hand; when we walk past someone on the street and that person elbows you or bounces you; or you go in the taxi and the person bounces you in coming in. Those are common assaults and the law and the learning is that you give an implied consent by virtue of your presence around other people in a space, in the society.

But you cannot give a consent—there is a case called *R and S*, coming out of England, reported in the All England Law Reports, where a perverted group of persons in West London were engaged in all kinds of nasty and sordid sexual conduct. It included biting off nipples and nailing penises to tables—I mean literally doing that, the case report is there—put the penis on the table and nail it down and all kinds of weird nastiness. Things that are available to our children—

Mr. Imbert: That happened in the UNC?

Hon. F. Hinds: No, that happened in the UK. It would not surprise me if it did, but I am saying the UK.

Dr. Moonilal: He was making a good point until he got nasty.

Hon. F. Hinds: No, I was asked a question by the Member. They were all purportedly consenting to this—let me continue—and when the police intervened and charged them for depraving public morals and for inflicting grievous bodily harm in some of the measures I told you about, their defence was that “we consented”, and the learning is that you cannot consent to anything more than a common assault. You cannot consent to grievous bodily harm or actual bodily harm. The law, as a matter of public policy, will not tolerate that. However, when someone is going to have surgery, that person knows that the doctor would open his or her chest or open another part of his or her anatomy and the person gives a consent. So, even in light of the case of *R and S*, there are exceptions to the rule: boxers in a ring; footballers on the playing field. So, there are exceptions. [*Interruption*] I know, I know.

Someone suggested from the other side that what we were proposing is a strict liability offence. Well, let me tell the Member that a strict liability offence typically, is an offence for which there is no mens rea. There are two elements of a criminal offence: the actus reus, that is to say, the act done, and, on the other hand, the mens rea, the state of mind that goes with it. You know, in a strange way you could see that dichotomy between what we are doing and what we are not doing. We are saying the actus reus, the fact of having HIV, is not what we are criminalizing. It is the one that goes with the mental state, a deliberate, wicked and wilful decision to inflict another person—that is what we are trying to deal with. More specifically, a strict liability offence does not require mens rea. The strict liability offences tend to operate with regulatory offences.

Like a driver's permit, you do not have to have a mens rea. You do not have to prove that you knowingly or intentionally came down the road without it. The law says you should have it when you are driving. If you do not have it, the fact that

you forgot, is a defence, but the prosecution does not have to prove that you wilfully left it home. That is typically the kind of offence that is governed by the principle of strict liability. In this case, on these proposals, it clearly is not so, because we have some clearly outlined elements of mens rea here, and I just want to quote clause 2(18)(a)(1). It says a person who knows mens rea—

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Laventille East/Morvant has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. C. Robinson-Regis*]

Question put and agreed to.

Hon. F. Hinds: Thank you very much, Mr. Speaker and hon. Members. Again, I simply went there to demonstrate that this question of strict liability does not arise. It was an empty and baseless submission coming from the other side.

We were asked about consultation. Prof. Courtney Bartholomew and his team are the outstanding researchers on AIDS and the implications for that in Trinidad and Tobago. He and his team were involved in these discussions and he was quite satisfied, recommended and saw the need for this kind of legislation. It is well known that he works closely with Prof. Robert Garlow of the United States, who is also a world renowned operator in this field. We came with good advice, and I have already outlined the barrage of Senior Counsel, who were involved in a Law Review Commission, appointed by the UNC as government, and I have given their names who were involved in the discussions surrounding this matter.

There was a suggestion—and I think I dealt with that—that people would be afraid to check their status because of this legislation. I think that could be easily dealt with; people are already afraid. I agree that there are concerns for discrimination and that can and ought to be dealt with in the workplace, because outside of the workplace you really cannot regulate that. It is almost like racist behaviour. These are matters that are very hard to deal with. It is only education really and, if you like, the encouragement of a new kind of culture, that will assist in the question of dealing with discrimination.

I want to address my mind to a few points made by the Member for Caroni Central—he was the first speaker for the other side. He essentially said that we should not deal with this issue; we should tackle murders and kidnappings, rather than deal with this matter. Well, of course, that was very political. As you know, I am not a very political person, so I would not want to go there. Suffice it to say—*[Laughter]* *[Crosstalk]* This is not a laughing matter; this is quite serious.

In an attempt to deal with murders, kidnappings and the general proliferation of crime in this society, the Attorney General proposed, "no bail for kidnapping". I hope the Members on the other side recognize that as an attempt to deal with kidnapping, but they have already signalled that they are not prepared to support that. I hope since they called for it, they would operate with a change of heart. The Police Bills, to improve the management and the efficiency of the police service—same thing.

Mr. Speaker, the Member for Caroni Central and other Members on that side, yes, the Member for Oropouche, found himself, again, trying to mislead us all, suggesting that the Government got it wrong and read a death warrant to one, Lester Pitman, a convicted felon for a triple murder, and we did it wrongly. That same inaccuracy was reflected in a *Newsday* editorial on Thursday, June 16, 2005 and on Sunday, June 19, 2005. I saw one, Hamid Ghany writing foolishly and misguidedly on the subject again.

Mr. Valley: Every Sunday.

Hon. F. Hinds: Some people say every Sunday. Having difficulty to disguise his political bias, pretending to be neutral. We recognize that.

Mr. Singh: He learn from Ryan. [*Crosstalk*]

Hon. F. Hinds: But the *Newsday*, misled as it sometimes is, said—I am not in the habit of using second-hand information from newspapers. [*Interruption*] I wish I could do that, but I am satisfied that it would be at great risk. I am only quoting this editorial to make the point that they were misguided. The *Newsday* supported by the Member for Oropouche, said:

"However, the State made a mess of the procedure, claiming it had found no notice of an intent to file an appeal, even though attorney Gregory Delzin was easily able to produce the relevant statement duly stamped by the authorities."

The Attorney General's office recognizing that the *Newsday*; Dr. Ghanny and, of course, our friend from Oropouche, were being misled, made an intervention with an immediate release. I want to quote elements of it to put to rest any inaccurate suggestion that the Government acted precipitously or acted improperly by reading the warrant to Mr. Pitman.

Dr. Rowley: Mr. Pitman!

Hon. F. Hinds: All right. Lester Pitman. Member for Oropouche, I want you to get this very clear, make no mistake about it. I quote:

"The Ministry of the Attorney General wishes to correct the misleading reports and commentaries appearing in all three daily newspapers which suggest some error, on the part of the State, in the procedure used to read the death warrant to condemned triple-murderer Lester Pitman.

The Attorney General has consistently stated the government's commitment to the rule of law and the utmost respect for the judicial process...

This was scrupulously followed in the case of Lester Pitman, and if any blame can be assigned it must go to those who, contrary to the accepted..."

and known

"procedure, allegedly filed notice in the Court of Appeal ..."

And this is the working part. This is the heart of the matter.

" ... allegedly filed notice in the Court of Appeal but failed to serve the notice on either the Director of Public Prosecutions, the Solicitor General or the Registrar to the Privy Council as the practice demands."

10.30 p.m.

When we file an appeal, or when we file a bail application to a judge in the High Court, the practice has always been that you serve it on the Director of Public Prosecutions (DPP) and the Commissioner of Police. Give them notice. In this case that procedure was not followed. The DPP was not informed, the Solicitor General was not informed, and the Registrar to the Privy Council was not informed as the practice demands.

On May 27, 2005 reasonable and diligent checks were made with the Registry of the Court of Appeal; the only place you could look, and with the Solicitor General's Chambers as to the status regarding condemned prisoner Lester Pitman, whose appeal before the Court of Appeal of Trinidad and Tobago had been dismissed on April 15, 2005. There was no notice of his intention to seek special leave to appeal before the Privy Council on record. There was none! The office of the DPP was also checked, no notice was served. There was also nothing in the record in the Minister of National Security regarding an intention of prisoner Lester Pitman to seek special leave to the Privy Council.

The diligent checks established that prisoner Lester Pitman had not followed the established procedure, since the dismissal of his appeal on April 15, 2005 to

seek leave required to appeal his conviction. Given the apparent absence of a notice of appeal, and the fact that, up to May 27, 2005 the Registrar of the Appeal Court could show no record of a notice of appeal being filed, the State was fully entitled to conclude that the prisoner had voluntarily abandoned his appeal and therefore acted accordingly.

Mr. Ramsaran: So it was not a mistake.

Hon. F. Hinds: Only you could see a mistake in those clear facts, and that is because of your twisted, convoluted way of seeing things, which obviously, you would demonstrate having learnt well, having sucked on the milk of the UNC, which is in itself convoluted, twisted and perverted. [*Interruption*] So I forgive you.

Hon. Member: That is why the *Guardian*—

Hon. F. Hinds: Be quiet! Mr. Speaker, the Member for Siparia, you know she is not here, so I think, I should leave the Member for Siparia alone. I will save this for another occasion.

Mrs. Job-Davis: No we want to hear.

Hon. F. Hinds: Suffice it to say, this is the same Member who got on a platform in Siparia, apparently in high spirits, apparently having some kind of communication with, I do not know if it was Fernandes or Angostura or some other distillery—

Mr. Speaker: Be careful!

Hon. F. Hinds: I am sorry, Mr. Speaker.

Mr. Singh: You know how he nasty all the time.

Mr. Speaker: Order!

Hon. F. Hinds: Yes, yes, yes!

Hon. Member: That is how he is.

Hon. F. Hinds: But the Member for Siparia—these are facts—went on a platform in Siparia and spoke about pipe and water, remember that? Do not be ashamed, those are the facts. The Member for Caroni East could bear testimony to that truth!

Hon. Member: It was his pipe!

Hon. F. Hinds: In fact, she was speaking about his water for all. [*Laughter*] Yes! She was speaking about his generous—[*Interruption*] So the Member for Siparia is very well known for these outbursts, and the Member for Caroni East; it

is not once or twice that he got in this House and said things that were baseless and without foundation—you know—and I will come to him in a while. But the Member for Siparia got on a platform and told the media, told Trinidad and Tobago, told the international community and it was reported on Thursday, June 16, 2005—I know the *Newsday* gets it wrong sometimes; I know that the *Guardian* and *Express* have many journalists who are not as astute and professional as they ought to be.

Hon. Member: They say you have a reputation—

Hon. F. Hinds: I know many of them exact professionalism from us as politicians. I know we all have a duty to be professional in this country, media and politicians alike, but I will risk quoting the *Newsday* of that day, notwithstanding,

Hon. Member: Notwithstanding, you are brave!

Hon. F. Hinds: She got on a platform and told the meeting in Rio Claro that the DEA was investigating three top PNM officials, and a report had been sent to the Prime Minister, Mr. Patrick Manning.

Hon. Member: With or without VAT.

Hon. F. Hinds: You understand! [*Interruption*] Now, contacted yesterday, Persad-Bissessar—clearly, the journalists began to realize that they were misled and they were exposing themselves to civil suit had the class of persons been more specific, but the three PNM officials makes the category of those likely to be offended a little too wide for the lawyers to intervene. So the *Newsday* apparently contacted Madam—

Hon. Member: Madam vice.

Hon. F. Hinds:—Siparia. Contacted yesterday, Persad-Bissesar said this was information which was related to her. She did not have any hard evidence on the matter and was seeking clarification from the Prime Minister. Asked, whether the PNM officials she spoke about in Rio Claro were Government Ministers or party officials, all the Siparia MP would say was that they were officials.

However, officers of the Organized Crime and Narcotics Unit (OCNU) said that they were totally unaware of any such investigation being carried out by the DEA. They added that according to normal procedures, any DNA investigation being carried out in Trinidad and Tobago would be handled jointly with OCNU, as this was the established procedure.

So, clearly another example of the Member for Siparia mouthing off in typical reckless UNC style, without any proof.

I heard some protest from the Member for Caroni East; let me attend to a little matter with him.

Mrs. Job-Davis: How long did it take for him to do his degree—12 years?

Hon. F. Hinds: Yes! I said the Member did not take 12 years.

Mrs. Job-Davis: Not 12 years?

Hon. Member: Who is “yappity yap”?

Hon. F. Hinds: It was nine!

Hon. Member: Are you his mouthpiece? [*Inaudible*]

Hon. F. Hinds: Yes, yes. Mr. Speaker, the Member for Caroni East is very capable of doing those things, as well, you know. Remember, it was he who got up in this House—that Member—and told this Parliament about matters with materials in Tobago, taken by a certain Member of this House.

Mr. Singh: That “is” fact.

Hon. F. Hinds: Yes, it “is” facts!

Mrs. Job-Davis: But why you all do not go before the committee? [*Crosstalk*]

Mr. Speaker: Order!

Hon. F. Hinds: We are told that yesterday was the closing day for submissions to the commission and to this day the Member for Caroni East— [*Interruption*] no show, he never showed up. That was the Member—

Mrs. Job-Davis: Peter Pan.

Hon. F. Hinds:—who stood up in this House and told this House that three PNM officials—

Mr. Singh: I will deal with you now.

Hon. F. Hinds:—were being investigated for drugs. You understand!

Mrs. Job-Davis: Go before the committee and talk.

Hon. F. Hinds: We know how they operate! I want to say, Mr. Speaker, and I am just dealing with some points made by the Member for Caroni Central. Crime, we recognize, is an international phenomenon; Trinidad is part of the international

committee of nations, and we are victims if you like. Trinidad and Tobago is a platform for a number of international crimes. We know that there is a tremendous amount of international trafficking in drugs and arms. Trinidad and Tobago does not, as we all know, produce coca plants or cocaine, Trinidad and Tobago does not manufacture guns.

Mr. Ramsaran: We make rum!

Hon. F. Hinds. I read an article yesterday where in Colombia paramilitary forces—dismantling those forces now is what you call decommissioning; they had stockpiles of cocaine that they would use to raise funds. They are now trying to offload them, and Trinidad and Tobago—25 minutes away from South America by speed boat—might, very well be in the path of some of that transshipment. There are problems that we have to grapple with, not just as a nation but as a region. Some of the problems with murders and kidnappings that you see here in some of the cases with kidnappings, the ransom demanded—and I speak with authority—is cocaine and drugs. So, when you see somebody kidnapped, sometimes the kidnappers are saying they want cocaine and marijuana as the ransom. Sometimes they want US money and we know that there are all kinds of forces at work.

Mr. Speaker, I was in Jamaica only week before last, on Government business and I was astonished when the statistics revealed that in that week there were 49 murders in that island; 49 in a week.

Hon. Member: In a week?

Hon. F. Hinds: Yes! In the month of May—

Hon. Member: We good!

Hon. F. Hinds:—there were 187 murders.

Hon. Member: We good here man!

Hon. F. Hinds: I am simply saying, in response to the Member for Caroni Central, that we have a problem, it is a regional, it is an international problem and we are giving it all the attention we could. So to raise these issues in a debate about HIV is really, [*Interruption*] bad behaviour of the highest sort and we are dealing with the matter.

Mr. Speaker, I have attempted to respond to the very few issues that came from the other side. The question of what do we do with the prisoners if they go in there; the question of the discrimination; the question of whether people will be

afraid to disclose their status; the question of the mens rea and the question of the burden of proof. As far as I recall, I dealt with all of the substantive issues that came from the other side. Every Member from the other side spoke—most of the time without relevance; if I may so.

Mr. Singh: That is why you cannot pass the Bill.

Hon. F. Hinds: We have responded to all of those concerns. So, Mr. Speaker, in closing, I want to remind hon. Members, that what we seek to do here, is merely to criminalize a specific conduct; conduct similar to the conduct I described of the young lady who—Anna Ramdass that journalist found in the Woodbrook area—is aware that she is HIV positive, but she is angry with the world. We are trying to deal with the behaviour of the Simona Frikas of this world, that Swiss woman who came to Tobago; who told some journalist that she contracted the disease in Trinidad and Tobago, so she felt that she should come back and do harm to as many people as is possible. There are indeed a group of wicked and evil people who behave like that. One is too much! This legislation is a response to that kind of possibility.

So I want to conclude, Mr. Speaker, by saying it is the Government's decision; it is the Government's duty to protect all of the citizens of Trinidad and Tobago. Prevention; yes! Counselling; yes! Non-discrimination against AIDS sufferers; yes! Treatment for AIDS sufferers yes! But spreading AIDS wantonly, wilfully, recklessly and intentionally, we say no!

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

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Question put and agreed to, That the Bill be reported to the House.

House resumed.

Bill reported without amendment.

Question put. That the Bill be now read the third time.

Mr. Singh: Division.

Offences Against The Person Bill

Wednesday, June 22, 2005

The House divided: Ayes 16 Noes 3

AYES

Valley, Hon. K.

Rowley, Hon. Dr. K.

Imbert, Hon. C.

Robinson-Regis, Hon. C.

Narine, Hon. J.

Williams, Hon. E.

Boynes, Hon. R.

Bereaux, H.

Roberts, Hon. A.

Hart, Hon. E.

Callendar, S.

Job-Davis, Hon. E.

Hinds, Hon. F.

Khan, Hon. F.

Achong, L.

Beckles, Hon. P.

NOES

Singh, G.

Ramsaran, M.

Moonilal, Dr. R.

Question agreed to.

Bill accordingly read the third time and passed.

ELECTIONS AND BOUNDARIES COMMISSION ORDER

[Third Day]

Order read for resuming adjourned debate on question [April 27, 2005]:

Be it resolved:

That the Draft Order entitled “The Elections and Boundaries Commission Order, 2005” be affirmed.

Question again proposed.

The Minister of Housing (Hon. Dr. Keith Rowley): Mr. Speaker, I rise at this early hour of the evening to take part in a debate to finish a discourse which was started in this House in 2001. Under normal circumstances—given the lateness of the hour and the lateness of the debate—I might have foregone the opportunity to take part in this debate. However, I think I will be failing in my duty if I left the record of this Parliament incomplete, by not taking part in this debate, so as to have the record of the Parliament completed.

Mr. Speaker, let me begin by making reference to a letter I saw in the newspapers.

Mr. Imbert: One set of damn nonsense! You saw it in the papers, by Williams?

Hon. Dr. K. Rowley: I saw a letter in the newspapers by a former President of the Senate, who is quite a favourite of mine in the national agenda. When I saw the letter it reminded me of my interaction with him in December, 1986. I refer here to former President of the Senate, Michael Williams. He wrote a letter to the newspapers, saying that:

“Parliamentarians are deemed to be useless. We have 36 useless ones.”

In this debate there are suggestions that there should be more. He cannot see the reason why there should be more parliamentarians. The Order is asking for 41. Some of my colleagues spoke about 50 or 60, as the case might be, but we were talking about an increase in the size of Parliament. A former President of the Senate said this was not really making sense because what we have now is a general waste of time.

Mr. Speaker, I am accustomed to that because for me, personally, I did not set out to be a politician; I set out to be a scientist. I wanted to be a geologist and I am that and nobody could take that from me. I found myself in politics by accident. I do my work without complaint because I think I owe something to this country and if along the way I could make some contribution, I make it. I feel I owe this country something. I do not fall in love with the job and I do not take myself too seriously. I take the job very seriously.

It seems as though even Members of Parliament or past members take time out to regard parliamentarians as a waste of time. However, I am reminded of a

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piece of advice that former President Michael Williams gave me in December of 1986 or January 1987, I think it was. We were having tea in the tearoom and he said to me—I think you were there and somebody else—we were wearing a balisier tie. He was being very nice to us; it was 33/3 in the Lower House and millions in the Upper House. We were these voices in the wilderness wearing these balisier ties that had just been mauled at the polls. He said to us young fellows: “What you all should do is change the name of the party and do away with the balisier tie and then you might be able to pull something back together as a political unit.” I said to him: “If we change the party name and we change the party symbol then what are we? He said: “As long as you all have the name PNM and you wear the balisier tie, you will never be able to rise in the politics in the country again.” He could not be more wrong! He did not know what the PNM meant and he did not know what the balisier meant! [*Desk thumping*] Now, he is advising us that we need not expand the size of the Parliament.

Mr. Speaker, I have just received a notice from a committee to appear at some meeting. I am a member of a Joint Select Committee “Appointed to report on Government Ministries, Part I, that is Statutory Authorities and Certain Enterprises falling under those Ministries”. I find myself in this Parliament being appointed to this committee. I have a choice to make. I have a constituency which elected me to represent their interests; I am doing that; it is my duty! I swore an oath as a Member of the Cabinet, that is my duty and I am doing that! I came to the Parliament and I swore an oath to serve as a Member of Parliament, I try to do that! But I find myself in a predicament.

Having been given a portfolio to run—I have been to two or three of these meetings and I have not been back since, consciously and deliberately. The reason is that I have to make a choice as a Minister of Government, holding the responsibility for a portion of the governance of this country, as to whether I am going to discharge that responsibility properly or whether I will do that halfway and find myself spending hours in the committee and at the end of the day, the ministry for which I am responsible does not get its work done. I have found that it is impossible to function effectively as a Minister and also function effectively on this committee. I made a choice that I will do the ministerial work at the expense of the committee work.

Mr. Speaker, the point I am trying to make is that we have set ourselves a programme of work for which this Parliament cannot provide the manpower to do it. It is as simple as that. We said so when we were in Opposition. We said that when we appoint these committees they will not function properly. I see one or two of them, from time to time, carrying on, grandstanding for the 7 o'clock

news, but that is not how parliamentary committees work! If you think that is how parliamentary committees work, that is a mistake!

I had the opportunity of spending three weeks in the United Kingdom with the British Parliament under the CPA observing their parliamentary proceedings. I have been exposed to the American system with the Washington proceedings. What we have here are idiots trying to out-shout one another to grab the headlines, to be as ridiculous as possible, to shout at members who come before the committee to make the 7 o'clock news. That is not parliamentary committee! I am saying that we will not have any effective parliamentary committee in this Parliament with the Members we have. When a former President of the Senate says or makes a joke of the idea of an expanded Parliament, I simply say that he is as wrong about that as he was about the balisier tie.

Mr. Speaker, my personal view is that the Parliament of Trinidad and Tobago should be expanded; by how much, that is another debate. The EBC says we go to 41; I will accept that but I would have been happier with a bit more because until we have a genuine pool of people who are not Cabinet Members, the good promise held out for Parliament by committee and making better use of personnel and shortening the time between which we start and finish work and being able to treat with a number of issues—I will tell you there is much public business in this country not being attended to, but that does not seem to bother people in this country.

I get the impression sometimes that my fellow citizens seem to be more concerned with bacchanal, nonsense, idiocy, than serious matters that affect their lives. In the absence of a functioning Parliament—I do not mean Cabinet Members and once-a-week Opposition itinerants, I am talking about a proper functioning Parliament—a lot of issues in this country would go unattended as they are going now; not that I like that, but that is a fact. An expanded Parliament could bring some significant change to that.

Public business in this country today is not what it was in colonial times. A lot of our systems, our institutions are geared towards treating with what we used to have to do in colonial times, whether it is the structure of the public service or the structure of the Parliament, we are behind hand and therefore—[*Interruption*]

Dr. Moonilal: Thank you very much. Could the Member also tell us whether or not the expanded House should also be full-time Members of Parliament representing a constituency rather than Members who are either ministers as in the

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case of the Government, or, in the Opposition, part-time members who must also conduct their own private professional interest? What is your view on that as well?

Hon. Dr. Rowley: My view on that is very simple. I do not think we should have any place in this country for part-time members. A member of parliament is a full-time position. Again, we want to run the Parliament on pennies and get a pound performance. Look at parliamentarians' salaries—what is the pay for a Member of Parliament; \$10,000 a month? And if you get an increase to \$11,000 per month; Oh Jesus Christ, it is six months of debate in the country! Every two-by-four under secondary clerk gets more than that!

In fact, I made this point here already, when I was Minister responsible for Caroni—Caroni was a part of my portfolio, not even the whole portfolio and there were 14 managers in Caroni earning more than me! I was number 15 in the rank but I was accountable to the Parliament for everything that went on in Caroni. No, we cannot be serious as a country! We want to pay the Prime Minister \$25,000 and then hold him accountable for every God-in-heaven thing that goes on in the country. He sits in the Cabinet and approves salaries of \$80,000 and \$90,000 per month. We are not serious!

We have to have a serious Parliament, where we have full-time Members, people who are paid properly; we must have enough Members to do the public work. If we do not do that what in effect we have is a group of people who the country takes pleasure in ridiculing. Sometimes when I read what is said about parliamentarians I say we earn it. But at the end of the day, I keep saying, that I am a geologist and I do this work conscientiously but my profession is not politician. I am a highly qualified geologist and I take pride in that! I spent all my life studying for that! I am just here by accident and I am doing public service.

Mr. Speaker, I want to raise an issue about the size of the electorate because we had an election in 2000. After the Elections and Boundaries Commission provided the information leading up to that 2000 election, I was very concerned about what was going on at the EBC and what was presented to the country and how the country—a country with so many high schools, a university, so many so-called educated persons—allowed the Elections and Boundaries Commission to present to the country and the Parliament some numbers that just did not make sense. In a system of first-past-the-post, where the size of the electorate determines the size of a constituency and the number of constituencies won determines the Government, in 2000 the EBC presented some numbers here that boggled the mind.

What was worse, the numbers presented by the EBC were in direct contradiction to the numbers presented by the CSO which tracks the population. We had a *Review of the Economy* inside the Parliament with the data from the CSO referring to the trend of the population giving numbers for all the years leading up to 2000 and all of a sudden there was a big change in the numbers of persons in the country.

In 2001 I moved a motion asking questions about the electorate as to the numbers in the voting population as presented by the EBC. Permit me to quote what was said then because I want to come back to the Order and you will see what I am talking about. I want to finish that issue of 2001. In 2000, coming out of that December 11 election, we were told then that size of the electorate was 947,000. That was the size of the electorate that was used to determine the boundaries and the seats as we went into the 2000 elections; 947,000.

11.00 p.m.

According to the law, taking away Tobago separately, you divide that figure by 34, and you come up with the average number of voters in a constituency in Trinidad. So in 2000, there were 947,000. And I made the point and I am quoting:

“...There are about 90,000 persons in that 930,000 who ought not to be on the electors list.”

And I gave the reasons. I concluded that if you took those persons who would have migrated and those persons who, if you looked at it from age 15 up to the voting age, then you are looking at about 800,000 persons who should be on the voters list. This is in *Hansard*. In 2001, I told this country that the voters list ought not to be anywhere other than in about 800,000. Nobody took me on. But what was shocking then, is that when you look back at the size of the population and those who should have voted, it should have been about 56 per cent because there were school children, aged, 12, 13, 14, 15 or whatever the case might have been. It is only when they got to age 18 years—do you know what the EBC told us? We were told that if you use the 56 per cent ratio that the population of the country should have been about 1.8 million. They said they were doing a census and sooner rather than later, they would find out how many persons are in this country and it certainly was not going to be 1.8 million.

In fact, we have since had the census data and it turns out to be 1.3 million, but the answer was there before us. Because at the same time the EBC was telling us that we had 947,000 persons who could vote—that means 18 years and over—they were also telling us that under the Central Statistical Office (CSO) data, that

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there were 930,000 persons 15 years and over. So there were more persons 18 years and over than persons 15 years and over. It is here in *Hansard*. I debated that here. How in God's name could you have more persons 18 years and over than 15 years and over. But according to the EBC, it is possible, because that was the figure they used, 947,000 voters. And interestingly enough, if you had done what I did, and had gone back to ages 14, 15, 17, and 18 years, you could have trapped the population up to the year 2000. But something happened in 2000 where people suddenly got old between 17 years and 18 years, the average increase jumped from 40,000 per year to almost 100,000. And I said, and I want to quote something here.

I said we did not have confidence in the EBC and I called for an enquiry and we did have the enquiry. However, what turned up? Five years later we get a report from the EBC, the same EBC that was silent when I made those points because this was on the Parliament floor; there was a motion here when I queried that figure and raised the context in which such figures could be presented for the conduct of an election. The EBC was silent and they accused our friends on the other side who happened to be in Government, of attacking the EBC. They said all kinds of things about us then, but now the EBC tells us five years later that the electorate is 870,000. Remember, I told you in my analysis in 2001, in reference to the figures used in 2000 and I concluded that the electorate should not be anymore than 800,000 and five years later it is 870,000. I was spot-on, dead right. Five years later it has grown in the way it should have grown to 870,000 increasing by approximately 20,000 plus, for the four-year period.

One only has to look at the number of children going into schools every year, approximately twenty-odd thousand. So after a four-year period you add in about 80,000 and you subtract from that those who migrated and those who died and you have an idea of what it should be. So how come five years later we are now being told in this Parliament, in this debate on this Order that our electorate is now 877,000 but in 2000 it was 947,000? And what shocks me is that this country could have allowed an independent commission to present such woefully inaccurate figures and sat silent in the face of parliamentary query and conducted an election.

Mr. Speaker, on the basis of the comparison of the figures of 2000 and 2005, we could now, without a shadow of a doubt, deem the election of 2000 to be null, void and of no effect. [*Desk thumping*] If we were a country that was into litigation like the Americans and others, we could have gone to a court of law and queried this and the EBC officials would have had to go to court and explain. How

you could tell me five years later the population which is growing, has generated a voters list of almost 100,000 persons? How do you explain that? [*Crosstalk*] It is not wrong now.

When I did this motion in 2001 I did not start with 2000. You can go back to the numbers to the 12 year-olds who became 13-year-olds the following year and track it right back to 2000, and I did that. It was on that basis I was able to come to the Parliament and point out that the voters' list cannot be 947,000, because they were saying to us you have 947,000 over 18 years old, but 930,000 15 years old. That alone should have told the country that the voters list of that year was a fallacy and should have been rejected out of hand. What does that mean? It means that if you have a larger number of persons then the larger—when you get the average you have to have a larger number of persons to make a seat.

According to our law, when you divide the size of the electorate by the number of seats, 34 in Trinidad, that gives you the average and now you go out and start at 005 in Chacachacare, and you come eastwards; that is how it is done. There is a formula there. I keep hearing my friends on the other side telling their colleagues there is this PNM scheme to gerrymander with boundaries and so forth. This is a straight matter. The first polling division is down at Chacachacare, 005, and if you are looking for a number as the voters list will determine by the size of the electorate, you are looking for say, 25,000 persons, when you start at 005, wherever that perimeter gives you the 25,000, that is your boundary. And then the next boundary starts from there and you are going eastward and you can only go eastward because you cannot go north because that is up to the sea, south into the swamp and the Gulf of Paria. The first time you can move south in that movement is when you cross Barataria into St. Augustine. Between Chacachacare and St. Augustine, you can go neither north nor south, you must only go east taking a certain number of persons to make up a seat. If the voters list is so wrong by 100,000 that means you are artificially pulling the boundaries of Diego Martin West eastwards, pulling Diego Martin Central eastwards, pulling Diego Martin East eastwards, pulling Laventille eastwards because you are making a bigger constituency.

If we had used the correct figure in 2000, then the Petit Valley votes that were cast for Diego Martin West ought not to have been because the boundary would have been westwards of that. This means the whole series of constituencies fell foul of the electoral laws because when you get the correct average and the correct number, the law says you cannot be more than 10 per cent above or below. And in seeking to make constituencies on fictitious numbers you are violating the election laws, the law that says how you build up a seat.

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Having moved the motion in this country I asked myself, is this country a serious country? Here is an independent Commission charged with the responsibility of ensuring that elections are free and fair and by its own ineptitude or otherwise, undermining the very process of election and when you say anything about it, even Members of Parliament are on your case instead of doing their homework and asking how could this be, and why should we accept this.

But no, we are not Trinidadians and Tobagonians. We are not people of sense in a country. We are PNM and we are UNC. And we the politicians allowed non-politicians to do this and we defended them. If, today, they do not respect us and they pay us peanuts, they have a right to do that because we earned it inside this House. We allowed them to disrespect us because no serious country would have accepted this. It was written here in ink. No serious country would have allowed a debate like that to go unchallenged.

In fact, what stunned me, even if they had not noticed it, but it was raised in the Parliament and it was the Government that was defending it. The EBC kept silent and the Government was carrying their argument. Some persons, quite correctly, or otherwise felt the Government had a hand in this. But they ought to be accountable to the country.

Even today, as this is presented—let me ask a question. So they gave in 2000 one of these documents with 947,000 voters and they come with not so much as a “by your leave” and say it is 870,000 and nobody asked them where the others have gone. Where did they go? Not a word. Not an apology, not a nothing, as if nothing happened. You conducted an election which allowed the UNC to end up in government with a majority and you come and tell me, five years later when the number should have grown by some significant amount, that it shrunk and went in the other direction.

According to them, if we had 947,000 in 2000, by this year when this reached here we should have had one million voters and the population should have been a million voters, plus all the 15 year-olds and younger. So the country should have had people upwards of 2.4 million. When I raised that argument inside the Parliament I had my parliamentary colleagues defending the foolishness rather than saying, as a Member of Parliament with an oath of office to conduct my business without fear or favour—they put politics in front of common sense. When you pointed out to them it was not possible to have more 18-year-olds than 15-year-olds in the system, it was not mathematically possible, even that did not draw their attention, because we put politics in everything in this country even to the point of making us look so stupid.

If people then say we do not deserve any respect, we do not deserve a proper salary, and we should not be full time, it is on the basis of our own behaviour inside of this Parliament. [*Desk thumping*]

I cannot think of any parliamentary action that demonstrates the bad attributes of our putting politics in front of everything than this. This came to us not from any ordinary source; it came to us from an independent Commission which is supposed to be a custodian of our democracy. And if they could make an error like that or worse, if they could open the door to allow the system to be so corrupted to throw out that, and if a Government in office could be so dumb to defend this, or so corrupt to have been a part of this, then the country has a stain on its copy book. And this is not say-so; these are the documents. Fifty years from today a researcher will come and look at this document and the one from 2000 and ask what went on there.

When the history of this country is written, the Parliament that accepted that report of 2000 would be seen to have been a Parliament that the people of this country should have watched very carefully. Parliamentarians do this country no favour when they allow good sense to be undermined by interest, when they allow duty to be undermined by political interest and when they allow the institutions like the EBC to be able to do this without sanctions and worse, with the support of the House.

Mr. Speaker, the House that accepted that report of 2000 brought shame on this Chamber and the proof comes to us from no other source than the EBC itself. The only way you could have had a decline in the population in the way that they are saying, is if there was an epidemic or a tsunami and in one fell swoop you wiped out 200,000 people. That did not happen here. Population shifts are very imperceptible in some cases and we know what our population growth rate is, even though the rate has declined as you would have seen in the number of persons writing the SEA and going into school, but it has remained on the increase. Rather than being 2.4 per cent or 2 per cent, it might be 1.7 or 1.8 per cent, a lower rate, but an increasing rate anyway.

So we expect our population to be increasing and, therefore, our voting population to be increasing and given the nature of a population pyramid, where we have a large number of young people, a wide base, so you have them moving into the voting age of 18 years, we expect our voters' list to be increasing. Lo and behold, without a hint of an explanation, without a semblance of analysis, they very carefully did not mention the subject at all, at all. They just brought a new document and said, sorry, it is now 870,000, and this country accepts that.

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I am saying that is no way to run a country. If that is how we are going to run this country, we will always remain third class, second class, last class, because this ought never to happen in any serious country.

Mr. Speaker, do not take my word for it. Go back to *Hansard*, and read the response to my motion, read what the Members of the Government had to say to them when they were confronted with these facts that something was radically wrong with the voters list. I asked for a commission of enquiry. I did not ask for the enquiry to lock up anybody, but I wanted to find out how did this happen and what happened here so it would not happen again. The then Government said it did not happen. Even now, you hear them talking about the commission of enquiry in a dismissive way.

What greater need is there for an enquiry as in a situation where your national record from your independent Commission to govern your voting, tells you that a large slice of your electorate has disappeared? But, of course, we make bacchanal with everything in this country, so get a commission of enquiry, and instead of seriously, sensibly analyzing the facts before us, the next thing we know, from captain to cook turned the commission of enquiry into one bacchanal and it is this one saying that and that one saying that and this one lie and that, one is—and we demonstrated an inability to have a proper analysis of a situation where there are numbers in front of us. [*Interruption*] My little short friend from Nariva—hear him; a pack of lies.

Mr. Partap: I object to that.

Dr. K. Rowley: Okay, my tall friend from Nariva. [*Crosstalk*] My apologies.

Hon. Member: My friend.

Dr. K. Rowley: I am taking back that, too. The challenged gentleman from Nariva; the distinguished gentleman from Nariva who is vertically challenged, he is talking about lies. I am not here talking about lies and truth. [*Crosstalk*] Mr. Speaker, ignore him. Let him shout. He was a minister of government who was doing his own thing. It is not my numbers I am talking about. And I am not talking to any of them over there. I am talking to you, Mr. Speaker, and I am saying we had an EBC report in this Parliament that told us we were going to the polls in 2000 with 947,000 voters. Five years later, it is a lie. Where is the lie? I am not asking about lie or truth. I want to find out from the EBC, and I am still asking now, somebody must explain to us what went on here. [*Desk thumping*] These are the country's records. And persons in authority who are charged with certain responsibilities cannot just do this and walk away as if nothing happened. So I am still asking for an explanation, but I am saying also, this country did not do itself proud.

There was a coup in this country, the Parliament was violated, a Member was killed; the Red House was blown up—July 1990—Government restored to office. I think in this country—it was my position then and it is now—we have demonstrated an overwhelming ineptitude of people and we are paying for it today, and that is, I do not know of any other community where something like that could have happened, and up to this day nobody sat down reflectively to enquire as to what went on in 1990. So the police got away scot-free, never having to answer how come arms and ammunition ended up in this country, the customs never had to answer. Nobody ever had to answer a question about 1990. That is Trinidad and Tobago at its worst. I am saying that is a failure on the part of this country.

I do not know what an enquiry might have shown up, but the very fact that we never had an enquiry we will always be in a position to say we do not know what went on and, of course, if we chose to, we could point fingers at whom; that is politics of no use to anybody, but I would have wanted to know what happened with customs? What happened with the police, the security services? What happened with those who were around? Not an enquiry of any kind! And I am saying that was a failure on the part of the country, of all those who were involved.

Dr. Moonilal: I am hearing the Member repeating the point and sounding convincing, but in the report you have studied, I am sure, more than most—the Commission of Enquiry Report into the functioning of the Elections and Boundaries Commission, May 2002, while it is recognized the very point you are making concerning the discrepancies in numbers, did the report address this matter of why the sudden drop in the numbers, and if so, has the Government made any statement concerning the incomplete nature or really flawed Commission report by its failure to address that matter?

Hon. Dr. K. Rowley: That is precisely what I am saying. When I started I said I entered this debate at a late stage. I had missed two sessions. This debate has gone almost to closure and I was waiting to hear if anybody would have raised this matter. It is quite possible that we could have concluded this debate and this issue not raised.

I am saying in 2000, we as a country, as a Parliament, took their numbers and said okay, the EBC gave us those numbers even though they were mathematically impossible. We get a new number and I get the impression we are taking that number because it comes from the EBC. And it is quite logical to ask if they were so wrong in 2000, why are they not wrong now? Could be! We have no basis

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because we have not found out what caused the numbers and the errors in 2000. The same thing could be working—the pendulum could have swung in the other direction so instead of giving us bigger numbers we are getting smaller numbers. Because we never tried to find out what happened we are in no position but to swallow what they give us and hope that they are right and we have seen how woefully wrong they can be.

Mr. Singh: I thank the hon. Member for giving way. I am particularly interested in your proposal with respect to the July 27, 1990 coup. It seems to me that you are pointing in a direction for the emergence of a truth commission, not unlike what you had in South Africa to analyze what went on during that period of apartheid, which is an extended period. But certainly, there must be some kind of way for us historically to get the facts in some independent fashion.

Hon. Dr. K. Rowley: I do not know that the Truth Commission came immediately at the end of apartheid, so it was quite opportune. I am now talking in 2005. This thing took place in 1990, which is 15 years ago. In fact, the witnesses, the freshness of their memory, we lost the opportunity and I am saying that forever and ever we will always try to figure out what went on in 1990. But as a country we somewhat accepted that there is not going to be an enquiry, and I could never understand that. One would have thought that as soon as the Government came into office after—or the next government—the first thing they would want to find out was what went on there. But the bottom line is, as the records will show, we sat and figured that there was no need for an enquiry.

I have heard my colleagues in the past Parliament, in the face of a situation where three members of the government left the government causing the government to collapse on the issue of corruption and with the Opposition saying that they have specific instances where they were pointing to wrongdoing and they wanted enquiries, I have heard Members of Parliament dismiss in the most disparaging way the whole question of the enquiries that we have had saying they were a waste of money and a waste of time. In fact, some of them were going as far as saying, look, we had enquiries and nobody got locked up. Okay, the next thing somebody got charged and you heard it is political, it is spiteful, it is racial. And I am asking: Are we for real as a people?

11.30 p.m.

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Diego Martin West has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. C. Robinson-Regis*]

Question put and agreed to.

Dr. Rafeeq: I thank the hon. Member for giving way. The argument that you have used, that in 2000—you said 947,000, but the book says 938,000; that is a small difference—in 2004, 908,000 voters, that is what this report says. This would mean, if your calculation is right, that about 45 per cent of the voters would be below the voting age; that the population of Trinidad and Tobago, at this time, would be about 1.8 million. This means that this is also very flawed—908,000 voters. That is what it suggests, if your argument is correct. In the light of this, and maybe you are right, would you still support this report?

Hon. Dr. K. Rowley: That is the point I am making to my colleagues in the House. We are behaving like sheep. I want more Members in the House. I said that in the beginning. I am also saying that the report we have before us has come from a source that is compromised and a source that has demonstrated no respect for basic mathematics and logic. I am not prepared to just swallow this number.

That number you just mentioned there, 1.8 million—and you said based on that projection, it should be 1.8—when I did the analysis in 2000, that was exactly what I came to. It is here in the *Hansard* of Friday, February 02, 2001. I projected that if what the EBC was doing was correct, that the population—let me read for you, Mr. Speaker, with your leave, from *Hansard* on that debate:

“If you take the EBC’s figures...”

—and I am quoting here—

“and you work backwards and say that really is about 56 per cent of the population, then we should have a population approaching 1.8 million. We will find out very soon. The Government should be in a position to say very soon, because we have had a census recently. The Central Statistical Office should be in a position about now, or in the very near future, to tell us if, in fact, the population is in the order of 1.7 or 1.8 million so as to justify a voters’ list of 947,000.”

That is my *Hansard* statement of Friday, February 02, 2001.

We have since had the data. The population is supposed to be approximately 1.3 million, and these are the facts. How come, in the face of this, a Parliament can just swallow the new set of numbers from the EBC. [*Interruption*] I am going

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along with supporting the increase in the number of seats, but I am saying whether it is 41 seats or 50 seats, as the case might be, yes, increase the number of seats, but certainly there is need for this Parliament to examine properly the source of this data to ensure that the numbers are not just random numbers and, therefore, the whole behaviour of the Parliament about defending the EBC or attacking it ought not to be on the table. We are looking for truth and correct numbers.

Mr. Speaker, I am very unhappy about an independent commission providing us with random numbers to be the basis on which we conduct an election in this country. If Members of Parliament in this country are prepared to accept that, then the country should have a look at all of us and ask if we deserve to be in this place. This is just not right, especially in a situation where we are using the first past the post system.

I want to touch on one other matter and that is Tobago. Some of my colleagues say that we would like to see the Commission rethink the Tobago situation, so as to give Tobago another seat, so that in the scheme of the expanded Parliament, Tobago would have three seats as against two. Ten years ago, if the PNM had said that, I am sure there would have been agreement. In those days, it was deemed that the PNM could not have won Tobago East, North, Central or West. Today, the PNM holds the two seats in Tobago and there is a feeling that if there were three seats, the PNM would win all three. I do not know if that is true.

That is not the point I am arguing, however. The point that I am arguing is this: the country is Trinidad and Tobago. In recognition of that, Tobago was given two seats, which had a weighting in the Parliament in such a way that the Tobago constituencies were smaller in number than the Trinidad constituencies so as to give Tobago a certain parliamentary weighting of two out of 36.

If you have a parliamentary rating of two out of 36 and then you expand the Parliament to at least 41 and you give me two out of 41, you are weakening my position in the Parliament. I am saying that Tobagonians should not accept that. In today's Parliament, the strength of Tobago in the Parliament, the Constitution, the earlier arrangements said Tobago would have that weighting—two out of 36. You are going to 41; you cannot have half a seat, so give me another seat.

What is showing up here? When you look at the Tobago constituency, there was a time when Tobago's population was standard for a long time. It has been growing recently, so Tobago now has an electorate of—let us assume for a moment that the EBC figures are right. What we are seeing here is that it is

possible in Trinidad to get a seat the minimum size of 20,000 and in Tobago you can get a seat of 20,000. So, over time, if we accept this EBC report, in the current state, you have a Tobago seat equating to a Trinidad seat in terms of population, so Tobago would have lost that which it was given. When you look at the numbers, because Tobago's population has grown, you see a Trinidad minimum 20; Tobago maximum 20. So it is possible to have a Tobago seat and a Trinidad seat of the same size. That would be the first time since 1962 that would have happened. All along the Tobago seats were considerably smaller in terms of population. It has now merged to be almost equal to Trinidad. Therein lies the argument, Mr. Speaker, that in the increase in the size of the Parliament to preserve Tobago's position as weighting in the Parliament, there must be at least another seat in Tobago.

All Tobagonians should take note that this is their fight; this is their argument. It is a logical and reasonable argument and has nothing to do with who wins one, two or three seats in Tobago. I am saying to my colleagues, the Member for Tobago East and the Member for Tobago West, that they have a duty to ensure that they have Tobago's weighting at least maintained; and Tobago's weighting in the Parliament cannot be maintained by two seats out of 41. To accept two seats out of 41 is to accept a dilution of Tobago's strength in the Parliament and that ought not to be accepted. That is why the PNM is saying that we accept an expansion in the number, but we are also asking the EBC to re-look this issue of Tobago.

Dr. Moonilal: So, on the matter of the Tobago seat, you are suggesting that the seats be increased to maintain a weight that would be consistent—

Hon. Dr. K. Rowley:—with what was there before.

Dr. Moonilal:—with what was there before. You are suggesting, therefore, that there is a proportionality with the number of Tobago seats in the Parliament vis-à-vis the size of the Parliament; that there is a proportional relationship that must be maintained, notwithstanding the warm-bodied electorate. You are giving an argument for maintaining proportionality vis-à-vis the size of the Parliament. That is one point.

The other point for you to comment on is: Would it not be natural in the scheme of things, as constituencies increase to 41, maybe 61 or 71 at some time, and the numbers of electors go down to reflect better representation, X, Y, and Z, that it is natural that the seats in Tobago would also increase over time?

Hon. Dr. K. Rowley: Not necessarily. If you increase the number to, say 55, and the number of persons in a seat goes down, it will go down in Trinidad. Trinidad might end up with 53 or 51 and Tobago gets four. I am saying that our

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predecessors saw the need, in the context of the country being Trinidad and Tobago, to acknowledge Tobago's special relationship in the country. Remember, we are not Jamaica; we are not Guyana, we are Trinidad and Tobago. Our Constitution and our country recognize Trinidad and Tobago. We call ourselves Trinbago; we call ourselves whatever, but we are Trinidad and Tobago.

In recognition of that, a special arrangement was made for Tobago to have more seats in the Parliament outside of the formula that would have required a certain number of persons before you get that extra number of seats. We need to preserve that. As we agree to expand now, we cannot preserve it now on the two seats. Once you go beyond 36, you are diluting Tobago. That is the argument for a third seat in Tobago.

I would say, if there are three seats in Tobago, you get three bites at the cherry. When there was one seat, did you all not win one seat in Tobago? If there are three, you have three bites. Who wins does not matter. [*Interruption*] It might matter, but that is not the basis on which you do it.

Mr. Speaker, my own view is that, in today's world, representation and elections are available to us. I would rather see us have a larger Parliament, allowing a prime minister to appoint a Cabinet and leave a big Back Bench of people, full time to the House, who could carry out parliamentary duties and a reduction in the Senate, especially a reduction in the number of Senators who are in Cabinet.

When Senators were first allowed into the Cabinet, there was a limitation on the number. Later on, that was changed to allow any number. If we are to develop our democracy, we develop it on the basis of elected politics and not nominated politics. I am all for a much larger elected Parliament. As we move towards 2020, that is what I would recommend.

Mr. Speaker, we have a long way to go. We are talking about Vision 2020 and about becoming a developed country. We have a long way to go and sometimes one can get cynical and wonder if we can make the trip; but we will only be able to make that trip if we are able to differentiate between good sense and foolishness. We have a penchant in this country for moving towards the foolishness.

I do not know. Probably, I am getting old and as I get older I get less patient with these things. My colleagues invite me a lot to anniversary functions, especially the Port of Spain and Arima Regional Corporations, and I do not go. Every single year there is an anniversary, there is a mud mas'. Is that the only way

we can celebrate the anniversary of one of our corporations? One year there can be an art exhibition; another year, a sporting something. Let us get creative; let us get serious. The minute there is an anniversary anywhere in the country, there is a mud mas'. I do not mind mud mas' on Carnival Monday. Mud mas' has its place. My partner, the Member for Laventille East/Morvant, came to hug me up with a mud mas' on Carnival Tuesday in my white sailor costume. He almost got a right hand, you know. Mud mas' has its place on Carnival Monday. Every time I get an invitation—and Port of Spain City Corporation is the chief offender; capital city. I would love to see a year the Port of Spain Corporation, in celebrating its anniversary [*Interruption*] You, too, Chaguanas, same thing! Sugar and Energy Fest—mud mas'! Sugar and Energy Fest—same thing! Do not separate Chaguanas! We need to raise the bar.

We have serious matters before us. Yes, we will have our political cut and thrust and if I can score a point against you, I am going to score it. If you can score against me, then score it! But let us get serious and be able to differentiate between sensible things and nonsense. If we can do that, this is the fundamental pillar—how people are elected.

We had two elections here where, in one instance the results were 18/18 and in another instance 20/16. Where the result was 20/16, on the night of the election, of two constituencies, it came down to two or three polling stations in the end. That is the difference between government and opposition. In that situation, you have to be particularly careful that your electoral boundaries are correct, your numbers are right and your voting behaviour is correct. We had a Member of Parliament making a case, having been lucky in the courthouse, that she must be allowed to live in Valsayn and vote in San Fernando, and wanted me to accept that. She lives in Valsayn, but wants to claim the right to vote in San Fernando in a first-past-the-post system where you win a seat by a polling division determining who is government or opposition. We cannot be serious.

Until we address these serious issues in a serious way, we will always be missing the forest from the trees. There is a lot that has to be done in the electoral process and I am recommending to all my colleagues that even as we accept the expansion of the Parliament, we look at the number and the source of these numbers.

I thank you, Mr. Speaker.

Dr. Roodal Moonilal (*Oropouche*): Mr. Speaker, I assure Members that it is not my intention at all to seek an extension of my time. That would have been confirmed because during the contribution of the Member before, I got an

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opportunity to ask him several questions to which he responded. That was helpful because it means I do not have to carry on, on those points.

Mr. Speaker, there is a lot that has been said by the Member for Diego Martin West, with which I am in agreement. In fact, very few matters of disagreement exist. Invariably, it would be over politics and laying blame on one party or another; one administration or another. At this time, I have neither the will nor the energy to deal with that. Maybe I will summon it as I go along, if my friend, the Member for Laventille East/Morvant provokes me sufficiently.

I want quickly to get to a point on which the Member for Diego Martin West spent a considerable time. I want the Member also to feel free to interrupt my contribution to ask questions as I would also be asking questions of the Member on a very serious matter that he raised concerning the discrepancy in the numbers produced by the EBC in 2000 and thereafter.

I use the Report of the Commission of Enquiry into the Functioning of the Elections and Boundaries Commission, May 2002. As we all know, this Commission undertook its business in a very heated political environment; in an atmosphere that was conflict ridden and with enormous bacchanal and so on around the purpose of the Commission. A lot can be said on that, but I am not saying anything more. There is a report whether we like it or not.

What I found startling in the context of the contribution of the Member for Diego Martin West is that the report acknowledges the discrepancy in the figures between 2000—and there is a figure, 938,000, quoted here—the Member for Caroni Central made that point—which drops remarkably by November 2001 to 844,000 according to the data from the EBC investigation enquiry. We may be off by 1,000 or 2,000, but it supports the argument by the Member for Diego Martin West that there was a serious and dramatic fall in the numbers.

The Member raised a motion and the Parliament debated it. This matter would certainly have been in the public discourse and receiving public attention. I am not sure if the Member would have written specifically to the EBC asking, as a Member of Parliament and as a concerned citizen, for reasons why this was done. However, the Member should not even have had to do that because the matter is in the public domain and it is their concern to maintain their credibility and integrity.

Dr. Rowley: I thank the Member for giving way. I am jogging my memory here. I distinctly recall, before the Motion, a question was filed and the Prime Minister had to answer it because he had responsibility for that portfolio. Prime

Minister Panday answered the question. I distinctly recall being offended by the answer because the answer took the form of his reading a letter from the EBC, which letter, to me, was gross impertinence. A Member of the Opposition who was raising a question found out what was going on by having the Prime Minister read the response of a public servant, which was quite impertinent in its content.

Dr. R. Moonilal: So we can establish that there is a letter on record that was read by the then Prime Minister, concerning your concerns.

Dr. Rowley: I cannot remember the details—

Dr. R. Moonilal: I just want to establish—it may become important later—that the EBC responded to your concerns and, of course, in a derogatory manner. The then Prime Minister read that letter as an answer to your question, so it is part of the public record.

What I find amazing is that in the Commission of Enquiry report—and others here would have studied this report in more detail—and the commissioners were appointed, I think in 2002—correct me as I go along—under Justice Deyalsingh and included Dr. Noel Kallicharan, Prof. Carl Theodore and so on. Amazingly, they make reference, on two occasions, to the fall in the numbers, but there is, as far as I can see, no explanation.

The Commission of Enquiry itself would not have found that significant enough to merit a response one way or the other meaning that the EBC must be asked to explain whether it is ridiculous or mad or inaccurate that the Commission of Enquiry did not call the EBC to book, asking it to explain the discrepancy and to put it into the record.

Whether or not we accepted the explanation, there would have been an explanation as part of this report, but there is none. The commissioners may really have done us a disservice if, on such an important matter that you raised, that was in the public domain, the EBC had to have knowledge of, so much so that they could have written to you or to the then Prime Minister to read, and it was completely ignored by the Commission of Enquiry into the EBC.

Dr. Rowley: This enquiry took place in full public view. There was this motion in the Parliament. Granted that the commissioners got caught up in the political fray, and, as you quite rightly mentioned, the nature and time of the enquiry, what struck me also was that the press, which stood through the debate in the Parliament and through the enquiry, never raised this issue. So here we have the Parliament not interested, the commissioners missing the point and the press; all of that together speaks ill for the country as a whole.

Dr. R. Moonilal: There is a reference on page 82 to the accuracy of the 2000/2001 electoral list, in which the report acknowledges that the electoral list was “not as accurate as it should have been”. What do they mean by “not as accurate as it should have been”? We are talking about over 100,000 names. It was hard for me to understand that a commission of enquiry set up by the government to enquire into the EBC and the electoral list could not find it useful to ask the EBC to tell us what happened to 120,000 names.

One can read into that several matters, involving politics, incompetence on the part of the commission of enquiry and the attorneys. There are also persons who believe that the whole enquiry was really a political gimmick to find voter-padders and so on. That is fine. If persons break the law, whether it is with regard to drugs, crime, stealing or voting, they must be held accountable. If the Commission of Enquiry saw the need to track down persons and get allegations of voter-padding, but did not see the need to ask the EBC to explain where 120,000 names went, this is a failure as well of the Commission of Enquiry established by the government in 2002. It was a very serious breach as far as I am concerned.

The Member for Caroni Central made another point—and he has studied the arithmetic of it—that according to the logic and formula that the Member for Diego Martin West has been invoking now for almost a decade, the numbers in the report before us, where the complete electorate is posted at 871,000 in Trinidad and 37,000 in Tobago, are seriously flawed.

12.00 a.m.

I am taking the word of the Member for Diego Martin West, as well. Mr. Speaker, we can take the word of the Member for Diego Martin West but not the word of the Member for Diego Martin Central, is that the point?

The Member for Caroni Central is telling us, using the formula—

Dr. Rafeeq: The Member for Diego Martin East said that approximately 56 per cent of the people will be 18 and over and voting; 44 per cent will be less; if 908,000 is 56 per cent, then the 100 per cent will be approximately 1.07 million. That is all.

Mr. Valley: You just said 1.8 million. That is wrong.

Dr. R. Moonilal: This leads to an interesting debate between the Members for Diego Martin Central, Diego Martin West and Caroni Central. I am just following the logic.

Hon. Member: That leaves you out.

Dr. R. Moonilal: I am just following the logic.

Mr. Valley: I simply had a little difficulty, that if 947,000 provided 1.8 million, I do not know how 908,000 can provide the same 1.8 million. First of all, you said 1.8 million.

Dr. R. Moonilal: Member for Diego Martin Central, would you accept that using the formula and the very deep concerns of the Member for Diego Martin West, it is possible that the figures in our report before us are also flawed.

Mr. Valley: No, I do not think so.

Dr. R. Moonilal: All right. Well, we will come to that.

Mr. Speaker, it is my view that given the concerns of the Members for Diego Martin West and Caroni Central, we still have a problem here. It is said in the thriller movies: "We have not found out who have done it." We still have a culprit at hand. We still have someone at large; a culprit, the butler. We need now to clarify with the Elections and Boundaries Commission exactly what they are doing to give us this figure. If they were making mistakes before, we are suggesting that suddenly they got bright and they are not making mistakes again. [*Interruption*] Good morning, Member for Chaguanas.

We accept the concern and the logic, but it appears that they are continuing to give us, in the Parliament, a report that is severely flawed. What are we going to do, wait until it is an election and have a set of bacchanal again over numbers, who thief, who did not thief, who voter pad and house pad or are we waiting for the next government to call a commission of enquiry to explain all of that?

I am suggesting that is a very serious concern. Let us take this report and send it to a very small committee that will invite persons from the EBC, it cannot take too long, to come and explain themselves with the numbers. It cannot be a miracle. God forbid, if it is a miracle and we cannot explain it, surely, I believe that there are big men and women at the EBC who are all qualified. There are many experts in their field, but they should be able to explain what they have given us. We, as Members of Parliament, should not accept it pushed down our throats.

I am waiting for the members of the Elections and Boundaries Commission to come to a meeting. I would like to be on a committee when they look to the Member for Diego Martin West and say: "Member for Diego Martin West, you are wrong, this is the apparatus we used, formula 1,2,3"—and prove him wrong.

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Otherwise, if he is right, it is more frightening. I prefer if he is wrong. If he is right—[*Interruption*]

Dr. Rowley: Do not get me wrong, I am not saying that this number is right or wrong. It might very well be right.

Dr. R. Moonilal: Of course!

Dr. Rowley: I am simply saying that the source, which generated the obviously wrong numbers of 2000, is the same source that I am now being asked to swallow from. It might be right, but one has to take a position that whatever they give you, you accept. Is that reasonable?

Dr. R. Moonilal: I am agreeing, but I want to make the point. I want to challenge this logic. Where you have come to the firm and absolute conclusion that their data before was wrong, based on your scientific method, how could you come to a conclusion that they are absolutely right, now? You cannot! You have to allow for an explanation.

Dr. Rowley: In 2001, we had two sets of data. Those two sets of data came from the same source. We had the CSO data and the Elections and Boundaries Commission data. The CSO was consistent in its projections over the years. The deviation from the consistency came at the Elections and Boundaries Commission. What we were presented with was a situation that said that persons 18 years and over were a larger number of persons than persons 15 years and over. On that basis alone, I came to the conclusion that the Elections and Boundaries Commission data was wrong. I am not in a position with this number to say to you that I have done that analysis and it is right or wrong here.

Dr. R. Moonilal: You cannot say it is right. The long and short is that the data in my hand, you cannot say that it is right.

Dr. Rowley: If I go back to my own analysis that I did in 2001, I would say it is right, because of the projections that I used then. If it was approximately 800,000 then, after four years you tell me it is 870,000 I would say that sounds reasonable. You would have grown in that four-year period from 800,000—870,000. I would think, if I have to bet, that this is right. Understand, we are now being told five years later that the voters list is 870,000; when five years ago, when it was supposed to be right, we were told that it was approximately 900,000. It is more than likely that this is right, because the analysis of 2001 projected this kind of number. Certainly, the 2000 figure was wrong.

Dr. R. Moonilal: You have no faith in the Elections and Boundaries Commission generating this data. You have little faith in the EBC. It is the same source.

Dr. Rowley: The numbers they produced in the Parliament for 2005 satisfy my analysis that this is the figure I expected and, therefore, this, I think, is right. But coming from the same source, I have to question it.

Dr. R. Moonilal: All right, you do not have complete faith in the figure.

The other matter related is whether this figure is based on CSO data or the Elections and Boundaries Commission data, because the Member was making the point before that there was a discrepancy between CSO and the EBC.

Dr. Rowley: CSO data is the census data. EBC does not have a census data.

Dr. R. Moonilal: They feed off the CSO.

Dr. Rowley: Let me deviate.

Dr. R. Moonilal: Might I suggest, that since there is no complete confidence in the figure, as a gambling man you may want to gamble, but I do not believe that the Parliament should gamble. I do not believe that we all should gamble; you can gamble.

Dr. Rowley: Member, understand this. I do not know if you were here. In 2001, we did not have the census data of 2000, we have since had that data so we are in a better position now to evaluate the Elections and Boundaries Commission's numbers. Based on the census data, this figure is more than likely right, but at the time in 2001, when we were arguing the 2000 position, we did not have the census data. That is why I said then, that we will soon find out. We are now in a position to find out and we have found out, because they have given us a report that is now in step with the census data. The census data says population 1.278 million, voters list 870,000. That is what we expected!

Dr. R. Moonilal: Fine.

The Member for Caroni Central raised the concern that given the formula, this may also be wrong. The Member raised very critical issues concerning the numbers. I could understand that he would want to join his colleagues now and support the Order. Do you not think that the Elections and Boundaries Commission owes it to the Parliament, the representatives of citizens and all the electors, to explain themselves properly once and for all how they arrived at this figure, which we still have questions about? The Member may gamble on it but we still

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have questions on it. Do you not think that the Elections and Boundaries Commission owes the House an explanation for this, if not for the very serious discrepancy of 2000, which they went with and which no commission of enquiry came to the bottom of, in any case?

I would submit that the Elections and Boundaries Commission and their representatives—I am not talking about the chairman and those elderly appointees, but their technical people—should present themselves to a committee of the House and explain their data and clarify how they arrived at it. They should include Members from both sides of the House who are concerned with this matter and want to put it to rest once and for all, otherwise we will have a figure that, again some Members are happy with and others are not.

The Member for Diego Martin West knows his history. He knows that in this country we have had electoral-related problems from Thy Kingdom Come; whether it was voting machines, gerrymandering boundaries, house padding or voter padding. This is a country that has never had peace with electoral systems and personnel. We never had peace! I believe that this creature called the Elections and Boundaries Commission, just like the service commissions—*[Interruption]*

Mr. Valley: What system would you use to command the EBC to attend the Parliament? This is an independent commission. What authority does the Parliament have to request or command?

Dr. R. Moonilal: The Member for Diego Martin Central is immediately reading into me authoritarian government; I am a Minister; I am the Government. We are the representatives of people. We are citizens. Do you know your political party's general secretary and political leader can go to the Elections and Boundaries Commission to make enquiries on any matters? They can call the Elections and Boundaries Commission to explain on any matter. The EBC is there for the general secretary and political leader of any political party: PNM, UNC, NAR, DPP, DPT, or whatever they call themselves.

Mr. Valley: Are you saying therefore, what you are suggesting is that if you wish, you could go to the Elections and Boundaries Commission and ask them to explain?

Dr. R. Moonilal: What I am saying to you, Sir, is that bearing in mind your colleagues as well—both Government and Opposition debating this matter—have come to a conclusion that we would like more information and explanation on the composition of this figure and their method, to clarify ourselves as a Parliament,

not as a political party. That is the difference here. I am not talking about UNC/PNM, I am talking about Parliament. As a Parliament, a group or committee of the Parliament, without any constitutional authority to command direct and order, we seek an audience with the people of the EBC. They cannot be animals. We can discuss this matter because we would like to know.

Mr. Valley: If I am hearing you correctly, what you are saying is that we should get on and adopt the report and we can agree, as Members of the Parliament, to request—we could even ask if you want it to be nice—the Speaker to inform the Chairman of the EBC that a small committee or Parliamentarians would like to speak with respect—

Dr. R. Moonilal: Mr. Speaker, at 12.15 a.m. I can tell my friend that you first put on underwear and then your pants. You do not do it the other way around. You cannot, I mean nicely, pass the Order, complete it, yes we accept and then say: “Come let us find out from them what to do.” It is akin to putting on clothes wrong side. You cannot ask for an explanation, when you have already formally accepted. Then, what is the purpose? My suggestion—

Mr. Valley: No, I think you are mixing up the things. There are two issues; one is the expansion of the Parliament to 41 seats. The other is the issue with respect to the numbers. From where I sit and from what I am hearing, there seems to be agreement with respect to the expansion of the Parliament to 41 seats. There is also the feeling that it should even be larger. Therefore, I think you want to deal with the accuracy with respect to the numbers.

Dr. R. Moonilal: My hon. friend, the 41 is based on numbers. The 41 or 61 seats cannot be based on numbers, composition and polling divisions. The 41 could be 51 if these figures change. If the 870,000 changes, that could be 51 seats, given the formula. It cannot be a case—Surely, you have the majority, and in due course you can pass this and we will be out of here. You cannot keep in your focus that 41 seats are what we are going for, while we are questioning how you arrived at 870,00, vis-à-vis 945,000 or 938,000, five years ago. I cannot separate it as the Member can. I want to end there because I want to move to a couple of other points.

It is my humble view that—given the arguments that have been made by the Member for Diego Martin West, the concern of the Member for Caroni Central and the concern of all Members generally on the legitimacy, credibility and integrity of the numbers, method and their formula—it may be useful to hold this matter for a day or two, invite members of the Elections and Boundaries Commission

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to meet a group of the parliamentarians to discuss and clarify this. My suggestion ends there. I am ready to move on with my next point. I am finished.

Dr. Rowley: Given what we know now and what we knew then, the concerns expressed then and those expressed now, would you say that given the importance of these numbers to our governance, that the call for an enquiry into the EBC at the time it was done in 2001, was valid?

Dr. R. Moonilal: The call for an enquiry into the EBC at that time, to my understanding, had to do with questions of the conduct of political parties and political operatives in collusion, possibly, with the Elections and Boundaries Commission and its officials. That was my understanding of why the Commission of Enquiry with established. As far as I am concerned, the matter of numbers is a very serious matter by itself.

I want to move on to another issue. I quickly want to give my views on the matter of the expansion of the Parliament. The Member for Diego Martin West has spent two decades in the House. Apart from the Members for Diego Martin West, Diego Martin Central and, of course, the Father of the House who have been here for a generation, many of us, including myself, are really freshers in the House. There will come a point in time when what we are participating in must come to an end. This cannot go on forever, this must end very soon. We cannot continue to run this British model of parliamentary politics. We are faced with the challenges of public administration, the plurality of the society and the globalizing world. This has to come to an end.

Briefly, some of our elder MPs will know the British history. When they invented this parliamentary model, this came about where Members would leave one part of England and take 10 days, by carriage, to come into London to attend Parliament. They came from the midlands or wherever, to tell us what were the views of those folks out there and what they are thinking about European expansionism. They may not have had newspaper and radios so you wanted to get their views. They were representatives of the people. That is the origin of this parliamentary model. It is not like today, where you can follow news in Oropouche, Toco and Arima every morning, where everybody knows what is happening.

In a recent poll, would you believe 67 per cent of the persons polled said that they do not see their Member of Parliament, meaning the Lower House Members of Parliament? I was shocked! I expected that number to be 99 per cent. In this parliamentary model, Members such as the Member for Ortoire/Mayaro, represent

areas where they may need a helicopter to visit. Member for Nariva, you represent 26,000 people, modern politics has emerged to a point where—

Do you know some people feel that every Sunday morning, when they open their windows they must see their MPs on the road? Sometimes persons would tell me: “Doc, you must come and walk around the place.” This is a 10-mile radius, through cane fields and approximately, 50 villages. The customer is always right. The problem is not the consumer; it is us. They believe when they open their doors on Saturday mornings, the Member for Ortoire/Mayaro should be walking along the road.

They believe when they call on the mobile phone we must quickly answer. I spent nine years at university. I did three degrees and then I got elected. Five o'clock one morning, someone called my house to tell me that their cesspit overflowed. That is politics. That is the system. People believe that their Member of Parliament must fix the drains, roads, bring street lights and get jobs for their children. They believe that is the role of the Member for Parliament. When this model was created, the role was to come here, speak, discuss the issues of the day, bring the knowledge from your constituents, wherever you come from, raise issues, ask the Government to account, and raise questions and Motions. When this was invented, it was not meant that every Member of Parliament would have to take care of box drains.

Mr. Imbert: That is it. Where are you living?

Dr. R. Moonilal: If the wall you built would stand, you would have a leg to stand on, but that is a “next” matter.

The time has come when we need fulltime, full-paid Members of Parliament in small constituencies. As far as I am concerned, a constituency should be approximately 10,000—15,000 persons. If a man or woman is elected fulltime, he or she should not have a job again; they are here representing and following up on every matter of their constituents.

The other point, which is a point in Jamaica, is very relevant. Members of Parliament should be given some economic resources to meet the needs of their constituents. Imagine, there is someone elected called a local government councillor. When elections come, MPs could nominate, interview and screen. When someone becomes a councillor that person has resources to build drains, fix street lights, roads and everything and the MP then begs the councillor: “Chief, we need to help a constituent.” Could you imagine the paradox in the system itself? Local government has more resources than Members of Parliament. As the system emerges, that cannot work, because the people voted and they would say: “We vote for you.” Many

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people do not know who their councillor is. Many people look at the Member of Parliament and call him councillor. They do not know. You have this big position but you do not have the resources.

In Jamaica, Prime Minister PJ Patterson just approved, in his national budget, an innovative method where they are giving each Member of Parliament access to resources from the Ministry of Finance, for development programmes in their constituency. The Member of Parliament, whether government or opposition, will draw down resources within a framework, from the Ministry of Finance, to deal with development programmes in their constituencies. We need to get a structure, so that Members of Parliament can function.

If you are a Government Minister—many of them are always travelling up and down the world, out of the country with executive duties and Cabinet meetings. In fact, the Member for Diego Martin West was telling us about the Cabinet Committees. They are expected to come to Parliament and remain until 12 midnight and participate in parliamentary committees. They have their constituents waiting for them, expecting a drain, part of a road paved or materials. They are expected to do all of that, but it simply cannot continue.

We must have a system where a Prime Minister or President, whatever you call him or her, pulls a Cabinet outside the Parliament. A Member of Parliament should not be a Cabinet Minister. We should put Members of Parliament to do the business of the constituency and let the Prime Minister or President pick his or her Cabinet and run the country.

Mr. Imbert: That is the American system.

Dr. R. Moonilal: We should do away with the Senate. The Senate must go down the drain. That was when the King and the Lords would call the Barons, the wise men and women to the courts. Where in Trinidad and Tobago do we have a Senate and the persons are placed as Senators? These people may be brilliant people. They may be knowledgeable and able to help public policy. We should create a structure where there are advisers or advisory teams helping with public policy and ministries, but to take someone from the university and say: “Independent Senator, you are a Member of Parliament, you should make law.” Nobody elected them! They are there without the will of the people. This is not a modern system that could continue for much longer. We need to rethink the Senate. There may be no need for an Upper House.

Hon. Member: Fire Wade Mark and Robin Montano!

Dr. R. Moonilal: There may be no need for an Upper House. The next lunatic Minister of Labour, Small and Micro-Enterprise Development—There maybe no need for all these jokers we hear from the Senate on the Government side.

Mr. Speaker: You cannot—

Dr. R. Moonilal:—call them jokers? Okay, I withdraw that. Notwithstanding your laughter, I withdraw calling these people jokers. You cannot have those gentlemen and women in the Upper House making lunatic statements. They may not be jokers; they make lunatic statements. We need to do away with the Senate. That is my proposal; Senate, out in the dustbin immediately. We should increase the number of Members of Parliament to represent smaller communities, to bring full representation.

There is something called a representative. Many of you would have had the experience of going to the United States. The Member told us about the Congress. An American Congressman or Senator has a big operation. He runs an entire state or electoral district with office, staff, resources, an office in Washington and several electoral districts and they bring what is called representation. Representation is like medicine, law or teaching; it is a profession. But, in Trinidad and Tobago, we have this British descended model, where we are representatives on one day of the week. We come on a half day to represent people. This cannot work. Many of us, particularly in the Opposition, are without resources. There are those of us who must work to earn a living but we will not have the necessary energy and the time to give to constituents as we would like.

Members get invitations almost every day, for functions in their constituencies, how many can we accept? There is a limit. We need complete electoral reform. The Member for Diego Martin West agreed when I raised the point earlier. I said: “Do you believe that Members should be fulltime?” The Member said: “Yes, fulltime Members of Parliament.” The Member is really saying that he agrees with constitutional reform, because it requires reforming the Constitution to give way to this model. We are both thinking of constitutional reform. The problem here is what Lennox Grant pointed out in a column a few days ago. He said—*[Interruption]* Lennox Grant, your colleague.

Mr. Valley: You actually read that?

Dr. R. Moonilal: Do you not?

Mr. Valley: You mad!

Dr. R. Moonilal: I must mention that to him, he might know why.

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Lennox Grant said the problem is when you look at the agreement made at the Crowne Plaza, everything that the PNM said they wanted done, was done. Everything the UNC said should be done was never done. That is the problem.

Whether we like it or not, electoral reform and constitutional reform must come.

I want to address, very briefly, the matter of Tobago. I want to tell the Member for Diego Martin West and my colleagues on the other side, as far as I am concerned, Tobago could have 10 seats. It does not bother me whether Tobago has 10 seats. I have nothing with the numbers. If you have 10 seats, when the time comes you will lose all 10. There is no problem there. The issue is that we have to agree.

The Member for Diego Martin West made an interesting point; correct me if I am wrong, he said when the framers and drafters of the Constitution gave meaning to two out of 36 that was the Republican Constitution of 1976. Was it 36 in 1976? When did Caroni Central—The thinking behind that was not the voters but the number of persons being represented and the weight in the Parliament. What percentage is two out of 36? I want to get it, because it might be important later on to find out. That is .05 multiplied by 100. I do not know if you all understand how a calculator works. The drafters of our Constitution—I really like this point because I am going to challenge the Member for Diego Martin West to produce to me some authoritative literature that gives support to his argument on parliamentary weighing—felt that—

Let us correct the record immediately, the Member for Diego Martin West said he interpreted it to mean that two out of 36, the 5 per cent, was a weight so that Tobago, which is an integral part of the State of Trinidad and Tobago, really deserve 5 per cent of the Parliament of Trinidad and Tobago. That is the argument. That is a weight. Whereas constituencies would change the numbers of electors by a rationale determined by warm human bodies to their expansion or decrease in constituencies, in Tobago, that factor does not really add up. You do not really factor that there. It is really 5 per cent of the national Parliament that we need to get. We need to continue that argument, because I am not sure how that could hold water in any event. To me, 5 per cent is still small. You would want to give the island that makes your twin island a republic, 5 per cent. It suggests, to me, that was never a consideration in the first place. I am proposing that Tobago could have 10 seats; it matters not. Treat Tobago as equal partners. If we decrease the number of persons in a constituency, do the same thing in Tobago and put

three or four seats. I have often said; treat Penal/Debe like Tobago, because I believe the people of Penal/Debe are sweet and beautiful as the people of Tobago.

Dr. Rowley: The fallacy in that argument is that the country is not Trinidad and Penal; it is Trinidad and Tobago. You are missing my point. My point is that they started with two separate entities, Trinidad and Tobago. They made a country Trinidad and Tobago. In recognition of that nature of the union, you acknowledge a certain uniqueness about Tobago and you give them. I am not saying—

Dr. R. Moonilal: Penal people are unique. What about Penal people that you do not like? What have the Penal people done to you?

Dr. Rowley: No, no. Let us not get into the “like” story. Penal is a subset of Trinidad. You cannot have Trinidad without Penal. When you say Trinidad and Tobago, Penal is in the Trinidad. You want to have—

Dr. R. Moonilal: I finally understand now.

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. Dr. K. Rowley*]

Mr. Imbert: You said you were not going to ask for an extension.

Dr. Rowley: I must admit, I interrupted him many times. I beg the House to give him—how much do you want? Fifteen minutes more.

Dr. R. Moonilal: You do what you have to do, why are you bothering about 15 minutes or 10 minutes? The Standing Order has anything about 15 minutes?

Mr. Speaker: Are you putting it for the 15 minutes?

Dr. Rowley: Do you need more? Okay, 30 minutes. He would not take all.

Question put and agreed to.

Dr. R. Moonilal: I must thank you, Mr. Speaker. This is something that I really did not know in the couple of years that I have been here. You taught me something; you could actually extend the time by five or 10 minutes. I was not aware of that.

Mr. Khan: I thank the Member for Oropouche for giving way. The point by the Member for Diego Martin West is not as spurious as you may think. It happens in the twin island of St. Kitts/Nevis and Antigua/Barbuda. Barbuda has

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only 1,500 voters, but it was given a full seat in Antigua/Barbuda when the average of the constituency in Antigua is approximately 7,500—7,800, because they are two distinct geographic entities called islands.

Dr. R. Moonilal: I want to make two points concerning that. Had Penal been geographically cut off from Trinidad we could have used the same argument. I would then explain to the people of Penal/Debe that Tobago needs the greater representation, because our mud is joined. I understand that completely. I now understand why we need to think that way; because the mud joining in Trinidad and Tobago came in differently, so they require that.

I want to respond to the Member for Ortoire/Mayaro. That may happen in Antigua/Barbuda, St. Kitts/Nevis, St. Vincent and the Grenadines and everywhere, I still think we need to debate in Trinidad and Tobago whether or not the premise we held in 1962 is still valid in 2005. I still want to debate that. Member for Ortoire/Mayaro, I also want to know whether a promise that was held in 1962 is relevant and valid in 2005? In my book, if Tobago has development needs as Tobago has, there may be a case for a transfer of disproportionate resources to Tobago for its development. That is a case that can be built for any region, including Arima, Point Fortin, Naparima and Couva/Tabaquite. That is a case for resources, depending on needs. The Government does that. That is its practice.

In terms of having a weight in the Parliament for a part of our twin island state, that is equal to us. After how many years have we been Trinidad and Tobago; over 100 years? You will tell me, after we have been Trinidad and Tobago for so long, certainly from independence, one group of people is still unequal to the other? Is that still the case in this country; one group of people is still unequal, in that sense?

I want to make another point dealing with Tobago. I want the Members who are very concerned with this to know that over the last 20 or 25 years, the THA has emerged as the dominant political institution for the people of Tobago. The Chief Secretary walks around with Special Branch security. I do not know the terms and conditions. The Chief Secretary is the Prime Minister of Tobago. Tobago had a budget debate that was aired on television. Tobago makes its decisions. The Member for Tobago East told us yesterday that the closing down of the school is not our business, because the THA determines that. The Government is increasing the autonomy of the people of Tobago to have their representatives on the Assembly, but we need to get the weight equal in Trinidad. Why do we not get the weight equal in Tobago and send people from Trinidad and Tobago.

Dr. Rowley: Mr. Speaker, I must admit that the Member is—I cannot follow the logic. This is not the Parliament of Trinidad. This is the Parliament of Trinidad and Tobago. That is why representation in here for Tobago is a given. The name of our country is Trinidad and Tobago. That argument about Penal and whatever, is not relevant, and to try to cut Tobago off from this Parliament, by way of argument, is not right. This is the Parliament of Trinidad and Tobago. What you referred to in the THA is devolution at the local level.

In England, there is a Parliament in Wales which is equal to the THA. They cannot make laws but they are in fact a devolved authority in Wales. In Scotland, there is a Parliament that can make laws. It is a question of devolution.

The presence of the THA's budget and budget debate and the closing of the school are not inconsistent with Tobago Parliamentarians in the Parliament of Trinidad and Tobago.

Dr. R. Moonilal: I hear the Member well.

Before we talk about expanding seats, maybe we should consult the people in Tobago, rather than the people in Trinidad.

Dr. Rowley: We have representatives here.

Dr. R. Moonilal: The THA said that the representatives in Trinidad cannot speak in Parliament on behalf of Tobago; the THA speaks on behalf of Tobago. There is a statement on record, where the Chief Secretary said that the Members for Tobago, in the Parliament, cannot speak on behalf of the Assembly. We will get to that.

This is the final point. There is an inconsistency, to me, between our desire to increase the autonomy, the power, the legitimacy and the integrity of the THA, but by the same token holding on to this independent view as interpreted by the Member for Diego Martin West that somehow the two seats in Tobago meant that there is a way and that they have 5 per cent of the national Parliament.

My reading of the situation is as follows: It was agreed in the Constitution that Tobago must have two seats when, according to the number at the time, they could have had one. It was to ensure that they did not have one. Because of the numbers, they would have had one, but they had more than one in the Parliament, to represent the island; given that they may not have been able to make one. It has nothing to do with weighing in the Parliament. I cannot interpret anybody in 1966, saying Tobago needs 5 per cent of the Parliament and as we go along, they

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need 5 per cent. If we have 100 seats, they need five in the Parliament. I cannot accept that. Until we hear more solid arguments, we are not accepting.

The other point I want to make is that this is 2005. Those of us on this side certainly—I do not know about the others—have the right to challenge any position or historical argument. Today, when I look in my constituency the people do not have water and some villages go for two weeks without water. People do not have houses. They told me that since 2001 they have not had water.

I wrote the Minister of Housing a ton load of letters. Could the Minister of Housing deny that I wrote the Ministry of Housing a ton load of letters concerning houses? When I look at the roads in my constituency we really deserve, in my view, and maybe I can convince others, some special, national treatment in terms of resources.

Dr. Rowley: I notice the Member said he wrote the Minister of Housing many letters. I thought he would have concluded the sentence by saying: In response to the housing needs in his constituency, the Minister of Housing has ensured that there are approximately 400 houses under construction there now. Would you view that as a response to your request or as voter padding?

Dr. R. Moonilal: I will answer the question. This is good time for this type of debate. The Minister of Housing and indeed the National Housing Authority have responded to my letters and I communicated with my constituents, vis-à-vis housing. The Minister is correct; they have initiated two areas for housing in the constituency of Oropouche.

Dr. Rowley: How many houses?

Dr. R. Moonilal: Approximately 400, I think. I want to ask the Minister if he will be honest enough to also tell me whether the building of the flats on the San Fernando Hill was also planned before, who planned that, and who was responsible for selecting the site on the San Fernando Hill to put the NHA blocks?

Dr. Rowley: I do not know.

Dr. R. Moonilal: Good, the Minister says he does not know. For a Minister who is really on top of discharging his duty, I find it difficult to accept that he does not know. The Minister knows when he comes with the house padding he will also have an answer why there are 800 NHA apartments on the San Fernando Hill.

Dr. Rowley: It is an urban setting.

Dr. R. Moonilal: It is an urban setting. Why did the San Fernando City Corporation not seek local government planning permission for that? The Minister says that he does not know where that came from, so let us leave it there. I am sure as we settle on the Oropouche housing, I will be fighting for my constituents to ensure that they get housing there.

Dr. Rowley: You do not have to fight.

Dr. R. Moonilal: From my history with the PNM Government, it is a fight. It is struggle. Nothing comes easy with the PNM Government, if you live in Oropouche.

I have spoken about the concerns in Tobago. In the new Trinidad and Tobago, I want Oropouche and Penal/Debe to get the same good treatment as the people of Tobago. That is all I am asking for. I have not gotten into the politics to talk about the EBC and voter padding and Richard Bickram. I think someone else may want to deal with that.

I want to conclude by saying that the Member for Diego Martin Central is under command orders to get this Bill passed this morning, so it will be passed. Whether we call for a committee or not, that is irrelevant. At some time before passing this Order, because of the persistence of the Member for Diego Martin Central, it is incumbent upon the Parliament—if we are serious and if the Member for Diego Martin West is serious about the argument about the numbers—to have a committee comprising Members on both sides to meet and discuss, in a friendly manner with the EBC, to get to the bottom of their figures; what they are devising. That is what I want to suggest.

I also want to reinforce the point that, notwithstanding the money spent on the appointment of the Commission of Enquiry into the Elections and Boundaries Commission, the PNM Government failed to address what was probably the most critical problem raised by the Member for Diego Martin West, if it has merit, because they were busy chasing other people to give evidence on voter padding. That is where the Member for Diego Martin East has good experience.

Mr. Speaker, I thank you.

Mr. Manohar Ramsaran (Chaguanas): Mr. Speaker, I want to make one or two corrections for the Member for Diego Martin West. I was looking at the booklet before me and the figure here indicates that in 2001, it was 901,000. The Member for Diego Martin West spoke about 947,000. In 2004, it was 870,000. This is a discrepancy by showing 46,000 more than what we have in this booklet.

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That is why I use the word “untruth” from this side. I do not know why he exaggerated the figures. I believe that what was given to me are the figures that we should use. In 2000, it was 938,000 and in 2004, it was 908,000. I want to correct the figures given by the Member for Diego Martin West.

When I look at 1976, I want to read into the record what happened. It states:

“This Order may be cited as a Boundaries Commission Order. Trinidad and Tobago is hereby divided into 36 constituencies, the boundaries whereof are defined in the Schedule to this Order. This Order shall come into effect on May 24, 1976.”

When I looked at this, it is written in the Constitution of Trinidad and Tobago. I looked at the boundaries and how the constituencies were cut and I am quite impressed. For example, the discrepancies or disparities between constituencies are approximately 300—400 electorates. In Diego Martin West for example, in 1976, there were 14,862 electors; Diego Martin East had 14,310; Port of Spain West, 14,575 and the larger constituency such as Siparia, 15,374; Fyzabad, 15,274; La Brea, 15,091; Point Fortin, 15,203; Chaguanas, 15,000. The fact is that the disparities were small.

When I looked at what happened with this report, like the Members for Diego Martin West and Diego Martin East, I have a problem with what happened. When we look at the seats there are disparities. This is where I believe that this is flawed; how the seats were cut. For example, in Arima the new seats are: 20,000; Arouca/Maloney, 21,000; Barataria/San Juan, 21,000. That is a disparity of 1,000. I will talk about Chaguanas.

Dr. Rowley: I am glad you gave way, but before you go down that road, there is no set figure other than the average. If you want to argue that line you have to take the average, because then the law permits that a seat could be 10 per cent above the average or 10 per cent below. It is possible that seat A and seat B could have a 20 per cent difference.

Mr. M. Ramsaran: Point taken. I am not arguing that. What I am pointing out is that I had the honour of being the Member of Parliament for Chaguanas for the last 10 years and when I see what has happened in Chaguanas, I must talk about it.

For example, Chaguanas East has 20,193 electors and Chaguanas West, 23,277. There is a disparity of 3,000 votes and more. My friend, the Member for Diego Martin East, made the point when he last spoke, about Chaguanas growing and the “Greater” Chaguanas. I agree with him. We almost had a one-to-one on

what took place today. Unfortunately, Chaguanas East was not placed in the Greater Chaguanas area, it was placed—He also showed a map and I want to show the map. We have to understand what is taking place in this country and why people complain. I admire the Member for Diego Martin West for airing his views. If you look at the map, you will notice that the constituencies south of the East-West Corridor are huge areas, but you have to take a microscope to find Chaguanas East. *[Interruption]* It is not dense. No. I am making the point that Chaguanas East has 19,000 electors and borders 19 polling division. Chaguanas West has 23 polling divisions and 23,000 voters. Something went wrong here. I will read to make sure that people understand me. Let me read into the record what has happened.

Chaguanas East has 20,000 voters, 19 polling divisions; Chaguanas West, 23,277 voters, 23 polling divisions. It means something to me. I will go on. The three seats that are now held by the PNM in the Chaguanas Borough Corporation formed that constituency.

Dr. Rowley: Since the Member has the document, could the Member tell me how many polling divisions there are in Diego Martin West?

Mr. M. Ramsaran: I know the point he is making but that does not reflect anything. Here we have a new seat created. I would have expected some equality in the number of voters in a new seat.

Mr. Breaux: Maybe I am seeing it wrong, but it appears to me that Chaguanas West has 22,120 and Chaguanas East, 20,193. I want you to pick the seat that you want to fight and I will be fighting the next one.

Mr. M. Ramsaran: I would read the analysis I did. This would be more accurate: Chaguanas East, 20,193; Chaguanas West, 22,128. You are correct. When I continue analyzing the seats, the record will show that when we transposed the voters for the last election, we did that as a constituency. What we found is that in the Chaguanas West constituency the votes cast in the last election for the UNC were 15,133 and for the PNM 1,533 votes.

What the Elections and Boundaries Commission did, they put all the safe UNC votes in Chaguanas West and in Chaguanas East, what we have found out is that they have put 19 polling divisions: nine from Caroni Central and 10 from Chaguanas. These polling divisions make up the three seats that are now held by the Chaguanas Borough Corporation. When we talk about gerrymandering, that is gerrymandering. I too, agree.

Dr. Rowley: I tried to explain to you before. These are self-serving arguments. When you start to make up seats from 005 and Chacachachare Island and you are moving this way, when you get to Chaguanas, the number requires that you create two seats; you no longer have the option of going up north, because you have come from north. You cannot go west, because there is the swamp. You can either go south or east. Going south, you would start to affect Couva South and you would be leaving voters behind. The only place the EBC could have gone for a Chaguanas East seat is east. There is no gerrymandering there. The only place you can go to create a seat in Chaguanas is east; you cannot leave unattached polling divisions in Chaguanas and take it from the south.

Mr. M. Ramsaran: Apparently the Member for Diego Martin West is trying to tell us what has happened in Chaguanas. There is no fixed movement. How could you cut the boundaries? If they have shifted one or two and made both seats 21 polling divisions, I would have no problem. The numbers reached 21,000 each. They have formed a new seat in the Chaguanas area; Caroni East remains at 23,000, Caroni Central, 21,000, Chaguanas 22,000, but Chaguanas East has 20,000 and it is a very small pocket which includes PNM stronghold over time. I have a problem with that.

Dr. Rowley: Let me answer you. What I think went on there is that the growth in Chaguanas East is greater than Chaguanas West. I will take you a small wager; I am not a betting man, but I do know of the growth rate of Chaguanas East. By the time it comes around to the next report, do you want to bet that the number in Chaguanas East will be more than the number you have there? They took cognizance of the fact that the growth rate is greater in that area. If you are starting a new seat you give it the minimum level, expecting it to grow, because you are seeing growth in that area.

Mr. M. Ramsaran: Suddenly the Member for Diego Martin West is agreeing with the EBC.

Dr. Rowley: I agree with logic.

Mr. M. Ramsaran: That is not logic. These polling divisions will become constant over time. What they have done is that they have gerrymandered the seats.

Dr. Rowley: Are you afraid?

Mr. M. Ramsaran: No, I am not afraid of anything. According to Dr. Moonilal, we will win all, but that is not the point.

The point is that you cannot do that and say on one hand it is logic and on the other hand it is not logic. I cannot understand that. Your whole contribution was flawed, and now you are coming back to correct it. I have a problem with that.

1.00 a.m.

Mr. Bereaux: Hon. Member, you are not correct. You said that the three electoral districts where the PNM won in Chaguanas local government election are in Chaguanas East. That is not correct. The Longdenville seat that the PNM won is not in Chaguanas East, it is in Central.

Mr. M. Ramsaran: Mr. Speaker, part of Longdenville is in Chaguanas. If you are looking at it in that way there are five seats. The main make-up of the seats are there. That is a fact. There are other seats. For example, Longdenville is part of that seat, and then you have Cunupia and Warrenville. There are five former electoral districts.

Mr. Speaker, I am a bit concerned this morning. We heard arguments from the Member for Diego Martin East and Diego Martin West knocking the Elections and Boundaries Commission (EBC) for what they have done and calling the people by all kinds of different names, and now when I have my turn to talk about what is taking place, they are agreeing with the EBC. [*Interruption*] I will never withdraw that.

Mr. Speaker: Please, hon. Members, it is 1.00 a.m. Let the Member make his contribution. We cannot have five persons speaking at the same time.

Mr. M. Ramsaran: Mr. Speaker, I made my point and I am extremely unhappy with what has happened in the Chaguanas area. I went into this report and I did my homework. I want to read it into the record for future reference. There are 1596 polling divisions in Chaguanas West: UNC 611; 1791—2002 election—442 versus PNM 47 and so forth, and the list goes on. As I mentioned before, the total was 13,811 for UNC and 13,050 for the PNM. Mr. Speaker, this means that the PNM is going to lose its deposit in Chaguanas West.

I want to put this on the record. In Chaguanas East—and despite what you tell me if you move east, west, north or central—I would have been happy if both seats had the same number of electorates, because we are talking about the same area which is divided by an imaginary line and not even a main road. You could have shifted one of two polling divisions either east, west, north or south and created something that would be fair to us.

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Mr. Speaker, just to show you their logic, the PNM, 792 against the UNC 299; in 2823, PNM 276 against the UNC 80; in 2824, PNM 223 against the UNC 50; and the list continues like this. At the end of the day, it is still a marginal seat with the UNC having 7,096 to the PNM 5,854.

Mr. Speaker, this is what I am worried about. People come here and make noises. I believe they are bluffing. I do not know the reason for the Members of Parliament for Diego Martin East and the Diego Martin West coming here and making these statements against the EBC. The main part that I want to point out to them is that when you look at the Constitution of Trinidad and Tobago—I want to read this into the record and if it makes any sense to the Members opposite, maybe we could invoke this and do something about it.

“As soon as may be after the Commission has submitted a report under subsection 1(a), the Minister shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modification, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay the draft before the House of Representatives together with a statement of the reasons for the modifications.

If the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

If any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the President who shall make the Order in terms of the draft; and the Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the President in accordance with this section, shall have the force of law.”

Mr. Speaker, I believe that if Members opposite are serious and they are unhappy with the work of the EBC, we could withdraw this report and amend it to suit us—

Mrs. Job-Davis: Why?

Mr. M. Ramsaran: —whatever you are talking about. We can sit and deal with the issue, but to say that you cannot do that—[*Interruption*]

Mrs. Job-Davis: Do what?

Mr. M. Ramsaran: This is my submission. The Members opposite said that they were not happy with the EBC report yet, we could have a consensus. Mr. Speaker, I want to let you and the country know that the mere idea that they attacked the EBC and they have now agreed with the EBC in 2004 with the same members, if they do not know how to change the Order—they have the authority to do so. I just quoted from the Constitution where they could do it, and now they do not want to do it. I am in a quandary.

I am convinced that the less we make mistakes—and my colleague alluded to this—that the people who do the work in the field and sit in the office and pull the polling divisions together are influenced by persons opposite. I am convinced of that. At one time, my office was very close to the EBC. It was in the same building. I was told by senior staff members that the PNM Members of Parliament are always going there and trying to influence what the officers do in the divisions.

Mr. Speaker, I want to put it on record that this report is flawed; this report was made in such a way that the advantage would go toward the PNM. I make no apologies for saying that. When we did our research the results showed certain things. I do not want to say them in the public at this time. If this is how you want to run a country—by dividing the country, gerrymandering and keep creating doubts in people's mind—again, where are we going?

Mr. Speaker, the only way to deal with this issue seriously is to have constitutional reform. When we have constitutional reform and there is a one/man one/vote across the country, there would be no need for this. I am telling you and for persons who know the Chaguanas area, if things are not handled properly in there, there would be serious social problems in Chaguanas for the next election, and this has never happened before. I am warning you. You have divided the East-West Corridor along racial lines and we are not going to allow you to do that in Chaguanas. We are going to stand and preach otherwise, that you must not be allowed to do that.

Mr. Speaker, when we looked at the entire report all over the country, it showed that these boundaries were interfered with. I have no confidence in what the people did there. If the Members on that side are not bluffing—the Members

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for Diego Martin East and Diego Martin West—I am sure their leader is going to read the *Hansard* and he is going to see what they have said about the EBC, and then come back and make an about-turn late in the night. Maybe they are scared of something the Member for Diego Martin Central got involved in.

Mr. Speaker, the Member got up and talked like a giant this morning about former Presidents and Members of Parliament. He based his logic on various things, which was commendable in part. At the end of the day, if you are the Member you think you are, why not move that we send the report back to the EBC and let them look at the figures and then we could respect you.

The Member for Diego Martin West talked for 75 minutes and he gave us the impression that he is “holier than thou”—everything is wrong in the country, and that in 2000 everything was flawed. Of course, he quoted wrong figures. He gave us the impression that things are okay.

Dr. Rowley: You were sleeping.

Mr. M. Ramsaran: I was not sleeping. Look at the report! The report is there. Nowhere in the report are you going to see the figures that you called out. Nothing is there! Do you want me to read it again? Maybe you were sleeping.

Hon. Member: No.

Dr. Moonilal: Yes.

Mr. M. Ramsaran: Okay, I am going to read it. Mr. Speaker, the Member for Diego Martin West said that in 2000 there were 947,000 electors. The book before me is telling me that there were 938,000 electors. He said that there were 870,000 electors in 2004, and the booklet in front of me is saying 908,000. Why must he mislead the public by misrepresenting the figures?

Mr. Speaker, do you know what he did? He took the figures for Trinidad and Tobago in 2000, and in 2004 he took the figure for Trinidad. It is here. Read it! It is on page 1 at Appendix A. Read it! Do not come and follow them blindly.

Mrs. Job-Davis: Who did that?

Mr. M. Ramsaran: The Member for Diego Martin West did that. He misled people and then exaggerated the figures by a further 19,000. When you come to the Parliament you must speak the truth. The truth shall set you free. Do not come here and exaggerate and create the impression that something was so bad in 2001 and it was corrected in 2004 by misrepresenting the figures. It is there! *[Interruption]* The figures are there.

Mr. Speaker, I am very disappointed with the Government's side and I am also disappointed with the Member for Diego Martin West. At one time, when I heard him talking, I thought he was very serious about looking at the flaws in this Order and doing something about it, but albeit I am disappointed. He just used the time to "gallery" and also the Member for Diego Martin East when he made his contribution.

Mr. Speaker, we would like to tell the Member for Diego Martin East that the next time he talks in this Parliament he should apologize to us for misleading this House.

Mr. Imbert: For what?

Mr. M. Ramsaran: The Member talked about 51 seats and he said that he was not satisfied with the EBC and today he is here like a sheep in wolf's clothing. *[Interruption]* Withdraw the report! *[Interruption]* Mr. Speaker, everything is a joke in this Parliament. When you make serious issues, it is a joke. I always say in this Parliament that we are going down one way and that is trying to destroy all the institutions in this country.

I want to ask the Members on that side, that since they are against the EBC and everybody, to let us be serious about this matter and call in the EBC. I do not know if the Member for Diego Martin Central read the Constitution of Trinidad and Tobago. I do not know. This Order could be challenged. The Minister could send it back to the EBC. If they are really serious that something is wrong with it; let us deal with it in that way. Mr. Speaker, I recommend that this report be sent back and corrected. That is my recommendation.

Mr. Speaker, there is another area that I would like to comment on briefly. The Member talked about the Central Statistical Office (CSO) and the EBC. He is claiming that the CSO is right. My experience in Trinidad and Tobago is that the CSO would do a census, but the EBC publishes names of persons registered in a particular area. Those names are there and they are published and so forth.

I want to disagree with the Member for Diego Martin West, because the fact that the EBC gave you the names of persons living in a particular street in a particular village, that is accurate. To say that is not accurate and the census is accurate, I believe that something is definitely wrong with the Member's head. We have to look at it. Do not believe things blindly! The fact is that if you publish names, how could that be less correct than someone who would just come and give you figures off the hat? That is what the census does?

Dr. Rowley: Does the Member accept that there is some kind of problem with a growing electorate in 2000—the figure being 930,000 or whatever is the figure—and five years later it is 870,000? Can the Member give us any explanation for the discrepancies between those two numbers?

Mr. M. Ramsaran: Mr. Speaker, that question is very interesting. It could also have a very interesting answer. When one looks at population growth in Trinidad and Tobago, in 2002 the indicators showed that there could be a negative growth in Trinidad. It was predicted that the growth rate would be less than before. That is one answer.

Secondly, we have mass migration in Trinidad and Tobago because of crime, kidnapping and the murders that are taking place in this country. People are leaving the country in droves. Maybe this could explain it. There are people dying from AIDS. [*Laughter*] So there are many reasons. Birth control has now kicked in and families now consist of two children rather than eight or nine children. Maybe the replacement rate is not as high as those who are leaving the country or dying. So this would explain the cut.

My Speaker, I answered his question, but yet you cannot put logic in their heads because their heads are so dense. Maybe a geologist may have to examine it.

With these few words, I want to say again that this report is flawed and it should be withdrawn. [*Desk thumping*]

Mr. Ganga Singh (Caroni East): Mr. Speaker, I want to commend all those who participated in this debate. I feel that it would be remiss of me if I did not bring to the attention of the House what is really a systemic issue. We are all elected Members here. Some have been elected on several occasions. In fact, the Member for San Fernando East is really the longest serving elected Member of Parliament.

Mr. Speaker, under the Representation of the People Act, which is the system that governs the electoral process, having regard to the Order that we have been discussing here over the last few hours into the wee hours of the morning—I listened for any Member on the Government side raising the issue of the need for legislative framework for campaign funding in this country.

Today, in Trinidad and Tobago, there is wealth—windfall from oil and gas. The budget for this year is \$31.5 billion—and, therefore, there is need for us to address the systemic issue. That is the same point raised by the hon. Member for

Diego Martin West. The systemic issue—we could do it now; we could do it then; we could do it in the future—of campaign funding of political parties.

What is the current system? The current system makes a liar of all of us. The current system—each and every one of us—that is the same point made by the Member for Diego Martin West—under the Representation of the People Act sections 48 and 80 deal with election expenses, \$50,000—

Mr. Valley: That is a big issue.

Mr. G. Singh: I am flagging it, whether it is a big issue or a small issue. So, did the Member for Diego Martin West raise a small issue? The Member for Chaguanas did not raise a small issue nor did the Member for Oropouche respond. The point I want to make is that we need to address this issue of campaign funding. Do you agree?

Mr. Valley: Yes. Bring a Motion.

Dr. Moonilal: We need to debate it now.

Mr. G. Singh: We need to begin the process of the debate and the dialogue.

Dr. Moonilal: Now.

Mr. G. Singh: Mr. Speaker, campaign funding—funding of political parties and, by extension, the funding of candidates—is all part of a whole system that requires systemic change and it really points to constitutional change. This opportunity really presents us to discuss this issue and to discuss it at length. Mr. Speaker, we also have to deal with the issue of how we can protect the democracy in the context of campaign funding. How can we do that?

I intend to take the advice of the hon. Member for Diego Martin Central and bring a Private Motion to discuss this issue. [*Desk thumping*] I am giving you sufficient advanced notice so that your Members would be better prepared than they were on the HIV/AIDS debate. So we can then deal with all the issues of spending limits; the whole question of narcotics funding of political campaigns— [*Desk thumping*]

Dr. Moonilal: That is a serious matter. Drug money in party!

Mr. G. Singh:—and drug money moving into political parties. [*Desk thumping*] That is a serious matter in this country. In other Caribbean territories—

Dr. Moonilal: *The Sea Prowler.*

Mr. G. Singh: Mr. Speaker, the use of the State's resources through conduit funding into the political party. That is the incumbent party in Government at the time. There are several issues we have to raise and we intend to raise those issues in which there would be a Private Members' Motion.

Mr. Speaker, you cannot move toward 2020 and First World status and not address this issue. [*Desk thumping*] I want to take a line from the hon. Member of Diego Martin West: Why is this society so quiet? Why is this society so quiet today as it was previously—in the same context—about the necessity and the need for a proper legislative framework for the funding of political parties? That is the same point the hon. Member for Diego Martin West raised.

Mr. Speaker, with these few words, as I indicated to hon. Members, I would raise this matter, but I thought that it is a good juncture in which perhaps the chairman of the party, in his winding up, could perhaps indicate and signal the intention to support the Private Members' Motion which we would bring in this area. I thank you. [*Desk thumping*]

Hon. Franklin Khan (Ortoire/Mayaro): Mr. Speaker, thank you very much. I think we have had a lot of fun here this morning, and it was a very energetic debate. My only regret is that if six Members of the UNC did not talk for 75 minutes on the AIDS Bill—all of them saying the same thing—we would have completed this debate at a much decent hour.

Mr. Speaker, we have said that we are proposing this report for its adoption by the Parliament and on this side we support the report. We want to make it also clear that it is not a government Bill or a government Motion censure strict to, but it is a report of an independent commission that was laid in the Parliament. The tradition is that the Parliament has almost invariably supported the report of the EBC since “o-hi-o-ho”.

Mr. Speaker, just for the record, I want to wrap up by repeating section 71 of the Constitution which has been repeated by one or two speakers and it says:

- “(8) The Commission may regulate its own procedure.
- (9) The Commission shall be provided with a staff adequate for the efficient discharge of its functions. The salaries and allowances of the staff of the Commission shall be a charge on the Consolidated Fund.”

Mr. Speaker, section 11 says:

“(11) The registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Commission.”

Finally and most importantly, section 71(12) states:

“In the exercise of its functions under this section (of the Constitution) the Commission shall not be subject to the direction or control of any other person or authority.”

Mr. Speaker, having said that and based on some of the contributions, people started to border on constitutional reform. The Member for Diego West, I think, made a very scholastic contribution, in terms of analysing and he delved deep into societal issues as to how our democracy is evolving. The fact of the matter is that we seem to be confronting the issue of independent institutions in this country.

The EBC is an independent body under the Constitution, but I really want to make a serious point this morning in that Trinidad is coming to a crossroads, and we cannot have independent institutions if we are going to have independent persons. If we continue to dichotomize the society—if you are not left, you are right; if you are not PNM, you are UNC; and if you are not UNC, you are PNM. It is a black and white television and that went out a long time, since in the 1960s or the 1970s.

We have to produce a body of independent thinkers in this country, if we are to maintain the framework of our Constitution where there are independent institutions and independent commissions, so that when we staff these institutions by whatever procedure—be it through Parliament or through the Government or through the President—that people would respect the people that we put into those institutions, so that their deliberations and recommendations can have a broad-based acceptance by the larger community.

Mr. Speaker, three issues were really dealt with in this debate. The first issue is assuming that the 870,000 electorate is accurate, the rationale which the EBC used to come up with the principle of moving from 36 to 41 constituencies and matters related thereto, I think that logic had been well established in the report and it has been supported both on this side of the House and that side of the House.

We can easily argue that 41 seats are insufficient. The Member for Diego Martin East said that he thinks we should have 51 seats and the Prime Minister, in a subsequent debate said 61 seats. The fact of the matter is that there seems to be a

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general consensus that we should have an expanded Parliament. The constituencies should get smaller in number so that they would become a more manageable entity for Members of Parliament and, by extension, the expanded Parliament will give us the opportunity to run a proper committee system, where there would be a large enough Back Bench and Members who are not in the Cabinet can facilitate the committee system for more effective parliamentary representation.

The third aspect that was dealt with had to do with the commission of enquiry. Mr. Speaker, just to read into the record, the commission of enquiry was required to enquire into the entire process involved in compiling of the list of electors used in the 2000 and 2001 general election for all the electoral districts in Trinidad and Tobago with special attention being paid to the process as it relates to the constituencies of Tunapuna, Barataria/San Juan, San Fernando West, St. Joseph and Ortoire/Mayaro.

The systems and procedures followed by the Elections and Boundaries Commission to ensure the accuracy of the list of electors in 2000 and 2001, in circumstances where registered persons changed their place of residence from one registration area to another; registered persons who died, would no longer have their place of residence in Trinidad and Tobago, or otherwise cease to be qualified to be registered as electors in their registration areas.

Finally, the systems, procedures and processes followed by the EBC to ensure that Members of its staff exercise their functions competently and in accordance with the democratic principles and practices.

Mr. Speaker, the terms of reference were broad enough that the commission should have addressed matters raised by the Member for Diego Martin West, especially, as they relate to what seems to have been a flawed figure in the number of elected voters.

I want to make the point that the commission of enquiry had a series of recommendations and they were in a sense inconsistent. The first five recommendations were fundamental. The commission of enquiry recommended by a majority decision that the commissioners of the EBC tender their resignation to his Excellency the President—

Mr. Singh: Hon. Member, thank you for giving way. That matter was the subject of litigation and they were vindicated in that litigation.

Mr. F. Khan: I am making the point that the commission outlined these five recommendations. Mr. Speaker, what happened after that was that High Court Action No. 2081 of 2002 squashed its 52-page judgment. The judge held that the

report was flawed and these recommendations were contrary to law, and in excess of the jurisdiction of the commission of enquiry. This means that you have a system where you have an independent institution, and there was a commission of enquiry making recommendations and the High Court says that they went beyond their bounds and they cannot implement the recommendations.

The other 21 recommendations are matters internal to the EBC, where nobody has control to instruct the EBC to do it, save and except the one body of recommendations which said the Government should review the Representation of the People Act. We want to give the House the commitment that prior to the next general election that system would be put in place and those revisions to the Act would be made.

Mr. Speaker, we on this side would like to accept the EBC's report in its entirety. I do believe that the contribution made by the Member for Diego Martin West, in the context of the 2000 figure, is valid. He did indicate in his contribution that the 870,000 figure is now tending to be accurate in the sense as if he studied the demographics and the population growth and investigated the CSO's figures.

Mr. Speaker, assuming that the 870,000 figure is accurate, I think there is a very good rationale for this report. We have stated that we think the EBC has been fair-handed; the EBC has studied the information; we felt that the report was very analytical; we felt that it was fair; we felt that it was even-handed; and we felt that they did an excellent job in dividing the constituencies in Trinidad from 34 seats and adding five extra seats making it 39 seats.

The Member for Diego Martin East and I made an attempt to explain the demographics. We have added seats on the East-West Corridor, replacing the Arouca North and Arouca South seats; we have dealt with the population growth in Chaguanas East and Chaguanas West—whether you like the division or not, it is there; we have dealt with the Penal area where there is a population growth and Oropouche East and Oropouche West. For those who represent the eastern constituencies, we felt that they really took great cognizance of geography, recognizing that the seats were extremely too large and they have now replaced the three eastern constituencies: Toco/Manzanilla, Nariva—I am sorry for the Member for Nariva, nothing remains for him—Ortoire/Mayaro into Toco/Sangre Grande, Cumuto/Manzanilla, Mayaro and Princes Town South.

Mr. Speaker, we are comfortable with the new boundaries. On this side, we have also studied the numerics of the voting patterns as they relate to the new

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constituencies, and we think that the EBC has been even-handed and they have done a fair job.

Mr. Speaker, before I close, I just want to quote from the *Hansard* of the Member for Diego Martin East—strange enough—but, I think, he made a good contribution, and I think it really epitomizes what we think about this report. It was based on solid, logic and good analysis, especially as it relates to the division of the constituencies. I quote from *Hansard* and it says:

“Mr. Speaker, in fact...”

I have to drink on that—

Hon. Member: Do not embarrass him.

Mr. F. Khan: I would not embarrass him.

“Mr. Speaker, in fact, I went through this with a fine-tooth comb to see if I could find any evidence of gerrymandering; any evidence of diabolical plots. I searched it; I went through it in detail, and I found no evidence of diabolical intent and that is why we support it.”

Mr. Speaker, if there is any Member of this Parliament who would find a diabolic plot if it existed at all, it is the Member for Diego Martin East. [*Desk thumping*] If the Member for Diego Martin East said that he has searched the report with a fine-tooth comb and he has found no gerrymandering and no diabolic plot, Mr. Speaker, I say no more in this debate, and I recommend this report to this honourable House for its adoption.

I beg to move.

Question put and agreed to.

Be it resolved:

That the Draft Order entitled “The Elections and Boundaries Commission Order “2005” be affirmed.

COPYRIGHT (AMDT.) BILL
(Second Interim Committee Report)

Adoption

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Mr. Speaker, thank you very much. I beg to move the following Motion standing in my name:

Be it resolved that the second interim report of the Special Select Committee appointed to consider and report on the Copyright (Amdt.) Bill, 2004 be adopted.

Mr. Speaker, in moving this Motion, I seek the leave of the House to debate this matter along with Motions Nos. 2, 3 and 4 on the Order Paper, all of which are related to the same subject.

Mr. Singh: Mr. Speaker, this is the first time this matter is being brought to our attention. There were two matters, out of discussion with the Leader of Government Business that we spent until the wee hours in the morning debating—the matter of the HIV/AIDS Bill and also the Motion on the EBC. That is what the Opposition was informed about. This matter is a matter that is now being brought to our attention at 1.35 a.m. [*Desk thumping*]

Hon. C. Robinson-Regis: He does not even know what it is about. If the Member had familiarized himself with the Order Paper, he would know that the Motions seek simply to extend the time of a select committee that has been established since December last year. This is all that I am rising here to do.

Mr. Speaker, in circumstances where these Motions have been on the Order Paper for a considerable length of time, and in circumstances where on no occasion they have been ready to debate this issue. This is a simple matter of asking for an extension, in circumstances where we have four requests for an extension. Is the Member for Caroni East having difficulty with that? [*Interruption*] Well, during the debate you could raise your difficulty. [*Desk thumping*]

Mr. Speaker, by Motion made at a sitting of the House of Representatives held on Friday, December 17, 2004, the following Members were appointed to serve on a special select committee to report and consider the Copyright (Amdt.) Bill 2004: Camille Robinson-Regis, Hedwige Bereaux, Roger Boynes, Kamla Persad-Bissessar and Gillian Lucky.

Mr. Speaker, your committee was mandated to report to the House within six weeks of its appointment. At its first meeting on Friday, January 07, 2005, in accordance with Standing Order 80(5) of the House of Representatives, a quorum of three Members, inclusive of the Chair was decided and Camille Robinson-Regis was elected as Chair of that committee.

Mr. Speaker, on that occasion, as the report indicated, the committee held a total of three meetings from January to February. It was agreed at the first meeting of the committee that the input of the Minister of Legal Affairs, in whose

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name the Bill stands, would be part of the technical and expert assistance and advice. Additionally, representatives of the Ministry of Legal Affairs would be called upon to assist the committee at subsequent meetings.

Mr. Speaker, it was also recognized by the committee that there would be need for the input of other special interest groups and, as a consequence of this recognition, the committee received two written submissions from special interest groups. At that time, your committee made an analysis of the topics raised during debate on the Bill that came before the House, and the submissions of interest groups of your committee identified several concerns which had not been addressed during the debate and, as a consequence of this, a list of proposed amendments to the Bill was compiled and circulated to interested groups for further comment.

As a matter of fact, it was on January 28, 2005 that the committee sought an extension of six weeks in which to report and this extension was granted. It was reported that this would have expired on March 11, 2005.

Mr. Speaker, in circumstances where the analysis and the information that was needed to deal with the Bill as it stood before the committee, a request was made in Motion No. 1, to seek an extension of the time for reporting. As a consequence of that, what we have before this House is a request which was made at that time, which has not yet been given officially by the House. However, in those circumstances, your committee continued to meet in an effort to determine what needed to be done in relation to the Bill, which was before the House and in an effort to ensure that the work of the committee continued.

Mr. Speaker, as a consequence of ensuring that the work of the committee continued, the committee continues to meet and in Motions No. 2, 3 and 4, the committee again came to this House and requested subsequent extensions.

Mr. Speaker, we requested an extension from March 11, 2005 to April 08, 2005, which is before this House today; we then requested an extension from April 08, 2005 to May 13, 2005 and a further extension from May 13, 2005 to June 17, 2005. Mr. Speaker, as is clear, all these times have expired, but the committee has continued to meet.

I would like to indicate that the committee has reached a point where, again, we need a further extension. In order to request that extension, I must indicate that the findings of the committee thus far are as follows:

1.45 a.m.

Your Committee undertook an analysis of the topics raised during the debate of the Bill, as well as the submissions received from the interest groups. Your Committee identified concerns in the areas of the infringement and the prosecution of criminal offences. At its third meeting your Committee considered the Bill, clause by clause, along with a list of proposed amendments. At its fourth meeting your Committee considered a number of amendments contained in a redrafted Bill, submitted to it by technical experts and your Committee agreed that the proposed amendments dealt effectively with the concerns raised by the interested parties, and after making some minor changes accepted all the amendments. However, during preparation of its final report, your Committee identified certain issues that required further clarification and, accordingly, has sought advice.

Consequently, at its fifth meeting, your Committee considered the advice received and agreed that further clarification was required from the technical advisors. Your Committee has since received the clarification sought and is in the process of reviewing the advice received. Consequently, Mr. Speaker, your Committee is requesting a further extension, and is also requesting the extensions that were sought, but not yet approved, in Motions 1, 2, 3 and today's Motion, Motion 4.

Mr. Speaker, I am asking the House to agree with the Motions as they stand before the House this morning, that the second interim report of the Special Select Committee appointed to consider and report on the Copyright (Amdt.) Bill, 2004 be adopted; also the third interim report; the fourth interim report and the fifth interim report. In this fifth interim report, we are asking for a further extension of six weeks to complete the work of the Committee.

Mr. Speaker, I beg to move.

Question proposed.

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very much, Mr. Speaker. I do not know if I should interpret the nod of the head as being—yes, you agree? We are trusting on this side that during the deliberations that will occur during the next six weeks, that in particular, the Member for Siparia—and I am asking the Members on that side to request or ask of the Member for Siparia, who is a Member of the Committee, that some attention be paid to attendance at those meetings.

Dr. Moonilal: We will do that first thing in the morning.

Hon. C. Robinson-Regis: Yes, please do that, first thing. If you could call now, I would really appreciate it. [*Crosstalk*] [*Laughter*] Because, on nearly every occasion that we have attempted to bring an end to this Committee, we have an obstruction by the Member for Siparia and I would request of the Members opposite, if you could speak with your colleague and remind her that this is not a partisan issue; it is bipartisan. We are trying to deal with an issue before the House and I would be really grateful if the Member for Caroni East would take it upon himself as the Opposition Chief Whip, to deal with the Member for Siparia and ask her to adhere to her oath of office to participate diligently in the committee, so that we can proceed with the work. [*Crosstalk*]

Mr. Speaker, as a matter of fact, it has been the history of the Member for Siparia to consistently not attend committee meetings, and I am requesting, in my position as Chairman of this committee, that we use this six weeks to come to a conclusion on an issue that is extremely important. This is an issue of copyright, where piracy is now a problem in Trinidad and Tobago, and I know the Members opposite are very concerned about that issue. As a matter of fact, it was the Member for Siparia who consistently raised issues during the debate and, consequently, we brought the matter to a select committee of the House. Mr. Speaker, I am really asking the Member for Caroni East to ensure that he uses his whip to deal with the Member for Siparia. [*Crosstalk*]

Mr. Speaker, with those few words, I beg to move.

Question proposed.

Question put and agreed to.

Report adopted.

COPYRIGHT (AMDT.) BILL, 2004
(Third Interim Committee Report)

Adoption

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Mr. Speaker, I beg to move the following Motion:

Be it resolved, That the Third Interim Report of the Special Select Committee appointed to consider and report on the Copyright (Amdt.) Bill, 2004 be adopted.

Question proposed.

Question put and agreed to.

Report adopted.

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**COPYRIGHT (AMDT.) BILL, 2004
(Fourth Interim Committee Report)
Adoption**

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Mr. Speaker, I beg to move the following Motion:

Be it resolved, That the Fourth Interim Report of the Special Select Committee appointed to consider and report on the Copyright (Amdt.) Bill, 2004 be adopted.

Question proposed.

Question put and agreed to.

Report adopted.

**COPYRIGHT (AMDT.) BILL, 2004
(Fifth Interim Committee Report)
Adoption**

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Mr. Speaker, I beg to move the following Motion:

Be it resolved, That the Fifth Interim Report of the Special Select Committee appointed to consider and report on the Copyright (Amdt.) Bill, 2004 be adopted.

Question proposed.

Question put and agreed to.

Report adopted.

ADJOURNMENT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, I beg to move that this House do now adjourn to Friday, June 24, 2005 at 1.30 p.m. It is Private Members' Day and therefore the Chief Whip would want to inform us of the business he plans to transact on that day.

Mr. Ganga Singh (Caroni East): Mr. Speaker, the Motion dealing with the Occupational Safety and Health Act, No. 1 of 2004, is the Motion we would continue to deal with on Friday. As I indicated, there is a matter on the Adjournment which, by agreement between the hon. Members for Toco/Manzanilla and Chaguanas, would be dealt with on Friday also.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 1.51 a.m.