HOUSE OF REPRESENTATIVES

Friday, November 18, 2005

The House met at 10.30 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon Members, I have received communication from the hon. Member for Couva South, Mr. Kelvin Ramnath, requesting leave of absence from today's sitting of the House. The leave which the hon. Member seeks is granted.

GOVERNMENT'S EFFORTS TO COMBAT CRIME (REPORT ON JOINT DISCUSSIONS)

The Prime Minister and Minister of Finance (Hon. Patrick Manning): Mr. Speaker, as you will recall, when debate on the issue of crime in this honourable House adjourned on Thursday November 10, 2005, it was agreed that the Prime Minister and the Leader of the Opposition would meet to discuss further this very pressing issue of crime and the mechanisms for arriving at comprehensive solutions.

As you are no doubt aware, we met on four separate occasions from Monday 14 to Wednesday 16 November, 2005 at White Hall. In addition to the Prime Minister and the Leader of the Opposition, others in attendance were: Sen. The Hon. Martin Joseph, Minister of National Security; Sen. The Hon. John Jeremie, Attorney General; Hon. Camille Robinson-Regis, Minister of Planning and Development; Mr. Winston Dookeran, Member of Parliament for St. Augustine and Mrs. Kamla Persad-Bissessar, Member of Parliament for Siparia.

In the past week, while we have been meeting to discuss matters pertaining to crime our nation has not stood still. We have been represented in the international sports arena, engaged in battle on the playing field of the most popular sport in the world. Our eyes were all transfixed on our national team on Wednesday, November 16, 2005—a day which I daresay, not one national of Trinidad and Tobago is likely to forget—as the Warriors represented us in Bahrain, a part of the world that the majority of us have never visited in person, but which through the hearts of our footballers and supporters we have all visited.

It is my belief, in fact, it is my conviction that our quest in the football arena and our discussions regarding crime over the past week are not far removed from

one another. For even as the Warriors were moving toward victory on the football field on November 16, 2005, so too were goals being scored around our discussion table on the said day. [*Desk thumping*]

It is well recognized that cooperative effort is the cornerstone of all great movements and achievements, as evidenced by the cooperative effort which resulted in that deciding historic goal being scored. I therefore believe it to be incumbent upon me to indicate to this honourable House and to the public at large, that our discussions over the past week were conducted in a similar spirit of cooperation, the victory being increased effectiveness and efficiency in our national battle. One lesson of the past week is that progress feeds on cooperation and conversely, friction starves progress. I would therefore like to thank the Leader of the Opposition—[*Desk thumping*]—for making the progressive step of agreeing to this new round of meetings aimed at addressing the scourge of crime that has been occupying national attention for several years, but more so within recent times. It is therefore fortuitous that we have had an opportunity to meet on this matter of urgent national importance.

I am pleased to report that both sides came to the table exhibiting a desire to find legislative and administrative solutions to the pressing issue of crime. In our opinion, the ventilation of the issues during the debate on crime was a step in the right direction. The agreement of Government and the Opposition to meet and our subsequent discussions have cemented our intent to continue along this path which would return us to a safer Trinidad and Tobago.

I wish to reiterate that our talks have proceeded in a spirit of mutual co-operation, respect and hope and while the journey has only just begun, we are indeed encouraged by what has happened thus far. The underlying tenet of our discussions is that democracy is paramount in our system of governance, therefore, solutions to the issues must reflect adherence to basic democratic principles.

With that said, as a precursor we have agreed that our discussions would have as the overarching principles, the understanding that crime of any type would not be tolerated and that politics must be free from all criminal influence. While we agreed that the abuse of power, violation of civil liberties or the funding of criminal activities by individuals, the State or State agencies were clearly undesirable, the team also determined that it was critical to declare our joint position of zero tolerance of any criminal activity influenced or perpetrated by politicians.

The team examined crime-related legislation with a view to recommending amendments to Acts that have been found to be ineffective in the current climate and, where necessary, we have sought to identify new legislation that would serve to broaden and deepen our impact on the crime situation. Furthermore, we discussed specific administrative changes which will have the effect of increasing the authority, performance and accountability of the protective services.

Mr. Speaker, clearly no system is workable with legislation alone; consequently, in addition to the legislative package, we also discussed the management of the protective services and other administrative issues. Indeed, the matter of management and administration of the protective services is one to which, understandably, this entire House—and I daresay, the wider population—is keenly paying attention. We are all cognizant of the fact that the best-written laws, with the best of intentions and teeth to make a difference on crime are weak in the hands of a country, whose protective services are not sufficiently motivated.

I am pleased to state therefore that all parties are in agreement that a system of restorative justice and the reform of the prison system are of paramount importance. No matter what the situation is with crime in our nation, it is our collective responsibility to offer the possibility of change and reform to the criminal. Our system of justice must therefore be restorative in its spirit and its intent.

Our discussions indicated quite clearly that there is concurrence with the fact that an all-out assault on crime involving a multi-pronged approach is the way forward. In support of this, it was further agreed that it would be in the national interest to submit a new redrafted package of legislation for the consideration of Parliament at the earliest opportunity. However, in order to make a significant impact, legislation must be effective and capable of being implemented. Consequently, within this framework nine pieces of legislation were identified as follows:

Crime legislation:

(1) Police service reform legislation;

(2) Amendment to the Bail Act;

(3) Introduction of a Bill to establish a Gun and Kidnapping Court;

(4) Revision of DNA legislation;

(5) Amendment of the Criminal Injuries Compensation Act;

(6) Strengthening of money laundering legislation;

(7) Protective services compensation legislation

In respect of road safety:

(8) Amendment to the Motor Vehicles and Road Traffic Act;

(9) Introduction of new equal opportunity legislation.

With specific reference to legislation intended to reform the police service it was agreed that:

(1) The Police Service Commission would be retained as the body which will oversee the administration of the police service.

(2) The method and criteria for the appointment and removal of members of the Police Service Commission, the Commissioner of Police and the Deputy Commissioners of Police would be changed and a new system legislated.

All parties understood that the appointment of members of the Police Service Commission is a crucial undertaking. The men and women who comprise the Commission must therefore be of impeccable character and the correct combination of knowledge and skill is critical to ensuring the effective management of the police service.

In this regard, while further discussions will take place between both sides, it was agreed that the method and criteria for the appointment and removal of the Commissioner of Police and the Deputy Commissioner of Police are of paramount importance. The processes must also ensure transparency as the systems of appointment and removal must result in the best persons being appointed, while providing a mechanism to allow for a non-performing Police Commissioner, Deputy Commissioner or even a Police Service Commissioner to be removed without detriment to the service.

The Commissioner of Police must be given the authority to adequately manage the police service within the context of the new Police Service Commission's framework.

The police service should be managed based on the principles of equity and meritocracy with specific attention being paid to the areas of recruitment, transfer, promotion and discipline. Guidelines to deal with these areas would also be legislated by regulations.

The Commissioner of Police must be accountable for the performance of his duties to the Police Service Commission and the Police Service Commission must be accountable to the people of Trinidad and Tobago through the Parliament.

At the end of the day our police service must embody the principles of a protective service that embraces as its central duty, protection of and service to the citizens of Trinidad and Tobago. We envision that such a police service would be more efficient; more professional; more productive; highly motivated; free of corruption and able to be managed, disciplined and effectively run by the Commissioner of Police who can be held accountable for the performance of officers in his charge because he has been given the necessary authority to manage.

Apart from police service reform legislation that would modernize the police service, our discussions raised a clear need to introduce an all-embracing package of legislation to deal decisively with those who have been perpetrating violent crimes. In this regard, at the outset we agreed on the need to introduce new legislation, repeal non-functional or outdated legislation and amend or revise existing legislation.

I wish to inform this honourable House that much discussion centred around the crime of kidnapping and repeat offenders of violent crimes. Arising out of those discussions there is agreement that:

The crime of kidnapping must be categorized.

Certain categories of kidnapping must be non-bailable.

Persons accused of the non-bailable charge of kidnapping would be entitled to make a bail application once 60 days have passed and the accused has not been brought to trial.

With regard to repeat offenders, where an accused person has two prior convictions for violent crimes, there would be no bail on the third arrest and charge for a violent crime. The accused would be entitled to make a bail application once 60 days have passed and the accused has not been brought to trial. The legislation will be expected to define what is meant by a violent crime.

In order to ensure that civil liberties are not infringed, we agreed to make the legislation sunset legislation, that is, after a specified period of time the legislation dies. However, during the life of the legislation it would be

continuously assessed and if at the end of its life it is assessed to have been effective, it would be re-enacted. [*Desk thumping*]

An examination of the statistics relating to violent crime indicates that many homicides and crimes of violence are perpetrated using firearms. In addition, there is need to address and arrest the apparent ease with which guns are accessed by criminals and those who may be considering committing an offence. Of particular concern are those guns that are falling into the innocent hands of our youth.

This indiscriminate use of guns by criminals has introduced a new level of urgency to address the matter of confiscation of illegal firearms and ammunition. The introduction of the Gun Court therefore, assumes greater priority.

So too, does the crime of kidnapping. Taken together, kidnapping and violent crimes perpetrated with the use of arms have forced us all to consider new dimensions in our battle against crime. In that regard, it was agreed that legislation would be brought to the Parliament to establish a Gun Court which would have Summary and High Court jurisdiction to deal specifically with gun crimes and kidnapping offences.

We have also agreed that the DNA Act which was passed in Parliament under the previous administration and which the Government supports in principle is evidence of commitment on both sides to the development and use of crime-fighting strategies and solutions which are at the cutting edge of crime-solving technology. In attempting to implement the DNA legislation however, the Ministry of National Security encountered several challenges including issues relating to the taking of intimate samples and the need for clarification of the procedures for the taking of samples which have made the legislation unenforceable. Consequently, we have agreed that the Act needs to be re-examined and replaced by more effective legislation.

The intent of the development of the Criminal Injuries Compensation Act is to offer citizens who are victims of crime, compensation from the State or the parties who have wronged them. This legislation has not been implemented, consequently, a mechanism for implementation is to be determined. It has also been agreed that the maximum compensation that one can receive through this Act be increased from $25,000 to $250,000. [*Desk thumping*]

With regard to the trafficking of illegal narcotics we are all of the view that money laundering legislation is one of the measures which must be robust in its enactment and its treatment of individuals who are found guilty. As a consequence we have agreed that this legislation must be strengthened taking into account the economics of this activity.

In addition, in short order there will be the introduction of the Financial Intelligence Unit Bill and the Financial Obligations Regulations. These Bills and the Regulations will give statutory and administrative authority to the Financial Investigations Unit of the Counter Drug Crime Task Force. The Regulations will ensure that banks and other financial institutions are guided appropriately as to the mechanisms for compliance, disclosure and monitoring. It will also outline penalties to be imposed on banks and other financial institutions for failure to adhere to the Regulations.

Members of the protective services have pledged to protect the lives of our nation's citizens. We are well aware that in so doing some of these officers are injured. Consequently, we have agreed that there is a patent need for amendment to the Protective Services Compensation Act to provide adequate compensation for those officers who are injured in the line of duty. [*Desk thumping*]

There was diligent discussion on the matter of our society's observance of the rules of safe driving. No one in our society is immune from the carnage that is visible almost on a daily basis on the nation's roads. Perhaps, in this area in particular, we can see our collective disregard for the lives of our fellow Trinidadians and Tobagonians. It is evidenced in our reckless driving, our propensity to drive under the influence of alcohol, to break road safety rules by breaking traffic lights, driving on the shoulder and in the case of pedestrians, approaching the roadway with complete disregard of the fact that drivers may not have your safety uppermost on their minds. There has been agreement therefore to consider the development of a package of legislation to address the issues related to reckless driving.

The purpose for amending the Motor Vehicles and Road Traffic Act is to allow for the use of timing devices calibrated in metric units—that is kilometres per hour—to record and provide evidence of speeding in cases of speeding offences. This will modernize the current system of checking for speed and provide conclusive evidence of same in a court of law.

Statistics on road traffic accidents reveal that the combination of alcohol and excessive speed, drunk driving can be deadly. The introduction of the breathalyzer test would allow police officers to determine conclusively, if a person reasonably

suspected to be driving in a dangerous manner or who is under investigation for dangerous driving has a blood alcohol level in excess of the prescribed limit. It is anticipated that introduction of this test will lead to a reduction in carnage on our nation's roads and where traffic offences have been committed, the test would provide incontestable evidence of those offences.

Hon. Members are aware that inherent in the Equal Opportunity Act is our country's demonstration of our pledge to the concepts of equality and equity for all persons, as basic human rights and concepts which are enshrined in our spiritual laws and also in our human laws. It was agreed that no discussion on the issue of crime could go forward without addressing this Act and its place in reducing the propensity to commit the injustice of prohibiting the natural pursuit of opportunities of success for personal human development.

In pursuit of those democratic principles, it has also been agreed that the equal opportunity legislation which was struck down by the courts as unconstitutional would be reviewed and returned to the Parliament for consideration. [*Desk thumping*]

In the area of management and administration, it was clearly understood and agreed by all, that change is the only way forward. It is not enough that some members of the protective services are doing all they can. It must be uppermost in the minds of all our protective officers that their calling is no less than we are doing in this honourable House. It is a call to service, a call to act as an advocate for victims of lawlessness in our country.

In the area of crime detection there must be a detailed examination of how the protective services can improve their record of success. Already agreed is the matter of the introduction of an updated DNA Bill, but there would also be the examination of other areas under detection, in which technology and training of officers to utilize the technology successfully will have a significant impact.

In order to ensure greater success with regard to prosecution and conviction in matters that are brought before the courts, the Government has agreed to hold discussions with the Judiciary on the matters of administration of the justice system, ensuring swifter justice and possible increases in the number of courts, magistrates and judges; improvements in the area of digital CAT recording of evidence within the system and the strengthening of the Office of the Director of Public Prosecutions. [*Desk thumping*]

Given our intention to enact various pieces of legislation to address criminal activities as they occur, no discussion on crime would be complete without attention to the issue of crime even before it happens, that is to say, crime

prevention. We have agreed that new management structures and processes must be put in place to maximize the success of our protective services. We have agreed that there must be a thorough examination of the areas of the greatest commission of offences in order to maximize prevention of these offences where possible. An examination of crime would also be fruitless without a corresponding discussion on the causes of crime and criminality and a way to influence change in this area.

We are certain that the entire country is more than adequately aware of the urgent need for reform of the Constitution of the Republic of Trinidad and Tobago. Our Constitution has served us well but change in the circumstance of our country and changes in the global environment have indicated that reform of key areas of the Constitution is now of paramount importance. It was agreed that we would conduct separate discussions on this matter and that process toward constitutional reform would include the development of teams on both sides of the House to identify the key areas for reform. This we see as an appropriate starting point and we hope that this process would lead to new constitutional arrangements for Trinidad and Tobago. In the spirit of cooperation to which I have referred earlier, we have agreed that both sides are free to obtain political and legal advice in order to appropriately inform this constitutional reform process.

We do know that there are countries, states and cities that have succeeded in combating this crime menace successfully over time and have re-introduced the kind of peace and security they once enjoyed. In every case, however, the fight against crime has been won only with the full support and unity of their citizens and new operational, administrative, political and legislative measures providing a comprehensive attack against crime and lawlessness.

11.00 a.m.

Like most countries that have succeeded, we have resolved to substantially reduce levels of crime recorded in the country. We will therefore confront the challenge, and we will continue to institute the necessary range of measures to address this grave threat to our safety and security.

Our onslaught against crime requires the political will, as well as the social will of all citizens. It also requires new and efficient measures grounded in robust legislation to open up new avenues for decisive action in areas not previously covered in our existing legal framework.

Mr. Speaker, it must be stated that these discussions which have occurred over this past week represent a major step forward in the matter of crime. It is also a great and historic step in deepening our democracy. It demonstrates with clarity

for all who wish to see that our parliamentary system works well once due consideration is given to the overarching principles that govern our society, the motivation of the people and the determination of the parties involved to do what is in the best interest of Trinidad and Tobago.

I am certain that I am not alone in my optimism. I am encouraged by the discussions that I have had with my fellow parliamentarians, and I am hopeful for the future. However, I am also painfully aware that the levels of crime inflicted upon the population and the fear of crime engendered in our people, threaten to mar the otherwise very positive economic outlook of our country.

Mr. Speaker, in the context of our discussions, the Government of Trinidad and Tobago has also decided to meet with the Judiciary and the Law Association to discuss matters related to the swift administration of justice, and also to discuss any administrative changes that can be made within the judicial system in order to improve its administration.

In the coming weeks, there would be other meetings between the Government and the Opposition on all legislation we have discussed as we are committed that the way forward will be an inclusive one. Today, I give the undertaking to present to the Opposition team within one week the bail and police service legislation, including requisite regulations, for discussion with the Government team. As bills are agreed, they would immediately be brought before the Parliament for its consideration.

I urge our fellow Trinidadians and Tobagonians to understand that consideration and acceptance of these measures alone do not represent a completion to the crime issue. While we recognized that the management organization and modernization of our protective services is at the crux of any improved effort directed at crime and the legislative changes have a significant role to play, we are mindful too, that as a nation, we must all examine our lives to ensure that there is the requisite attitudinal shift. As a nation we must understand clearly that overcoming crime must be a natural effort.

Finally, Mr. Speaker, we believe that the cooperation between the Government and the Opposition on this matter represents the dawn of a new day in the evolution of our parliamentary democracy, a development that can only result in a better quality of life for all our citizens.

Mr. Speaker, I wish to crave your indulgence to permit the Leader of the Opposition to make a brief statement.

Mr. Basdeo Panday (*Couva North*): Mr. Speaker, over the recent past there have been calls from the different quarters, including some of us on this side, for a meeting between the Government and the Opposition to discuss the very troubling issue of rising crime in the country.

I am happy that this meeting has taken place. The first and primary duty of the State is to provide for the safety and security of its citizens. It is clear that this duty has not been properly discharged. We enter into these discussions with an open mind. We were careful to identify the principles upon which good legislation should be based, proposed and supported all efforts, legislative and management, that would work for the common good of the society. We wish to emphasize at the outset that under the present political system it is the Government and the Government only who is responsible for and has the power to deal with escalation of crime in the country. The buck stops with them. Given the distribution of seats in the House of Representatives the only power the Opposition has is to give or withhold its vote on legislation that requires a constitutional majority. This is very little indeed in the fight against crime.

Our meeting with the Government did not change the system, nor did it change the responsibility for dealing with this very serious problem. As was expected, the Government's focus was on getting Opposition support to pass legislation in contravention of the fundamental rights and freedoms enshrined in the Constitution, while the Opposition emphasized the importance of the issues of management, the abuse of power, the protection of the rights, liberties, and freedoms of innocent citizens in a democracy, the funding, directly or indirectly, of criminal activities through improperly designed social programmes and the introduction of violence in the political system. Both sides tried to meet the needs of the other.

The Opposition insisted, and it was agreed, that all new legislation and processes must comply with four fundamental principles:

1. Protection against the abuse of power;
2. Protection of civil liberties;
3. No funding that would promote criminal activities;
4. The political process must be freed from criminal influence.

We emphasize that even within the present legislative framework much can be done to improve the early detection of crime which, in our view, is a priority management issue. In general, we stress that management solutions are possible

even within the current legislative framework and in this regard, there is significant room for improvement.

It was agreed that amended versions of certain legislation would be brought before the Parliament for consideration. These included the Police Service Reform Bills, the Anti-kidnapping Bill, the Bail Act, Criminal Injuries Compensation Act, the DNA legislation, money laundering legislation, legislation to establish a special court to hear gun and kidnapping related matters and legislation designed to end the carnage on our roads. It was always agreed that the Equal Opportunity Act would be reviewed and returned to Parliament for its consideration. We support fully the urgency of bringing this package of legislation before the Parliament.

The Opposition made it clear to the Government that it does not believe that legislation can solve the spiralling crime wave and the increase in lawlessness which we have been experiencing particularly over the last four years. What is of even greater importance is the question of management, including workable systems of administration, new and transparent processes and the provision of proper support services. In this regard, we emphasized the need to look at non-legislative measures that would reduce the economic incentives in crime-related activities.

We drew to the attention of the Government the recommendations of the Law Association dated November 10, 2005 which, inter alia, made recommendations relating to the electronic monitoring of persons convicted of certain crimes, guidelines and sentencing to give effect to restorative justice and the reduction of prison overcrowding, prison reform, the provision of more courts and more judges to deal with the increasing number of cases that are coming before the courts and the enormous backlog of cases already before the courts, the construction of a proper prison in Tobago, repair and construction of new police stations and improved working conditions of policemen and other members of the protective services.

We also drew to the attention of the Government the recommendation of the various non-governmental groups such as communities mobilizing against crime, the Keith Noel 136 Committee, the joint statement on crime by the organizations' representatives of the private sector of Trinidad and Tobago and the Trinidad and Tobago Manufacturers' Association. We believe that the more in-depth analysis of further legislative measures that deal with crime would support the very strong call for constitutional reform. That is not surprising. The Constitution is really 48 years old. The 1976 Republican Constitution merely changed form, not substance.

During our discussions the Government appeared to understand and appreciate this view. We are therefore very pleased that there was agreement that discussions with respect to constitutional reform would continue on a parallel track. It may be that the Government is not serious about constitutional reform and that they only agreed to put constitutional reform on the agenda so that they could obtain our support on other matters. Time will tell whether that is so.

Mr. Speaker, finally, I want to thank most sincerely my two colleagues, the Member of Parliament for St. Augustine, the hon. Winston Dookeran, and the Member for Siparia, the hon. Mrs. Kamla Persad-Bissessar, who, with me, comprised the United National Congress (UNC) team, for their valuable contributions to the discussions, their dedication and hard work over the many hours that we spent in what we regard as a most useful discussion. Thank you.

ADJOURNMENT

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Mr. Speaker, in the spirit, I think it the fitting that we adjourn the House to November 25, 2005 at 1.30 p.m. and, therefore, I so move. [*Interruption*]

I am sorry. We would deal with Bill No. 1 on the Order Paper which is an Act to give effect to the Trade and Economic Co-operation Agreement between the Caribbean Community, Caricom and the Government of Cuba.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 11.14 a.m.