

Leave of Absence

Friday, November 20, 2009

HOUSE OF REPRESENTATIVES

Friday, November 20, 2009

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. They are; the hon. Mickela Panday, Member of Parliament for Oropouche West from today's sitting of the House; the hon. Ramesh Lawrence Maharaj SC, Member of Parliament for Tabaquite for the period November 20 to December 01, 2009, the hon. Kelvin Ramnath, Member of Parliament for Couva South, from today's sitting of the House, the hon. Jack Austin Warner, Member of Parliament for Chaguanas West for the period November 17–23, 2009. The leave which these hon. Members seek is granted.

TOBACCO CONTROL BILL

Bill to prevent tobacco use by children; regulate tobacco use by individuals; enhance public awareness of the hazards of tobacco use and ensure that individuals are provided with information to make more fully informed decisions about using tobacco; protect individuals from exposure to tobacco smoke; prohibit and restrict promotional practices; prevent smuggling of tobacco; provide for regulation of tobacco products to mitigate against the harmful effects of tobacco; and provide for other related matters, brought from the Senate [*The Minister of Health*]; read the first time.

PAPERS LAID

1. Annual Report of the Public Service Commission for the period January 01, 2008 to December 31, 2008. [*The Minister of Public Administration (Hon. Kennedy Swaratsingh)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Statement of Recovery of Expenses of the Ministry of Energy and Energy Industries for the year ended 31st December, 2008. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]

To be referred to the Public Accounts Committee.

3. The Elections and Boundaries Commission Order, 2009. [*The Minister of Works and Transport (Hon. Colm Imbert)*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Local Government Bill

The Minister of Works and Transport (Hon. Colm Imbert): I wish to present the Second Interim Report of the Joint Select Committee on the Local Government Bill, 2009.

Data Protection Bill and Electronic Transactions Bill

The Minister of Public Utilities (Hon. Mustapha Abdul-Hamid): Mr. Speaker, I wish to present the Second Interim Report of the Joint Select Committee appointed to consider and report on the Data Protection Bill, 2009 and the Electronic Transactions Bill, 2009.

EVIDENCE (AMDT.) BILL

[Second Day]

Order read for resuming adjourned debate on question [November 13, 2009]:

That the Bill be now read a second time.

Question again proposed.

Mr. Subhas Panday (Princes Town North): Mr. Speaker, this Bill before this honourable House today is merely an admission on the part of the Government that it has failed miserably in leading or exhibiting good governance and not utilizing the services of the police service to protect the citizens of this country. Had this Government been able to do that, we would not have to come with this draconian legislation today.

Mr. Speaker, my information is that on the last occasion it was agreed by both sides that there were difficulties and challenges in the Bill before this honourable House and therefore both sides should have met and discussed whatever problems there are in the Bill so they could have been hammered out and come here today with consensus.

Mr. Speaker, that meeting took place, it included the hon. Member for Diego Martin North/East, the hon. Attorney General and the hon. Member for Laventille East, et cetera and we had discussions. We went through the Bill and informed this Government about our concerns and problems.

Mr. Speaker, you would be surprised to know that when we argued and indicated what our concerns were, the hon. Attorney General said: "You don't have to ask that, you are pushing an open door." So we thought that the concerns

we had would have been addressed. After the meeting was completed, they had some amendments and they said the points that we raised were very good and in those circumstances except additional amendments.

We left with those high hopes and lo and behold today I was informed at midday that no further additional amendments to give effect to this Bill was forwarded. I do not know if the hon. Attorney General would like to explain why.

Hon. Jeremie SC: Yes. The subject that you raised concerned the integrity of the video recording process and we felt on review of the paste rules, that is Code E, when we compared it with the Standing Orders and the Judges' Rules, there were several areas of overlap and those which were required could be dealt with by Rules of Court.

Mr. S. Panday: Thank you very much, hon. Attorney General. Mr. Speaker, now I am firm in my conviction that the Government does not know what it is doing. They do not know if they are on their hands or on their feet and when I go into details it will be shown. Maybe they know what they are doing but they do not have any intentions to implement this Act but merely passing it as it did with the Bail Act.

It was said when you passed the Bail Act and the legislation appeared to be draconian, when the criminals see this they will get frightened and crime will drop. Do you remember saying that in your first argument sometime in your first sojourn here?

Hon. Jeremie SC: [*Inaudible*]

Mr. S. Panday: So therefore you are saying this argument will sit there and you are merely passing the Act to frighten people and you hope that crime will be dealt with? You have no intentions to deal with this Act.

Mr. Speaker, let me deal with him one time before we miss the boat. The Bill before us speaks about videotaping evidence of persons who are not accused, that is prosecution witnesses. So therefore, we were speaking about the videotaping of persons who were not accused because as the hon. Attorney General made that intervention I would like to refer him to page 8, clause 15I which says:

“This section applies where—

- (a) a person is called as a witness in proceedings for an indictable offence or for the summary trial of an indictable offence;
- (b) The witness claims or has at any time claimed to have witnessed whether visually or in any other way—

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(i) events alleged by the prosecution to include conduct constituting the offence...; or

(c) the witness has previously given a statement of the events....”

It says the witness has already given a statement and they are going to video record that statement.

In the other part of the Bill, it says that it does not apply to the accused.

Mr. Speaker, this Government is so incompetent and does not know what it is doing. When one looks at the documents Code E and Code F which were sent to us last night or the night before says that a code of practice on audio recording interviews and it shows that we are dealing here with accused persons. When you go through the information you will see that they are really speaking about videotaping accused persons.

Hon. Jeremie SC: The code that we sent to you is the English code and it is different from our provisions. Our Act is different, it excludes the accused. It is precisely the point we are making that we cannot transpose the code to paste into the Evidence Act, it has to be carefully done.

Mr. S. Panday: I agree with you but what you sent to us was not video recording of witnesses, but that of the accused and that was the point we were making on Wednesday, that we wanted some sort of integrity in the video recording system. The Bill says that the video recording could be used as evidence in chief in a trial, and what we are saying is that we cannot pass this legislation like this because you are merely passing legislation without any enabling legislation to have the Regulation.

Remember we were arguing that it is not the accused you are going to videotape, and if you are videotaping a witness for the prosecution, it must not be done by police officers. We want to make sure of that. So when you talk about PACE cannot be introduced, we agree with you and we are asking to sit and work out a system to suit our own culture.

Hon. Jeremie SC: We are talking about the rules, under 14E as we told you at the meeting, is the consolidated version of the Evidence Act and it provides as follows:

“The Rules Committee established by the Supreme Court of Judicature, may, subject to negative resolution of Parliament, make Rules necessary for the purposes of this Part.”

The Rules Committee of course, would be the Chief Justice and a number of other persons including myself.

1.45 p.m.

Of course, the rules come to the Parliament, but what we are saying is we have sent you what obtains in PACE. That has to be modified to fit our Evidence Act and also what obtains in relation to our Judges' Rules and the Police Service Standing Orders.

Mr. S. Panday: Mr. Attorney General, I am now certain that you are really confused. Because what is happening is, we at the Parliament are passing draconian law and do not tell me a rules committee will make rules. We are saying in this case we must pass legislation to indicate to the Rules Committee how we want you to go. Mr. Attorney General, when the hon. Leader of the Opposition spoke, we said we want the criminals to be caught; what we do not want to happen is that innocent people are being convicted. That had been our problem and we think as a Parliament that you cannot abdicate your responsibility and point us to some Rules Committee.

We are the people; we represent the people; we are passing draconian legislation and we must put before the House—even at this point in time make certain that this system cannot be abused. I humbly submit that the Rules Committee may not know what is in our minds, but merely go through a system merely to satisfy their legislation.

For example, we are saying we want to ensure the integrity of the process and we are saying to you that we want it in legislation that an independent body will do this recording. We do not want, for example, a police officer takes a witness to a police station and the police officer is standing up there and the police officer is coaching you and a police officer probably just left the room, as they do in identification parades, and then that person goes there in the police station, just having spoken to the police officer and that person then goes on the video and that comes out.

We are saying no. PACE, which you have given us, Codes E and F say, if you have an accused, it tells you the size of the room and the procedure. What I am speaking about, humbly, Mr. Attorney General, is more than procedure; it is substantive law to protect the rights of the innocent. That is the argument. That is why we are saying it must not be done in a police station; police officers should not be present when it is being done, because that person is not an accused. The willingness of the statement, if it is not in the police station, adds credibility and integrity to the statement.

Remember, Mr. Attorney General, when we were arguing, there are institutions in Trinidad and Tobago which have high integrity. For example, we were advocating that the Forensic Science Centre does it; that you go to the Forensic Science Centre or a place designated and people from the Forensic Science Centre employ experts to do this video recording. That is the argument. It is not merely drafting rules to—

Hon. Jeremie SC: If you are going to have witnesses from throughout Trinidad and Tobago come down to the Forensic Science Centre, that clearly cannot work. What is being done at present is that the police stations are being outfitted. This is the information the Commissioner of Police has provided me with. Belmont is already outfitted; Tunapuna is already outfitted. This is how it is done in England. This is how PACE operates and the PACE guidelines that you referred to, are not substantive law; they are codes. So what we have sent for you is Code E and Code F and we have done a review of those codes against the relevant provisions in our Standing Orders and the Judges' Rules. That is the way it has to go.

Mr. S. Panday: I think you are missing the point, hon. Attorney General. I said at the Forensic Science Centre or a designated place. You have UTT with campuses all over; you have information technology all over. Do not do it in a police station. Do not have the video recording done at a police station. We are saying that after it is done, then you adopt certain codes of PACE. [*Interruption*]

You really want to understand or you are just making confusion?

Mr. Imbert: I am not in the role of the Opposition today. I thank the Member for giving way. Are you making a suggestion or are you drawing reference to a practice in some other jurisdiction? When you ask for the videotaping not to be done in a police station, is this just a reference on your part or can you point to some jurisdiction where it is mandatory that it is not done in a police station?

Mr. S. Panday: It is an original idea, having regard to our culture and what happens in Trinidad and Tobago. I want to inform you that—

Hon. Jeremie SC: This is the last time that I am going to interrupt. All over the world—the point that the Member makes is accurate. In Canada, in the United Kingdom, this is police work. Part of police work is interviewing witnesses and they do their work in the police stations. Now, what the Standing Orders and the Judges' Rules would provide is that, you have a caution; that they are entitled to legal representation; that they are fed; not deprived of food; the condition in which you hold them, and PACE provides for a custodian, some separate person. We discussed in our meeting, the presence of a JP. That is what occurs now in the case of written statements.

Mr. S. Panday: You know what you have said there, those of us who are in the system will know that although those are the rules, those are abused or not followed nine out of 10 times. Nine out of 10 times they are not followed. You have people outside there now saying that they are trying to go to the jail to see

their relatives and they are being brutalized. The law says you have half an hour visitation, but because something happens with some prison officer, they lock down everybody; nobody can go in there. They reduced it from half an hour to 15 minutes, to five minutes. So this is Trinidad and Tobago and this is our culture.

In this country there are good policemen but there are also bad policemen and we need to ensure that everything goes right so that the innocent will not be caught up in this. In this country they found guns in a police station; arms, ammunition in a police station. The society which we are dealing with is a society in which guns have been found in police stations; the society which we are dealing with is where policemen were alleged to have gone to a casino and the bandits more technologically advanced than the police, the police get "catch" instead.

This is the psyche in which we are living; this is the reality of the situation and it is in those circumstances we are asking for this. I have spoken to a policeman. I said, "But how those policemen could do this thing, to have guns in the St. Joseph Police Station?" The policeman said, "They really ain't good, yuh know, boy." But, you know, if they had it there to plant on a man who they knew was committing offences and they could not catch him, at least they would have something to plant on him.

This is the society in which we live and we should be ultra cautious. It is not like black and white on a paper that we just adopt this piece of legislation. We must view this legislation against the backdrop of the realities in the society and hence we were asking for the videotaping to—

Mr. Imbert: I thank the Member for being so generous. Since, as you have confirmed, this is an original idea of yours that the videotaping not be done in a police station, can you not see the logistical problems and the sheer inconvenience of having to take someone to a location that is not a police station where there are not police officers? Can you not see why it makes perfect common sense why the videotaping should be done in a police station environment?

Mr. S. Panday: The liberty of the citizen must not be sacrificed at the altar of purported convenience; it should never be. We are dealing here with serious legislation, legislation where people could go to the gallows on this kind of information. Therefore, you cannot use the idea about inconvenience when you are speaking about liberty of the citizen.

One would have thought that—what the hon. Attorney General said, although the one that they gave us deals with the accused, they will adapt it to be like PACE. I am saying that that cannot be applicable here as it is. I am saying 90 per cent of that is not applicable and we must develop our own system to suit our peculiar

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circumstances. That is all we are asking, and if you could give us that undertaking, that we probably postpone this and you produce it to us; produce the regulations to us; produce the rules to us so we could say that the innocent will not be caught up. We want to assist; we want to deal with crime, but at the same time we must not throw away the baby with the bath water. We want to make sure that the innocent does not go down with this. And I will come to that in a few minutes.

It says also in this on videotaping that the witness previously give a statement and you make a video recording of the statement. Now, if you have a statement, you remember under the previous Act, the 2007 Act, that statement could go into evidence.

Hon. Jeremie SC: Only if the person is dead.

Mr. S. Panday: No, there are other reasons also: If you try to get him and you cannot get him; somebody prevents him from coming to court; obstructing him. So you have ways to get the statement, but you want a video recording. What is the reason for the video recording when you could have used the witness statement to tender in evidence? This will have a greater effect on the part of the prosecution to prove their case, in that the visual impact upon the jury will be greater in the event of this.

That is why we are saying that when you bring the video recording, it is something which is already said in the statement and hence since we know the purpose for which you want to use it, then you should ensure that everything is done properly on behalf of the innocent person.

Hon. Jeremie SC: You asked why we are going further; what is the difference between this and the 2007 legislation. In 2007, what we did was to permit the use of statements given in circumstances where the maker of the statement, the author, was not available to give evidence at the trial. He might have been killed. That was the principal reason. So that we would, in those circumstances, use the written statement. What we found is that the criminals now, instead of killing witnesses after they give a statement, what they do is they intimidate those persons so that they go and they turn around—it makes no sense to kill them, because if you kill them, the statement goes in. So instead of killing them, what they do is that they get them to go and change their story, and that undermines their credibility and the case collapses. So what we are having now is a videotape which would be available to the court to look at so that the court could test the demeanour of the person on both occasions and see which one is true and decide the case on the merits.

Mr. S. Panday: Mr. Attorney General, I beg, you, read the law, please, “nuh”. Read No. 5 of 20. It says:

“Subject to subsection (2), a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved...

(a) is deceased;”

That is only one:

“(b) is unfit, by reason of bodily or mental condition, to attend...;

(c) is outside (the jurisdiction) of Trinidad and Tobago and it is not reasonably practicable to secure his attendance;

(d) cannot be found after all reasonable steps have been taken to find; or

(e) is kept away from the proceedings by threats of bodily harm and no reasonable steps...”

2.00 p.m.

It is the same thing here. It is in the law. When you say that it is basically for the deceased, look the law is here Attorney General. [*Interruption*] No you are disturbing me too much now. I do not know if you did not read the law. I do not know if when you read the law you did not understand it. The law is clear. You were there when that law was passed.

Hon. Jeremie SC: I passed it.

Mr. S. Panday: This occasion is the same like that. You do not know what you are doing. This situation is identical to that one. You cannot even remember what you did because you did not understand what you did. Having regard to the kind of disclosure you gave us, it is clear that you do not understand what you are doing.

What is frightening about this—and I asked the Attorney General when he is winding up—here we speak about the videotaping of a witness who had given a statement. What is the position in clause 15(2)(a) where a direction under this subsection may not be made in relation to recording a statement given by an accused?

This area also goes on to speak about video recording which is not only for murderers and rapists, but also applies to hybrid offences like unlawful wounding and those matters which can be found in Chap 4:20, Second Schedule. We would have thought that the mischief that this legislation was attempting to achieve was to deal with gang violence as murders by gangs, rapes by gangs and kidnapping

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by gangs. They have opened the legislation to catch every little Tom, Dick and Harry. This draconian legislation is to catch every Tom, Dick and Harry for every little offence. We ask the hon. Attorney General—in Trinidad and Tobago we speak about hybrid offence. We have the law, Ch. 4:20 Second Schedule which speaks about hybrid offences. That is offences for which you can be charged indictably, the prosecution recommends summary trial and you can elect summary trial to be tried before a magistrate.

We must not only look at this law as it is in Trinidad and Tobago, but the genesis of this law from where we have copied it and copied it almost wholesale. This law came into the British legislation because of terrorist activities in England. Because there were terrorist activities in England, the British Parliament by kneejerk reaction passed this piece of draconian legislation. Having passed it, do you know what happened? Many cases now which have been tried under this legislation have appealed to the European Court of Human Rights and most of them are being struck down because this legislation is too draconian, harsh and oppressive. That happens in England. England does not have a written constitution and that is why they were able to do what they are doing.

In Trinidad and Tobago we have a written Constitution and in those circumstances, we have to pass laws in consonance with the Constitution and good governance. I ask the Attorney General: How many offences which are hybrid offences and related to terrorism are there in England? This might be the reason if in England they said that they are going to take hybrid offences into the legislation because—I did some research and I was not able to come up with much—maybe there are certain offences which are ancillary or touches terrorist legislation and activities that they think those offences should be caught also. Probably the reason they did it was by kneejerk reaction. We must not copy people's kneejerk reaction legislation.

When we argued the Attorney General said that they agreed that that legislation is draconian. We agree that we do not have any great terrorist threats in Trinidad and Tobago, but you see how "dem gangs behaving" we could make the situation analogous to terrorism. No Mr. Speaker! That cannot be so. The situation is different. In England the situation with terrorism is different from what we have here. What we have here is gang warfare. The Government knows the gangs. We graduated from 66 to 86 gangs. We know where the gangs are. Instead of bringing this draconian legislation to Parliament, we should have brought gang legislation to deal with the gangs. We should have a situation like where there is a state of emergency in the law and not a state of emergency that

the Prime Minister is afraid of in having geographical, you know. We should bring such firm and strong legislation that is tantamount to a situation like that.

As a matter of fact, if this had been gang legislation, we would have supported it because we would have known what is happening. If we had supported it and it did not work properly, we would have said that if it is like a state of emergency put a sunset clause. In the meantime deal with the criminal elements in the gang. I do not know why they do not want to do that. Where is the gang legislation that you promised us?

Hon. Jeremie SC: It is coming.

Mr. S. Panday: That should have come before this and we would have dealt with all the issues. What we are concerned about that is frightening in this video recorded statement is that the normal practice in trials is that you must give sworn testimony. When you give sworn testimony it shows a certain amount of seriousness and concern about what you are going to say. In this situation, section 15I (8) says:

“A statement made by a witness in a video recording may be admitted under this section whether or not the statement was made on oath.”

That evidence can send an innocent man to the gallows. We think that if you had a statement and want to move to the next stage forward, you know the importance of that videotaping and hence, you must put in place systems where you ensure that that statement is on oath. If that statement is on oath, the people would know that there are consequences which would meet them if they lie. You would have perjury where they would be punished.

This is a situation where somebody merely goes to a police station in the presence of police, could be coached by the police, make a statement, video the statement and that statement could be used in a trial. One of the points we were arguing and asking the Attorney General to look at was to ensure that the statement which was video recorded was done—

The hon. Attorney General speaks about rules for the practice and procedure, for example, the size of the room; the position of the camera; who would be asking questions and whose back would be turned to the camera. Those rules are minor. He said that under the Judge's Rules you have a right to counsel. That is your constitutional right. How many times have you heard that? The truth is that it has never been given. You are alone in the police station. Anybody can go in a police diary and write we have him about his constitutional right. We told him

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that he has a right to an attorney or friend and he said that he did not want any. Nine out of 10 times when you are in court you hear them make the statement that it was offered to them and they refused it. When that person challenges it in court they have everything well documented and nothing is done.

Hon. Jeremie SC: They have a video which will show what is going on.

Mr. S. Panday: We do not object to the video recording, but we are asking that it be done in such a way that there is purity in the system and innocent people are not caught. That is important.

Hon. Jeremie SC: I must agree with that.

Mr. S. Panday: The other area which we thought was frightening is clause 6 of the Bill which says:

“Section 15C of the Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (d), by deleting the word 'or';
 - (ii) in paragraph (e), by deleting the full stop and substituting the words '; or';
 - (iii) by inserting after paragraph (e), the following paragraph:
 - (f) is fearful.'”

It looks innocuous.

That must be read in conjunction with Act 5, 2007. It says.

“...a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence by him would be admissible if it is proved to the satisfaction of the court that such person...”—refuses to come to court because he is fearful.

That is most frightening. Anybody can go into a police station and make a statement about someone and then say that he or she does not want to go to court because he or she is afraid. We can use that statement to send an innocent man to the gallows. If the guilty goes we have no problem, but we believe that the rights of the innocent must be safeguarded.

The amendment which they give us here speaks about after one or two things have been done. That cannot cure the problem. I give an example of a case which was heard this month before our erstwhile colleague Justice Lucky in the San

Fernando Assizes. Two men were charged with arson. They could have faced life sentence. A witness came and said, "I saw them. I saw the tenant of the house struck a match, light a flambeau and threw it in the house, burn down the house." For good measure the brother was there and he was with him. Both men were charged with arson with intent to cause injury to person and property.

2.15 p.m.

Do you know what she did? Subsequent to that, she went to the court and brought cases against them saying they threatened to kill her. This is identical to this legislation. However, when her evidence came before the court and was tested in cross-examination, one of the persons who were charged was a tenant of the house. His father and brother lived about 200 yards away. They wanted him out of the house.

Mr. Speaker: This case is finished?

Mr. S. Panday: Yes. She knew that the land was for sale and if the house was burnt the tenancy went with it. In cross-examination, it came out that her son was in the house a few minutes before, and that soon after the house was burnt, she bought the land and built her house on it. Those two men spent one month in the docks facing a trial.]

When she was cross-examined and the truth came out, the learned judge asked the jury if they wanted to retire to consider the verdict. The jury foreman said: "No, we want to give it right away." The verdict was that the men were innocent.

I give that story which is true and which happened only this month. This legislation creates that situation. Those two men are humble labourers. One works in a soft drink factory. They have their children, 18 and 19 years, doing A levels and just entering university; their families destroyed on a lie of one lady. If she had not been cross-examined, both men would have faced lifetime in jail for arson.

Hon. Jeremie SC: What is the difference?

Mr. S. Panday: The difference, Mr. Attorney General, is that you are saying that if someone writes a statement—

Hon. Jeremie SC: [*Inaudible*]

Mr. S. Panday: No. Mr. Attorney General, you are really not understanding what is happening. You are out of it. I moved from section 15; I am speaking about clause 6. You are out of it. You do not understand what is going on. I am moving on to another issue. I have moved from videotaping and gone to sworn statement.

Hon. Jeremie SC: It is subject to court jurisdiction.

Mr. S. Panday: The "subject to court jurisdiction" is on the issue of being fearful and anybody can make excuses about being fearful and, in that case, the lady had put them in court for threatening her. She could easily have said that she was fearful and in those circumstances the evidence would have gone in without cross-examination.

Hon. Jeremie SC: Not necessarily. There is the interest of justice—

Mr. S. Panday: You do not understand. You must not legislate by "vaps", with such lacuna.

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. [*Dr. H. Rafeeq*]

Question put and agreed to.

Mr. Imbert: I thank you, Member, for giving way. You would have seen the amendment when we met on Wednesday and it would have been circulated again today. We are typing the definition of fearful, including a paragraph that says: Is fearful and no reasonable steps can be taken to protect him or others from financial loss. The emphasis is on "no reasonable steps can be taken to protect the person". In those circumstances, it is not as *carte blanche* as you are making it out to be. It is my view that the court will determine the reasonableness of the steps taken to protect this person.

Mr. S. Panday: What do you mean by *carte blanche* in this context? That is not the point. That expert in everything does not understand; that Minister of nothing that works. That is by-the-way; that is ancillary. We are talking about the substantive law.

One wonders if they do not want to use this, if they have to, against their opponents. If this law were in place, that Member for Diego Martin West could have been facing the law today—setting people up and getting them to make statements that he did certain things and using it against him. They could use it against their perceived opponents. This is where we feel it can be abused and we must not pass legislation where the innocent can be abused.

As I have indicated, they merely follow fashion and copy from the British laws which are yet being tested in England and which have been ruled against. We are grabbing them and putting them on our table.

There are really three issues in the Bill. One is on good character and the other on a statement. Now I wonder what they understood when they put into this the

character of the person. They said that a person's bad character can be introduced into evidence if all parties agree to the proceedings. I ask the hon. Attorney General: Which lawyer in Trinidad and Tobago will allow the bad character of his client to be put into issue? No one will ever do that. Why introduce this here? When one looks at his speech in the other place, he said that this is a balancing act to ensure fairness.

The hon. Attorney General knows that our criminal justice system is adversarial and nobody gives in; everyone stands his ground. So why put into legislation that a person's bad character could be introduced in the proceedings if all the parties agree? We are wasting time with this legislation. It is not worth the paper on which it is written.

We say that we should have brought legislation, strong legislation, against the gangs and ignored that. Take it out if you want to deal with the criminals; if you want to deal with fellows we know are criminals and who are "liming" with criminals; who have committed offences and as they come out, they perform these heinous acts. Do not give them a break. Deal with crime and the criminals, the gang leaders and, therefore, do not put this foolishness in the legislation. If you want, really want to deal with crime, bring strong legislation.

It seems to me that the Government has no intention of implementing this law as they have done in the past. How are you passing draconian laws without the appointment of a commissioner of police to implement the laws? This Government does everything for political purposes. Since March 2006, we passed laws for a commissioner of police who would have implemented this Act. It is going on four years and this Government has not ensured that a commissioner of police has been appointed. If they are really interested in dealing with crime, the first thing they should do is to put a commissioner of police in place and then bring the legislation.

We want to assist with dealing with crime, but we must make sure that the rights of the innocent are protected. They have given us no guidance; they have shown us in no way where the rights of the innocent would be protected and, in those circumstances, we wait to see what amendments are coming.

The Minister of Works and Transport (Hon. Colm Imbert): Thank you, Mr. Speaker. Let me put some matters into perspective. The issues that the hon. Members opposite have raised with us deal with three aspects of this legislation: one is the idea of previous inconsistent statements, the second is the introduction of bad character evidence and the third issue is the whole concept of video recording of statements.

If I listened in between what the Member for Princes Town North was saying—in between his eccentric approach to this matter, I tried to understand

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what he was saying. What I was able to discern—I do not know if I am right because it was difficult to translate—is that he has a problem. I am not an expert in that language; I am not trained in that language, but I tried to understand what he was saying. The hon. Member was complaining about the whole issue of rules. The Attorney General has made the point that the plan is that the rules for audiovisual recording of statements will be made by the Rules Committee of the Supreme Court.

I cannot imagine what the problem is because, as the hon. Member knows, when those rules are made, they will be laid in this Parliament and are subject to negative resolution, so that hon. Members opposite will have an opportunity to see them, to debate them and to object to them.

2.30 p.m.

Mr. Speaker, some examples of the rules that the Judiciary will be able to make or can make would be rules dealing with matters such as the recording of the evidence and the sealing of the videotape themselves.

As an example, the court could decide to make rules along the following lines if they so desire, because as you know we have separation of powers. I am not going to tell the Judiciary what to do; all I am saying is that they could make rules such as:

- The visual recording of interviews shall be carried out openly to instill confidence in its reliability as an impartial and accurate record of the interview.

Mrs. Persad-Bissessar: By whom?

Hon. C. Imbert: Pardon, specially-trained police officers.

- The cameras should be placed in the interview room so as to ensure coverage as of much of the room as is possible, whilst the interviews are taking place.

very importantly, the court can make a rule like this.

- The certified recording medium shall be of a high quality, new and previously unused.

Again, very, very important.

- When the certified recording medium is placed in the recorder and switched on to record, the correct date and time in hours, minutes and seconds, shall be superimposed automatically second by second during the whole recording and a copy of the certified recording medium shall be sealed before it leaves the presence of the suspect or the witness and a second copy shall be used as a working copy.

I am giving this as an example of what the court could do, because this is not rocket science.

The use of the audiovisual recording of statements in criminal matters is quite commonplace in other jurisdictions. Other jurisdictions have had to look at this. They have had to grapple with all of the problems that can arise, such as tamper with the videotape and whatever. The reason I read some of the rules that could be made is when you have the superimposition of the correct date and time in hours, minutes and second by second. When you have a provision for proper custody and the making of videotapes in the presence of the witness, at least you have a fairly reasonable chance that the videotape will be an accurate and true record of what actually took place.

I give you another example.

- The court may take account of notes of guidance such as these: that interviewing officers shall arrange that, as far as possible, visual recording arrangements are unobtrusive.

Mrs. Persad-Bissessar: Which clause is that?

Hon. C. Imbert: It is not a clause; I am giving you an example of what the rules could possibly look like.

Mr. Speaker, let me go back. The hon. Attorney General indicated that what the Government intends to do is allow the Judiciary to make the rules. Clearly, the Member for Siparia is either deliberately not listening or is distracted. We intend for the Rules Committee of the Supreme Court to make rules and the Attorney General sits on the Rules Committee.

Mrs. Persad-Bissessar: If I am to recollect what transpired when we met is that you had said to us you would provide us with a copy of the proposed rules. We have not seen those and this is what you seem to be reading from. In the meeting you said you would give us certain documents. My recollection is that it would include those rules. You had said you would do rules, but you also said there should be some provisions within the substantive law that will give guidance with respect to that. You have not done that. That is okay. You had also said you would give us a copy of the proposed rules.

Hon. C. Imbert: Mr. Speaker, the hon. Member is correct, to a certain extent, when we met we had, at that time, considered the possibility. There was no agreement. [*Interruption*]

Mrs. Persad-Bissessar: There was no agreement.

Hon. C. Imbert: No, there was no agreement. Let us be serious here. We said we would consider the possibility of incorporating into the legislation, some aspects of the rules that are currently used in the United Kingdom. That is what we said; that we would look at the PACE Rules, the Police and Criminal Evidence Act of the United Kingdom, Code F and Code E. I believe this was circulated to hon. Members opposite, prior to this sitting. We said that we would see whether we could incorporate some elements of these rules, the Code of Practice on Visual Recording and the Code of Practice on Audio Recording into the substantive law.

The Attorney General has advised that the Police and Criminal Evidence Act of the United Kingdom contains a lot of cross-referencing to other laws in England and other regulations in England, which do not form part of our domestic law. Therefore, it became difficult to incorporate these particular rules from the Police and Criminal Evidence Act into the legislation. As a consequence, rather than trying to do a sort of cut and paste job, which we felt might put us into trouble, because we may not fully appreciate the context in which the Police and Criminal Evidence Act/Code of Practice is utilized or was created in England, it may not be completely applicable to our local situation. We felt it far better, rather than trying to lift the Code of Practice out of the British situation, that our Judiciary sit down with a Rules Committee—as I have said, the hon. Attorney General is a member of that Rules Committee—and come up with rules which are relevant to the Trinidad and Tobago situation. In fact, I heard something like that. I heard the Member for Princess Town North singing a song about something along the lines that we should make our own rules. That is what I picked up from him. As I have said, I am not an expert in the language that he speaks, but that was the general theme I got. We decided on balance rather than trying to copy what is in the English rules; that we should allow our Judiciary and our Rules Committee to make rules. Those rules will be laid before this House and will be subject to negative resolution.

Let me go on. Mr. Speaker, for the benefit of the Member for Siparia, we have started to look at what possible rules might look like. We have the workings of a draft. Again, it is not up to this House—in a situation where the Rules Committee will be making the rules—to make the rules. The committee will make them and put them before us for our approval or not, as the case may be.

I was moving on. Some of the notes for guidance that the Rules Committee of the Judiciary might or can make would be that, for example, interviewing officers, as I have said, shall arrange that, as far as possible, visual recording arrangements are unobtrusive. It shall be clear to the suspect or witness that there is no

opportunity to interfere with the recording equipment or the recording media and the certified recording media shall either be a VHS or digital CD format and should be capable of having the date and time superimposed upon them. The purpose of sealing the master copy is to establish, before it leaves the presence of the suspect, their confidence that the integrity of the copy is preserved.

I want to shift a little bit. The Member for Princes Town North said that the criminal justice legislation in the United Kingdom was introduced to deal with terrorism. That is not entirely correct. In England, as in Trinidad and Tobago, there was a situation where violent crimes were on the increase. There was the gang problem, as we do have in Trinidad and Tobago. There was the formation of gangs taking place in the United Kingdom and there was also the prevalence of violent crimes, especially committed by young offenders. It was found that in the situation where there was gang violence and violence driven by gangs and violent crimes and crimes being committed by youthful offenders, it became necessary to protect the witnesses. All of this is about trying to get some evidence in order to attempt to secure a conviction. That is what this is all about. In the current situation, the system is just not working.

The Attorney General has pointed out what happens—we see it all the time—a witness would give a statement prior to the trial and then come to the trial and change his or her story. This is not a theoretical construct. This is happening in Trinidad and Tobago as we speak and it is becoming more and more prevalent. With the law, as it currently stands, when a witness gives a statement in the trial, which is inconsistent with a statement tendered as a written statement or in the police station or whatever as the case may be—this is one of the things that we are seeking to deal—the jury does not have the opportunity to deal with the previous inconsistent statement.

One of the features of this legislation is the introduction of a new section 15(H), which provides that the contents of a previous inconsistent statement are admissible as evidence of truth and cannot be used to challenge the credibility of the witness.

What is happening now, in the current law, is that if someone gives a previous inconsistent statement, all it can be used for is against the credibility of the witness, but the statement itself is ruled as inadmissible. What this law is doing, which is a modern progressive innovation, is that the jury will have both statements; the previous statement and the new statement. From the demeanour of the witness or whatever tools that a jury would use, the jury will decide which one is true. Especially in a videotaping scenario, if someone gives a statement that is videotaped and a jury had an opportunity to look at the demeanour of that witness

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and his or her body language in a video scenario and the person then comes at the trial and gives a completely different statement, now the jury can look at the videotape and can look at the person in the dock and have the opportunity to decide whether the previous statement was true or whether the new statement is true.

At this present time, the jury cannot do that. There are situations where people are charged, based on statements made by witnesses and when the matter goes to court, they get off because the witness then says: "I cannot remember", or "I am lying", or "dey beat meh and make meh say dat statement", or whatever the case may be. It deprives the jury of the best evidence available to it and deprives the jury of the ability to look at all the evidence that is available in a criminal trial. This, as I have said, is an innovation in the United Kingdom. When we pass this law, the juries will be able to look at both statements and make up their minds as to which one of them they will consider is the truth.

With respect to the situation with fearful witnesses, again I could not figure out what the Member for Princes Town North was saying. I could understand his point about rules and the guidelines for videotaping, because, clearly, there must be some sort of rules or guidelines in order to preserve the integrity of the audio-visual recording that would be used in a videotaped statement, obviously.

2.45 p.m.

If you do not have guidelines or rules for videotaping, then people could challenge the statement based on a number of planks of attack that the video is not a true record; it was not properly taken and they were under duress and all sorts of things. So, you must have rules, and that is obvious. I understood that point.

As I said, the route we are going is through the Rules Committee of the Supreme Court in order to have those rules properly made. I could not gather what the hon. Member was saying about fearful witnesses, because the amendment that has been circulated makes it very clear that a fearful witness would be someone who is fearful and no reasonable steps can be taken to protect the person or others or to protect him or others from financial loss.

So, clearly, it is not going to be a free for all. It would be a decision of the court to decide what is a real or true fearful witness as opposed to somebody who is just pretending. Am I correct, Attorney General? Would the judicial officer not make that determination? They would question the person and make a determination or use some other means to make a determination or question the police and so on, as the case may be, to determine whether the person is a fearful witness or not. There are some things that we have to leave up to the discretion of

the court. I personally do not see any issue if we leave it up to the court to determine whether no reasonable steps can be taken to protect the witness.

The third issue in this Bill is allowing the admissibility of a person's bad character. Regrettably, the Member for Princes Town North did not deal with this matter. What this Bill seeks to do is to allow seven scenarios—they are called gateways—where evidence of a defendant's bad character may be admitted. The first gateway which is quite easy to understand is that evidence of an accused bad character can be given if the evidence is strikingly similar to previous misconduct on the part of the accused.

So, let us say a man has 29 convictions for grievous bodily assault, and he is accused of grievous bodily assault and the assault is strikingly similar to all the other offences that he has committed, then what this section would seek to do is to introduce evidence of a person's previous misconduct that is strikingly similar. I mean, the English meaning of the word is obvious.

The other gateways deal with matters where it is not strikingly similar, and it is actually explained in the Bill. If I go to the Bill itself, at 15N it says:

“In criminal proceedings evidence of the accused's bad character is admissible where—

- (a) all parties to the proceedings agree to the evidence being admissible;
- (b) the evidence is adduced by the accused himself or is given in answer to a question...
- (c) it is important explanatory evidence;
- (d) it is relevant to an important matter in issue...
- (e) it has substantial probative value in relation to an important matter in issue...
- (f) it is evidence to correct a false impression given by the accused; or.
- (g) the accused has made an attack on another person's character.

When you go to 15O it says:

“...evidence is important explanatory evidence if—

- (a) without it, the Court or jury would find it impossible or difficult to understand other evidence in the case...”

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Mr. Speaker, I go now to 15P and it says:

“...an important matter in issue between the accused and the prosecution includes—

- (a) the question whether the accused has a propensity to commit offences of the kind with which he is charged, except where his having such a propensity makes it no more likely that he is guilty of the offence; or
- (b) the question whether the accused has a propensity to be untruthful in any respect.”

In other words, the person could be an incorrigible liar, and this could be demonstrated by his conduct in a number of previous criminal trials.

Let us go to 15Q and it says:

“(1) Evidence which is relevant to the question whether the accused has a propensity to be untruthful is admissible...only if the nature or conduct of the accused's defence is such as to undermine the co-accused's defence.”

Mr. Speaker, 15R says:

“For the purpose of section...

- (a) the accused gives a false impression if he is responsible for the making of an express or implied assertion which is apt to give the Court or jury a false or misleading impression about himself;”

He could say that he is an angel, he never had any trouble with the law, he is a good boy and a mummy's boy and this time he has 29 convictions. So, I am just giving some examples of the innovations which this law seeks to introduce so as to give the jury the opportunity to make the best possible assessment of the evidence before it.

Mr. Speaker, these are the three things that this Bill is seeking to do; to allow a previous inconsistent statement to be looked at or considered together with new evidence which is completely contradictory. As I said, videotaping will assist that. So, if the jury can look at the demeanour of the witness when he gave the previous statement and look at his demeanour in the dock, videotaping must be an advancement; it must be an improvement.

Presently, all you could look at is the written statement and you do not know what was the person's state of mind or how the person was behaving when he gave that particular statement—whether he was calm, flustered, excited or

whatever it is as the case may be. So, it is an innovation that has taken place in England, and we think that it is appropriate to take place in Trinidad and Tobago to allow previous inconsistent statements to be considered by the jury.

With respect to the bad character, I have given examples as to why a jury should be allowed to be told about the bad character of someone.

With respect to the videotaping itself, the third plank of this legislation, we are committed to ensuring, together with the Judiciary, that the best possible rules are made by the Rules Committee of the Supreme Court to give the maximum possible safeguard to persons who might be unjustly accused or even persons who might be correctly accused.

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

Dr. Tim Gopeesingh (*Caroni East*): Mr. Speaker, I come on the heels of five attorneys who have made contributions on the Evidence (Amdt.) Bill led, of course, by the Leader of the Opposition, hon. Basdeo Panday, the hon. Member for Couva North; the Member for Siparia; the Attorney General, who I am not too sure practised any criminal law whatsoever; the Member for Pointe-a-Pierre, then a quasi-lawyer, the Member for Diego Martin North/East and, of course, my colleague, the Member for Princes Town North who practises criminal law. Besides the Member for Couva North, who had been practising a lot of criminal law before, the Member for Princes Town North is the only practising criminal lawyer that we have in the House here this afternoon. Now, I am going to give my layman's perspective on the whole issue of what is before us.

The Evidence (Amdt.) Bill, 2009, follows on the Evidence (Amdt.) Bill, 2007. This Evidence (Amdt.) Bill and as has been discussed—in fact, when the Attorney General made his presentation, he indicated that this Evidence (Amdt.) Bill is one of the new pillars for the criminal justice system in Trinidad. There are also the Proceeds of Crime Act and the Financial Obligation Regulations. He made the statement that he wanted to recalibrate the criminal justice system and bring about a regime that is fair to the witness, accused and prosecution.

If a layman takes this Bill and examines it carefully, where someone is before the courts—based on someone making up a statement, putting it into a police station by a police officer and having himself videotaped in circumstances which are questionable with no ability to be cross-examined before the courts—this is a deprivation of the fundamental rule of natural justice and a deprivation of the freedom and the liberty of an individual not being able to face his accuser and to cross-examine his accuser in such a situation.

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Mr. Speaker, the Attorney General also said that the Evidence (Amdt.) Bill is part of a series of measures which the Government proposes to implement in order to improve the administration of the criminal justice system, and the provisions are modelled after the United Kingdom's Criminal Justice Act, 2003, in particular, section 44 of the Act.

Mr. Speaker, two days ago, when the team from the Government met with the team from the Opposition, the Attorney General indicated—I think I wrote down what he said. He said that there are certain dangers and, strictly speaking, things are quiet in the United Kingdom. He feels that crime for us is what terrorism is in larger societies. I want to repeat that. The Attorney General said that he feels that the crime for us is what terrorism is in larger societies. People are being kidnapped and killed and he feels that extreme measures are necessary, and this piece of legislation may be described as radical.

What he is saying is that 90 per cent of this came from the British Criminal Justice Act. He argued that the British Criminal Justice Act was brought on as a result of what is happening in England. He indicated that this is equivalent to the terrorism which is occurring in England. I quoted him.

The Member for Diego Martin North/East tried to deny that. If the Evidence (Amdt.) Bill is being brought before this House and it is positioned along the British Criminal Act—the British Criminal Act was brought on because of terrorism in the United Kingdom—do we have terrorism in Trinidad and Tobago? Is the Government admitting that there is terrorism in Trinidad and Tobago? Because if you bring an Act similar to what came out of the British Criminal Act—I would give way and wait for an answer.

Hon. Jeremie SC: I want us to be very clear about what I said in the meeting. The Member for Caroni Central was careful to ask if the meeting was being recorded; and it was not. So, we might have different recollections of what was said. I said that terrorism for the developed countries is analogous to the threat which smaller countries faced by organized crime and a high incidence of criminal activity. It engenders the same sort of fear in the population. That is what I said. I went no further than that.

Dr. T. Gopeesingh: That is the similarity in Trinidad with the United Kingdom, and this is why I thought I would give way for you to answer whether there is terrorism in Trinidad and Tobago. That is the question we are asking. Is this why you are bringing a draconian piece of legislation and instituting draconian legislation in Trinidad and Tobago? You have to answer the question: Why is it necessary?

3.00 p.m.

Hon. Jeremie SC: I also disputed the proposition. If you remember correctly, the Act was passed in response to terrorism in the UK—the 2003 Act. I said no and I referred to the case of *R v Khawaja* in which a fearful witness from an Iranian community took advantage of the provisions of the Act. Because, of course, if she had given evidence at the trial she felt that in the community that she was in she would have been under threat, so I disputed your basic assumption. I just want to put that on record.

Dr. T. Gopeesingh: So, what is the rationale for bringing this piece of legislation which we consider to be draconian?

Hon. Jeremie SC: The same as it is in the United Kingdom that the criminal justice system needs to be recalibrated and I make no apologies for that. It is stated in a case which I would refer to when I am winding up.

Dr. T. Gopeesingh: It is very easy for the hon. Attorney General to speak about the legislation that is necessary here. He said that the challenges faced by the prosecution here are the elimination of witnesses, witness tampering and so on, but this piece of legislation does not have the checks and balances as you have under the Criminal Justice Act of Great Britain. [*Interruption*] They have checks and balances which we are not incorporating in this piece of legislation.

Mr. Speaker, the Attorney General indicated that the British Government had put out a White Paper outlining comprehensive plans for the reform of the criminal justice system from crime prevention, to detection, to punishment, to rehabilitation of offenders. This piece of legislation basically deals with one part, and that is punishment. This Government has brought us in this country to the state where we are now, to a situation where you want to pass draconian legislation with no checks and balances or with little or no checks and balances against the people to deprive citizens of Trinidad and Tobago the right to a fair hearing whenever he or she may be an accused.

This Government has brought this country to where it is today, so you have to introduce legislation based on hearsay evidence, introduce legislation to say that you are going to try somebody when a witness cannot be brought into the country under the 2007 piece of legislation. The 2007 piece of legislation indicated that:

“Subject to subsection (2),

- (a) statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral

evidence by him would be admissible if it is proved to the satisfaction of the court that such person—

- (a) is deceased;
- (b) is unfit by reason of his bodily or mental condition, to attend as a witness;
- (c) is outside of Trinidad and Tobago and it is not reasonably practicable to secure his attendance.”

Anybody can go outside of Trinidad and Tobago. They can give a statement, leave the country—a fabricated statement—leave it there and then find all types of reasons for not being able to come back to Trinidad and Tobago. What is "reasonably practicable to secure his attendance"? "Cannot be found after all reasonable steps have been taken to find him", who takes the steps to find that particular witness and what is reasonable steps? Somebody conjures up a fabricated story, deposits it as evidence, leaves the country—

Mrs. Persad-Bissessar: Abscond.

Dr. T. Gopeesingh:—or absconds from the country and the person cannot be found, who determines whether the person cannot be found? The person may be hiding somewhere, and therefore, how is the defence going to cross-examine this person to get fair justice?

This was passed, Mr. Speaker, the 2007 piece of legislation, and today we are getting the 2009 piece of legislation where somebody could be filmed by videoconferencing. We have a situation where in this country the police service—there are tremendous police officers who work hard and tirelessly, they are very competent and capable police officers, but there are a few rogue police officers in the system who will do anything. They want to get "A" or "B", they get someone to fabricate something about "A", put it in deposition, "A" is charged, unable to cross-examine the witness, and therefore "A" is prosecuted because there has been collusion between police officers and certain people. It is quite evident. We see this happening.

Even in the police stations, we see prisoners being killed, you see prisoners being hung, prisoners found dead in cells in the police station. That has happened on a number of occasions and the post-mortem examination has been done and was inconclusive. What prevents this from happening with any particular individual who is framed and goes to a police station and suffers at the hands of police officers who are aberrant police officers? They do the dirty work behind

the scene, threaten this person, bring this person and say, well, we are going to videoconference you to give a statement and if you do not behave yourself while you are being video-conferenced, we will deal with you after. So, the person sits, behaves himself nicely, gives a nice videoconference and says "X", this is what happened and he was forced under duress to say it, but if he does not say it, when he leaves the scene of the videoconferencing he is beaten again. What prevents that from happening?

On that point, the whole question of videoconferencing, we brought that up as one of our major concerns when we met with the team. It was brought up, where are the checks and balances as far as the collection, the storage, the protection of the videos and the admissibility of the videos? All of these issues as far as videoconference is concerned and we were promised that they would send information for us that would assist us to clear the air on some of these.

My colleague from Princes Town North drew my attention to what is recognized—I am sure you recognized Archbold, which is the bible for criminal law. In Archbold there are a number of pages on the codes of conduct for videoconferencing, how you make a video, who makes the video, where it is made, who seals the video, who breaks the seal of the video. Archbold has about four or five pages with codes of conduct on it, evidenced by video recording, section 8(6)(vii)(a) to a number of pages. It goes on to evidence by live link.

Mr. Speaker, why could this not be incorporated as part of the rules attached to this piece of legislation? Why could this not be done? It is easy for the Member for Diego Martin North/East to say the Rules Committee on the Judiciary will bring about the rules. It is easy for you to say, and you have the Bill passed. Then, when it is passed you forget about it, you do not bother about it, no rules are put into place, the videoconferencing goes haywire and there are no checks and balances as far as that is concerned.

Mr. Imbert: Mr. Speaker, I thank the Member for giving way. Just to make it very clear, the rules would have to be laid here subject to negative resolution, so it is a process. *[Interruption]* I also want to tell you—that is just how it is. That is in the current legislation as it is now, that the rules are subject to negative resolution, but you would see them. Hold on, I just want to make the point—

Dr. T. Gopeesingh: *[Inaudible]*

Mr. Imbert: That is all right, it is just a minute or two. I am sure you were not taking the full 75. It is in nobody's interest not to have rules because if there are no rules then clever attorneys, such as some of the attorneys on your side, will

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find some way of getting someone off a murder charge or something like that by saying that there are no rules [*Interruption*] and therefore, the documents are not correct and so on. [*Crosstalk*]

Dr. T. Gopeesingh: You see it is easy for Members to make promises.

Mrs. Persad-Bissessar: Exactly!

Dr. T. Gopeesingh As soon as this Bill is passed—Mr. Speaker, the Government side does not need us to pass this legislation. It is very surprising.

I remember the hon. Attorney General—I read the *Hansard* contributions in the other place and the Attorney General was arguing for a simple majority in the other place, but fortunately he learnt that it needed a three-fifths majority. I am very happy he learnt that it could not have been by a simple majority and that you have decided that you are going to come to ask for a three-fifths majority here. You have the three-fifths majority. You do not need our support! We cannot stay here and accept the fact that this piece of legislation is going to be passed without objections from us, which is going to be to the detriment of the average citizen in Trinidad and Tobago. When you realized that one of your Members could not be here that is where you made the "gambage" that you want to work with the Government and the Opposition—

Mr. Imbert: [*Inaudible*]

Mr. Manning: The Member for Caroni East is just not correct. I was the one who made that proposal to the Opposition, because there is a principle involved in it. The legislation is strong legislation, we accept that. In circumstances where that is required in the context that the proper discharge of functions in the criminal justice system, we believe that in circumstances such as those we have a responsibility to discuss to the extent that it is possible to come to some agreement with the Opposition, that we attempt to do that. If we cannot reach an agreement with them then we do not, but we made an attempt to do it and that is what we did.

Dr. T. Gopeesingh: Mr. Speaker, I am glad the hon. Prime Minister got up and made a statement. If you wanted our feedback on it, we met with you and we raised serious concerns to your team. [*Interruption*] Hold on, I will repeat the serious concerns that we made and your Members and colleagues will tell you that if these were not serious concerns that we raised—we raised the concern about fearful, what standards are used to determine fearfulness and the way it is used in the Act it is dangerous. We needed to have some discussion and further amendments on that. We had a concern about the question of bad character. What determines bad character? Where is the morality in bad character?

The Member for Couva North indicated the whole differentiation between the Christian movement, the Hindu and the Muslim. What would be bad character in terms of religion as well and the moral virtues? We had questions about the inconsistent statements; we had questions about unsworn statements, the integrity of video recording or checks and balances. You indicated that you are going to give us precedence about fearful, and my colleague—"Subbie", let me just see those papers the Government gave us, those two big things.

Prime Minister, through you, Mr. Speaker, these are just some of the information that was passed on to us on Wednesday afternoon.

Mrs. Persad-Bissessar: The meeting was Wednesday and we got it on Thursday.

Dr. T. Gopeesingh: Mr. Speaker, I wish to draw the attention of the hon. Attorney General. How could you indicate to us that you are going to give us some precedence and some case laws on some of these areas as far as fearfulness is concerned, bad character? You sent all of the thick information for us to read late Wednesday night—

Mrs. Persad-Bissessar: Thursday.

Dr. T. Gopeesingh:—or Thursday morning, and these are just a few of the things that you sent. Then they promised that they would submit amendments to the original Evidence (Amdt.) Act.

I have with me the old Evidence (Amdt.) Act that you had submitted when you presented the last day—last Friday. These are the amendments that you circulated on that day.

3.15 p.m.

You promised that you would have made new amendments and circulated them to us even this morning.

Mrs. Persad-Bissessar: No, they did not circulate them. They gave them to us on Wednesday in the meeting.

Dr. T. Gopeesingh: You gave us these on Wednesday in the meeting, and you promised that you would give us new amendments, or additional amendments.

Mr. Speaker, the amendments were emailed to us this morning, which I have on my cellphone, and which I have a copy of, are identical to that given to us on Wednesday. Identical to what was given on Wednesday. So when we say that this Government was just playing games, was trying to fool the country and the people that they were working with the Opposition to support this Evidence (Amdt.) Bill,

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this is unacceptable. You cannot fool the people of this country and say that you are going to work with the Opposition, and for the Opposition to support you on this draconian piece of legislation. Give us amendments on Wednesday and come today with the identical thing, and none of these concerns that we raised on Wednesday afternoon when we met, not one of these have been addressed in any one of the amendments.

Mr. B. Panday: Even though you were knocking on an open door.

Dr. T. Gopeesingh: Yes. Even though you were knocking on an open door as my—We said we will work with you. We will work with you and we will see the best type of legislation that could be put forward, so that no citizen of Trinidad and Tobago will be denied the right to a fair trial. But, Mr. Speaker, when this happens, how can we have confidence in a government that tries to fool the people? We believe this draconian piece of legislation has a two-fold reason. One is to fool the citizens of Trinidad and Tobago, and the next one is to ensure that they have legislation for political victimization against their opponents. [*Desk thumping*] They have a political agenda. This piece of legislation has a serious political agenda behind it, and we cannot accept that.

Mr. Speaker, this piece of legislation needed wide consultations. The Attorney General indicated that there were wide consultations for the British Criminal Justice Act to come into place, consultations on crime prevention, to detection, to punishment, to rehabilitation of offenders. Do you know what consultation this Government had before bringing this Bill to Parliament? With the Law Association. One stakeholder!

The Criminal Bar Association, Mr. Speaker, which you know is the custodian of criminal law was not even consulted, but they pass it with a wide brush and say, "Well, the Law Association incorporates the Criminal Bar Association." But you should have sought advice from the Criminal Bar Association. Any criminal lawyer that we speak to, has been telling us, "Please, do not allow the Government to hoodwink us to accepting this Bill to be passed in Parliament, because that has serious repercussions for trials, for criminal trials and for fair trials in this country, in the judicial system. They are totally against it. And we wonder why the Attorney General and his team did not see it fit to speak to the Bar Association and other stakeholders on this matter. Why was that deliberately left out? Because they know that they would not have gotten acceptance to that.

Mr. Speaker, they knew they have the constitutional majority. They have the constitutional majority of three-fifths, and this is why they came and passed the

Validation Bill, the Financial Institutions Bill, the Proceeds of Crime Bill, the Securities Industry Bill, and they now want to pass the Evidence (Amdt.) Bill. The Attorney General indicated that he wants to ensure that this Bill does not seek to create an unfair trial; Government does not believe it is unconstitutional; and he wants to ensure that they pass a piece of legislation which will not be struck off by the courts as being unconstitutional.

Mr. Speaker, I want to draw to the attention of this House, how this Bill could be ruled unconstitutional pretty shortly, even though you have the three-fifths majority. We are governed under the British system. You brought this Bill from the British Criminal Act. The British Criminal Act is governed by the highest courts in Britain, which to some extent is subservient to the European law, and the European Court of Human Rights is very strong about this issue. In fact, there are matters pending before the European Court of Justice on these issues. Do you know what Article 6 of the ECHR says? I quote:

“Everyone charged with a criminal offence has the following minimum rights:

- (a) to be informed promptly...;
- (b) to have adequate time and the facilities for the preparation of his defence;
- (c) to defend himself in person or through legal assistance of his own choosing or...;”

But more importantly—

“(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him...;”

That is Article 6 of European Commission of Human Rights, which governed the conventions under which the British system is governed by as well, and there are matters before the ECHR now which the British Criminal Justice Act passed that are now being questioned. So, no matter if we pass this piece of legislation, you will see very quickly that this Bill, which will probably be made an Act because you have the three-fifths majority, will be rendered unconstitutional very, very quickly. So it is important that we bring this to their attention, and we record it in the *Hansard*, that this cannot be accepted. This ought not to take place.

So, Mr. Speaker, we believe that the principles of fundamental justice, the right to cross-examination and the right to confront your accusers are fundamental. On that point, in terms of the right to confront your accusers, you will remember the Integrity

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in Public Life Act. There was an amendment to the Integrity in Public Life Act and this Government found itself with five Ministers of Government before the Integrity Commission, having to be questioned by the Integrity Commission. They began to accuse people of being whistle-blowers, and wanted the whistle-blowers to be named. So, they wanted the Integrity Commission, or the people who were being accused of anything or who have been written about to the Integrity Commission, to confront the whistle-blowers. And therefore, they wanted to be able to cross-examine the whistle-blowers as far as the Integrity in Public Life (Amdt.) Act that was passed.

So on one hand, you want to cross-examine the whistle-blowers in the Integrity in Public Life Act and be able to cross-examine and question that person, and in this one which is of major significance on a national thing, you do not want to give the opportunity to cross-examine a witness. So on one hand, you have one standard for the Integrity in Public Life Act because a few Government Ministers are before the Integrity Commission and on this one, you want to have a different standard of it. Double standards by the Government. Double standards. *[Interruption]* Sorry, Mr. Speaker, I thought the time was up. We had concerns about statements being made without being sworn. That was a major concern.

We all know that statements made when they are sworn. If a person makes a statement and is sworn to that statement, and certain things are read out to that person that if you lie you could be charged for perjury. So there is a penalty for someone who swears to a statement and who goes on to lie, and that penalty may be jail sentence for perjury. Now with these unsworn statements, anybody could go and make a statement and there is no penalty associated with the unsworn statements. The Government has not been able to answer or give any satisfactory explanation as far as that is concerned.

The Criminal Justice Act of Great Britain and the Criminal Justice Act of Canada never had any issue of audio recording. I do not know where the Government has gotten this issue of video recording and audio recording, but it seems as though they saw the light of day. It took the other place to strike it off, but it is important that they accepted it. So if you are getting your legislation from the British Criminal Justice Act and that did not have audio recording, the one from Canada did not have audio recording, how did you ever entertain or envisage that you must have audio recording on this? But, it is important that it is no long a piece of the legislation.

Mr. Speaker, I was making some statements that, we have no confidence in this Government and we lack confidence in the whole administration, not from the judicial standpoint, but from this Government's approach towards justice in

this country. It is because of this fear we have, that forces us to ensure and go with close scrutiny with whatever legislation you propose or bring to this Parliament. I want to refer to a few areas which have given us serious cause for concern.

When the Attorney General tried to tell the Director of Public Prosecutions that he must prosecute two people without having any evidence whatsoever, the Director of Public Prosecutions told him, "I am not listening to you". So therefore, he wanted to prosecute the Member for Couva North and Mr. Duprey, and the DPP told him, "You cannot do that". The DPP did not even take him on. So how can we have confidence in the system? The same Attorney General showed utter contempt for the courts, and criticized a judge who made the order that the Chief Justice should not be arrested. How can we do that? This Government and the Cabinet, and the Attorney General, misled the Court of Appeal and the State's attorney on the Maha Saba, case by withholding significant information. I drew these references to show, that we as the alternate government, have no confidence in this Government's determination to ensure that the rule of law—*[Interruption]*

Mr. Manning: Alternative government?

Dr. T. Gopeesingh: Yes, we are the alternate government—is carried out to its best. We do not have any confidence in that. So therefore, any piece of legislation that you bring here—this one included—we cannot have confidence that you are going to bring the rules and regulations that determine this in any forthright manner.

3.30 p.m.

I just want to read an article to substantiate what happens in this country in terms of the criminal justice system. On Sunday, October 11, 2009, one of the newspapers read state getting licks.

“Sources said that some 2,500 cases logged over a five-year period, from 2004 to now, have cost the State an estimated TT \$100 million.”—and included—“the State pay...Maha Sabha...\$2.6 million...

...Appeal and High Court judges (described) ‘barbaric behaviour’ of police and prison officers as regards members of the public and individuals in the State's care.

As a result of the behaviour of those officers...members of the public have been compensated for a series of other infractions, including wrongful arrest, assault and battery, unlawful detention and malicious prosecution.

...despite warnings and appeals from judges that officers involved in such cases—as they come before the court—be investigated...”—that is prison officers and some

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aberrant police officers—“sources said there are instances dating back to at least five years where nothing had been done”.—by the Attorney General.

So you are telling us to accept a system where a police officer would make a video recording or get a statement from someone in a police station, that is the sole evidence put forward and the person not to be cross-examined, but you have the State paying out approximately \$100 million over a five-year period for aberrant officers' behaviour, police officers and prison officers, and despite the fact that this has come to the attention of the Government, the Attorney General has done nothing about it? Why has this not been done? Why has this not been taken care of? That is totally unsatisfactory.

You want us to accept a system where police officers and some prison officers behave in a manner and could force people to produce that type of evidence, and nothing happens at the end of it all. That cannot continue.

Mr. Speaker, there are a few other points I would like to make on this.

The whole issue of video recording—we put forward the idea that video recording and video conferencing could take place in the cross-examination and questioning of witnesses. The statement by the Government was that this would be cutting edge type of technology and they seemed to believe they were unable to do it, and they were not ready for cutting edge technology. Yet still, there was a case where the Chief Justice went to Tobago and was able to cross-examine somebody in a court in Tobago; yet still they are resisting that. For what reason are they resisting the video conferencing for cross-examination of witnesses? Why would you not agree to that? I just want to draw to the attention of the House today to an article in today's *Newsday*, Friday, November 20:

“Plea via video link

Trinidad and Tobago attorney represents accused in British Virgin Islands.”

You could have a video link from a Trinidad court to the British Virgin Islands, but you cannot have a video link between the courts in Trinidad and Tobago to a particular place in the prison or anywhere else designated for cross-examination of witnesses? Is that an unacceptable and a difficult thing?

Why can we not have included in this Bill, video conferencing for cross-examination of witnesses at designated points and ensure that the technology is there for it to be done.

“The video conferencing facility in the Port of Spain High Court was used for the first time yesterday.”

It is there already; they need to spend money on it to make sure that is done. But they spend money on a \$4.4 billion waterfront project and the Brian Lara Stadium, which is \$700 million and they say \$400 million more to be spent.

“This was used for the time yesterday when local attorney Mario Merritt made a plea in mitigation on behalf of his client to a High Court judge in the British Virgin Islands.”

He was able to speak to the judge in the British Virgin Islands from the court. Why can it not be done here? Why can we not put in the facilities? You are boasting about ICT in Trinidad and Tobago and you cannot put in a simple video conferencing type of facility between the courts and a particular type of area designated for cross-examination of witnesses?

If they make the assumption that witnesses who are fearful would not come to court and the witness statement is already made and is being deposited as evidence, do you not think that the people who are being tried know who gave that evidence? If you are seeking to prevent these people from being murdered, do you not think that the accused knows who gave the evidence by video conferencing?

Mrs. Persad-Bissessar: [*Inaudible*]

Dr. T. Gopeesingh: My colleague indicated to me that you are really not interested in prevention of the killing of the witness; you are not really interested in that. You have some sinister plot on your hands with this type of Bill. When you said that you would introduce checks and balances, we have not seen those checks and balances. [*Interruption*] [*Mr. Speaker rises*]

Okay, Mr. Speaker.

Mr. Speaker: The Member is objecting to you saying that they have got some sinister plot and you looked at the Member for Diego Martin North/East, of all people. [*Laughter*]

Dr. T. Gopeesingh: Let the chips fall where they may.

We believe that there are different motives. Rather than looking after the criminal justice system, there may be other motives in this piece of legislation.

There are two other main points that I want to make before I conclude, that is, the first question of the witness protection. The witness protection has fallen into disrepute. It has fallen into disarray; it is non-existent. This Government has a lot on its hands and ought to feel tremendous guilt for allowing this system to go astray.

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When this Bill introduces a person who is fearful and all reasonable steps for protection are taken, you have no reasonable steps at all. Everybody would plead that they are fearful and, therefore, they would not want to come to court to be cross-examined. We are saying that this witness protection is a disaster and this Government owes to this country a thorough explanation on what has caused this system to be in the state it is, not to protect the witnesses.

The last point is DNA. Crime is not picked up by just detection, cross-examination and witnesses alone. Real evidence is found in DNA and this has been languishing. The forensic lab leaves a lot to be desired. There are a number of rules and regulations; it is still not accredited, therefore, anything brought before the courts from the forensic lab would not be accepted.

These were some of the important issues that we needed to bring forward as far as this Evidence (Amdt.) Bill is concerned. If the Government feels that they have to push this on us, we are asking to consider the question of a possible sunset clause in this. We cannot allow this thing to go unchecked and unheeded without protecting the citizens of Trinidad and Tobago.

Thank you, Mr. Speaker.

The Minister of Legal Affairs (Hon. Peter Taylor): Thank you, Mr. Speaker, for the opportunity to contribute on this important Bill. Let me firstly apologize to Members on both sides of the House for not being in the Chamber at the opportune time. I clearly misjudged the time I had to retire from the Chamber and return. I, therefore, apologize humbly.

I wish to make a few points in the time allotted to me, particularly as it relates to the importance of this Bill to the man in the street. We have to understand the mischief of this Bill. What is the Bill trying to achieve. [*Interruption*]

Dr. Gopeesingh: The Bill is mischievous. [*Laughter*]

Hon. P. Taylor: My colleague from Lopinot/Bon Air West made a very important point. The Member for Caroni East sought to say that the legislation was detrimental to the average citizen, but nothing could be further from the truth. This legislation is proposing to protect the average citizen in the street from criminals who get off because witnesses either recant their story or are killed and, therefore, do not give the true evidence. [*Desk thumping*]

We have to remember that a court could only convict based on the evidence that is before it. Therefore, the average citizen, I am sure, is very tired to wake up every Monday morning to hear that Mr. X or witness accused X was set free because no evidence was tendered or because a witness recanted their statement.

This has been going on for years, but just today there was a story in the *Newsday* on page 4 entitled:

“Former murder accused gunned down”—and it says, among other things—
“Former murder accused Winston 'Fat man' Bailey who was found not guilty of a murder in the early part of this year, was dragged out of his Santa Cruz house yesterday morning and shot dead in the yard.

In the trial, the main witness Anthony Raymond recanted the statement he gave to police.”

Mr. Speaker, another article in the *Trinidad Guardian* of May 04, 2009, and I quote:

“Murder accused in court on arms charges

A Mt D'or man, charged with killing a state witness days before he was scheduled to give evidence in a wounding case, appeared in the Port of Spain Magistrates' Court yesterday. Anthony Jeremiah...stood before Chief Magistrate Sherman McNicolls, charged with murdering 46-year-old Terrance 'Barney' Romain, at Hilltop Lane in Mt. D'or...on March 30.

Romain was shot dead mere days before giving evidence in the Tunapuna Magistrates' Court.”

What story does that tell us? They are the ones who come here and attack the Government for not being tough on crime. They are the ones who week after week complained that the Government was not taking the hard decisions. When we seek to do just that, instead of putting aside partisanship in favour of a bipartisan approach in the nation's interest, they continue to vacillate and talk about everything else except what is important in the national interest. [*Desk thumping*]

The Member for Princes Town North sought to criticize very severely the whole issue of videotaping. He more than anyone else, as a practitioner, knows that the very practice of taking witness statements is seriously, seriously flawed. In the first instance, when a police officer takes a statement from a witness, all that is recorded are the answers. You do not ever see the questions that provoked a particular answer. You never see the question that provoked or gave rise to a particular answer.

More than that, the person who is taking the statement, of course, while he has to give a verbatim interpretation of what is said, invariably uses his own interpretation of what the witness is saying, and that is what goes as the statement.

I have seen this happen on more than one occasion; in many cases when the witness goes to court and he or she is cross-examined, if you have a good

attorney, when there is not consistency between what the witness intended and what is recorded, it gives the opportunity for the defence lawyer to cross-examine the witness on the statement.

3.45 p.m.

It will go something like this:

The attorney for the defence would ask the witness:

Q. Did you give a statement at such and such a place?

A. Yes.

Q. Did you sign the statement?

A. Yes.

Q. Would you recognize your handwriting, your statement?

A. Yes.

Q. Did you say on such and such an occasion that the accused had on a lime green jersey?

If that is what the witness had in the statement, he would say yes.

Mr. Speaker, in reality it very often happens that the witness may not have wanted to say it might have been a lime green because it is all relative. It may be a mint green.

So what happens is that the attorney while cross-examining the witness now has an opportunity to challenge an otherwise truthful witness because what the witness initially intended may not have been properly recorded in the statement and that opens a whole vista for the statement and the witness' credibility to be destroyed.

I can tell you, if you have an attorney like Pamela Elder SC, and there is a scintilla of inconsistency, or the slightest variation of what the witness says in the box and what is recorded in the statement, it opens up an opportunity for the statement and the credibility to be discredited and the witness might have been truthful.

Mr. Speaker: I am sure the hon. Member for Princes Town North knows; he is equally good in the court.

Hon. P. Taylor: No doubt, Mr. Speaker, but he is not here for me to bestow those accolades on him.

Mr. Speaker, the video recording therefore has many advantages; it would allow the question that is being put to the witness to be heard. It would also allow

the demeanour of the witness to be seen and the whole interest of justice, if we are serious about getting the best evidence and improving on the administration of justice, then clearly, the video recording or the video interview method has to be examined. Mr. Speaker, all of this is not new, it has been gone through in the United Kingdom, it has been tried and tested and it is clearly something that has to be examined.

The Member for Barataria/San Juan, the Minister of Tourism has his own perspective which is an important one. We know that in the recent past, Tobago has witnessed some very brutal attacks on visitors to the sister isle, and on many occasions, the visitors leave the country well before the case is heard. Are we saying, therefore, that we are to ignore the opportunity to get the evidence from the victims even though they have left the country? Is it not better to have the testimony recorded while the victims are still in the country or even in extreme cases while they may be abroad? They may not be able to return to the trial either for health or economic reasons or whatever the reasons may be. These are practical reasons why we in Trinidad and Tobago need to examine the prudence and wisdom of using videotape evidence.

Mr. Speaker, Sir Robin Auld conducted a review on the criminal justice system in the United Kingdom and he recognized in his investigation that of course, you need to have a very robust system of recording the evidence and, of course, by that he means that the police officers who are charged with the responsibility of recording these statements must be of a certain calibre and be properly trained. So I am asking: why can we not allow police officers who are attorneys at law who have practised for a very long time to be the ones responsible for recording the statements?

Mr. B. Panday: You know why, because of the police service many of them are not allowed to prosecute in court.

Hon. P. Taylor: These are issues that can be addressed. Nothing is cast in stone, hon. Member for Couva North. We have the opportunity here as lawmakers to create a system that is beneficial for us that takes account of the realities facing us but we must not say it cannot work; that is one thing we must not do. We must be able to find solutions and I am suggesting that far from the Member for Princes Town saying that we must do away with the whole idea, we have to find practical solutions to make it work. [*Desk thumping*]

Mr. Speaker, let me turn again to this inconsistent statement. I came across a very interesting case and it goes back to the point that we acknowledge in Trinidad

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and Tobago that witnesses are intimidated, threatened and even killed. Let us look, for example, at the case of *R v Joyce* and if you permit me I will read the facts briefly:

“Following a shooting carried out in broad daylight in the streets of Liverpool, three people who had seen it gave statements to the police identifying the defendants, who were known to them, as the assailants. At trial, all three witnesses retracted their statements, and produced implausible explanations as to why their initial identifications had been wrong.”

What they said was tantamount to:

“I know nothing, I saw nothing and if I was there, I was asleep.”

“At the end of the prosecution case the trial judge soundly rejected a defence submission of ‘no case to answer’ and he left the evidence to the jury, which convicted, evidently because it believed what the witnesses had originally said to the police and not what they had told the court in evidence...”

They thereafter incurred heavy sentences.

Mr. Speaker, I want to commend this case to the Opposition, it is *R v Joyce [2005] EWCA Crim 1785*. We must realize that a lot of what we are doing has been already tested in the jurisprudence of the United Kingdom and other countries.

There is a New Zealand case, for example, where the expert witness was unable to leave South Africa and return to New Zealand to give evidence. Guess what? Videoconferencing was used. So in our attempt to find solutions, I wish to implore the Members on the other side that if they are serious, as they say they are, about reducing crime, then they must recognize that there are times in a country's history when we must all close ranks for the national interest and in the interest of the very citizens whom we stand here to represent. So we cannot speak from both sides of our mouth as the Member for Fyzabad is often wont to do.

Mr. Speaker, I wish to commend the Bill to this honourable House and ask my friends on the other side to give it their unequivocal support.

Thank you.

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. Speaker, I wish to begin what would be a very short winding up by making just one categorization which I think underlined much of the contributions coming from my friends and colleagues on the Opposition Benches.

What I heard from more than one of them is that the legislation was draconian. That led the Member for Princes Town North to make quite an extraordinary

suggestion that is to convert universities and other places into interviewing rooms for police officers. That is a novel proposition, he himself admitted to that.

Mr. Speaker, my mind is never closed. I heard it, but I do not know that I will be able to find any legislative precedence anywhere in the universe where that has been done. The serious concern which came from them and which prompted that remark was that the legislation was draconian.

Mr. Speaker, that concern can only be addressed by looking at the Bill itself and very few of my colleagues looked at the safeguards which are contained in the legislation.

Mr. Speaker, if you look at the admissibility of first-hand, hearsay statements, there are several safeguards, the first of which is contained in section 15C(2) and that section provides that in order to admit a statement under it, the witnesses must either be deceased—so there are conditions which are spelt out. The witness must be deceased, he must be kept away by threats of bodily harm; or 15C(1)(f) that he must be fearful.

It is the court which must consider whether the statement ought to be admitted in the interest of justice having regard to prescribed criteria. So that the safeguard is the court's jurisdiction itself. The court has a discretion, as a matter of fact, it has a duty to determine whether or not to allow a statement which is a first-hand, hearsay statement in the interest of justice.

If you look at 15C(3), there is an additional safeguard and that is highlighted in some of the case law under the English Act and it is one which requires the prosecution to give a notification of 21 days before tendering a statement so that the accused person has time to put his house in order, he is not going to be surprised. That is an additional safeguard.

4.00 p.m.

In 15D, there is an enhanced power to challenge the credibility of the maker of a hearsay statement. That is contained in the legislation and in 15E there is a power in the court to exclude the evidence if the prejudicial effect of it outweighs its probative value, the so-called interest of justice test. That deals with the admissibility of the firsthand hearsay statements. In respect of video recording, these are the safeguards:

Video recording will only be admitted having regard to prescribed statutory guidelines. In 15I(2) it is provided that a direction to admit the video recording as evidence in chief of the witness may only be made if the court is satisfied that:

- (i) the witness's recollection of the events is likely to be better in the video recording than it will be when he gives oral evidence; and

The interest of justice test.

- (ii) it is in the interests of justice to admit the video recording.

So here, again, you have a safeguard in the legislation. So it answers the point which came throughout the contributions of my friends opposite that the legislation is draconian. It is new; it is revolutionary but there are safeguards in it to protect the individual rights of the citizens.

In relation to evidence by video recording, section 15(3) goes on to provide a number of factors for the courts to consider when determining whether the video recording should be admitted into evidence. For example, the quality of the video recording and the interval between the time of the events in question and the time the video recording was made is relevant and the court must take that into consideration.

In 15I(6), the court shall also consider whether admitting any part of the video recording—and this is mandatory; it is not me—the court shall consider whether admitting any part of a video recording would carry a risk of prejudice to the accused and whether the interest of justice requires the video recording to be admitted.

So again you have a constant refrain in the legislation as to what constitutes the interest of justice.

So, too, in relation to admissibility of bad character evidence, in 15M The evidence of the bad character of non-accused persons is only admissible where—

- “(a) it is important explanatory evidence;
- (b) it has substantial probative value...; or”
- (c) the parties agree that the evidence should be admitted.

So that is a safeguard. It is contained in 15M.

In 15N(1) the seven gateways through which evidence of bad character is admissible are set out and each of the last five gateways has an accompanying explanatory and interpretative provision set out at sections 15O to 15S. In 15T, where the issues of contamination arises, the judge must draw the matter to the jury's attention and he must provide a warning to the jury that if they are not satisfied that the evidence can be relied on as being free from collusion, they cannot rely on it against the accused. That, too, is a powerful safeguard.

In 15U—and this relates to offences committed by the accused whilst under the age of 18—the criteria for admitting evidence of bad character under 15N

must still be met, but there are two additional requirements which must be satisfied; this is for minors, persons under the age of 18.

- (1) The offence for which the accused is currently being tried and the offence for which he was previously convicted whilst under 18 must both have been in relation to an indictable offence or the summary trial of an indictable offence;
- (2) The court must be satisfied that the interest of justice requires the evidence to be admitted.

So, again, the interest of justice test pervades all that we are doing.

In 15V(2), there may be exceptional circumstances where evidence is so unreliable based on material or evidence before the court that no court or jury could reasonably find the evidence to be true and is put out.

Clause 15W imposes a duty on the court to give reasons for its rulings on the admissibility of bad character evidence.

The court has a residual discretion to exclude evidence, the effect of which is deemed to be more prejudicial than probative.

All of those safeguards take us right back to the case of *R v Hanson* in the United Kingdom. In that case, answering this specific problem that the critics of the legislation in the United Kingdom felt that the legislation was too draconian and too invasive of rights of the accused person, this is what the Court of Appeal in England in *R. v Hanson* had to say, and it makes this request of prosecutors. It says:

“The starting point should be for judges and practitioners to bear in mind that Parliament's purpose in the legislation, as we devine it from the terms of the Act was to assist in the evidence based conviction of the guilty, without putting those who are not guilty at risk of conviction by prejudice.”

We submit this afternoon, that that is precisely what this legislation has done.

I want to turn to some of the issues which were raised by Members during debate on the specific Bill. The hon. Leader of the Opposition, the Member for Couva North, spoke of the 2007 amendment to the Evidence Act and he made this point; he said that in 2007 the Evidence Act, which I must confess I was responsible for, so is me. The 2007 amendment, he says, started to whittle away at the rights of the innocent. That is what he said. And he said hearsay evidence is not to be introduced willy-nilly.

I wonder if the Member for Couva North remembered as he made that statement, that we first recognized that there was a problem in the criminal justice

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system as long ago as 1996 when the Member for Couva North was on this side of the House and his Attorney General passed, what was then thought to be a revolutionary law which he boasted about in his contribution. He said that the reform of the criminal justice system did not start in 2007; it started in 1996, but perhaps my friend, the Member for Couva North, was not listening at that time. That piece of legislation dealt with corroboration and it made drastic changes in relation to the rules of evidence in respect of corroboration. So that is where we started on this road which leads to the reform of the criminal justice system and a recalibration of the system in such a way that you convict the guilty without punishing the innocent.

He went on to say that there was no definition of bad character in the legislation. Now, if he looked at section 15K, what that does is to define the sort of evidence, the admissibility of which is to be determined under the new statutory scheme when we speak of evidence or a person's bad character. And the case law in England has developed substantially since the Act was passed in 2003. So that this is how the matter was dealt with in the case law.

He raised a couple issues on the admissibility of evidence via video recording and he asked the question which was asked in the other place: "What does the Bill mean when it speaks about a witness visually or in any other way witnessing an event?" Well, a witness can witness an event in a number of other ways, Mr. Speaker, as you would know. He might hear a voice that he knows. That is not visually. And it is those other ways which we intend to capture by "in any other way" which is a standard clause taken from provisions which are similar to this in the United Kingdom and in Canada.

I think he also spoke about evidence of a disposition towards misconduct and he raised the question: "By whose standards of morality." The term, "evidence of a disposition towards misconduct", that term encompasses prior conduct which goes beyond convictions or cautions for criminal offences. It includes responsibility for crimes for which the accused has not been charged or prosecuted or for actions which are not offences but people will regard as reprehensible. "Reprehensible" carries its ordinary dictionary meaning, that is to say deserving of condemnation. And, again, this is not a matter which is spelt out in the legislation. It is developed by the case law and, in fact, there are cases on this point in the United Kingdom.

So that all that 15K is doing is saying that when considering whether a person has a disposition towards misconduct or is of bad character, you cannot use evidence of the current offence or any evidence of misconduct during the investigation of the offence.

The hon. Member for Siparia spoke about the fact that the legislation does not take any steps to protect witnesses, just to preserve evidence, and the response to that is that the purpose of this legislation is to get the best evidence before the court. Yes, we understand that we have a wider difficulty. I would prefer to describe it as a challenge. Because it is a challenge which we face; it is a challenge which every country in the world is grappling with: how do you protect witnesses who remain key to the operation of the criminal justice system? No matter how many developments we make in relation to scientific evidence and the introduction of DNA evidence; how far we get, we will never achieve a point in our development where we can try cases on the basis of circumstantial evidence and evidence which is scientific in nature. We will always need to depend on witnesses.

In the United Kingdom there is, as we speak, a study afoot on how to improve witness care. This is an issue which is outside of the four corners of this legislation, but we recognize it to be an important issue and we commit to doing all that we can as a Government to further protecting the welfare of witnesses in criminal trials.

Mr. Speaker, the Member also raised issues relating to the protection and storage of video recordings.

4.15 p.m.

I think the point which has been made by my friend and colleague, the Member for Diego Martin North/East, is that these are matters which are normally left to be dealt with by rules. We have some draft rules prepared. It is not our business to pass those rules. If it were rules to be made by the Minister of National Security or the Attorney General, I would give those rules to them. These rules are to be made by the Rules Committee headed by the Chief Justice and, in my view, it would be inappropriate for me to give those rules before the Chief Justice and the Rules Committee have had sight of them.

The Member for Tabaquite made what I think would be points which were certainly contradictory to some of the observations and comments made by his friends on the front bench. I give way to my friend and colleague, the Member for Couva North.

Mr. B. Panday: Just a little question. Will the law be implemented before the rules come into being, or do we have to wait for the rules before the law is implemented?

Sen. The Hon. J. Jeremie SC: I will give an undertaking not to. In my view the law can be implemented right away without rules. As you know there are a

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number of cases in which the courts have tested whether rules are conditions precedent to the validity or the enforceability of the terms of the substantive law. I will give the undertaking that the rules would be made. They are already in an advanced state of preparation.

Should I go back to his comments or should I not? I was about to say that his comments were contradictory. It might be uncharitable given his disposition. In his contribution, the Member for Tabaquite said in a moment—not an isolated moment because he has many I am sure—of openness and honesty that what we are doing here is a good thing if we look at all the safeguards. I have pointed out that there are a number of safeguards and that contradicts in large measure a number of the contributions from his colleagues on the Opposition Front Bench.

He made the valid point that the only difficulty in dealing with it in regulations is that you would need to put something in the existing law to support the regulations. It was not as the Member for Siparia said at our meeting outside these precincts, that he wanted substantive provisions contained in the legislation to provide these specifics. He said:

“...you will need to put something in the existing law to support it in the regulations and you would then have a situation in which a good criminal lawyer may be able to say that the regulations are ultra vires the Act. So, in effect, what you can do—it is very simple—your Attorney General has a capable drafting staff—is put certain things in the primary legislation so that the subordinate legislation would support what the primary legislation has. I do not think that there can be any doubt whatsoever that a government has to pass legislation which would in effect beat the criminals.”

Today, he did send me a letter which I got as I was on my way across to the House. The other point which relates inferentially to the safeguards to which I have pointed in the Bill and which was raised by my good friend, the Member for Caroni East is the constitutionality. He hedges his bets by saying that he was not a lawyer. But I am sure that he did say that the European Courts have struck down the relevant—I give way to my good friend, the Member for Caroni East.

Dr. Gopeesingh: The ECHR has before it cases from the British system in terms of the constitutionality of the British Criminal Justice Act dealing with witnesses, in relation to Article 6 of the ECHR.

Sen. The Hon. J. Jeremie SC: I thank the member for making the point more eloquently than I could have made it. The difficulty with the point—and it is a difficulty which I am sure the Member for Siparia and the Member for Couva

North will appreciate, because they are lawyers—is that the European Court forms no part of our hierarchy in terms of our court structure. It does not. [Interruption] I am not saying that it is irrelevant. All decisions in all courts are looked at by the court.

The governing authority is the case of *Grant v DPP* which is a Privy Council from Jamaica. This holds that the type of legislation—because the Jamaican Parliament has enacted an amendment to their Evidence Act in similar terms in some respects to the legislation which is before us this afternoon. In that case the Privy Council held that the legislation needed to be passed by a simple majority and not a three-fifths majority. There is no question as to why I said that the legislation needed to be passed by a simple majority. I said that because our court structure is such that the highest court in our hierarchy of courts has said that this legislation—the last words that it has made on this are that legislation like this needs to be passed by a simple majority. Grant in the Privy Council dealing with the Jamaican Evidence Act says that legislation like this is procedural in nature. It is to be passed by a simple majority.

The European Courts have taken a different view on this matter and it is out of caution—what you should be doing is standing in your seats and thumping your desks, not sitting and congratulating the Government and looking at what the European Court is doing and being extra careful to say that the European Court is doing this. There is litigation in England before the European Court and perhaps, we might have a constitutional problem at some indeterminate point in time in the future, ten or 15 years down the road. What we are doing is out of an abundance of caution. On the existing law there is no need for this legislation to attract anything but a simple majority.

My friend, the Member for Caroni East, asked us to put standards on what was meant by "fearful". As I have said, this issue is the subject of a number of decisions in the United Kingdom, including *Al Khawaja* which my friend, the Member for Caroni East [Interruption] if you were able to look through that thick volume between Wednesday night and today, as I did and as the Member for Siparia has said helpfully that she did, she would have found the case of *R v Khawaja* in which the European Court is considering what is the way to give to this precise term used in the English Act, what is meant by "fearful".

I am still on my friend, the Member for Caroni East. Another question which he raised was what determines bad character. The common law rules together with the safeguard set out in the Bill would allow the judge to determine whether the probative value of the evidence is sufficient to allow the interest of justice test

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to which I have spoken before. It is up to the judge. The rules to govern video recording to which he averted, I said that draft rules are being prepared. They are in an advanced state of readiness. [*Interruption*] Archbold does not make rules. He is not a lawyer. Archbold is a text book. The rules are made under PACE. It is an act.

The rules will look at all the legislative precedents which are before us. They will examine what exists in this jurisdiction in relation to the judges' rules and the Trinidad and Tobago Police Service Standing Orders. We will have rules before the Rules Committee in extremely short order because I want to let the Members opposite know that this legislation is priority legislation for the Government.

With those few words, I beg to move.

ARRANGEMENT OF BUSINESS

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, in accordance with Standing Order 90(2), I believe, I beg to move that this House suspend Standing Order 10(2) to allow us to complete the matter before us, in other words, to continue the progress of the Bill.

Thank you.

Question put and agreed to.

EVIDENCE (AMDT.) BILL

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

4.30 p.m.

House in committee.

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Mr. Jeremie SC: Mr. Chairman, I beg to move that clause 6 be amended as follows:

- A. In paragraph (a)(iii), delete the proposed paragraph (f) and substitute the following:

“(f) is fearful and no reasonable steps can be taken to protect the person or others or to protect him or others from financial loss”; and

- B. In paragraph (c), after the proposed subsection (5), insert the following subsection:

“(6) A condition set out in any paragraph of subsection (1) which is in fact satisfied is to be treated as not satisfied if it is shown that the circumstances described in that paragraph are caused:

- (a) by the person in support of whose case it is sought to give the statement in evidence; or
 (b) by a person acting on his behalf,

in order to prevent the person who made the statement giving oral evidence in the proceedings, whether at all or in connection with the subject matter of the statement.”

Question put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Mr. Jeremie SC: Mr. Chairman, I beg to move that clause 7 be amended as follows:

- A. In the proposed section 15N in subsection (3), delete the words "(d) or (1)(g)".
- B. Insert new paragraph (f) as follows after (e):
 “(i) the video recording was made in the presence of an adult chosen by the witness”;
 And renumber (f) and (g), as (g) and (h);
- C. In the proposed section 15W(2)(b), delete the words "(including a ruling on an application under section 15N(3))".

Mr. S. Panday: Although it may appear to be editorial, the marginal note in 15I(1) speaks about video.

Mr. Jeremie SC: It is a typo; we will correct it.

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to, That the Bill, as amended, be reported to the House.

House resumed.

Bill reported, with amendment.

Question put, That the Bill be now read the third time.

The House divided: Ayes 26

AYES

Imbert, Hon. C.

Manning, Hon. P.

Nunez-Tesheira, Hon. K.

Gopee-Scoon, Hon. P.

Kangaloo, Hon. C.

Abdul-Hamid, Hon. M.

Dumas, Hon. R.

Ross, Hon. J.

Taylor, Hon. P.

Swaratsingh, Hon. K.

Parsanlal, Hon. N.

Beckles, Miss P.

Mc Donald, Hon. M.

Hunt, Hon. G.

Le Gendre, Hon. E.

Browne, Hon. Dr. A.

Callender, Hon. S.

Cox, Hon. D.

Jeffrey, Hon. F.

Hospedales, Hon. A.

Joseph, R.

Hypolite, N.

Regrello, J.

Rowley, Dr. K.

Roberts, A.

Sinanan Ojah-Maharaj, Mrs. I.

The following Members abstained: Dr. H. Rafeeq, B. Panday, K. Persad-Bissessar, Dr. T. Gopeesingh, V. Bharath, S. Panday, C. Sharma, H. Partap, W. Peters.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. Speaker: Hon. Members, the sitting of the House is suspended for tea. We will resume at 5.15 p.m.

4.42 p.m.: *Sitting suspended.*

5.10 p.m.: *Sitting resumed.*

[MADAM DEPUTY SPEAKER *in the Chair*]

Madam Deputy Speaker: Hon. Members, before we take the issue of the adjournment, there are two Motions for the adjournment. [*Interruption*] Hon. Member for St. Joseph, could you please move the Motion for the adjournment?

ADJOURNMENT

The Minister of Public Administration (Hon. Kennedy Swaratsingh): Madam Deputy Speaker, I beg to move that this House do now adjourn to a date to be fixed. [*Mr. Imbert enters the Chamber*] My apologies, Sir.

The Minister of Works and Transport (Hon. Colm Imbert): Madam Deputy Speaker, I am so sorry about that. I beg to move that this House do now adjourn to Friday, December 04, 2009 at 1.30 p.m., on which day we will do the Tobacco Control Bill.

Dr. Rafeeq: Next week Friday is Private Members' Day.

Hon. C. Imbert: There is no sitting on next week Friday.

Dr. Rafeeq: Next week Friday is the scheduled Private Members' Day.

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Hon. C. Imbert: Madam Deputy Speaker, I am moving a Motion that this House do now adjourn to Friday, December 04, 2009 at 1.30 p.m., on which day we will do the Tobacco Control Bill and the Criminal Procedure (Amdt.) Bill, both of which will require a special majority. [*Crosstalk*]

Madam Deputy Speaker, the entire country and, in fact, the whole world knows that next week Friday is the opening ceremony for the Commonwealth Heads of Government Meeting and, therefore, there shall be no Parliament on that day.

Mr. B. Panday: You do not deny Members Private Members' Day because of that. You do not do that.

Madam Deputy Speaker: Hon. Members, I am sure that this matter can be sorted out between the Leader of Government Business and the hon. Member for Caroni Central. Before I put the question on the Motion for adjournment, as I indicated, there are two Motions for the adjournment. We will first invite the hon. Member of Parliament for Caroni East.

Greenhouse Gas Emissions and Climate Change (Government's Position)

Dr. Tim Gopeesingh (*Caroni East*): Madam Deputy Speaker, within the last few days, we have seen newspaper headlines of non-Commonwealth countries with world leaders: "Danish PM, UN boss join CHOGM guest list". That is in *Newsday* dated Thursday, November 19, 2009 and, today, Friday, November 20, 2009 there is a headline "Obama coming?"

Madam Deputy Speaker, the Secretary-General of the United Nations Ban Ki-moon, Denmark's Prime Minister, Lars Lokke Rasmussen and French President, Nicolas Sarkozy are coming to Trinidad and Tobago to discuss climate change issues and, today, according to the *Newsday*, President Obama might be coming. The President of China is also likely to join world leaders for climate talks at CHOGM. This is what the newspaper suggested. The Prime Minister announced the addition of the French and Danish leaders whose countries are not part of the Commonwealth of Nations and Ban Ki-moon to the VIP list visiting Trinidad and Tobago.

How does the Prime Minister of Trinidad and Tobago feel when he is hosting these world leaders to discuss climate change and the Parliament which represents the people and the citizens of this country are treated with the severest discourtesy and contempt by this Government? There is not a word on Trinidad and Tobago's position on greenhouse gas emissions, climate change, the emission of carbon dioxide, methane, nitrous oxide, hydrofluorocarbon, sulphur and hexafluoride are

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emissions that are occurring in Trinidad and Tobago. The trio of Lars Løkke Rasmussen, Sarkozy and Ban Ki-moon are expected to seek a Commonwealth's position on climate change here in Trinidad and Tobago ahead of next's month United Nations climate change talks in Copenhagen Denmark which is from December 17—December 18.

How could we, as a country, be a member of the Caricom and a member of the Commonwealth nations when the Minister of Planning, Housing and the Environment and the Prime Minister are treating the population with disdain and contempt by not informing the people about Trinidad and Tobago's position? The Prime Minister said that Trinidad and Tobago is doing its utmost to advance the process that could result in a global agreement and that this is a crucial matter affecting all of humanity. What can the Prime Minister say that he is doing? What is the utmost? The country does not know what the Prime Minister is doing to advance the process.

The Prime Minister also went on to say that he should also advise that our country has been at the centre of almost frenzied activity among leading nations from both the developed and the developing world as we seek to ensure that we take the strongest possible position in preparation for Copenhagen. What frenzied activity? What position has this country taken? What position has the Prime Minister given on behalf of Trinidad and Tobago? It seems as though that is one of his best kept secrets. Is it that you are deliberately hiding information from the people because this Government has been found guilty and wanting as far as the greenhouse gas emissions are concerned?

I want to quote from *Sunday Express* newspaper dated December 07, 2008. I quote from the President of UTT, Prof. Ken Julien:

“...warned that high levels of carbon dioxide emissions were emanating from the industrial plants at Point Lisas.”

He said that on December 07, 2008.

“Trinidad and Tobago has substantial levels of CO₂ emissions, we are third in the world per capita and that is not good news...”

That is Prof. Ken Julien saying that; the man in the energy sector. He said:

“He said a high percentage of the emissions comes from the nine ammonia and seven methanol plants located at the Point Lisas Industrial Estate as well as from vehicles.

It is only a matter of time before we will be called upon by the larger countries to do something about the emissions which are contributing to global warming...”

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Would the Prime Minister say that he is guilty of not doing anything to reduce greenhouse gas emissions? If you are doing something, the country does not know what you are doing. Trinidad and Tobago has an annual CO₂ emission of 33 million tonnes. That is the 2006 figures.

I quote now from an article on Tuesday, September 29, 2009 written by Prof. Julian Kenny. He said:

Norway, a country high in natural gas production 75 times larger than Trinidad and Tobago and four times our population, their emission is only 42 million tonnes.

Four times our population. This is a gas producing country and the Prime Minister knows that. Our production is 33 million tonnes annually and their own is 42 million tonnes with a size 75 times ours, and the natural gas is larger than ours. They are ranked 40th in the world in terms of greenhouse gas emissions. We are ranked third in the world per capita.

I know the Prime Minister has argued and will be seeking to argue the point that it should not be decided upon per capita population, but the country does not know what is happening, and this is a highly industrialized country. We need to know, as the Prime Minister, who is an expert in the energy sector—of all persons, you are very au courant with what is happening. You should be telling this population off your fingertips what you propose to do, but you are keeping it a hidden secret. Is it because you are ashamed to state these facts? Is it because you had not done anything? We must ask that. Is it because you are guilty of not lifting a finger to do anything? Now, you are becoming a big promoter of this proposed meeting. I would want to say how hypocritical this is. You want to be a big promoter and you have done nothing about this over the period of time.

What will be the total CO₂ emissions from the aluminium and steel smelters? The country needs to know that. The Government is determined to continue to construct these plants despite serious health warnings, jeopardizing the lives of citizens in Trinidad and Tobago with cancer risks and serious medical diseases and genetic effects of unborn children still in their mother's womb.

These greenhouse gases, the hydrocarbons, the proflorocarbons are greenhouse gases that are going to be emitted in the iron and steel complex, and is being emitted at the present time. How callous and totally uncaring to the health of our people, yet the spectacle of Prime Minister Manning hosting a meeting to discuss climate change as well!

Our greenhouse gas emissions though, only 0.1 per cent of the world emission and ranking third per capita population, we must be ashamed of it—a small country with less than 0.001 percentage of the population contributing gas emissions of 0.1 percentage. We are contributing to the warming of the climate system; the inter-governmental panel on climate change, which is the IPCC projects says that without further action to reduce greenhouse gas emissions, the global average surface temperature is likely to rise beyond the 0.8 degree Centigrade which it had risen over the last 50 years.

5.25 p.m.

It is thought that it is likely from 1.8 degrees Centigrade to 4.0 degrees Centigrade and even up to 6.4 degrees centigrade in the worst case scenario this century. This will trigger, undoubtedly, serious consequences with sea level rise of between 18 and 59 centimetres which will endanger coastal areas and small islands and it also causes a greater frequency and severity of extreme weather events which Caricom countries and Trinidad and Tobago are experiencing now on a yearly basis with all the storms and hurricanes.

Our coastlines of, let us say for example, Mayaro, Cedros, Manzanilla, are endangered with the sea rise. What is our Government doing about it? Have we thought about if there is going to be an increase in the sea level, and there is continuing, what may happen in these areas? Already, the western side of the northbound highway of Trinidad, close to the north—the Caroni lands are now being filled with salt water. That is happening at the moment. There is coastal erosion in Icacos and Cedros, and also you saw it in Mayaro and Manzanilla at one time, and that really has not come on very strongly as yet.

What about the intensities and frequencies of hurricanes and storms in the Caribbean? They are already creating serious, deleterious, economic and social consequences in the Caribbean. Small island states are extremely vulnerable. In fact, Caricom did a study on the vulnerability index of the Caricom countries in terms of their susceptibility to hurricanes, storms, coastal erosion and flooding, and the Prime Minister is quite aware of it. But what has he done for his country? What has he been able to tell this country that he is doing?

If we were in Government we would have brought in some of the world leading engineers in terms of flooding issues, in terms of coastal erosions, in terms of what is the potential risk of losing lots of land. Most likely the Danish government is very powerful in that. We would have brought in people to help us in reducing some of the carbon dioxide emissions and the greenhouse gas emissions and we would have been working on it and creating legislation to ensure that industries are not found guilty of increasing these emissions.

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Madam Deputy Speaker, we have done nothing about cutting emissions and how we regulate industries. The Prime Minister could never tell this country how he has regulated industries as far as greenhouse gases is concerned. Are we deploying new and cleaner technologies? There is nothing being said about it. Are we funding a whole shift to a green economy? What has happened to the Green Fund in Trinidad and Tobago? Billions of dollars are in the Green Fund. Nobody has been able to say what is happening as far as creating a green environment which the Green Fund was supposed to be used for.

The hon. Prime Minister must tell this country what he plans to do with that. It was President Sarkozy who said—he is coming to Trinidad—“We are fighting for the world to live up to its historic responsibility”. He has made a pact with Brazil. France and Brazil have gone on a pact to help to reduce greenhouse gas emissions. This is why he is most likely coming to see whether he can get the Commonwealth nations to make a statement based on how the Commonwealth countries are going to reduce greenhouse gas emissions. But, Prime Minister, I do not think you stand with any degree of morality to be able to go and host a conference like that.

Mr. Imbert: What nonsense! [*Crosstalk*]

Dr. T. Gopeesingh: Hold on. No, no, hold on. All right I take that back. [*Crosstalk*] I take that back.

Mr. Imbert: He has to apologize too. [*Crosstalk*]

Dr. T. Gopeesingh: No, no, no.

Mr. Imbert: Yes, he has to apologize. [*Crosstalk*]

Dr. T. Gopeesingh: No, no.

Mr. Imbert: Madam Deputy Speaker, point of order; did he apologize?

Mrs. Persad-Bissessar: Yes, he did.

Dr. T. Gopeesingh: Yes, I apologize for that. I want to say the Prime Minister has a responsibility to tell this country what he is doing. [*Interruption*]

No, I do not want to offend the Prime Minister, but he is the leader of our nation and he must tell the people what he is doing, but we have had nothing significant—Prime Minister, you have a Minister of Planning, Housing and the Environment, I have with me a statement made at some conference about two weeks ago by the Minister of Planning, Housing and the Environment, and when I read the speech by the Minister it was pure fluff. Nothing of any substance in it.

Hon. Dr. Dick-Forde: Tell me when? Which speech? Tell me when?

Dr. T. Gopeesingh: There was a conference that you had down at some place and I was directed—

Hon. Dr. Dick-Forde: Where? Where?

Dr. T. Gopeesingh:—by somebody to say this is the road to Copenhagen, Head Multilateral Environmental Agreement, Ministry of Planning, Housing and the Environment. This in itself said nothing.

Madam Deputy Speaker, Trinidad and Tobago ratified the Kyoto Protocol which target requires reduction in greenhouse gas emissions in 2008 to 2012, to be 8 per cent below 1990 levels. That target expires 2012. What have we done? Nothing!

The European Union leaders committed to cutting its emissions by 30 per cent of 1990 levels by 2020 and to transform Europe into a highly energy efficient low carbon economy and a major package of climate and energy related legislative proposals. What have we done? Nothing! On June 16 last, Justice Dean-Armorer gave a ruling that the decision of the EMA to grant approval for construction of the Alutrint Smelter Plant in La Brea was illegal. She emphasized that the decision was done in an outrageous, irrational and procedurally irregular manner.

Justice Dean-Armorer found that the failure of the EMA to disclose to the public or consider the cumulative impact of the smelter plant, power plant and port facility was terrible. What would be done with the waste material coming from the aluminium smelter? Spent pot lining (SPL) was missing from the EMA's report. Highly toxic and hazardous waste requires specialized attention endangering lives.

Madam Deputy Speaker, we have the dump sites in Arima which are always on fire because of combustion of emission gases which are coming there, and they have done nothing. She said I did a motion about it and you have done nothing about it. You have done nothing about the water tables coming out from these dump sites. So, it is important for this country to be told what is the Government's policy with regard to reduction in greenhouse gas emissions, for us to have the moral authority to address such a conference when these world Presidents come in this country.

Thank you very much.

The Minister of Housing, Planning and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): Thank you, Madam Deputy Speaker and thank you Member for Caroni East for that essay on greenhouse gas emissions. It was an essay and it went rambling all over the place.

Hon. Member: Fluff. It was a fluffy essay.

Sen. The Hon. Dr. E. Dick-Forde: There was a deep misunderstanding of the issues and I want to begin with the most important one. You are saying that the Government has done nothing and you keep repeating that we have not informed the country on what we are going to do.

In addition, the other underlying theme in your essay was that we have done nothing to meet the targets of the Kyoto Protocol. Your first point is wrong. We have done quite a lot and I will say in a minute, and I do not mean over the last few weeks. The Kyoto Protocol is not what you seem to think it is. The Kyoto Protocol is not for developing countries to meet targets. Anyone who understands the convention on protocols would know that the conventions and the Kyoto Protocol in particular, had binding targets only for developed countries. And that is the first thing.

Mr. Manning: First thing. [*Desk thumping*]

Sen. The Hon. Dr. E. Dick-Forde: Any discourse on the issue must come from an understanding of what is happening globally, so your essay has failed because you do not have the right basis. [*Desk thumping*]

I am not going to spend too much time refuting what you said because this is too important a topic for me to waste time on that. I am going to spend the time informing the Parliament and the public on what has been done; as I do that, not for the first time at all.

In 1990 when the United Nations Framework Convention on Climate Change (UNFCCC) came into being, Trinidad and Tobago was a signatory and in that same year—the same presentation which you said was a fluff, which was done by our lead negotiator who has been going to all of the climate change negotiations for the past 10 years, so it is not fluff—Mr. Kishan Kumarsingh, 10 years of not just going to the negotiations—a well-resourced and highly educated public servant—

Mr. Dumas: Well respected.

Sen. The Hon. Dr. E. Dick-Forde:—well respected as well, did a detailed presentation, and in there, he explained that we have in 1990, as well, apart from ratifying the UN Framework Convention on Climate Change, Trinidad and Tobago also established an Inter-Ministerial Panel Committee to look at the impacts of climate change on Trinidad and Tobago. [*Interruption*]

In 2005, the Government reconvened that panel and in 2008 when the Multilateral Environmental Agreements Unit received some staff, that committee

work became a part of the Environment Division of the Ministry of Planning, Housing and the Environment. So we have institutionalized something that began from the inception of the global approach to dealing with climate change. *[Interruption]*

Madam Deputy Speaker, in 1997 the Government established the National Ozone Unit—and I am sure he does not understand what is the nexus. Madam Deputy Speaker is laughing because she knows what the nexus is.

Hon. Member: What the nexus is?

Sen. The Hon. Dr. E. Dick-Forde: The National Ozone Unit was established and that unit came over to the environment ministry subsequently. The National Ozone Unit ensures that Trinidad and Tobago is at the forefront of phasing out all of the harmful greenhouse gases, particularly Chlorofluorocarbons and so on out of the—*[Interruption]*

Every time they moved the bar from CFCs to HCFCs we have been at the forefront. In fact, in 2007 Trinidad and Tobago won the implementers award for being ahead of its schedule for phasing out all of those substances. *[Desk thumping]* That is just the beginning, we are not finished yet. *[Crosstalk]*

We go down. There is more. In particular, we have seen consistent public education and awareness campaigns—from the environment section of the ministry as you would well know because you were the Minister over that ministry for quite a while—not just from the ministry but also from the Environmental Management Authority. As I say the EMA, let me refute another major flaw in your essay which is that the Government has done nothing to regulate industries; also there was something else specific you said, but in particular that nothing is being done to regulate industries.

In 1995 the Environmental Management Authority Act was passed and that authority, even though the Act was then repealed and then reenacted in 2000 *[Interruption]* what the EMA's role is, is just what the hon. Member said the Government is not doing. The EMA's role is to regulate; all industries coming up between 1995 and present must comply with all of the regulations and the requirements from the EMA. In fact, the Alutrint plant that you tried to bad talk just now, *[Interruption]* there is a major lack of understanding. *[Crosstalk]*

The Alutrint plant was subjected to such stringent regulation by the EMA that—here is what they said, the levels that were set for those emissions at 1 which is way past ideal, because internationally they average between 3 and 20. Not just 3 and 10 or anything, 3 and 20 and for the Alutrint plant was set at 1. Do you know what the EMA explained to me in detail? It said that that level—first of all, again, as a doctor you spew out a whole set of things about the medical effects

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and all of that on people and you mixed up between people, greenhouse gases and warming of the earth, again, not understanding the issue; *[Interruption]* the general scientific community does not make a link between HF, which is the hydrofloro exposure and cancer. There is no link.

5.40 p.m.

In any event, these levels we are predicting—that is why you do not learn, and that is why your essay was like that. *[Desk thumping]* You see, knowledge is what gives you a good essay. *[Desk thumping]* You have to go and do proper research.

Mr. Manning: And lack of knowledge gives you a bad essay.

Sen. The Hon. Dr. E. Dick-Forde: A very bad one. In any event, the HF levels that the EMA is predicting by that 1, they are well below anything that can adversely affect humans. In fact, the levels were set to protect plants, which are much more sensitive to HF exposure than humans. They were protecting plants. And not only did they protect plants, in fact, they went beyond the call of duty that is required for plants, and then they set a buffer around the whole thing. *[Desk thumping]* Set a buffer around the whole plant. So when you say that the Government is doing nothing to regulate, you are wrong. You are wrong. Madam Deputy Speaker, he is wrong. He is sadly misinformed as I hear from the back here. Sadly misinformed.

Now, Madam Deputy Speaker, I really want to go on quickly to say what we have done as a Government. Having continued to ensure proper participation by Trinidad and Tobago at all of the international discussions on climate change and then that learning coming back into the Ministry, into the Government, we have seen over the last two years, the involvement of our Members at a deeper level where our lead negotiator, Mr. Kumarsingh, has actually chaired some of the major sessions on climate change globally. *[Desk thumping]* In fact, most importantly, while there seems to be no positive outcome that people are expecting in Copenhagen, the one track in discussion, which is technology transfer that has made the most progress, has been chaired by Mr. Kumarsingh—and I am talking about the global level. *[Desk thumping]*

We have some of the best resources and I want to say with respect to leadership planning, we have ensured that we do not just have one expert, we are sending more and more people. We are sending different people. Right now, we have at least four people who understand the process, who have been a part of it, and when we go to Copenhagen, we are sending three of our technical people to be a part of Copenhagen. *[Interruption]*

Extremists do a disservice to the environment and to the country from which they come, because by those extremist acts, what they do, they distance people from the environmental issue and they do not educate people properly on what is happening. The Alutrint Smelter Plant is a benefit to this country, and we will see it. [*Desk thumping*] I was on a point, and all of the learnings that these technical staff get, they were able to produce a draft National Climate Change Policy for Trinidad and Tobago for us. We did not have to hire a consultant from anywhere, all of the work was there already. Because remember, we had the interministerial committee already in place, building up capacity, building up information on Trinidad and Tobago's climate change efforts, and this was presented at the Cabinet yesterday, as indicated by the hon. Member for Point Fortin. It shall be published as a Green Paper soon.

Mr. Manning: Yes.

Sen. The Hon. Dr. E. Dick-Forde: However, we have widely exposed the nation to climate change. We have had two major forums, one in Trinidad and one in Tobago, to expose the public to the Copenhagen process, as well as to what the Government is doing with respect to climate change. And one of the things that we are focused on, is to explain that climate change requires initiatives and action on the part of every citizen. It calls for all of us to be responsible citizens.

Now, I want to just touch on two quick things: the CO₂ emissions and per capita. The atmosphere which warms up as a result of greenhouse gases, it does not respond to per capita emissions. [*Desk thumping*] That is an important thing. The atmosphere does not respond to per capita emissions. [*Crosstalk*]

Hon. Member: Say it slowly.

Mrs. Nunez-Tesheira: Explain it again.

Sen. The Hon. Dr. E. Dick-Forde: The atmosphere that is warming up and causing climate change, does not respond to per capita emissions. It responds to absolute emissions—[*Interruption*] [*Desk thumping*]

Hon. Member: That is hard for them to understand.

Sen. The Hon. Dr. E. Dick-Forde:—and that is a fact that dismisses all of the talk around per capita. In fact, anyone who relies on per capita does not understand statistics. When statisticians get in doing all their—I have done it. I am sure many of us here have done it. You do all sorts of permutations and things spew out that really do not make sense, and sometimes you still put them in, and per capita emission is, one of those figures. It makes no sense in the context of a global agenda to reduce greenhouse gases.

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Madam Deputy Speaker, the last thing I want to say is that, as we began to look at what was happening with respect to Copenhagen, all around July, August, we began to pick up a trend that there was a problem brewing in Copenhagen. Very early, the hon. Prime Minister, who you keep calling on all the time, recognized we had an opportunity at the Commonwealth Heads of Government to provide leadership for the globe, to assist to provide a space, [*Desk thumping*] where as a small nation, we can assist, in leading towards a global solution. And what we are seeing here is not a nation that is unprepared for what is going to happen, we are seeing a Prime Minister, who is very prepared, very prepared to chair [*Desk thumping*] and lead the globe into a positive future with respect to climate change.

Thank you, Madam Deputy Speaker. [*Desk thumping*]

**Erection of Flag
(Hasely Crawford National Sport Stadium)**

Mr. Vasant Bharath (St. Augustine): Thank you, Madam Deputy Speaker. The Motion I have raised this afternoon states as follows: the continued reckless spending of the Government by purchase and erection of a flag at the Hasely Crawford National Sport Stadium at a cost to taxpayers of \$2 million.

Madam Deputy Speaker, the motion arises out of the grudgingly extracted admission by the Minister of Sport and Youth Affairs—on November 05, 2009, in the *Newsday*, headline, "Sports Company Chairman admits \$2 million flag"—that a flag was purchased and erected at the National Sport Stadium at what most people considered to be a scandalous cost of \$2 million.

Madam Deputy Speaker: Hon. Members—

Mr. V. Bharath: Scandalous because the Government has failed in its duties to provide hospital beds for the citizens of Trinidad and Tobago; scandalous, because vast parts of this country have no running water; water yes; scandalous, because the Government has failed to provide security of life and limb for many people in Trinidad and Tobago; [*Desk thumping*] scandalous, because the Government having run into deficit is now going to borrow according to the Minister of Finance today, \$13.6 billion to continue their squandermania; scandalous, because there are 200,000 people living under the poverty line in Trinidad and Tobago, surviving on less than US \$2 a day.

Madam Deputy Speaker, you will recall that the Minister had earlier attempted to hoodwink the population, by misleading the population with a play on words, stating in fact, that in his own very calcified way that the cost of the flag was only \$15,000. In a

release in the *Newsday* of November 05, 2009, Mr. Kenneth Charles, the Chairman of the Sport Company of Trinidad and Tobago, sought to dispel any notion that the cost of \$2 million was in any way excessive or exorbitant. In fact, he gave a breakdown of the total cost, and he said, and I will read to you:

The flag made from nylon 60 feet by 36 feet—\$18,112;

Foundation and installation works—\$940,000;

Design and supply of flagpole—\$932,400; and

Three additional flags—\$54,336.

This he said totalled approximately \$2 million. He went on to justify the exorbitant cost by stating that the flag stands 150 feet high with an additional 15 feet below the surface, which allows it to withstand a wind capacity of 130 miles per hour. He revealed that the weight of the pole was 15,650 pounds and has a base diameter of 24 inches by 6 inches at the top. He further stated that a 20 foot by 15 foot foundation was needed to support the 150 foot flag which was made of A36 carbon steel.

Now, it is very important that I read that because there is no doubt in anybody's mind in Trinidad and Tobago, and the majority of people in Trinidad and Tobago, that these figures appeared to be incredulous. So, as a result, I decided to get my own quotations from some of the best providers in the United States and in the Caribbean for the provision of a flagpole, for the provision of flags, and the provision of foundation and installation works, all based on the exact specifications as laid out by Mr. Charles in the *Newsday* article of November 05, 2009. I want to reinforce, Madam Deputy Speaker, that all of these companies are leaders in their respective fields, and I will tell you who they are in a minute. You would be shocked at the result, or maybe you would not be shocked.

My investigation and enquiries revealed the following:

I first got a quotation on the flagpole—it is very important you listen to it, Mr. Prime Minister, because you should fire the Minister of Sport and Youth Affairs when I am finished—from America's Best Flags and Flagpoles. America's Best Flag and Flagpoles is one of the largest suppliers of flags, flagpoles and banners in the United States.

In fact, they have been the principals supplier to the United States government in the war against Iran and Iraq.

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Let me tell you what the quote from American's Best Flags and Flagpoles are for the flagpole that we bought. The quotation is as follows:

1-150 foot ground set diminishing section steel flagpole;
Exactly what we bought.

Material, carbon steel A36.

Exactly the specifications that Mr. Charles talked about.

Exposed height, 150 feet above; overall height, 165 feet.

Diameter at the bottom, 24 inches; top diameter, 6 inches.

Colour—black.

Pole weight—15,650 pounds.

Windload—113 miles per hour.

Includes one 36 x 60 foot nylon Trinidad flag; include rope heading with timbles.

Including freight to Trinidad and Tobago, a grand total of US \$28,200. [*Desk thumping*]

Madam Deputy Speaker, that is TT \$177,600. Accordingly to Mr. Charles, we were charged \$932,400 for the same pole, not even difference in colour.

Mr. B. Panday: Who was the contractor?

Mr. V. Bharath: We do not know who the contractor was. Not even the colour was different. Five hundred and twenty-five per cent more than the actual cost. Not 20 per cent, not 50 per cent, not 100 per cent, 525 per cent more than the actual cost. [*Desk thumping*]

Madam Deputy Speaker, similarly, I sought other quotations with regard to the geotechnical work that was done, with regard to the soil and so on. The firm that—I am sure the Minister of Works and Transport will know who I am talking about—has carried out several assignments like this in the Caribbean. It is an organization based in Trinidad and Tobago that has an impeccable reputation in field of quality control services in the area of geotechnical engineering, and is of course registered as a member of the Association of Professional Engineers in Trinidad and Tobago. Their projects—just to put in context what they have done—include the Chancery Lane Complex in San Fernando, BP Headquarters, the Larry Gomes Stadium, the Waterfront in Port of Spain, One Woodbrook Place, and for obvious reasons I would not call their name in Parliament for fear of reprisal.

Let me tell you what their quote for the geotechnical work was. In quoting the specifications of the flag that I have just quoted, they have quoted on field work where they will drill for the location of a flagpole.

5.55 p.m.

They have also quoted on laboratory testing, talking about the natural moisture content, the grain size analysis. They quoted on doing an analysis and report where they said that they would make recommendations concerning any matters of geotechnical engineering likely which are like to affect the proposed development, including foreseeable construction considerations and earth works. They quoted on the time schedule and a cost quotation for mobilization, field investigation, laboratory testing and engineering analyses, TT \$23,138.

Madam Deputy Speaker, we come to the installation of the flag pole; the scope of works of which I will tell you. Again, the company I sought this quotation from has done work for people like Atlantic LNG; BpTT; LABIDCO; Petrotrin; HDC, et cetera. Their quotes for equipment, material, labour, mobilization of equipment, fabrication and so on, and to actually install the flag pole, is a grand total of TT \$127,861. The total cost of the project, including the cost of the flag pole, bringing the flag pole to Trinidad, the geotechnical investigation and the installation amounts to a grand total of TT \$327,000. We were charged \$2million, \$1,673,000 more than the actual cost. That is 600 per cent more than the cost. This is the national pride. *[Interruption]* You are right; you do not care about cost; they do not care about cost.

Hon. Members: You spent \$30 million for rotten rice!

Mr. V. Bharath: This is the national pride which the Minister and the PNM talk about. *[Crosstalk]* Do you know what national pride? National pride is seeing Darren Ganga and the Trinidad and Tobago cricket team with a Trinidad and Tobago flag costing \$50 draped across their shoulders; that is national pride. *[Desk thumping]* National pride is that girl who graduated with no arms Vera Bhagan, who was born with no arms and graduated from law school. That is national pride.

Hon. Members: Courtesy the PNM; free tertiary education!

Mr. V. Bharath: National pride is seeing Kieron Pollard now playing for Australia.

Hon. Members: NAPA is national pride!

Mr. V. Bharath: Either the Minister of Sport is inextricably linked with this corrupt transaction or he is so dimwitted and bombastic that he has the gall to tell this population, "More flags coming", and "What is the fuss; we tief some more; what all yuh fussing bout; we thief more."

Mr. Imbert: Madam Deputy Speaker, Point of order, Standing Order 36(5). [*Crosstalk*]

Mr. B. Panday: "Shut yuh mouth, girl." [*Crosstalk*]

Madam Deputy Speaker: Hon. Member for Couva North, I am sure you know better. Hon. Member for St. Augustine, that particular statement that you made I would like you to withdraw it.

Mr. V. Bharath: I withdraw the term "tiefing"; I would replace it with "stealing".

Hon. Members: No, no, no. [*Crosstalk*]

Madam Deputy Speaker: Hon. Member that is a distinction without a difference; please.

Mr. V. Bharath: I apologize for using the word "tiefing"; it is a corrupt activity.

Mr. Imbert: Madam Deputy Speaker, Standing Order 36(5); the Member is imputing improper motives against the Minister of Sport and Youth Affairs.

Mr. B. Panday: How come it cost \$2 million? [*Crosstalk*]

Madam Deputy Speaker: Hon. Members, please. You have apologized, continue.

Mr. V. Bharath: It is my information that they have intentions of buying a further five flag poles. That is the information we have; not just five flags, five more flag poles at another exorbitant cost.

I want to warn this Government, this country is at breaking point; it has had enough and it is not going to take any more of this nonsense. They have spent over \$300 billion in the last seven years. They have emptied the Treasury yet again. They have gone through the shenanigans of the Tarouba Stadium, the Performing Arts Centre, the Scarborough Hospital and the International Financial Centre, which I spoke about last week. No wonder this country's rating on the Corruption Perception Index has dropped again, down to 79; from 31 under a UNC regime in 2001 to 79 this week.

Do you know what? Every time they are accused, every time they are caught with their pants down, every time they are caught with their hands in the cookie jar, do you know what? They claim that we are unpatriotic. They claim that their accusers are unpatriotic, every time they are caught feeding at the national coffers.

I want to tell this Government that they could say what they want; we on this side will never waiver from our duty and responsibility to the people of Trinidad and Tobago, and we do so without fear or favour, without fear or favour, out of love for our mother country, Trinidad and Tobago. [*Crosstalk*]

Hon. Members: Ooh!

Mr. V. Bharath: I say as the song says, "If loving our country is wrong, we do not want to be right." [*Crosstalk*]

The Minister of Sport and Youth Affairs (Hon. Gary Hunt): Madam Deputy Speaker, I am pleased to be given this opportunity to address this House today, primarily because of the opportunity it affords me to debunk the arguments of the Member for St. Augustine's Motion.

As a citizen of this country, I have been loyal to one flag and one flag only. I did not hold allegiance to any other flag, red, white and black all the way. [*Crosstalk*]

Hon. Members: You have another flag?

Mr. V. Bharath: If you do not know, keep quiet; big mouth, keep quiet.

Hon. G. Hunt: I am not aware that the Member opposite could say the same, and this may explain the Member's conundrum with the national flag. [*Crosstalk*]

Mr. Bharath: Tell them to have respect first.

Hon. G. Hunt: I want to ask the Member opposite, what is the meaning of the red in our flag. The red in our flag represents the vigour of the land of Trinidad and Tobago; the friendliness and courage of the people.

Madam Deputy Speaker: Hon. Members, it appears as though you would like to go longer than the time we should go. [*Crosstalk*]

Hon. G. Hunt: I was asking the Member opposite if he understood or knew what the red in the flag means; he is wearing a red tie. [*Crosstalk*] The red represents the vigour of the land of Trinidad and Tobago; the friendliness and courage of the people.

The black represents the unity and strength of the people and the natural wealth of the country. [*Crosstalk*] The white represents the sea and purity and equality of the people under the sun. Together, the colour represents earth, water and fire, which represents the nation's past, present and future; that is our flag. [*Crosstalk*] Cognizant of the need to develop our beloved Trinidad and Tobago and to do so efficiently and, most of all, in an atmosphere of transparency and fiscal prudence, the Government of Trinidad and Tobago undertook the formulation of a comprehensive national development strategy in 2002, called the National Strategic Plan, Vision 2020.

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The ethos of this is to bring about maximum benefits to the largest amount of people in the shortest possible time. Out of this plan the Government developed the National Sport Policy and the National Youth Policy. As it pertains to the National Sport Policy, the key objectives are the achievement of sport for all citizens and to make Trinidad and Tobago a world power in sport by the year 2020.

Arising out of this approach, this Government, through the Ministry of Sport and Youth Affairs, undertook several key initiatives. The first initiative was based on a realization that in order to have world class athletes, there was a need to have world class facilities. Accordingly, the Government undertook proactive action in order to provide the infrastructure needed to achieve these main policy goals. [*Crosstalk*]

In order to host the Caribbean Games, several facilities throughout the country needed to be upgraded to acceptable world standards. Those facilities are: The Hasely Crawford Stadium; the Jean Pierre Complex; Shaw Park in Tobago; Saith Park in Chaguanas; the Woodbrook Youth Facility and UWI SPEC. These facilities needed to accommodate the sporting disciplines of athletics, boxing, volleyball, tennis and netball.

The package of works undertaken during this project included, for the Hasely Crawford Stadium alone: the sealing of concrete tiers; the changing of the entire roof of the main pavilion; the upgrade of electrics and lighting; refurbishment of VIP rooms and Sky box; refurbishment of media boxes; seat repairs and replacement; upgrade of health safety and security systems; upgrade of the fire systems; the purchase and installation of a meet management system, that is now rated at a level one in the IAAF. In fact, this meet management system is the only one of its kind in the English speaking Caribbean.

Hon. Members: "What dat have to do with a flag?"

Hon. G. Hunt: A full graphic screen and board; upgrade and repair of the PA system; refurbishment of the athletes lounge—[*Crosstalk*] [*Interruption*]

Mr. S. Panday: "Come to de flag!"

Hon. G. Hunt: Refurbishment of the practice field; refurbishment of the athletes call room; refurbishment and repair of the Mundo track; [*Crosstalk*] installation of a legacy flag; and general cleaning and upgrade.

Hon. Members: "On de flag!" [*Crosstalk*]

Hon. G. Hunt: Madam Deputy Speaker, we had to put this in a context. [*Crosstalk*]

Madam Deputy Speaker: Members, we are due to finish in the next nine or 10 minutes. Maybe I should suspend the sitting and then you would allow the hon. Minister, so please allow him to finish his contribution. [*Crosstalk*] [*Laughter*]

Hon. G. Hunt: Madam Deputy Speaker, with all these works undertaken at the Hasely Crawford Stadium, it is now world class stadium. [*Crosstalk*] At Shaw Park we also constructed four new tennis courts according to World IAAF standards.

Mr. S. Panday: "On de flag!"

Hon. G. Hunt: We refurbished and re-laid four existing tennis courts to world standards; installed lighting on tennis courts; purchased tennis equipment. [*Crosstalk*] We now have a world class tennis facility in Shaw Park, Tobago. [*Desk thumping*]

Saith Park in Chaguanas—work was done on the sand court and included: building and finishing of additional pavilion facility; purchase of electric scoreboards; purchase of volley ball equipment; [*Crosstalk*] improvement and rehabilitation of the sand tracks. We now have a world class beach volleyball facility in Chaguanas. [*Desk thumping*] The Woodbrook Youth Facility—[*Interruption*]

Mr. Bharath: Madam Deputy Speaker, on a point of order.

Hon. Members: No, no; sit down!

Mr. Bharath: Standing Order 36(1), relevance. [*Crosstalk*]

Hon. G. Hunt: Madam Deputy Speaker, with the refurbishment works done at the Woodbrook Youth Facility, we now have a world class facility at Woodbrook.

For the Jean Pierre Sporting Complex alone, we purchased and installed an indoor netball playing service, IFNA standards; repair indoor basketball surface; purchase of netball equipment; purchase electronic scoreboard; sealing of concrete tiers; general upgrade and refurbishment of internal and external walls, washrooms and toilets. Madam Deputy Speaker, we now have a world standard netball facility at the Jean Pierre Complex. [*Crosstalk*]

Madam Deputy Speaker, UWI SPEC was also improved as part of the whole programme. We purchased a volley board indoor flooring; improvements to scoreboard. We now also have a world class UWI SPEC [*Crosstalk*]

The level of planning and implementation that went into the project included engineering support, project management and procurement services for all aspect of the works that were carried out. [*Crosstalk*] It should be appreciated that these works had to be carried out in a relatively short time. [*Crosstalk*]

Madam Deputy Speaker: Hon. Members, the Minister has just a few minutes again to complete his contribution.

Mr. S. Panday: He has said nothing about the flag!

Mr. Bharath: He continues to be flagging the contribution.

6.10 p.m.

Madam Deputy Speaker, the Members opposite want to accuse this Government of non-prudent, fiscal spending. I want to remind Members opposite of the Biche High School constructed at a cost of \$30 million and not one student sat in that school yet. [*Crosstalk*]

Madam Deputy Speaker, that Member for St. Augustine, can he tell us—

Madam Deputy Speaker: Members, for the last time, the Minister has just six more minutes. Could we please allow him to continue his contribution?

Hon. G. Hunt: Madam Deputy Speaker, a procurement of this particular item of the overall work programme for the Caribbean Games was undertaken by the Sport Company of Trinidad and Tobago whereby four suppliers were invited to submit tenders. The first supplier, Baker Flags indicated that they were unable to produce a flag to that specification. Three other companies submitted quotations. The first, Prabha Sports, \$1.156 million C.I.F delivered Trinidad and Tobago. No installation, no guarantees, no office in Trinidad and Tobago and requiring 100 per cent payment up front.

Company number two, Excellent Technology, \$1.25 million, of No. 3 Frederick Street, Port of Spain, \$1.725 million, no guarantee of delivery within the work period we were required to deliver these facilities for Caribbean Games, no track record of flag installation of that extent.

Company No. 3, Fireone Fireworks \$2 million, guaranteed to install the flag to all building codes exceeding the standards of Trinidad and Tobago, guaranteed to install and have all the structures erected within the time period for the Caribbean Games; 15-year guarantee, no down payments required on the job and a track record for three years in installation of a similar type. Whom will you choose?

Madam Deputy Speaker, the sport company made a decision and selected the last supplier and, in their opinion, they have satisfied the requirements of the contract that they put out. I have to put this in a context. That is part of the master plan for the development of sport in Trinidad and Tobago.

Madam Deputy Speaker, in the last financial year, we have given to the cricket board \$3.5 million for the development of the sport of cricket; \$550,000 for the development of cricket for the national team that went to the 2020 Championship; TTF, \$15 million this year. Altogether we have disbursed a total of \$26.6 million for 14 sporting disciplines.

In fiscal 2008 we disbursed a sum of \$39.5 million to 86 organizations. In fiscal year 2001, do you know what those opposite gave to 84 sporting organizations in Trinidad and Tobago? A meagre \$7 million. Look at the difference of the commitment to the development of the sportsmen and sportswomen in Trinidad and Tobago.

Madam Deputy Speaker, as a direct result of this support from the Government, today we are enjoying the kind of success we have enjoyed in regional and international sport. We are No. 1 in the Caribbean in hockey; No. 1 in volleyball; No. 1 in cricket; No. 1 in football; No. 1 in squash; No. 1 in taekwondo; No. 1 in rugby; No. 1 in swimming; No. 1 in cycling; and we are going to be world champions in 2011 in netball.

Madam Deputy Speaker, we are investing heavily in the youth of our country especially through sport for their development. [*Interruption*]

The flag, I would give you a story of a young man who said to me: Explain to the Members opposite the economics of the flag. He said every time I see that flag and it motivates me and I put a cost of \$1, that flag will last for 20—30 years and more, and it will exceed more than two million times that the citizens of this country will be elevated and motivated. So in that regard, explain to the Members opposite that it is well worth the cost to erect that flag that will stand for generations.

Madam Deputy Speaker, I thank you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.16 p.m.