

HOUSE OF REPRESENTATIVES*Wednesday, December 01, 2010*

The House met at 1.30 pm.

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: Hon. Dr. Surujrattan Rambachan, Member of Parliament for Tabaquite. He is presently out of the country and has asked to be excused from today's sitting of the House. Hon. Dr. Lincoln Douglas, the Member of Parliament for Lopinot/Bon Air West, has asked to be excused from today's sitting of the House.

Hon. Carolyn Seepersad-Bachan, Member of Parliament for San Fernando West, and Hon. Jack Warner, Member of Parliament for Chaguanas West, are also presently out of the country and have asked to be excused from sittings of the House on Wednesday, December 01, 2010 and Friday, December 03, 2010. Mr. Patrick Manning, Member of Parliament for San Fernando East, has also asked to be excused from today's sitting of the house, and Dr. Keith Rowley, Member of Parliament for Diego Martin West, has asked to be excused from today's sitting of the House. The leave which the Members seek is granted.

USE OF SPEECH AIDS

Mr. Speaker: Hon. Members, within recent times, I have observed Members bringing into the Chamber speech aids of varying shapes and sizes and, like everyone else, the Chair is left to wonder as to the Member's intent in relation to the particular object. Hon. Members, allow me to clarify the practice in relation to the use of speech aids during debate in the Chamber. In Parliaments, Members are generally permitted to display articles to illustrate speeches, provided that such displays are appropriate and in order. For example, in New Zealand, Members have been counselled not to trivialize the House by introducing inappropriate objects into the Chamber, and the Speaker has refused to permit any object which, in his opinion, would lower the esteem in which the institution is held.

Hon. Members, in Australia, the general attitude of the Chair is that visual aids are tolerated but not encouraged. In the United Kingdom, while Members have been permitted to display articles to illustrate an argument in a speech, the Speaker has said that all Members should be sufficiently articulate to express what they want to say without the aid of visual props.

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In the absence of any fixed rules contained in our Standing Orders, the Chair will be guided by the practice of the United Kingdom and will continue to permit the display of articles provided that, first of all, such articles are in order, and secondly, their use is reasonably necessary to assist the Member in expressing his arguments.

Therefore, hon. Members, whenever it is desired to display articles and/or objects to add impact to speech in this honourable House, the permission of the Chair must be obtained in advance. Such permission must be obtained at least two hours prior to the start of the sitting. Please note, hon. Members, that leave of the Chair will not be permitted, or granted, for the use of any article or object which, upon display, is likely to result in an offence against any Standing Order of this House.

Finally, hon. Members, once approval is granted, visual aids may be displayed only whilst the Member is speaking, and must be removed from the Chamber at the end of the Member's speech.

COMMITTEE OF PRIVILEGES
(Member for D'Abadie/O'Meara)

Dr. Amery Browne: Mr. Speaker, I seek your leave, in accordance with Standing Order 27(2), to raise a matter directly concerned with the privileges of the House. The matter concerns statements made by the hon. Member of Parliament for D'Abadie/O'Meara at the last sitting of the House—that is on Friday, November 26, 2010—in response to a matter raised by me on the Motion for the Adjournment of the House.

During his contribution, the Member made certain statements in defending the Government's investment in a Nicki Minaj concert. Mr. Speaker, I contend that the statements made by the Minister were untrue and he knew full well that these statements were not true. Mr. Speaker, in response to my categorical statement that obscene language had been used at the concert sponsored by the Ministry of Sport and Youth Affairs, and in response to my direct reference of newspaper content confirming the use of obscene language at the event, the Member for D'Abadie/O'Meara held himself up as a witness and had this to say, and I quote from the *Hansard*:

“I know one thing. You were not there. There were 20 police officers, fire officers, and at no point did any foul language or expletive cause anything.”

Mr. Speaker, the Member continued with the following telling words:

“Using expletives on stage is against the law, and the police would have shut down the concert. I was there. Hasely Crawford was there. The police were there and there were no expletives.”

Mr. Sharma: This nonsense again?

Mr. Speaker: Order.

Dr. A. Browne: The Member continued further in like vein. Mr. Speaker, this concert was subsequently rebroadcast on MTV with expletives deleted, but it should come as no surprise that actual footage from the concert also found its way onto YouTube. Mr. Speaker, the cameras and soundtracks captured the actual performance on stage that night and I have a true transcript of the concert made. Mr. Speaker, Nicki Minaj said the following words on stage during the performance of her song entitled “Monster”:

“Okay, first things first, I’ll eat your brains

Then I’m gonna start rocking gold teeth and fangs

Cause that’s what a “expletive” monster do—”

The expletive, Mr. Speaker, contains the letters “M” and “F”.

“Hairdresser from Milan

That’s what monsters do.”

Mr. Speaker, out of respect for this House, I have censored those words but they were definitely not censored in front of the children present at the National Stadium on October 30, 2010. This same phrase and other additional obscenities were clearly repeated at multiple points during the performance and are shouted both by Nicki Minaj and by the crowd that included young children in a kids’ zone that was located stage-side.

Mr. Speaker, I have in my possession unedited footage of the concert that clearly and incontrovertibly demonstrates the repeated use of obscenities at this concert, and I will pass this footage on to you so you can have the full facts of this matter in consideration of this issue. It is against this background that I am moved to raise this matter as a question of privilege, since the Minister was present and would have witnessed first-hand what the footage clearly reveals.

Mr. Speaker, parliamentary privileges are certain rights and immunities enjoyed by each House of Parliament and its committees collectively, and by Members of each House individually. One of the main privileges enjoyed by

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Members of the House is freedom of speech; however, this right of freedom of speech in this House is circumscribed by established rules, practice and procedures. Mr. Speaker, it is well established that the deliberate or wilful making of untrue statements in the House by any Member of the House is a serious contempt of the House.

Mr. Speaker, Standing Order 91(1) of the House states:

“In any matter not herein provided for, resort shall be had to the usage and practice of the...”—House of Commons of the Parliament of the United Kingdom— “...which shall be followed as far as the same may apply to this House and not inconsistent with these Standing Orders nor with the practice of this House.”

Mr. Speaker, the practice of the House of Commons of the Parliament of the United Kingdom is documented in Erskine Mays’ *Parliamentary Practice*, 23rd edition, where it states unequivocally at page 132 under the rubric, “Members Deliberately Misleading the House”:

“The Commons may treat the making of a deliberately misleading statement as a contempt.”

Mr. Speaker, I ask that you refer this matter to the Committee of Privileges for consideration and report. Mr. Speaker, I thank you. [*Desk thumping*]

Mr. Speaker: Hon. Members, may we have silence, please, in this honourable House? I shall reserve my ruling on this matter.

WORLD AIDS DAY

The Minister of State in the Office of the Prime Minister (Hon. Rodger Samuel): Mr. Speaker, it is a privilege for me to stand in the acknowledgment today of a significant day, December 01 in the world’s calendar and agenda. The world acknowledges and recognizes today as HIV/AIDS Day, and we in Trinidad and Tobago, and as a Government, tremendously give support to all of the activities, all of the work that has been done, and continues to be done with regard to the fight against HIV/AIDS in the world, as well as in Trinidad and Tobago.

We must never forget the fact that we battle against and we battle with a virus that can not only be detrimental to the social development of a nation but also to the economic development of a nation; for if this particular virus or disease is not dealt with and fought against with all vigour, then we will not only have an epidemic with regards to the society, but we will have an epidemic economically.

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In Trinidad and Tobago, the last reports on statistics show that there are approximately 20,000 of our citizens and more living with the virus but, sad to say, there are just about 6,646 known people who are being treated so that their lives could be strengthened and their destinies can be redesigned and redeveloped for better living. We, as a Government, will continue to fight for the overcoming of this virus, even though at this particular point in time there is no cure for the disease or the virus; yet, as a nation, we must never get slack, we must never forget and we must never go cold with regard to how we approach it. It is better now we spend the finances in prevention than to have the expenditure of a cure or the expenditure of medication.

We want to acknowledge all of the activities that are taking place today, and on behalf of this Government, likewise, I do not want us to forget after today the significance of the drive and the move to encourage all citizens to get tested, but we must encourage every part of our constituencies, every part of this nation, to take this seriously and never give up on the fight against HIV/AIDS.

I want to thank openly all of the departments on behalf of the Government, all of the NGOs and all of civil society who have been particularly involved over the period of time in not only preventative mechanisms but even in the help, support and services of the people who are living with the virus. I want to thank them and I want to assure them that this Government will never renege on its promises to ensure that the battle will be won in Trinidad and Tobago.

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

Dr. Browne: Mr. Speaker?

Mr. Speaker: What I will do is that I know you wanted to make a statement on World AIDS Day. All I am saying is that, before the House adjourns this evening, I will allow you the opportunity to say a few words. Okay?

ANTI-GANG BILL

Order for second reading read.

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you, Mr. Speaker. I beg to move,

That a Bill to make provision for the suppression of association established for unlawful purposes and for the better preservation of public safety and order and for other related matters, be now read a second time.

Mr. Speaker: You continue. At the end of your speech you say, "I beg to move."

Sen. The Hon. A. Ramlogan: I am grateful, Mr. Speaker. Mr. Speaker, the Bill before this honourable House in this, my maiden contribution in this House, is a very important one. [*Desk thumping*]

Dr. Moonilal: Welcome.

Sen. The Hon. A. Ramlogan: Thank you very much. The Anti-Gang Bill, 2010 is a path-breaking piece of legislation that will be the flagship for a package of criminal legislation that is designed to arrest the tsunami of crime that we have inherited as a new Government. Mr. Speaker, it is part of a package of legislative and administrative measures proposed by the Government of the People's Partnership to implement much needed reform in the fight against crime, to equip the law enforcement agencies with the legislative tools that they would need to be able to arrest the decline in our society.

The measure is intended to improve the ability of the State to deal with the unprecedented level of crime in our society, and, Mr. Speaker, we all know about the daily diet of death, despair and destruction of our society that we see on the front page of our newspapers almost every day. The crime wave that we have inherited is one that is threatening to engulf and consume our entire society, Mr. Speaker. Urgent action is needed. Urgent surgical action by virtue of legislative intervention is necessary if we are to save our society, and that is why gang-related activity is a scourge that we must eradicate if we are to get to the bottom of the crime problem.

Although murders and gang-related murders grab the headlines, research has shown that gang-related criminal activity permeates almost every sphere in the criminal world. Gangs are into drugs, gunrunning, kidnapping, extortion, robbery, assault, rape and all forms of criminal activity. So, the gang has become the centrepiece and a foundation for crime, and it spawns satellite criminal activity in a way that might not have been contemplated when one originally thought of the gang or thought of joining a gang.

It is for this reason, Mr. Speaker, people in Trinidad and Tobago, for the past eight years, have become virtual prisoners in their own homes. I remember, Mr. Speaker, in Ste. Madeleine there was a fire and they found the charred remains of the young children beneath a pipe in the bathroom. But you know what killed those children? It was not the fire. It was the burglar proof and the locks on the burglar proof with which they were forced to barricade themselves inside their own homes because of the fear of crime, such that, when the fire came, they could not even escape from their own home.

That is a story, Mr. Speaker. Every time we read of a death by fire, we must ask ourselves the question: how is it these people could not escape from their own home? How is it they could not jump out of a window? How is it they could not open a door? And the answer is that crime caused that. We live now on edge, gingerly making our way as though we are walking on eggshells; gingerly peering from behind closed doors and bars as though we are the ones in prison.

Mr. Speaker, this demands a strong response, because desperate times require strong measures, and that is what we are going to do. [*Desk thumping*] Mr. Speaker, the last administration must take some blame for the horrendous situation we have inherited, because they failed to take sufficient measures to bring crime under control. The former Prime Minister is now on record as having shared with us his political philosophy of governance; and he said that his philosophy and approach, the modus operandi of his Government was to try out something, see if it is working, and if it is working, then he will legislate to legalize it.

That is how we had the SIA spying on the President, media people, trade unionists, journalists, et cetera. That is how you had the SAUTT, Special Anti-Crime Unit of Trinidad and Tobago, again without any legislation, but being brought into existence and being funded by the taxpayers' money without any form of regulations; because the Prime Minister's approach to governance is that, "I will create something, let it run and see if it is working, and, if it is working, I will come back and I will legislate afterwards to retroactively legalize it." What the hon. Prime Minister did not say is when he would legalize it; what criteria he had in mind to determine if it is successful and why it is he could not legislate first in accordance with the rule of law and the Constitution. That is what he did not say.

Mr. Speaker, it was on June 7, 2005—and, Mr. Speaker, in keeping with your ruling, may I perhaps use a small aid with a newspaper article? It was on June 7, 2005, this headline appeared in the *Trinidad Express* newspaper:

"National Security Minister lifts the lid on 66 gangs. Five hundred violent men in T&T."

Former Minister of National Security, Martin Joseph, Mr. Speaker, on June 7, 2005, five years ago—a full term for a Government—was able to say there were 66 gangs in operation and he had identified 500 violent men who were holding this nation to ransom. He had promised those famous words, "We will hunt you down."

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At that time, they pumped over a billion dollars into SAUTT; they pumped hundreds of millions into the spying agencies; and one would have thought that these 500 men, in five years they would have been able to find them and they would have been able to deal with them. Instead, Mr. Speaker, nothing of the kind has happened. Legislation that was needed to be able to meet this challenge to restore law and order did not come.

That is why 500 hardcore members were able to multiply and the number of gangs multiplied and mushroomed, and that is why today, in certain parts of Trinidad, there is an undeclared state of emergency where law-abiding citizens know better than to go out after 6.00 p.m. There is an undeclared state of emergency where the country lives with a self-imposed curfew—despite our fundamental human rights, a self-imposed curfew—whereby the bandits own the street at night to roam. You stay indoors; and they did nothing about it.

In fact, Mr. Martin Joseph said on June 7, 2005:

“The Government will not allow a small group of criminals to threaten the safety, security and well-being of our nation. We will not allow these criminals to ruin or compromise this Government’s inexorable drive towards developed nation status by 2020.”

That is the kind of rhetoric but, despite all of that, they did not present for this nation’s Parliament to give the police the elbow room and flexibility they require to arrest and deal with the problem by bringing the Anti-Gang Bill which this honourable People’s Partnership has brought to this honourable House.

Mr. Speaker, on October 17, 2005, the then Prime Minister, Patrick Manning, addressed this very Chamber after four consecutive bombing attacks had terrorized our nation and traumatized the psyche of our nation. It was, of course, thought that those bombings were carefully orchestrated and planned by gangs in our country to destabilize the nation. Mr. Speaker, speaking on a motion of urgent public importance brought by the then Opposition Member of Parliament, hon. Kamla Persad-Bissessar, now Prime Minister of the Republic, Mr. Manning said he knew who Mr. Big was, and he said that Mr. Big will not have this nation trembling in fear.

2.00 p.m.

And I wish to quote what the honourable Prime Minister as he then was, said. He said:

“...listen carefully to what I”—have—“to say...” “The Government has a good idea of who “Mr. Big” is in this matter.” We are—“...collecting our

information, and we are bringing to bear the best technical expertise available to the Government...”—and—“...very shortly we will supplement”—that—“...expertise from Scotland Yard and...FBI and...”—we will—“...give our country the best chance of successfully emerging from this situation, and...”—we will—“...more than likely...”—be able—“...to bring the perpetrators to justice.”

Well, “Mr. Big” remains an elusive ghost even onto today. But Mr. Manning seems to have a penchant for knowing who the criminals are, knowing where they are, but not sharing it with the police. Because only a week ago he was able to stand right here in this honourable Chamber and say to this Parliament that the Guanapo Church was not built with public funds. The police are looking for Reverend Julia Peña to find out where the money come from to construct that edifice. He says in the Parliament, he could say one thing for a fact, it was not constructed with public funds.

Well, I want to ask the question: if the hon. Member for San Fernando East spoke to Reverend Peña and asked her, and sought that kind of clarification from her, I wonder, did he not ask her when “she say” no, no public funds were used, did he not go on to ask her the next logical, obvious question, “Well, girl, why yuh get de money from? Why yuh get de money from?” Thirty million dollars? “How yuh know Hart? How yuh know Shanghai Corporation?” He did not ask. But more importantly, since Mr. Manning knows how to contact Reverend Peña to elicit such clarification, when “de police looking fuh she” and saying they need the help of Interpol, may I ask, Mr. Speaker, that Mr. Manning today, I ask him publicly on behalf of the police service, Sir, could you kindly furnish the police service with the whereabouts and details of Reverend Peña so they can ask her the questions that you did not ask her?

You see, Mr. Speaker, all of the fancy gadgets and toys that they purchased—big-ticket items, the aerial surveillance platform known as the blimp cost U.S. \$12.6 M, and then seven million spent on maintaining and repairing it, because “it keep” breaking down, that blimp “could not catch no criminals.” That blimp used to sound like a Farmall or a tractor hovering over your house—“the amount ah noise it making.” [*Desk thumping*] And, of course, the blimp was “ah blinking failure”. And then, of course, you had the Eye in the Sky. You had, from Howard Chin Lee days, Operation Anaconda, Operation Baghdad. “De amount ah operations dem had, dem needed a brain operation to solve this crime problem.” [*Desk thumping*]

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But you know, Mr. Speaker, I turn to what is now, perhaps, one of the worst examples of waste that could have arrested the crime problem, and it was, of course, the establishment of the Special Anti-crime Unit, SAUTT. Despite all rational, common sense, they refused to legislate SAUTT and crime continued to escalate.

Mr. Speaker, may I quote from the *Express Newspaper*, a story entitled: Rise of Gang Violence, on January 18, 2009. In that article the investigative reporter, Mr. Darryl Heeralal said, and I quote:

Gang-related killings have increased by almost 900 per cent in the six years since the police have begun compiling statistics on murders due to gang violence.

A 900 per cent increase.

The phenomenal increase in gang murders was a key factor in pushing Trinidad and Tobago across the record-setting threshold of blood in 2008, when a total of 544 people were murdered. Of this number, more than half, or 295, 54.2 per cent, were victims of gang-related violence. According to homicide officials, gang killings are a relatively recent phenomenon with no murders attributable to gang violence until 2002. Over the six-year period this country has moved from 30 gang-related murders in 2002 to 295 last year.

Mr. Speaker, that is 30 to 295 people being killed “like stray dog in de streets” by these gangs and just five more killings would have taken the increase to the horrific 1,000 per cent increase mark. That is, in fact, what the newspaper quoted, and that was on January 18, 2009. But the problem had been allowed to escalate and the graph kept rising. Nothing was done to deal with gang-related violence. Mr. Speaker, that is why we are seeking now to put a package of legislation and other measures in place to tackle crime, both from a preventative standpoint and then to strengthen the detection and prosecution capability of the State.

You would have seen, for example, under the leadership of Commissioner Dwayne Gibbs recently, only last week, Operation Weedeater 2010, \$165 million worth of marijuana destroyed from Biche. I compliment and salute the Commissioner of Police for this effort. [*Desk thumping*]

Mr. Speaker, yesterday the honourable Prime Minister led a delegation—high-level delegation from Government—to meet with the various heads in the security agencies to demand more and to get us to rise to the challenge, to think outside the box and find new innovative ideas so we can solve the crime problem. This legislation here is one such innovative piece of the puzzle to assist in solving this problem.

You know, Mr. Speaker, in early 2009, only last year, after the horse had already bolted and the blood was already flowing on the streets, the previous administration set up an Omnibus Legislation Committee—only last year, under the aegis of the then Minister of National Security—and they wanted to address gang formation and gang activity. After it had become out of—after they allowed it to reach where it had become out of control, after “yuh molly cuddle” and embraced gang leaders, treat them as though they are community leaders, you had the very police who were hunting down these men, you had them having to stand guard at Crowne Plaza while the former Prime Minister had breakfast with them, and embraced them—the most demotivating episode in the history of our police service. That was the approach. That is why the problem mushroomed. They gave them contracts in the URP programme. That is why the problem escalated and that is why it took until last year to even establish this Omnibus Legislation Committee.

Mr. Speaker, the Omnibus Legislation Committee had a package of legislation that we are now seeking to better, to improve and to fast-track to deal with the crime problem. Amongst the pieces of legislation would be the Interception of Communications Bill, bail reform, penal reform, payroll and community servicing policing. These are the kinds of legislative measures that we will bring to this nation’s Parliament to assist us in solving the crime problem. And we are not just bringing it “vaille-que-vaille.” Mr. Speaker, for the first time in our political history, a new era has dawned under the leadership of Prime Minister Kamla Persad-Bissessar, and we had a joint, collaborative approach to the Interception of Communications Bill. We had a joint committee under the chairmanship of the Leader of Government Business, and we were able to have a consensual approach to such an important piece of legislation.

Mr. Speaker, the police service, I am advised, based on their statistics, now say that there are over 110 gangs in operation; each gang, with a average of 12 persons—110 gangs, each with an average of 12 persons, but there are some gangs that are so large, they number between 50 all the way to 100, because their recruitment process is an very aggressive one and the incentives they offer are very good.

Mr. Speaker, that is why this legislation is important. The indoctrination process to join a gang is such that you have to prove yourself worthy of membership in the gang by “committing petty crime”, robbery, selling drugs, robbing a maxi-taxi, but the bigger and better gangs, to actually gain entry and

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membership to the bigger and better gangs, you have to actually prove that you could murder a man or woman in cold blood to get in the gang. It is a joke. They have no respect for human life, far less for law and order.

Mr. Speaker, that is why this legislation has teeth that will bite deep into the flesh until we reach to the very bone of this problem and crush it. Some of these gangs are now involved in reviving the kidnapping trade. Others are stealing in the car trade—car theft. Others are stealing cellphones and raping women. Women in this country are under threat, because they cannot work late hours because they cannot afford to travel home in peace and safety in a maxi-taxi. Women and children are the highest casualty and the highest statistics in terms of victims of these kinds of crime, because the gangs prey upon them.

Mr. Speaker, that is why this Bill will seek to criminalize associations created for unlawful or antisocial purpose, because as, a Government, we are providing avenues for young men and women who wish to pursue a decent and honest living without reference to a life of crime. The hon. Minister of National Security, Sen. Brig. Sandy, he has been going, together with Mr. Roy Augustus, into Laventille, into Morvant, into all the crime hot spot areas. He has been going, he has been meeting the young men, he has been providing them with hope and opportunity. I salute his efforts, because that has to work in tandem with this. [*Desk thumping*].

Mr. Speaker, permit me to summarize the provisions of this Bill. We seek to criminalize being a member of a gang with special consideration being given to the gang leader or members of the protective services and the defence force. It will be an offence to be in possession of a bulletproof vest, firearms or ammunition for the use or benefit of a gang. Participating or contributing to the activities of a gang is now an offence; supporting or inviting support for the gang; harboring or recruiting children in a gang with special consideration for where that recruitment occurs close to a school or place of worship.

Mr. Speaker, the Bill at clause 11 gives the court the power to convict and sentence a person for an offence, and to also order forfeiture of any personal property that, at the time of the offence, they had in their possession or which was under their control. Once that property in their possession was used for the benefit of the gang, the court will have the power to confiscate it. The reason that provision is there, Mr. Speaker, is these gang leaders, they are using their ill-gotten gains to purchase fancy cars, fancy cellphones, and they are fooling the young girls, and now the young girls are actually being roped in. They are carrying the guns for them; they are carrying the knives for them, but the “bling”

culture is blinding them to the respect and value of human life, and that is why this provision will attack the “bling” culture, because, if you are caught, we will take away your “bling” and we will “bling” you out. [*Desk thumping*]

Mr. Speaker, this is a law that will have an effect on the fundamental rights and freedoms of our citizens, but law-abiding citizens have nothing to fear by this law, nothing to fear, because what we are seeking to contain is a problem that threatens the peace and security of law-abiding citizens.

The Constitution as you know, Mr. Speaker, gives a right to life, liberty, security of the person and enjoyment of property, but these freedoms are not absolute. And the very Constitution allows for legislation that is inconsistent with the fundamental human rights, if it is warranted and justified in a society that has proper respect for these rights. So the issue is whether this legislation, which needs a special majority, is one that can be said to be reasonably justifiable in a society that has proper respect for the rights and freedoms of the individual.

Mr. Speaker, I submit that beyond a shadow of a doubt this legislation meets the criteria. [*Interruption*]

Hon. Members: I am sure you do not believe that.

Sen. The Hon. A. Ramlogan: Well, I know my learned friends who allowed the problem to mushroom for 32 to 500 will not believe in that, but, Mr. Speaker, we on this side know and believe that this is what is necessary. [*Desk thumping*]

You see, they feel that respect for the rights and freedoms of an individual is demonstrated by allowing the thieves and the bandits and the gang leaders to attack the law-abiding citizen. We say respect for law-abiding citizens and for their rights means that we must protect them against that kind of vicious behaviour. [*Desk thumping*]

You see, Mr. Speaker, they are the ones who wish to harbor and hide “Mr. Big”. They are the ones who wish to harbor and hide the gang leaders by giving them URP contracts and feeding them breakfast in Crowne Plaza.

Hon. Members: “Breakfasses”.

Sen. The Hon. A. Ramlogan: Mr. Speaker, I ask my friends on the other side, how many parents whose children were kidnapped did you host to a breakfast in Crowne Plaza? [*Desk thumping*] How many parents whose children were raped in captivity whilst you all dillydallied with intercept equipment, and could not intercept a ransom call, how many of them did you take for a breakfast. [*Desk thumping*] “You didn’ even buy them so much as ah pack ah nuts.”

Mr. Hypolite: What is the penalty?

Sen. The Hon. A. Ramlogan: The penalty for that should be losing office, and that is the penalty you all paid. [*Desk thumping*] You see, Mr. Speaker, when a gang member is convicted and sentenced, we will be able to forfeit their personal property when it was used at the time the offence was committed for the benefit of the gang. That is what clause 11(1) is all about. Now, the test for determining this is whether the legislative objective is sufficiently important to justify the limitation on the fundamental right. Mr. Speaker, I think, given the crisis in our society, the objective is more than sufficiently important to justify the incursion on the fundamental right involved.

The second issue is whether the measures are designed to meet the legislative objective in a manner that is rationally connected to it. And there is a rational connection between the provisions of this law and trying to prevent the gangs that have mushroomed in the past eight years from taking further control of our society.

Mr. Speaker, the third criterion is the means used to impair the right of freedom, and no more than is necessary to accomplish the objective in question. We say that this criterion is met in this particular piece of legislation. Very soon, if we listen to the other side, and if we do not pass this kind of legislation, law-abiding citizens will be in a minority in this country. There was a time when someone visited your home and they were leaving, in true Trini parlance you will say, "Well, we go pick up nah. We go sight up." You know the jargon and the vocabulary have changed. When somebody is leaving your home now, you say "Reach home safe." It is a subconscious, subliminal alteration to our daily vocabulary caused by crime, and they do not understand that.

This legislation is designed to target the rude boys and the bad boys; the rude boys and the bad boys who are so caught up and consumed with the "bling" culture that when you see "Christmas coming up", and when you see "a concert coming up", as we have now in this country, there is a natural expectation by the police service that there is bound to be a spike in crime. You see, Mr. Speaker, this is what we are trying to prevent.

Now, in developing this piece of legislation, we had regard to what obtained in other jurisdictions, and if we are to get rid of criminal gangs and gang-related activity, we have to define these offences in a manner that is consistent with international trends and in a manner that is going to be meaningful. That is why, Mr. Speaker, the definition of a gang, much of the legislation we examined

defined a gang as comprising three or more persons. Because we have seen numerous instances of a gang starting off with two hardcore members, we felt that there was no good reason why two and more members could not constitute a gang and therefore, we have so defined it, and we have found support for that position in the legislation used in the Province of British Columbia.

Mr. Speaker, the offences: the first offence created was that of being a gang member, without more. To simply be a gang member will be a criminal offence. It was felt that if gang membership was outlawed, especially with a heavy penalty this would curve the mushrooming of gangs in the country.

Mr. Speaker, we have singled out gang leaders and persons connected to the protective services, and they will get more severe punishment than ordinary gang members. The reason for this is obvious. When the kidnapping scourge was at its peak and we could not solve the kidnapping, the investigation turned towards the police service and the defence force, and today there are persons who are charged and before the court from those agencies. Some of these gangs, we are advised, have links, and they get strategic information from some people in the security law enforcement agencies. That is why, if a gang leader is found guilty of an offence, he could be in prison for the remainder of his natural life. And that is why we have sought to stem the tide of technical advice and even firearm training, which our intelligence has shown is made available to gangs by persons connected to the protective services. That is why we have outlawed and severely penalized the use by gang members of bulletproof vests, arms and ammunition, which again, our intelligence indicates is being more and more utilized in gang-related activity. In the Cayman Islands a similar provision exists.

Mr. Speaker, recruitment: special emphasis has been placed on recruitment, and that is why we have said, if you are going to recruit outside of a school or a place of worship, we are going to treat with you in a particular and special way.

At clause 10 of the Bill, we seek to authorize the police to arrest suspected gang members, without warrant, and to enter dwelling houses without warrant and non-dwelling houses without a warrant, where criminal gang-related activity is suspected. Mr. Speaker, time is of the essence and swift and decisive action is necessary to nab perpetrators. Other jurisdictions have reacted similarly. Some have gone even further than we have in this legislation. For example, in South Africa, just to fight white-collar crime that was on the increase, they passed the law to legalize raids on business places and homes, because it was felt the element of surprise would assist law enforcement agencies in obtaining evidence, and that is for white-collar crime.

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Mr. Speaker, other democratic societies have had to face this problem and their legislation has been of much assistance to us. Countries include Dominica, Belize, Cayman Islands, the United States of America, Canada and Australia.

Clause 1 of this Bill and clause 2 merely provide for the short title and commencement clauses. Clause 3 provides for the Bill to have effect, even though some provisions may be inconsistent with the Constitution and our fundamental rights. That is why the Bill requires a three-fifths majority in both Houses of Parliament. Clause 4, subsection (1) provides for the interpretation of several terms; of note would be the definition of “gang”, “gang member” and “gang-related activity”.

A gang, as I have indicated, means an alliance of two or more persons, whether formally or informally organized, which, through its membership, or the agency of any member engages in any gang-related activity. A gang member means a person who belongs to a gang or a person who knowingly acts in the capacity of an agent for or an accessory to or is legally accountable or voluntarily associates himself with any form of gang-related activity. The definition also extends to a person who knowingly performs, aids or abets any gang-related activity.

Mr. Speaker, to protect the right to free association, gang-related activity is very carefully defined. Gang-related activity means any criminal activity agreed to or ordered or ratified by any gang member, including a gang leader, whether with or without the intent to (a) increase the gang membership, prestige, dominance or control in any geographical area; provide the gang with any advantage in or control or dominance over any criminal offence; exact revenge for the gang or any gang member; obstruct justice or intimidate or eliminate any witness against the gang; otherwise cause any benefit or other advantage to the gang.

Clause 4 subsection (2) makes provision for evidence of the existence of membership of a gang. It will not be necessary to show that a particular gang possesses or is known by, among other things, any common name, code, belief or method of operation, or location, if the gang’s existence can be demonstrated by a preponderance of other admissible evidence. So we are catering and being proactive for the gangs reacting to the legislation, to try and wipe out any codes and symbols, because there is other inferential evidence that one can get.

Clause 5 would make it an offence for a person to be or become a member of a gang. It would be an offence for a person to profess to be a gang member when he, in fact, is not. The penalty for these offences will be imprisonment for a term

of 20 years. Where the person convicted is a gang leader, he will be liable to imprisonment for the remaining years of his natural life. If you cut out off the head [*Interruption*] the gang will bleed to death. [*Desk thumping*]

Additionally, where the person so convicted is a police or a prison officer, a member of the defence force or a protective service agency, a person involved in law enforcement, he is liable to imprisonment for 25 years.

2.30 p.m.

Clause 6 would make it an offence for a person to participate in or support the activities of a gang or to solicit or invite support for a gang. The maximum penalty for this offence is a fine of \$500,000 and imprisonment of 20 years.

Clause 7 would make it an offence for a person to have in his possession a bullet-proof vest, firearm or ammunition for the use or benefit of a gang. A person convicted of an offence under this section is liable to a fine of \$400,000 and to imprisonment for a term of 15 years.

Clause 8 would make it an offence—[*Interruption*]

Mr. Speaker: Order! Order! Order!

Sen. The Hon. A. Ramlogan: Clause 8 would make it an offence for a person to harbour or conceal a gang member who is wanted by the law enforcement authorities, the maximum penalty on summary conviction for an offence under this section is a fine of \$150,000 and a term of imprisonment of five years.

Clause 9 would make it an offence for a person to harbour or recruit a child as a member of a gang. A person who commits such an offence is liable on summary conviction to a fine of \$300,000 and imprisonment for 10 years.

A person, who, within 500 metres of a school or place of worship recruits to a gang a person whom he knows or suspects is a child, commits an offence for which he is liable on summary conviction to imprisonment for 20 years.

Clause 10 would confer special powers of arrest, entry and search on police officers in relation to gang-related activities. A police officer may arrest without warrant a person whom he has reasonable cause to believe is a gang member or has committed an offence under the Act. If the police has reasonable cause to suspect that a gang member may be found in a dwelling, he may, with a warrant issued by a magistrate, enter that dwelling by force if necessary and search the

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dwelling for the gang member. A police may enter and search any premises not used as a dwelling without a warrant if he has reasonable cause to believe that a gang member may be found on those premises.

Clause 11 would authorize the court which convicts a person for an offence under the Act to order that any personal property which at the time of the offence he had in his possession or under his control and was being used for the benefit of a gang to be forfeited; where another person claims to be the owner of that property, the court will give the person an opportunity to be heard.

Clause 12 provides for the Act to continue in force for a period of five years from the date of commencement.

Mr. Speaker, as I mentioned before, this is part of a larger package. This Bill is expected to work in tandem with the Bail (Amdt.) Bill 2010, which will give the court the power to deny bail to a person who is a gang member. It is expected that they would operate together, and, Mr. Speaker, both Bills, we hope, would be proclaimed at the same time so that they can operate in tandem with each other. Mr. Speaker, this legislation is one that we feel is necessary at this point in time. The—

Miss Mc Donald: It is discriminatory, targets Laventille and targets these areas. It is a discrimination!

Sen. The Hon. A. Ramlogan: I see my learned friends are protesting, they say the targets. They have a problem with the targets.

Mr. Speaker, the only targets here are the criminals and they are the ones who have to fear. [*Desk thumping*]

Dr. Browne: You are not a criminal.

Sen. The Hon. A. Ramlogan: If you are engaged in gang related illegal, criminal activity and you want to harm law-abiding citizens, you should be worried about this becoming law. [*Interruption*] This Bill will seek to have a strong deterrent. [*Crosstalk*]

Mr. Speaker: Please! Please, let us avoid the crosstalk!

Sen. The Hon. A. Ramlogan: We hope to send a very strong message and a very strong signal to the gang leaders and the gang members in our country that we would no longer tolerate them.

Mr. Speaker, the cancer of crime is one that is such, if we do not amputate it from the body politic of our society it will threaten to consume and spread to devour the rest of our society. That is precisely what is happening. As law-abiding citizens receded into the safety of their homes and they barricaded themselves in, members on the other side allowed the gangs to flourish and multiply. They gave them URP contracts, they feted them, they wined them and they dined them and they kept them at Crowne Plaza. They embraced them. They do not seem to understand the implications of what they did. [*Interruption*] They do not seem to understand the implications of a Prime Minister meeting with gang leaders and feeding them at Crowne Plaza. They do not seem to understand the implications of the same Prime Minister and any of the Members present here, not one day paying a visit to a single victim of crime.

Mr. Speaker, I spoke yesterday in another place on the Interception of Communications Bill and prior to speaking on that Bill, I spoke with the parents of Naail Ali. Naail Ali is the 19-year-old man from Gasparillo who was kidnapped by a gang and up to today was never found. The father was able to count up to the hour, how many days, months and hours his son has been missing and this is two years later. They have never recovered. Their lives have been destroyed, but more importantly, he told me, and I visited that home when the kidnapping took place: “When the Anti-kidnapping Squad came to the home, them fellas walked inside there with archaic equipment resembling a little transistor radio with some red and black speaker wire to plug in the phone and the little old computer and whilst them have that the former administration imported from Tel Aviv, Israel had sophisticated high-tech spying equipment that could have track and trace the ransom calls that were being made”. The family even begged for an appointment with the then Prime Minister whom they knew, to try and see if they could get intervention and help. Nothing doing!

Mr. Sharma: What a shame!

Sen. The Hon. A. Ramlogan: Nothing doing! That was Naail Ali.

You had Imran Hosein son of Christine Hosein. The gangs were so organized that when they kidnapped Imran Hosein they transported him in a barrel and kept moving from truck to truck and outmaneuvering the police at all the road blocks, because on the cellphones they were communicating with the police so that was Imran Hosein and Naail Ali.

And then we have Debbie Ali who was raped—held in captivity. Then you have Xavier, Prof. Julian Kenny, a former Independent Senator’s daughter raped, held in captivity. And whilst all of that is taking place they wish to tell us that this

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Bill is going too far in their view. The only thing that is going too far and the only thing that went too far is the silence and the tacit approval by the former administration to the rise in crime. [*Desk thumping*]

Mr. Speaker, as you know, they wish to attribute the rise in crime to this administration. They wish to attribute it to us. Not even nine months in office but they wish to blame us for the eight years; not even eight months, but they wish to lay blame for what they created in eight years. They are saying the SIA was shut down and that is why the criminals suddenly seemed to be acting up. Mr. Speaker, the SIA remained functional, say, for a limited period of time and they say we moved people and fired people.

The one man we removed was the head of the SIA and that person was confirmed by the former PNM administration and promoted into that office a month before the election. One month before the election! When the Inter-ministerial Committee met with the gentleman to give him an opportunity to be heard, he testified to us—I was a member of that committee chaired by the hon. Brig. Sandy, Minister of National Security; Minister of Justice, Herbert Volney; Minister Ramadhar, Minister of Legal Affairs, and we were told that the interception of private communication by the non-criminals was done at the behest and on the instruction of the Prime Minister Patrick Manning as head of the nation's national security.

Mr. Roberts: Shame! Shame!

Sen. The Hon. A. Ramlogan: When I saw Mr. Manning disavow all knowledge of that, I asked myself the question, what is this about? You mean to say the head of the SIA—Martin Joseph, poor “fella” who has gone underground, Martin Joseph came out quick and say, “Whoops, wait, wait, wait, I eh know nothing bout dat”.

So the Minister of National Security did not know anything about it. The Prime Minister, in his capacity as head of the nation's national security, did not know anything about it. They expect us to think as though we are fools that the head of the SIA authorized the tapping of Errol McLeod's phone, my phone, Sat Maharaj's phone, Marlene Coudray's phone, the President of the country's phone, judges, the Chief Justice and Dr. Keith Rowley—

Mrs. Persad-Bissessar: And Mr. Colm Imbert.

Sen. The Hon. A. Ramlogan: I would not mention Mr. Colm Imbert, because that is, you know—poor Colm, poor Colm “whey yuh go do”? [*Desk thumping*]

They expect this country to believe that the SIA acted of its own volition and of its own motion without reference to the executive arm of the State and the Government of the day, they suddenly on a “vaps” get up and decided to tap “all them” phones.

Mr. Speaker, when you connect the dots, the hon. Chief Justice at the time, Satnarine Sharma, had a case against Mr. Manning in court, his phone was tapped, his son's phone was tapped and his wife's phone was tapped. The judge who was trying that case was the hon. Justice Rajendra Narine, his phone was tapped. [*Interruption*] The man who issued the ultimatum to the Chief Justice, “Resign or else” was the Prime Minister. What business would it be of the SIA? The SIA has done legitimate and good work and we salute the officers who have served their country well in the SIA. We salute them. What our problem is, is the illegitimate use and misuse and abuse, the vulgar abuse of the interception capabilities in the SIA to tap the phones of persons who have no connection with crime and criminal activity. Mr. Manning wanted to use State resources to be chief “maco” and satisfy his own personal curiosity. That is what we were against! [*Desk thumping*]

Mr. Speaker, it cannot be that, the spike in crime—there was a lull in criminal activity. There was a lull in criminal activity until the Member for San Fernando East opened his mouth and started talking, until Mr. Manning started talking; it is almost as if he sent a coded signal to the criminals whom he treated as gang leaders and community leaders, until he started to talk, but I am not blaming him because nobody takes him on anymore.

What I want to say, Mr. Speaker, is instead of laying blame, look at the pattern. Every year for the past eight years under the PNM, when Christmas time comes there is a spike and a rise in crime; every time there is a concert there is a rise in crime. I understand there is a concert on this weekend, not Nicki Minaj—Dr. Browne?

Hon. Member: Not “Browne” either.

Dr. Browne: Mr. Speaker, Standing Order 36(6).

Sen. The Hon. A. Ramlogan: Mr. Speaker, that is why—

Mr. Speaker: Just now! Just now! Hon. Attorney General, you would know that you are not supposed to refer to any Member by name. It is either by the constituency or the office that they hold, so please be guided.

Sen. The Hon. A. Ramlogan: Mr. Speaker, I am grateful for your guidance. In as much as my good friend Dr. Browne holds no office, the Member for Diego Martin Central, may I just say that the spike in crime is not a recent phenomenon, it has been with us for the past eight years. In the Christmas period there is a spike and a rise in crime, and furthermore when there is a concert you will see it.

I was saying to my learned friend, the Member for Diego Martin Central, there may be a conceit on this weekend, I know he is a little obsessed with Nicki Minaj, but there is also “Junior Gong” Marley—you see, the hon. Prime Minister would know about that concert but on the other side—

Mrs. Persad-Bissessar: Damian Marley.

Sen. The Hon. A. Ramlogan: Damian Marley—they would not know about that. [*Interruption*]

Mr. Speaker, that also contributes to it. However, we are aware of these patterns and that is why we met with the Commissioner of Police yesterday and the law enforcement agencies to ask for a briefing and to ask—the hon. Prime Minister requested and insisted that we start thinking outside the box and to have innovative ideas and fresh crime plans because we cannot continue to do the same thing with the same people and expect different results.

2.45 p.m.

This Bill is one path-breaking piece legislation that will address the issue of the gangs that are flourishing and taking control of our society. It is eminently justifiable in our democratic society because the gangs are threatening to overwhelm our sense of decency, our sense of law and order and blood continues to flow on the streets from our young men and women. That is a fatherless generation of children that is going to come to hit us and that is why this Bill is important, so that that fatherless generation of young persons will not be sucked into the vortex of crime and gang-related culture, so that we will be able to deal with them with this piece of legislation.

When the former Minister of National Security identified 500 persons in the Parliament and he said 500 violent men in Trinidad and Tobago—66 gangs—one has to ask the question: Having identified the problem, what really befuddles us; what is incomprehensible, is the inaction on the part of the former administration to root out the gangs from our society. That is why they are so envious about this legislation which we bring and they will seek to criticize it because they did not do it. [*Desk thumping*] They should have done it; they wanted to do it, but the fact

remains they did not do it because they could not do it. They could not do it because they could not bite the hand that fed them. That is the reason. [*Desk thumping*]

They rode the back of a tiger into power and the tiger was in full flight, and galloping apace; they feared dismounting because they could be devoured by it. That is why they continued to feed the gangs. They continued to feed them by embracing them within the URP and giving them special treatment, like gang leaders. I am told by Dr. Moonilal, even CEPEP as well.

In closing, I say this legislation ought to be supported by those who are concerned about the safety and security of those law-abiding citizens who cannot walk the streets of our nation. This Bill should be supported by those who understand the fear and the self-imposed curfew that exists in our country; the undeclared state of emergency that exists in our country, whereby you cannot go out at nights and the streets belong to the gangs at night. This legislation—we expect full support from this House in the interest of democracy, the rule of law and respect for the right to human life in this country.

I thank you very much and I beg to move, Mr. Speaker. [*Desk thumping*]

Mr. Speaker: Hon. Members, before putting the question, I would like to advise Members that we should be careful with our language, particularly when we are referring to other Members of this honourable House. The word, the concept, the phrase or term “chief maco”, I think that, you know, we ought to be very careful in referring to any Member of this Parliament in that kind of way. So I just would like Members to be guided accordingly so that no one would repeat that particular expression during this debate.

Question proposed.

Miss. Donna Cox (*Laventille East/Morvant*): Thank you, Mr. Speaker. I rise to make a contribution on the Bill to make provision for the suppression of associations established for unlawful purposes and for the better preservation of public safety and order and for other related matters, better known as the Anti Gang Bill.

It is important to make the point at the outset that we on this side can claim ownership of the precedence for this piece of legislation. [*Desk thumping*] But that is not to say that we now accept it wholesale in the radically different form that it now comes before us.

This piece of legislation was crafted with great precision and with measured attention to detail by the PNM government. [*Desk thumping*] What comes before us this afternoon is an ill-conceived, heavily politicized Bill which looks very little like the well thought-out measures which were designed to attack an existing threat to our society.

We have some urgent and pressing concerns with certain of the measures which are now placed in the Bill. It is important at this juncture to trace the legislative history of these measures. This Bill emanates from work done by the Crime and Justice Commission which was set up when we held the reins of power. Yet it varies in material respects from the model legislation which was produced by that Commission.

We hold true to the belief that all people—all people—of Trinidad and Tobago should be afforded the full range of their constitutional rights. [*Desk thumping*] This is a truth which is too obvious to repeat. Our nation is a nation of laws. No man, however rich, or notorious, can be allowed to defy the rules set out in our Constitution or the decisions of our courts on that Constitution. It is with that principle in mind that no one can understand one of the dangers in this Bill.

James Wilson and George Kelling, renowned scholars on neighbourhood and community safety, state that, and I quote:

“Social psychologists and police officers tend to concur that if a window is broken and is left unrepaired, all the rest of the windows will soon be broken.”

I understand that this thesis is what drove the former Mayor Guiliani to move against minor offenders and thus was able to attack more serious crimes which were then affecting the city of New York. As we move to build a safer society for ourselves and our children, we must ensure that our focus is right; that our efforts are coordinated and that our resolve to deal effectively with all crime is not lessened. If one law is broken and left unattended by law enforcement and communities at large, the entire system of laws is at risk.

This analogy holds true as it concerns organized crime and in the context of Trinidad and Tobago, gang violence. We agree that utmost attention should be paid to the prevalence of gangs in our society. Gangs are said to be mainly found in certain communities on the outskirts of the urban centres in Trinidad and Tobago, but gang violence is a threat to all and the actions of gangs, once the exception, have now become the norm. Gang offences, in truth and in fact, are now everyday occurrences. We can just check the news.

This proposed measure is designed to be the cure for the rise of gangs and gang violence in our communities. I want to tell the Government that the clauses proposed in this Anti Gang-Bill will considerably and significantly affect the rights and freedoms of all individuals and this must not be viewed in isolation, given the fact that without corresponding measures to treat with the backlog of cases in the magistracy and in the Assizes, without reforms suggested by the Crime and Justice Commission to abolish preliminary enquiries, without reforms which were in train to the Evidence Act and to the Criminal Procedure Act—the latter which contained measures to speak specifically with the trials of gang leaders—all will be lost.

What is required is a suite of measures targeted to the problem of gangs in the way we first focused and then eradicated the scourge of kidnapping for ransom. Kidnapping is another area for which Members opposite seek and earn credit, but I will have more to say on that matter at another time.

The legislation contains provisions which are inconsistent with sections 4 and 5 of the Constitution. We on this side, recognize that the Constitution itself contemplates that legislation which will otherwise be unconstitutional, might be reasonably required in certain cases so as to warrant a derogation from the fourth and fifth rights set forth in the Constitution.

What and where is the empirical data to allow us this afternoon to make that judgment? The Government has provided none. We do not say that none exists. We know anecdotally of the problem, but when you come to this House to seek the leave of the House to enact legislation which would otherwise be unconstitutional, at least provide the House with facts and figures.

I now turn to look specifically at the clauses of the Bill. The crux of my argument is that some cosmetic surgery was performed by Members opposite on our 2009 Bill. This Bill, as I have said, was first drafted under the PNM administration by the non-partisan commission to which I have alluded before. Members will recall that the commission was headed by retired Justice of Appeal, Lionel Jones. All that Members opposite have done is add on certain harsh and headline-grabbing penalties that can only be described to be random in nature.

In examining this Bill, permit me to bring to your attention the interpretations which lie within the Bill. Attention should be paid to the interpretation of law enforcement authorities. The interpretation states that:

“law enforcement authorities” include—

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- (a) the Police Service...
- (b) the Customs and Excise Division...
- (c) the Board of Inland Revenue...
- (d) any other agency of the State in which investigative powers, similar to those exercisable by a police officer appointed under the Police Service Act, 2006, are lawfully vested.;

Leaving out the position of officers in SAUTT for the time being, who have been actively involved in the investigation of gang-related crime, I note that absent from the definition is the Trinidad and Tobago Defence Force and the Trinidad and Tobago Prison Service. Though mentioned in clause 5(3) of the Bill with regard to charges for offences of gang membership, they are absent from the definition. If my memory serves me well, the last time I checked, the Trinidad and Tobago Defence Force was mandated in 1962 with numerous responsibilities, which include: to cooperate and assist the civil power in maintaining law and order. Thus, in the Defence Force cooperation and assistance in maintaining civil law and order, they will also be afforded the mandate to ensure the laws as they have actively been doing, and as the Government itself has promised, it will be doing to an even greater degree in tandem with the law enforcement authorities that otherwise exist.

There was a stark omission of the Defence Force and prison services as major law enforcement authorities under the definition of law enforcement authorities, and if members of the said authorities were to unfortunately commit an offence under this proposed legislation, they could receive immunity. Therefore, my suggestion is that they be included under "Law Enforcement Authorities".

Clause 5(b) states:

“...any person—

- (b) who professes to be a gang member when in fact he is not, whether by telling anyone that he is a gang member or otherwise suggesting to anyone that he is a gang member,

commits an offence and is liable on conviction on indictment to imprisonment for twenty years.”

Now, in considering the culture of Trinidad and Tobago where “ol’ talk”, idle chatter, chit-chat, mauvais langue, is prevalent, and when some of our youth feel that being in a gang is a rank, it is easy for them to say that they are in a gang or

to boast about it in order to massage their ego, while it may not be so. This is a common part of growing up. How on earth can you punish a youth for boasting or lying about a matter when there is no victim of this lie? [*Desk thumping*].

The Government is on dangerous ground here.

3.00 p.m.

Mr. Speaker, are we about to lock up children for their thoughts or for lying? That is absurd. You may ask why someone would try to gain authority and fame by boasting or lying about being in a gang when in fact they are not, but many reasons could come to mind for that. Of course, I mentioned that they may be trying to massage their ego, it might be a form of security for them as far as they are concerned, they may do it because they want people to look up to them, some may be at the age where they are looking for a particular level of social status among their peers and, therefore, that is the reason why people will lie and boast. But a short point is that our police are short-staffed already. We cannot add the responsibility of policing untruths to their serious obligations.

Mr. Speaker, the conviction and penalty for one who commits such an offence amongst to no fine, but an imprisonment of 20 years. Therefore for the new crime of “ol’ talk”, a youth could be arrested and incarcerated for 20 years. I note that there is no fine attached to this offence. It has now become an offence to brag or boast of what may be termed a social norm for youth in their society. Who are the Members opposite really targeting? This penalty indeed is draconian. It is silly, it is unconstitutional and cannot be saved by the certificate the Government wishes to attach to this measure this afternoon. To further expound the penalties now throughout this Bill, in clause 5(2) for example:

“Where the person convicted under subsection (1) is a gang leader”—that person—“is liable to imprisonment for the remaining years of his natural life.”

The same as a convicted death sentence.

Mr. Speaker, with this penalty proposed, I wonder whatever has happened to the concept of rehabilitation and reformation and the ideal we have been committed to for some time of restorative justice. How does this penalty accord with the penalty for homicide; not murder in respect of which there is a mandatory death sentence, but all other forms of homicide including voluntary and involuntary manslaughter. These are hellish offences of commission as opposed to an offence of association. This is illogical. It begs the question: has anyone really read this measure? What is the purpose of Restorative Justice

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Programmes that are now in place to encourage reform and rehabilitation of persons within our penal system? Do they apply only if you kill or rape, but to this crime of association?

Only recently the Minister of Justice appeared in the news praising graduates of a rehabilitation programme at the women's prison, even offering one of the inmates employment after release.

Mr. Sharma: Are you against that?

Miss D. Cox: Additionally, Mr. Speaker, another example of restorative justice—that is a good thing. It is a good thing and that is why I am saying we were talking about the restorative justice philosophy—can be found in the *Daily Express*, dated October 18, whereby a judge commends a man for an excellent job after prison. This man who spent about 15 years behind bars has now enrolled in classes while being monitored and supervised by a police station in his area. An excellent example of steps that can be taken to rehabilitate and reform one's life and an opportunity that cannot and will not be attained by persons incarcerated under this law. This is not a zero tolerance strategy to gangs. It is a zero results public relations gimmick in their fight against crime. [*Desk thumping*]

Most of the gang leaders are young people who are either influenced by peer pressure or social challenges. Some of these persons may turn a new leaf after serious reflection and some positive intervention in their lives. The imposition of natural life imprisonment will not give them an opportunity to do so and, therefore, it is unconstitutional. Rehabilitation and reformation is a concept that is very close to me because many of my constituents who have been rehabilitated are now living crime free lives and I am very proud and happy to say that. [*Desk thumping*]

I turn now to another important question and that is, what is the definition of a gang leader because this was not defined at the beginning of this Bill and, therefore, it is a matter which is shrouded in ambiguity. How does one determine who a gang leader is from other gang members? How do you determine someone is a gang leader except by hearsay? What is the measure of identifying a gang leader? Based on what evidence? The Government needs to define this term lest it define the term by reference to all of us. At the end of the day they may say we are gang leaders and lock us up. This has happened in totalitarian states.

In clause 5(3):

“...a police officer, a prison officer...a member of a protective service agency or a person involved in law enforcement he is liable to imprisonment for twenty-five years.”

Because of his affiliation with a gang.

We do not have a problem with this penalty because these are the very persons who are the ones who should not only enforce the laws within this Bill, but also uphold them. To whom much is given, much is expected. A notion endorsed by Jesus Christ himself in Luke, Chap. 12:48. [*Desk thumping*]

I want to turn to clause 7 of the Bill, whereby:

“...possession...of a bullet-proof vest...whether lawfully obtained or not, which”—the owner—“intends or ought to know will be used for the benefit of or at the direction of a gang, or any gang member, commits an offence and is liable on conviction on indictment to a fine of four hundred thousand dollars and to imprisonment for fifteen years.”

Mr. Speaker, the legality of a person possessing a bullet-proof vest is subject to question, as there is no part of the Firearms Act or its amendment which states that a person is in breach of the law for having a bullet-proof vest. Is the Anti-Gang Bill to be used to declare possession of a bullet-proof vest an offence? So what the law does is to make the wearing of otherwise lawful material unlawful, in virtue of the fact alone that the material is being worn by a gang member. So clothes could be next. Okay?

I know that the possession of a bullet-proof vest in some instances will hamper the efforts of curtailing gang activities and crime, and I therefore suggest, as it concerns possession of a bullet-proof vest, that this article be placed as an item of kit of the protective service and the defence force under the Customs Bill, and only then can it be inserted in the Anti-Gang Bill for further efficacy. As it stands, the wearer of a bullet-proof vest does not commit a crime and, therefore, cannot be charged.

Mr. Speaker, with the same remit of these penalties that greatly impacted on some of my immediate constituents, I move to clause 9 whereby the penalty for:

“(1) A person who—

- (a) harbours or conceals a person whom he knows or suspects is a child and a gang member;

commits an offence and is liable on summary conviction to a fine of three hundred thousand dollars and to imprisonment for ten years.”

Mr. Speaker, I am sure you are aware that there are many persons who grew up and are currently living with their grandparents because their parents may not

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be around for different reasons. In fact, some of the children are described as barrel children. Some of these grandparents may not be aware that these grandchildren may be in a gang. If you check reports in some police stations, it is a fact that some of these grandparents and even parents are intimidated and afraid of their own children. Some of them are threatened within their own homes and are afraid of them. I refer to an article written in the *Daily Express* of Monday October 18, 2010, headline “Granny:” and I quote:

“Bad company killed La Toya”

This is with regard to the death of two young ladies due to their attempt at robbery. On interviewing the grandmother of one of the deceased, she stated and I quote:

“That girl had good education. She grew up in the church, but she just followed bad company.”

She further stated that the family of the said deceased disapproved of her lifestyle and had many arguments over it.

Given the proposals of this Act, the bad company to which the grandmother referred could be considered a gang, and despite the warnings and disapprovals of the family, the deceased persisted in a life of crime—actually she lived with her grandmother at the time of her death. So under clause 9, it is telling me that this grandmother could be liable. How can you now arrest a grandparent or parent for harbouring or concealing a gang member of whose whereabouts they might have no knowledge, are not in agreement with their lifestyle or have little or no control over them? Should we not seek a different approach to this problem?

Mr. Speaker, this is a reality and there are no concessions inserted in this Bill for a grandmother, a grandfather, an elder and even smaller relatives who go through this antagonizing abuse, but may be faced with a fine—I understand it has been increased—[*Interruption*]

Mr. Hypolite: Three hundred thousand dollars.

Miss D. Cox:—\$300,000 and sent off to prison for 10 years. Who are they really targeting, I ask again with this Bill? How could you hold a parent responsible for an adult child? How do you determine a person is being harboured by a relative? I would like to suggest that a subsection be added to hold harmless relatives in such an untoward scenario, especially senior citizens. I do know that law enforcement authorities have a major role to play in upholding and executing the mandates of this Bill.

Clause 10 which deals with the powers of the police, I would expect them to exercise discretion, demonstrate reasonable cause and show respect in implementing the directors of this Bill under the environment of effective checks and balances—they are supposed to break down your door without a warrant, and if they think a gang member—they do not even have to be sure—is in there, you know what is going to happen. I believe for this to work, the police officers must do more investigation, and in so doing, they will achieve a higher detection rate. [*Desk thumping*] As I speak about the powers of the police, I would like to see included in this Bill, stiffer penalties for gang members who threaten and commit acts of violence against members of the protective service and the defence force, [*Desk thumping*] and I suggest that this be inserted under clause 6.

We on this side do not want the gang culture to flourish in Trinidad and Tobago. However, as stated before, I would like to suggest to my friend the opposite side, to take into consideration, some of the following suggestions from this side. As stated in the beginning of my contribution, we want to support this Bill. We implore the Government to return the Bill to its mature form so that it will achieve the desired objective. [*Desk thumping*] The following are some of the suggestions:

- 1 The rationalization of fines and imprisonment liabilities within clauses 5, 6, 8, and 9. The punishment ought to fit the crime. These penalties are unconstitutional, austere and ascetic in nature, to the extent that these sentiments have recently been expressed by our Caricom partner, Jamaica, which is also preparing to lay an Anti-Gang Bill in their Parliament.

Mr. Speaker, I quote their Minister of National Security in their newspaper, the *Daily Gleaner*, September 03, 2010:

“...it is ironic that the Government of Jamaica was taking flak from human-rights groups”—due to the proposed Anti-Gang—“laws while, in Trinidad”—and Tobago who has approximately—“500 murders each year...had more draconian clauses.”

That is what was stated by the Minister of National Security in Jamaica.

Jamaica, Mr. Speaker, whose murder rates exceed ours on an annual basis; Jamaica, who has on record 3,000 documented notorious gangs for which we documented 86, and has had an ongoing and tumultuous history as it concerns gang influence on their crime rate and even now their politics, that same Jamaica considers our proposed penalties to be draconian. You all should be ashamed! [*Desk thumping*]

2. That the courts be given judicial discretion in sentencing family members who are intimidated by relatives who are involved in gang activity.
3. There should be an amendment that includes the insertion of bullet-proof vest as an item of kit for the protective services and defence force within the relevant pieces of legislation.

3.15 p.m.

There should be a specific definition of a gang leader and the inclusion of the Trinidad and Tobago Defence Force and the Trinidad and Tobago Prison Service as law enforcement authorities within the interpretation of the Bill. My final suggestion is that there should be stiffer penalties for gang members who commit offences against law enforcement authorities.

In addition to these suggestions, Mr. Speaker, bear in mind that these measures may not necessarily reduce the prevalence of gangs and their activities within Trinidad and Tobago as there is documented proof that penalties and fines do not reform and rid countries of gangs. Rather, some of the penalties do not foster the social fabric of society as it dismantles the institution of the family, impacts other existing laws and rehabilitative programmes geared toward the obliteration of gangs, which is not cost effective to a nation's budget.

Mr. Speaker, it was once opined by Edmund Burke that for evil to flourish all it takes is for good men to do nothing. I cannot stand by and do nothing. It is against my conscience to support these draconian penalties put forward in this Bill. Everyone deserves a chance and I cannot see an individual being named a gang leader, with a first offence, facing life imprisonment with no opportunity to change and reintegrate into society. Let us not throw out the baby with the bath water. The age group most likely to be in gangs can turn into a productive sector of the society because this society has a great need for its human resources to generate industry.

I know that the nation of Trinidad and Tobago has rehabilitated and reformed persons through the prison service. Many were once a part of a gang and are now successfully reintegrated into society. Wayne Chance, a current example, comes to mind. He was given a chance to reflect, reform and readjust, so much so that our government awarded him with one of the highest honours of this nation, the Chaconia Silver Medal.

Why not give others a chance to do the same? What does this Government consider itself to be in this Parliament? A government which takes no consideration of existing laws and rehabilitative programmes, geared towards

building the national fabric of Trinidad and Tobago; or a government amending laws arbitrarily on the basis of their emotions without consideration for persons, some who have no direct involvement in gang-related activity and due to the passing of this Bill will see themselves spending time in jail?

Who are they targeting with this Bill, Mr. Speaker? I say to them this afternoon: Withdraw this Bill and revisit the penalties, proposals and definitions. For the people of Trinidad and Tobago, examine the legislation at hand. Consider whom you really want to target.

I would have failed in my duty to the people of this country if I were to stand and speak to the merits and demerits of the general principles of this Bill and turn a blind eye to the operational issues, which, left unchecked, will surely overwhelm us all.

The PNM government eradicated the scourge of kidnapping for ransom by an approach which was in part legislative and in part operational. In the legislative part, we introduced key amendments to the Bail Act to prevent kidnappers from repeatedly committing the offence while out on bail.

The Special Anti-Crime Unit of Trinidad and Tobago (SAUTT); that same Special Anti-Crime Unit of Trinidad and Tobago was tasked and resourced. I understand the hon. Attorney General made reference to money being spent on SAUTT. That was money well spent. This Special Anti-Crime Unit of Trinidad and Tobago was tasked and resourced to attack the kidnapping syndicates. The combined effort of this two-pronged approach saw a radical decline in kidnapping for ransom. By the end of 2009, it was four per year.

We were pursuing a similar approach with respect to gang-related crime. The Special Anti-Crime Unit was given an operational mandate to attack and interdict gang leaders and the legislation before the House this afternoon was to be our legislative response.

The Government has brought legislation, of course with added draconian penalties, but they are engaged in the process of dismantling SAUTT. Its senior office was fired; its staff is in disarray and its mandate removed. I serve notice on the Government that the Opposition will hold it to account.

Without urgent and immediate steps being taken, some 50 gang leaders who might be familiar to some Members opposite might walk free if they persist in their plan to disembowel SAUTT. This is because SAUTT officers have been involved, in one way or another, in the prosecution of virtually every gang member now in custody.

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Remember that SAUTT had a mandate to treat with gang-related crime. I heard the Attorney General say that nothing was done to deal with gang-related violence. That is clearly not true and that is nonsense. SAUTT had a mandate to treat with gang-related crime. SAUTT officers were the charging officers and the investigating officers; sometimes expert witnesses in respect of several of these gang-related offences.

My fear is that when we pass this legislation we will be lulled into a false sense of security. We would not have solved the problem without paying urgent attention to the operational issues. In fact, if the Government persists in its approach to SAUTT in this matter, I sound an early warning that those gang leaders now inside will soon be plying their trade on the outside after the inevitable collapse of their cases. I wonder if there is purposeful mischief afoot in this regard. I tell the national community this afternoon: Keep watching this pace. We will be watchful and vigilant.

In conclusion, I remind this House that we are committed to any measure that seeks to bring a reduction in crime in this society. I agree that anti-gang legislation is necessary, but it must not be draconian in nature. I urge the Government to withdraw this Bill and put in more reasonable and realistic measures since this Bill is seriously flawed and many changes must be made for it to be effective.

I remind the Government that justice must be tempered with mercy. I thank you.

PROCEDURAL MOTION

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, pursuant to Standing Order 37(3), I beg to move that the debate be adjourned to later in the sitting.

Question put and agreed to.

INTERCEPTION OF COMMUNICATIONS BILL

Senate Amendments

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, I beg to move,

That the Senate amendments to the Inception of Communications Bill listed in the amendments be now considered.

Question proposed.

Question put and agreed to.

Clause 5.

Senate amendment read as follows:

- A In the definition of the term “intercept” insert after the words “listening to” the words, “monitoring, viewing, reading”.
- B In the definition of term “offence”, insert after the word “offence” in line 1, the words “under this Act or any other offence”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Clause 6(2).

Senate amendment read as follows:

- A In sub-paragraph (b) insert after the word “intercepted” the words “by an authorized officer”.
- B Delete the word “court;” occurring in the last line and substitute the words “criminal proceedings;”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Question proposed.

Mr. Imbert (Diego Martin North/East): Mr. Speaker, I read with some interest the record of the debate in the other place and, really, what occurred in the Senate underscores the need to take our time with complex and important legislation. Some changes have been made in the Senate which will now require some action on the part of the authorities because this particular change requires an authorized officer to get involved in every single interception whether for the purpose of gathering intelligence or for the purpose of gathering evidence. I know that the Government cannot give instructions to these authorized officers such as the Commissioner of Police, but I believe they should be very liberal in terms of the delegation of their responsibilities with respect to the gathering of intelligence in particular.

There is a clause in the Bill that allows for the authorized officers to perform their functions through a person authorized by them. I would say, with respect to the gathering of evidence, I can see that needs to be tightly controlled in terms of approaching the courts for a warrant.

In terms of gathering intelligence, the Government needs to look at it very carefully to see that the amendment does not weaken the capability of the law enforcement agency to gather criminal intelligence or intelligence dealing with matters that affect the security of the State.

3.30 p.m.

With respect to the second one, I would like the Leader of Government Business to explain whether—by substituting the word “court” with the words “criminal proceedings”—this has the unintended consequence of allowing intelligence that has been gathered to be used in civil proceedings? Previously the word—I do not have a copy of the Bill before me. I know the Member for Oropouche East has a copy of the Bill but, by taking out “court” and substituting “criminal proceedings”, are we now creating a loophole which would allow information that is not subject to a warrant of the court to be used in civil proceedings?

Dr. Moonilal: Thank you, Member for Diego Martin North/ East. I am advised that will have the effect as suggested. It could not be used in civil matters as such. It was a way, I believe—on the last evening, some of us did follow the debate way into the morning—it was suggested that the law should be made as clear as possible, dealing with the exemptions. This is an exemption clause.

“Notwithstanding any other law, a person does not commit an offence... and any other communication so intercepted may be used for the purpose of an application under section (8) or (11), but shall not be admissible as evidence in criminal proceedings.”

The tenet of the entire piece of legislation deals with criminal proceedings that the product of an intercept would relate to, either as evidence or as intelligence. So, in the short answer, no.

Question put and agreed to.

Clause 8.

Senate amendment read as follows:

- 8 A In subclause (2)(c)(i), delete the word “attaining” and substitute the word “obtaining”.
- B In subclause (3)(b), delete the words “written authorization” and substitute the word “statement”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

These amendments, again, are meant to bring a sense of elegance and clarity in the law before us. With reference to the second matter at (b), it was discussed last evening. I think it was Sen. Prescott SC who spoke on to that, to make the statement less cumbersome than it is now. As it is now it reads:

“...written authorization signed by the Minister where the warrant is applied for on the ground of national security, authorizing the application on”—the said—“ground.”

It repeats “authorization”. This is really meant to bring clarity and elegance. Instead of a written authorization, you put “a statement signed by the Minister”.

Question proposed.

Question put and agreed to.

Clause 9.

Senate amendment read as follows:

In subclause (4) delete the word “shall,” and substitute the word “may”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Again, this matter deals with statutory interpretation and it was felt that, again, for tightness and for certainty, this amendment should be made.

Question proposed.

Question put and agreed to.

Clause 10.

Senate amendment read as follows:

Insert the following new subclause after subclause (5):

“(6) Notwithstanding subsection (3), an authorized officer may make an application for a new warrant.”

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This adds at clause 10 a new subclause. Again in the context of the intention of clause 10, duration of the warrant and the application for an extension, it was felt that, to bring absolute clarity on the matter, we should include as well the

officer or personnel authorized to make an application for a new warrant, rather than leave it to interpretation.

Question proposed.

Question put and agreed to.

Clause 13.

Senate amendment read as follows:

In subclause (2), delete the words “section 8(3)” and substitute the words “section 9(4)”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment. This is nothing more than a typographical matter.

Question proposed.

Question put and agreed to

Clause 16.

Senate amendment read as follows:

In subclause (2), delete the words “section 8(3)” and substitute the words “section 9(4)”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This is, again, another matter of a typographical nature.

Question proposed.

Question put and agreed to.

Clause 17.

Senate amendment read as follows:

A Delete subclause 2 and substitute the following new subclause:

“Subject to subsections (3) and (4), the contents of a communication that is obtained by interception permitted by warrant issued pursuant to section 8 or 11 shall be admissible as evidence in any criminal proceedings.”

- (i) In subsection (5), delete the words “Subsection (3)” and substitute the words “Subsection (4)”.

- (ii) In sub-paragraph (5) (b) delete the word “not” occurring after the word “would”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

On the first matter, it is really for the purpose of absolute clarity to place an extension here, to be clear on the admissibility of the evidence in criminal proceedings and also to extend that, instead of saying only section 6, to indicate that the interception material must be one permitted by warrant.

The second part of this amendment to clause 17 deals with a typographical error.

Question proposed.

Question put and agreed to.

Clause 19.

Senate amendment read as follows:

In subclause (3)(b), delete the word “not” occurring after the word “would”.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This is also, I believe, an earlier error and this will now allow the clause to be rational.

Question proposed.

Question put and agreed to.

Clause 20.

Senate amendment read as follows:

In subclause (5), insert after the word “An” the word “authorized”

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This, I am advised, is a change as a result of our earlier amendments.

Question proposed.

Question put and agreed to.

Clause 23.

Senate amendment read as follows:

In subclause (2)(b), insert after the word “communication” in the last line, the words “whether the interception occurred prior to or after the commencement of this Act.”

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

This is actually a wider issue of policy. It was felt that in drafting the Bill and in our chamber we did not cater for the use or the disclosure of contents of communications intercepted that may have occurred prior to the commencement of this Act, so this deals with the matter of intercept material what would have been intercepted before and after the commencement of this Act.

Question proposed.

Mr. Imbert: Mr. Speaker, I do not know if the Government is aware, there have been certain Members of the Government who have been disclosing the contents of communication obtained in interception and they would now be guilty of an offence. I understand what the Government is trying to do, but a word to the wise, to those Members opposite, who have been in breach of this legislation.

Dr. Moonilal: There is a far cry and a difference between content and knowledge. I think they were suggesting they had knowledge and not content.

Question put and agreed to.

Clause 24.

Senate amendment read as follows:

- A In subclause (1)(e) insert after the word “refused” the words “or revoked”
- B In subclause (2) delete the word “promptly” and substitute the words “within one month”

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Again, they are benefiting from the expertise and learning of Members in the other place, because this is an interesting and important amendment. In the report of the Minister, the report will have not only the number of warrants refused but the number of warrants revoked as well. This is in relation to the contents of the annual report pursuant to clause 24.

It is also the next issue. It compels the Minister to submit his report, not just promptly, because promptly could be vague, but within one month.

Mr. Imbert: I would like the Government to be aware, there is no offence created and there is no penalty for non-compliance with this clause. It is really a cosmetic change to the legislation.

Dr. Moonilal: As the hon. Member opposite who had served as a Minister of Cabinet would know, while there is no offence in the Act, I am sure a responsible Prime Minister would hold a Minister to account for that.

Question proposed.

Question put and agreed to.

New clause 26.

Senate amendment read as follows:

Schedules	Insert the following new clause 26 after clause 25:
Amended	“26. The Minister may by Order amend any of the Schedules to this Act.”

3.45 p.m.

Dr. Moonilal: Mr. Speaker, I beg to move that the House of Representatives doth agree with the Senate in the said amendment.

Again, this is a matter of policy where the Minister may by Order amend any Schedules to this Act. There are Schedules that were introduced during our meeting in the committee of Parliament, but were inadvertently left out—the power of a Minister to amend the Schedules.

Mr. Speaker, I beg to move.

Question proposed.

Mr. Imbert: Mr. Speaker, at this stage, we do not want to hold back the legislation, but this is a most inappropriate amendment, because it does not allow any parliamentary oversight whatsoever. The Order does not have to be laid in Parliament, and it is subject to neither affirmative nor negative resolution, and that really is unacceptable.

Dr. Moonilal: Mr. Speaker, in the circumstances, we have heard the Member opposite, and it is something that we can probably keep in mind for the future. I beg to move.

Mrs. Persad-Bissessar: Mr. Speaker, I beg to move that this honourable House do agree with the Senate with respect to all the amendments listed in the Order Paper for the purposes of the division. [*Interruption*] You just said yes to that one.

Mr. Imbert: I said no.

Mrs. Persad-Bissessar: You did?

Mr. Speaker: We are taking a division, but I would like to indicate that this would not be a precedent for other matters, but just for precaution we would take the division.

The House voted:

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Dookeran, Hon. W.

McLeod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Volney, Hon. H.

Khan, Dr. F.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P.

De Coteau, Hon. C.

Indarsingh, Hon. R.

Partap, Hon. C.

Samuel, Hon. R.

Ramdial, Miss R.

Roopnarine, Miss S.

Seemungal, J.

Khan, Miss N.

Division interrupted.

Miss Mc Donald: Mr. Speaker, we on this side would like to request a two-minute suspension of the House to talk to the Government on this matter, please.

Mr. Imbert: Are you okay with it?

Mrs. Persad-Bissessar: Hon. Member, would it be appropriate to say to you that we will reconsider that with respect to the Schedules, and you have our word in the *Hansard* and allow the Bill to go through?

Mr. Imbert: What is the period of time?

Mrs. Persad-Bissessar: Well, we can do that within a very short space of time. All we need to do there is to say by affirmative resolution of the Parliament or negative resolution.

Mr. Imbert: Within three months!

Mrs. Persad-Bissessar: You said six months.

Mr. Imbert: I said three. He said six.

Mrs. Persad-Bissessar: Well, let us strike a balance.

Mr. Imbert: Sure.

Mrs. Persad-Bissessar: What is the balance between three and six?

Mr. Imbert: Four months.

Mrs. Persad-Bissessar: Four months, certainly. So we could let the Bill go through. As you would realize, this is very important to all of us, and we will revisit that particular clause.

Mr. Imbert: You could put negative resolution in here and send it back to the Senate, and once they agree it will be okay.

Mrs. Persad-Bissessar: Then that is another week.

Mr. Imbert: You do not want that.

Mrs. Persad-Bissessar: Within four months. It may well come within less than that time, but within four months.

Mr. Imbert: Okay.

Mrs. Persad-Bissessar: Thank you very much. Can we go ahead with the division, please?

Mr. Speaker: Hon. Members, as a matter of caution, we would want to take the division all over again. The Clerk will now take the division, again.

The House voted: Ayes 33

AYES

Moonilal, Hon. Dr. R.

Persad-Bissessar, Hon. K.

Dookeran, Hon. W.

Mc Leod, Hon. E.

Sharma, Hon. C.

Alleyne-Toppin, Hon. V.

Gopeesingh, Hon. Dr. T.

Peters, Hon. W.

Volney, Hon. H.

Khan, Dr. F.

Roberts, Hon. A.

Cadiz, Hon. S.

Baksh, Hon. N.

Griffith, Hon. Dr. R.

Ramadharsingh, Hon. Dr. G.

Ramadhar, Hon. P

De Coteau, Hon. C.

Indarsingh, Hon. R.

Partap, Hon. C.

Samuel, Hon. R.

Ramdial, Miss R.

Roopnarine, Miss S.

Seemungal, J.

Khan, Miss N.

Mc Donald, Miss M.

Imbert, C.

Cox, Miss D.

Hypolite, N.

McIntosh, Mrs. P.

Jeffrey, F.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Question put and agreed to.

ANTI-GANG BILL

The Minister of Justice (Hon. Herbert Volney): Mr. Speaker, it is a great privilege for me to join in this debate on the Anti-Gang Bill to make provision for the suppression of associations established for unlawful purposes and for the better preservation of public safety and order and for other related matters.

As I stand here, in this Christian season of Advent or new beginning, it would be remiss of me if I did not recognize the trend in this honourable House of approaching some of these Bills in a rather conciliatory way. On the advice of my colleagues on the Back Bench, I have decided to leave my willow at home and to walk out with a soft bat today.

There is much to be said of the contribution of the hon. Member for Laventille East/Morvant, although some of the matters that she spoke of in her turn need to be addressed.

Firstly, let it be understood, quite clearly, that this Bill in its present form, but for some cosmetic changes, had been drafted entirely during the period of misgovernance of the last administration. It was not brought to Parliament, obviously, because the then Government did not have the wherewithal to present it. This Government, however, recognizing the urgency of dealing with gangs and gangland behaviour, has quite decidedly brought this Bill, at this time, especially when there appears to be a spike in gang-related violence, especially homicides.

I do not have to produce any pictures to make the point, because all of us here in this Chamber are aware of the bloodshed that is souring this Advent season in the Christian calendar from reading the newspapers. This is a time when we all prepare for the anniversary of the birth of the Christ Child and this sort of Bill would not be one that we would have preferred to bring at a time like this.

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However, it would have been irresponsible for this Government not to start the process that leads to dealing with miscreancy in this society that has resulted in what we may all consider to be a reign of terror by persons who seem to enjoy spilling blood, innocent blood, on the streets of our country.

This is a measure that we on this side accept is not perfect and, in this regard, we are listening to what the Opposition has been saying. Thus far, we have heard the contribution of the Member for Laventille East/Morvant who, herself, has spent some time in governance, and who has been part of the process.

Now, the hon. Member has spoken of this draconian law. Mr. Speaker, what this country requires now is draconian measures to deal with the wanton spilling of human blood in this country. There is nothing to fear in a draconian measure, provided that there is some protection in it to cover the innocent who may be affected by it.

4.00 p.m.

In this regard, while we accept that the measure in principle is one we insist we must go forward with at this time, there are certain measures, certain amendments, certain additions that I would suggest to this honourable House and, in particular, to Members opposite, so collaboratively we can work out what will be a Bill for the nation, that everyone would be comfortable with.

I do believe that Members on this side as well entertain that bit of caution, that while the Bill is draconian, it needs to be strengthened in terms of protecting possible human right violations that are not otherwise provided for in the Bill.

It is necessary, however, that the process of debate begins at this time, because we cannot continue to tolerate gang behaviour in this country. There is no constitutional right that is greater than the constitutional right of life. Those persons whose lives have been taken, in the course of the last eight years, and it rises because of this culture of killing in our country, would be pleased to know that finally there is a Government in this country that has the courage to deal with gang members and to confront them head-on by providing the tools to our national security agencies to go at them with full force and rein them in to subject them to due process of law and have them convicted on evidence after a respect for the rule of law.

As I sit here, Mr. Speaker, I heard comments coming from the other side. It is rather unfortunate that I have heard in the public domain of this court, comments coming such as, "What about Steve and Ish?" This is most unfortunate.
[*Interruption*]

Mr. Speaker: Just take your seat, Sir. First of all, hon. Member for St. Joseph, that was crosstalk. Crosstalk is dangerous, I must admit, but it was not made during the course of the debate by any Member on this side.

Further, this matter is sub judice, it is before the courts of Trinidad and Tobago; so I would like you to refrain from the matter of Steve Ferguson and Ishwar Galbaransingh. If you could, just leave that out completely and proceed with the other parts of your contribution.

Hon. H. Volney: Mr. Speaker, regrettably the microphones are on in the Chamber.

The point I was making was that certainly under this Government there is a respect for the rule of law. [*Desk thumping*] No matter who you are, you are entitled to due process. When persons opposite, during the course of time in Parliament, ask about what is happening with Uff, that is not sub judice; there is a process. In this Government we take the time to respect the process.

No one is going to be charged under this Government, under the watch of our hon. Attorney General and under the watch of this Minister of Justice, unless there is evidence. In the fullness of time, if and when there is evidence of a quality to deal with what has emerged in the Uff Commissioner of Enquiry, then charges will be forthcoming, but until such time, there is a process. This Government respects that process, which is due process, guaranteed under this Constitution of ours. I thought I would make that point.

There is also no need to fear that persons who are brought in under this Bill will not obtain due process. There is a law that needs to be respected and that is, if you exhibit gang behaviour, if you do certain acts by which you may be caught by the dragnet of this Bill, then the law requires that you be charged and brought before a magistrate. There is a procedure that follows, so this is not a case of any prosecution of anyone from any district that exhibits more gang activity than others. Gang activity is unlawful.

This measure seeks to make it unlawful for persons, by virtue of association and other conduct, to continue in a type of behaviour that this country will no longer tolerate. If this measure is termed draconian, then we shall have to live with the term “draconian”. As we all say, Buckleys is bitter, but it works. Likewise, if the measure that we have to deal with these miscreants who are terrorizing our country is draconian, then so be it. [*Desk thumping*]

During the period leading up to the people having to speak and they having spoken on May 24, I recall on the campaign trail telling the people that the law

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would not be sweet, that gang law was coming to deal with the problem to empower the security forces, to hunt down persons who were terrorizing the country and to reclaim our country, street by street, village by village, from the deep south to the north, from the east to the west. When this measure is passed, when it is enacted in law, hopefully with the assistance of the Opposition, it will serve that purpose and return Trinidad and Tobago to a state of normalcy.

Mr. Speaker, the sort of changes that I would like to see introduced to this measure—and I hope I can have my way in convincing Members present that this matter is one suitable to be sent to a joint select committee of this honourable House, so that the views of our friends opposite will be taken into account—would include taking into consideration the need, before a charge is proffered, to give the authorities, that is, the police service, the protective services, a period whereby a person may be detained for a certain period, subject to providing that person with rights of review in a short, short period of time, in order to enable the police and protective services to properly investigate the allegations that may come to hand, so that persons who are detained are not wrongfully charged.

You see, Mr. Speaker, I have the experience from my days as a practising attorney to recall the period of public emergency in 1990, when there were many persons picked up and detained under the emergency regulations, the preventive detention regulations, that allowed for this. These persons had an opportunity to go before a tribunal within a very short period of time, where, in an informal setting, they had the chance to say that, “I am not the John Blow you are looking for.” “Whoever you are looking for, I am not that person.”

This is not a court of law; this is a tribunal in an informal setting, whereby those persons who could fall through the cracks have an opportunity, before a charge is laid, where they could establish they are not the person who the arresting authority might have thought they were. These are the innocent persons who we need to protect under any legislation like this. We do not want the innocent being picked up and charged and kept in custody for 120 days without the right to apply for bail. We want a period during which there can be a review process, so those persons can be released before a charge is proffered.

Mr. Speaker, I have had the benefit of being in the other estate of the Constitution and I have come to realize that many innocent persons do not see justice, even if at the end of the process they win their case. It is imperative that we provide those persons with an informal process of review before they are hauled in handcuffs into the judicial process. You see, when someone is arrested

for an offence that carries serious consequences, like life imprisonment, you need to have some sort of opportunity given to the police, in the first instance—I say the police because they are the ones who would most likely work this piece of legislation—so that the police investigation may be distilled.

The crime scene, the area of investigation, may be distilled of the presence of a person suspected of committing the act. When you distil the scene of a person who may be suspected, you give the police an opportunity to carry out proper investigations.

4.15 p.m.

In this regard, Mr. Speaker, I enjoy the rare distinction here of being able, as a Member of Parliament, to cite with authority my own judgment. It is a rare occurrence, I would think, that a Member of Parliament can refer to his own judgment having been given as a permanent judge of the Supreme Court. I refer to the case of *Jason Joseph Bernard Banfield*. The judgment of the then hon. Mr. Justice Volney. In this case, the accused had been taken into police custody at the St. Mary's Police Post in the district of Moruga—and I am glad the Member for Moruga/Tableland is here—at about 7.15 p.m. on March 27, 1999.

Mr. Speaker, he gave a statement, or it is said that he gave a statement over 48 hours thereafter, and this is what the learned judge, if I may say so, had to say; and this is helpful, because it pertains to the point that I am making, that we in this House need to collaborate. That is, we need to take the dialogue referred to or requested by the hon. Member for Laventille East/Morvant a step forward, that this Bill, this Act, in its finality, would be something to which all Members present could agree. This is above the cut and thrust of politics. This is a matter that engages the attention and the need and the cry for anyone who seeks justice in this land. This is why, Mr. Speaker, I consider it important to refer to this particular judgment.

Defence counsel had suggested that by March 29, some 48 hours after, it was obligatory of the police to release the suspect from their custody, as to continue to hold him would have been unlawful and in contravention of his constitutional rights. One of the counsel conceded that there is no statutory bar to holding a detained person, but then there was dicta by Mr. Justice Stollmeyer in a local constitutional law case, and reported in the *Trinidad Guardian* of September 21, 2000, suggesting that, in fact, there was a 48-hour licence in conformity with the celebrated case of *Dallison v. Caffrey*, which I am sure the hon. Member for Diego Martin North/East would have read in his recent study period.

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The judge said:

“For reasons that follow, I can find nothing unlawful in the detention of the suspect, as suggested by his counsel.”

And to record the judge’s own view that:

While persons in custody may not be held a moment longer than is reasonable, there can be no doubt that in the criminal law, the niceties of constitutional law, while important, may not necessarily be determinative of unlicensed conduct by the police.

The police are entitled to hold a person suspected of having committed a crime for such reasonable time as may ensure that their investigations are not impeded by his early release. One of the considerations that might legitimately be taken into account is the opportunity that would be afforded a suspect to tamper with evidence, should witnesses and the crime scene, or potential physical exhibits, not be distilled of his presence.

As to what is reasonable will depend on the state of the investigations and the progress made since the start of the impugned detention, that the 48-hour rule of practice is no more than that. It is no more than a threshold over which a detainee wrongly held may be entitled to seek constitutional relief by way of *habeas corpus*. It certainly is not the hour at which an ongoing criminal investigation is to be thwarted by a mandatory and untimely release from custody of a suspect.

Mr. Speaker, I refer to this particular judgment to illustrate the need that when citizens of our country are charged with any offence, including, and especially, offences of this nature which are based on a lot of possible conjecture—he say, they say, and that sort of thing—it is imperative that the officer investigating be given an opportunity, after someone has been brought in, to allow him to properly investigate the crime without releasing him into the open.

Hence the need, Mr. Speaker, for there to be allowed, within this particular bit of legislation, enabling powers to allow police officers, when they arrest someone, the opportunity to hold that person before bringing a charge that may not be able to stand, just so that person is not released prematurely.

It happens all the time, Mr. Speaker. The police hold someone for 48 hours, who is being held on hearsay evidence; the 48 hours is just not enough; he is released in accordance with good law and practice, and then he goes out there and

he slaughters all the witnesses who can bear testimony against him. He destroys the evidence, and, at the end of the day, he looks back at us parliamentarians, those of us in this honourable House; he looks back at the criminal justice system and he laughs, because he has beaten it.

You see, that is why, Mr. Speaker, it is important in deciding on whether we should support this Bill in this form, or in a better form, that all Members here present should sit head with head, cerebrate on it and come up with something that will work to the best for this country of ours, because we are sworn here to defend the Constitution. That is our task here. It is not to steal one on each other. At this time, and on this particular Bill, there is no time and place for that. There are times and there are places for everything, but on this particular bit of legislation it is imperative that we work together and we collaborate in order to deal with this.

Now, in the design, Mr. Speaker, I would like to seek the assistance of those opposite. It would be a scheme of detention whereby on arrest, within 36 hours, or such other time as this honourable House might agree, that a person arrested can only continue to remain in detention if certified or authorized by an officer not below the rank of Assistant Superintendent, that person has the right, immediately on that authorization taking place, to apply to be heard before a tribunal established under the Act. This tribunal would be chaired by a senior attorney, and comprised by the other two persons, all of whom would be appointed by the hon. Chief Justice. This is to involve the best possible judgment outside of the political side of it, Mr. Speaker.

Now, hearing of this particular application, that is, that I be released because I am wrongly picked up by the police, should come within 72 hours, that is three days of the initial arrest. But before that, once the certification takes place by the officer of the rank of Assistant Superintendent or above, he has a duty to notify the Minister of National Security, who must issue a detention order which would be the subject of a review, in which he tells the tribunal and he tells the person detained—the detainee—why they are being held, so that they can properly present a case for the discharge of that order on the advice of the tribunal.

Mr. Speaker, such a detention order, in my view, should be published in the *Gazette* because, when this law takes effect, if the police and those who are responsible for working it do their job and they go out and the numbers are rising, 500-plus, if they are doing their job, parents will notice—parents who do not have a hold on their children; wives who are not caring as to the whereabouts of their husbands; lovers who are not seeing their loved one come home, would be able to

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look at the *Gazette* and see where that person is. So there is a protection. There is a protection to persons. This is what, Mr. Speaker, I think is lacking in this Bill, and that is why I see the need for this Bill to be sent to a joint select committee. That is my own suggestion, and I hope that those on our side will accept this suggestion.

Now, Mr. Speaker, if it is that the tribunal finds that this is a wrong person who has been brought in and this is no gang member, they can advise the Minister to discharge his order, in which case, the person goes out and the police would then have to get proper evidence to bring him back. There has got to be some sort of built-in mechanism to deal with subornation of evidence, that if false evidence is used to bring in people, to harass people—evidence that cannot stand, but which is *prima facie*—the person who creates that and is guilty of subornation of evidence will be dealt with, much the same way with a half-a-million-dollar charge, not for the Government to pay, but for that officer to be personally liable for that offence.

You see, Mr. Speaker, this is the sort of protective device that I think we need to have in this supposedly draconian measure. There is nothing wrong with a measure being draconian, but there must be protection for the innocent, otherwise you will find that police officers, members of the defence force, whoever they be, would not get it in the wrong side of their mind that they can use this legislation to harass people, to settle old scores, because, if they do that, they will know that they will be liable themselves for wrongdoing.

This is the sort of balanced legislation that I know the other side are asking for, but I point out that I am advised—today, I am advised—that this bill is a PNM Bill, so that when Members opposite say that it is not, it means to say, “Well the Bill before the House is our Bill, because it is a 2010 Bill.”

Miss Cox: It is a work in progress. A 2009 Bill; a work in progress.

Mr. Speaker: I think it is a good time for us to take some tea at this time. Hon. Members, this sitting is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Thank you, Mr. Speaker, and all Members present. I had stopped at the point when it would seem that Members opposite did not quite agree with some facts that I had obtained from the legal people in the Ministry of the Attorney General, but I do not want to go there. I do not want to spoil an otherwise good evening

here today, save to say that in the scheme that I would like to see, that I would encourage, that we all collaborate towards effecting, it would mean that built into the measure itself would be protection for the citizens of this country who would be brought in under the dictates of the legislation.

Now, if it is, Mr. Speaker, in that scheme after the tribunal should advise the Minister that there is no cause to withdraw or to vacate his detention order, then there would be a further period by which the detainee would have to be charged with an offence or released, and that would be at a maximum of seven days from the initial moment of arrest. In that way there would be, Mr. Speaker, protection for the innocent, while, at the same time, providing for the summary collection of miscreants who are terrorizing our country, who are gang members.

If I had my own way also—and I trust that Members present would like to take the suggestion into consideration—we would widen the dragnet of the Act to make it more embracing to bring in all those persons who are, in fact, terrorizing our country. For example, I would like, if I had my way and the support, and we could agree in this honourable House, to make the recruitment on school grounds or public property adjacent to school grounds an offence. Associating with children within the precincts of a school; like if a gang member goes into and onto school property when there are schoolchildren there, I think that should be an offence. The idea is that you must drive fear into those citizens who are gang members. You want to make them fear the law so that they will not feel that they can walk with impunity on the streets, exhibit gangland type of behaviour, have gangs firing shots in the air and that sort of thing, if it is that you exhibit that kind of behaviour, or you do anything that law-abiding citizens of our country consider to be wrong and reprehensible, this Act must cover you. It must drag you into the Act. It is the behaviour and the association—the unlawful association—that we want to provide for in this Act, Mr. Speaker.

Territorial loitering: many of those gangland killings are taking place at a time when there is territorial loitering. Is it that there is nothing more productive for our young men and our youths in this country on a Tuesday night to do than to be hanging out on the block after 10.00 p.m.? That is just an indication of the kind of behaviour that we want to put behind us because when this Government implements the projects that we have in stream that are going to hit us with a surge later this month into the New Year, there will be work for these men and they will need to go home to sleep; not to go out and “sit down” on street corners “liming”. Because when they “sit down” on street corners and “lime”, Mr. Speaker, that is just a recipe for idleness, and idleness breeds slackness and contempt for law and order.

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These are the types of things that should be provided for—bring in these people for that type of thing. I am not saying that you necessarily have to send a person to prison for life for it, but surely, there must be some sort of sanction in the law to provide for that kind of behaviour. Of course, Mr. Speaker, we would have to provide for the establishment of a detention centre, because, when persons are detained, they should not be sent to jail, because jail is for persons who have been charged, and who are kept in remand pending trial.

You see, Mr. Speaker, very early in the New Year we will have, on this side of the House, a number of initiatives. Some of them have had their genesis in the work of the last administration—and I would not want to take anything from Members opposite. But what we have had to do is to look at what they started and to fine-tune it. The Member for Laventille East/Morvant spoke about the criminal procedure laws, spoke about restorative justice, “What has become of all those?”

The Member can rest assured that the Ministry of Justice is looking at most of those Acts in the process of those proposed Bills that had been in the stream, with a view to making them better, to improving on them and to bringing them in short measure before this House early in the New Year. These would include the creation of a system of sufficiency hearings, whereby it is that no longer will persons charged with offences have to go to the magistrate in a long system of the Preliminary Inquiry. The idea is to get rid of that altogether and citizens of this country will be pleased when that Preliminary Inquiry system sees an end. It will be brought to an end under this administration. [*Desk Thumping*]

Mr. Speaker, for too long have we had to endure a system where persons are charged; their families are traumatized; their families go out and sell property in order to support their loved ones; fees are exorbitant, and all the magistrate does is see whether there is a prima facie case.

Mr. Speaker: Honourable Members, the speaking time for the honourable Member for St. Joseph has expired.

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. A. Roberts*]

Question put and agreed to.

Hon. H. Volney: Thank you, Mr. Speaker. [*Desk thumping*] I will not detain this honourable House much longer, because I did agree with the hon. Member for Diego Martin North/East that he would not speak longer than I do, [*Laughter*] and, as a result, I am going to have a wind up. But the point is, Mr. Speaker, that we on this side have a plan, and we are going to show those on that side that the

plan we have is one that they ought to have executed in their turn in government. They did not and we will. And, Mr. Speaker, I support this Bill. I trust that we can make it a collaborative effort on both sides of the House. It is one that the country wants. It is one that I am sure the Opposition will support. I am sorry that the Member for San Fernando East is not here today. I very much miss him, because you know, I like to look at a headless snake. It is not very—*[Interruption]*

Mr. Speaker: Please, please, please.

Hon. H. Volney: I withdraw.

Mr. Speaker: Withdraw.

Hon. H. Volney: I withdraw.

Mr. Speaker: Thank you, thank you, thank you, thank you, thank you; withdraw.

Hon. H. Volney: I withdraw it. I really did not want to spoil my contribution, so I will suffer the penalty of saying that is all I wish to add, Mr. Speaker, and I take my seat. *[Desk thumping]*

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. Let me just correct the record. The agreement I had with the hon. Member for St. Joseph is that my speaking time would not exceed one hour, not that I would speak for as long as he did, because he has voluntarily curtailed his own speaking time.

Now, Mr. Speaker—well, I think I can say what I have to say in 60 minutes. The first thing I would like to do, Mr. Speaker, is correct some misconceptions. And I do not blame the member for St. Joseph, because he is new and he has qualified what he said by saying that this is what he was told, so he is not speaking from a position of knowledge; e is speaking from a position of belief.

This Bill is very similar to the Interception of Communications Bill. I have asked the Parliament to check. I do not believe that this Bill was laid before this House in any form or fashion previously; and, as I indicated on the last occasion, there is a procedure for settling the final text of a bill before it comes into this Parliament, and that involves a process where you have the review by the Legislation Review Committee and then a further review by the Cabinet. I do not believe that the Bill that was prepared by certain persons under the former PNM administration called the Gang Bill, 2009—I have a copy of it—went through the review process of the Legislative Review Committee or Cabinet, and certainly

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was not laid in this Parliament. And therefore, it is not correct to say that the Bill before the House is the same as the PNM Bill with a few exceptions. That is not so.

I can tell you, Member for St. Joseph, that as a member of the LRC, I would have objected strenuously to several of the provisions in this Bill, and I would have been very vigorous in my objections. So that, I just want to get that clear.

5.15 p.m.

A lot of work is done in Ministries, particularly in Ministries that deal with national security where, because of pressure, because of the pressure that is on to perform and to get something done, things come through the system without going through the various review processes. So the Gang Bill that was drafted previously did not have the benefit of review by Members of the Cabinet.

I want to go straight into this Anti-Gang Bill which is similar to the draft Bill that was there previously but has added some very draconian clauses and I have highlighted the areas in the Bill that are offensive with a highlighter. [*Shows highlighted Bill*] As you can see, I have highlighted almost the whole Bill. What I have realized, Mr. Speaker, is that some of the thinking for this Anti-Gang Bill has come from an Act passed in the Republic of Ireland, the Criminal Justice (Amdt.) Act, 2009. Because in preparing for this debate I took a look around the world to see if there was any jurisdiction in the world that had this kind of draconian legislation, and I must say that I really have not found any.

I heard the Attorney General refer to South Africa. I did not have the opportunity to go deeply into the South African legislation, but I looked in Australia; New Zealand; Canada; Ireland as I said; the United States, and I have not found any jurisdiction that has the kind of oppressive, unconstitutional, anti-people clauses in here. The Member for St. Augustine on another occasion had spoken on one side of human rights and we were on the side of the common good, well this is the reverse. This Bill is the flip side of that. This is way over on the side of the common good and too far away from the side of human rights.

Mr. Roberts: Thank you, Member, for giving way. When you researched the US law, did you research federal or state law because you know LA may have had both?

Mr. C. Imbert: I have looked at several different pieces of legislation. I looked at a statement made by the Governor of California and I would refer to that in a short while.

Mr. Speaker, let me get back to the Irish Act, Criminal Justice (Amdt.) Act, 2009 and in this legislation they do have similar provisions, not as draconian but similar to what we have in this Bill in terms of belonging to a gang. However, the Irish legislation was in response to a particular terrorist threat that the Irish people have from the Irish Republican Army and other militant organizations that place bombs in shopping centres and blow up people for various reasons, for acts of terror; some say it is an act of protest and so on. Their Bill was a particular response to that problem.

If you go to Australia you would see they have a problem with biker gangs, and, in fact, they have laws called anti-bikie laws that deal with motorcycle gangs. In Canada you also have a problem of motorcycle gangs, Hell's Angels and other gangs like that. So each country has fashioned its legislation to respond to a particular problem. Our situation in Trinidad and Tobago is quite different.

I must confess that I was of the view that the gangland culture in Trinidad and Tobago had been imported from the United States. Apparently this is not so. I have spoken to some of the people who worked in depressed communities and in areas where there is a proliferation of gangs and they have indicated to me that whereas in the United States many of the gang members are above average intelligence and are educated and their membership in the gang is really a sign of protest against society, in Trinidad and Tobago people join gangs primarily because of poverty.

There is a big difference between the gang culture in the United States and the gang culture in Trinidad and Tobago. If you look at typical gang members in Trinidad and Tobago, they are high school dropouts, persons may have dropped out even before they got to high school. They are social outcasts; they are illiterate; they are unskilled and unable to find employment because they have no skill and they fall easy prey to the recruitment exercises of the gangs because they are unable to get work. They may have been thrown out of their homes. In fact, I was told that one of the qualifications for membership in a particular gang in Trinidad and Tobago is that you must either have no parents or you must have been thrown out of home and disowned by your parents.

There are reasons for that, because if they believe that you are living with your parents you might divulge information about the gang, about whatever criminal activities they are engaged in or are planning and, therefore, you would jeopardize the members of the gang. So our situation in Trinidad and Tobago is really caused by delinquency. It is not the same as it is in other countries, and

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because I have been told by the social workers—I spoke to people who run homes for ex-convicts and so on and there is a common theme in all of that. In all of the situations of the interventions that they made, what happened is that these young men—young men in particular—have no place to stay; they have no food; they have no money, so the gang leader provides them with accommodation, meals and a gun. That is what you get from the gang leader.

Because our problem appears to be a social problem—now I am not an expert on this, I am not an expert on gangs, but in my limited research I have discovered that our gangland culture is very, very different. My own experience in my constituency with youths who have found themselves on the wrong side of the law, is that by and large the majority of them do not wish to continue in a life of crime for different reasons: they do not want to be killed, they want to pass the age of 30. You hear that quite often if you go into depressed areas, that one of the ambitions of a lot of young men is to pass the age of 30, because in the gangland culture your average life expectancy is about 25.

Miss Mc Donald: Twenty-one.

Mr. C. Imbert: Twenty-one I am hearing from the Member for Port of Spain South. [*Interruption*] So coming back to the point I am making, my own experience in a constituency where there are many depressed areas—I represent areas in Long Circular, Debe, Bellevue, Dundonald Hill; now I represent Bagatelle. I have represented Blue Basin for years, Water Wheel, and therefore I come into contact with young men, as I said, who have found themselves on the wrong side of the law.

The vast majority of them do not wish to remain in criminal activity. They want to work, they want to get a trade, they want to get a skill, they want to become productive members of society. Unfortunately, what I see coming out of this legislation is more punishment than social intervention, and now to deal with the question that the Member for D'Abadie/O'Meara raised with me. If we look at what is being done in California—I will find it, do not worry—I have a press release from the Office of Governor Schwarzenegger in California, where he announced an initiative to combat gang violence and they deal with all aspects of it.

The first plank in the plan is to treat violent gang members like high-risk sex offenders. As I said, there is no need to go too far on one side or to go too far on the other side. You can be too soft and you can be too hard. You can think that you can solve these problems by pampering these young men; you are wrong.

You can also feel you can solve it by locking them away for the rest of their natural life; you are wrong there too. So what they do in California, they treat violent gang members like high-risk sex offenders and they make them wear GPS devices and so on when they come out of prison so they can track them.

They have to report to police stations and so on; they make gang members pay for their crimes, if they have property it is confiscated—there is an aspect of that in this legislation—and the proceeds are used to compensate the victims of criminal activity from these gangs; they have a witness protection programme to protect witnesses from threats and intimidation. However, what I found interesting about this is that a major plank of the anti-gang thrust in California is a programme to rehabilitate and reintegrate gang members.

Millions of dollars are spent in California on this aspect of the programme. Rehabilitation and reintegration of gang members, and I would like to see something like that in this legislation. I would like to see a step approach to penalties in this legislation, even for a first offence, depending on the gravity of the offence; you could send somebody to do community service or something like that. These are the kinds of things that we can discuss if and when we arrive at this committee that the Member for St. Joseph spoke about.

Mr. Speaker, I also want to point out how draconian and how harsh the penalties are in this Bill. In this Bill if you are convicted of being a member of a gang, and I find the definition of a gang very confusing, and as the Member for St. Joseph said, it is based on a lot of conjecture, because how do you prove that somebody is a member of a gang? The Bill says—and if I go to specific clauses in the Bill—that you do not have to have insignia, you do not have to have a badge, you do not have to have any identifying mark, for example, no means of recognition, secret signal, code, creed, belief; you do not need to have that. It is not necessary to demonstrate that.

So if a gang does not have a name, an insignia, a flag, a means of recognition, a secret signal, a code, a creed, a belief, a structure or a leadership, command, structure, method of operation, et cetera, how on earth are you going to establish that it is a gang?

Miss Mc Donald: Hearsay.

Mr. C. Imbert: It has to be hearsay, because there is no physical evidence, there is no documentary, there is no paper trail or anything like that to establish that this organization is, in fact, a gang.

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One of the things I saw in one of the jurisdictions is that before you even get to the gang member, the authorities have to first make a declaration that a particular organization is a gang. So you would identify a group of people, the minister or the relevant authority will publish an order saying that this particular organization fits within the definition of a gang and then the organization is allowed to be heard, to establish whether it is a gang or not. It can make a case and say we are not a gang, we just like to dress up in motorcycle jackets or whatever it is, we like to ride motorcycles, but we are not gangs, we do not commit crimes, because it is a common theme throughout in terms of the definition of a gang.

If I use the Irish legislation again—let me give you the definition because I find that some of the definitions in the legislation in other countries are so simple and our definition is so complex. In the Irish Criminal Justice (Amdt.) Act, 1989, a criminal organization is defined as a structured group, however organized, that has as its main purpose or activity the commission or facilitation of a serious offence. One line! So it is a group of people whose main purpose or activity is to commit a serious offence. Simple!

Therefore, in order to identify this group as a criminal organization, in some jurisdictions the relevant minister or the relevant authority has to publish an order saying that I am of the view that this organization—Let me be a bit frivolous here, I am of the view that the UNC is a criminal gang, then the UNC would have an opportunity to respond, there will be a hearing and you will establish no, it is not so. That is just a little joke I am throwing across the floor.

A political party could find itself accused of being a gang. So in other jurisdictions the way they deal with that—before you can charge someone for being a gang member you must first identify the gang they belong to and that organization has an opportunity to prove its innocence along the lines of what the Member for St. Joseph was talking about in the concept of a holding period, detention period, before you actually charge someone.

5.30 p.m.

That is something I would like the Parliament to consider putting into the legislation, the mechanism whereby you establish that an organization is a gang and then the mechanism whereby you establish a person is a member of a gang. But just let me read into the record an article from the *ABC News*, March 2009. It reads as follows:

“New South Wales Government”—this is in Australia—“is proposing new anti-gang laws that it claims go further than South Australia’s controversial legislation.”

The headline is:

“New South Wales Anti-Gang laws ‘tougher than South Australia’s.’” This is what they say:

“Under the proposals, members of a gang who continue to associate with one another once it has been declared a criminal organisation by the Supreme Court...”

So this brings in the concept of declaring the organization to be a criminal organization; the court would do that.

“will be charged immediately.

They would face jail terms of two years for first offence, and five years for any subsequent breaches.”

In Australia, this is considered to be very draconian legislation. So first they have to establish that an organization is a gang and the court will do that in this jurisdiction and then, if you are found to be a member of that gang; two years for the first offence; five years for a subsequent offence. What do we have? Twenty years.

I have made the point that my research has shown me that a lot of young men are driven to gangs out of abject poverty; No other reason than they have no means to employ themselves; look after themselves and they find themselves in gangs just to get “a food”, to use the local parlance, and someone like that, for the first offence, to be facing the possibility just for belonging to a gang—not committing any offence; the person has not committed any offence; he just joined the gang—20 years in prison. I believe this is something that we need to look at very, very carefully.

In my travels, I went to El Salvador. Now, El Salvador is a country that has a history of conflict, war, revolution. I do not think they stop fighting in El Salvador. At least, since I know myself they have been fighting in El Salvador. In El Salvador, in September 2010, just two months ago, they passed a law to deal with gang activity—September 19, as a matter of fact. If you are a member of a gang in El Salvador you are liable to be convicted for between seven and 10 years, depending on your rank within the gang hierarchy.

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Let me give you an idea of what is happening in El Salvador.

The President of El Salvador first proposed the Anti-Gang law in July of this year after suspected Mara 18—that is a gang in El Salvador—members killed 17 people in attacks on two passenger buses in San Salvador, the capital. The assailants fired bullets into one bus and burned the other. The President called the incident an act of terror. The administration began drafting laws almost immediately, presented it to the Assembly and it was approved in September of 2010.

As I said, that was just two months ago. But even though they have situations in that country where gang members are opening fire on innocent civilians in broad daylight, you know, shooting up a bus, still the penalty for belonging to the gang—not for an offence, because I am coming to that—what they do in other countries, if they are found to be a member of a gang and you commit an offence, you get additional jail time. They compound your penalty. So if you are not a gang member and you commit larceny of a motor car, for example, you might get five years in Trinidad and Tobago, but in these other countries you will get the five years and you will get another 10 for being a member of a gang. So if you are part of an organized criminal organization and the purpose of that organization is to steal cars, and you are a member of that organization and you are caught committing a crime, you get additional jail time. That is how they deal with it in other jurisdictions.

But the point I want to make is even in El Salvador where they have these problems, the sentence is between seven and 10 years for gang membership, not for the offence itself. Other jurisdictions have much lower penalties. If you go to British Columbia, they passed an Anti-Gang Act in 2004 and in their Act a gang means two or more persons who act in concert for the purpose of committing unlawful acts, including indictable offences.

Again, Member for St. Augustine, very simple definitions: a gang, two or more persons, whether formally or informally allied, who act in concert for the purpose of committing unlawful acts, including indictable offences, whether for gain or otherwise, and whether or not all of them are associated unlawful purpose or purposes; very, very simple, get straight to the point that we are dealing with criminal organization. But even in this, in British Columbia, in this Anti-Gang Act of 2004, they made membership of a gang an offence punishable on summary conviction and when you go to the end of the law you see that the penalty is just a jail term of two years.

So they have not gone the way that we have gone, where, as a first offence, you have a jail term of 20 years, and then for the gang leader, life imprisonment. The Member for St. Joseph was making a point and he was stopped by the Speaker—and I would not go there—but our proposed law says any two persons getting together to do certain things constitute a gang. So if you have two persons—I am not calling any names—getting together to commit a criminal offence; they are identified as a gang, who is the leader? Which one of the two is the leader? Who is getting 20 years and who is getting life imprisonment?

So this legislation has serious flaws in it, and I know that the Member for St. Joseph believes that too. He is a Member of the Government; he cannot come straight out and say that he has problems with this legislation, but I listened to what he said and he spoke about human rights and he is absolutely right, because freedom of association is one of our most fundamental human rights.

In the United States, freedom of association has been recognized by the Supreme Court as on par with freedom of speech and freedom of the press. I am not too sure about the press part, but I accept that freedom of association is as important as freedom of expression and, in my opinion, freedom of religion, and these are the things that we have in our Constitution, and any legislation that seeks to curtail freedom of association needs very, very careful deliberation—very, very careful deliberation.

The Irish Act was the subject of a lot of criticism and I want to read what was published in a journal, *Criminal Law in Ireland*, about the Irish Act. There are two important and incontrovertible facts about the Criminal Justice (Amendment) Act 2009 in Ireland. First, it made significant changes to the nature of Irish criminal law. It criminalized gang membership and imposed very draconian penalties. Secondly, it was railroaded through the Parliament with no meaningful debate.

The author goes on to complain about the legislation being very unconstitutional and a number of senior attorneys in the Republic of Ireland came out and said the legislation is unnecessary, probably unconstitutional and will jettison ancient rights and rules of evidence and has been introduced without any research to support its desirability and without canvassing expert opinion or inviting contributions from interested parties.

That is one of the things, I think, a committee can do, because we need to get the views of persons, perhaps who have—I would not say, victims of gangs, but persons who have knowledge of the kind of criminality associated with these

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gangs, and persons who are involved in social interventions in trying to rehabilitate and reintegrate gang members into society. I do not think that we should make the error of the Irish Parliament of just railroading through legislation because the conclusion of this article is that it was just a knee-jerk reaction by politicians, because, you know, terrorists were setting off bombs, and so on, in the Republic of Ireland, they hustled this legislation through the Parliament and it is really not very good law. That was the general consensus in the Republic of Ireland, and our proposed law is very, very similar to this Irish law.

So I hope that we would learn from this. I get a sense, from what the Member for St. Joseph was saying—he was very tentative. He said he hopes that his proposal would be entertained. That was very surprising, coming from a Member of the Government, because, you know, through the doctrine of collective responsibility, when a government Minister gets up and speaks, he is speaking on behalf of everybody else. But I will forgive the Member, because he is new and I think in this particular case he is well-meaning. I am serious. I found, by and large, the contribution from the Member for St. Joseph very useful, very balanced, very practical, very much to the point, and certainly has given us in this Parliament an opportunity to look at this law very, very carefully.

I just want to read into the record what has happened in Quebec. In Quebec, there are laws against motorcycle gangs. You need to read the whole thing. This is April 15, 2009, *Montreal Gazette*.

“When about 2000 police officers yesterday rounded up 156 Hells Angels and their associates from across the province, what they were really doing was indulging in some belated spring cleaning.

Eight years after, police stormed the barricades of the Hells Angels Nomads and swept up 139 outlaw bikers in an unprecedented action...police have finally finished the job.”

Essentially, they have wiped Hell’s Angels off the map. They have arrested all remaining 111 members of the Hell’s Angels in Quebec, plus another 45 associate gang members and have finally eradicated the five remaining Quebec chapters of the world’s most powerful and infamous outlaw cycle gang.

That is what happened in Canada. They had a problem with these Hell’s Angels. Apparently, the Constitution, if you could call it that, of the Hell’s Angels, is that you must always have six members on the road at any time,

committing mayhem. That is in their rules and regulations, if you want to call it that. So the Hell's Angels were really creating a problem in Quebec. They put very tough anti-gang legislation in and now, as they say, they have wiped Hell's Angels off the map in Quebec.

I do not believe that we have a similar situation in Trinidad and Tobago. Yes, we have a horrendous number of murders in Trinidad and Tobago, and, unfortunately, the Attorney General did not really present this Bill very well. I hope he does not take that the wrong way. But one expects the presenter of a Bill to lay the background for the Bill, to explain why the Bill is necessary and to explain the various provisions and how these provisions will deal with the problem.

You first have to identify the problem; identify the solution and then explain how, what is proposed in the legislation will cure the evil that you are trying to deal with. But he did not do that. I think we need to take the high road in this debate and I applaud the Member for St. Joseph for the tone that he has brought to this debate, where we have got away from PNM and UNC and who is responsible and whose fault it is, and so on. There is no doubt that there is a gang problem in Trinidad and Tobago. There is no doubt that gang members are associated with violent crime, that many of the murders committed in Trinidad and Tobago are committed by gang members; there is absolutely no doubt about that, and it is something that we need to deal with. But, on the other hand, when I see legislation where harbouring a gang member is now a crime, and you will have situations where persons—parents—of suspected gang members, may not even be aware that their sons are gang members.

5.45 p.m.

The way this legislation goes about defining what a gang is and who is a member of a gang—you may have people, as I said, living in depressed areas who may suspect that their children may be involved in wrong things, but they may not know that their children are gang members. In the Bill which I want to say was only a draft and had not been reviewed by the Cabinet, in the former piece of legislation, this fact was recognized and had this to say:

The presence of a member of a gang in the home of his parents will not in itself make the parents guilty of an offence under this section.

So this recognizes the reality of our society that many parents do not know what their children are doing. The children might just pass in and out of the house. So in the previous Bill there was protection for parents who may not be aware of the activity or the extent of activity that their children are involved in,

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but not in this legislation that has been brought by the Government. In this legislation, that subclause has been removed and now there is an offence for harbouring or concealing gang members—that is clause 8—and there is no protection here for the parents at all.

Mr. Roberts: Thank you, Member. I am getting your point, but do you not believe that conceals a person whom he knows is a gang member which shows that there is some *mens rea*, some understanding. So it is not like a parent who would not know and is keeping their child. It is who knows and harbours.

Mr. C. Imbert: I accept that and one of the questions that I was going to raise is, how would you determine that somebody knows? How? So this is going to make administration of this legislation, very, very difficult because you say he that knows that his daughter is a gang member. How do you know? So it is really left—you are putting a lot of discretion in the hands of law enforcement agents.

Mr. Roberts: Thank you, again. I think the normal process would—this is for discussion. The law enforcement may come and present to the parent and say, this young man is wanted. They present a warrant and then if the parent says that he is not here, then they have broken the benchmark for harbouring.

Mr. C. Imbert: Yes, but you see, in the previous legislation it removed “doubt” because it said, “the presence of a member of a gang in the home of his parents will not in itself make the parents guilty of an offence under this Act.” But parents are exposed in this legislation because you may have somebody who may tell a lie, may say that there is a gang member in this house here and the parents know, and it all depends on the circumstances, the particular police officer who is investigating the crime and so on. What is done in other jurisdictions, again, following a point made by the Member for St. Joseph, is that only a police officer with particular expertise, with at least 10 years’ experience—I have seen that in one of the laws that I looked at. I cannot recall which country it is right now—and it has to be established that you have expertise with respect to gangs, gang behaviour, gang membership, methods of recruitment and so on, and it is only that person can establish whether a person is a gang member or whether a particular organization has the characteristics of a gang.

Mr. Roberts: [*Inaudible*]

Mr. C. Imbert: No, I am just saying what is here just cannot fly. It just cannot fly and that is why I said I had to write up all over the place. Look at clause 10(3):

“A police officer may enter and search any place or premises not used as a dwelling house without a warrant if he has reasonable cause to believe that a gang member may be found in such place or premises.”

Now what is that? A business place? Because it is saying “not used as a dwelling house”, what does this really mean? A gang member runs inside Kentucky, hides in the back and the police could break in just like that. These things need to be tightened, they need to be qualified and they need to be addressed. In other countries this type of legislation has been the subject of comprehensive debate.

I was looking at an article in another journal called *Law Now* written in 2001, and I just want to read some of the thinking into the record because it gives some insight into the problems other jurisdictions have had:

“Upon hearing the word ‘gang,’ a typical reaction may be a certain degree of trepidation. A common definition of a gang... ‘is a band of persons acting or going about together for criminal or other purpose...’”

However in all of the authorities on this matter, you have all types of gangs, motorcycle gangs, militias, supremacists, street gang, ethnic gangs and so on, and, therefore, a whole range of organizations can fall within a gang”

There is another point here. Numerous studies have identified certain recognizable indicators that characterize gangs. They include such characteristics as a group of three or more individuals who share a common illegal cause; the existence of a highly organized hierarchy; the use of threats or acts of violence as a means of intimidation; an attempt to gain influence through corruption or illegitimate means; the use of an illicit market structure such as drugs, prostitution, smuggling and so on, with economic gain as the primary goal.

It goes on to say, while these appear on the face of it to be reliable indicators—and they do—it can be readily demonstrated that many segments of society could be accused of sharing all of these characteristics. And that is one of the other problems that I have.

We have crimes on the books like aiding and abetting, acting in concert, conspiracy, what are you going to do with those offences? Once you criminalize gangs—a gang is two or more persons who have come together to commit a crime. Let us make it as simple as that. Okay—then what are you going to do with the offence of aiding and abetting? You are going to throw that out the window? That will be covered under this gang legislation. What would you do with the offence of acting in concert? What about the offence of conspiracy? What are you

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going to do with all of that? So you need to take a look at other related offences within our statutes, and we need to do some harmonization to make sure that people are not subject to double jeopardy, to make sure that people will be charged for the wrong thing and so on. We need to look at all of this. I expect the Member for St. Augustine will take a look at these things.

My understanding of anti-gang legislation, throughout the world, is that it is generally based on the Racketeer Influenced and Corrupt Organizations Act in North America, and we heard that from our friends from the Law Association, the RICO Act. This Act was introduced in 1970 against the Mafia. So again, it is in response to a particular threat—very organized crime. So the RICO Act was introduced to deal with the Mafia, and under that legislation police could treat the practice of organized crime as a business. So it empowered the police to use wiretapping—surprise, surprise—surveillance, as well as looking at business connections to build a picture of a corrupt operation.

A lot of legislation that deals with gangs has been taken straight out of the RICO legislation, and while it can work for a structured hierarchical, almost military-type organization like the Mafia—because they have soldiers and lieutenants; they have a very military structure—I do not think you can just take the racketeering legislation from the United States and transplant it into legislation that deals with gangs, especially when these gangs have no structure, no hierarchy, because from what I am seeing here there is no time and space continuum. Two of us get together today, we are a gang. Tomorrow we mash up, I vex with you, I gone. We are no longer a gang. So I think we need to look at this legislation very, very carefully.

I will indicate some of clauses that have caused me tremendous difficulty—the definition of “gang”. I readily agree that in the previous draft it is almost the same, very similar. So I do not know where they got that from, but I would prefer that we come with a much simpler definition. The question of 20 years for the first offence, I think that is crazy. The idea of a gang leader, whoever or whatever that is, being in prison for life for the first offence, I think you have to relate that to evidence that this person is actually the head of a criminal organization whose purpose is to commit serious offences and get involved in violent crime.

In addition, clause 8 which deals with harbouring and concealing, I think we need to fix that. Clause 10 allows the police to enter a place without a warrant if they are in search of a gang member, we need to deal with that as well. I think, Mr. Speaker, that this Parliament has to look at what has happened in other countries where they have this legislation and it has not worked. When you go

through the literature and you look at what has happened after they have passed anti-gang legislation, in some jurisdictions there has been no change whatsoever in terms of violent crime, in some they have. In Quebec there have been able to remove the Hells Angels from the streets, but in other jurisdictions—I saw an article where in a particular period of time there were 2,938 murders. They then introduced anti-gang legislation and in the next year it was 2,921. So it went down by 17 because the criminals found devious means of concealing their gang membership. They were able to outsmart the police. They were able to clog the system. What happens with gang legislation, if you drill deep into the experience, when you are arresting members of a gang it is 50—100 at one time. Let us take the muslimeen trial, how long did the muslimeen trial go on for? A considerable period of time. You had to have 110 or whatever number of people it was—

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

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. A. Roberts*]

Question put and agreed to.

Mr. C. Imbert: Yes, Mr. Speaker, what they have discovered—and I thank hon. Members opposite, especially the Member for D'Abadie/O'Meara for extending my time.

Hon. Members: Ooooooh!

Mr. C. Imbert: I have to thank him. He moved the motion.

Hon. Members: You are welcome.

Mr. C. Imbert: In some jurisdictions what I have seen, Mr. Speaker, they have clogged the courts with prosecution against gangs—90—100 people each has a lawyer, each one is entitled to their own defence, and sometimes the thing drags on for years and years and years and people escape on technicalities. Anti-gang legislation has been successful in some territories but very unsuccessful in others because of the very cumbersome nature of the way the legislation is framed.

I am of the view that unless we do some surgery on this legislation, all it will be is a lawyer's paradise. It will just be work for lawyers. You know, bring in all sorts of constitutional motions, all sorts of declarations from the court as to what is a gang. That is the kind of order. If I was caught here I would want the court to make a declaration as to what is a gang. I am not just going with this. I would

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want the court to interpret the statute and explain to me what exactly a gang is, and then I would use that order of the court to make an application to indicate that I am not a gang member.

Mr. Speaker, I think I have dealt with all the issues. I want to end my contribution by stating categorically, that my research has told me that our gangs in Trinidad and Tobago are very different from other gangs all over the world—very, very different—and all the information that I have received—I will give you a pertinent example. There was the gang on Duncan Street and the leader could not read or write, but he was leader of the gang and one wonders how he directed the activities of his gang. Everything was verbal. He could not read, he could not write. Apparently he is in prison now and he is learning to read for the first time.

6.00 p.m.

I am just making the point that the gangs in North America and other countries are very sophisticated. All of the research that I have seen says that your average gang member in the United States is of above average intelligence. These are not delinquents, dropouts and so on. Our situation is very different.

Therefore, I urge the Government to revisit this legislation. We need to fix it and target it at the criminals for which it is intended. It is very important legislation. We must deal with these criminal gangs, but in so doing I would hate to think that this Parliament would enact legislation that would catch so many thousands of our young men, who simply find themselves associated with organizations because of poverty and other reasons.

We need to have steps in terms of penalties and a serious social intervention. We need to give the court the ability to order rehabilitation. I think that I have seen that in one piece of legislation that I have been associated with where the court was given discretion. I think it was the Children Bill. When we were going through the draft, there was a provision which gave the judicial officer the discretion to order rehabilitation, community work and so on. This is what we need to see in this Bill.

I thank you, Mr. Speaker.

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Mr. Speaker, I begin by saying that polar bears are not natural to Trinidad and Tobago. The reason I open with this is simply to bring home the point that an environment allows certain things to grow.

In Trinidad and Tobago, we have seen over the last several years that—of course, the election is over and for a minute never assume I am politicking—we have to deal with the reality of how we came to be where we are. We did not get up this morning and arrive at the position of criminality that this country has inherited.

You ask yourself: Is it poverty really that has caused the growth of criminal warfare and gangland killings? If that were so, then generations ago all of Trinidad and Tobago would have been decimated. It is not poverty alone; it is an environment of young people growing up seeing total disrespect for law and order.

Forgive me! I have spoken to many when they say they looked upon a government where billions of dollars were spent without any care or concern for the basic requirements and needs of the poor. They looked upon a government that allowed certain members to appear to be above the law. They looked upon a government that saw gang leaders as potential heroes and gave them rank in meeting with them. These are the things that have contributed to the dark position at which we have now arrived. I say now arrived at, but maybe I should hearken back: that has been going on for several years.

I applaud and congratulate the new paradigm in the way we do things in this Parliament where the best of ideas come together. We work it together. I compliment you, Member for Diego Martin North/East, for your intervention in the Interception of Communications Bill; in fact all of the team. I want to put on record that it was a healthy signal to this country, under the chairmanship of the Member for Oropouche East.

This is the thing this country has been craving; where those in authority use their authority for the benefit of the people and not for cheap potshots; no showmanship or one-upmanship; who better than whom. We have to get rid of that. No one is perfect. We all have different slants on things but at the end of the day when we come together as a Parliament, for the people of this land, it must bring out the brightest and best of ideas from the brightest of our minds, working in conjunction at all levels of society.

When we come here, we do not come here only as the Member for St. Augustine or the Member for D'Abadie/O'Meara. We come representing every Trinidadian and Tobagonian. Therefore, a lot of the experience of our people, we would have spoken to them on campaign trails; we would have spoken to them in our normal daily lives and this People's Partnership Government came in on a campaign of getting rid of crime as the number one issue.

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I make no apologies if this Government goes hard and strong against criminality. This is what we were elected for. That, of course, does not mean that you will throw away the constitutional protections that we all cherish.

I am happy that the Member for D'Abadie/O'Meara rose to put to an end the concern of the Member for Diego Martin North/East in relation to—I give you a prime example. Having heard my friend, the Member for Laventille East/Morvant, if you had not read the law, you would have believed that it was an awful thing that parents and innocent homeowners could be criminally prosecuted and convicted. You have dealt with that. You have to know.

Mr. Imbert: I thank the Member for giving way. The point made by the Member for D'Abadie/O'Meara is quite true, but as we did today, we took a division when we did not have to, just to be sure, quite often in legislation you do not want to leave the interpretation up to others. That is why I am of the view that it is better to make it crystal clear that the parents are excused from this.

Hon. P. Ramadhar: If you had not read the law and listened to the contribution, you would have thought that everyone was open and possibly very susceptible to conviction. That is why we have the courts. The courts are not a rubber stamp for police action. We respect the independence of the Judiciary; we will do everything in our power to enhance and protect it. I said that the last time and will continue saying it. It is absolutely true.

We must look to the courts to interpret; to find if there is sufficient evidence and the due process of which my colleague, the Member for St. Joseph spoke, is what we have relied upon throughout our history as an independent nation. That will not change now. Indeed, it must be strengthened to ensure that there is no miscarriage of justice. To suggest that the law in itself is draconian and therefore, does not have a real place here and requires substantial amendment would be to miss the main points.

To call out the numbers of 20 and 25 years is to forget for a moment that the court has a discretion in any and every case and that those sentences are the maximum number of years and that a court could impose any number of years from zero to maximum, having heard the facts and the evidence upon which the prosecution is based if a guilty verdict is arrived at. Let us make this abundantly clear. That is the protection and purpose of a court.

In the drafting, it was not intended that it is a maximum and that the court has no discretion whatsoever. It is not mandatory. *[Interruption]* It may be. Maybe some might think that, but when we reflect upon what we are dealing with in terms of criminality, it is easy to start believing the old Dick Tracy gangs.

In other jurisdictions where they plan a bank robbery and so, our gangs are very different in a very small country. Let me just put this in context. Mr. Speaker, do you remember some years ago, in broad daylight, on Independence Square, what happened in the face of hundreds of persons when police were close by? Bullets flew. People lay dead. Movie Towne, the place you would want to go to relax; a car passed by, bullets flew. People lay dead.

Do you remember a long time ago a policewoman in East Port of Spain, she and her entire family were executed? Have we forgotten these things? I will never forget in the Rio Claro Magistrates' Court, I can still hear the bullets go off. In a minute of a person exiting the court in the presence of police officers; in the face of a police station, seven bullets, dead on the ground, in the yard of a court. I will never forget!

Forgive me for being passionate about this. I have lost two members of my family to murder: Suruj Ramadhar and Dr. Russell John. I almost lost my mother. The point being that I am not peculiar in these experiences. Hundreds and thousands of our mothers, brothers and sisters have faced this and there is a screaming need to deal with crime; not just the crime of larceny, but also the crimes of bloodletting.

When we spoke of there being harshness in the legislation, it is only in response to the harshness of criminality. The gangs are no longer there in terms of what damage they can do in terms of economics, but of what they do in destroying families. It is gangrenous and if you speak to doctors, they will tell you. There are people who have lost their toes, both legs, to save their entire body and if there comes a time when the country needs to show strength, it is now. This is not the time for the weak and faint-hearted to try to cuddle with gang members who have no respect for law and order much more for life.

I will never forget, just last year, Member for Pointe-a-Pierre, in a health institution, Laventille Health Centre, one person chased another into that institution and shot him dead in the face of hundreds of persons. What did the government do? They closed the health centre. That was the answer. So hundreds of persons, in fact the entire area had no recourse to any health facility.

At that time, I was and still am, proud to be, Deputy Political Leader of the Congress of the People, under the guidance of Dr. Omaron, I went there and put up a medical clinic for the people of that area to show that there are persons in society who are unafraid of criminals and we retook that area on behalf of the people of Trinidad and Tobago.

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How dare anyone come here and suggest that we are an independent nation of law and order when Trinidad and Tobago Electricity Commission (T&TEC) crews, cable crews, WASA, cannot go into your own constituency? Are we a sovereign nation or have we ceded that to criminals? This is the time, with your help—we do not need it, but we want it—to set it right. I am saying that to tell this population how much we embrace this new paradigm of working together. That is all I have to put on that.

How could we say that we will cede any other square inch of this land to criminals? We will not do that. It may be harsh, yes; it is not just Buckley's time; it is time for surgery.

When I heard my dear friend, the Member for Port of Spain South speak to the URP gangs, there being 40 ghost gangs, it troubled me to know him. I know the Minister of Labour and Small and Micro Enterprises, the Member for Pointe-a-Pierre, will do what is necessary to weed out the criminality that has seeped, not just into the streets, but into governance and into politics.

When I remember the name Mark Guerra, he was nothing but a cold-blooded gang leader, a criminal in the worst way, but he was deemed a community leader. When you do that and put names there, what do you expect of the young? We have an education system we inherited that began a history of Trinidad and Tobago with slavery and indentureship

6.15 p.m.

We have forgotten that two great cultures existed before that. I think it is about time that we recognize that the young in our country must be exposed to the thousands of years of history from Africa, India, China and everywhere else, so that they will feel that they belong to a line of humanity and not now come dispossessed of any culture, because the culture that we now expose our children to, when I say children, especially the young, is the gangster-based, negativity and gun culture. What do we give them? What role models do we give them? Many of us come from homes that instil in us true family values that will take us through very difficult times and will take us through the temptations that you will meet when you go to schools, but many homes do not have that, unfortunately.

I remember, in my criminal practice, most of the young persons I defended were for murder. There are many lawyers, and we congratulate them, who would ensure there is always a balance against the power of the State. Many of those young persons had no mother or father in Trinidad. They lived with a grandparent or no one at all. You are quite right, without any guidance, but this is not the time

for kindergarten. When you take a gun and you have to gain membership in a gang, as you rightly said, sometimes by taking a life to prove, I think the Attorney General said that, you are worthy of entering the hallowed halls of that gang, then you must deal with them as the criminals they are. They must know there is a serious consequence associated with others who are criminals. That is the message this legislation must send. It is not only in the implementation that laws are effective, but by the knowledge of the very existence of the laws.

From today, because of the help of the media and the help of those in the community, let the message go out that, as of today, we have put the line in the sand and if you choose to associate yourself with other persons with the criminal record for criminal activity, then you will and must pay the price.

The simple answer really is, laws are there for the deterrent effect in a large part. It is as simple as that. If you wish to harbour the danger that these laws that we bring—I say these laws, this is not done in isolation and in a vacuum—then you will pay the price. That is the lack of consequence that our young people grow up with. They always believe the laws are there, but nobody will effect and enforce them and, therefore, I could do what I want and get away with it.” No, no, no, May 24 changed that.

With your help, we have already passed the Interception of Communications Bill. That is going to be so important in dealing with the proof of who are gang leaders, who are gang members and be pre-emptive, to ensure that they do not carry out their evil acts. I can foresee, very shortly, new legislation to deal with plea-bargaining, so that you get one who might really want to reform himself coming forward after he has been charged as a gang member and say: “Listen I really was intimidated. I really doh want tuh be part ah dis. Leh me tell yuh what ah know.” This is the way. This is the vision of this Government to break up all these cartels—I use that because gang is high and low—to use any one of them from within, to give the evidence necessary to get the conviction.

When you create that destabilizing effect that anybody brought in could bring down the whole game, do you know what is going to happen? They would start distrusting each other and, therefore, are less likely to come together for criminal activities. It is not in isolation. No, no, no, there are many other things that will come and, when the net is cast, it will be very effective that the guilty would be caught and the innocent, like no doubt all of us, would be allowed to live in peace and harmony.

I have had the awful experience just last month, one of the most wonderful human beings working in the Ministry of Legal Affairs, Claudette White-Nurse,

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who lived in Petit Valley, loved by all her coworkers who attended her funeral, this lovely lady, a mother, a friend, a church-going woman attempted to escort someone out of an area and the gang members just opened fire. They shot this poor lady on October 15. She held on for approximately nine days and then passed on October 24. That was very personal to me. *[Interruption]*

Mr. Imbert: I thank the Minister for giving way. What I am hearing is that you are getting closer to a proper definition, what is a gang and associated with known criminals. Would you be partial to what is done in other jurisdictions, that is, if you commit a serious crime and you are also found to be a member of a gang, that you get additional jail time?

Hon. P. Ramadhar: That makes inherent good sense. There must be a premium to you being not just a one-time offender, but one who associates. I think that is a very good idea. That is why we are in this debate. Let us understand the definition of a debate. It is not who wins, as much in this context, but that the people of this country win. That is a very good idea. If we have to go to a committee, that is something we could very well look at. In fact, it is something I actually thought about. The long and short of it is that we need to change the culture of what has allowed this to have happened.

One of the steps available to a government immediately is the legislation, which we are here for. We ask ourselves, after \$300 billion in the last so many years having been spent—you said it too, Member for Diego Martin North/East. *[Interruption]*

Mr. Imbert: I said that?

Hon. P. Ramadhar:—that we talk about poverty being the main reason for gangs—

Mr. Imbert: Unemployable.

Hon. P. Ramadhar: Unemployable. And whose responsibility was it to have made them employable; not the government's?

Mr. Imbert: Society.

Hon. P. Ramadhar: Society, of course. Blame the innocent. The society elected a government to deal with its day-to-day affairs, to have vision to do the things necessary to avoid this. How could we, in good conscience, speak about law and order and a government that is constitutionally duty-bound to uphold law and order, when, in fact, I give you the example of St. Joseph Police Station; a large area with two police cars? There are many areas in this country with no police vehicles. So understaffed and undermanned were the police over the years,

that an entire station would be run by two men, but there is a rule that no less than two officers are to go out on an enquiry and no less than two are to stay in the station. Guess how many are on the shift? Two. This is the sort of obscenity that we face.

How is it, in 2010, there are police vehicles without two-way communication? How is it possible, in this day and age, we have police officers walking around with guns that are 40 and 50 years old? Yet we have spent billions and billions of dollars in national security. These are the questions that we ask. That has changed. That is why there is a new Government and the resources that are necessary are being put in place. But it hurts as a citizen to hear, from the mouths on the other side, some condemnation blaming crime on the People's Partnership Government. Could that be honest and fair that you, or any one of you, could suggest that we are responsible in some way; implying that we are responsible for this? We inherited this problem. If fair be fair and honest be honest, in the last several months there has been a rapid decline in the level of serious crimes. There was a traumatic increase in the last two weeks and we are dealing with that. The Prime Minister took the opportunity to meet with the Commissioner of Police and all of the heads yesterday to find out what could have caused this and how we are going to deal with this. This is what taking responsibility is all about. We will not meet with the gangs. The only place that they will be met is with the police, in the court and hopefully in the jail. That is the place for them.

Mr. Speaker, I believe that we truly have to have a societal transformation in this country and the time is now. If not now, the question is: when? If not us, who will take responsibility for fixing the ills that we have complained about seeing for a generation or more? Now is that time. With all humility, may I suggest—in fact I have spoken to the most noble Member for Caroni East in terms of the failure of our educational system. We may be able to certify our young, but do we really truly educate them as to how to live? We do not. I have discussed with him, the possibility of introducing, in the elementary schools, at the very youngest age, the possibility of teaching meditation. The reason for that is, in the very young and pliable mind, if you instill in them that tool for all of their lives, they will be able to deal with the challenges, the temptations and all of the awful things that may come their way, with an innocence of who they are and the goodness that meditation connects you with. That is so important.

In fact, it is something that we would have to develop in the society, because, leaving it up to the institutions that now exist, they become sterile—reading, writing and arithmetic. Many times they fail and fall off the face of education and

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into cracks, without ever having learnt a lesson on how to love. Many of the gang members have never been loved. They do know what it is. When they see the wastage, corruption, largesse and the uncaring of the society—because the society has now come to a point, because of the criminality—we stay within our boundaries and we do not reach out. We do not try to connect, because the moment you step out you may very well lose your hand. The moment you try to connect, you may pay with your life. So, the society now has unravelled, in a large part—the old sweet,-time Trinidad and Tobago is almost gone, but it is not too late to save it. We always hear the sweet old time days. We can still bring some of that innocence back, but where we have started is this. When you have a strong and bad disease, you need very strong medicine. It is not just the medicine, it is the after-care also.

The Member for Diego Martin North/East is absolutely correct; you must have an holistic approach to this thing. We are dealing with the sharp edge of crime, with the very, very sharp edge of law and law enforcement. But, at the same time, I truly believe in the carrot and stick approach. If today, and now being Christmas and the time of renewal—the birth of Christ is the return of hope to us—that in a moment anybody here could transform themselves and become something else; something better or worse, we have to give that opportunity to all the young and all those who are gang members. Tonight, when the word gets out, forgive me for repeating it, that is the essence of law. If it was not respected before and we lay down the line and say: “if you cross this, you are going to pay the price, you have a choice to make.”

6.30 p.m.

This nation must make a choice. Are we going to waffle in the face of awesome criminality or are we going to stand strong? If it is any comfort for those who are concerned, we have put a sunset clause into this legislation. Member for Diego Martin North/East, we have put in a sunset clause for good reason, because we know this is not the sort of law that we want for all time. This is the sort of law that becomes necessary, and only when it is no longer necessary, it ought to go. I thought you would have suggested a shorter period for the sunset clause.

Mr. Imbert: In the committee stage.

Hon. P. Ramadhar: Exactly! That is the way we will work and move forward. None of the laws here are draconian, in the extreme. In fact, there are already laws that are far more draconian like the drugs legislation, but drugs do not kill you immediately, they will kill you over time, but the gang killing is

immediate. In a small country like this, there is no guarantee if you are driving down any of the streets in Port of Spain, as has happened—bullet! That is what we have to deal with. That is why we have heightened the level. I am happy for this.

I do not think that I could add more other than to say, as the Prime Minister has led us correctly and divinely wise, that we should really come together as one House. We bring the legislation—let me tell you, all wisdom come from a sense of divinity; otherwise it is just plain old intelligence and smart. I am not here to preach. The point I am making is that the time has come for this law.

Mr. Speaker, before I take my seat, I just want to ask a few questions. My dear friend, Member for Laventille East/Morvant, you quoted a well-known statement which is, that for evil to prevail good men must do nothing. Why did you not do anything? [*Desk thumping*] Why? My friend, whose intelligence I have come to utterly respect and admire, the Member for Diego Martin North/East—the best of ideas—what was wrong with your organization that led you to not act when you had the authority to do so? [*Desk thumping*] I ask these questions because individually you are wonderful people, but when you come together—I am almost tempted to say in a joking way as a gang—the whole thing changed. That is the point.

Let us get away now from party, party. This matter with respect to URP gangs, let it be URP teams. Mr. Cadiz is not here, but he likes to talk about team Trinidad and Tobago. Trinidad and Tobago needs a team to win. There is no way I could put it better than to say, we have to reset the directions we have taken; work together and bring the legislation, but not just law for the sake of law, but also to give the resources necessary to all institutions for them to work properly. We have started that with the police; national security. Any resource that is required to ensure and respect the independence of the Judiciary will be given; anything that is required to make this place safer—home and sweet—we must do it. There is no debate on that.

Mr. Speaker, to tell you the truth, I am a very liberal person, and I believe in human rights, but very often we talk about rights without responsibilities, and this is a Government taking responsibility.

Mr. Speaker, thank you so much. [*Desk thumping*]

Mr. Fitzgerald Jeffrey (*La Brea*): Mr. Speaker, thank you very much. This afternoon, we heard the Attorney General having a field day and blaming the past government for crime. I think the splurge of murders over the last month, I guess

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it, is the last government's fault as well. When will this present Government start accepting responsibility for crime? It was the revered former Prime Minister, Mr. Basdeo Panday, who threw his hands up in the air toward the end of the 1990s about the crime situation in this country. Mr. Speaker, what goes around comes around, and this Government should be well advised that playing politics with crime will come to haunt them if they are not careful. We on this side do not glorify the unacceptable crime situation over the past few months. We recognize the seriousness that confronts us. I think it is high time we understand that page.

Mr. Speaker, I want to start by saying that there is an old adage: it is the last straw that breaks the camel's back. I do not for one moment believe that it is the last straw. It is the cumulative impact of each straw that breaks the camel's back. When we look at a baby, when that baby is born, that baby is born devoid of any inclination to kill, to steal, to deceive, to injure and to tell untruths. Mr. Speaker, it begs the question, what has happened to that baby 14, 15 and 16 years later?

Mr. Speaker, I would like to say, at this point in time, that it is the members of the society, each and every one of us, who must be held responsible for what happens with our young ones.; some of us more than others. In trying to address what is before us, we need to understand what is the root cause or are the root causes of the gangs that we have in our country.

We on this side do not for one moment glorify in the gangsterism. We abhor that to a great extent. Mr. Speaker, I know that you are going to rule on a matter a little later but, last week, as a former school teacher—as a matter of fact, the Member for Moruga/Tableland will tell you, once you are a teacher you are always a teacher. When I heard my good friend, the Member for D'Abadie/O'Meara try to justify Tania Onika Maraj, aka Nicki Minaj—

Mr. Speaker: That is a matter before the Speaker and the House, do not go there.

Mr. F. Jeffrey: Mr. Speaker, the gang situation in this country is nothing new. Long before the 1950s, we had gangs in this country. You would remember Marabuntas and Tokyo, et cetera. In those days there were bottles, stones, knives and fist fighting. What has happened? As time went by, we became a little more sophisticated, and instead of bottles and stones, we have guns, but Trinidad and Tobago does not produce guns, the guns come from outside. We know that the power in the gangs rests with the gun. It begs the question, why do we not cut out the supply of the guns that come into this country?

Mr. Speaker, I wait with bated breath to hear from this Government, how it is going to stop the influx of guns and, of course, drugs from coming into the country now that there are no OPVs; we are not going to see the FPCs and the interceptors and so on.

Mr. Speaker, we cannot allow the sharks in the whole ocean to kill the fry. We need to understand that we need to get rid of the sharks as well. Those are the people in jacket and tie and the briefcase who move from place to place. Those are the ones who are encouraging the gangsterism in this country.

The emphasis is suppression, and I just want to read from a document I have before me: *Unjust and Ineffective: A Critical Look at California's STEP Act*. Mr. Speaker, in 1988 the state of California passed the STEP Act in order to seek the eradication of criminal activity by street gangs in California. In enacting the STEP Act, the legislator declared that California was in a state of crisis caused by violent street gangs whose members threatened their neighbourhoods, and sought to impose increased penalties on suspected street gang activity. Mr. Speaker, what has been the result of this STEP Act? Mr. Speaker, they have seen an increase in streets gangs; they have seen an increase in the membership of those gangs. In fact, that did not work. In other words, having more draconian penalties did not work.

There is a similar story in Illinois and Dallas, Texas, but it was in New York that we saw some positive things happening. Mr. Speaker, one city that has been successful in combating gangs and decreasing the level of gang violence in New York City is New York City. New York City faced a widespread gang problem since the 1940s through the 1960s, but has successfully curbed the problem over the past three decades. The city's success is largely attributed to its widespread use of social programmes to combat gangs. These programmes include job training, mentoring, after-school activities and recreational programmes which have been successful in helping at-risk individuals to avoid gangsterism.

Mr. Speaker, they went on further to say that New York City's success in keeping the violence level low has been attributed to building community structures and helping gang members find employment, so that it could be a model and inspiration for Los Angeles and other cities seeking to more effectively combat gangs. Mr. Speaker, the whole question of suppression is not the answer. We have to combine suppression, intervention and prevention.

6.45 p.m.

In 2001, the US Surgeon General spoke about children who have problems before the age of 13, that they are more likely to continue thereafter, and in our

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school system it is well known. You may have a class of 40 students and you may have 38 or 39 who are doing well. What happens to that one person who is not performing? Very often that person is a casualty. The child does not do "home lesson", the child does not come to school regularly and is left outside, by and large. That child is the one we have to be careful about. If in a neighbourhood like San Fernando you have 15 or 20 like that, that is the formation of a gang we are dealing with. Some way has to be found. Somewhere we have to find mechanisms and ways to deal with those children, those recalcitrants in the primary or secondary schools, so that they do not end up in the gangs.

I want to make the additional submission about the work done by Vision on Mission. I compliment the Government for making that subvention to Wayne Chance. There are also other persons who should be included in this scenario. Reverend Aaron Williams is another gentleman who was incarcerated, came out and is doing wonderful work in the society. For those persons who come out of prison, we have to find ways to keep them out. In some communities when a "fella" goes to jail and comes back out, he is a hero and, therefore, other persons try to replicate that. We must strive to put an end to this. When a young man who was previously incarcerated comes out, we must find ways and means to integrate him back into society.

We also have persons who are in gangs, they want to leave, but they are afraid. Why are they afraid? One, when they come out, who is going to receive them? Who is going to accept them back into society? Secondly, they stay in the gangs because that is the comfort they find. In other words, some people stay in gangs out of security more than anything else. It is not that they so want to involve themselves in gangs, but they are just looking to find a way in which they could have some kind of security in that particular community.

For young men who are in gangs, we must find mechanisms to get them out. In other words, some kind of incentive, some kind of protection must be given, so that when a guy leaves the gang he has protection outside of that gang. In many cases, they are inside there because if they leave and come outside, "trouble take dem". We have to find ways of dealing with that. If we intend to deal with this situation that arises, we must combine suppression with intervention and prevention.

Clause 9(2) talks about 500 metres from a school or a place of worship. I just could not understand why 500 metres. What happens if it is 505 metres, is that okay? Why 500 metres? As far as I am concerned, recruiting a child anywhere should be punishable. Therefore this whole thing about 500 metres just does not cut it.

I also want to raise a little concern with clause 6(2). A group of “fellas” playing cards for money, is that group a gang? They are engaged in criminal activity, because it is not legal to be playing cards for money in the open. Is that group a gang and are they subject to the penalties imposed by 6(2)? I would like to get some clarification on that issue.

I am not going to repeat some of the concerns raised by the Member for Diego Martin North/East, because we shared similar sentiments with clause 5(1) and so on. I only want to say that we on this side are in agreement with the legislation or the whole idea of outlawing gangs. We are in agreement with that, but it is the nitty-gritty in some of the clauses that we need to deal with. Thank you, Mr. Speaker. [*Crosstalk*]

ADJOURNMENT

The Minister of Housing and the Environment (Hon. Dr. Roodal Moonilal): Mr. Speaker, before I intervene, I beg to move that this House do now adjourn to Friday, December 03, at one 1.30 p.m. On that day we will continue debate on the Anti-Gang Bill before us. It is the intention of the Government to move on to the Bail (Amdt.) Bill which is also on the Order Paper and, time permitting, the amendments to the Children's Life Fund Bill from the Senate and other matters on the Order Paper. That is the agenda of the Government. [*Crosstalk*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.53 p.m.